UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

Investigation of:	*	
	*	
MAINTENANCE-OF-WAY EMPLOYEE	*	
FATALITY, BNSF RAILWAY, MIDWAY	*	Docket No.: DCA-15-FR-011
SUBDIVISION, MINNEAPOLIS,	*	
MINNESOTA ON MAY 25, 2015	*	
	*	

Interview of: MATTHEW KELLER

Holiday Inn Downtown
St. Paul, Minnesota

Thursday,
May 28, 2015

The above-captioned matter convened, pursuant to notice.

BEFORE: RICHARD HIPSKIND
Investigator-in-Charge

APPEARANCES:

RICHARD HIPSKIND, Investigator-in-Charge
Chairman, Track and Engineering Group
National Transportation Safety Board

JAMES A. SOUTHWORTH, Railroad Accident Investigator
National Transportation Safety Board

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

DALE JOHNSON, Safety Inspector-Track Division
Federal Railroad Administration

GEORGE LOVELAND, Vice General Chairman
Brotherhood of Maintenance of Way Employee Division

THOMAS JULIK, Safety Inspector-Track Division
Federal Railroad Administration

KEVIN WILDE, General Director of System Safety
BNSF Railway

JOHN SMULLEN, Safety Inspector-Operating Practices
Federal Railroad Administration
(Observer)

I N D E X

I N T E R V I E W

MR. HIPSKIND: Good afternoon, everybody. My name is Richard Hipskind, and I am the Investigator-in-Charge and the Track and Engineering Group Chairman for NTSB for this accident.

We are here today on May 28, 2015, at the Holiday Inn Downtown in St. Paul, Minnesota, to conduct an interview with Mr. Matthew Keller, who works for the BNSF Railroad or BNSF.

This interview is in conjunction with NTSB's investigation of a maintenance-of-way employee fatality on BNSF's Midway Subdivision in Minneapolis, Minnesota near Minneapolis Junction on May 25, 2015. The NTSB accident reference number is DCA-15-FR-011.

Before we begin our interview and questions, let's go around the table and introduce ourselves. Please spell your last name and please identify who you are representing and your title. I would remind everybody to speak clearly and loudly enough so we can get an accurate recording. I'll lead off and then pass off to my right.

Again, my name is Richard Hipskind. The spelling of my last name is H-i-p-s-k-i-n-d. I am a railroad accident investigator and investigator-in-charge and Track and Engineering Group chairman for this accident.

DR. JENNER: Good afternoon. I'm Stephen Jenner, J-e-n-n-e-r. I'm a human performance investigator with the NTSB.

MR. JOHNSON: Dale Johnson, J-o-h-n-s-o-n, FRA, track

safety inspector.

MR. SOUTHWORTH: Jim Southworth, S-o-u-t-h-w-o-r-t-h, NTSB railroad accident investigator looking at operations and mechanical and system EEIC.

MR. LOVELAND: Good afternoon. George Loveland, Brotherhood of Maintenance of Way Employees Division, vice general chairman.

MR. JULIK: Good morning. My name is Thomas Julik. Last name is spelled J-u-l-i-k. I'm a safety inspector for the FRA in the track discipline.

MR. SMULLEN: I'm John Smullen, Federal Railroad Administration, operating practices safety inspector. I'm here posted as an observer.

MR. WILDE: Kevin Wilde, W-i-l-d-e, BNSF Railway, general director, system safety.

MR. KELLER: Matthew Keller, K-e-l-l-e-r, BNSF Railway. My title is director of engineering services.

MR. HIPSKIND: And, Mr. Keller, do we have your permission to record our interview with you today?

MR. KELLER: Yes, you do.

MR. HIPSKIND: And do you wish to have a representative with you at this interview?

MR. KELLER: No, I do not.

MR. HIPSKIND: Mr. Keller, do you mind if we proceed on a first name basis?

MR. KELLER: That's fine.

MR. HIPSKIND: All right. Thank you, Matthew.

INTERVIEW OF MATTHEW KELLER

BY MR. HIPSKIND:

Q. First off, Matthew, why don't you kind of just give us a look at when you hired on the railroad, how long you've been doing that, who you've been working for, and the progression of your job positions and take us up to your current title.

A. Okay. 2003, I started as an intern. That's officially when my employee ID number starts. My official full-time employment was July 12, 2004. So I am just under 11 years with BNSF Railway. I started as a management trainee in Kansas City. I did that for approximately 9 months. My next role was assistant roadmaster where I was responsible for rail production gang RP10. I did that for approximately 11 months. My next job was roadmaster, division roadmaster in Burlington, Iowa, and I held that role for approximately one year and 9 months. After that, I was division roadmaster again, same title, different location in Barstow, California. I was there for approximately 2 years. My next role was manager of rail maintenance in Fort Worth, Texas, where I was responsible for the rail grinding activities on BNSF for the whole system. I did that job for approximately a year and a half. After that, my title was assistant director of maintenance production on the Texas Division in Saginaw, Texas, where I was responsible for all production gang activities for the

Texas Division, and I held that role for again approximately a year and 9 months. After that, I was the division engineer in Flagstaff, Arizona, and I held that position for 3 years and that led to my current role in Fort Worth, Texas as director of engineering services where I'm responsible for the line expansion program for the entire system and I also have responsibility over economic development and marketing projects.

Q. Well, Matthew, thank you for that. I want you to kind of decode. Is line expansion increase capacity?

A. Yes, sir.

Q. And that's occurring throughout the system?

A. We're going to have a major line expansion project on every division on the system this year, basically in every corner of our network.

Q. Okay. So talk to me a little bit more about how you apply your duties and responsibilities. I want to know what does it look like above you and what does it look like below you?

A. Okay. So above me, my supervisor is Greg Dunaway. He is the assistant vice president of engineering services, and he works for Steve Anderson, the vice president of engineering. Below me, I'll start with my scheduled workforce. My scheduled workforce is approximately 310 scheduled employees that fluctuates from time to time based on the year and based on the needs. We will increase or decrease the size of gangs based on the workload. Right now, it's roughly 210, or sorry, 310.

I have supervisors on 12 different construction gangs, and they are broken up as follows: we have two track lane machines. Each of those gangs is approximately 25 employees. We have eight heavy construction gangs, which CG08 is one of those heavy construction gangs. Those are approximately 27 employees. And we have 2 de-stressing crews of approximately 22 employees. Each of those 12 gangs has a exempt supervisor for that crew, and so the way we've broken this out is the two TLMs, track lane machines, and the two de-stressing crews report to one ADMP. The other 10 construction crews report up to two division engineers of construction, one of which is Tom Smith. The other is Casey Turnbull. Tom Smith is the supervisor of the supervisor for CG08. Does that make sense what I said?

Q. Yeah, just decode the acronym ADMP.

A. Assistant director of maintenance production.

Q. Okay. Do you report to him or he reports to you?

A. They report to me. So I have eight employees that directly report to me. They are two division engineers of construction, five ADMPs, and then I have one manager roadway planning who is -- manager roadway planning goes out and confirms amounts. So if we have a new expansion project, he confirms all the amounts that we're going to put in.

So something else to break out is I described the two division engineers of construction, they have responsibility of overseeing the gangs directly. Now I have five other ADMPs.

Their responsibility is managing the projects. So they manage each of the projects and they have construction roadmasters that work for them. Each ADMP has two construction roadmasters. Those teams are assigned a set of projects where my division engineers and my supervisors on the gangs, they are assigned a gang.

Q. So the width and breadth of your responsibility and your reach is really systemwide. It's really a little bit of everywhere, right?

A. Yes, sir.

Q. Okay. Let's jump right over into safety. What are your challenges there?

A. So my challenges are we have a -- this is a new group. So this group has only been in existence essentially since I took the job which was right at a year and a half ago. So we have developed everything from the ground up. Everything we have was not on BNSF property a year and a half ago. So all the equipment, all the vehicles, all the tools, had to be put together in pretty short order. So we had some initial challenges just with organizing everything, how many machines and tools go to each gang.

So one of the challenges we have is ensuring consistency between all the crews, that they have all the right tools that they need and we have been -- as we have been creating this group, establishing a lot of the procedures such as, if you're going to have "X" amount of equipment, what do we expect you to do with

that equipment. So that's been one of the challenges.

Another one is that we actually -- so right now I have 31 supervisors that work for me. Last year, I had 16. So in one year, we've essentially doubled our supervisor workgroup and that was due mostly to the sheer number of projects we had last year. It was just -- we had a lot of them ongoing and didn't have the ability to have a supervisor there. This year that is not the case. We've been able to have a supervisor present at every project. So that was one of our challenges last year, but it still continues to be a challenge with how stretched we are across the system with our number of supervisors.

Q. Okay, Matthew. Do you look at -- is the increase in supervisors, which has doubled, is that more comforting to you in that you have more folks monitoring and assessing safety?

A. Absolutely. That was the primary reason for adding the extra supervision this year was to ensure at every major project we had multiple supervisors because many of our windows take place over long hours and sometimes weekends, and to allow rest and change out of supervisors, it's just required that we bring on more help, and we do have that this year, but I am very confident now that we have the appropriate number of supervisors for the workload that we're tasked with.

Q. Okay. I understand. Let me get a little bit better understanding of your position and what goes on in your life. So the fundamental question I'm going to ask you is so office or

field, how much percentage of time do you spend at each?

A. Generally -- general rule of thumb, four days in the field, one day in the office every week.

Q. So 80/20?

A. Yeah.

Q. Or thereabouts?

A. Thereabouts, yeah.

Q. Okay. A lot of travel, a lot of getting around here, there, and everywhere?

A. I am basically in a different state every week.

Q. And you see a lot of airports?

A. Yes, I do.

Q. Okay. That's helpful for me. So are you -- at your position, are you held accountable for a lot of things that go on in all of these different areas in all these different activities?

A. I'm essentially responsible for anything that occurs dealing with these projects. So I guess another way to think of it, I have peers within engineering services. Their general responsibility is to get the project ready to build track. So their responsibility is permitting, grade work, all, you know, tree clearing, all of that stuff. Once the grade's ready, that is when my team essentially takes over until the project is finished. So that's generally where my direct engagement begins is when the grade is ready. And anything dealing with material delivery, manpower issues, injuries, the general schedule, that's all within

my job responsibility.

Q. Okay. I get that, but let me ask it a different way. How do you ensure that the right measure of safety is delivered down to boots on the ground?

A. Okay. So a lot of it has been developing process controls and what we have modeled a lot of our efforts after since we started up this new organization was after the production organization, which is the steel gangs, tie gangs. We operate in a similar manner, but not exactly the same. So one of the -- I'll give you an example of a big difference is we have mandatory safety meetings every month. We shut down production and we have safety meetings. That is one of the big things we have -- ensure happens every single time.

Another safety process control that we have modeled after the production organization is start up meetings where we essentially do 80 percent of our training in a week and a half at the very beginning of the year which includes rules training. Some of our mandatory safety training gets done in the first week of the year, which we model after the production organization.

Q. Matt, is that referencing the compaction of training, is that the term start up like on the production side, they have their start up period and they bring everybody in before they ever go out in the field for that production season?

A. That's exactly it. So what you're picturing there is essentially what we do as well, very, very similar.

Q. Okay. And that's pretty much most or all the training that everybody gets throughout the year or do you -- in your monthly meeting, are you supplementing the start up?

A. We are supplementing. So some examples of training that we do during our monthly shutdown, approaching others is one of our trainings that is done systemwide that we have covered with all of our gangs this year.

Another one is track stability training. So that is part of -- it's actually FRA required for FRA qualified employees. We do that training once a year. We're not quite through that with everyone yet this year. I think we've done I think three of the gangs, but those are a couple examples of further training and we typically seek those opportunities out during the monthly safety meetings.

Q. Okay. I've heard this term approach others and people refer to it as AO, and I want to see if my thought on this is anywhere close. Sometimes in my line of work we use peer-to-peer. In other words, I am my brother's keeper and I need to be mindful of the person working next to me and hopefully that person is mindful of my actions. Is that some of that?

A. That's a big piece of it, and that's exactly where it started 3 years ago, and now we've gone to not just people working within the same gang, but whether they're in a different craft, even if they're not a BNSF employee or contractor approaching them, and it's really trying to break down the barriers between --

between (indiscernible) exist where somebody might see something and not say something about it. So that's the big point with that training.

Q. So let me change the phrase. I'm everybody's keeper.

A. Absolutely.

Q. Okay. Well, tell me about your thoughts about job briefings because I suspect that we're on the division or maintenance level locally, we're generally talking about smaller groups and groups that maybe don't change as much over time and I think it might be fair to say that on the construction side, lot bigger groups, lot more activity going on and maybe some change outs of personnel on a more frequent basis. So tell me how you -- what you expect and if the training in the construction site is any different than on the division level?

A. I would say it looks different. The training or the job briefings?

Q. The training and the job briefings both. Tell me about those if you will.

A. The job briefings would look different than what you would see on a division. The picture's usually for our crew's going to be 40 people at a briefing. On the back on the truck, you have a foldout whiteboard with written down all of the central protection information, where you're at, the nearest hospital, milepost location and a lot of times Form B information will be on there, employee in charge. So that's all written on a board for

everybody to make sure they (indiscernible) a copy of. So we review all that information. We review the work activities for the day and then we also make sure that more than half the time is spent talking about any exposures, safety exposures we have in one place. That is the expectation that we have of these guys is it's not just about covering a rule, but really taking a look at what tasks we're going to get engaged in today and what kind of exposures you're going to have and talk about those as a group.

Q. Okay. You use the term exposures. I use the term hazard recognition. Are we talking the same thing?

A. Yes, I'd say so.

Q. Okay. So I think -- here's the trick in a lot of railroad safety. How do we get people to recognize hazards?

A. I would tell you that that is part of some of the training we do such AO is bringing -- I mean I think an effective way to do that is bringing up a picture of a jobsite and asking people to tell us what exposures they see. That has been one of our effective tools we do during monthly safety meetings to help people see things that they might not see otherwise, but that's one of the ways we approach the training, to help them recognize them.

Q. In other words, sometimes there's not a right or wrong answer. There might be a much better answer.

A. Right.

Q. Okay. And all of this, it sounds like there's a pretty

good organizational chart there and sounds like more people as you get down to the lower tiers of the chart. So how do you monitor that quality and content of the job briefing?

A. So the most effective way we've been able to do it and to try and have uniformity essentially between how everyone does it is my two DEs of construction who all these gangs roll up to, they are constantly visiting them and any time we are out and about, and this includes myself, we make sure we attend the job briefings and give feedback to the roadmaster and the foreman on their job briefing. So I have basically my manager team that sees multiple gangs giving feedback about the quality and specifically my two DEs of construction, that is one of their primary tasks is helping us get uniform and doing quality job safety briefings.

Q. Okay. Well, I don't want you to take this the wrong way, but I can imagine that if I am one of the field personnel charged with conducting a job briefing, and I know that you or anybody you know is going to be there, that's going to be like the best job briefing ever, and I know that because in my line of work, the only job briefings I see are great and fantastic, and you know, to the credit of the people that put them together, I accept that, but you know where I'm going with this. What is it -- how do you monitor and how do you enforce that good quality of content is occurring on a really, really high frequency?

A. So that is the piece where -- obviously we don't have a manager presently every day at the job briefings. So we rely

heavily on our roadmasters continuing forward what we expect those other days. So now that gets into another piece, right, the roadmaster's not always there. So, you know, what I would like to believe is that the expectation is laid out that, whether I'm there or the roadmaster's there or no one's there, that those job safety briefings should look the same.

Q. Okay. And on an operational testing type thing, tell me a little bit about that? Does that occur on the construction side much like the expectation is on the division level?

A. Similar. Our supervisors are required to perform 25 operations tests every month, and they're required to go on one team testing every month. All of my managers, so the seven folks that report directly, excuse me, eight folks who report directly to me, they do not have a number that they're required to test, but they are required to go on one team testing event which we define the team as multiple supervisors testing at the same time. So that is the laid out expectations for them.

Q. Okay. Thank you for all this discussion that we've had thus far. We've got some other people around the table. Let's see what's on their mind, too, okay.

MR. HIPSKIND: Dale, do you mind if I start with you?

BY MR. JOHNSON:

Q. I only have one question at this time, but you pretty much answered it. I just for my little area of your responsibility, just so I know, you have one ADMP in this area

then or two?

A. Responsible for the Twin Cities Division.

Q. Yeah. I have northern Wisconsin and the northern half of Minnesota basically.

A. Um-hum.

Q. So -- just so I know whom I should be speaking to. I guess the local supervisor is not there --

A. Right.

Q. -- or something as you stated earlier. You know --

A. Right.

Q. -- I just want to -- I don't want to break the protocol.

A. Right. It would be Josh Fluke. He is the ADMP and he is someone we assign a list of projects, and I would tell you though that if next year our project load was cut in half --

Q. Um-hum.

A. -- Mr. Fluke could be assigned the Montana and Twin Cities Divisions.

Q. That's what --

A. Yeah, so we base it on project load, but the general boundary is a division. It's kind of a loose boundary.

Q. Okay. So the individual we met today, Ryan --

A. Ryan Wonola.

Q. -- he's one of your --

A. Yes.

Q. -- he'd be to Josh.

A. He would actually report up to one of the DEs of construction. So that is the line we've drawn is the roadmaster's responsible for the gangs, report to DEs of construction --

Q. Okay. Got you.

A. -- with the sole responsibility of managing those gangs. Mr. Fluke spends a lot of time going to job safety briefings, assisting as he can with management of the gang, but that's not his primary responsibility. His primary responsibility is the project.

Q. Okay.

A. Does that make sense?

Q. I've got you now, yep. I just -- the Agency overwhelmed me. I was just in the La Crosse a month ago, and I had never seen that may BN employees in my entire life in a 50 mile radius of La Crosse, Wisconsin. I mean 50 miles south of La Crosse on the highway, there was nothing but BNSF vehicles parked along the highway, along the tracks there. I guess that was the most overwhelming thing I had ever seen in my life. So that's why moving forward, it would be nice to know how the operation is set up. That's all I have.

MR. HIPSKIND: Thank you, Dale. Jim, anything?

MR. SOUTHWORTH: No.

MR. HIPSKIND: George.

MR. LOVELAND: No, sir.

MR. HIPSKIND: I cannot believe that, but okay. Thomas.

BY MR. JULIK:

Q. I believe I heard you mention that all of your workforces, all the scheduled folks have both start up meetings and monthly meetings. Is that correct?

A. Yes.

Q. Is that common for workgroups to have both the week start ups and then monthly meetings after that?

A. It is common for my group. Are you asking about for all groups of BNSF?

Q. Right, across the system.

A. I would say, I mean definitely the division groups. I mean because when I came from my last job, it was on the division, and it was a requirement for monthly safety meetings to happen with the division roadmasters. I cannot specifically speak for how the production organization does it. I have an idea but I would just be -- it's not really my place. I don't fully understand how they do theirs.

Q. Okay. And so the monthly safety meetings, everyone sits down for a day in the classroom and goes through a bunch of stuff. Is that correct?

A. Typically yes.

Q. Okay. You also mentioned you've got 31 supervisors, 310 employees on 12 gangs. And part of the reasoning for I guess that level of supervision is due to some long windows and things of that nature. Is that correct?

A. Yeah, I mean our typical windows are going to be, you know, 7 to 10 hours, but we very often get into, just to give you an example, we spent this last weekend, not Memorial Day weekend, the weekend before, we had back-to-back 48 hour windows in Joliet, Illinois, and we just -- I mean it's really taxing on one supervisor to manage a 48 hour window. So the levels of supervision allow me to not just keep supervision constant for scheduled guys, but exempt employees as well.

Q. So what's kind of the communication expected then during the handoffs when you have rotating employees like that?

A. As in rotating during a window?

Q. Yes.

A. So typically the rotation would look like someone -- when the person arrives, they get about a 30 minute briefing on what's going on before the other person leaves to go get rest.

Q. Okay. So I imagine with the workgroup as expansive as yours, there may be a fair amount of weekend work that occurs. Is that correct?

A. That is correct.

Q. Okay. What kind of expectations do you have surrounding communication when it comes to supervision and the folks that are out in the field doing that work if supervision is not present during that?

A. So some expectations, so what we have drawn a line in the sand with is if there's a window, there's a supervisor there.

So that's one of our, you know, lines that we draw about whether we need someone there on the weekend. Now in terms of communication about it, I expect that the supervisor understands and stays engaged, whether it's through the phone or an e-mail, whatever it is, with what activities are going on. I would tell you also that Mr. Smith, who Ryan Wonola works for, requires an update on Friday with planned work activities over the weekends. He requires a written e-mail for what work is planned to be done over the upcoming weekend and how many employees.

Q. Okay. Do you require that the supervisors and the foremen that are out in the field discuss any sort of on-track protection that may be required for the work?

A. Ask that question again so I make sure I understand it.

Q. Do you require that -- let's say you've got a crew that's going to be out working on the track, not the off track work, but when they're actually going to be on track, do you require that supervisors have some form of discussion pertaining to the method of on track safety that will be established for that work?

A. I can tell you I have not had a direct conversation with anybody telling them that I expect that.

Q. Okay.

A. Does that answer your question?

Q. Fair enough. And then when there is weekend work, what type of communication do you expect between your workgroup and the

division forces where they may be working?

A. We haven't laid out any expectations to communicate with the division unless there's a major window. If there's a major window it is planned through our Fort Worth office and that it's visible -- basically that becomes visible to the whole organization if they want. We have a planning tool that makes those windows visible but if there is not a major planned window, then we don't have -- we don't require any communication with the division. Does that answer your question?

Q. Yes, it does. All right. That's all I've got for you. Thank you.

MR. HIPSKIND: Thanks, Thomas. Kevin, do you have anything?

MR. WILDE: No, not at this time.

BY MR. HIPSKIND:

Q. Okay. I want to clear up a bit of a major term that both you and Thomas used, and it has to do with windows.

A. Um-hum.

Q. A window, a major window, and so let's decode that for other people who may not be in our line of work. Do you want to take a crack at that first?

A. Absolutely. So a window is a -- the way we've been talking about it is typically a planned event where on the mainline or a siding, we have a planned track outage, and the dispatcher grants us authority to be on the track for a specific

time period that will be planned in advance.

Q. Okay. And then let me add that not only are windows a matter of time, but they're also a matter of distance.

A. Yes, they are.

Q. And by creating the planned work, something that's really going on is the train traffic is either deterred, rerouted or stopped and those windows, the distance and time, affords a lot of people to come into that area to increase their production.

A. Correct.

Q. Fair to say?

A. That's a fair statement.

Q. Okay. I just wanted to be clear on the record a lot of what we're talking about there. Windows can mean primarily one thing to a lot of people. Well, Thomas touched on some of what I wanted to discuss with you next, but let me stop for a minute and ask Dr. Jenner.

MR. HIPSKIND: Do you have some questions?

DR. JENNER: I don't have any questions.

BY MR. HIPSKIND:

Q. All right. Then, Matthew, you and I will continue. You know, we talked a pretty good deal about job briefings, but the end result of the job briefing is the successful application, selection and application of how do I need to be protected, how well did I recognize my hazards, my exposures, and how well did I mitigate them, how well did I protect where I'm going to be

working? So do you have enough training going on up and down the ladder and out in the field to get that message across?

A. We have enough bandwidth in terms of supervisors to get the message across but it is something we're constantly working on, constantly improving. I would not at all sit here and say that we are 100 percent of the time doing perfect job briefings. I'd say we definitely have a lot of room to improve, but we are -- I see better briefings nearly every time I'm out there.

Q. So it's an evolution.

A. Yes.

Q. I was waiting for you to verbalize your headshake there. So when you're doing your work on a bigger scale in construction, whatnot, I'm going to guess that the majority of the time, unless there is a track outage, you're using adjacent track protection quite a bit of the time or not?

A. Can you ask that again so I make sure I understand?

Q. Okay. For a lot of the work that you engage in, construction, unless there is a track outage, you know, there's no track to travel over because that's why you're there --

A. Right.

Q. -- and you created a window, but in those other circumstances where you're doing work and there's still training operations nearby --

A. Right.

Q. -- adjacent, my guess is that you're using adjacent

track protection an awful lot of the time.

A. Quite often. I would say roughly 80 percent of our work is off track, time that the gang is working, 80 percent of that work is going to be off track. Some of that -- even some of that portion that I'm calling off track would necessitate some sort of adjacent track protection because of the closeness to the track.

Q. Okay. Well, tell me about after things are assembled and you're not in that 80 percent of the time, but you're over here in that thing we built and now we want to put it where --

A. Right.

Q. -- it's going to do everybody some good, what are the popular methods? What do you end up going to the well the most with?

A. Form B.

Q. Form B. So you're controlling movement on that adjacent live track.

A. And usually the one we are working on. You know, usually the Form B is on both if there are two tracks. But often where we are working, the reason is there's only one track and we need an extra one, but I will tell you, yes, that the tool used the most for adjacent track protection is Form B.

Q. Okay. And again, I don't want you to take this the wrong way but is the luxury you enjoy in the construction side of the engineering services, you have an ample number of people to accomplish all these kinds of protections, Form Bs, et cetera.

A. Absolutely. However, I would say it is most typical that one of those employees on the gang, those 27, is generally not the person providing the Form B protection. Typically that is someone local who understands the area.

Q. Okay.

A. That's --

Q. I'm glad we went down this path. So there's an example of construction and division cooperating, communicating and working together?

A. Yes.

Q. And if they are having local people with Form Bs handling that protection for you, that's always a good day for you because that's a support that is more meaningful because of their knowledge of the local area?

A. Yes.

Q. Well, let me go further. Does that mean less chance for your guys to make a mistake based on they don't know the area?

A. I would agree that having someone local typically is going to allow for less chance of making a mistake if the person is qualified to be doing the job, and to explain the difference there. If I've got an employee with 25 years on the railroad on my gang, who's never been there before, I'd rather have him flagging than a person with 6 months on the railroad even though it was local. Does that make sense?

Q. Yeah, I've got you.

A. Okay.

Q. I've got you.

MR. HIPSKIND: Okay. That's pretty much all I've got for right now. So let's open it up for a second round. Dale?

MR. JOHNSON: Nothing at this time.

MR. HIPSKIND: And, Dr. Jenner, anything?

DR. JENNER: No.

MR. HIPSKIND: And Jim?

MR. SOUTHWORTH: No, pretty articulate there.

MR. HIPSKIND: George?

MR. LOVELAND: No questions.

MR. HIPSKIND: Thomas?

MR. JULIK: Yeah.

BY MR. JULIK:

Q. I've just got one question for you here. What is your interpretation of BNSF's adjacent track protection rule as it would pertain to the scenario in which the guys were working on Monday here?

A. It was absolutely required that they needed adjacent track protection. Does that answer it or are you looking for something further?

Q. For all activities that they were doing or just for unloading with the loaders?

A. So my understanding from what I've been hearing, earlier in the day they were building a switch. I don't see any reason

they would have had to have adjacent track protection for that except for I don't really know where they were or what they were doing, but that activity likely would not have required adjacent track protection, but unloading panels with a loader as they were, with track centers less than 25 feet, they should have protection. They should have had some form of protection on the adjacent track.

Q. I guess I was referring more towards when the crew was undoing all the chains on the cars, before the removal with loaders, but when they're in there working, removing all the chains off the panels and the flatcars.

A. Your question is should they have had adjacent track protection while they were taking the chains off?

Q. Yep, per your guy's rules, as you understand it anyway.

A. I would tell you that while they were taking the chains off, if I had observed them taking the chains off, that I would not have taken exception to it because the requirement is the only time they can't be there is when a train is passing. So I would tell you that if I saw them doing that, I would have advised them that I didn't like what I was seeing but from my understanding of the rule, they were not breaking it taking the chains off. Does I answer your question?

Q. Yes, you did. Thank you.

MR. JULIK: That's all I've got.

BY MR. HIPSKIND:

Q. Okay, Matthew. I want to clear up something and I know you can help me with this. When -- you know a lot of things that we're asking you, we're thinking about the incident and all that. I know you know that. But when we talk about the adjacent track rule, here's what I want to understand from you.

In the wording of the rule, is the most applicable phrase of the rule the yardstick part of it, whether it be 25 feet or 19 feet. Is that the thing that engaged the application of the rule more than anything?

A. The distance of the track centers?

Q. Yes.

A. Yes, and I would -- and I know that -- something I've been hearing thrown around a lot is the 19 feet, and the 19 feet in my opinion does not apply in this scenario. It's 25 feet because we did not have adjacent control tracks. We had adjacent tracks, and there's a different definition there for those two things. You had an adjacent track scenario which is any time you're less than 25 feet, and if you may foul with your boom or with your load, you have to have protection on that adjacent track. So we are -- there's a clear definition between those two terms in our rules.

Q. And so is it -- and I haven't seen the rules, so forgive me and shame on me for not having read it here prior but the same numeric rule has two yardstick numbers, a 19 and a 25, or should I think of it as two separate numeric rules?

A. There are two separate scenarios. So adjacent tracks are always defined as 25 feet. That's our definition of an adjacent track. You have adjacent control tracks where you may require protection if you have track centers 19 feet or less and you have equipment on the track you're working on. So if you are involved in work that has equipment that is rail bound. So there's two scenarios there.

Q. Okay. Well, let me see if I can distill this down into one thought, and the thought would be regardless of whether I had something on the track or off the track, in the scenario we're looking at, I meet the 19 and I meet the 25.

A. Absolutely.

Q. Is that the proper takeaway from this? I mean just -- I know we haven't kind of made up our mind, but we're just trying to get educated here.

A. Either way, if you were going into it thinking about 19 feet or thinking about 25 feet, either way, it's less than that.

Q. So that's what I wanted to get at.

A. There's a requirement for protection on that adjacent track, if what you were doing may foul that track.

Q. Okay. So do you think that there is a need for more training to get people to a greater understanding on this?

A. I would tell you that from discussions I've been having with my people, that that is going to be a large effort of mine for the coming weeks, is some additional clarification on things

that maybe didn't get touched on during our initial wave of training. So when we initially rolled this out, it was last summer, and we have touched on it as we've gone, but I can tell you from my experience, I have never asked or talked to somebody about the scenario of material unloading with adjacent tracks. We have typically referred to it as you are working on this track and, you know, what scenario would require protection on the adjacent.

Q. Well, I know you're part of the investigation, and I don't mind sharing with you that some of what we heard, at least in their explanation to us, was that we did not have anything on either track and we did not think that the adjacent track rule was in effect because, and the other term we heard, we were field side, but I don't think we heard anybody say anything in terms of the two yardstick measurements that you and I discussed, and the fact whether it's 25 or 19, you're 13-6.

A. Correct.

Q. So you're within that, and that's why I brought up this business of -- I just -- I wonder and I just wondered if you guys -- how you were looking at that and maybe what you might do.

A. We feel that there is some extra clarification needed around things just because from this event, we've been doing a lot of discussion with our teams and questions have bubbled up that didn't bubble up before.

Q. Okay. And you're aware that a recent safety alert went

out discussing elements of the accident, just in general, and a second page with a lot of references to rules.

A. Yes, I am.

Q. Are you familiar with that?

A. Yes, I am.

Q. Is that a first step in that dialogue, that discussion?

A. That was the first step that helped kind of I would say get some of the questions started that maybe hadn't come out before. So we had -- I think -- I would say from some of my supervisors, there was some assumed understanding that through this training document, we realize we've got some clarification to do.

Q. So ongoing efforts.

A. Yes.

Q. You guys aren't in denial. You've got recognition of this and want to do something to get everybody on the same page.

A. That's what we -- yeah, that's one of our main things we're doing right now with our teams.

Q. All right. Great.

A. Ensuring clarity.

Q. I couldn't agree more.

MR. HIPSKIND: Any other follow-up questions or anything?

MR. JULIK: Yes, I did.

BY MR. JULIK:

Q. Not to try to beat a dead horse, but you stated that in the scenario there on Monday with the industry and the main track, that you did not have adjacent control tracks. Can you expand on that?

A. So you have -- our definition of adjacent control tracks refers to when you have 19 feet track centers or less and you have some form of rail bound equipment, and again I'm paraphrasing, right, but obviously I've been looking into it a lot in the past few days, but when you -- to call it adjacent control track, you have to have another set of scenario where not just you have close track centers, but you have equipment, rail bound equipment engaged with what your task is as well.

So a common application of that is if you are a tie gang, and you have all these machines on the track, and you have people on the ground as well, that's where the scenario of adjacent control track comes into play or if you're a insertion gang, rail bound equipment and a foreman behind, that's an adjacent control track scenario.

But I would tell you, if you're building track with the TLM, you don't have a track, but you are working within 25 feet of a live main. So we require a Form B. That is -- I mean so we come into some unique scenarios in the construction organization with sometimes we're building the track that is now the adjacent track that wasn't there 10 minutes ago. So we've got to be very clear with our expectations because there's a lot of scenarios our

teams are presented with that don't exist with most people.

Q. Okay. So in the scenario then on Monday, you said they did not have an adjacent control track, they did not have rail bound equipment in your words. Were they in compliance with BNSF's adjacent track rules?

A. No, they were not.

Q. Why not?

A. They had an adjacent track and I can pull I can pull it up, but I'm not going to sit here and guess my rule number, but our reference that this directly applies to, says adjacent track, not adjacent control track, and adjacent track is defined as 25 feet, and when you have adjacent tracks, you must establish protection if you may foul that with either the load you're carrying or, you know, some part of the machine you're operating will.

Q. Okay. All right. That clarifies it for me.

MR. HIPSKIND: Kevin, do you have a comment or question?

MR. WILDE: I actually have a question, Dick.

BY MR. WILDE:

Q. All right. So in the briefing that Dick mentioned to you, that we put together for this incident --

A. Yes.

Q. -- that your team used for -- as part of the stand down, have you seen similar documents like that before?

A. I have seen similar documents, yes.

Q. And those weren't the result of a NTSB investigation. This is basically how we do things, right?

A. It was a very typical format with what I've seen before, and many of them I've seen had sometimes not even an incident involved with them.

Q. All right. Thank you.

MR. WILDE: That's all I've got.

MR. HIPSKIND: That's for clarifying that, Kevin.

MR. HIPSKIND: If nobody has a comment or a question, I will go ahead and proceed with our closeout of the interview.

BY MR. HIPSKIND:

Q. Matthew, as we talked about before, is there anything that you want to change or add thinking back over our conversation?

A. No, there's not.

Q. Is there anything that you think we could ask or should ask to elaborate on anything that we've touched on?

A. Not that I can think of.

Q. Okay. And in thinking about the incident, the accident, is there anything that you would suggest for preventing a reoccurrence?

A. I believe that if our employees on the site that day fully understood the applications of the rules and our expectations of them, that this wouldn't have happened.

Q. Is inherent in your comment that they would have

complied?

A. Yes.

Q. Okay. Is there anybody else that you think that we should interview?

A. No one that I can think of.

Q. Okay. All right. Let me go to the last four closing questions. Okay. Prior to our interview, did you understand that the purpose of the investigation is to increase safety, not to assign fault, blame or liability?

A. Are you asking if I understand that?

Q. Yes.

A. Yes, I do understand that.

Q. Okay. And did you understand that the NTSB cannot offer any guarantee of confidentiality or immunity from legal or certificate actions?

A. Yes.

Q. And that a transcript or summary of the interview will go into the public docket?

A. Yes.

Q. And you understand what the public docket is?

A. Yes.

Q. And that as an interviewee, that you had the election to have one representative and you did not feel that you needed one.

A. Yes.

Q. All right. Thank you very much, Matthew. I think we

had a very good discussion here and I know it increased my understanding, and that was the goal of the interview and so I know you're busy, and I know you've got to be a lot of places and I know that you understand everything that went on out there is very serious. So I commend you for the comments that you made and understand some of the work that's out there ahead of you.

MR. HIPSKIND: So with that, we will conclude the interview.

(Whereupon, the interview was concluded.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:	MAINTENANCE-OF-WAY EMPLOYEE FATALITY, BNSF RAILWAY, MIDWAY SUBDIVISION, MINNEAPOLIS, MINNESOTA ON MAY 25, 2015 Interview of Matthew Keller
DOCKET NUMBER:	DCA-15-FR-011
PLACE:	St. Paul, Minnesota
DATE:	May 28, 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.

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Kathryn A. Mirfin
Transcriber