

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

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COLLISION OF LONG ISLAND RAIL ROAD *

(LIRR) TRAIN NO. 2817 WITH THE * Accident No.: DCA17FR002

PLATFORM AT ATLANTIC TERMINAL, *

BROOKLYN, NEW YORK, JANUARY 4, 2017 *

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Interview of: BRET R. BECKER

LIRR Facilities
Jamaica, New York

Sunday,
January 8, 2017

APPEARANCES:

TOMAS TORRES, Rail Accident Investigator
National Transportation Safety Board

ANNE GARCIA, Human Performance Investigator
National Transportation Safety Board

JOSEPH MEADE, Operating Practice Inspector
Federal Railroad Administration (FRA)

BOB TOMASZEWSKI, Operating Practices Inspector
Federal Railroad Administration

MARK ELLIOTT, Director of Investigations & Analysis
Long Island Rail Road (LIRR)

DONALD HILL, Safety Task Force
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WILLIAM BATES
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DOMINIC AMENDOLARE
SMART National Transportation Safety Team
(Observer)

<u>ITEM</u>	<u>I N D E X</u>	<u>PAGE</u>
Interview of Bret Becker:		
By Mr. Torres		5
By Ms. Garcia		9
By Mr. Meade		27
By Mr. Tomaszewski		34
By Mr. Hill		35
By Mr. Elliott		40
By Mr. Bates		42
By Mr. Neary		42
By Ms. Garcia		44
By Mr. Meade		53

I N T E R V I E W

(11:48 a.m.)

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2
3 MR. TORRES: Okay, it's 11:48 a.m., and we're going to start
4 an interview here with a manager. This is the NTSB informal
5 interview. My name is Tomas Torres, T-o-m-a-s, T-o-r-r-e-s.
6 Today's date is January 8th, 2017, and we're at Atlantic Terminal
7 interviewing a manager in connection with accident that occurred
8 at Atlantic Terminal on January 4th, 2017. The NTSB accident
9 number is DCA17FR002.

10 The purpose of the investigation is to increase safety, not
11 to assign fault, blame or liability. NTSB cannot offer any
12 guarantee of confidentiality or immunity from legal or certificate
13 actions. A transcript or a summary of the interview will go in
14 the public docket.

15 The interviewee can have one representative of the
16 interviewee's choice. Do you have somebody?

17 MR. BECKER: No, I don't.

18 MR. TORRES: Okay. Do you understand this interview is being
19 recorded?

20 MR. BECKER: Yes, I do.

21 MR. TORRES: Please state your name and spell it.

22 MR. BECKER: Bret R. Becker, B-r-e-t, middle initial R for
23 Robert, R-o-b-e-r-t; Becker is the last name, B-e-c-k-e-r.

24 MS. GARCIA: Anne Garcia, G-a-r-c-i-a, human performance
25 investigator for the NTSB.

1 MR. MEADE: Joe Meade, M-e-a-d-e, FRA op inspector.

2 MR. TOMASZEWSKI: Bob Tomaszewski, T-o-m-a-s-z-e-w-s-k-i,
3 operating practices inspector for the FRA.

4 MR. HILL: Donald Hill, H-i-l-l, BLET Safety Task Force.

5 MR. ELLIOTT: Mark Elliott, E-l-l-i-o-t-t, director of
6 investigations and analysis for Long Island Rail Road.

7 MR. BATES: William Bates, B-a-t-e-s, SMART National
8 Transportation Safety Team.

9 MR. NEARY: William Neary, N-e-a-r-y, SMART National
10 Transportation Safety Team.

11 MR. AMENDOLARE: Dominic Amendolare, A-m-e-n-d-o-l-a-r-e,
12 SMART Transportation Safety Team observer.

13 MR. TORRES: Tomas Torres with NTSB.

14 Mr. Becker, do you mind if we call you by your first name or
15 last name?

16 MR. BECKER: Sure. You can call me Bret. Thank you.

17 INTERVIEW OF BRET R. BECKER

18 BY MR. TORRES:

19 Q. Bret. Okay. Would you please describe your work history
20 here, what your duties are?

21 A. From the time of hire, which I believe was in 1994, I started
22 as an assistant conductor. I don't have the exact dates down for
23 you but I can give some relative terms.

24 I next transferred to engine service and was trained as a
25 locomotive engineer, I believe, a year or two later. When I got

1 out, I was the locomotive engineer for a while. I was asked to go
2 into special duty status, a special duty engineer for
3 approximately six to eight months; at which point I applied for
4 the training specialist position as a locomotive engineer training
5 specialist, which is training our locomotive engineer trainees.

6 I performed that for, I would say, approximately a year and a
7 half, at which point I applied for a managerial position for the
8 road foreman of engines position, which I performed as a
9 locomotive engineer, road foreman of engines for about six months,
10 stationed in Penn Station, in west end terminals; at which point I
11 was asked to go into the air brake department as an air brake and
12 rules examiner for approximately three years, four years, I guess.
13 I think that's what it was, about three or four years.

14 UNIDENTIFIED SPEAKER: 2006.

15 MR. BECKER: Yeah. At which point, I returned to the road
16 foreman of engines position and was identified to be the
17 transportation point person for the gap materials, which is from
18 our gap incident that happened a number of years ago in Woodside.
19 So I was the transportation point person for that. And then I
20 think it was 2007, or the end of 2007/beginning of 2008?

21 UNIDENTIFIED SPEAKER: Yeah.

22 MR. BECKER: Yeah, about that, that I was --

23 UNIDENTIFIED SPEAKER: 2008.

24 MR. BECKER: Yeah, applied for the superintendent's position
25 and I became the superintendent of engine service, and I've been

1 at that position ever since.

2 MS. GARCIA: Just a reminder, for the record, that we're
3 asking you now as an interviewee, although you've been one of the
4 interviewers. And we ask that you respond and answer the
5 questions and nobody else assist you with that. Okay?

6 MR. BECKER: Sorry.

7 BY MR. TORRES:

8 Q. As superintendent of engine service, what specific duties do
9 you have?

10 A. The duties and responsibilities is I oversee the engine
11 service section of the transportation department, all aspects. I
12 am the administrator of the 240 submittal that's submitted to the
13 FRA for locomotive engineers. It's my name that's on that
14 submittal. I, you know, oversee, as I said, the entire roster. I
15 have direct reports underneath me, which are the road foremen of
16 engines. I have a lead road foreman of engine that is an
17 assistant of mine that assists in providing that oversight. I
18 also, on a daily basis, provide for, you know, the operation,
19 assist in the operation for the railroad, you know, assisting in
20 safety, on-time performance. You know, a number of things. It
21 varies on a day-to-day basis.

22 Q. So you're in charge of all the road foreman and engineers?

23 A. Correct.

24 Q. You're pretty much operating practices?

25 A. Correct.

1 Q. Do you know how many engineers you have on the system, more
2 or less?

3 A. I don't know the exact number, but we're over 400 at this
4 point.

5 Q. Oh, okay. And how often do the engineers get a check ride?

6 A. We provide certification rides as per the FRA submittal, 240,
7 one announced certification ride per year and one covert or
8 unannounced ride per year. We do two rides per year, per
9 engineer.

10 Q. Are those yearly year or calendar?

11 A. Yes, annual year.

12 Q. Annual, okay. And how about tests, you know?

13 A. Efficiency tests as per the efficiency calendar -- or not
14 efficiency calendar, efficiency-testing program, our ETS system.
15 And that's another submittal to the FRA. Is it 217 or 218? I
16 don't even remember exactly what submittal it is. I'd have to
17 look it up for you. But the submittal says that we would test
18 employees a minimum of one, possibly two times per year. And I'd
19 have to check on that, but we perform those tests.

20 Q. Okay. On this particular incident with the engineer, were
21 you familiar with him?

22 A. Yes, I've known Mike Bakalo for -- since he was a trainee.

23 Q. A trainee.

24 A. I was a training specialist for him.

25 Q. What is his work history like?

1 A. Mike Bakalo is a very good engineer, very professional. I
2 mean, he's had some, you know, minor violations, but there aren't
3 very many engineers out there that don't have minor violations. I
4 would consider his track record, so to speak, very good. You
5 know, there are some issues with some absences, you know, at some
6 point, but nothing that we would consider operational, really, you
7 know, that would strike me. Unless I had the employee history in
8 front of me, I could pick apart at that point, but for now, I
9 would say he was, you know, a very consummate professional.

10 Q. Okay.

11 MR. TORRES: Anne?

12 MS. GARCIA: Thank you.

13 BY MS. GARCIA:

14 Q. Anne Garcia. Bret, I have a number of questions for you,
15 okay? First of all, what is your exact job title?

16 A. I'm the transportation superintendent of engine service.

17 Q. Okay. And where is your office located?

18 A. My office is located in the JCC building, on the 6th floor,
19 in Jamaica, New York.

20 Q. Thank you. So, first area of question, you mentioned that
21 you were -- were you one of the trainers for this engineer?

22 A. Correct. I was in the training department at the time when
23 Mr. Bakalo went through the training program, and I was
24 specifically assigned in his class a training specialist, me and
25 another training specialist, William King, at the time.

1 Q. And about when was that, what year, roughly?

2 A. I can't recall the exact year. It had to be 2002? Whenever
3 Mike went through.

4 Q. Okay.

5 A. I'm sorry. I don't recall the date.

6 Q. That's fine. So you've known him all those years?

7 A. Correct.

8 Q. Okay. Do you keep in contact with people that you were
9 training, or what type of contact have you had with him over this
10 period?

11 A. I don't have social contact with Mr. Bakalo, you know,
12 except, you know, a friendly hello. You know, as the
13 superintendent of engine service, one of the things I stress to
14 the engineers, or all employees, is that I have an open-door
15 policy. They can come in and talk to me at any time. You know,
16 on occasion I've run into Mike and, you know, we've exchanged
17 pleasantries, but nothing more, you know, deeper than that.
18 That's basically where we stand.

19 Q. Good. Thank you. And you were one of the trainers here for
20 a period of time.

21 A. Correct.

22 Q. Are you still familiar with the training requirements for
23 engineer and train crew?

24 A. I wouldn't say I'm as familiar with them as I was as a
25 training specialist, but I would know most of the components of

1 the training program, correct.

2 Q. Okay. And when there's changes to the training program,
3 you're made aware of those?

4 A. Correct.

5 Q. Okay. Good. Can you tell us something? You have already
6 provided us a copy of the fatigue module.

7 A. Um-hum. Correct.

8 Q. Could you tell us -- I'm not sure what the exact title of it
9 is. Could you tell us something about that, about how long it is
10 and what it covers?

11 A. Well, the fatigue management is a presentation that's given
12 by the training department. I believe it's a two-hour, two- or
13 three-hours presentation that discusses all the aspects of fatigue
14 management, you know, getting prepared, making sure that you're
15 prepared for work, making sure that you have proper rest, signs
16 that you're not getting proper rest. It's pretty extensive.
17 There are, I believe, a minimum of 50 slides that pertain to it.
18 I don't know the exact program. I wasn't the author of the
19 program.

20 Q. Okay. So you described how to take individual responsibility
21 for your own fatigue management?

22 A. Correct.

23 Q. Okay. And the packet that you gave me was, I believe, what
24 the trainers use?

25 A. Correct.

1 Q. And it did indicate that it was, I think, 45 minutes

2 A. Yes, but I think they have, you know, a couple -- because
3 attention-span-wise, focus-wise, your attention span lasts
4 probably about 20 to 30 minutes, and they give you breaks, and
5 then they open it up for questions. I know that's part of the
6 process.

7 Q. Okay. Good. So to your understanding, the block of time
8 that's allowed in the training is about two hours?

9 A. Yeah, two or three hours, something like that.

10 Q. Two to three hours. Okay. Thank you. And who receives this
11 fatigue management training?

12 A. From my recollection, it would be train and engine service
13 employees. I'm not too familiar with the block operators and the
14 dispatchers. I'm not familiar with their program as well as I am
15 with the train and engine service people, but I know that those
16 people receive that.

17 Q. Okay. How often?

18 A. Minimum of every two years.

19 Q. Okay. So the three employees who would have been on the
20 incident train, they would have all received this every two years?

21 A. Yes, as part of their re-certification process and the
22 weeklong training program that we had developed. It is a
23 significant portion of that, yes.

24 Q. Okay. Do all members of -- all employees of the railroad who
25 are in safety-sensitive positions receive fatigue training?

1 A. Again, I can only attest to right now the train and engine
2 service aspect of it. I don't know specifically, you know,
3 considering other safety-sensitive employees from other
4 departments, if there's any that would receive that. But I know
5 specifically the safety-sensitive employees in train and engine
6 service receive that training.

7 Q. Okay. Good. Is any training provided for peer-to-peer
8 assessment of fatigue?

9 A. Identifying troubled employees? There's some basic
10 identification of troubled employees in reference to alcohol and
11 drug use. Also, if somebody wouldn't be considered fit for duty,
12 who they would have to, you know, contact. But is it extensive?
13 I wouldn't consider it very extensive. They are not considered,
14 our frontline employees aren't considered professionals in regards
15 to that, but they are given training enough so they can recognize
16 the signs if somebody is unfit for duty, correct.

17 Q. Okay. And where do they receive that training? What is that
18 training called?

19 A. That's part of their re-certification process, okay? And I
20 think it's their initial certification when they first come on the
21 property. We bring them, I don't know if it's to Mineola or not.
22 I know when I hired on it was at Mineola that we discussed that.
23 But I don't know if they continue to do it there anymore, so I'd
24 have to find out for you.

25 Q. Okay. So this is a separate module of training that's called

1 identifying troubled employees?

2 A. Yes, but it's -- you know, I don't know the exact, if that's
3 the exact formal module for it. I'd have to find out for you.

4 Q. Okay. But it's separate from the fatigue module that you
5 provided?

6 A. Yes.

7 Q. Okay. And this particular module, whatever the official
8 title is, that also includes training for fitness for duty
9 assessments?

10 A. Yes. I don't think, you know, it's as formal as the -- or as
11 extensive as the fatigue management program that we have, but it
12 is definitely utilized. You know, it's not a -- it's not just
13 glossed over.

14 Q. Okay. But it is formalized training that they receive at
15 least every two years in their refresher training and initially,
16 in their initial training?

17 A. Yes. You know, I think it's more of a peer-to-peer thing
18 where they're looking out for each other. You know, if somebody
19 is, you know, not feeling well or under the influence, we want to
20 make sure -- you know, our ultimate concern is, obviously, the
21 safe operation of our trains, but we also want to make sure that
22 the employees themselves are, you know, are okay and that they're
23 taken care of in the quickest, you know, fashion possible.

24 Q. Okay. So is that one of the terms that is officially used by
25 your training department, peer-to-peer training?

1 A. You'd have to ask the training department. I'm not a
2 trainer.

3 Q. Okay. Good. And you can provide us with this training
4 module?

5 A. Yeah, I'll talk to the training department for you and see
6 what we have.

7 Q. I appreciate that.

8 A. No problem.

9 Q. Thank you very much. In your opinion, what all is covered
10 under peer-to-peer fitness for duty assessment?

11 A. Well, I think with anything that would affect the safe
12 operation of your train, that you have to notify the supervision
13 as quickly as possible. That's one of the things, whether it's an
14 individual that doesn't appear to -- that appears to be under the
15 influence, or it could be mechanical. Anything that affects safe
16 train operation, you're supposed to, you know, make sure that you
17 notify the proper authority.

18 Q. Right.

19 A. And that's in all of our stuff. You can look in our rulebook
20 and in our special instructions. I mean, safety is of the first
21 importance in the discharge of your duty. So that's tantamount
22 [sic], and we stress that at every level of our training.

23 Q. Good. Thank you. So, if I was reporting for duty and some
24 red flag went off in your mind, we were talking, we're having face
25 to face and something went off in your mind, thinking I don't know

1 if that person is fit for duty, what exactly would you be keying
2 in on? What things does someone look for in the other person that
3 would indicate that they are not fit for duty on that day?

4 A. Well, obviously if there's -- and I had asked the question
5 before, I think, of all the interviewees, if they had erratic
6 behavior that you would consider abnormal, they would question,
7 you know, that individual. Whether they smelled alcohol or they
8 appeared dazed or, you know, even confused, were unable to
9 understand, you know, directives, you know, something that you
10 would consider that would possibly affect train operation, your
11 safe operation of your train. And obviously, you would make sure
12 that that individual was taken care of prior to operating
13 anything.

14 Q. So, what exactly would you do if I, for example, or some
15 employee, if you felt that that was the situation, what would you
16 then do? If I'm reporting to duty to work on the train, what
17 would you do in your position?

18 A. In my position now or in my position as a locomotive
19 engineer?

20 Q. In your position now.

21 A. If I was -- well, immediately, if I -- me being the
22 supervisor?

23 Q. If you happened to be down there, you know, at the station
24 and you see me reporting for duty and you --

25 A. I would make the -- if I made the determination that you were

1 unfit for duty, then I would remove you from service, you know,
2 take you away from that area. You wouldn't be operating a train.
3 And I'd make sure that depending on what I was identifying, then I
4 would make the proper call whether it was -- you know, I mean,
5 we're cognizant on this railroad of not only the people that
6 are -- as a supervisor, now, we're talking -- that are possibly
7 under the influence, but if they're under stress or trauma. We
8 have to make sure that anytime they operate trains or are in that
9 type of service that they are able to be responsible for
10 performing that service.

11 So I want to take them out of that situation. They wouldn't
12 be operating if I felt they were unfit to do so. And if it was
13 drug or alcohol related, obviously we'd have to go, you know, for
14 that route and to get tested. If it was something that they
15 weren't -- you know, we've had individuals that had some issues at
16 home, even, and we don't want them operating at that time.

17 What I usually tell engineers, even for close calls or
18 fatalities, you know, I don't want you operating a train if you're
19 not right, behind the throttle. I can, you know, I can explain
20 away a lot, delays or anything, but if you're not right, you
21 shouldn't be operating the train. So let's make sure that if
22 there's anything that you're, you know, that's affecting you, I'm
23 not a professional in reference to psychology or social work, but
24 I'm going to get you the proper help that you need. So we make
25 sure of that, and that's what we would do.

1 Q. Good. And so you in a management position, would you say
2 that within Long Island Rail Road that any of the supervisors and
3 management would have that same authority that you would to stop
4 someone from going on and operating a train or being part of a
5 train crew?

6 A. Undoubtedly.

7 Q. Okay. Thank you very much. Now, in talking with some
8 other -- the crewmembers, you have employees that work regular
9 schedules. Do you also have employees that work the boards, that
10 come in and get called as needed?

11 A. Yes. I mean, we have employees that work -- it's called the
12 extra list. Yes. You know, depending upon -- that's not
13 necessarily, you know, those people that are the least senior on
14 our roster. It all depends on who likes to do what. You know, I
15 mean, it's a personal preference, what you want to do.

16 Q. Okay. Now, do those employees who work the extra list, do
17 they receive all the same benefits? Do they have the same amount
18 of sick leave?

19 A. Oh, yes. Once you are a certified locomotive engineer,
20 trained and, you know, on the roster, you receive the same,
21 everybody receives the same benefits. Whether you work yards or
22 road, it doesn't matter. We're all locomotive engineers. There's
23 no distinction.

24 Q. Okay. Same with conductors, assistant conductors?

25 A. Yes, correct.

1 Q. Okay. So everyone has sick leave that they receive, that
2 they have on the books, and then if they are feeling sick, they
3 can call in sick?

4 A. Yes. And I know it's -- I'm not exactly sure in reference to
5 training service. I mean, I'd have to look to the collective
6 bargaining agreement, and I'm not as familiar with the collective
7 bargaining agreement in train service as I am in engine service,
8 but I'm pretty confident that everybody's under the same auspices
9 for the sick agreement and vacation, you know, because they're on
10 the seniority list, so I assume that's the same.

11 Q. Okay. In terms of scheduling people who come on to work from
12 the extra list, is there a minimum amount of time that's required
13 between their shifts?

14 A. Well, as per FRA regulations, there's hours of service that
15 come into play and they're required by federal regulation to have
16 a minimum time required between jobs, you know, and there's only a
17 certain amount of time that they're allowed to work. And there's
18 a whole regulation for hours of service that our crew dispatching
19 or crew management office has that, you know, they're all fully
20 aware of, and they're the ones that make the callouts and make
21 sure everyone is following those procedures.

22 Q. Okay. So those are the procedures that you follow. Okay.
23 Thank you.

24 A. You're welcome.

25 Q. Completely separate questions that I have.

1 A. Sure.

2 Q. And this is, yesterday you gave us, gave Tomas and I the
3 opportunity to ride in the front of the train going from the
4 Jamaica station into the Atlantic Terminal.

5 A. Correct.

6 Q. And you were with us.

7 A. Correct.

8 Q. And we were able to observe that line of track and how the
9 train went on that.

10 A. Correct.

11 Q. So I have a question on you for that. Thank you, by the way,
12 for providing that.

13 A. You're welcome.

14 Q. It was very informative. There was a section that came up
15 where the train maximum speed was 60 miles per hours and, from
16 where we were sitting in the jump seat area, we saw the display on
17 the upper left and it gave the 60 mile per hour speed limit, and
18 then it indicated what speed the train was actually going. And so
19 the engineer's job is to keep it below the speed limit, correct?

20 A. Yes, whether it be posted or as per automatic speed control,
21 which is automatic train control. I'll try to use, you know,
22 abbreviations that you're all familiar with, ATC. But there are
23 sections of the railroad that have speed limits that are different
24 from the code that's being displayed, and the engineer is required
25 to know that.

1 Q. Okay. And so how -- are those special speed limits displayed
2 on the track someplace, or does have to keep it in his memory?

3 A. Well, depending upon what they are. I mean, they could be --
4 permanent speed restrictions have, for the most part, permanent
5 speed restriction signs, but even if the signs are not there,
6 they're required to know that the speed restriction is in place in
7 that particular area. And those speed restrictions are listed in
8 the special instructions of the current timetable. And I'm not
9 sure if it's Special Instruction 1038. Is it 1038?

10 Oh, I'm sorry. I'm sorry. I don't know if it's 1038-B, but
11 I have to check on it.

12 Q. That's fine.

13 A. But they are required to know that and memorize that, put it
14 to memory so if they come across while in their operation of their
15 train, they're in that area, they have to bring the speed of the
16 train under that particular, you know, restriction.

17 Q. Thank you. And there was a section of track that we were on
18 yesterday where it indicated, the display inside the cab showed 60
19 mile per hour max, and as we approached it, and I believe that you
20 called it out, that there was a sign that said 45 miles per hour?

21 A. Yes, that's in the area of East New York. It's a 45 speed
22 restriction in certain areas. And the engineer is required -- the
23 sign is set up as a visual reminder to the engineer that we're
24 approaching a speed restriction, they have to get the speed of the
25 train underneath that prior to the point of restriction. And then

1 they would traverse that restriction and increase their speed back
2 up to the MAS, or maximum authorized speed once they leave that
3 particular area.

4 Q. And what does that sign look like?

5 A. It's a diamond, a yellow diamond with black letters -- black
6 numbers in there that say 45. And that's at all, you know, all of
7 our permanent speed restriction signs.

8 Q. Okay. And even though inside on the display it said 60, the
9 engineer knows that whenever he sees that sign on the track, that
10 that's the speed limit?

11 A. Yes, he knows that even if the sign isn't there. He's
12 required to know that as part of his training and physical
13 characteristics knowledge.

14 Q. Okay. So even if the sign either is never there or for some
15 reason the sign is not visible?

16 A. Correct.

17 Q. Or has been removed, he knows that that's the speed for that
18 particular spot?

19 A. Yeah. As part of the training process, the locomotive
20 engineer is required to know the physical characteristics of the
21 railroad. That includes all signals where if a signal is missing
22 or absent from a certain position, that he's still required, you
23 know, to know that it's supposed to be there. And he can't --
24 let's say if we were coming up and somebody knocked down a signal
25 and it was -- you know, we didn't know what the aspect was, he

1 would have to treat it as its most restrictive aspect. And if it
2 was a home signal, he'd have to stop before that particular point
3 and, you know, make the communication that the signal is absent
4 from where it is, and then we'd, you know, depending upon what was
5 going on, we'd have to give him permission or something by that.

6 Q. Good. So he would report it in if he noticed it was --

7 A. Yes. Correct.

8 Q. Okay. So on this particular instance, and we had a brief
9 chat about it on the train, it continued to display the 60-mile-
10 per-hour limit inside even though it said 45 on the track, and you
11 mentioned that it was a matter of coding, that it hadn't been
12 coded in yet?

13 A. Well, no, the ATC is coded in for a branch speed. For the
14 most part, we try to code in most of our speed restrictions that
15 are out there; however, because of track infrastructure the way it
16 is, we can't code in every speed restriction exactly that's out
17 there.

18 The FRA had not recently but fairly -- it's a fairly new
19 advisory that came out in regards to speed. There was a few
20 incidents involving speeds of the train exceeding that which was
21 in the track for ATC. So, what we've done on our property is any
22 speed cannot exceed the maximum track speed in that area, whether
23 it's a restriction, by more, I think it's more than 25 miles an
24 hour. Yeah, 25 miles an hour. That's to make sure that we can't
25 incur any rollover or derailment because of it. You know, if the

1 speed can exceed 25 miles an hour in that particular area, then we
2 would put a code in there to reduce the speed down.

3 Q. Okay. So the coding is for the automatic train control?

4 A. Yes. Correct.

5 Q. Okay. And at that point of track, was the train under
6 automatic train control?

7 A. We're under automatic speed control rules in that area,
8 correct.

9 Q. Okay. So the engineer knows that in that area it's under
10 automatic speed control, but what the train believes is the
11 maximum speed is the 60, which is on the displayed indicator as
12 the maximum speed. So it's up to the individual engineer to
13 himself monitor and know that it has to not be 60 but be 45?

14 A. Correct.

15 Q. And to keep it in that safe speed for that section?

16 A. Correct. Yes. Yes, safe for the infrastructure to prevent,
17 you know, just a rough ride and possibly any scraping along -- you
18 know, when you get up to speeds like that in certain areas, you
19 make scrape along platforms, whatever. We, you know, we want you
20 to keep it down. There is no place, I believe, in speed control
21 territory that we would consider possibility of rollover or
22 derailment. Since that safety advisory came out, we've made
23 adjustments in the code. And you'd have to ask track exactly what
24 adjustments they've made to put modified code into certain areas.

25 Q. Okay. And when you say code, you're talking about coding in

1 to the automatic train control?

2 A. Yes, in the rail. And there's a pickup bar that the
3 equipment, the automatic speed control, automatic train control
4 equipment on the train picks up, that's called a pickup bar, and
5 that transmits into the speed control package, which displays
6 either 60, or 40, or 30, 15, depending upon what's in the rail.

7 Q. Okay. Thank you very much.

8 A. You're welcome.

9 Q. To your knowledge, is there any other place on that section
10 of track between Jamaica and Atlantic where there is a special
11 speed posted?

12 A. I know for a fact that the Atlantic Terminal itself has a 5-
13 mile-per-hour restriction going through Brook 2 coming into
14 Atlantic Terminal where the speed of the train is -- we call it a
15 no code, but it restricts you from going over 15 miles an hour.
16 But you still have to go less than 5, 5 or less in that particular
17 area.

18 Q. Okay, now I'm a little confused. Okay. So in entering
19 there, the speed limit is 5 miles per hour?

20 A. Yes.

21 Q. Okay. But what did you say about --

22 A. But it's still displaying a 15 code, or a no code we would
23 consider, which would allow you to go a maximum of 15, because we
24 can't restrict anything less than a 15 with our ASC.

25 Q. Why is that?

1 A. Because that's the way the automatic speed control system is
2 set up. It's a no code. It allows you -- because a restricted
3 speed is considered a speed not exceeding 15 miles an hour. And
4 there's caveats to that, but speed not exceeding 15 miles an hour,
5 that's our no code. So we can't restrict you down less than that.
6 There's no 5-mile-an-hour code that's in there.

7 Q. Okay. So the system doesn't allow you to code in speeds less
8 than 15 miles an hour?

9 A. Not as currently equipped.

10 Q. As currently equipped. Thank you. So in that section of
11 track approaching Atlantic Terminal when it goes down to 5 miles
12 per hour, what is the speed limit before then?

13 A. Depending upon where you're coming -- 15 miles an hour, it
14 could be 30, you know, coming in. It depends on how far out you
15 are. And it also depends on --

16 Q. Immediately before the 5.

17 A. 15 miles an hour, basically, if you've got it restricted,
18 yes.

19 Q. Okay. So at that point, the symbol inside the train, the
20 display is showing 15 miles per hour as the maximum?

21 A. Yes, that's the code that's displaying. Yes.

22 Q. That's the code displayed. It also shows what speed the
23 train is actually going?

24 A. Correct.

25 Q. And there is an indicator on the track that says 5 miles per

1 hour?

2 A. I'd have to see. I was up there. I didn't really check, to
3 be honest with you, if it was there. I assume that it was there,
4 yes, with all (indiscernible) but I'd have to check that.

5 Q. Okay. And if it wasn't for some reason, the engineer knows
6 that at that point it goes down to 5 miles per hour?

7 A. Correct. Correct. Yes.

8 Q. Even though the display shows 15?

9 A. Yeah, I believe it's on there. There's a 5-mile-an-hour
10 permanent speed restriction sign on the bench wall but, you know,
11 I'd have to double-check.

12 Q. Okay. So in the event that something happens to the engineer
13 and they're non-responsive or non-aware of their situational
14 awareness, the train itself is only going to keep the train from
15 exceeding 15 miles per hour in that particular section of track?

16 A. Correct. Correct. Yes. That is correct.

17 Q. Okay. Thank you. That's all I have right now.

18 MS. GARCIA: Anything?

19 BY MR. MEADE:

20 Q. Yeah, Joe Meade, FRA. Bret, you mentioned a couple numbers
21 here that I just want to -- I want you, for the audience, to
22 explain a little bit.

23 A. Okay.

24 Q. You talked about a No. 240 code.

25 A. CFR Part 240?

1 Q. Right.

2 A. Correct.

3 Q. Could you just kind of explain that a little bit to people
4 who are unfamiliar with what that is?

5 A. The Code of Federal Regulations Part 240 refers to the
6 locomotive engineer certification and the program that is directed
7 by the FRA and administered by the carrier to make sure that all
8 Long Island locomotive engineers are -- under those guidelines
9 there are a bunch of rules and regulations that they have to
10 follow, which includes driver's license abstracts. Let's see,
11 what else? Training program that's approved by the Federal
12 Railroad Administration. What else? Certification rides.

13 It's quite an extensive section, 240. And we're required as
14 a carrier to submit that, our program to fall under these
15 guidelines, to the FRA for their approval. In fact, we just
16 recently had the FRA into Long Island Rail Road to inspect our
17 program.

18 Q. Okay. And just for the record, the CFR stands for the Code
19 of Federal Regulations.

20 A. Correct.

21 Q. And that's under Title 49, if I'm correct?

22 A. Correct.

23 Q. Okay.

24 A. Correct. Sorry if I didn't --

25 Q. And you also mentioned the number 217?

1 A. Yes.

2 Q. Could you just briefly --

3 A. I have to look.

4 Q. For the record.

5 A. I'm just going from memory. That may be the efficiency
6 testing. And I have to, I would have to -- you know, sometimes
7 the numbers get --

8 Q. For the record, 217 is the efficiency testing program.

9 A. Thank you. Yes, we have our efficiency-testing program.
10 That is another submission to the FRA that we have to follow
11 guidelines. We submit a program for their approval, which they
12 send back to us. And we are required to perform efficiency tests
13 and observations on all of our train service and engine service
14 employees, as well as some other transportation employees in
15 safety-sensitive position. And I know that there are engineering
16 employees, as well, that fall under those guidelines, and then we
17 have to test them as well.

18 And there are certain tests we, with the advice and
19 recommendations from the FRA, put these tests together and make
20 sure that we're testing the right things for the employees. And
21 they can include testing for -- you know, making sure that they're
22 acting properly, which can include barrier testing, restricted
23 speed testing, radar tests. You know, typically, with our
24 engineers we like to, you know, test them to make sure they're
25 react to something that's unusual occurring in their daily

1 operation so that we know that they're focused and aware.

2 Q. Okay. And for the record, I believe we'll provide a copy of
3 that 240?

4 A. The submittal? Yes, I will provide you with a submittal for
5 the --

6 Q. If that hasn't been requested already.

7 A. Yes.

8 Q. Okay.

9 A. It's part of our -- part of the --

10 Q. Understood. Okay. You mentioned that you're in charge, you
11 are the supervisor for locomotive engineers?

12 A. Correct.

13 Q. Okay. You also mentioned that there's been some minor
14 violations, quote, minor violations?

15 A. Yes. I know that --

16 Q. Excuse me. Just --

17 A. Oh, yes. I'm sorry. Yes, correct.

18 Q. Minor violations that the engineer, Mr. --

19 A. Bakalo.

20 Q. Bakalo has, minor violations that he may have violated.

21 A. Committed, yes, correct.

22 Q. Committed. Do you know what they were?

23 A. Without looking at the discipline history, I don't have the
24 exact violations. Although, I do recall that he had a station
25 run-by not that long ago, some other minor stuff. Nothing de-

1 certifiable has Mr. Bakalo committed in the past, no.

2 Q. Okay. You just mentioned de-certifiable.

3 A. Yes.

4 Q. Could you describe what the Long Island Rail Road considers a
5 de-certifiable offense?

6 A. Oh, there's a number of them that we would consider. They're
7 considered the seven deadlies. And I have to go through them.
8 Some of them were stop signal violations, failure to obtain main
9 track authority, speeding, failure of sounding horn over crossing.
10 I should have done this in order. There are seven. There are
11 seven.

12 Q. Okay.

13 A. And I usually know them.

14 Q. Okay.

15 A. Sorry.

16 Q. Would restricted speed fall in there, also?

17 A. Yes. Yes. As it pertains to one half the range of vision
18 short of an obstruction, yes, correct.

19 Q. Okay.

20 A. Not as in reference to the speed.

21 Q. You just answered my next question on restricted speed. So,
22 have you ever had anyone violate, as you've deemed it, the seven
23 deadly sins?

24 A. Oh, yes. Yes, we have.

25 Q. Okay. What's the procedure when you do have that happen?

1 A. Depending upon the incident. Are you talking about for de-
2 certification purposes after the incident, or part of the process
3 in -- I mean, would you say after the investigation or would you
4 say --

5 Q. For the sake of this conversation, a locomotive engineer
6 violates restricted speed.

7 A. Okay.

8 Q. What is the procedure for LIRR moving after that incident
9 takes place?

10 A. Okay. After the investigation has proceeded, we have,
11 obviously we have time limits that are incurred in all the stuff,
12 CBA, which not that it affects the certification or de-
13 certification process at all, but we still want to maintain, I
14 mean, you know, our time limits in reference to charging for our
15 trial office.

16 So, we perform an investigation. If the outcome is that he
17 has a restricted speed violation, obviously he would be de-
18 certified. The memo for the de-certification would go into his
19 file. He would be, depending upon, again, if this is his first
20 violation -- or his first de-certification, depending upon the
21 length of time, he would serve 30 days for this de-certification.
22 You know, he would be unable -- upon return, when he returns, we
23 give refresher training. We go over the incident with him, and
24 then he's returned to service after the 30 days.

25 Q. Just give me a couple seconds here just to get my thoughts

1 together.

2 A. Sure.

3 (Pause)

4 Q. Have you personally, or does the Long Island Rail Road
5 provide to its supervisors any classes on how to recognize
6 symptoms of drug and alcohol?

7 A. Yes. Our supervisors go through, like I had mentioned
8 before, much more extensively, an identifying the troubled
9 employee program that's administered to all frontline supervisors.

10 Q. Okay. And frontline supervisors are required to be tested
11 annually for book of rules?

12 A. Correct.

13 Q. And just like regular qualified locomotive
14 engineers/conductors (indiscernible)?

15 A. Yes. We do annual tests and we do the re-certs. So they're
16 getting, you know, the supervisor is getting a little bit more
17 because there's a little bit more involved in being a supervisor.

18 Q. How long has the 5-mile-an-hour speed restriction been in
19 place at Atlantic Avenue?

20 A. As long as I've been a locomotive engineer. As long as I've
21 been a Long Island Rail Road employee that's restricted.

22 Q. Okay. So we can say for the better part of -- how long have
23 you been there?

24 A. Twenty-some-odd years.

25 Q. Twenty-some-odd years. Thank you. We talked about ATC.

1 Does the Long Island Rail Road have anywhere on its system
2 positive train control?

3 A. No, not at this time. We are in the process of installing
4 that now as per the FRA.

5 Q. Okay. And we also talked about the Long Island Rail Road
6 Book of Rules, Long Island Rail Road policies. And just for the
7 record, the Long Island Rail Road policies and rulebook do not
8 supersede the Code of Federal Regulation, is that correct?

9 A. No, they enhance and they could be more restrictive, but they
10 cannot supersede the Code of Federal Regulations.

11 Q. Correct. Thank you. I believe that's all I have. Thank
12 you.

13 A. You're welcome.

14 BY MR. TOMASZEWSKI:

15 Q. Bob Tomaszewski, the FRA. The alarms on the M-7s, what are
16 they set to go off at?

17 A. I believe it's 26 seconds.

18 Q. Now, does that length of time shorten with the increase of
19 the speeds? Or, like, if you're doing a restricted -- if you're
20 doing 10 miles an hour or you're doing 80 miles an hour, is it
21 still the same amount of time?

22 A. It's 26 seconds for alerter-wise. But, again, our alerter
23 feature is tied into our automatic speed control system. So if
24 conditions dictate ahead that there's a train or something else
25 that happens, that alerter feature would go off as an ANC, as an

1 automatic speed control sound. It's the same sound. You can't
2 distinguish.

3 Q. Okay. No, I'm talking in general.

4 A. It's just a time lapse. There's nothing that, conditions
5 that would dictate in reference to an increase or decrease in that
6 time lapse.

7 Q. So if you're running at 10 miles an hour, it's going to the
8 20-some-odd seconds?

9 A. Correct.

10 Q. If you're doing 80 miles an hour, not following anybody, not
11 changing -- no changes in the track circuitry ahead, it's still
12 going to remain the same?

13 A. Correct. Yes.

14 Q. Thank you.

15 MR. TOMASZEWSKI: No further questions.

16 BY MR. HILL:

17 Q. Hi, Don Hill, H-i-l-l. I just have a few questions. What
18 are the notices that the crews are required to carry?

19 A. Well, the notices, we have general orders, general notices,
20 and speed restriction bulletins, SRBs. I mean, there are a
21 tremendous amount -- not tremendous. There are a set amount of
22 publications that the employee is required to have on them, in
23 their possession at all times. They must be current. And that's
24 listed in the special instructions. And I can give you that
25 special instruction if you want and enter it in.

1 Q. Okay. And what are the different -- what is the difference
2 between a general notice and the speed restriction bulletin?

3 A. A speed restriction is strictly for speed restrictions that
4 are in place, temporary speed restrictions that are placed in
5 effect. A general notice can cover a whole gambit of anything
6 that might affect the operation of a train.

7 Q. And the speed restriction bulletins, how often are they
8 produced?

9 A. Once a week unless otherwise necessary.

10 Q. Is there a particular day that they're produced on?

11 A. I believe it's Monday. I'll have to look.

12 Q. Then it would be correct to state that the crewmembers have a
13 responsibility to check for the speed restriction bulletins on
14 each Monday?

15 A. Yes. Well, let me -- to clarify that, no. The crew is
16 responsible to check every time they report to see if there's any
17 speed restriction bulletins that are out, okay? As well as
18 general notices, anything that might have come out that affects
19 his train, prior to, you know, when they got and actually report
20 to their train.

21 There are areas designated, and that's in the special
22 instructions of the current timetable, as well, where they might
23 be able to -- or will be able to find any new general notices, any
24 general orders, any instructions that will pertain to their train.
25 If there is not -- and that's not the only thing they can get.

1 They can get train orders or messages via the, you know, the block
2 operators if there's anything that's happening right away.

3 Q. Okay. Could you tell us how long the training program for
4 the locomotive engineers are?

5 A. It's a 15-month program. Generally speaking, 15 months.
6 There is a period of what we call pre-employment, which I believe
7 is 90 days. It's approximately three months where they would come
8 in. They are not getting compensated. It's a Wednesday and a
9 Saturday, Wednesday night and Saturday all day. And this is, you
10 know, basic rules. They will be tested at the end of that. If
11 they score a high enough test score, then they are allowed -- not
12 allowed, but they are signed up or -- I can't think of the good
13 word for it. They are placed on a list to go into, you know,
14 another class.

15 And then at that point once they enter that class, it's a
16 compensated portion. And that lasts -- you know, that's quite
17 extensive of a program. There is a midterm set of exams that is
18 approximately -- it's a weeklong testing period where they have
19 rules, physical characteristics, both verbal and written tests, as
20 well as train-handling tests for the midterm, as well as the final
21 exam. The final exam is cumulative. The final exam tests, plural
22 tests, are cumulative, and that's on everything, whereas the first
23 half, the midterms are on a set portion of the railroad.

24 Q. Okay. So I just want to make sure I have an idea of what I
25 think I heard you say. So a person is brand-new to your program,

1 they hire and you send them to a class, like an assessment type
2 class. And if they do well in that class, then you send them on
3 to this 15-month program?

4 A. This 12-month program, yeah.

5 Q. Or 12-month program. I'm sorry. All right. If there was an
6 engineer or a conductor coming from another railroad, is there an
7 expedited process?

8 A. No.

9 Q. Okay. So it's the same for everyone?

10 A. Well, now, let me stop. I have to rephrase that. There are
11 instances and we really don't have to expedite. We have on file
12 with the FRA a 9-month program, an expedited program, but that
13 does not refer to anybody coming in from a foreign railroad, that
14 refers to any conductor that has been qualified already on the
15 property that comes into the program. They'd have to be a
16 qualified employee. It does not refer to anybody qualified on
17 another property. They would have to go through the entire
18 program.

19 Q. Gotcha. Good stuff. Okay. Last question I was going to ask
20 you: What do you think could have been done, in your opinion, to
21 prevent this?

22 A. Can I go off the record for a minute, please? I'm going to
23 have to have a couple minutes to think about this, if you don't
24 mind.

25 MS. GARCIA: Sure.

1 MR. TORRES: 12:44 p.m., going off the record.

2 (Off the record at 12:44 p.m.)

3 (On the record at 12:49 p.m.)

4 MR. TORRES: Okay, we're back on the record here with
5 Mr. Becker. It's 12:49 p.m.

6 BY MR. HILL:

7 Q. Yes, Don Hill. Just repeating the last question prior to us
8 going off record, the question was, in your position, what would
9 you have done to prevent this from happening in the future? What
10 would you do?

11 A. Well, I think at the Long Island Rail Road -- actually, I
12 don't think, I know at the Long Island Rail Road we're very
13 proactive with our approach to any type of incident. Our risk
14 mitigation plan that we have to mitigate any type of incident,
15 rules violations or any type of incident that we have out there is
16 probably one of the most robust in the industry.

17 You know, I'd be glad to give anybody that's interested in
18 looking at our risk mitigation book that we have out there.

19 You know, we, you know, we try to actively seek out ways to
20 stop these incidents from occurring. We had been working on and
21 we recently put in a new rule that states coming into any terminal
22 or bumper block, that a conductor has to be up there with the
23 engineer to act as a second set of eyes for safety reasons, hand
24 on the emergency brake valve, in case something like this would
25 happen again. So, you know, we were proactively looking at that

1 from the safety advisory, I think that came out recently from the
2 FRA.

3 But, in all instances with human factors, incidents on the
4 property, we are very, extremely proactive. Part of our program
5 is the manager intervention program, or MIP, which we have
6 identified troubled employees that have a discipline problems,
7 whether it's minor. With trend analysis, which we are very big on
8 here, data mining and trend analysis, we see that the minor things
9 sometimes lead to major things, so we want to get in front of
10 that. We actively have follow-ups with employees to make sure
11 everything is all right.

12 If we see that something starts to happen and there's a trend
13 there, we seek, I know we seek labor support, which they've given
14 us, SMART and the BLET, in regards to our program like this. It's
15 not about assessing discipline, it's about stopping the incident
16 from occurring and making sure the employee is okay.

17 So in reference to your question, there are a number of
18 things that -- you know, we are always actively seeking new ways
19 to prevent something from happening. And we will always do that.
20 That's the way we do things here.

21 Q. Thank you very much. And thank you for your answer. You
22 provided a lot of help.

23 MR. HILL: I have no further questions.

24 BY MR. ELLIOTT:

25 Q. Mark Elliott. Sorry, Bret.

1 A. Here we go.

2 Q. Okay, here's a hard-hitting question. Actually, I just
3 wanted to expand on something that was asked before regarding our
4 rules further restrict the CFR requirements?

5 A. Correct, that's what I had said. Yep.

6 Q. As per our book of rules, restricted speed is a mode of
7 operation which further restricts from a speed limit, correct?

8 A. Correct.

9 Q. Our special instructions supersede our rules, further
10 restricting our rules, so further restricting, in turn, the CFR.
11 So the special instruction you referred to earlier being
12 restricted speed not to exceed 5 miles per hour in Flatbush Avenue
13 further restricts the definition of restricted speed and the
14 aspect of a restricting signal, further restricting that?

15 A. Correct. The restricting signal is the aspect displayed and,
16 obviously, you're doing, you know, the restricted speed from the
17 restricting -- however, we further enhance that with the special
18 instruction that says that it's restricted not to exceed 5 miles
19 an hour, correct.

20 Q. And then we have within our ability to further restrict a
21 special instruction by use of speed restriction SRS [sic] or
22 general notice?

23 A. Yes, a speed restriction bulletin and our general notices are
24 there, and they're also there not only to further restrict but to
25 enhance and amplify all of our rules and special instructions,

1 just like our special instructions amplify our rules. Again,
2 anything that's in the rules of the operating department for the
3 Long Island Rail Road does not contradict nor does it supersede
4 any of the rules of the -- or the regulations specified in the
5 Code of Federal Regulations. They're further restrictive, and it
6 goes down the line from there.

7 Q. Okay. Thank you.

8 MR. ELLIOTT: That's all.

9 MR. BECKER: You're welcome.

10 BY MR. BATES:

11 Q. Just one question. Bates from SMART National Transportation
12 Safety Team. Who else, what other managers are involved in your
13 safety committees other than the BLET and the SMART? What other
14 managers are involved in the safety committees?

15 A. There are transportation managers that are assigned to the
16 safety committee. And we do have an individual that is assigned
17 specifically, a lead transportation manager assigned specifically
18 to the safety committee. That's what he's, or, you know, she is
19 designated for.

20 Q. Okay. Thank you.

21 BY MR. NEARY:

22 Q. Neary from SMART. Just one or two, Bret.

23 A. Sure.

24 Q. Earlier on, you mentioned that normal operating practices for
25 the road foreman is one ride per year and one covert. Did I get

1 that right?

2 A. Yes, there's one announced, their certification ride, and one
3 unannounced or covert, we call them covert rides.

4 Q. My question on that, if, say, the engineer had a reported
5 minor violation -- I don't know if you have minor, but I'm sure
6 there's a difference between the big ones and the small ones --
7 would another ride be scheduled for him, for an evaluation?

8 A. We do a follow up, not necessarily a ride, a follow up with
9 him where we try to get something that would, again, would be
10 something out of the normal for him or her. Not necessarily a
11 certification ride because there was no certification, there's
12 nothing that would have affected his or her certification, so we
13 wouldn't necessarily have a ride. But we definitely have
14 interaction as part of this MIP program that I had mentioned.

15 One of the thing is they're identified before they come
16 back -- when they come back. Not only do they have -- if it was a
17 suspension, or if it wasn't even a suspension, they're
18 identified -- let's say if it's a station run-by, you get a verbal
19 reprimand or whatever it would happen to be. They would be
20 identified and a road foreman would go out to meet them and say
21 hey, is everything all right, make sure their time table is up to
22 date, do certain things like that to make sure that they're
23 operating the train properly, but not necessarily bringing in
24 another cert ride for it, no.

25 Q. Okay. So what I heard was it sounds like you attempt to

1 mentor when these types of small things have happened?

2 A. Yes. We're very big on being proactive with our people.

3 Q. It sounds like it, and that's what I wanted to get -- okay,
4 thank you. And that's all I have. Thanks again.

5 A. You're welcome.

6 BY MS. GARCIA:

7 Q. I have additional questions. Anne Garcia. Different lines
8 of interest, okay? To get on the record, behind the bumper in
9 this particular incident, behind the bumper there was a vacant
10 space and then there is a room. What is the function of that room
11 that was breached by the train as it overrode the bumper?

12 A. The incident with Train 2817 you're referring to?

13 Q. Um-hum.

14 A. That space that was directly behind in that glass section
15 there?

16 Q. Yes.

17 A. That was an access point for maintenance of equipment
18 personnel to go down there and, I believe -- and I haven't been
19 down there in ages, but I believe it's something similar to what
20 we have right here, where you have a welfare facility, some
21 different closet areas or them. But that's an access hallway
22 point. That's how they get to that.

23 Q. Okay. So that's their access point. And what are the types
24 of things that they're accessing from there again?

25 A. Supplies I know are down there. I think there's a break room

1 for the MOV people. That's a different department than ours. But
2 that used to be a transportation area, but since we had this
3 remodel, this is -- they took that area and we moved over to this
4 area.

5 Q. Okay. And about when was that remodel done?

6 A. Oh. Maybe 2005, I think, 2006. I don't know exactly when.
7 I really couldn't give you an exact date. I could get you that
8 information, though.

9 Q. Okay. Ten years or more?

10 A. Yeah, I'd say that we've been in this facility for that
11 amount of time.

12 Q. Okay.

13 A. I think it was 2006.

14 Q. And prior to that, was there an actual room there?

15 A. Yes. I mean, that was, again, that was the transportation
16 area at the point. And there's been variations in Brooklyn. When
17 I started, it was quite different from what it is now. It's a
18 little bit more accommodating and spacious. When I started, it
19 was, you know, it wasn't considered a nice area to lay down in and
20 have a break in.

21 Q. Yeah. Do you have any idea what the variation is in open
22 space between the back of the bumper and any type of facility at
23 the different tracks? So, from here it was roughly 10, 12 feet.

24 A. I think between the bumper block and the wall was 15 feet.
25 Between the wall and then that area, I don't know the exact

1 dimensions. That would be something that, you know, I believe
2 Capital Programs might be able to supply the blueprints for. But
3 like I said, I haven't been down there in ages, and I think I was
4 down there maybe twice since I've been here.

5 Q. Good. Thank you. In walking on to and observing the
6 incident train, in the first car there, in the front there is the
7 cab for the engineer, and on a different train it was configured
8 slightly differently. So on this one, I believe the whole width
9 of the front was open as the train that we rode yesterday. On
10 another train that was on Track 5, the engineer's compartment, the
11 door was in a different place, so it was, his compartment was
12 closed off to basically a seat. Could you explain this
13 difference?

14 A. Certainly. The M-7 -- well, we have multiple-unit equipment
15 on the property. There are two identified multiple-unit pieces of
16 equipment, types of equipment that we have, and that's the M-7s
17 and the M-3s. The M-7 was, obviously, the newer piece of
18 equipment. It's design, there's some definite improvements. One
19 of the improvements that we made was the cab-across design for the
20 engineer's operating cab, a full cab-across design. What that
21 allows is for an engineer to have some egress over to a different
22 area, and it's a little bit more spacious.

23 You know, if you've been in the M-3, it's like a little
24 closet you're in. It's difficult for some of the engineers to
25 function, you know, depending upon how big they are or, you know,

1 what size they are. It's a little bit more claustrophobic. So we
2 try to put that, make sure that was part of the design effort.
3 And the cab-across design is what you saw the other day.

4 But since these are multiple-unit pieces of equipment, they
5 come in pairs. They're called married pairs, all right? There's
6 an odd car and an even car, if you noticed, with these pairs. And
7 on each pair of these paired cars is the F end, okay? And the F
8 end is where -- on both ends is an engineer's operating cab. On
9 the B end is where these B end storm doors go together so the
10 passengers or crewmembers can have egress from one car to the
11 next.

12 For the engineer operating compartments, again, the cab-
13 across design is there. That's the front of the train. On the
14 rear of the train, the assistant conductor or brakeman, as I know
15 that name's been thrown out there, would have that cab-across
16 design and close that door that way, as well. But in order to
17 allow customers to go, traverse, and crewmembers to traverse from
18 one point to the next and to go in between married pairs, because,
19 obviously, with all the doors open, they have to be able to across
20 in between cars, married pairs that is.

21 The cab-across design isn't in use and we close the door,
22 closed off and make that engineer's compartment isolated and
23 locked from a customer or anybody that would like to get in there
24 that doesn't have authorization to do so. So that's why that door
25 is closed. And that would be, that door would be closed on all

1 the cars within the belly of the train, so to speak. So, walking
2 back, you'd have complete ease of access through.

3 Q. Okay.

4 A. Okay?

5 Q. Good. Thank you.

6 A. You're welcome.

7 Q. And from the time that the train leaves the yard to go about
8 its different runs for the days until it's returned to the yard,
9 who is allowed into the engineer's compartment?

10 A. On the head end of the train you're talking?

11 Q. Um-hum. Where the engineer is operating the train.

12 A. Okay. The engineer, obviously, that's operating the train,
13 or any transportation supervisor that happens to be up there is
14 allowed in there while the train is in operation. And the only
15 person that's allowed up there is anybody whose duties and
16 responsibilities require them to be up there. So a conductor, an
17 assisting conductor in fulfilling their duties and
18 responsibilities, if they're up there just to sit, that's not what
19 they're there for.

20 That's one of the things that we try to have as part of the,
21 I guess you would say, policy of the Long Island Rail Road and
22 rules of the Long Island Rail Road, we try to have a sterile cab
23 design. In other words, unless you want to go up there and make
24 sure -- because part of the rules say that if you're a qualified
25 employee, you have to call out all signals with the engineer, they

1 have to call them back to each other and repeat. We want to make
2 sure that they're not up there having a distraction, because, you
3 know, we've had, on occasion, people up there holding
4 conversations.

5 And like you all are doing now, you're looking at me
6 intently. If you're an engineer, I don't want you looking at
7 somebody intently while they're having a conversation. I would
8 much rather you look straight ahead and make sure your eyes and
9 attention are focused out that front window. So we try not to
10 have anybody up there that's going to cause a distraction,
11 including supervisors. I mean, you know, I like to have
12 supervisors up there when they're there to do something, have a
13 cert ride, you know, perform a cert ride, observe up there, but we
14 want to make sure that we maintain that distraction-free
15 environment.

16 And as I explained to both of you, Anne and Tomas, yesterday
17 when you were up there, we weren't going to, you know, have any
18 distraction for the engineer. And that was their prerogative. If
19 they felt distracted, they would let me know and we'd have to
20 leave. So that's very important to us here on the railroad to
21 maintain that distraction-free environment for an engineer.
22 Especially since as part of our incident structure we consider
23 that the red zone.

24 And, you know, I talked to this group previously in reference
25 to a lot of our incidents; a majority of our incidents are in this

1 red zone area. And because of the infrastructure and signals the
2 way that they are, it's important that the engineer, their head's
3 on a swivel, constantly looking at everything going on. So it's
4 important for us like that.

5 Q. Okay. So if an employee of the railroad wanted to ride in
6 the compartment where the engineer is operating the train, what
7 permissions do they need to receive?

8 A. They need a head-end pass from me, from myself.

9 Q. From you.

10 A. And I would provide them a head-end pass and, you know,
11 that's their authorization to be up there. And they have to have
12 a reason for being up there. When they get a head-end pass from
13 us, we have, on occasions, other departments, MOV, that are doing
14 some stuff that they -- you know, they want to look at the
15 equipment. They are given a job briefing before they get their
16 head-end pass that states they cannot distract the engineer. If
17 the engineer is feeling distracted, they are required to leave if
18 the engineer tells them to. Like I said, it's very important for
19 us.

20 Q. Okay. And if an employee wants to basically catch a ride on
21 a train to go from one place to another, they wouldn't just ask
22 the engineer can I come aboard, can I come and ride with you?

23 A. They would ask the engineer if you're talking about getting a
24 drop-off somewhere, as we refer to it. But all those unauthorized
25 stops have to be confirmed with 204, our movement bureau. They

1 have to ask for permission to do so. And on the occasion of
2 yesterday, I know you're referring to, the gentleman that came up,
3 because we were in the middle of performing this observation, that
4 I had said to them that there would be no drop off. You know,
5 that's what they asked, so -- because we had people up there.

6 Q. Thank you. That clarifies that.

7 A. And can I just add one thing?

8 Q. Sure.

9 A. Again, they're not riding on the head end. He would just ask
10 and he would -- because he wants to make sure that he was stopping
11 at that particular spot. He would be in the vestibule waiting.
12 The conductor would key them off and make sure that no passengers
13 were keying off as well to allow this person egress to -- I
14 believe it would probably be, because we were on the Atlantic
15 branch there, the Morris Park facility, and Boland's Landing was
16 the employee's stop. Okay?

17 Q. Thank you.

18 A. You're welcome.

19 Q. So that's an avenue that employees can catch a ride on a
20 train and get dropped off at unscheduled places for the passenger
21 train and only that person would be allowed off?

22 A. If it warrants. Again, that's all up to supervision to allow
23 that.

24 Q. Good.

25 A. Okay?

1 Q. Good. Back on the particular front car of the incident
2 train, I noticed in walking through that there is an electrical
3 cabinet that was basically located at some spot behind where the
4 engineer sits when he operates the train?

5 A. Yes, there's a bunch of electrical -- on either side of the
6 engineer as you're walking back from the cab itself, there are
7 electrical cabinets on both sides.

8 Q. Is the one, do you happen to know if it is immediately
9 behind, sharing a wall with the engineer's compartment, or is
10 there a space there?

11 A. No, there's a big space in between. There's a bunch of
12 components in there.

13 Q. Okay.

14 A. Immediately behind there, yep.

15 Q. And following the incident, part of the damage to that car
16 was there was a piece of rail that came up through the floor of
17 the car, into that cabinet. Do you recall that?

18 A. Yes, I heard that it was a piece of stock rail that went up
19 through. I don't know exactly where that rail came from. I
20 wasn't involved in that investigation portion.

21 Q. Okay. But you did hear that? You were aware of that?

22 A. Yes. Yes, I was aware of that.

23 Q. Okay. Thank you. Separate questioning; the Long Island Rail
24 Road, at this particular moment are you instituting sleep apnea
25 testing for your engineers?

1 A. I think that that's a question that you'd have to ask the
2 human resources department. They're in charge of our sleep apnea
3 testing, or development of that program. I do not -- I am unaware
4 of an official sleep apnea policy or procedure from the Long
5 Island Rail Road at this time. I think they're under development.
6 They're developing it now, and they've been developing it. You
7 know, it's not something that we did, you know, from the incident.
8 They've been developing it for a while, trying to get a good
9 program together.

10 But you'd have to ask somebody from the human resources
11 department, because I think that would not be just for engineers,
12 it would be for engineers, train service people, anybody that's in
13 a safety-sensitive position.

14 Q. Okay. Very good. Thank you.

15 MS. GARCIA: That's all I have.

16 BY MR. MEADE:

17 Q. Yeah, Joe Meade, FRA. Just to go on Mr. Hill's, some of what
18 Mr. Hill was talking about, a locomotive engineer who is certified
19 on another piece of -- another property, excuse me, who comes to
20 you with a certification card, he is still required to go through
21 the full Long Island Rail Road program?

22 A. Correct. Correct.

23 Q. Okay. And then he gets certified through LIRR?

24 A. Correct.

25 Q. Okay. Does the Long Island Rail Road have any -- strike

1 that. An employee who violates one of the seven what we call --

2 A. Deadly sins?

3 Q. -- the seven major rules violations, does the Long Island
4 Rail Road have anything in place to suspend his certification?

5 A. Actually, I'm a little unclear on the question. We suspend
6 his certification, take him out of service through the crew
7 dispatcher's office. He's not permitted on property at the time,
8 for the extent of that time. The only time that he is -- or she,
9 I shouldn't just say he -- he or she is allowed back on property
10 is for any type of investigation or follow-up questions, that's
11 it. But we follow the, you know, the FRA guidelines for it, as
12 far as we are aware.

13 Q. Right. So, what I'm trying to get at is the difference
14 between a suspended certification --

15 A. And a revoked?

16 Q. -- versus a revoked de-certification.

17 A. You're talking about a 30-day revocation or you're talking
18 about suspension of 30 days?

19 Q. I'm not putting a time limit on it.

20 A. Okay. A revocation, if somebody is -- permanent revocation
21 of their certification, they are dismissed from the property.
22 They're no longer -- and all certification cards and whatnot would
23 be taken from them.

24 Q. Okay. Maybe I can clear it up. If there's a -- if you
25 suspect a major rules violation, before you de-certify somebody --

1 and I understand the de-certifiable process has to take place --
2 is there a way of suspending or getting his certification so that
3 he can't, for example, as we discussed, I can't take a
4 certification card from LIRR and go to another railroad that may
5 not have as strict a policy as you have and use that certification
6 card?

7 A. I'd have to check.

8 Q. Okay.

9 A. No, I'm unclear of that right now.

10 Q. Okay. All right. That's all I -- are you aware of any major
11 violations, the seven deadly sins as you put it, the major
12 violations that this engineer has been involved in previously?

13 A. No, he has been involved in no major violations prior.

14 Q. Great. Thank you very much.

15 MR. MEADE: That's it.

16 MR. TOMASZEWSKI: No. Bob Tomaszewski, no questions.

17 MR. HILL: No questions, Donald Hill.

18 MR. BATES: No questions. Thank you, Bret.

19 MR. ELLIOTT: No questions.

20 MR. AMENDOLARE: No questions.

21 MR. BECKER: Okay. Thank you.

22 MR. TORRES: Okay, Tomas Torres with the NTSB. Tomas Torres
23 with the NTSB. It's 1:16 p.m. and this will conclude the
24 interview. Thank you.

25 (Whereupon, at 1:16 p.m., the interview was concluded.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: COLLISION OF LONG ISLAND RAIL ROAD (LIRR)
 TRAIN NO. 2817 WITH THE PLATFORM AT
 ATLANTIC TERMINAL, BROOKLYN, NEW YORK,
 JANUARY 4, 2017
 Interview of Bret R. Becker

ACCIDENT NUMBER: DCA17FR002

PLACE: Jamaica, New York

DATE: January 8, 2017

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.

Lisa Fuerstenberg
Transcriber