

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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CSX EMPLOYEE FATALITY

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ACCA YARD, RICHMOND, VIRGINIA

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Docket No.: DCA-15-FR-006

APRIL 1, 2015

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Interview of: ERWIN van BEVEREN

Richmond, Virginia

Thursday,
April 2, 2015

The above-captioned matter convened, pursuant to notice.

BEFORE: MICHAEL FLANIGON
Investigator-in-Charge

APPEARANCES:

MICHAEL FLANIGON, Investigator-in-Charge
National Transportation Safety Board

STEPHEN JENNER, Ph.D., Human Performance Investigator
National Transportation Safety Board

GERY WILLIAMS, Vice President - Mechanical
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DONALD CASHMAN, Operating Practices Inspector
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Federal Railroad Administration
Baltimore, Maryland

LARRY KOSTER, Manager Florence Division
CSX Transportation

DON GRISSOM, General Vice President
Brotherhood Railway Carmen Division

WILLIAM BATES, Lead Investigator
SMART/UTU

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I N T E R V I E W

(9:15 a.m.)

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2
3 MR. FLANIGON: Okay. It's April 2nd, 2015, about 9:15
4 or so in the morning. My name is Mike Flanigon, F-l-a-n-i-g-o-n.
5 I'm the NTSB Investigator-in-Charge of the investigation into the
6 employee fatality that occurred yesterday, April the 1st, at
7 Richmond, Virginia, on the CSX railroad in Acca -- am I saying --

8 MR. van BEVEREN: Acca.

9 MR. FLANIGON: Acca. In Acca Yard. And we are
10 interviewing Mr. Erwin van Beveren. Am I saying that about right?

11 MR. van BEVEREN: Yes.

12 MR. FLANIGON: Close?

13 MR. van BEVEREN: Yeah, close.

14 MR. FLANIGON: Okay. V-a-n B-e-v-e-r-e-n.

15 MR. van BEVEREN: Correct.

16 MR. FLANIGON: And Mr. van Beveren was a carman working
17 as a team with the individual that was struck and killed.

18 And in the room are a number of other folks who are
19 going to participate in the interview, and I'd like to go around
20 the room and ask each person to state and spell their last name
21 and explain which organization that they are with, starting with
22 you, sir.

23 MR. WILLIAMS: Gery Williams, and that's G-e-r-y,
24 Williams, Vice President Mechanical for CSX Transportation.

25 DR. JENNER: Stephen Jenner, S-t-e-p-h-e-n, J-e-n-n-e-r,

1 with the NTSB.

2 MR. CASHMAN: Don Cashman, C-a-s-h-m-a-n, FRA, Richmond.

3 MR. KOSTER: Larry Koster, K-o-s-t-e-r, Florence
4 Division manager.

5 MR. GRISSOM: Don Grissom, General Vice President for
6 the Brotherhood Railway Carmen's union.

7 MR. BATES: William Bates, B-a-t-e-s, lead investigator
8 SMART/UTU.

9 MR. RICHARDSON: Shane Richardson, R-i-c-h-a-r-d-s-o-n,
10 OP inspector out of Baltimore.

11 MR. FLANIGON: Okay. Again, we appreciate you being
12 here, Mr. van Beveren. I want to just confirm before we start,
13 you understand we'll record the interview, provide you with a
14 transcript to look at to make sure it's right.

15 MR. van BEVEREN: Yes, I understand.

16 MR. FLANIGON: Okay.

17 INTERVIEW OF ERWIN van BEVEREN

18 BY MR. FLANIGON:

19 Q. Well, let's start with a very general question, and I'm
20 going to ask you to walk us through the events of last night or
21 early morning on the 1st, and just take your time to kind of walk
22 us through what happened, what you saw, what you heard, what you
23 experienced. In your own words, take as much time as you want, to
24 kind of walk us through the story, and then I'm sure we'll have
25 probably some follow-up questions.

1 A. Okay. We were working on 4 North, on an outbound train
2 and we were finished up. I radioed to Mr. Kevin that we were
3 finished and we were going to take down the flags. He responded,
4 taking it down, and he going to meet me at the south end.

5 I still had a couple cars to walk out, and by the time I
6 was reaching the blue flag, I saw him with the truck pulling up at
7 the south end. He went out towards the switches. I went -- I got
8 the blue flag. Since we were already given 2 North to work, the
9 location of the blue flag at 4 North and 2 North is about at the
10 same spot, so we were going to drop the flag at 4 and put it on 2.

11 Kevin was at the switch side of the track and I was at
12 the flag side of the track. 2 North obviously had trains in
13 there, but I heard the locomotive behind there. So my thing was
14 to look in the area where the locomotive is to see in what track
15 and in which direction it was moving, and I noticed it was coming
16 towards us -- coming south out of North 1.

17 As I seen it myself, there were two crew, CSX crewmen
18 between 02 main and 3 main, and it was a little open area. They
19 told me, "Look out, there's a train coming," and I acknowledged,
20 "Yes, I've seen the train." So my position was facing north, then
21 west.

22 At that time, after I acknowledged with the crew member,
23 I turned south.

24 (Short interruption.)

25 MR. van BEVEREN: At that time when I turned south, I

1 was looking at Kevin who was at that time walking towards the
2 switch; he did not yet cross the tracks. But he was walking in a
3 different kind of walk than he normally do. It is difficult to
4 explain, but -- you know, I've been with Kevin 12½ years minus a
5 few years left and right, but it was not his regular walk. He was
6 just walking -- I almost want to describe it as if he was in a
7 trance or as you see sometimes in a movie when they see ghosts and
8 it just kind of floats.

9 It was like a movement -- he did not move much other
10 than walking towards the switch. And he kept closing -- you know,
11 when you walk towards the track, at a certain time you stop to
12 look. Well, he didn't stop at all. He just -- to my -- I want to
13 say maybe when he got maybe 4 feet or so close towards the first
14 rail he had to cross, he still didn't stop, and he didn't make no
15 intention to stop or look.

16 That's when I start yelling his name. He didn't hear
17 me. He didn't -- still did not scan his face or nothing. And
18 then I think I called maybe four or five times, a whole bunch of
19 times, loud. He kept going. He just kept walking and walking.

20 And I started to run but -- and my idea was to run and
21 go grab him and say stop, but that of course is not possible
22 because a train keeps -- is going faster, I mean. And then I want
23 to say about 4 feet before the motor came, he turned around and I
24 see him like this, putting his arms, you know. But when you fall,
25 some -- you put your arms in front of you to protect yourself,

1 that kind of move, and then he got hit.

2 Then a little bit later -- I mean, yeah, I called the
3 yardmaster, but -- then the train stopped and I could see his
4 hardhat laying under the train. I didn't see Kevin yet. And then
5 I ran -- or I didn't run; I walked back towards 4 North where I
6 came out of, all the way back to my train, and turned around and
7 walked back, and I was screaming and I heard -- the other crew
8 heard me and -- but I was just walking. I didn't want to be
9 there. I walked, I walked back.

10 Then I catch up with the trainmaster and two other CSX
11 employees that I honestly don't really remember who they were, and
12 then I stopped and I kind of calmed down. And that was actually
13 the moment. The only -- this has been in my mind all the time.
14 And when I get home yesterday I went to sleep, but when I woke up,
15 after that, you know, really couldn't go back to sleep. But my
16 mind -- I still think about him walking that way and me trying to
17 think what I could have done to grab him. But, of course, you
18 cannot go out there quicker than a train and grab him. But it
19 kind of -- now I start to think about the same thing, but now I'm
20 trying to think about what is in his mind when he was walking that
21 way and saw the train too late.

22 And the only thing that I can explain myself is that he
23 was probably under medication. That's the only thing I can think
24 about because it was not his regular daily acting, behaving. And
25 he did mention to me he had medical problems that they were taking

1 care of, so that's what I think that -- but then all through the
2 beginning of the night when we were talking when we came to work,
3 "How was your weekend? How are you doing?" and safety briefing,
4 we're going to do this, that was normal talking, the normal Kevin
5 as always, no influence of nothing.

6 Except, even the last time I called him that I was
7 finished on my end of the train, what he responded back was a
8 normal sounding voice as always, no -- nothing that make me
9 attention like, hey, something's up. But like I said, what really
10 worried me when I -- after I told the other people I see the train
11 and turned facing him, is the way he was walking to the switch.

12 And then I said that that ain't -- that ain't his
13 regular walking. Then I see he got closer and closer to the rail
14 and he didn't stop. That's when I really start to panic, I guess.
15 I don't know, yelling his name. I don't know why he didn't. I
16 mean, I came home yesterday and my voice was almost gone. I
17 yelled.

18 But, then again, if there's a locomotive coming louder
19 than my yelling, but then why didn't he hear the locomotive?
20 Maybe he did hear the locomotive but he was thinking it's in 3
21 main or something. But normally if you're -- you will at least
22 look. He didn't. I don't know why. He always do normally any
23 other day. But that's why I think that maybe -- that's my idea is
24 that the medicine might have just turned a switch saying, oh, I
25 have to lock the switch, I have to go to that switch and didn't

1 know anything else that goes on in between him and that switch.
2 I really wish I could have stopped him but --

3 MR. FLANIGON: Yeah.

4 MR. van BEVEREN: It's just like you yell, he don't hear
5 you. He keep going. You want to run and just grab him and say,
6 no, but -- I seen that I was -- I keep saying probably 50 feet,
7 but I mean it's -- by the flag is on the switch, that's probably,
8 I don't know, 100 feet maybe, 75 feet. But after I put the flag,
9 so going towards him I was maybe less than 50 feet or so, but I
10 was in direct eye contact with him when he turned. That's
11 something I'm never going to forget.

12 BY MR. FLANIGON:

13 Q. Yeah. I can, I can appreciate. I can appreciate that.
14 That's helpful you're telling us, and I recognize it's hard for
15 you to relive it like that. Are you doing okay?

16 A. Yeah.

17 Q. Do you need a break or anything? No.

18 I've got a hand-drawn chart here that we will -- we'll
19 attach to your transcript, but -- and I've kind of laid it out as
20 we're sitting here. This is where the truck was and here's 4, 3,
21 2, 1 and the little box is where I believe -- no, it was --

22 A. That might be the location of the impact --

23 Q. Yeah, impact --

24 A. -- because that's where, 2 main.

25 Q. -- impact is up here at 2 main; yeah, 2 main.

1 A. Uh-huh.

2 Q. So just to perhaps help in the verbal description having
3 this attached, when you said he was up -- I'm going to make a, I'm
4 going to make an X right about the switch where I think this
5 happened, right at that switch for 2 main. And where were you
6 then?

7 A. I was in 4 North.

8 Q. Somewhere back this way?

9 A. Right. The end of my train's going that way. I was
10 somewhere close to the switch -- excuse me -- close to the blue
11 flag.

12 Q. And so --

13 A. 4 North, I see his --

14 Q. So it would be somewhere at a clearance point, somewhere
15 around in here?

16 A. Yeah, where the blue flag is.

17 Q. Yeah, blue flag. I'm going to make a blue flag, blue
18 flag.

19 MR. GRISSOM: This is Don Grisham. Did you drop the
20 blue flag before?

21 MR. van BEVEREN: I was --

22 MR. GRISSOM: On 4 North, did you drop the blue flag
23 before the incident?

24 MR. van BEVEREN: Yeah, before the incident.

25 MR. GRISSOM: So you were at where the --

1 MR. van BEVEREN: Blue flag is. I just don't remember
2 if I was holding onto the blue flag when I see him coming, but --

3 BY MR. FLANIGON:

4 Q. So you would have been standing somewhere in this
5 general area when --

6 A. I do remember when Kevin got out of the truck, I was
7 walking towards the 2.

8 Q. So you were --

9 A. Between 4 and 2, and then actually looking over where
10 that locomotive coming from.

11 Q. Yeah.

12 MR. GRISSOM: So you already dropped the blue flag
13 before he got out of the truck?

14 MR. van BEVEREN: I was --

15 MR. FLANIGON: Let's kind of do one at a time. We'll go
16 around and clarify.

17 BY MR. FLANIGON:

18 Q. So this is where the blue flag was on 4?

19 A. Yeah.

20 Q. And you dropped that?

21 A. I dropped it.

22 Q. And you were going to move it over to 2?

23 A. To 2 North.

24 Q. So you were going to move the blue flag somewhere?

25 A. Right. I took the light off and dropped the flag and

1 then went to 2 to pick up the flag and put the blue light on the
2 flag.

3 Q. So that would be somewhere along in here?

4 A. It's roughly about close to -- yeah.

5 Q. Around in here?

6 A. Close to. I don't remember.

7 Q. The same place?

8 A. Yeah.

9 Q. About there?

10 A. I don't know if it lines up that much, but it's in the
11 vicinity.

12 Q. Okay. Blue flag. And so you would have been standing
13 on -- were you on the Number 3 side of 2?

14 A. Between 4 and 2, yeah.

15 Q. Between.

16 A. But then I --

17 Q. You were somewhere in --

18 A. Right.

19 Q. Somewhere around in here?

20 A. Yeah.

21 Q. And that was when you called to him?

22 A. No, no, no, I was way -- when I called Kevin, I was
23 west, way over here still.

24 Q. You were somewhere off the --

25 A. I was still walking from the rear of my train.

1 Q. -- off the piece of paper?

2 A. Yeah.

3 Q. You were somewhere --

4 A. I was walking from the rear of the train in 4, but I
5 still had a couple more cars to walk out to reach the blue flag.

6 Q. So you hadn't taken the blue flag down off 4 when the --
7 when he was hit?

8 A. No, no, no, the flag on 4 was down when he was hit.

9 Q. Oh, it was? Okay.

10 A. But as I was walking from the rear of the train in 4
11 towards the blue flag in 4, I saw the truck. And probably around
12 the time when I actually had the blue flag in my hand, give or
13 take, he came out of the truck. And I went to 2, but I also went
14 to see where that locomotive was coming from, which turned out to
15 be 1 North. And I put the flag on 2, put the light on 2, talked
16 to the crew that was on the other side to say, "Yes, I see the
17 train."

18 Q. The crew would have been over here someplace on --

19 A. Yeah.

20 Q. -- the other side of O2 main?

21 A. Yeah, just a little further than Mr. -- on this table.

22 Q. Okay. Larry.

23 A. Yeah, it was just in between O2 main and 3 main there's
24 a lot of -- a large open area.

25 Q. Yeah. So over here is 2 and 3 main, if I draw 2 main --

1 A. Uh-huh.

2 Q. And 1 main -- 1 and then 2?

3 A. 3 main, 3. I mean, O2 main, 3 main, then 4 main.

4 Q. 2, 3, 4. And the crew would have been over --

5 A. Somewhere in between that.

6 Q. Say if I -- right about there?

7 A. Right. They were either an inbound or an outbound crew,
8 and I guess they were waiting because the locomotive out of 1
9 North was approaching and they --

10 Q. Okay. So they were talking to you and you were over
11 here? He was up in here someplace?

12 A. Yeah. Because when I -- what I want to say is when I
13 get to the flag of 4, when -- I don't know if I already had it in
14 my hands or if I was just right about to touch it or I just did.
15 But when I was at the 4 -- I was still at 4 North at the blue
16 flag, I see Kevin getting out of the truck, coming towards the
17 switches.

18 Q. Okay.

19 A. But he only got out of the truck maybe like a couple
20 steps. And I -- then I look at the other direction of him. But
21 when I put the flag on 2 and after I acknowledge with the crew
22 that I seen the train, then I looked back facing Kevin. He was
23 probably 8 feet or so from the first rail, which would have been
24 the lead -- the first rail he would actually have to start
25 crossing.

1 Q. Uh-huh, would be the lead over here someplace?

2 A. The lead, yeah.

3 Q. He pretty much go in a straight line towards the switch?

4 A. Straight line to the switch.

5 Q. Yeah.

6 A. At a -- I want to say diagonal but, yeah, straight line
7 from where he was to --

8 Q. Okay.

9 A. -- from his truck to the switch. Again, and then that's
10 when I saw he was walking. And then I -- I wanted to make sure he
11 knew the train. I see he's walking and, like I said, his walk was
12 not right. And then when he got like 4 feet from the rail, you
13 will normally -- by that time you will stop.

14 Q. Yeah.

15 A. He just kept going, but --

16 Q. Yeah. And to kind of visualize where you were when you
17 were yelling at him?

18 A. Between --

19 Q. Between 3 and 4, but you were back off this chart --

20 A. Yeah.

21 Q. -- you think, further back?

22 A. I was not on the rail.

23 Q. Maybe 75 feet?

24 A. So between 3 --

25 Q. Estimate. If you don't know, it's okay. But, you know,

1 a rough estimate? Don't guess.

2 A. Yeah. I was at the blue -- I put the blue flag on,
3 talked to the men, turned around, and then I start to walk
4 normally slowly but then I see he was not -- so I start walking
5 faster. So I was probably, I was probably -- by that time I start
6 the yelling I was maybe 25 feet away from my blue flag going
7 towards him.

8 Q. Uh-huh, okay. In effect, let's see that's --

9 A Towards him, going south.

10 Q. -- north?

11 A. I was walking south.

12 Q. Or you were, you were this way?

13 A. Right.

14 Q. You were south of the blue flag? So you're somewhere
15 between this blue flag and him?

16 A. This one, the 1 and 2.

17 Q. This one, so --

18 A. So I was in between 2 and 3.

19 Q. Okay. So do you want to put where you think you were?

20 A. I was probably in this spot when I start seeing him.

21 Q. Okay.

22 A. You know, and then was going to go right.

23 Q. Okay. So just before impact -- where he was just before
24 impact. All right. So, okay. Does that look more or less right?

25 A. Yeah.

1 Q. Okay. Well, that's all going to be helpful to us as we
2 try to kind of reconstruct how all this might have happened.

3 This was the -- you guys went to work at 11 p.m.?

4 A. Yeah.

5 Q. This happened around just before 3:00. Had you -- over
6 the course of the shift had you guys taken a lunch break yet?

7 A. No.

8 Q. No. It was before lunch. And so talk me through what
9 you do when you start up, and I'm particularly interested in how
10 the briefing works and how you prepare for the day's work?

11 A. We come to work probably about 10:30 and we just say,
12 hi, how you doing? And you change clothes. 11:00 we come to the
13 regular safety briefing, safety procedures. We get a lineup, so
14 we kind of plan things according to the lineup what we're going to
15 do.

16 We start -- we just get all the paperworks ready. If
17 there is a track -- if it's on the track list -- so I've already
18 got my track list printed. So you kind of brief together, talk
19 about the work and how we're going to probably work the night,
20 303, and then we're probably going to go on that one. And then we
21 kind of wait for the yardmaster to give us a call and say, hey,
22 the 3 North is now ready, you can -- so and then after the
23 briefing time we -- like anybody else, you have a little time so
24 you say, how was your weekend? So we talked about that.

25 And then the phone rings, they said 9 North is ready for

1 the 303. And that's when we go to the restroom, get your stuff
2 together, and work the train. We did not eat a snack or lunch. I
3 always come to work with a cup of coffee. Kevin is -- drink
4 Pepsi.

5 So we worked the 303. When we finished, temperature got
6 a little colder than I expected so I told -- because we were going
7 to go to the North 4, I told Kevin I'm going to stop here to get
8 my coveralls on. He waited in the truck. I got my coveralls and
9 went back.

10 I think in like -- well, maybe after this we can have
11 lunch, but you never really know --

12 Q. Yeah.

13 A. -- how it will work out. But as we were working 4, they
14 told you, 2 North is ready; we need some cars out of that train
15 for another train, so give us a heads up when you get 2 North
16 ready. But we were still working on 4, so we know that we were
17 going to be out for a while. Yeah.

18 Q. When you're waiting for the work to come down, just kind
19 of shooting the breeze, did you notice anything at that point,
20 anything unusual about his demeanor?

21 A. No. He, up until the whole evening pretty much his
22 behavior was just as normal. We did talk of -- he knew about my
23 son, so he asked me how that was. And I knew -- because his
24 weekend -- when his weekend stops, my weekend starts, so we have 4
25 days in between, and I knew that his weekend he had medical things

1 to be taken care of.

2 So after I told him about my son, then I asked him about
3 his medical stuff. And he said that he had medicine that
4 interacted with the other medicine and he was thinking about
5 getting another doctor because he didn't want to have the doctors
6 play roulette with him.

7 But all the talking -- we were talking, but the way he
8 was talking and moving his body, everything was still normal. He
9 didn't look like fatigued or out of place or not focused. I mean,
10 he was just look in the computer, see if the train was already in
11 the track and all -- I mean, track wise and that kind of stuff.

12 He makes morning reports, so he was checking over the --
13 like our delays and that kind of stuff, just general railroad
14 stuff. I mean, and like I said, after that, then we had some time
15 as far as I was talking personal about, it was mostly about the
16 medical stuff. And he said he wanted to go lose weight and start
17 lifting some weights again just to get his health back.

18 He said the night before he was nervous. The medicine
19 make him nervous so he called the doctor and the doctor gave him a
20 vitamin shot and told him to eat oranges. But he didn't say that
21 he was not feeling right. He did not say, Erwin, I want you to
22 work this train because I don't think I'm okay. There was nothing
23 like that. We were just kind of plan as usual. Yeah. I don't
24 really know what else --

25 Q. Sure.

1 A. -- to say. I mean, we were -- it was just like a normal
2 -- like every other evening we come to work.

3 Q. Okay. Going back to the safety briefing or the job
4 briefing, can you talk a little more about what you briefed each
5 other on, what you talked about? Kind of walk us through that, if
6 you would.

7 A. Yeah. Safety briefing, we just talk about the -- we
8 have a book with the rules that we go over. We have -- we are
9 preparing ourselves for audit so we -- sometimes we just talk
10 about safety rule and the audit book. Yeah, just a general talk
11 about being safe. You know, when we walk a train, if we walk
12 somewhere, just see hoses lying around, stretch them out so that
13 nobody can trip over them. That kind of stuff. Yeah.

14 Q. Okay.

15 A. But, I mean, you know, we know when we get to walk the
16 train, we got the track list and we know -- we work on each side.
17 We -- at the beginning, we talk about the general stuff. It's
18 sometimes like when you get an email saying so many days injury
19 free or someone just said there was an accident here, other than
20 that -- and sometimes we'd drive in the trucks, okay, and he goes
21 to north end, I go to south end, and that's the way it is, I mean.

22 Q. Okay. Now, is there a briefing you hold with the
23 yardmaster of some kind just to --

24 A. Oh, yeah.

25 Q. What is your communication with the yardmaster?

1 A. Communication with the yardmaster, he call us usually at
2 the beginning of the shift saying this is the lineup; this is what
3 we're planning to do. He will say this track is ready, you can
4 have it, or he will say this track is almost ready, I'll let you
5 know when you can have it. Then he's going to call us, say, okay,
6 the track is ready, you can have it.

7 Then the other communication is between us and the 391,
8 393, saying coming up your track. Sometimes you see the guy and
9 when you have to go across the track to lock -- to put the blue
10 light on, you see him and say, hi, kind of -- more in a way like
11 we be in there.

12 And the way it is in night shift is -- the leadman
13 respond to the radio. And if I don't hear him respond the first
14 time, then I usually jump in because he might be -- but the thing
15 is it's on another channel.

16 Q. Okay.

17 A. So I do not always know. But he told to me, hey, I
18 mean, you get the light, I get the switch. Then we got the
19 permission from the 91 -- or he already talked to the 91. And,
20 like I said, the leadman, he's taking the calls. But if the
21 yardmaster calls the car inspector, now he don't answer the first
22 time or so, then I jump in and answer. That's about the only
23 communication we have with the yardmaster.

24 Q. Okay.

25 A. And then sometimes when you walk the train the

1 yardmaster will come in and say, how much longer or you can have
2 this other track that I kind of what to have. Well, like we were
3 walking 4 and he just said 2 North is ready, you can have it too
4 and let me know when I can have it back because we really need
5 those cars for the D794.

6 So that's for us to know, okay, he want -- of course,
7 outbound has the first priority, but like Kevin said, we're going
8 to get that one next when we finish this one. And that's the
9 communication with trainmasters -- yardmaster. Excuse me.

10 Q. Okay. And changing gears just a little bit. Working in
11 the yard here -- I'm learning about this yard. I've never been
12 here before, so bear with me. But there's -- this yard is a
13 remote control zone. And let me ask, what does that mean to you,
14 that it's a remote control zone?

15 A. Remote control zone, except for some of the main lines,
16 we have a dispatch zone. Each crew, the 91, 92, 93, they have an
17 area or zone that they use. And when we get to work, when the
18 yard office -- yardmaster gives us a track, then we go there and
19 we ask the -- 91 on this side, 93 on the other side, 92 as a
20 whole, to work on his track. And then we flag it, work it.

21 Sometimes they don't answer and sometimes we see them
22 and then we say we're going to be working on your track, okay.
23 Like I said, that's -- we see them and we talk to them on the
24 radio.

25 Q. Yeah. Did you have any communication with the remote

1 control operator that night?

2 A. Kevin is the one that was talking to him. The only way
3 I know if he did or not is when he tell me. I said, oh, we've got
4 time -- I mean, we've got time. We talked to him and we got his
5 -- we talked to 91 or the --

6 Q. Yeah.

7 A. We don't really call them remote; we just call them the
8 91 or the 93.

9 Q. Yeah. And out in this area it was the 91; is that
10 right?

11 A. It is 91, yeah.

12 Q. 91, okay. And did he tell you he had a communication
13 with the 91?

14 A. Before the impact?

15 Q. No.

16 A. The first time, yeah.

17 Q. During your --

18 A. At the beginning, yes.

19 Q. At the beginning of the shift?

20 A. Right.

21 Q. So he had talked to the remote control operator --

22 A. Right.

23 Q. -- on the radio? And so --

24 A. That's channel 60.

25 Q. Okay. And so help me understand a little bit what that

1 means that that communication occurred?

2 A. It just means that --

3 Q. That you guys are aware or they're aware of you or what?

4 A. Right, and then they know we're going to be working in 9
5 north, 4 north. They sometimes say, hey, I'll be -- I'm going to
6 be working later in some of these tracks next to you or something.
7 But most of the time it's just like, okay, you've got permission
8 to work in that track.

9 Q. Okay. Okay. And so they were pulling out of -- I'm
10 looking at the chart here again. So they were pulling out of a
11 chart -- they were pulling out of a track that was next to the
12 track you were working, right?

13 A. Right.

14 Q. So was that communicated to you or to Kevin or do you
15 know? If you don't know --

16 A. I don't know. I know that the yardmaster gave us 2
17 North and I know that once we were finished with the 4, we were
18 going to go right on 2. So what we do is, we put the flag on the
19 2, go back to the trailer. Then we go call the dispatch time to
20 get the time, and then we can go to the -- or the end of 2 and
21 start working the train.

22 We knew he wanted to have that train, so we didn't want
23 to drop it on 4, go to the trailer, and go back to 2. We figured
24 we would flag it right away to save time because they need that
25 train.

1 Q. Okay. When you're working a track you've got to protect
2 it so an engine or cars can't be put in on top of you --

3 A. Right.

4 Q. -- because you've got it locked and blue-flagged?

5 A. You can throw the switch. If you have to throw the
6 switch, make sure it's --

7 Q. Yeah.

8 A. -- lined against you, you're locking in.

9 Q. Is it common that on adjacent tracks there would be
10 movements?

11 A. That is possible.

12 Q. Either cars kicked in or somebody pulling through or
13 whatnot?

14 A. Yes, sir. Yes.

15 Q. And would you know in advance that was going to happen
16 or is that the kind of thing you just figure that's the
17 environment and you have to listen for and look for?

18 A. The most -- any track -- we pretty much know any track,
19 any one, except the one you got blue flagged, can move. I mean --

20 Q. Okay.

21 A. -- I might as well say, will move. Even though if they
22 -- if you might not see them because they might be all the way at
23 the other end, a few minutes later, you know, there might be a car
24 coming in --

25 Q. Yeah.

1 A. -- in any track that is not protected.

2 Q. Yeah.

3 A. It's -- you might as well say sooner or later there will
4 be a movement in it. And sometimes when they really have a big
5 movement -- say, we working in that 4 North and they say --
6 sometimes they say, car inspector 91 is going to move or put
7 trains in the tracks next to you. Sometimes they give us a heads-
8 up. Not all the time but sometimes. As far as kicking cars in,
9 no, they're not going to say there's a car coming in. But we
10 pretty much know that that is something that can happen anytime of
11 the day or night.

12 MR. FLANIGON: Okay. That's all I had, and I'm going to
13 ask Steve to take it from here. I'm sure he --

14 MR. van BEVEREN: Okay.

15 DR. JENNER: I'll first ask do you want a 5-minute break
16 before we continue?

17 MR. van BEVEREN: No, I'm good.

18 DR. JENNER: Does anyone here need a break?

19 MR. van BEVEREN: No, that's okay. I'm okay, yeah.

20 DR. JENNER: Great.

21 BY DR. JENNER:

22 Q. This is Steve Jenner with the NTSB. Thanks for your
23 description so far. We're getting a good picture. Also, I
24 appreciate -- I looked through your statement last night, so we're
25 getting a good understanding here. But what I wanted to do, and

1 sorry in advance for redundancy, is just to go back at some points
2 that are particularly interesting to me, and I'll just sort of use
3 your statement as a guide.

4 You had written last night and talked today about your
5 conversation with Kevin about his medical condition. Can you just
6 talk in as much detail as you can about what you knew?

7 A. As far as what I knew about his medical condition, he
8 had -- prior to this, he already had some medicine for something.
9 I don't know for what, but he had something with his eye. Let me
10 go back before that too. We noticed that -- the other guy I
11 worked with, we noticed that sometimes he can get out of the
12 truck, walk to the switch, throw the switch, lock it, and be like
13 (panting) out of breath. And we said, "Hey, man, you need to lose
14 weight or something."

15 But apparently, because he told us later he has
16 something with his eyes that he had medicine for. And he told me
17 that the doctor gave him medicine that interacted with the
18 medicine he was already using and that one of the things that he
19 was breathing, out of breathe was part of it.

20 I do not want to say that that was the eye doctor
21 particular that did that, but it was -- he was talking about his
22 eyes and the eye drip, so I -- right now I assume it was the eye
23 doctor that gave him medicine that interacted with his medicine he
24 was already currently using for I do not know what.

25 Q. Was the eye medicine the most recent --

1 A. Yes.

2 Q. -- in the last few days?

3 A. Well, yeah, he also had to -- in his -- he also had to
4 do a colonoscopy and something else to clean out his system. I
5 think that was meant to get the medicine out of him or whatever,
6 to clean -- he said to clean him out. So he --he said he was
7 clean. I mean, he got rid of everything in his system and he said
8 he -- so, but he had --

9 Q. I'm sorry. Did that happen very recently, the
10 colonoscopy, as far as you know?

11 A. That was this last week, his weekend.

12 Q. Right. Okay.

13 A. So probably the Friday prior to this date.

14 Q. Okay.

15 A. But the whole thing, as far as the medical part, has
16 been a few weeks that we've been talking about it. So it's little
17 by little. Where was I? He pretty much -- he was more like, man,
18 this doctor should have looked at this. Because he came in there
19 with the bottles, said, the doctor could have known it would not
20 have worked. Because the other doctor where he went to told him
21 they interact, so there is something between doctors here. I do
22 not know exactly what kind of doctors and what the other medicine
23 is for, but I do know he had -- he was talking about the eye drops
24 and he also said they drew blood and he felt nervous the night
25 that was still my weekend.

1 And he called the doctor and, like I said, they gave him
2 a vitamin shot and they told him to eat oranges. He was going to
3 have to take shots every 3 days. I do not know what kind of
4 shots. And he really, really wanted to look at another doctor
5 because he didn't like the one that gave him the wrong medicine.

6 To be careful, I want to say this happened probably in a
7 few weeks. But, like I said, we really noticed it because we told
8 him, hey, you're out of breath with just stepping out the truck to
9 throw a switch. You shouldn't be out of breath yet. So we told
10 him, hey, lose some weight. Because we were thinking, you know,
11 he's a pretty big guy.

12 So, I do not know. He was already working on his diet
13 to be healthier. He said he really wanted to become healthier and
14 start lifting weights. He wanted -- he was really focusing on
15 losing weight. I do not know if he has medicine for losing weight
16 or if just keep an eye on what he eats. He told me he's not going
17 to go to Subway no more because he didn't like the way the food
18 was. Other than that, medical, I didn't ever see him taking
19 medicine. I know he talked about it.

20 Q. How long had you observed that he was getting out of
21 breath just walking?

22 A. It's -- when I started to really start noticing maybe
23 half a year. It was -- we noticed it was getting harder for him
24 to walk up the steps. We are under -- we used to call it the ice
25 house. Out on the side of the yard we have what we call the

1 steps, which is like regular steps going up. He had difficulty
2 walk -- well, it was harder for him to go up the steps. In other
3 words, he'd rather walk around so he don't have to do the steps.

4 Q. Right.

5 A. Honestly, I'm losing -- I'm walking on my own, losing
6 weight. I know when I start losing weight it's going to be easier
7 to walk and things too. So like I think that might have been it,
8 his weight. Working the train, he was getting more and more out
9 of breath or starting to get -- take more time or starting to get
10 tired walking trains until that -- until eventually we noticed it,
11 like even my other -- the guy that work at nights, he noticed it
12 too. He said, "Kevin, you should not have to be out of breath
13 just to throw a switch."

14 And I think that might have -- part of that he went to
15 check things out. He told me later that the medicine that he had
16 interacted and that was causing that stuff. If he said that --
17 that's what he said to us. Whether that is actually the real
18 thing, I cannot say, but that's what he told us -- or me, since we
19 talk about me. That's what he told me the reason that he was out
20 of breath quickly was because of the interaction of the medicine.
21 He might have said that because there's something else that he
22 didn't want me to know, but that's probably -- yeah, like I said,
23 probably half a year ago it start to get harder.

24 I do think he hurt his feet one time, but I think the
25 reason really was weight. I noticed myself, it's -- I lost some

1 weight and it's much easier now for me to walk and start bending
2 up and go up and down, I mean. So that's what I think was the
3 issue.

4 Q. In the last half year --

5 A. Right.

6 Q. -- had you noticed had he continued to gain weight in
7 the last half year?

8 A. No, he started to -- he used to come in and eat a lot.
9 He don't do that no more. So he started to change his eating. He
10 also started eating more fruits. He still drinks a lot of Pepsis.

11 Q. Okay. Well --

12 A. Personally I think too many, but that's -- I mean, I
13 cheat on my diet too, but at least heavier -- he's really doing
14 something because he knows -- because he told me he wants to go
15 back to what he was. And it's probably because he knows himself
16 or probably because we told him that, hey, you're out of breath;
17 what's up?

18 I mean, just like colleagues, buddies, friends they'll
19 talk, hey, I noticed something; I'm worried, do something, or that
20 kind of communication or talking between us. Not in a funny --
21 you know, I don't want to say in like a funny way, hey, you're too
22 heavy or something. No, but in a serious way like, hey, I think
23 you should lose weight or have something checked out because it's
24 not right to be breathing heavily quick.

25 Q. Well, during your shift you're doing a fair amount of

1 walking and a lot of standing. How was he at the end of a shift?

2 A. At the end of the shift after we came back after sitting
3 down, he acted like just any other person, like, hey -- not overly
4 tired, but like, ah, I can go home now.

5 Q. Okay.

6 A. That kind. He wasn't out of breath. Usually when he
7 comes back out of breath and then sit a while, then a few minutes
8 later so it's like, okay, he's not breathing.

9 Q. Okay.

10 A. But when he first come back from something he's
11 breathing, but then at the end of the shift, I just want to say
12 just like anybody else.

13 Q. Okay. How long have you two been -- you know, worked
14 together?

15 A. Twelve and a half years. I came here in August 2002
16 working in the shop. He was to be leadman in the job shop. I
17 stayed there for about a year and a half, went to the yard. Later
18 Kevin -- actually I believe he pulled my job in the yard. I went
19 to second. I had a swing shift 3 nights/2 days or 2 days and 3
20 nights, either one or the other. I don't remember. So pretty
21 much -- and I went to first shift for a year. So for the 12½
22 years I want to say a good 10 years. And the last -- since I'm in
23 this job I have now, it's been such a long time -- years. I would
24 probably have to pull my records to see how long.

25 Q. Sure.

1 A. But it's been years that we have -- it's just me -- it's
2 Kevin, Rick, Danny and myself. We've been -- and George and Ivan,
3 but they both retired. And we've been in this nightshift team for
4 a long time. So it's pretty close friends, co-worker, I mean.

5 Q. Right. In terms of your observations of how he handled
6 himself in terms of following safety procedures and things like
7 that, you know, where would you rate him in terms of doing the
8 safe things versus taking shortcuts or cutting corners?

9 A. Ninety-nine percent. Sometimes, like the same thing
10 yesterday, his radio was in his truck. But I think he either
11 forgot to take his radio with him or he was thinking, oh, I'll go
12 do the switch and back. We always have the blue flag up. We
13 always have the switches locked. Yeah, radio's always with us.

14 Again, sometimes maybe just -- when you drive next --
15 like when you're almost close to the switch and I'm in the truck,
16 he'd get into the switch, and his radio was laying on the armrest
17 of the truck. Okay. He doesn't always have that with him, but
18 you can still hear the radio because he's only like 6 feet away,
19 8, 10 feet away from the truck. Plus I'm in there to answer it if
20 -- but when we are on the trains, we have all our stuff there. We
21 have our gloves, shoes, glasses, hardhat, lights.

22 Q. Okay. Did you -- you mentioned --

23 A. Sometimes what can happen, will happen to me, anybody,
24 some -- the radios sometimes that little button can go to another
25 channel.

1 Q. Okay.

2 A. The reason I'm saying that is because you talk and you
3 finish talking, you put your radio back, you don't notice it. And
4 then sometimes they can call you. So that's why, like I said
5 earlier, if they call the leadman, he don't respond, I jump in and
6 answer the phone -- I mean, the radio. And then when I see him,
7 hey, make sure your radio's on the right channel.

8 Unfortunately -- I mean, it's our job to make sure that
9 the radio channel's on the same channel, but sometimes these
10 buttons just easily click, move to another channel. Sometimes
11 that's why I keep checking to make sure it's on my same thing.

12 I will say the same with Kevin, when we go out there on
13 the train we have everything with us. Same with kind of making
14 sure there are batteries. That's not a big thing so that we have
15 batteries ready for the lights, blue lights and the flashlights.
16 He sees -- quite often he goes up to the office and gets some
17 supplies too. Sometimes we don't have enough and then one of us
18 has to go, but we try to keep it up.

19 Q. Okay. Good. Thank you for that.

20 A. Yeah.

21 Q. Oh, you had mentioned clothing a bit. What -- it was
22 getting cold, you had mentioned, so --

23 A. It was -- the wind, the wind was picking up.

24 Q. Okay.

25 A. So the temp, it might still be -- but when the wind

1 blows, it feels colder.

2 Q. Right. Is that why Kevin went to his truck, to prepare
3 for the cold?

4 A. No, no, no, I did. We were coming out of 9 going to 4
5 and I told Kevin I want to go get my coveralls on. So that's why
6 I came to the trailer, got my coveralls on, and he stayed in the
7 truck waiting while I was putting my coveralls on.

8 Q. Okay. Do you know what he was doing in the truck? He
9 wasn't getting a radio or clothes for himself or --

10 A. No, no, he was just in --

11 Q. Just waiting for you?

12 A. -- in the seat sitting in the truck.

13 Q. Okay. Now, are you required to wear ear protection?

14 A. Earplugs; safety earplugs, glasses, hardhat, boots,
15 gloves.

16 Q. Okay. And what was Kevin wearing that night in terms
17 of --

18 A. He usually have his earrings on the string that hang
19 out.

20 Q. Oh, so they're usually not in?

21 A. Well, the ones that you have on a string.

22 Q. Okay.

23 A. I don't know if he was in or not -- if he had them in or
24 not. But I usually have one of those little plastic bags with the
25 little gummy (indiscernible).

1 Q. Right.

2 A. But I do think -- I don't honestly -- I seen it a few
3 times hanging out because he has them at his hardhat, the ones
4 that have the string on them.

5 Q. Right.

6 A. I do not know if he had them on. I didn't really --

7 Q. Yeah. Did he have any type of ear covering for warmth?

8 A. Yeah, he has a orange -- and how do you call that?

9 UNIDENTIFIED SPEAKER: Warmer.

10 MR. van BEVEREN: Like a warmer but the one that
11 attached to your hardhat, but I don't -- he had it on his hardhat,
12 but I don't know whether it was pulled down. I don't think it was
13 but --

14 DR. JENNER: Okay.

15 MR. van BEVEREN: Whether or not he was wearing that at
16 the time, I do not recall, but I do know that is normally when I
17 see him -- the only thing I really notice is like gloves or like
18 the bigger stuff, I mean.

19 BY DR. JENNER:

20 Q. Okay. Your observation was interesting about as he was
21 approaching the switch -- this is where you described earlier his
22 behavior was unusual for him. How would he normally cross tracks?

23 A. More, his body will move a little more -- more movement
24 in his body. It's just kind of hard to say like -- I don't want
25 to say shaking, but when you walk -- this time he was walking

1 straight, like you draw a perfect straight line and you don't
2 move. But normally when you walk you walk just a little -- you
3 move differently. Plus you're always looking with your face.

4 That did not happen. He was not moving his face. His
5 arms, his body, it was like in one fixed motion. Normally, like I
6 said, it's more of a -- yeah, when you walk you move -- your body
7 moves when you walk a little more, and that was -- to me it seems
8 like that wasn't like -- maybe I had a bad feeling, but it just
9 looked like he was going to --

10 Q. Would he normally, as he approaches a track --

11 A. He will stop.

12 Q. -- sort of stop?

13 A. Yes, and there was no --

14 Q. There was no stopping?

15 A. There was no stopping. There was no intention. There
16 was no sign to me, oh, he's going to stop now. He just kept
17 going, and I felt like he's not going to stop. For some reason I
18 felt like he is going. I don't know how you get those feelings,
19 but it was just maybe the circumstances altogether.

20 I knew there was a train coming. I figured by the time
21 I grabbed my radio -- I did not know he had a radio -- I did not
22 know he did not have a radio until later. If I would have grabbed
23 my radio and called him, I would -- that would have been too late.
24 So that's why I yelled, which I thought at that time was the only
25 way to reach him.

1 Q. Do you think he would have been able to hear your
2 yelling? Would you have expected, given the volume that you
3 yelled and the distance, would you have expected him to have heard
4 you?

5 A. Yes. But I want to keep in sight the locomotive for a
6 minute. If there was no locomotive, he would definitely hear me.
7 I couldn't -- at first I couldn't figure out why he didn't hear
8 me, but then the other people here told me, well, the motor was
9 making a lot of noise too, and then I start adding one and one
10 together.

11 If -- maybe the wind was blowing the wrong way. I don't
12 know even if there was wind at the time. There was wind earlier.
13 But I yelled as hard as I could, and normally you would have heard
14 that. Yes, I was surprised he could not hear me, but I -- see,
15 right now you hear the motor, and I do not know what is louder.
16 But I was at the loudest as I -- I was calling his name as loud as
17 I could. And then I start to walk fast. I don't know if actually
18 I run or walk but I walked faster than I usually do and, like I
19 said, I see he -- just he just kept walking. So I just wanted to
20 come out there and grab him, but you can't.

21 Q. Approximately, but your best guess, how much time in
22 advance had you heard the train coming?

23 A. Probably right at the time just between my dropping the
24 flag and going on, during that timeframe is when I heard. Because
25 I put the flag on 2 and then I start to -- at the end of the 2

1 rails, you put the flag in the middle and then on the other side
2 of the rail you can see the 1 North. That's -- so when I put the
3 flag in there, at that time -- well, like, give or take at that
4 time when I put the flag on there.

5 Q. Right.

6 A. I heard the motor coming. I knew it was coming because
7 it's getting louder.

8 Q. Right.

9 A. But I just didn't know if it was O2 main or 1 North. So
10 I just wanted to have official --

11 Q. Right. And if I can just get an estimate from you from
12 when you put the flag down until the time of the incident, is it
13 10 seconds, 30 seconds, a minute?

14 A. It felt like a long time but it's -- maybe a second. It
15 may be, maybe -- probably from when I dropped the flag, I see the
16 train, I say, "Yes, I got them." And then I see Kevin a second
17 probably. I mean, it's quick.

18 Q. Oh, so you only heard the train shortly before the
19 incident? I'm trying to get an understanding.

20 A. Right. When he was --

21 Q. When you first heard the train, that was right after you
22 put the flag down?

23 A. Just about, yeah.

24 Q. But how long -- how much time passed from then to when
25 Kevin was hit?

1 A. Maybe 2 seconds. I mean, it was -- it went kind of
2 quick.

3 Q. Okay.

4 A. It's -- it is probably from where the motor becomes
5 visible to where the impact is with Kevin, maybe that's 100 feet.
6 I don't really --

7 Q. Okay.

8 A. I'm not sure. But then, yeah, he was just revving up
9 and pulling it out, so it went kind of quick.

10 Q. I guess that's a little surprising. Was there other
11 noise going on to mask that noise out?

12 A. No, the only other -- not loud noises. There was
13 another crew switching cars but they were not making -- actually I
14 would probably not even notice it if -- I mean, I seen them but I
15 didn't really hear them, so to speak. They were what we call the
16 BIDS job, the B-I-D-S job on 322. They're switching Transflo that
17 would have been probably maybe 150, 200 feet away from where we
18 were, 150 feet maybe. Maybe, it's kind of -- but I wasn't -- I
19 knew they were there, but they were way beyond my sound of where I
20 am.

21 Q. Okay.

22 A. But I know they were there.

23 Q. Right.

24 A. And Kevin probably know too because he has to cross the
25 tracks in order to get to this location and you stop and look and

1 you see the (indiscernible).

2 Q. Right. And there's also a bridge there. I guess that's
3 95 where cars run over. Does that create noise for you?

4 A. During the night, not really.

5 Q. Okay.

6 A. You can almost hear a police car coming from all the way
7 over there to all the way over here but -- wintertime you might
8 hear noise because they crash a lot. You will hear that. But
9 normal driving cars at night, you don't really -- a tractor-
10 trailer may disturb them, maybe but other than that, not really.
11 And I don't think there was any other noise at that time.

12 Q. Okay. How busy was the yard that evening and how well
13 were you keeping up with the schedule?

14 A. We knew we were going to get slammed, meaning we knew
15 there was a lot of traffic coming in or going to get out. So we
16 knew that once we start working on one train, we probably won't
17 see the trailer for a while. We had 303 with 31 cars, 400 with
18 63. Then the inbound was going to be 87, I believe. I know we're
19 going to get a 723. I knew they said they were going to work on
20 794. So we knew, okay, from now on we're going to be working.

21 Q. Okay.

22 A. I mean, that's what we're here for. But, I mean, it's
23 not like after this we can expect nothing for a while. No, we
24 knew things were going to -- before we finish one train, we know
25 the next one will be here shortly or -- we were actually -- I was

1 thinking, after the inbound in 2 North, we probably have a little
2 break before we get the outbounds, the usual outbound: 794, 438
3 or 723. They usually come at the -- closer to the end part of our
4 shift. Not necessarily, but most of the time. It all depends on
5 how fast they build them.

6 Q. Okay.

7 A. But, like again, the yardmaster asked -- even though he
8 knew we were still working in 4 North, he just asked give me a
9 heads-up when you finish at 2 North because we need that for the
10 794. So that kind of tells us like, okay, we're going to get some
11 trains tonight.

12 Q. Okay. All right. When Kevin went to the switch, was
13 that the appropriate thing to do at that time? Did he have a
14 right to be there, so to speak? That's a bad -- I don't mean a
15 right to -- was that the right thing to do, to go to the switch
16 and do what he had to do?

17 A. Yeah, because he seen me doing -- he seen me working on
18 the blue flag so he got the switch. It all -- some, it all
19 depends. Sometimes you drop one off at the south end and then you
20 go to the other end, then you take out the flag and the switch and
21 then you say, we got it. But if we both -- in this case it was
22 like, I was doing the flag, so he took it upon himself to get the
23 switch.

24 Q. Okay. So I'm just trying to --

25 A. It's just like helping out, oh, he's doing the switch,

1 I'll get the light or whatever.

2 Q. Okay.

3 A. So sometimes we park the truck, we get out. Whoever
4 gets out on the side of the flag goes to the flag; whoever gets
5 out on the side -- just like a common thing. Most of the time on
6 the long -- it's like sometimes you have a train from one end to
7 the other, sometimes you have one at the south or the north end.
8 It's just like the way it's -- if we both get to the track, then
9 one takes the switch, one takes the light.

10 Q. Okay. So that was the appropriate thing to do at that
11 point?

12 A. That's what we've been doing.

13 Q. And up until that point, were other -- the two of you
14 working together, was everything pretty much going as normal?

15 A. Right.

16 Q. Okay. So a pretty routine day up until --

17 A. Right. The only time like -- maybe working the south
18 yard is a little harder to get there because of the steps, and
19 then we just do -- one guy stays in the truck and one guy just get
20 the lock and the switch because it just don't really make sense
21 for two guys to come out. But then, it is like -- we try to
22 divide -- you know, I take this, then the next one he take that.
23 We try to divide if we can.

24 Q. Right.

25 A. Not like one guy's going to do most of the work. We're

1 trying to equal it out a little bit.

2 Q. Right.

3 A. And, again, he can't -- he don't like to go up the
4 steps, so --

5 Q. As far as you know, how long is this portion of the yard
6 in remote control?

7 A. How long?

8 Q. Is it remote control operations?

9 A. How long it's been --

10 Q. The yard, yeah, this --

11 A. Oh, since when they started doing that?

12 Q. Yes.

13 A. A year, couple years.

14 Q. Just 2 years?

15 UNIDENTIFIED SPEAKER: Three and a half.

16 MR. van BEVEREN: More.

17 BY DR. JENNER:

18 Q. Three and a half years -- about 3½ years, perhaps?

19 A. Yeah.

20 Q. Okay.

21 A. Long enough for us to be like a -- to call anything else
22 history almost. I mean, it's been --

23 Q. Okay.

24 A. It has become common sense. Common sense is not the
25 word but --

1 Q. But have you worked this portion of the yard before
2 remote control operation?

3 A. Yeah.

4 Q. Okay. Can you -- I'd be interested in your opinion
5 about how has your behavior or how you approach things changed
6 between the two types of operations? Are there --

7 A. Personally I liked the old way.

8 Q. Okay.

9 A. Because it just -- there is no second chance. I mean, I
10 don't want to say it could have been prevented, but if there was
11 an engineer on the locomotive, he could have stopped -- he could
12 have attempted to stop. Of course, it takes a long time before
13 they do come to a stop. But now it's up to me or Kevin or any
14 other person that cross the tracks to look. There is no --
15 sometimes the engineer is inside, but sometimes the remote
16 engineer, sometimes he might be on the other end and not -- so
17 personally, I like the old way better of having an engineer on the
18 motor because that way they see more.

19 I too, what was years ago, I had a knocking on my head.
20 An engineer of a train stopped. I did not know it. He said,
21 "What's wrong with you?" He stopped his train because he was
22 worried because I had a knocking on my head and it turned out to
23 be shingles. That's an example I want to kind of say. Because if
24 there's an engineer, you've got two eyes on that motor and he can
25 stop if something don't look right. If you have a remote who is

1 somewhere else, he don't know what's going on, he just keep on
2 going. That's another -- yeah, that's just one thing that
3 concerns me about remotes. We learn to live with it, but --

4 Q. Okay.

5 A. Personally I'd rather have a regular crew.

6 Q. Earlier, I think you said, there was -- was there
7 communication between either you or Kevin and this remote control
8 operator at some point?

9 A. Not between me and the remote control.

10 Q. Not between you?

11 A. Me and the remote control. Like I said, Kevin might
12 have. I don't know if he did. He -- assuming, because later I
13 found his radio in the truck, so I think he might have been. On
14 the way driving, he might have contacted and left the radio in
15 instead of in his pocket or on the belt or clip. That's why it
16 might have been laying on the truck. That's my -- assuming, but
17 I'm not sure if it was, yes or no.

18 Q. Just in terms of procedures or operations, when would
19 you reach out to the remote control operator and under what
20 conditions?

21 A. Right before you get to start working on it.

22 Q. Right before --

23 A. You start working on the train.

24 Q. Just to let him know you're there?

25 A. Right.

1 Q. Okay.

2 A. Sometimes if it gives -- yeah, time wise, it's either --
3 say, if sometimes when we leave the trailer or sometimes when we
4 close to the track itself.

5 Q. I'm finishing up. I just -- just to be clear on, was
6 this your first day back after --

7 A. Yes, sir.

8 Q. So you had -- so you were --

9 A. I was off for 2 days and I have not seen Kevin for 4
10 days.

11 Q. Okay. So you were off on which days of the week?

12 A. Sunday night and Monday night.

13 Q. And other than that, you work 5 consecutive days?

14 A. Yeah, nights.

15 Q. Okay. And Kevin, as far as you know, has Friday night
16 and Saturday night off?

17 A. Yeah.

18 DR. JENNER: Okay. Thank you very much.

19 MR. van BEVEREN: You're welcome.

20 DR. JENNER: That's all I have for now.

21 MR. FLANIGON: Okay. We'll go around. Do you want a
22 break or are you good?

23 MR. van BEVEREN: Just a little break, yeah.

24 MR. FLANIGON: Yeah, let's take a break. Let's turn
25 this off and we will take a break, stop.

1 (Off the record.)

2 (On the record.)

3 MR. FLANIGON: We're starting up again after a break
4 interviewing Mr. van Beveren. Mike Flanigon with NTSB and we're
5 going to now go around the table and ask folks from the various
6 parties if they have any questions. So we'll just keep going
7 around the table.

8 MR. KOSTER: Yes, I do. Erwin, I'd like to ask --

9 MR. FLANIGON: Mention your name. You are?

10 MR. KOSTER: Larry Koster.

11 MR. FLANIGON: Okay.

12 BY MR. KOSTER:

13 Q. A couple of things I want to talk to or about as far as
14 you and Kevin, how you were going to work the trains. So whenever
15 -- what were your intentions how to work that track once you had
16 secured it?

17 A. One sit at one end, one goes to the other end, or if
18 it's a small train we would have looped it and then somebody get
19 another. In this case, it would have been one go -- walk one end,
20 one walk the other end of the train, aside of the train.

21 Q. Okay.

22 A. Eighty-seven cars, so that's pretty big train.

23 Q. All right. You said Kevin pulled up in the truck. He
24 had came from where?

25 A. He should have came from the north end of the yard.

1 Q. Okay. And his only intention of coming to the south end
2 was to lock that track?

3 A. To lock, unlock, and meet me, and then we were going to
4 go get the time, the dispatch time in the trailer, probably take a
5 little restroom break and get a track list and then head out.

6 Q. Okay. So he was coming down there, he was going to help
7 you lock, then you two were going to go enter your time, then take
8 a break?

9 A. Not -- a break? Not really a break break but like --

10 Q. But you were going to enter the times in the computer
11 and take a restroom break?

12 A. We probably -- let's see -- we'd have to look up the
13 train to make sure there are no bad orders in there and get a
14 track list, if that's what you were meaning?

15 Q. No. Whenever you were done with 4, you were going to 2,
16 correct?

17 A. Right.

18 Q. And Kevin pulled up in the truck and got out, okay.
19 What was Kevin's reason for coming to that end if you were going
20 to work that track right away?

21 A. Well, we could not have worked it right away until we
22 first get the dispatch.

23 Q. Okay.

24 A. So we couldn't meet up --

25 Q. So, yeah, we have not talked to the dispatcher for the

1 north end yet.

2 A. The reason we were going to meet up and, like you said,
3 get ready, go to the restroom, if needed.

4 Q. Okay.

5 A. Usually when it gets cold and you know you're going to
6 be outside for a while, you want to try to get the track list, get
7 dispatch. Sometimes dispatch can take a little while and then you
8 can put the train in the computer.

9 Q. Okay.

10 A. All that around the same time. But I don't want to say
11 we come out to the trailer just so we can take a 10-minute break
12 and don't worry about nothing. No, it's just to get physically
13 ready for the next job.

14 Q. Okay.

15 A. Which in this case mean get dispatch time, get the track
16 list, see if there's bad orders in there and had that dangerous
17 car, so that we know what to expect. And honestly, we got to go
18 take a leak sometimes and we know we be out there for a while, but
19 I don't want to consider it a break.

20 Q. I was just -- I was trying to understand why both of you
21 were at the same end and we never explained it, so --

22 UNIDENTIFIED SPEAKER: I had the same question so --

23 BY MR. KOSTER:

24 Q. You said that you were -- that you knew that you were
25 going to be busy. Do you feel that everybody was working at a

1 safe pace? Were they in a hurry or do you think they're working
2 at a safe pace?

3 A. In a safe place, but don't take their time.

4 Q. Not place, pace. Not a place but in a --

5 A. Right, right, right. In at a safe pace but don't -- how
6 shall I say that? Don't drag your feet. In other words, nothing
7 against nobody, but when you get informed that they need those
8 cars in -- they need some cars in that train to build another
9 train, let us know when, that tells me don't waste your time.

10 Q. Okay.

11 A. Try to get on it. Because that's why Kevin -- he said
12 -- I may not say his exact words, but he said something like that
13 will be the next move or they will be our next train or that will
14 be after this one, something of that nature. So to confirm with
15 the yardmaster that, yes, we will get to it.

16 Q. Okay.

17 A. It's not like -- for example, if the yardmaster said,
18 hey, guys, there's only a 20 more car train coming, but I don't
19 need it. And then we might say, okay, we can take a little lunch
20 break now. But we knew that they needed those cars in that track
21 so we didn't want to waste time. So it's in a regular pace, but
22 not slow or however you want to say that. Don't waste time
23 chit-chatting, get on it, but don't run, you know.

24 Q. When you were removing the flag from 4, from North 4,
25 did you hear the locomotive coming at you at that point or was it

1 later?

2 A. Yeah, I might -- probably at 4. I mean, it's -- going
3 from 4 to 2, the flags are almost next to each other. It's --
4 there's no really -- if there's a time, it might be a second.

5 Q. Okay.

6 A. I mean, it's the way -- they're so closely shuttered
7 there it's like I can't really give you a time frame but it would
8 be a second. So I know I was at the flags probably for --
9 probably before I heard it, but I knew when I was at the 2 flag, I
10 know I want to look out to see where it coming from.

11 Q. So it became more? You could hear it more?

12 A. But I could not see the train.

13 Q. Right.

14 A. I know that for sure, because I wanted to see where it
15 came from, 1 North or 2 main or --

16 Q. Okay.

17 A. And, well, you can hear the noise coming this way but I
18 want to see if it actually was coming this way. Like I guess your
19 senses -- you want to confirm. I mean, you see, you hear and I
20 guess your brain wants to make sure that's -- I don't know. It's
21 an automatic thing.

22 MR. KOSTER: That's all I have for right now then.

23 MR. FLANIGON: Okay.

24 BY MR. GRISSOM:

25 Q. Yes, this is Don Grissom. So with your rest days and

1 Kevin's rest days, you last seen him Thursday when you came --
2 both came to work?

3 A. Right. Thursday night is the only night that the three
4 of us -- Kevin, Eskew, Rick Rodrigues -- and myself are together.

5 Q. Okay. Did you --

6 A. And that is his last night.

7 Q. How was his demeanor that night?

8 A. Normal but talking about he's going to get his work
9 done, medical. They were going to do a colonoscopy and some other
10 medical work, and he was just talking about it like the way we are
11 talking here. He was not like excited or nervous. He was just
12 talking like, oh, they're going to make me, you know, enema stuff.

13 Q. To drink. Did he say when he was going to do that? Was
14 he going to do it that Friday or the following Monday?

15 A. He might -- no, it was going to be on the weekend so it
16 might have been that Friday.

17 Q. His weekend or --

18 A. His weekend. Honestly, I don't think he actually told
19 me a specific day, but the way the conversation was going, like,
20 okay, he's going to go home, shower, and have that stuff done.

21 Q. Did you notice him drinking any of that drink before --

22 A. Not --

23 Q. -- that night, that Thursday night?

24 A. The only thing he was drinking was Pepsis.

25 Q. So he was just drinking Pepsi that night?

1 A. Right.

2 Q. And then you said you guys arrived on Tuesday night
3 about 10:30. Did you arrive first or was he here when you got
4 here?

5 A. Kevin was already here.

6 Q. And you said you arrived about 10:30?

7 A. About 10:30 is when I came here.

8 Q. Kevin was already here?

9 A. Yeah.

10 Q. And what was he doing at that time when you arrived?

11 A. Sitting -- I guess you can call it a lunch table, in the
12 trailer talking to second shift.

13 Q. Getting the turnover and --

14 A. I didn't hear the conversation, but I was thinking it
15 was more like a personal kind of talking, like --

16 Q. Was he already dressed with his work boots and dressed
17 to go to work?

18 A. He was pretty much dressed to go. I think they might
19 have been talking about some work-related issues, but not briefing
20 as in we did this train, you have to work that train or something.
21 But honestly, all I did was punch in, say hi, and went to my
22 locker. So I didn't really -- I know he was sitting there talking
23 with second shift and they might have -- it's my understanding
24 they were talking about the MTI screen issues. We've had some
25 issues with the MTI screen not working correctly and I think

1 that's what they were talking about.

2 Q. And you mentioned at around the beginning of the shift
3 or something you knew you had 9 North, which was 303; is that --

4 A. That was the first one they --

5 Q. And did you know anything about 2 North being ready at
6 that time?

7 A. No.

8 Q. So then --

9 A. There was going to be -- it was going to be a -- we're
10 going to get the inbound when it gets here kind of thing but it
11 was going to be --

12 Q. So 303 was inbound or outbound?

13 A. 303 was first. Outbound.

14 Q. And that would have departed south out of this yard,
15 right?

16 A. Yeah, 303's a little weird train. It's actually a
17 westbound but it goes from --

18 Q. Right.

19 A. It goes south from here and then it -- the head end
20 actually becomes the rear when it goes -- flows into --

21 Q. Right. When it runs the route, yeah.

22 A. Yeah.

23 Q. I'm familiar with that move. So then you went from 9
24 North to 4 North?

25 A. Yeah.

1 Q. And that was, I believe, 400?

2 A. 431.

3 Q. And that was an outbound inspection?

4 A. Outbound, yeah.

5 Q. So that means you would have had a couple of air hoses
6 and put ground air on it?

7 A. Right.

8 Q. And that was in 4 North, and you started at the north
9 end; is that correct?

10 A. Right.

11 Q. And Kevin started at the south end?

12 A. South end.

13 Q. So you dropped Kevin off on the south end of 4 North?

14 A. And the truck is -- drops at the north end and that's
15 where the truck is, and then we --

16 Q. You drove the truck to the north end?

17 A. Yeah.

18 Q. And then you walked -- when you were finished, you ended
19 up at the south end --

20 A. Right.

21 Q. -- and he ended up at the north end?

22 A. Right.

23 Q. That's how he got the truck?

24 A. Right.

25 Q. And then when you came out of 4 North on the south end,

1 you took the flag off of 4 North first?

2 A. Right, yeah.

3 Q. He parked the truck in front of 4 North switch on the
4 south end where he left the truck; is that correct?

5 A. Yeah.

6 Q. And after you took the flag off of the south end of 4
7 North, you didn't go to the switch and take the lock off of 4
8 North, did you?

9 A. No, because that was after the impact.

10 Q. It was closer to walk over to 2 North?

11 A. Right, right, right, right. That's closer by.

12 Q. So in this yard the practice is you basically lay the
13 flag down in between the rail from one track. Each track has its
14 own flag between the rails?

15 A. Each track has its own flag, right.

16 Q. So you didn't carry the flag from 4 North to 2 North?

17 A. No.

18 Q. You just laid -- you took it off and laid it down?

19 A. Right.

20 Q. Applied the flag to 2 North.

21 A. The only thing I have to carry around is the blue light.

22 Q. And did you guys have any conversation on how you were
23 going to do this? Why didn't -- in other words, why didn't -- if
24 you were on 2 North putting the flag up, why didn't you walk down
25 to the south end and lock it? Why did Kevin get out of the truck

1 and go lock it?

2 A. He seen me working on the flag so he decided to go get
3 the switch because he was closer by the switches.

4 Q. So when --

5 A. Instead of, for example, I just take down the flag and
6 lock and then walk, flag and lock, I kept the -- both the flags,
7 come back to the truck. He kept both the locks and come back to
8 the truck.

9 Q. So after you put the flag on 2 North, what was your
10 intention to do?

11 A. My intention was just to go ahead unlock 4 and unlock 2,
12 but he already was there.

13 Q. He was already at 2, so --

14 A. Right. So my intention was to drop the flag, put the
15 flag, lock the switch -- unlock the switch, lock the --

16 Q. Were you headed towards 4 switch after you placed the
17 flag on 2 North?

18 A. Then I was going to head -- well, I kept -- I was going
19 to head towards the switches, which will probably be 4 first. But
20 since I seen Kevin already walking with the intention to walk to
21 the switch, then my -- the next thing will be either I get the 4
22 switch or go straight to the truck, because probably by the time
23 I'm done, he already have them switches locked or it's --

24 Q. So tell me exactly, after you put the flag on 2 North,
25 what did you do at that time? Did you hear the locomotive rolling

1 or did you start walking towards 4 switch?

2 A. No, no, I put the -- I heard the motor. I heard a
3 locomotive. So I put -- after the flag I put up -- after I put
4 the flag up, I -- all I had to do was step a normal step, just
5 look over north to see where the train was coming to.

6 Q. So when you heard -- when you were putting the flag on 2
7 North you heard a locomotive and you said you couldn't see it at
8 that time?

9 A. Right, for 4. It was right almost -- I put the flag on
10 2 but I'm still at -- after I put on the flag in 2, I'm still at
11 the flag.

12 Q. You're at the flag on 2 right now.

13 A. And then I just -- I didn't -- I don't really think I
14 actually had to get out much. All I had to do was look and I see
15 him coming.

16 Q. But at first you said you couldn't see him. So you
17 heard him?

18 A. Right. Because he was on the other side of the cars in
19 2.

20 Q. So the cars in 2 was blocking the view.

21 A. At that time. But that was like --

22 Q. And you had your back -- were you facing south because
23 you were walking?

24 A. Right. I was facing south.

25 Q. And the locomotive was behind you?

1 A. Yeah.

2 Q. You turned around and looked up the track?

3 A. Right. But it was all just -- yeah. As soon as I
4 looked for him, he was just about there.

5 Q. What do you mean? How far was he when you first see him
6 -- the locomotive?

7 A. Maybe like 50 feet, maybe. I mean, just --

8 Q. Like a car length or so?

9 A. A car length probably.

10 Q. And you heard him. Was he like pulling hard or --

11 A. He was going forward. I do think they have to go up the
12 hill here. It doesn't look like it, but it's a little hilly, so
13 -- I do not know how many cars he had. I do know that he was
14 really revving it up to make sure he has enough momentum to keep
15 going.

16 Q. Something you heard -- even with the other locomotive
17 sitting on the other track, you heard this revving noise --

18 A. Right. His --

19 Q. -- the motor pulling hard?

20 A. That was the -- that noise was the overwhelming noise, I
21 guess.

22 Q. Okay. And then --

23 A. Sometimes you can hear a motor just making a little
24 bitty noise and he's probably going to stop, but this time he was
25 going to go for it.

1 Q. Do you remember if the headlight was on? Did they have
2 flashing, orange lights flashing?

3 A. The headlight was on. It's -- the yellow lights are
4 flashing. I didn't really look at the yellow lights flashing
5 because I know the yellow lights will be flashing, but as far as
6 literally confirming that they were flashing, I will have to say I
7 didn't really look for those yellow flashing lights. But I do
8 think they were on and I do think the headlight was on. I don't
9 know how bright it was, but also that area is very lit up by
10 streetlights, I guess you want to say, whatever the -- the yard
11 lights.

12 Q. Right.

13 A. I think -- honestly, I didn't really -- I was looking
14 for the movement coming out that track. I didn't really
15 specifically look for the lights, but it's -- to the best of my
16 knowledge, the light was on, lights were flashing, and the motor
17 was revving up because he really wanted to go for it and make sure
18 he don't come to a stop somewhere halfway in between.

19 Q. When you spotted the locomotive, then you turned and
20 looked at Kevin?

21 A. Right. As I was facing north and I seen the locomotive,
22 I was going to go south towards Kevin, but halfway in between I
23 faced west, and there was two crew men and they told me that
24 there's a motor coming, and I acknowledged, yes, I've seen the
25 motor. And there was more like a talking and like a, yeah, I seen

1 him, like a hand signal or like an eye contact, the combination of
2 the two.

3 Q. Where was Kevin at that point, do you know? When the --

4 A. He was walking on his way to the switches. At that
5 time, after I acknowledged, I looked, and then he was walking
6 towards -- he was --

7 Q. From the truck to the switch where he was headed to, was
8 he more than halfway?

9 A. Yeah, he was approaching the first rail he will have to
10 cross in a way that start to worry me. You and I, and Kevin on a
11 regular day, would have at that time already starting to look or
12 slow down. He was approaching the first rail. He did not slow
13 down and I think he was probably close to maybe 4 feet in front of
14 the first rail once he -- I say 4 feet because that to me is where
15 I would have, definitely would have had already stopped or looked
16 or do some sort of intention of looking around. And that's --
17 when he got that close to the track, I said he didn't see the
18 motor. That's why I start yelling his name, so --

19 Q. And how far were you away from him when you started
20 yelling the first time?

21 A. Probably a good -- maybe 50 feet, something like that
22 probably.

23 Q. And did he ever --

24 A. And he did not --

25 Q. -- never looked at you or --

1 A. He did not move. He did not -- I mean, he did not --
2 like, did I hear something? No. You know, he did not -- he did
3 not hear me.

4 Q. Did not change his pace, did not slow down --

5 A. Change his pace.

6 Q. -- he just kept going?

7 A. Right. And, like I said, even if you -- if somebody
8 yells your name, your natural instinct is to look. That didn't
9 happen either, and all I did was say, "Kevin, Kevin, Kevin,
10 Kevin."

11 MR. GRISSOM: Okay. Thank you. That's all the
12 questions I have.

13 MR. FLANIGON: Okay. And you --

14 MR. BATES: Yeah, just --

15 MR. FLANIGON: You are?

16 MR. BATES: William Bates, UTU/SMART.

17 BY MR. BATES:

18 Q. Just one question. Has this ever happened before that
19 you have been in this same situation and just like a near miss?

20 A. Not with Kevin or myself. This was very unbelievable.
21 No.

22 Sometimes if you look -- lock a switch, you look to make
23 sure there's aligned, or lined against you or sometimes you can
24 look if it's lined not against you. But, no, I've never seen
25 Kevin unfocused, so to speak. He's always making sure it is lined

1 right.

2 Q. Okay. Have you ever witnessed any near misses in the
3 yard --

4 A. Not with Kevin, with other people.

5 Q. -- involving any employees, any other employees that
6 you --

7 A. I've seen -- years ago, we had to yell this carman's
8 name and he cut out on time. But that was years ago and he's no
9 longer here; he was fired. It's -- yeah, it's a safe place to
10 work, but it's also a dangerous place to work and every day you
11 talk about going home the way you came to work thinking about I'm
12 not going to lose a finger but you're not going to -- you don't
13 really think about losing your life.

14 And the near miss that I have seen was a carman putting
15 on a flag. But instead of 9 North it was 10 North and there was a
16 car shoving -- a car rolling by itself into there, and we had to
17 yell loud and he got out on time. On time is like it was probably
18 maybe 12 feet. I mean, he got the flag and dropped the flag and
19 got out and like 12 feet before the car rolled by. That was also
20 years ago.

21 Q. Do you have any type of mechanism or anything in place
22 that when you witness a near miss that you can report it or make
23 other employees aware of that hazard?

24 A. Other than telling the leadman or telling the foreman.

25 Q. But you don't have any type of formal protocol or some

1 -- there's an event like that happened that you can let the rest
2 of the workforce know that?

3 A. I don't know. This is -- it was such a long time ago.

4 Q. Okay.

5 A. I don't even -- the first time they made me work the
6 yard on overtime I told them I could not do the lead job and --
7 they told me overtime, do you want to work the yard? Then I said
8 if it's not the lead job, I'll work it. They said okay, and then,
9 oh, by the way, you're our leadman now. They gave us 4 North to
10 work. I got dispatch time on 4 North and I locked up the whole
11 yard, and nobody really taught me. I was -- because I knew at the
12 north end you have to get dispatch time. I got time on 4 North
13 and that tied up -- that locked down the whole yard because that's
14 on the switch, on the lead. So, and that time, at the beginning,
15 I was working in the shop, so I probably still had the yellow band
16 on me. I don't know.

17 Q. Okay.

18 A. But now, I mean, just -- you have your regular
19 procedures but then, other than that, other than just telling,
20 hey, man, what happened? But that happened to be the leadman too
21 at that time.

22 MR. BATES: Okay. All right. That's all I have.

23 MR. FLANIGON: Okay. Shane.

24 MR. RICHARDSON: Yeah, I've got just a few questions.

25 It's Shane Richardson with the FRA.

1 BY MR. RICHARDSON:

2 Q. You rode around with him some through the night in that
3 truck with him driving, correct?

4 A. Yeah.

5 Q. How was his driving? Did it seem like he was driving
6 fine, wasn't weaving or driving too fast?

7 A. He was not weaving. He was not going too fast. He was
8 just going -- Kevin is a slow driver. He said sometimes he
9 probably annoys people because he drives slow.

10 Q. Nothing erratic like --

11 A. No, nope.

12 Q. -- where you've got to cinch up your seatbelt a little
13 bit every now and then?

14 A. Yeah, he'd just have a hard time getting into the big
15 truck. We have another truck who had -- we have a small truck who
16 was in the shop, but he'd usually avoid the big truck because it's
17 harder to get in for him. But driving-wise, he was just driving,
18 paying attention. He was paying attention to everything up until
19 that time. He was focused. That's why it's -- to me, it's like a
20 switch got turned on and off.

21 Q. Okay. Well, how many cars do you think he had walked on
22 that shift before the incident, total? Him, himself?

23 A. Thirty and 60, 90 -- 90 cars all together roughly, give
24 or take.

25 Q. Roughly 90 cars total for the night?

1 A. One -- yeah.

2 Q. Was there a break between those two cuts that you can
3 speak of or was it -- did he walk the 30 and then your 60 right
4 after it?

5 A. Well, the little break we had was when he was sitting in
6 the truck for me to get -- maybe 5 minutes or so.

7 Q. All right. And you talked about -- I'm not real
8 familiar with this yard. You've got to get track time from the
9 dispatcher on the north end?

10 A. Yeah, on the --

11 Q. But on the south end all you need -- well, I guess, tell
12 the steps. If you wanted to go out there right now and work track
13 4 North --

14 A. Okay.

15 Q. -- and Kevin didn't have -- wasn't involved in getting
16 the track, you had to do it all, how would you do it?

17 A. Okay. On 4 North, I do not need the dispatch. So all I
18 have to do is get the switch and the flag on both the south and
19 the north end.

20 Q. Now, do you get permission from the RCO to use 4 North

21 A. From the 91, right.

22 Q. -- before you put the flag up and the switch?

23 A. Yeah. And on anything from 4 North back this way and O2
24 main, 1 North, 2 North, and 3 North we get it on the north end and
25 South 0 we have to get dispatch on the south end.

1 Q. Okay. Right. I just wanted to check.

2 A. And we have a crossover at 2 and 3 that we also flag,
3 but that's -- how do you say that -- that's not dispatch. That's
4 regular normal lock and switch.

5 Q. Okay.

6 A. I mean, light -- lock and light.

7 Q. All right. I think it was mentioned briefly, but when
8 you have your radio on, you and whoever you're working with, you
9 all are not on the same channel as the railroad crew --

10 A. No, we're on 83.

11 Q. -- the transportation guys?

12 A. We're on 83/7. My understanding 83 and 7 are two
13 different channels but they -- one is transmitting and one is
14 receiving. But we're on 83/7.

15 Q. Okay.

16 A. And the yard crew now is on 60, but they used to be on
17 60 and 80, I believe, but now they lined up both of the crews on
18 one channel.

19 Q. So you don't hear any communication between the
20 yardmaster and the train crews --

21 A. No.

22 Q. -- unless you're on that channel --

23 A. Right.

24 Q. -- specifically to talk to a crew member?

25 A. Right. And --

1 Q. And then you switch back to your channel?

2 A. Right. We are on 83/7 all the time, except 60 for the
3 yard crews and 32 for the train crews. And sometimes we have to
4 switch between the two because we don't really -- somebody say if
5 you want to call the motor, he's on channel 60; he might be on 32.
6 Sometimes we might have to call the locomotive channel. It all
7 depends, I guess, when the crew change their channel. But usually
8 the yardmaster tells us, oh, they're on channel 32 or you can get
9 them on channel 60 or things like that. So but, yeah, most of the
10 time -- 99 percent, we are on our channel 83/7. That's where we
11 are set on.

12 Q. Okay. All right. One more question. It was asked
13 earlier about the safety briefing. You gave some examples of
14 things you talk about in safety briefing. Do you remember
15 anything specifically that night that referred to a safety rule?

16 A. A specific rule, no. We were just --

17 Q. Like say a rule of the week that you went over or
18 anything?

19 A. I don't remember a rule of the week. We were just -- we
20 have to write down at the end of our shift, we make a turn -- a
21 report what we did and we have different rules. Right now we're
22 working on prepping ourselves for the audit so we -- everybody has
23 a thing that we go over for and I was -- lately, I've been on like
24 on stretching the air hoses and like if brakes, just lay it on the
25 rail, those kind of rules.

1 Q. But that's something you'd put in a report at the end of
2 the shift?

3 A. Yeah, but that's what you do as you go along. I mean,
4 it's -- if you walking 4 North and you see a brake shoe laying
5 halfway in between, you kick it to the rail so that the next
6 person won't trip on it, for example, or air hoses, you stretch
7 them out instead of leaving them dangle.

8 Q. Okay. But at 11:00 p.m. --

9 A. Right.

10 Q. -- when you all got your job lined up and everything,
11 you didn't say -- have any conversation like, hey, look out for
12 air hoses or look out for trains or anything specific that you
13 recall?

14 A. Not to just -- to be safe. Not specifically saying --

15 Q. Anything to do?

16 A. -- we don't want to -- don't get run over by a train.
17 But every time if you talk to somebody, you always say, stay safe.

18 MR. BATES: That's all I have.

19 MR. van BEVEREN: Yeah.

20 MR. BATES: Thank you.

21 MR. FLANIGON: Okay. Mike Flanigon. Just a couple
22 hopefully quick things.

23 BY MR. FLANIGON:

24 Q. In the conversations that you had with your colleague,
25 Kevin, regarding his medical concerns, not liking a particular

1 doctor, medications that may have been affecting each other
2 somehow, did he ever mention, if you can recall, a specific name
3 of a doctor or a particular medication?

4 A. No. The only thing I know he told me, he showed -- he
5 brought two bottles of medicine with him to the doctor that
6 prescribed him the other medicine. He told me he brought both
7 medicines with him so he -- the doctor can read and know what he
8 has currently prescribed.

9 He did not specifically say it's some brand name. Even
10 if he did, I would not remember because --

11 Q. Okay. He didn't mention a doctor's name, Dr. so and so?

12 A. No doctor's name. He'd just say, "Man, that doctor just
13 didn't look. He should have known better. He just messed me up
14 so I want to get another doctor," but he did not say who, where,
15 for what.

16 Q. Okay. From the time you first saw him that night, when
17 you reported for work and worked with him, did you see him eat
18 anything?

19 A. No.

20 Q. No, no eating. Did he smoke?

21 A. He don't smoke.

22 Q. He don't smoke. And we've heard about the Pepsi. Was
23 it diet or regular Pepsi?

24 A. Diet Pepsi.

25 Q. And how many would he drink in a night, do you think?

1 A. A case.

2 Q. A case, 24?

3 A. He slowed, he slows down, but he used to go -- he'd
4 always have a can with him. So when he finished the work, he had
5 a can in the truck so he can drink it. That's normally unless
6 he'd forget it. He used to carry one in each pocket of his jacket
7 and drink one. And then get on the train, so he has to take a
8 break and take another. But he slowed down on that. But it's --
9 right now, he always come in with -- a case is like 12, I believe.

10 Q. Twelve? A 12-pack?

11 A. Yeah. And he has plenty in the truck in case he run
12 out. But he is slowing down on it, but he is known for the Pepsi,
13 Diet Pepsi guy.

14 Q. Okay. Okay.

15 A. That's, that's -- yeah, just like, we call him the bird
16 man because he has a lot of birds, and the other thing is if you
17 see somebody with a Diet Pepsi, you know it's Kevin. It's his
18 kind of -- I don't want to say a trademark but --

19 Q. Okay.

20 A. Nothing wrong with liking Pepsi. I'm known for drinking
21 a lot of coffee even in 100 degree summertime, but --

22 MR. FLANIGON: Okay. Well, that's all I have.

23 DR. JENNER: This is Steve Jenner.

24 BY DR. JENNER:

25 Q. You had just mentioned showing you two bottles of -- did

1 he show you the two bottles of medication?

2 A. No, no, no, he showed -- he told me he showed them to
3 the doctor --

4 Q. Okay.

5 A. -- that gave him the other medicine.

6 Q. But you don't know if he had them on his possession that
7 night?

8 A. Oh, no, no, no. We were just talking about --

9 Q. Oh, okay.

10 A. -- he said, "I went to the doctor and he gave me -- I
11 brought the medicine with me, but he -- so he should have been
12 able to read," that's how he was talking to me.

13 Q. Yeah.

14 A. I honestly -- I did not see any medicine. But I have a
15 Vitamin D pill I take -- you're laughing because for some reason
16 that's the time I can remember. I come to work, take my pill.

17 Q. Okay.

18 A. If I don't do it, I'm going to forget it. So it's just
19 something that I did, but I did not see him taking pills. I
20 didn't see him eating. He don't drink coffee. The only thing he
21 will drink is Pepsi. He drink, but he don't really -- just like
22 here, I cannot -- I do not recall any of you here drinking water
23 or Pepsi but we know somebody is because it's here.

24 But there was no food. Usually, yeah, we eat, but he's
25 -- like I said, he is really -- he start -- he stopped eating

1 much. So it's like he's on his way to work, he might eat in the
2 car coming to work or he doesn't have lunchtime to eat a lot of
3 food. Actually I don't really see him eating that much unless
4 sometimes he might open up a can with something that you microwave
5 it, but not as much as it used to be.

6 I think he usually eat on the way coming to work or just
7 before he comes to work. I try to eat halfway in between, but our
8 job -- you cannot always. 3:00 is in the middle of the shift. I
9 would like to eat something, but sometimes you might have to eat a
10 little later or sometimes you can't.

11 DR. JENNER: Okay. Thank you.

12 MR. van BEVEREN: You're welcome.

13 MR. FLANIGON: Any further from anybody? Yes, sir.

14 MR. GRISSOM: Yes. This is Don Grissom.

15 BY MR. GRISSOM:

16 Q. You said he changed his eating habits. How long ago did
17 he do that?

18 A. That's probably -- quite a long time actually. Let's
19 see, Mr. Griswell used to be the leadman and then he took his job,
20 but not at that time. It was -- it's closer by. Maybe -- I want
21 to say, and the last half year he's really focusing on it, but
22 before that --

23 Q. So this was before he had the lead job?

24 A. When he was not the lead job, he was still eating more.

25 Q. Okay. I think Danny last worked about April of 2014;

1 does that about sound right to you?

2 A. Yeah.

3 Q. About a year ago?

4 A. Yeah.

5 Q. It was April or May when Danny last worked, I think,
6 right?

7 A. Right. A year.

8 Q. Okay.

9 A. Then he took his job and he started -- then he started
10 to eat less here.

11 Q. Here what you see, right.

12 A. And about a half a year ago he said -- he was -- he let
13 us know he was trying to work on his diet, weight.

14 Q. But his weight fluctuated over the last 12 years?

15 A. He has lost, he has lost some weight compared to a year
16 ago.

17 Q. Right, right. Many years ago, maybe about 5, 6 years
18 ago, he did lose a lot of weight?

19 A. Yeah, he was actually a lot skinnier.

20 Q. Right. And then he --

21 A. Yeah, but then he gained it -- he gained it quick.

22 Q. Right. Before he was -- you know, he was heavy, lost a
23 lot of weight?

24 A. Right.

25 Q. Then he put some of it back?

1 A. Then it came back, yeah, and it went quick.

2 Q. Right.

3 A. And now he was really starting to concentrate on losing
4 his weight and go back to what he was again.

5 Q. Okay.

6 A. And that started -- I noticed it -- well, when he's a
7 leadman, I noticed it because that's roughly when he stopped
8 eating here much. That's when he started to eat less. But like
9 about half a year ago, I think he really started to say I'm going
10 to eat oranges or I'm going to eat fruit, I'm going to stay away
11 from Subway. That's when he started to let us know he was more --
12 also around that time -- that's when we also told him sometimes,
13 "Hey, man, why are you breathing so hard?" for example.

14 Q. So when he started eating better, did he ever mention
15 that he is doing any exercise program on his own? Is he
16 exercising or going to the gym or --

17 A. As far as I know he was not doing that, and he just now
18 -- yesterday or the day before yesterday is actually when he told
19 me he's going to go back to -- he's going to buy some weights and
20 start lifting weights. But he told me specifically, not like
21 Craig Wilson because he's -- Craig Wilson do that a lot -- because
22 he just wanted to get his shape back, he said.

23 MR. GRISSOM: Right. Okay. Thank you. That's all the
24 questions.

25 MR. van BEVEREN: All right.

1 MR. FLANIGON: I think we're --

2 UNIDENTIFIED SPEAKER: No. Thank you.

3 MR. FLANIGON: -- I think we're good.

4 MR. van BEVEREN: All right.

5 MR. FLANIGON: So, again, I really want to thank you.

6 We'll conclude this. It must be about 11:45.

7 (Whereupon, at 11:45 a.m., the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: CSX EMPLOYEE FATALITY
ACCA YARD, RICHMOND, VIRGINIA
APRIL 1, 2015
Interview of Erwin van Beveren

DOCKET NUMBER: DCA-15-FR-006

PLACE: Richmond, VA

DATE: April 2, 2015

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.

Cheryl Farner Donovan
Transcriber