



UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: \*

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DERAILMENT OF UNION PACIFIC TRAIN \*

NUMBER UEGKOT 09 NEAR GRAETTINGER \*

Accident No.: DCA17MR007

IOWA, ON MARCH 10, 2017, \*

\*

\* \* \* \* \*

Interview of: STEVEN FENDER

NTSB Headquarters  
Washington, D.C.

Wednesday,  
April 26 2017

## APPEARANCES:

JOE GORDON, Track and Engineering Group Chairman  
National Transportation Safety Board

MICHAEL HILLER, Investigator in Charge  
National Transportation Safety Board

MIKE GEKAS, Director of Safety  
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International Brotherhood of Teamsters (BMWED-IBT)

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Office of the Chief Counsel  
Federal Railroad Administration

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Federal Railroad Administration  
(On behalf of Mr. Fender)

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I N T E R V I E W

1  
2 MR. GORDON: Okay. My name is Joe Gordon, and I am the NTSB  
3 Track and Engineering Group Chairman for this accident.

4 We are here today on April 26, 2017, at NTSB Headquarters in  
5 Washington, D.C. to conduct an interview with Steve Fender who  
6 works for the Federal Railroad Administration.

7 This interview is in conjunction with the NTSB investigation  
8 of the March 10, 2017 accident where an eastbound unit ethanol  
9 train operated by Union Pacific Railroad derailed near  
10 Graettinger, Iowa. As a result of the accident, railcars breached  
11 and released about 322,000 gallons of ethanol resulting in a fire.  
12 The NTSB accident reference number is DCA17MR007.

13 The purpose of this investigation is to increase safety.  
14 We're not here to assign any fault, blame or liability.

15 Before we begin our interview and questions, I'd like for  
16 everyone to go around the table and introduce yourself. Please  
17 give your -- please spell your last name, tell us who you're  
18 representing and your title. And I would like to remind everyone  
19 to speak clearly and accurately for the recording.

20 I'll start off and then pass it off to my right. My name is  
21 Joe Gordon, G-o-r-d-o-n, and I am the Track and Engineering Group  
22 chairman for this accident.

23 MR. HILLER: Michael Hiller, H-i-l-l-e-r. I'm the  
24 investigator in charge for the Graettinger, Iowa accident.

25 MR. GEKAS: Mike Gekas, G-e-k-a-s, director of safety for the

1 Brotherhood of Maintenance of Way Employes Division of the  
2 Teamsters.

3 MR. BRUCE: Rick Bruce, B-r-u-c-e, Region 6, track  
4 specialist.

5 MR. FENDER: I am Steven J. Fender. Steven with a V, Fender,  
6 F-e-n-d-e-r. I'm the regional administrator for FRA Region 6  
7 representing FRA.

8 MR. MOORE: Aaron Moore, A-a-r-o-n, M-o-o-r-e, trial attorney  
9 at FRA, representing Steve Fender.

10 MR. ROBERTS: My name is Brian Roberts, R-o-b-e-r-t-s, with  
11 the Office of Chief Counsel at the Federal Railroad  
12 Administration.

13 MR. GORDON: Okay. And before we begin, we discussed that we  
14 would be recording our discussion today. Is that okay with you?

15 MR. FENDER: Absolutely.

16 MR. GORDON: Okay. And is it okay -- you go by Steve. Can I  
17 call you Steve for the interview, Steven?

18 MR. FENDER: Yes, sir.

19 MR. GORDON: Okay. Thank you. And we also discussed that  
20 the interview will be transcribed and eventually be a part of the  
21 public docket. You understand that?

22 MR. FENDER: I do.

23 MR. GORDON: Thank you. Your representative today is  
24 Mr. Moore?

25 MR. FENDER: Correct.

1 MR. GORDON: Okay. Thank you. And we will proceed.

2 INTERVIEW OF STEVEN J. FENDER

3 BY MR. GORDON:

4 Q. And if you could, just tell us a little bit about the --  
5 about how you came to be where you are, a little bit of railroad  
6 history, work history and how you got to be in the position that  
7 you are today.

8 A. Okay. Well, I was a -- I was employed in my youth at the  
9 Chicago Northwestern Transportation Company, better known as the  
10 CNW Railroad, in the Midwest. I was a BMW member. When I left  
11 the railroad, I was track foreman, track inspector, gang  
12 supervisor, did that sort of stuff. And in about my ninth year, I  
13 was recruited by the Nebraska Public Service Commission's Rail  
14 Division to apply for a job over there, actually through the FRA  
15 representatives, and decided to take a position there. Worked  
16 there for 3 years, and had a good working relationship with the  
17 FRA and they offered me a job or they suggested that I bid on a  
18 job through a bid process to Denver, which was a high geographical  
19 area and it was one of the more difficult jobs to fill at the  
20 time. I was always a fan of Denver, so I took that job.

21 I worked for 5 years as a track safety inspector there. I  
22 was promoted to chief inspector in the mid '90s, worked 15 years  
23 as a chief inspector in Denver, and when my daughter was ready to  
24 graduate from high school, I accepted a deputy regional  
25 administrator's position in Kansas City. I guess I worked that

1 job for about 7 years, and have been the regional administrator  
2 for 5.

3 Q. Okay. All right. Well, thank you for that, and that's good  
4 to understand you've been involved in about every aspect of  
5 railroading on the track side, for sure. Thank you for that.

6 So I guess I'd like to start off by talking about the  
7 national and regional inspection plans, and if you could just kind  
8 of summarize how those plans affect the work of the region and how  
9 the inspectors are, you know, kind of parsed out to --

10 A. Okay.

11 Q. -- to take care of that plan.

12 A. Sure. I'm going to write this down because I tend to ramble,  
13 and what I learned a long time ago when I was interviewing for  
14 jobs, write the questions down and then I also circle back, and  
15 it's a reminder. So you're wondering about NIP and -- a National  
16 Inspection Plan, we refer to it as NIP, as you're aware, and then  
17 the regional -- RIP, I guess, regional inspection program or -- is  
18 that correct?

19 Q. Yes.

20 A. So our National Inspection Plan is, it is a -- essentially  
21 it's a mathematical formula that is put together, and there are a  
22 number of different factors that are blended together by our  
23 statisticians. A fellow by the name of Hon Li (ph.) is our guy  
24 that manages the NIP. And it essentially takes our resources,  
25 which a RIP is part of it because our resources are based in RIP,



1 and it's plugged in with accident statistics and railroad size,  
2 railroad operations, and it generally gives us a percentage of  
3 time that we spend on each property, each railroad. That would be  
4 the Class 1's, the regionals, Class 2's and the Class 3's. And  
5 essentially we have an hour allotment or a percentage -- more like  
6 a percentage of our time that we spend on each property based on  
7 that formula.

8       So the formula may in our region nominally tell us to spend  
9 38 percent of our time on Union Pacific, the biggest railroad in  
10 the region. The second largest and another railroad that carries  
11 a lot of traffic, the Burlington Northern Santa Fe, we might be at  
12 30 percent in any given discipline. And then it scales down  
13 through the Class 1's: Amtrak, Norfolk Southern, CSX, Canadian  
14 National, Canadian Pacific, Kansas City Southern, and then down  
15 into the 2's. So as you get into the smaller railroads, those  
16 percentages of time we have to spend on each property change.

17       How the RIP plays into that, every region has X amount of  
18 employees and that is based on RIP. So we have a summary in the  
19 RIP program that we all complete and each inspector essentially  
20 makes a listing of all of the main track miles, yard track miles,  
21 yard track turnouts, main track turnouts, derails and every other  
22 track of pertinence that he might -- he or she might inspect.

23       That is -- we take that data and we carve it up by counties  
24 and it's their geographical assignments that are given to our  
25 individual inspectors, and I will tell you that the state

1 inspectors aren't a part of that. So if -- as we have in a few of  
2 our states, about half of our states, we have state inspectors of  
3 one discipline or another, and that's sort of an added inspection  
4 support mechanism for us. It gives us the ability to reach a  
5 little bit farther and, of course, we have to develop our  
6 relationship with them through a state program. And so that's  
7 certainly another tangent we could go down. I won't elaborate on  
8 that, but --

9         So that's the RIP. It's a regional inspection program and  
10 it's -- basically in this case, we've got Tom Brown who's  
11 headquartered in Harlan, Iowa. I mean, he's got a pocket of  
12 counties in a certain geographical area, so -- at all of our duty  
13 locations, and sometimes we hire to fill voids. So as we have  
14 vacancies that occur -- you know, if we've got a void between Des  
15 Moines and North Platte, as an example, we might place a job  
16 somewhere in between so we have adequate coverage, again  
17 discounting the fact that we have state inspectors in some areas.

18 Q. Okay.

19 A. So that's how the NIP and the RIP -- that's the 30,000 foot  
20 view.

21 Q. Okay. So it is kind of a program to help you manage  
22 resources on the region, especially the region -- the regional  
23 inspection plan would be more of the resource management side of  
24 it, whereas --

25 A. That is correct.

1 Q. Okay. And I appreciate the explanation of the National  
2 Inspection Plan being more of the larger view, how much percentage  
3 of time is spent on the different railroads. That helps as well.

4 I think you answered some of the other questions in that  
5 explanation. So thanks.

6 These inspections are conducted with both federal and the  
7 state inspectors, but the state inspectors aren't -- their  
8 inspection activity isn't considered in the regional inspection  
9 plan?

10 A. No, it -- their inspections ultimately dump into our data  
11 pool and they're listed as inspections, but the state inspectors'  
12 time spent do not factor into our NIP calculations. That's just  
13 based on federal activity, federal inspector activity.

14 Q. Okay. So with it being based on a percentage of time, are  
15 there -- would there be like a minimum number of annual  
16 inspections that would be conducted, and if we just focus on the  
17 Estherville Subdivision --

18 A. Um-hum.

19 Q. -- would there be a minimal number of inspections that would  
20 be required by the regional inspection plan or is that based on  
21 the direction of the regional personnel?

22 A. The NIP nor the RIP give us allocations of, you know, the way  
23 we spend our resources. That is based on the specialists. You  
24 know, they're a director level person that have oversight  
25 responsibility in the six different technical areas. I included

1 grade crossing and trespasser because they've got a senior grade  
2 crossing manager that serves in pretty much the same role as the  
3 specialist. So our resources are spent in typically four  
4 different areas: accident investigation, complaint investigation,  
5 waiver and block signal (BSAP) applications, which come from the  
6 signal side, and then accident investigations. So there's always  
7 a pot of work, and it's Rick's job as a track specialist to  
8 balance all of that out, with some supervision and guidance from  
9 the deputy regional administrators and at times myself.

10 Q. Okay. And when that work is being planned or the inspection  
11 activity is being planned, is there a risk-based assessment that  
12 goes on about a property, say, you know, carrying unit ethanol or  
13 unit crude oil trains; is there a consideration for the number of  
14 inspections that are made based on commodity?

15 A. Yeah, there is. But that would be Rick's job to figure that  
16 out. You know, in addition to the RIP and the NIP, our National  
17 Safety Program Plan, what we call the NSPP, we build in regional  
18 focus areas, and that can range from crude and ethanol route  
19 activities that could be hot spot areas where we know there's been  
20 a flurry of activity and we need to spend some additional -- or  
21 maybe focus a little bit more and spend some additional resources.

22 It could also be an area where we've had chronic vacancies.  
23 You know, in some cases, there are geographic areas where people  
24 just don't want to live but we need inspectors. So if we have a  
25 vacancy for an extended period of time and we don't have a state

1 inspector nearby to help us keep the boat floating, they'll have  
2 to keep pushing resources to those areas to manage. And in a time  
3 of extreme vacancies, you know, that can be a little bit difficult  
4 to manage.

5 We have 145 crude or hazmat routes designated in Region 6,  
6 and they all have varying track densities, different features,  
7 different geographical features as well. So when Rick is  
8 programming his people to go to their work, you know, we're  
9 typically looking at the greatest areas of risk, and that would be  
10 where there's large volumes of hazardous materials that are moved,  
11 high volumes of traffic, difficult areas to negotiate. North  
12 Platte terminal, the biggest railroad yard on the planet, gets  
13 quite a bit of time. Kansas City/St. Louis -- Kansas City is the  
14 second largest rail terminus in the United States, arguably,  
15 against Chicago. While there's more tonnage that moves through  
16 Kansas City and they're a very complex operations, there are more  
17 crew starts at Chicago. So Kansas City is -- and St. Louis, both  
18 are very complicated cities with complicated operations and a lot  
19 of traffic. So areas like that get a pretty strong focus.

20 And then, of course, the transcontinental main lines, we have  
21 end to end from Chicago to Rawlings, Wyoming on the Union Pacific,  
22 and Chicago to about -- oh, down around the Oklahoma-Kansas state  
23 line and south central Kansas.

24 So, you know, those are -- the Union Pacific moves anywhere  
25 from probably, depending on traffic patterns and economic issues,

1 may run -- you know, and North Platte, it's not uncommon to have  
2 125 trains a day move through North Platte, between there and  
3 Gibbon Junction.

4 So, you know, the -- those are big focus areas, and there are  
5 actually tonnage charts that the railroads put together that  
6 assist us in determining where the most tonnage, the higher  
7 traffic densities are at. Having been around the region, many of  
8 us, for as long as we've been around, you know, we pretty much  
9 know where the high density routes are.

10 Q. Okay. And taking the vacancies out of the equation, does it  
11 seem -- I mean, you've got a lot of territory to cover. Does it  
12 seem that there's adequate resource -- and we'll just focus -- I  
13 know that you've got more disciplines than only track, but we'll  
14 just kind of focus on the track discipline of inspectors.

15 A. Sure.

16 Q. Do you feel like there's enough resource for the inspection  
17 territory that's assigned?

18 A. Well, you know, that would be an opinion.

19 UNIDENTIFIED SPEAKER: Yeah, and I don't think we want to go  
20 into opinions.

21 MR. FENDER: No, you know, the resources are determined by  
22 our staff account, staffing allocation model. And while we have  
23 some input, headquarters are the determining factors, our  
24 headquarters senior leadership team. They make those  
25 determinations with the support of the program, though, and it's

1 another mathematical program that Hon Li manages.

2 BY MR. GORDON:

3 Q. Okay.

4 A. And so those resources -- we have little to say about new  
5 hires in the region except for when -- where to place the  
6 positions and, when we have opportunities to add employees, where  
7 we might add them.

8 Q. Okay. And I've almost got topic areas here. So --

9 A. That's fine.

10 Q. -- before we move off of the inspection plans, both the  
11 national and the regional inspection plan, I'd like to let the  
12 other individuals in the room, if they've got any questions,  
13 before we move on from that.

14 MR. GORDON: Mr. Hiller first?

15 BY MR. HILLER:

16 Q. The National Inspection Plan, now that's sort of periodically  
17 updated. I think it was annually. And when is the, when is the  
18 clock reset on that National Inspection Plan for you?

19 A. It begins at the beginning of the fiscal year, October 1st,  
20 and then we have a midyear adjustment period, 6 months in, if the  
21 dynamics change or if there are special circumstances that develop  
22 throughout the year that make us maybe want to spend 2 percent of  
23 that 38 percent on the UP and move it over to the BNSF or one of  
24 the other areas.

25 So situations do creep up -- Joe, as you probably recall,

1 where there may be line segments that, particularly in the high  
2 density routes, that there's deferred maintenance on or there have  
3 been some accidents, and we can certainly adjust our activity and  
4 promote some focus-type inspections over time. So --

5 Q. Okay. So that was my other question, and the question is,  
6 does the region have flexibility to input its on the ground --

7 A. At midyear.

8 Q. -- what they're seeing at midyear to the resource allocation?

9 A. At midyear --

10 Q. Okay.

11 A. -- we can adjust, yeah, our -- the percentage of time that we  
12 spend. But at the end of the year, of course, you know, we're  
13 graded on how well we managed this -- I am graded on how well this  
14 program is managed in the region.

15 Q. I'm glad you said graded. I was looking for the right way to  
16 characterize how you're measured or how each region is measured  
17 and you used the word grade.

18 A. Well, we have a performance plan.

19 Q. Right.

20 A. Every employee in the organization. And I have my own and of  
21 course, you know, the buck stops with me.

22 Q. Okay. So how --

23 MR. HILLER: Did you ask -- Joe, did you ask a question  
24 related to how the Graettinger route fit into the National  
25 Inspection Plan? I thought you asked that question.



1 MR. GORDON: Yeah, I think it would be more regional. That  
2 would be more at the regional level because the National  
3 Inspection Plan would be how much time you spend on a certain  
4 railroad.

5 MR. FENDER: That's correct.

6 MR. GORDON: And then the decision to send the resources to,  
7 say, the Estherville Subdivision, that would be made more on the  
8 local level by the track specialist.

9 MR. FENDER: Yeah, with counsel from the deputy regional  
10 administrator or at times myself, also understanding that with  
11 state inspectors, we have to integrate their activities in with  
12 ours. So sometimes we're blessed to have some extra help out  
13 there and that helps us in certain areas. And the states clearly  
14 have their own, you know, performance plan and performance  
15 measures and their own goals, so it's my job to cultivate a  
16 relationship with many external customers, including the state  
17 manager, so we can kind of integrate our programs together and  
18 make them work as seamlessly as possible.

19 MR. HILLER: Thanks.

20 MR. FENDER: Sure.

21 MR. GORDON: Mike.

22 MR. GEKAS: Mike Gekas, BMWED, just a couple of questions.

23 BY MR. GEKAS:

24 Q. And excuse my ignorance here, as I'm just learning, you know,  
25 not algorithms but the acronyms. And that's double P, National

1 Safety Program Plan. You were talking underneath that, that you  
2 allocate resources to hotspots for inspections. Was the  
3 Estherville Sub or this area a hotspot due to the movement of the  
4 ethanol train?

5 A. Not this year.

6 Q. Not this year. Has it been previously?

7 A. Not specifically, but we have had crude and ethanol route  
8 focuses in the past focus years, particularly when the volumes --  
9 when the economy was up and there was more crude and ethanol  
10 moving. Traffic patterns in the last few years have been down a  
11 little bit.

12 Q. So out of the 145 crude oil routes in the region, has the  
13 Estherville Sub ever been designated or is it designated as a  
14 crude oil route?

15 A. The Estherville Subdivision is designated as an ethanol  
16 route.

17 Q. Ethanol. I apologize, yes. And then you were also  
18 questioned earlier about track positions within Region 6.

19 A. Um-hum.

20 Q. Are all your track positions currently filled right now?

21 A. No.

22 Q. Now many positions are you missing?

23 A. I think we're vacant one.

24 Q. And what location would that be in?

25 A. It's St. Louis, Missouri.

1 Q. Okay. Thank you.

2 A. Sure.

3 BY MR. GORDON:

4 Q. Okay. So just to kind of wrap this topic area up, the  
5 shipment of high hazard flammable materials, that would be driven  
6 by both the national -- that would be taken into consideration in  
7 both the National Safety Program Plan and the regional level with  
8 the allocation of resources? Those shipments would be -- that  
9 would be one of the determining factors of the amount of  
10 inspection activity on a subdivision?

11 A. Yeah. So as we measure 145 different crude -- and I'm going  
12 by data from a plan that was or some research that we did a few  
13 years ago between our hazmat team and our track team. Of the 145  
14 routes, many of them are much higher density routes. Some, you  
15 know, 200 million gross tons a year compared to the .7 million  
16 gross tons on Estherville.

17 Q. Okay.

18 A. So you're talking about a line, the Estherville, where we  
19 have one ethanol train possibly a week and the transcontinental  
20 main line where you see hazardous materials flow every day with  
21 literally hundreds of trains through the middle of Kansas City.  
22 The Kansas City terminal operates 300 trains across the bridge  
23 railroad a day, and St. Louis is comparable. And then there's  
24 North Platte, you know, again 125 trains through North Platte with  
25 approximately 30,000 boxcars switched every day.

1 Q. Okay. Thank you. I think that answers the questions I had  
2 on the inspection plans. Moving to the topic of Region 6 guidance  
3 to track inspectors, if you could just give us kind of an overview  
4 of inspection activity as far as if a track inspector goes out,  
5 makes an inspection, notes an area of noncompliance, just kind of  
6 how that -- what guidance is given to the inspector as far as  
7 reporting, you know, any of the tools that are available to him,  
8 commenting, reporting defects, if you could talk about the  
9 guidance from the region on that?

10 A. Okay. Well, the guidance, there is technical guidance and  
11 the wisdom of people, and they're subject to different training  
12 and have different amounts of experience within our agency, but  
13 all of that guidance is organizational policy that is contained in  
14 our general manual or our track compliance manual. So most -- we  
15 have a standardized training program across the nation. All of  
16 our inspectors receive the same identical training which is based  
17 on the technical standards, the application of the standards and,  
18 again, which is all contained in our general manual and our track  
19 compliance manual.

20 Q. Okay. And just to, I guess, speak specifically of the  
21 Estherville Subdivision -- as part of the investigation the track  
22 group received inspection records dating back to January of '15,  
23 and in March of 2015, there was a comment to the railroad on an  
24 FRA inspection report -- and I believe this was a state  
25 inspector's report, but that, you know, that doesn't matter;

1 it's --

2 Q. Um-hum. Understood.

3 A. -- the training's the same, as you said.

4 Q. Understood.

5 A. And it shows that that track condition between milepost 48  
6 and 78, the ties were in poor condition and approaching defective  
7 conditions for the intended class. And as you know, the accident  
8 there was at the milepost 56.72, somewhere in that area of the  
9 bridge over Jack Creek. So just --

10 Q. Did we ever figure out who Jack was?

11 A. No, I don't -- he might have been the guy that owned the  
12 land.

13 MR. HILLER: A tributary of the Des Moines River.

14 MR. GORDON: Yeah, Mike knows better than --

15 MR. HILLER: That's it.

16 BY MR. GORDON:

17 Q. So if you could just speak a little bit about comments, how  
18 they're used, you know, if they're used as a notice to the  
19 railroad, kind of an initial notice to the railroad --

20 A. Sure.

21 Q. -- and then how that progresses from a comment to the other  
22 tools that are available to the inspector.

23 A. Okay. Well, as a previous FRA inspector, I'm sure you're  
24 aware that, you know, the policy that I just described that's  
25 contained in our general manual, it gives us factors to determine

1 what enforcement action, if any, to take. You know, in that  
2 guidance, it's taught to us through our technical training  
3 division that we, you know, we can't cite conditions that are in  
4 compliance. And the track safety standards have, you know,  
5 certainly limitations. It's not like an inspector can go out and  
6 just determine that he doesn't like something and write it up, and  
7 in many cases we're criticized in that regard more so by the  
8 railroads than our friends with the crafts.

9 So in a case that you speak of, there may be marginal  
10 conditions on the railroad that are approaching defective  
11 conditions that are not, in fact, defective yet; however, the  
12 comment tool per our policy gives us the ability to say, hey, you  
13 know, tie conditions getting weak, in a manner of speaking, and  
14 you should be paying attention to this.

15 And I think in -- I mean, it's been a few years since I've --  
16 as a promoted track guy, it's been a few years since I've made  
17 track inspections, but I will tell you that when I was an  
18 inspector and I wrote comments, I would come back and they were  
19 generally, almost without exception, corrected. The railroad has  
20 a little bit more timeline because they don't have the -- you  
21 know, they don't have the pressure to do them in a certain  
22 timeline and so orders aren't required.

23 How's that? Was that helpful?

24 Q. Yes, it is. Yeah, and so making a comment on that report  
25 would also, that would also serve to -- the purpose of kind of

1 putting the railroad on notice that this is an area of concern as  
2 far as the inspector is concerned?

3 A. I think nearly every time that an inspector uses the comment,  
4 it's a notice to the railroad that, you know, you have areas that  
5 are of concern to the inspector but the inspector doesn't want to  
6 overreach or abuse his authority and write those conditions up.  
7 You know, there are certainly railroads that will always accuse us  
8 of that, but if an inspector's acting in good conscience, you  
9 know, he's got to play within the rules, and we speak to honor,  
10 integrity and honesty in this region an awful lot. And being good  
11 public servants, you know, with public safety in mind, it's  
12 important to write those conditions when we do find them.

13 Q. Thank you. And there were comments written by both of the  
14 inspectors that inspected in that area.

15 A. Um-hum.

16 Q. And do the state and federal inspectors, do they always share  
17 their reports? I mean is there a process by which they would do  
18 that or is that just more or less left up to the inspectors?

19 A. Well, I'll give you my answer and Rick may have some, if he's  
20 allowed, may have some additional feedback. But Rick and all of  
21 the other director level supervisors have two calls a month or a  
22 call a month, depending on the technical discipline, and they go  
23 over the hot spot areas and the areas of concern. The state  
24 inspectors are included in that. So these guys are talking about  
25 -- you do it twice, twice a month?

1 MR. BRUCE: Twice a month.

2 MR. FENDER: So every 2 weeks they're talking about their  
3 inspections and they're going over the hotspot areas and  
4 coordination issues, areas of concern, which could be not only  
5 track inspection but complaint. We have a fairly -- you know,  
6 between our external customers -- let me couch our complainants as  
7 external customers. We have, you know, periodic complaints that  
8 we have to manage, and how they manage that and keep the  
9 inspections going along with the accident investigations and the  
10 waivers, you know, that's the specialist -- supervisory  
11 specialists are always juggling trying to keep the resources  
12 pushed in the right direction.

13 As you guys know, our investigations are somewhat different  
14 than yours, but when an inspector is assigned an investigation on  
15 his territory, it takes a lot of time, not only from that  
16 inspector but from the support team. It might be mechanical  
17 people, other disciplines, that are supporting him. So while  
18 those investigations are underway, if there are hotspot or  
19 complaint areas that pop up, you know, Rick has to circle the  
20 wagons and get the guys communicating so we can effectively manage  
21 these territories. It's a pretty tall order in a lot of cases.

22 Rick, is there -- do you actually go over -- I don't think  
23 there's probably too many inspection reports that's written in a  
24 year's time to go over every last one of them.

25 MR. BRUCE: No, we don't. But to specifically talk to your



1 question, we do ask that our state partners do share with our  
2 federal and our federals share with our state, because we don't  
3 want anybody going in there within the 30 days. A state guy's  
4 been there, so we don't want a guy in there in 15 days. We want  
5 to give them their adequate time to get the defects corrected.

6 MR. GORDON: Okay.

7 MR. BRUCE: So we do ask them to share.

8 MR. GORDON: And that's Rick --

9 MR. FENDER: Bruce.

10 MR. BRUCE: Bruce.

11 MR. GORDON: Bruce.

12 MR. BRUCE: Track safety specialist for Region 6 of FRA.

13 MR. FENDER: Both Tom Brown and Eric work for Rick.

14 BY MR. GORDON:

15 Q. Okay. Now we've talked a little bit about the comments and  
16 then, you know, if it meets the definition of a defect, then  
17 they're reported as a defect. Can you talk a little bit about the  
18 guidance that's given beyond a defect? Like, you know, the use of  
19 enforcement tools beyond writing a defective condition and handing  
20 that to the railroad.

21 A. So if I could repeat that back to you so I adequately  
22 understand the question. Are you wondering about the  
23 determination that an inspector would make when writing -- making  
24 a determination between, say, a defect and a violation or a  
25 special notice for repairs or an individual liability or up the

1 chain?

2 Q. Yes.

3 A. Okay. Well, as you know, there are very -- we have a scale  
4 of inspection and enforcement tools. You know, we call it the  
5 tool bag, as you may recall, the enforcement tool bag. And our  
6 guidance gives the inspectors the flexibility, based on their  
7 judgment and the criteria that we have built into the general  
8 manual, to make decisions. There are no specific reactions for  
9 specific conditions. There may be some rule of thumbs in the  
10 regions and, you know, the headquarters staff division may train  
11 to some rule of thumbs. As an example, if you find a 14-foot  
12 vertical split head in a 4-degree curve on any piece of property,  
13 it's probably going to be a violation.

14 So we -- you know, there's that enforcement guidance and  
15 there are, again, in those I think there are seven factors. Is  
16 that correct as I recall?

17 MR. BRUCE: Yes.

18 MR. FENDER: In that, there's probably a paragraph per  
19 factor, and, you know, we really do rely upon the judgment of the  
20 inspector and his understanding of the territory that sits under  
21 his NIP.

22 MR. GORDON: Okay.

23 MR. FENDER: Is that -- did I get to the heart of your  
24 question?

25 BY MR. GORDON:

1 Q. Yeah, I think you touched on the violations and then special  
2 notice of repair. Would that just be -- where would that be in  
3 the order of --

4 A. Well, you know, a special notice for repairs is when you have  
5 extreme conditions and we perhaps have an area where there were  
6 repeated defects and violations. And as an example, one  
7 circumstance may be where a railroad doesn't bring in program  
8 activity and you're very concerned about the safe passage of  
9 trains, and you can use that special notice of repairs to  
10 essentially put the railroad on notice that there is, you know,  
11 some -- to simplify it, some track that has compliance, major  
12 compliance issues in a 1-mile period, in a 10-mile period, in a  
13 50-mile period, or -- excuse me -- a range.

14 So between milepost 10 and 15 you've got all these  
15 conditions, and over time an inspector's judgment is that the  
16 track's becoming unsafe and the traditional tools may not be as  
17 effective. So a special notice of repairs is advanced  
18 notification in addition to or can be used along with violations,  
19 civil penalties.

20 Q. Okay.

21 A. When I speak of violations, I speak of civil penalties.  
22 Defects are just citations which require the railroad to make  
23 corrections in a specified period of time.

24 Q. Okay. And a lot of what you speak to is the inspector  
25 discretion, and I know that you've already touched on the fact

1 that all the reports aren't reviewed, that there's not time to  
2 review all the reports. Just one specific -- and maybe if you can  
3 just help with some of the surrounding, you know, what may be  
4 taken into account for an inspector to make a decision, and I'll  
5 give you a defect that was noted in 2016, and understanding that  
6 you can't speak for the inspector, but just to give us an  
7 understanding of what type of things the inspector may take into  
8 consideration when they opt to cite a defect as opposed to the  
9 recommendation for civil penalty.

10 There were the comments made in 2015 about the crosstie  
11 condition in that area, and then in 2016, there was one inspection  
12 report where 10 defective crosstie locations were cited in that  
13 same milepost location, that same broad milepost area. And one of  
14 the defects was not a tie distribution defect, but an insufficient  
15 number of effective crossties in a 39-foot segment, and the  
16 inspector wrote 20 out of 23 ties defective in that area.

17 So, you know, just when would that rise to the level of a  
18 recommendation for a civil penalty? Is there always discretion of  
19 the inspector to make that determination?

20 MR. MOORE: I don't think we want to go into an opinion here.  
21 I think he answered for the factors that are listed in our  
22 guidance and they're also factors listed in our regulations.

23 MR. GORDON: Okay.

24 MR. MOORE: Going into hypotheticals and opinions, I don't  
25 think that's appropriate in this situation.

1 BY MR. GORDON:

2 Q. Okay. So ultimately inspector discretion would be the --  
3 what we would say would be applied in that situation, because  
4 without doing anything that -- I mean, it would be inspector  
5 discretion that would allow for that defect to be written after  
6 the comment was already made prior to?

7 A. We train our employees, our inspectors specifically to -- you  
8 know, the general manual and the compliance manual are basically,  
9 they're guiding documents. And, you know, I'm -- most of them  
10 have them with them or within close reach when they're making  
11 their inspections, so as they find defective conditions they can  
12 refer back to their guidance.

13 MR. GORDON: Okay. And that's toward the end of another  
14 topic area for me. I'll see if Mr. Hiller has any questions  
15 related to that.

16 MR. HILLER: No questions.

17 MR. GORDON: Mr. Gekas?

18 MR. GEKAS: I have no questions at this time.

19 MR. GORDON: Okay. All right. Thank you for the discussion  
20 of the FRA enforcement --

21 UNIDENTIFIED SPEAKER: You guys are fidgeting over here. Are  
22 you all right? Do you need a restroom break or --

23 MR. GORDON: Yeah, I will offer that as well. We're getting  
24 ready to move into another topic area, if anybody wants a break  
25 prior to that, or --

1 UNIDENTIFIED SPEAKER: Actually, let's take a bathroom break.

2 MR. GORDON: All right. Let's go off the record there.

3 (Off the record.)

4 (On the record.)

5 MR. GORDON: Okay. And we are back on the record with  
6 Mr. Steve Fender.

7 BY MR. GORDON:

8 Q. Steve, I'm going to be moving on to a discussion about  
9 portable track loading fixtures. During an interview with the  
10 Union Pacific track inspector that was assigned the territory  
11 including the Estherville Subdivision, he talked about the use of  
12 a PTLF gauge, portable track loading fixture, and he went on to  
13 say that that device was used as a supplement to his visual  
14 inspection.

15 A. Okay.

16 Q. Can you tell us a little bit about how PTLF gauges are used,  
17 if they're used on the region by FRA inspectors on Region 6?

18 A. I can speak to that. The PTLF, the portable track loading  
19 devices were prohibited for general use by the FRA until December  
20 -- I believe it's mid-December 2016. So right before last  
21 Christmas, FRA issued notice to AAR that we would begin using  
22 them. Other than that, we were -- we had a few on hand but they  
23 were prohibited from use except for on GRMS, gauge restraint  
24 measurement system, territories. Gauge restraint measurement  
25 system being a mechanical device that measures the track and loads

1 it and -- so we can replicate the conditions that -- somewhat  
2 replicate the conditions that the car created under load.

3 Q. Okay. And is the -- you mentioned the gauge restraint  
4 measurement system territory. Is the Estherville Subdivision GRMS  
5 territory?

6 A. It is not.

7 Q. It is not. Okay. So prior to December '16, FRA wasn't using  
8 PTLF gauges on non-GRMS territory. That position's changed a  
9 little bit. Is that something that Region 6 intends, to use PTLF  
10 as a supplement? And if you would just give us a little bit  
11 about, you know, what the intention is, how you guys intend to use  
12 those devices?

13 A. Sure. Well, this isn't a Region 6 call. It's an  
14 organizational call. It's a decision made by our organization to  
15 use them to assist us in determining the strength of the track  
16 structure in certain areas. We will need to purchase gauges and  
17 -- so we do have some gauges that were used minimally in certain  
18 situations on GRMS territory. They will have to be recalibrated.

19 So it's, you know, it's not something that the organization  
20 enters into lightly. We have to, you know, get these gauges ready  
21 and get the people to begin use on a routine basis. They are very  
22 heavy. And I believe it's our agency's intent to load each one up  
23 every time they make an inspection or will they be situational?

24 MR. BRUCE: No, it'll be -- they carry it with them as a  
25 tool.

1 MR. FENDER: Like a level board.

2 BY MR. GORDON:

3 Q. Okay. And can you talk a little bit about what the PTLF -- I  
4 know you said that it's used to put the track in more of a loaded  
5 condition for measurements. Can you discuss how the PTLF gauge  
6 would help in condemning a crosstie in order to kind of take some  
7 of that subjective -- subjectivity away from citing a crosstie as  
8 defective?

9 MR. MOORE: Just -- obviously he's not qualified even the  
10 technical elements of it beyond the general understanding of it.

11 MR. FENDER: Okay. Well, my general understanding of the  
12 PTLF is it's basically a hydraulic pump that can be positioned in  
13 between the gauge of the track, which is the point between two  
14 rails between the web of each rail, and you essentially have a  
15 pump or a jacking mechanism and there's a gauge on it that shows  
16 you how much hydraulic pressure is being applied. And as you  
17 apply that, you can reach a certain limit, and once you reach that  
18 limit, you can, you know, basically determine the, you know, the  
19 condition or the effectiveness of crossties.

20 So, you know, if it pushes the rail out, that is -- helps us  
21 in some of these areas -- you know, as we talked earlier, ties are  
22 very subjective, and without a lot of geometry associated with any  
23 tie condition -- you know, sometimes some pretty old-looking ties  
24 still hold spikes, and short of kicking the spike with your boot  
25 heel, it's very difficult to determine without that PTLF how



1 effective it is. So this will give us in theory the ability to  
2 measure the strength of the track structure.

3 BY MR. GORDON:

4 Q. Okay. And in the future, just for clarification, those are  
5 -- that PTLF gauge will be used on both GRMS and non-GRMS  
6 territory?

7 A. That is correct.

8 Q. Okay. Thank you.

9 MR. GORDON: Any questions on PTLF from Mr. Hiller?

10 MR. HILLER: No questions from me. Thank you. That was a  
11 good characterization of that.

12 MR. GORDON: Okay. Thank you.

13 BY MR. GORDON:

14 Q. And lastly, the 2016 FRA-UP Compliance Agreement. And, you  
15 know, we won't get into the -- we want to try to maintain the  
16 focus on how that compliance agreement affects the Estherville  
17 Subdivision which is where this accident occurred.

18 So we know that in late 2016, the FRA and the Union Pacific  
19 entered into a compliance agreement. Can you speak a little bit  
20 about how that compliance agreement affects the inspection  
21 activity on the UP Estherville Subdivision?

22 A. I can. It has absolutely no bearing on the Estherville  
23 Subdivision.

24 Q. Okay. So UP, during interviews on scene, they -- their  
25 interpretation was that that agreement required increased

1 inspections from once weekly to twice weekly. To your knowledge,  
2 was that a requirement of the agreement?

3 A. Well, my understanding and reading of the compliance  
4 agreement is that the compliance agreement applies to main track  
5 territory, not branch line territory.

6 Q. Okay.

7 A. So specific routes fall under the UP compliance agreement but  
8 I don't think it's all encompassing and it covers every Union  
9 Pacific route.

10 Q. Okay. And thank you for that clarification, and maybe just a  
11 little bit for the record on -- is there a definition difference  
12 between branch track and main track, or is it basically through  
13 traffic as opposed to maybe a track that dead ends? What's the  
14 determination there if you --

15 A. Well, yeah, I wish I had my railroad dictionary of terms with  
16 me. From my knowledge and experience in the industry and with  
17 FRA, I can generally tell you that a branch line is usually kind  
18 of a stub end track with much lower densities, very similar to an  
19 industrial lead, and it, you know, it is generally not -- a main  
20 line is a through route from Kansas City to Minneapolis, as an  
21 example, not a stub end branch that just services local customers.  
22 So industrial leads on a smaller scale is kind of a branch line  
23 but it may be in the middle of a city. Oftentimes we have branch  
24 lines that pass through communities, but -- and then it's  
25 typically a low density line like the Estherville Subdivision.

1 Q. Okay. Does the FRA class of track -- we know that the  
2 Estherville Subdivision was FRA Class 3 track with 30 mph -- 30  
3 miles per hour freight train, no passenger movements on that  
4 route. Does the class of track come into play as to designation  
5 of branch or main track?

6 A. Not to my knowledge.

7 Q. Okay. Thank you.

8 MR. GORDON: So I think with that agreement not applying to  
9 that subdivision, I think those -- the other questions are  
10 answered. I'll see if Mr. Hiller has any questions on --

11 MR. HILLER: Yeah, I have a couple of questions, and it may  
12 be out of bounds, so just tell me.

13 BY MR. HILLER:

14 Q. You entered into a compliance agreement with UP and I guess  
15 -- I read the compliance agreement, so I got a little bit of  
16 background on it, and the agreement has tried to help UP better --  
17 and correct me if my interpretation is wrong -- meet the minimum  
18 track safety standards in Part 213 as a railroad.

19 MR. MOORE: Yeah, I'm going to have to -- I think that goes  
20 beyond the scope of why he's here. Mr. Fender wasn't involved in  
21 the -- for the most part in the crafting of the final UP  
22 compliance agreement. I think it speaks for itself, too. I think  
23 it's explained in the agreement.

24 MR. HILLER: Okay. Thanks. That answers that.

25 BY MR. HILLER:

1 Q. After the Graettinger accident, there were inspections done,  
2 I believe, on the subdivision and there were defects written. Is  
3 that correct?

4 A. That is correct.

5 Q. Okay. And what kind of defects were written?

6 A. Let's see. I think there were a handful of tie defects and  
7 -- well, Rick, you may be a better -- you may know.

8 UNIDENTIFIED SPEAKER: I would just caution. So obviously  
9 the investigation is still ongoing. So anything that goes to the  
10 investigation of the accident, we wouldn't want to discuss today.

11 MR. HILLER: Well, we're investigating it.

12 UNIDENTIFIED SPEAKER: The FRA is under an ongoing  
13 investigation as well. So we wouldn't want to discuss the FRA  
14 ongoing investigation.

15 BY MR. HILLER:

16 Q. Okay. Can I ask, were there any violations written?

17 UNIDENTIFIED SPEAKER: Again, I think that goes to the  
18 ongoing investigation.

19 MR. HILLER: Is that information we can request?

20 UNIDENTIFIED SPEAKER: Sure.

21 MR. HILLER: Okay. So we would request that.

22 UNIDENTIFIED SPEAKER: Yeah. I think the key, Mike, is we're  
23 still investigating, and until we're done --

24 MR. HILLER: Yeah.

25 UNIDENTIFIED SPEAKER: There were -- you know, when the

1 report makes it through a certain part of the process, there will  
2 be evaluations.

3 MR. HILLER: Right. And this will be helpful because, you  
4 know, ultimately where I'm going with my questioning is what  
5 actions have been taken since our Graettinger accident of these  
6 types of territories, specifically oil train routes, not main line  
7 as you characterize them. I think you -- one of these  
8 characterized as branch lines. You know, what type of activities  
9 have taken place since Graettinger that have you done as sort of a  
10 post-accident initiative or effort, or have you?

11 MR. MOORE: With the disclaimer being that the FRA is still  
12 investigating the accident and once it determines the cause, then  
13 obviously we'll determine I guess the appropriate actions. But I  
14 guess what we've done, yeah. Sure.

15 MR. FENDER: We are in the process of -- so post-accident we  
16 went on 2 weeks of regional conferences in Milwaukee,  
17 **fortuitously**, and my involvement up there is critical to our  
18 outcomes. And we have a -- we've had a fair amount of discussion  
19 with Union Pacific and we're still set to do some supportive  
20 investigation activity in line with the accident investigation  
21 that is underway and will be continuing for a short period. It's  
22 all part of the accident investigation and our follow up, but it's  
23 not complete.

24 MR. HILLER: Thanks. That's the last question I had.

25 MR. GORDON: Okay. Mr. Gekas?

1 MR. GEKAS: Not at this time.

2 BY MR. GORDON:

3 Q. So I'm getting toward the end of the topics that I had  
4 outlined and I guess just to circle back and kind of clarify for  
5 the record, and this is an opinion, you know, this is your  
6 opinion. This is asking, with the different roles that you filled  
7 within the FRA, the enforcement tools, the tool bag that you  
8 referred to earlier, when used appropriately and with the guidance  
9 that's given by FRA, do you feel like they're an effective tool to  
10 deter noncompliance?

11 MR. MOORE: That's opinion. I can't let him answer that.

12 MR. GORDON: Okay.

13 BY MR. GORDON:

14 Q. And I know you said the investigation's ongoing. If -- I  
15 would ask that if the previous reports are looked at, if there's,  
16 you know, if there's any exception taken or any discussion within  
17 the region about the use of the -- you know, from a comment to a  
18 defect to a violation, if there's any discussion about that, if  
19 you could just at some point follow up with us on that as far as  
20 what the region's determination was on those things?

21 A. I think it would be healthy to go over -- to the degree that  
22 the gentlemen to my right agree, it would be healthy to go over  
23 our accident conclusions when we've both concluded or near the end  
24 as we finalize the reports. You know, I would certainly want  
25 support from these folks, but I -- you know, we always mention up

1 there, we're a team, and where we're headed toward the end, you  
2 know, our goals are the same, as they are with our partners from  
3 rail labor and the industry, and I would like to share that  
4 information and have further discussion.

5 Q. Yeah. Okay.

6 A. And I think, you know, based on the relationship we built at  
7 the accident, that's a good thing and, you know, we can circle the  
8 wagons and have some more discussion. Yeah, again, I have to live  
9 in the world in which I draw my employment.

10 Q. Right. Yeah, and understanding --

11 UNIDENTIFIED SPEAKER: And we want you to live in that world  
12 successfully.

13 BY MR. GORDON:

14 Q. And you do make a good point. We've got a lot of  
15 investigative activities with this investigation coming up, the  
16 rail lab which FRA will be a part of and --

17 A. Thanks. I appreciate that.

18 Q. -- a very good partner in that.

19 A. I think Tom will be a good asset there, you know. Tom's a  
20 good track man and, you know, he's one of our best, and he may  
21 lend some strong support. He doesn't have the, you know,  
22 metallurgical credentials that some of the others have and he  
23 doesn't have precisely the same sort of training that Robert has,  
24 but he's got a lot of real-world field experience and he might be  
25 a good guy to collaborate with and, you know, bump things around

1 and have some discussion.

2 Q. Oh, yeah. Yeah.

3 A. He's good rail.

4 Q. He's been a really good member of the team and, you know, the  
5 Track and Engineering Group, we've made a lot of progress so far.  
6 They've been coming in with all the deliverables that they've been  
7 asked to work on, and we're getting all those compiled and we'll  
8 have a good product out of that.

9 MR. GORDON: So those are all the questions that I have.  
10 I'll pass it to my right and see if --

11 MR. HILLER: I have no further questions. Do you have any  
12 questions for us?

13 MR. FENDER: No, no, I just -- as I mentioned at the  
14 investigation, I appreciate your opportunity, and I welcome BMW,  
15 our partners there. As Rick may have shared with you, you know, I  
16 have a strong commitment to working with all members of our  
17 regulating community and, you know, we -- Rick and I have had a  
18 good relationship and look forward to the same with you.

19 MR. GEKAS: Thank you. I do have one question though.

20 MR. FENDER: Sure.

21 BY MR. GEKAS:

22 Q. You speak about the tool bag that you give your inspectors.  
23 What's included in that tool bag?

24 A. Well, the tool bag is a metaphor for our abilities. So from  
25 a -- you okay?



1 Q. Yes.

2 A. Essentially, you know, the process starts with comments and  
3 then we have -- the range continues through defects and then  
4 violations, and over and above if we -- if certain situations  
5 merit individual penalties against employees, there's the special  
6 notice for repairs or Form 8 as we call it. It's written on a  
7 Form 8 and mechanical people use it as well. And then we have  
8 more advanced compliance agreements, compliance orders and  
9 emergency orders that we can utilize.

10 So they're all very situational and specific to conditions  
11 that exist, whether they're with equipment or, you know, rolling  
12 stock or the track structure, signal system, operating rules  
13 sometimes.

14 Q. And you may have answered this before. How are comments  
15 used? When an inspector writes comments, how are they used,  
16 supposed to be used by the railroads?

17 A. Well, I can speak to our intentions --

18 Q. Sure.

19 A. -- based on our guidance. Our intention is to draw attention  
20 to conditions that are approaching defective conditions, but  
21 again, if we're honorable people, we're -- you know, we're not  
22 misusing our authority. You know, this is our business. We're  
23 held in the public trust and, you know, the public in its all  
24 entirety expects us to do our due diligence but to do it within  
25 certain ethical boundaries. And, you know, if we are writing

1 defective conditions that aren't in fact defective, you know,  
2 that's not in line with our organizational culture nor our written  
3 instructions.

4 Q. And comments are non-enforceable?

5 A. No, comments -- you know, the railroad is not duty bound to  
6 correct comments, but I think generally, maybe not always, they  
7 have to make independent assessments of those comments afterwards,  
8 and you make a determination on whether or not they want to expend  
9 the resources to correct those conditions.

10 Or they're insipient conditions, meaning they're conditions  
11 that are beginning to occur. You know, you're a track man. So,  
12 you know, if you've got two railings of, as an example, of some  
13 rough looking ties -- and now depending on where you work in this  
14 country there are different geographical influences on timber  
15 crossties, and some of them get to looking pretty ugly after time,  
16 desert ties, or if you're in a mossy wet location where they  
17 start, you know, deteriorating or discoloring. That doesn't mean  
18 they're bad. So there are times when an inspector may not be able  
19 to absolutely prove it's a defect, but you're not feeling very  
20 comfortable about it and, you know, our organizational requirement  
21 via the general manual and compliance manual is to use your due  
22 diligence and at least bring attention to those conditions, which  
23 is a good thing, which is a good thing. Take that away and you're  
24 doing nothing.

25 Q. So with the comments being written about poor crossties,

1 should UP have gone through and --

2 A. I'll answer your question before you finish. I wasn't there.  
3 I didn't see any of these. And it's very difficult, and as Joe  
4 mentioned, there's nothing more subjective in the railroad  
5 engineering world than a timber crosstie. Even concrete's a  
6 little bit easier to judge than timber unfortunately. Foul  
7 ballast is right up there in the same neighborhood, as you know.

8 MR. GEKAS: No questions.

9 BY MR. GORDON:

10 Q. Okay. And I guess since we're back on comments, have you  
11 seen that -- Joe Gordon, NTSB. Have you seen that the UP has been  
12 responsive to comments written by the regional inspectors in the  
13 past?

14 A. You know, I don't have -- at my level I do a lot of things,  
15 and examining inspection reports and follow-up actions, I do not  
16 have -- I don't even know that Rick -- I mean, that's -- the  
17 individual inspector has to -- he has an action plan and he  
18 develops, you know, ownership of his territory, he should be  
19 picking that inspection report up and looking at it the next time  
20 he goes through, and -- but whether Union Pacific is responding to  
21 all our comments, I honestly at my level, I couldn't say.

22 I've got a little bit different insight because I'm a track  
23 guy. And, you know, I've been around for a long time and I'm  
24 still, you know, closely related to our -- you know, much like  
25 Dave Kattenberg and some of the other -- Vince Haggard, some of

1 the other promoted track people, Carmen Patriarca, still closely  
2 aligned with that community, but it's from a much higher level.

3 Q. All right. Well, I do appreciate your time coming in. I  
4 think we've touched on some of the things that we talk about  
5 toward the end of an interview. You know, we'll continue to have  
6 dialogue about this, and as your investigation goes forward, your  
7 accident investigation goes forward --

8 A. Um-hum.

9 Q. -- anything that would help the group, you know, we'll just  
10 continue to work together as we have in the past. We've got some  
11 upcoming events that FRA will be a part of with this accident  
12 investigation and I want to say I appreciate you taking the time  
13 to come in and sit down and speak with us.

14 MR. HILLER: Thank you very much, Steve.

15 MR. GORDON: And thank you for your, you know, commitment to  
16 transportation safety.

17 With that, we will go off of the record.

18 (Whereupon, the interview was concluded.)  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:           DERAILMENT OF UNION PACIFIC TRAIN  
                                  NUMBER UEGKOT 09 NEAR GRAETTINGER,  
                                  IOWA, ON MARCH 10, 2017  
                                  Interview of Steven Fender

ACCIDENT NUMBER:           DCA17MR007

PLACE:                        Washington, D.C.

DATE:                         April 26, 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.

---

Kathryn A. Mirfin  
Transcriber