

NATIONAL TRANSPORTATION SAFETY BOARD

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 IN RE: :
 :
 THE ACCIDENT INVOLVING : NTSB Accident No.
 AMTRAK TRAIN #89 AND MOW : DCA16FR007
 EQUIPMENT AND EMPLOYEES :
 NEAR CHESTER, PENNSYLVANIA :
 ON APRIL 3, 2016 :
 :
 -----:

INTERVIEW OF: MARVIN HARDY

Wednesday,
 April 6, 2016

Sheraton Suites Hotel
 Philadelphia, Pennsylvania

BEFORE

RICHARD HIPSKIND, NTSB
 DAVID KANNENBERG, FRA
 MICHAEL TRAINA, AMTRAK
 ANDREW KEEFE, AMTRAK
 MATTHEW PORTO, AMTRAK
 LOU TOMASSONE, FRA
 TERRY SPRATT, AMTRAK
 FRAN WALKER, FRA

This transcript was produced from audio
 provided by the National Transportation Safety Board.

P-R-O-C-E-E-D-I-N-G-S

1
2 MR. HIPSKIND: Good afternoon everybody. My
3 name is Richard Hipskind, and I am the Track and
4 Engineering Group chairman for NTSB for this accident.
5 We are here today on April 6, 2016 at the Sheraton
6 Suites Hotel in Philadelphia, Pennsylvania, to conduct
7 an interview with Mr. Marvin Hardy, who works for the
8 National Railroad Transportation Corporation or Amtrak.

9 This interview is in conjunction with NTSB's
10 investigation of a collision of Amtrak Train 89 with
11 maintenance-of-way equipment and employees on April
12 3rd, 2016 at Mile Post 15.7 on Amtrak's PW Line near
13 Chester, Pennsylvania in Delaware County. The NTSB
14 accident reference number is DCA16FR007.

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

22 Again, my name is Richard Hipskind. The
23 spelling of my last name is H-I-P-S-K-I-N-D. I am the
24 Track and Engineering Group chairman for the NTSB on
25 this accident.

1 MR. KANNENBERG: Dick Kannenberg, K-A-N-N-E-
2 N-B-E-R-G, DRA, Federal Railroad Administration.

3 MR. TRAINA: Mike Traina, T-R-A-I-N-A, ARSA
4 president, Amtrak supervisor.

5 MR. KEEFE: Andrew Keefe, K-E-E-F-E, Amtrak
6 Deputy Chief Engineer of Maintenance.

7 MR. PORTO: Matthew Porto, P-O-R-T-O,
8 Director of Safety, Amtrak.

9 MR. TOMASSONE: Lou Tomassone, T-O-M-A-S-S-
10 O-N-E, Track Inspector for FRA Region II.

11 MR. WALKER: Fran Walker, W-A-L-K-E-R, FRA
12 Railroad Safety Inspector, Traffic.

13 MR. HIPSKIND: And Mr. Hardy, would you
14 place your name on the record?

15 MR. HARDY: Marvin Hardy, H-A-R-D-Y.

16 MR. HIPSKIND: And your title?

17 MR. HARDY: My title is I'm a welder,
18 thermite welder for Amtrak.

19 MR. HIPSKIND: Thank you very much, and we
20 have one gentleman who is posting the meeting. Terry,
21 would you put yourself on the record?

22 MR. SPRATT: Terry Spratt, Director of
23 Operating Practices for Amtrak. I am here strictly as
24 an observer and I represent the Office of the Chief
25 Transportation Officer.

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1 MR. HIPSKIND: Okay. Thank you for that,
2 Terry. Mr. Hardy, do you mind if we proceed on a first
3 name basis?

4 MR. HARDY: I don't mind.

5 MR. HIPSKIND: Okay. Thank you Marvin.
6 First, a couple of questions to get out of the way. Do
7 we have your permission to record our discussion, our
8 interview with you today?

9 MR. HARDY: Yes.

10 MR. HIPSKIND: Okay, thank you, and do you
11 wish to have a representative with you at this
12 interview?

13 MR. HARDY: No.

14 MR. HIPSKIND: Marvin, let's go ahead with -
15 - just kind of give me a little bit of the highlights
16 of your background, how long you've been railroading
17 and if it's all been with Amtrak and what-not, and just
18 take me through when you hired up to your present job
19 and then we'll kind of go forward from there?

20 MR. HARDY: Well I got hired 7/28/14. I
21 worked in Wilmington since I've been hired. That's the
22 only place. I never traveled. I never moved around.
23 I was in Wilmington with Russell Johnstone and Pete the
24 whole time.

25 MR. HIPSKIND: Okay, and your current title,

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1 the job you're working now is what?

2 MR. HARDY: I'm a thermite welder in
3 Wilmington.

4 MR. HIPSKIND: Okay, and Marvin we've got a
5 lot of this that we already, that we kind of know and
6 we're aware that was a 55-hour project and we're aware
7 that a lot of names -- a volunteer board, I'm going to
8 say, was put up. Did you sign up for working on this
9 kind of ballast cleaning project?

10 MR. HARDY: Yes. They put the overtime on
11 the chalkboard and I put my name on there.

12 MR. HIPSKIND: Okay, and did you volunteer
13 to work days or nights or how should we understand
14 that?

15 MR. HARDY: I volunteered to work night,
16 from 6:00 p.m. to 6:00 a.m.

17 MR. HIPSKIND: And is that Friday, Saturday,
18 Sunday that you signed up for?

19 MR. HARDY: No, I just signed up for
20 Saturday.

21 MR. HIPSKIND: Just Saturday, okay. How
22 about we sit back and you talk and we'll listen, and
23 just tell us about reporting to work Saturday, and just
24 kind of take us through the day, beginning, middle and
25 end if you would?

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1 MR. HARDY: I got to Wilmington around 5:30
2 in the evening. I clocked in. I went to my locker,
3 changed. No one was in the building at the time. I
4 went to where we keep the keys at for the desk for the
5 vehicles, tried to figure out how we was going to get
6 to the job site. That was number one.

7 I made a call to Will Robinson, because he
8 was the foreman that was going to be in charge that on
9 the board out of Philadelphia. So I didn't know where
10 would meet then. I didn't know was he coming to
11 Wilmington or we were going to meet him at the job.

12 So I made a call to him and by the time,
13 Larry Bernard came in. He was working with me, and
14 they told to call. When I made the call, they said to
15 meet at Wilmington. I mean at the job site, I'm sorry.
16 At the job site. So we grabbed up the stuff and we
17 jumped in the vehicles. I mean Larry was in the
18 Dooley. I didn't really talk to Larry that much and he
19 pulled off and then I jumped in the Amtrak van. Then I
20 pulled off and we went to the job site.

21 When we got to the job site, I seen Will
22 Robinson, Pete and Larry. They gave us a briefing and
23 they did an on track briefing, and then Pete explained
24 to Will, Larry and I what was -- oh, they gave the vac
25 train guys a briefing too. They were there too. They

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1 gave us on track and then they gave us a briefing of
2 what we were doing, but me and Larry were pretty much
3 watching.

4 We were doing one hour on, one hour off,
5 watching for trains. Larry started off and after the
6 first hour then I came on, then he came on, all the way
7 up to around seven. I was last. Hard to talk about
8 because when we were out there, you know, we were
9 watching. Joe came around eleven. I think that was
10 when I first noticed him, 10:30-11:00. He pulled up.

11 MR. HIPSKIND: He's the backhoe operator?

12 MR. HARDY: He's the backhoe operator.

13 MR. HIPSKIND: Okay, go ahead. You're doing
14 fine.

15 MR. HARDY: Okay, and he -- I think that's
16 when I was -- when he came, I think that's when me and
17 Larry switched off, because then I went and sat,
18 because it was very cold. It rained. It was very
19 cold, really cold and it rained and when we switched I
20 think that's when Joe took the backhoe out on the job
21 site, because we were pretty much at the beginning of
22 the tour. We were watching for the vac train guys.

23 So and Joe went out and he -- when it was my
24 turn to go back out, I seen Joe. He was in between 2
25 track out of service and 3 track. The foreman said

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1 everything was foul from what he told us. He was in
2 between, and he was cribbing out and then the vac train
3 guys were sucking up the ballast.

4 Then once the vac train was full, we would
5 go and like go up to the station and dump it off the
6 side. Then I would jump down off. We would jump on
7 the back of there -- me and the foreman would get on
8 the back of the vac train just to go up maybe 50 yards.
9 It was just like the station wasn't that far. We would
10 cross over the station. I would come down, watch for
11 the guys and then they would shoot the ballast off the
12 side of the -- on the side of 1 track, onto the side.

13 Then we would get back on. Then the vac
14 train would come back down. Then I would climb off,
15 get back in my position. That's all I was -- basically
16 being alert and watching all night.

17 MR. HIPSKIND: Okay. Marvin, when Joe came
18 in at eleven, at any time throughout the night were you
19 ever over close to him or watched him or anything?

20 MR. HARDY: Yeah. We were standing, excuse
21 me, pretty much in front of him. I mean on an angle,
22 but we were all on the 4 track, on the -- just standing
23 like on the outside of 4 track, and he was in between 3
24 and 2 in the middle with the backup extended out.

25 MR. HIPSKIND: He's sitting on --

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1 MR. HARDY: He was in the middle when I was
2 there in between, because the backup mover, he was in
3 between 2 and 3, right where I was standing.

4 MR. HIPSKIND: Okay. Did he look okay?

5 MR. HARDY: Looked fine.

6 MR. HIPSKIND: Same old Joe?

7 MR. HARDY: Same old Joe?

8 MR. HIPSKIND: Operating the backhoe just
9 like he always did?

10 MR. HARDY: Operating like perfectly, like
11 he always did.

12 MR. HIPSKIND: Okay, all right, and do you
13 have any thoughts about when Joe got there, did Will
14 get the gang together? Did you do any kind of update
15 job briefing or anything like that or --

16 MR. HARDY: With Joe?

17 MR. HIPSKIND: Yes, or with the group,
18 either way?

19 MR. HARDY: No. We were already watching
20 and he -- when I -- it was my turn to watch. He was
21 already out there, because he pulled up and he went out
22 there. I don't know what the conversation was. I
23 wasn't there for that, you know.

24 I was sitting in the vehicle at the time of
25 what the job was with Joe and the foreman at the time.

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1 So the only thing I was doing was alternating with
2 Larry, watching and protecting. That's it.

3 MR. HIPSKIND: Okay. Well why don't -- it's
4 helpful what you've related to us thus far. But how
5 about going ahead and close out the day. How did you
6 finish ending up the day and when did you leave and
7 where did you go?

8 MR. HARDY: I ended up -- it was around, a
9 little after seven. We were tired. It was cold. It
10 was really cold that night and Pete pulled up, and I
11 asked Pete, just jokingly because we joke a lot. I was
12 like Pete, where's the relief at? I'm freezing. He
13 was like Marvin, they're on their way, and I said all
14 right.

15 So I stayed out until maybe ten after seven,
16 7:15, and I see Jerry Moore and Richie pull up in a
17 van. But they back up to where we were. Richie gets
18 out on the passenger side and he walks across where we
19 were at, and he went behind me and he -- Will gave him
20 a job briefing and an on track behind me, and he said
21 he's here to relieve me, because I was the last one on
22 watch.

23 I'm kind of like -- kind of like was
24 wondering why is he signing that job briefing? How
25 come you don't have your own, you know, if you're

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1 coming in? So it was kind of -- so he signs the job
2 briefing and he relieves me. He stands in my position
3 and I grab my bag, got me the horn and I start walking
4 to the van.

5 By that time I seen Larry was moving, you
6 know, backing out. I got in the van and Pete was just
7 so happen on the access road, and oh man. He was like
8 "Bye Marvin," and I was like bye Pete. I'll see you
9 Tuesday, you know. Joe spoke to me. He was like -- I
10 said bye Joe, and whew. So I get in the van and I back
11 out.

12 MR. HIPSKIND: Are you driving or are you
13 riding?

14 MR. HARDY: I'm driving. Larry pulled off
15 and then I was in the van. So I back out and as I'm
16 backing out, I look to the left and see all the Amtrak
17 vehicles. I noticed, I noticed John Yaeger. He was at
18 the end, like on an angle. So I looked, then I seen
19 John Yaeger, because I didn't know where -- I didn't
20 see -- I knew Will was trying to leave too, but I
21 didn't know when he left.

22 But I seen John Yaeger at the end. So I
23 backed out and I just pulled out the back, behind the
24 junk yard access road and I went back to the base,
25 changed my shoes, clocked out. I got in my personal

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1 vehicle, come up the highway, I'm trying to go home.

2 I got to Philly. I stopped. I was going to
3 get a breakfast sandwich, and then I get a phone call
4 that there was an accident. So I just left the
5 breakfast place and took off back in my personal
6 vehicle. When I got there, I just drove up on the
7 access road and I ran just to see, because they didn't
8 really actually say what accident. They just said it
9 was an accident, and I see Joe in the middle and Pete.
10 So it's rough.

11 MR. HIPSKIND: We totally understand. Do
12 you want to take a little bit of a break?

13 MR. HARDY: No, I'm fine.

14 MR. HIPSKIND: Okay, all right. So did you
15 have to go anywhere or do anything because you came
16 back? I mean did you have to go and give a statement
17 or interview to anybody?

18 MR. HARDY: No. No one said anything. I
19 basically -- well when I got the phone call, let me
20 back up. When I got the phone call, I called Will and
21 he said he left too, and he was pretty much in the area
22 where we were both eating breakfast at two different
23 spots.

24 But we were in Philly, and I told him you, I
25 just got a phone call, it was an accident and he went

1 back. We both went back. But he got back before me.

2 And when we got back there, I just wanted to
3 make sure my guys was okay, you know. But then when I
4 seen all that, I was just like, you know, I started
5 getting angry. I was just -- we just left. I mean we
6 just seen these guys. I mean they never really -- no
7 one really really said much. It was just chaos trying
8 to figure out what had happened.

9 Then I'm pissed off, because I'm just trying
10 to understand like everything was fine. What went
11 wrong here?

12 MR. HIPSKIND: We're trying to find that out
13 too. I want to switch gears here with you.

14 MR. HARDY: Uh-huh.

15 MR. HIPSKIND: Over the years, you've been
16 with Amtrak for a few years now right?

17 MR. HARDY: Going on two.

18 MR. HIPSKIND: And you've received roadway
19 worker training?

20 MR. HARDY: Yes.

21 MR. HIPSKIND: Are you comfortable with
22 that? I mean does it make sense to you?

23 MR. HARDY: Yes.

24 MR. HIPSKIND: Okay, and when you are in --
25 when you're participating in a job briefing, do you get

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1 what the foremen are telling you?

2 MR. HARDY: I mean it's -- yes, I do get it.
3 It's a lot to take in, but you hear it all the time,
4 every day when you're out there. So I mean it
5 eventually -- you get a better understanding as time
6 goes on. But I definitely understand.

7 MR. HIPSKIND: Well, I don't want you to
8 take this the wrong way, but you hear it so often. Do
9 you kind of become numb to it?

10 MR. HARDY: No.

11 MR. HIPSKIND: No? You might have to speak
12 up if you're going to say no.

13 MR. HARDY: No.

14 MR. HIPSKIND: Okay, all right. So when --
15 let me ask you about this. Are you NORAC-qualified
16 (phonetic), and when I say that, you know what that
17 means, right?

18 MR. HARDY: Yes.

19 MR. HIPSKIND: NORAC rules qualified?

20 MR. HARDY: Yes.

21 MR. HIPSKIND: But you're not NORAC rules
22 qualified, right?

23 MR. HARDY: I am NORAC rules qualified.

24 MR. HIPSKIND: Okay. So what does foul time
25 mean to you, like in the circumstance of Joe and the

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1 backhoe being on 3 track? I mean what I'm asking you
2 to do is play, if you will for me Marvin, play the role
3 of a foreman for me if you can.

4 MR. HARDY: I can't play the role of that.
5 I've never been to the classes, never -- can't play a
6 role of something I never --

7 MR. HIPSKIND: In other words, to do what I
8 want to do, you'd need more training?

9 MR. HARDY: Yeah. I don't know anything
10 about that. Never had foreman training, so I can't
11 play a role I've never had training for.

12 MR. HIPSKIND: Okay. But you are NORAC
13 qualified?

14 MR. HARDY: Uh-huh.

15 MR. HIPSKIND: And do you have to be NORAC
16 qualified to be a welder? Is that part of it?

17 MR. HARDY: No, you don't.

18 MR. HIPSKIND: Okay. I'm a little mixed up,
19 so help me out here. Why are you NORAC qualified? I
20 mean for what reason? That's what I was asking.

21 MR. HARDY: Well, when I first was hired,
22 before I became a welder, I was the welder truck driver
23 and to drive equipment on main or on the tracks, you
24 have to be NORAC qualified, because you have to know
25 the signals and basically the signals and the fouls and

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1 understand how to drive out on the tracks.

2 MR. HIPSKIND: Well let's talk about the
3 fouls part of it for a minute, and let's forget about
4 you being the foreman. But if a foreman is talking to
5 you about putting fouls on, saying 1 track, 3 track, 4
6 track, just like the same scenario at your work site,
7 what does that mean to you?

8 MR. HARDY: That means the tracks are
9 inaccessible and no train can come down and run down on
10 the foul.

11 MR. HIPSKIND: Okay. Tell me why you
12 believe that? Why do you believe that no trains can
13 come down on here?

14 MR. HARDY: I believe that because that's
15 what the foreman and the dispatch need to make sure
16 that no trains are on that track while we're working.

17 MR. HIPSKIND: Okay, and sometimes is this
18 something that you overhear, or it's something that the
19 foreman tells you in the job briefing, and that's how
20 you understand where the fouls are at?

21 MR. HARDY: Right, uh-huh.

22 MR. HIPSKIND: Okay. Is it often explained
23 to you why the fouls are put on a particular track, or
24 do you understand that from your NORAC training?

25 MR. HARDY: I understand that from the NORAC

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1 training, but the foreman tells us about tracks being
2 fouled, so we have protection so we can do the job.

3 MR. HIPSKIND: All right, listen. We've had
4 a bit of a good conversation, but let me get my
5 colleagues in here on this, okay?

6 MR. HARDY: Okay.

7 MR. HIPSKIND: Still good to go?

8 MR. HARDY: Yeah, I'm all right.

9 MR. HIPSKIND: All right, Dave?

10 MR. KANNENBERG: Thank you. You've pretty
11 much got everything covered. The only thing I was --
12 well two things I guess. The job briefing, when the
13 guys were coming on there being job briefed by
14 Robinson, you thought that was kind of funny? Did I
15 hear that right?

16 MR. HARDY: No, the first tour guys, we had
17 a job briefing and on track at the job site, because he
18 came from Philadelphia and we met him on the access
19 road right there, and that was perfectly fine. The
20 thing that I said was when the second tour guys, the
21 relief, Richie signed Will's job briefing on track and
22 his job briefing, his job training, his on track, and I
23 didn't understand why he didn't sign John Yaeger's if
24 that was the next tour of duty is what I didn't
25 understand.

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1 MR. KANNENBERG: That's exactly what I meant
2 to say. I apologize if I said it wrong, but that's
3 what I did here you said. I don't know what I said.
4 What would usually happen, and I don't know if it
5 happened prior. But what would you have expected to
6 happen that morning during that changeover period?

7 MR. HARDY: Well, I would have expected John
8 Yaeger and the guys that were relieving us to have
9 their own meeting and their own that I didn't see,
10 their own job briefing and on track briefing before I
11 would have relieved, so they knew what was going on,
12 what tracks were fouled.

13 I don't know. I didn't hear all that, but I
14 just understand if you're coming to relieve me, why are
15 you signing Will's job briefing if we're leaving?

16 MR. KANNENBERG: I understand completely,
17 and then the only other thing throughout the night or
18 that morning, was there any discussion of shunts being
19 applied?

20 MR. HARDY: No, not that I know of.

21 MR. KANNENBERG: That's all I got. Thanks.

22 MR. HIPSKIND: Thanks, Dave. Mike.

23 MR. TRAINA: Good morning. Mike Traina, ET
24 supervisor. I've just got a couple of questions. You
25 started Saturday night at 6:00 p.m., right?

1 MR. HARDY: Yeah, yeah, yeah. I got there.
2 It was Saturday. I got there at 5:30. I think I
3 clocked in maybe 20 of, quarter of 6:00 in the evening,
4 yes.

5 MR. TRAINA: Okay, and Kyle Snyder was the
6 assistant supervisor that night?

7 MR. HARDY: Yes. Kyle was there. I forgot,
8 yeah. Kyle was there.

9 MR. TRAINA: Is he at the headquarters
10 maybe?

11 MR. HARDY: I didn't see Kyle, naw. I saw
12 Kyle at the job.

13 MR. TRAINA: What time do you think? It's
14 hard to tell right.

15 MR. HARDY: Hard to tell.

16 MR. TRAINA: So he was there for most of the
17 night?

18 MR. HARDY: Yeah, he was. I think he was
19 there all night with us to the morning.

20 MR. TRAINA: Did he leave with you or before
21 you?

22 MR. HARDY: He left before us, before me.

23 MR. TRAINA: When the supervisor showed up?

24 MR. HARDY: When Pete showed up. I saw Pete
25 around 6:45 maybe. I think Kyle left right as Pete

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1 pulled up I guess. But I wasn't watching, so I really
2 wasn't paying attention to.

3 MR. TRAINA: That's it, thanks.

4 MR. HIPSKIND: Thank you, Mike. Matt.

5 MR. PORTO: Sure. When you said you
6 received a call after the incident happened, who called
7 you?

8 MR. HARDY: I got a call from one of my co-
9 workers that I work with, and he called me, told me it
10 was an accident. I don't know how. I never really got
11 into how he found out about it, but he called me.

12 MR. PORTO: One of the co-workers from --
13 that you worked with that night?

14 MR. HARDY: No. One of the co-workers that
15 I work with my regular tour, Tuesday through Friday.

16 MR. PORTO: Okay, and did Will Robinson call
17 you or did you call him?

18 MR. HARDY: I called Will when I got the
19 call, and he didn't know anything about it until I
20 called him.

21 MR. PORTO: And then when you were watching
22 throughout the night, were you comfortable with the
23 sight distance that you had, where you were placed?

24 MR. HARDY: Oh perfectly, yes.

25 MR. PORTO: Okay. That's all I have.

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1 MR. HIPSKIND: Thanks Matt. Lou.

2 MR. TOMASSONE: Lou Tomassone, thanks for
3 coming in Marvin.

4 MR. HARDY: Uh-huh.

5 MR. TOMASSONE: You said they gave a job
6 briefing? You're referring to Will gave you guys a job
7 briefing Saturday night; correct?

8 MR. HARDY: Saturday, right around 6:30,
9 maybe 6:30 or 7:00 at the job site, yes.

10 MR. TOMASSONE: Okay. Do you -- did you --
11 you guys went over the speeds on the tracks over there?

12 MR. HARDY: Yes. I can't actually tell you,
13 because I can't remember what actually the job briefing
14 actually said, but he did go over the whole job
15 briefing with the speeds and everything. Whatever was
16 on the job briefing, we went over.

17 MR. TOMASSONE: Do you know what the speeds
18 are between Hook and Baldwin?

19 MR. HARDY: No, I don't.

20 MR. TOMASSONE: Okay, and then when you
21 left, where was Will Robinson when you left?

22 MR. HARDY: When I was relieved, Richie came
23 and relieved me. He signed -- they were behind me, and
24 I'm still watching, and he was giving him a job
25 briefing, Richie. And after he gave him a job briefing

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1 and everything, he stepped up and I walked away, walked
2 to the van.

3 MR. TOMASSONE: You walked to the van and
4 Will Robinson was still --

5 MR. HARDY: He still was there.

6 MR. TOMASSONE: Was still there, okay. I
7 guess the only other thing is I -- you've heard us
8 speaking about the shunt, SSD that is applied. Are you
9 familiar with that rule in --

10 MR. HARDY: I'm not familiar with the rule,
11 but I'm familiar with the equipment, putting in on.
12 But I never really, not familiar with the rule, no.

13 MR. TOMASSONE: Do you know when you should
14 apply it?

15 MR. HARDY: I mean you're supposed to apply
16 it when you have a foul. That's what I was taught, you
17 know, that I know, you know. But it wasn't applied
18 though.

19 MR. TOMASSONE: Okay. That's all I got.

20 MR. HIPSKIND: Thanks, Lou.

21 MR. WALKER: All right, Fran Walker. You
22 say this initial job briefing on 6:30, the job briefing
23 discussed when Joe shows up later, we're going to foul
24 track with the backhoe? Was that discussed in the job
25 briefing, do you recall?

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1 MR. HARDY: I don't recall. I was watching.
2 I don't know what Will and Joe or what was discussed.

3 MR. WALKER: I'm saying the initial job
4 briefing you had like at 6:30.

5 MR. HARDY: Right.

6 MR. WALKER: Did it say we would be fouling
7 track up to (inaudible), anything like that? Did he
8 discuss that the backhoe --

9 MR. HARDY: Yeah, he was going to be fouling
10 the backhoe, yes, yes.

11 MR. WALKER: Okay, all right. When the
12 foreman did get foul, the foul to get the backhoe to
13 hop over the tracks, did the foreman relay to you guys
14 that we got a foul now on say 3 track?

15 MR. HARDY: Right.

16 MR. WALKER: And did he relay that
17 information to you?

18 MR. HARDY: Yes, all of that.

19 MR. WALKER: Okay, and then during the night
20 when that -- when he had to clear up the back, did the
21 backhoe ever clear up?

22 MR. HARDY: Yes.

23 MR. WALKER: And where did the backhoe go?
24 Did it go on the 2 track --

25 MR. HARDY: No, it went on the access road.

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1 MR. WALKER: It came back off. He hopped
2 back over 4 track and got clear?

3 MR. HARDY: Yes, right.

4 MR. WALKER: And how many times do you think
5 that happened in the night, two or three times?

6 MR. HARDY: About two or three times.

7 MR. WALKER: Okay. So next question. When
8 Yaeger showed up with Robinson, did you see them
9 talking face to face?

10 MR. HARDY: I never seen them talking.

11 MR. WALKER: You never saw them conversing
12 face to face or anything going on?

13 MR. HARDY: No, I didn't. No.

14 MR. WALKER: Okay, and likewise when Pete
15 showed up at 6:30, did you see him talking with the
16 assistant supervisor?

17 MR. HARDY: I saw Pete.

18 MR. WALKER: Did he have a conversation with
19 Snyder before Snyder left?

20 MR. HARDY: I was watching. So I was paying
21 attention to what I was doing. I really wasn't
22 focusing on --

23 MR. WALKER: Okay. I just wondering if we -
24 - so but you sort of felt Pete showed up like 6:45, and
25 you think Snyder was still there about that time?

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1 MR. HARDY: When I turned to glance, I saw
2 Pete. Made a comment to him about the relief, and then
3 I went back to what I was doing, watching.

4 MR. WALKER: Okay. I have no more
5 questions.

6 MR. HIPSKIND: Thanks Fran. All right.
7 Let's go around and do our second round. You got me to
8 thinking about something, that after you left there.
9 I'm going to sense like 7:15 or something like that,
10 other people are showing up.

11 MR. HARDY: Right, uh-huh.

12 MR. HIPSKIND: I'm just going through some
13 stuff that I've heard from some other people. But you
14 went all the way back to Wilmington, right?

15 MR. HARDY: Uh-huh.

16 MR. HIPSKIND: And went off duty there;
17 correct?

18 MR. HARDY: Uh-huh, uh-huh.

19 MR. HIPSKIND: You have to say yes or no.

20 MR. HARDY: Yes, yes.

21 MR. HIPSKIND: That's one of the rules
22 Marvin.

23 MR. HARDY: Okay.

24 MR. HIPSKIND: And then you went from
25 Wilmington all the way up to Philadelphia?

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1 MR. HARDY: Yes.

2 MR. HIPSKIND: And then you heard about the
3 accident?

4 MR. HARDY: Yes.

5 MR. HIPSKIND: And then you called Will?

6 MR. HARDY: Then I called Will.

7 MR. HIPSKIND: Do you have any time frame
8 here on maybe when you think you were at Philadelphia?

9 (Interruption.)

10 MR. HIPSKIND: Go ahead.

11 MR. HARDY: I left, I want to say 10 after
12 7:00. I went straight to Wilmington.

13 MR. HIPSKIND: So what's that 20-30 minutes
14 down to there?

15 MR. HARDY: To/from -- no, it was like maybe
16 10-15. It's not that far.

17 MR. HIPSKIND: From the job site?

18 MR. HARDY: From the job site to the base,
19 it's like 15 minutes.

20 MR. HIPSKIND: Wilmington, and you probably
21 didn't spend a lot of time there?

22 MR. HARDY: No, I didn't. I clocked right
23 out, I changed my shoes, jumped in my personal vehicle
24 and came right up 95.

25 MR. HIPSKIND: You had enough of the cold

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1 and all that?

2 MR. HARDY: I was just tired, yes.

3 MR. HIPSKIND: Okay. So what do you think -
4 - what do you think best guess is that you're up around
5 Philadelphia? Is it like eight o'clock now?

6 MR. HARDY: Yeah. It's like a little before
7 eight. I was at the breakfast right off 95 near the
8 stadium, which is Washington Avenue, right around
9 there. I was at, right there. So it's not even 20-25
10 minutes, if that.

11 MR. HIPSKIND: So if it's not eight o'clock
12 yet and we kind of know when the accident happened, you
13 probably heard about the accident shortly after it
14 happened?

15 MR. HARDY: Shortly right after it happened.

16 MR. HIPSKIND: Okay, and you -- when you
17 talked to Will, did he mention where he was at?

18 MR. HARDY: He was a breakfast place too in
19 the same area. But we weren't at the same.

20 MR. HIPSKIND: Okay. So are we talking ten
21 miles away or --

22 MR. HARDY: Not even that. I was at IHOP,
23 which was on -- right off Delaware Avenue and
24 Washington, like right around there, and he was at the
25 Oregon Diner, which is around the corner.

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1 MR. HIPSKIND: All right, okay. When you
2 went back out there, you just went back out there on
3 your own curiosity, or did he want you to go back out
4 there to do some work or what?

5 MR. HARDY: No. When I got the call, I was
6 concerned about my co-workers.

7 MR. HIPSKIND: I understand that.

8 MR. HARDY: And I flew straight back down
9 there.

10 MR. HIPSKIND: Okay, all right. To see if
11 you could help or whatever?

12 MR. HARDY: Or whatever, make sure they were
13 okay.

14 MR. HIPSKIND: All right. Marvin, that's
15 all I've got for now. Let's see what anybody else has
16 to say. Dave, anything? Mike?

17 MR. TRAINA: I'm okay.

18 MR. HIPSKIND: You're okay. Matt?

19 MR. PORTO: What did you and Will talk about
20 on the phone when he called or when you called him?
21 Was it any conversation or was it just something
22 occurred and you're headed back?

23 MR. HARDY: It was real quick. I just got a
24 phone call, Will. There was an accident. I'm heading
25 back down to make sure my guys that I've been working

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1 with since I've been in Wilmington are okay, and he
2 said I'm on my way too. I hung up, left whatever money
3 on the table and took off back.

4 MR. PORTO: I'm sure when you got there, a
5 lot was going on, very chaotic?

6 MR. HARDY: Chaotic, yes.

7 MR. PORTO: Do you recall any conversations
8 with Will or anybody talking to Will? You said he was
9 there before you?

10 MR. HARDY: He got there before me. He was
11 sitting in the Amtrak vehicle he was in. I was in a
12 personal, and we were crying and I ran up and I just
13 seen everything, what was going on and he just couldn't
14 believe that this is happening, it happened. Just very
15 emotional through the whole thing.

16 MR. PORTO: Okay.

17 MR. TOMASSONE: Lou Tomassone. One final
18 question. Foreman Yaeger, you said you saw him pulling
19 up as you were leaving?

20 MR. HARDY: No. When I was leaving, he was
21 parked.

22 MR. TOMASSONE: Okay and --

23 MR. HARDY: At the end, and he was in his
24 personal vehicle. So it looked like -- it's white. So
25 it kind of looks like an Amtrak vehicle and that's what

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1 made me notice, because I know Foreman Yaeger has a cap
2 on the back of his pickup. So that's what made me
3 notice him, and he was parked like at the end of all
4 the Amtrak vehicles that were out there.

5 MR. TOMASSONE: And Foreman Robinson wasn't
6 in his vehicle next to Foreman Yaeger's truck?

7 MR. HARDY: No. He was up where Joe was.
8 He was where Richie, where I left him as I walked away.
9 I backed out and he was still where Richie was
10 standing, when he relieved me as the watchman, where
11 they were at.

12 MR. TOMASSONE: Okay. That's all I got.

13 MR. WALKER: All right, Fran Walker. You
14 primarily work nights or days?

15 MR. HARDY: I'm on nights.

16 MR. WALKER: Nights. All right, a question
17 nights. In your crew, how often have you ever seen
18 like an Amtrak safety officer or anybody, even the FRA
19 out checking your protection to see if you guys are
20 working safely? Ever?

21 MR. HARDY: Yeah. Two times FRA came. This
22 was maybe last year. We were on the south leg of the Y
23 and the guys came up and checked our fire
24 extinguishing, my log books. They came out. So I seen
25 them a couple of times, and lately we've been having

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1 the safety liaison come out and stand with us at nights
2 a lot.

3 MR. WALKER: All right. I think I was with
4 that.

5 MR. HARDY: You were. I remember your face.

6 MR. WALKER: Yeah. I think --

7 MR. HARDY: You were in a white van, you
8 were in black van?

9 MR. WALKER: Yeah, and Joe Carter I think
10 was running the tamber that night.

11 MR. HARDY: He was in the tamber. He was
12 behind us, yes. I remember you sir.

13 MR. WALKER: Okay, all right. That's all I
14 want to know.

15 MR. HIPSKIND: Thanks Fran. Just a couple
16 of quick questions. When you did come back out after
17 you got the call and Will, he was already back out
18 there and this was after the accident, did you ever
19 have occasion to see or talk to Foreman Yaeger?

20 MR. HARDY: Never talked to him.

21 MR. HIPSKIND: Did you happen to notice
22 whether Foreman Yaeger and Foreman Robinson were
23 together or talking?

24 MR. HARDY: I never seen them together.

25 MR. HIPSKIND: When you went back out?

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1 MR. HARDY: When I went back out, I never
2 seen them together no, because he, Foreman Yaeger was
3 up. He was up where the bridge was and Will was
4 sitting in the truck.

5 MR. HIPSKIND: Okay, and the same thing.
6 When you departed that morning after you were off your
7 shift and leaving, you never saw Foreman Yaeger and
8 Robinson together or talking?

9 MR. WALKER: No.

10 MR. HIPSKIND: Okay, all right. That's all
11 I've got gentlemen. Anything else? All right. Let me
12 go ahead and proceed to close out. You're okay to
13 close this out. All right, here we go. Marvin, I know
14 we covered a lot of things and we asked you some
15 questions. Is there anything else that you would like
16 to add or change about any of this discussion?

17 MR. HARDY: No.

18 MR. HIPSKIND: Okay, and are there any
19 questions we should have asked but we did not ask or is
20 there some topics that you want us to talk about that
21 we did not?

22 MR. HARDY: The only thing I want to talk
23 about is the radio communication. Like he had to me
24 problems with the radios, and they used the phone a lot
25 to communicate with CTech or with dispatch, you know,

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1 and the radios were breaking up a lot.

2 So I was just trying to figure out, just
3 couldn't understand they would break up and then he
4 would use his phone to call, you know, and then he
5 would get back on the radio and let Joe know that he
6 lost his foul and he would clear up with the radios.
7 But the radios weren't working too well from my end.

8 MR. HIPSKIND: Do you think that was
9 weather-related or does that happen a lot?

10 MR. HARDY: That happens a lot.

11 MR. HIPSKIND: Okay, and I want you to be
12 clear, just trying to explain to somebody that doesn't
13 understand. What's the advantage or disadvantage when
14 the radios are used and the cell phones are used? What
15 difference does it make?

16 MR. HARDY: I mean the radios break up but
17 the cell phone is a backup piece of equipment to -- if
18 the radios aren't working, so they could understand the
19 transition between the dispatch and the foreman in
20 charge, and I understand that. But it's just you would
21 think that the radios would work a little better,
22 because he had to hold it up sometimes to get reception
23 or --

24 I noticed that a lot since I've been with
25 Amtrak. You know when we're out there, the radios

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1 sometimes they don't work great.

2 MR. HIPSKIND: Okay. Anything else?

3 MR. HARDY: That's all.

4 MR. HIPSKIND: All right. And Marvin, do
5 you have any suggestions for preventing a reoccurrence?

6 MR. HARDY: My suggestion is if the watchman
7 should have a radio too. Maybe they can hear what's
8 going on, because we didn't know nothing about, you
9 know, from what they told us that we lost foul and you
10 let us know that we were clearing up. I thought maybe
11 there should be a radio for the watchman to hear too, I
12 guess, to back the foreman up and his radio's not
13 working. That's the only thing I can --

14 MR. HIPSKIND: Well, let's just do a little
15 bit of a hypothetical, and let's say you were working
16 the day shift and you're still in your watchman
17 capacity and you've got a radio. If you heard somebody
18 over the radio giving up the fouls, you would have done
19 what?

20 MR. HARDY: I would -- if he was giving up
21 the foul, I still will be watching. So that's what we
22 do. We're trained to watch, and you gave up the foul,
23 I'm watching to make sure that the guys clear the
24 tracks.

25 MR. HIPSKIND: Okay, all right. Is there

1 anyone else who we should have interviewed or should
2 interview?

3 MR. HARDY: Not that I know of, no.

4 MR. HIPSKIND: Okay, and we are interviewing
5 a lot of your co-workers.

6 MR. HARDY: All right.

7 MR. HIPSKIND: People on the Canton area
8 side of things too.

9 MR. HARDY: Uh-huh.

10 MR. HIPSKIND: Gentlemen, anything else?
11 Any last question or comment? Well as has been
12 mentioned to you by a few of my colleagues here, I
13 sincerely want to thank you for coming in.

14 You and I talked before and you've added
15 another piece to this puzzle, and there were some
16 things that we talked about that were very helpful to
17 the investigation. So on behalf of all of us here, I
18 want to thank you for coming in and your patience
19 waiting on us. We had a little bit of a discussion we
20 had to have here.

21 MR. HARDY: Okay.

22 MR. HIPSKIND: All right. So with that, I
23 will close the interview. Thanks so much, Marvin.

24 (Whereupon, the above-entitled matter went
25 off the record.)

C E R T I F I C A T E

MATTER: Amtrak Train 89 Accident
April 3, 2016 near Chester, PA
Accident No. DC16FR007
Interview of Marvin Hardy

DATE: 04-06-16

I hereby certify that the attached transcription of page 1 to 36 inclusive are to the best of my professional ability a true, accurate, and complete record of the above referenced proceedings as contained on the provided audio recording; further that I am neither counsel for, nor related to, nor employed by any of the parties to this action in which this proceeding has taken place; and further that I am not financially nor otherwise interested in the outcome of the action.



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