

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

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RAILROAD EMPLOYEE FATALITY *

IN PRICHARD, ALABAMA *

Accident No.: RRD21LR005

ON NOVEMBER 17, 2020 *

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Interview of: MARVIN BOLTON, Backhoe Operator
Continental Rail, Inc.

Via telephone

Friday
November 20, 2020

APPEARANCES:

ZACHARY ZAGATA, Accident Investigator
National Transportation Safety Board

JOE GORDON, Railroad Investigator
National Transportation Safety Board

LEE DAMRON, Accident Branch Chief
Federal Railroad Administration

DILLON ONDO, Track Safety Specialist
Federal Railroad Administration

BYRL McCOY, Operating Practices Safety Inspector
Federal Railroad Administration

CHRISTOPHER HESTER, Railway Safety Administrator
Alabama Public Service Commission

ROBERT ADAMS, Track Safety Inspector
Federal Railroad Administration

JEREMY MOATS, Track Safety Inspector
Federal Railroad Administration

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MR. ZAGATA: If somebody who is present could record it for us, that would be great.

MR. MOATS: Okay, Zach. With that being said, I'd like to go ahead and introduce the gentlemen on the phone.

Lee, you go ahead and do that. Can you go ahead and introduce yourself?

MR. DAMRON: Yes. Good morning, good afternoon. My name is Lee Damron. I am a Chief Inspector with the Accident Analysis Branch with the FRA.

Go ahead, Zach.

MR. ZAGATA: Got a little bit I have to read here. My name is Zach Zagata. I'm an NTSB IIC for this accident. We're here today on November 20, 2020, to conduct an interview.

If you could, could you spell your name out for me?

MR. BOLTON: M-a-r-v-i-n, B-o-l-t-o-n, Marvin Bolton.

MR. MOATS: Yeah, Zach. Hold on.

Marvin --

MR. BOLTON: Um-hum.

MR. MOATS: I forgot to get this first. Can you go ahead and give me your street address, your home address?

MR. BOLTON: [REDACTED]

MR. MOATS: Can you spell that for me?

MR. BOLTON: [REDACTED]

1 MR. MOATS: [REDACTED]

2 MR. BOLTON: [REDACTED] [REDACTED] --

3 MR. MOATS: Okay.

4 MR. BOLTON: [REDACTED].

5 MR. MOATS: [REDACTED]

6 MR. BOLTON: [REDACTED] [REDACTED]

7 MR. MOATS: [REDACTED] And can you tell me what your phone
8 number is, your phone number?

9 MR. BOLTON: [REDACTED]

10 MR. MOATS: [REDACTED]

11 MR. BOLTON: [REDACTED]

12 MR. MOATS: [REDACTED]

13 MR. BOLTON: [REDACTED]

14 MR. MOATS: [REDACTED] And what is your occupation here at
15 Continental Railroad?

16 MR. BOLTON: I am a -- the lead man, and I takes over for --
17 for Charles Bolton when he's out, and he was out.

18 MR. MOATS: Okay. And can you go ahead and spell your first
19 name again for me?

20 MR. BOLTON: M-a-r --

21 MR. MOATS: M-a-r --

22 MR. BOLTON: -- v-i-n.

23 MR. MOATS: -- v-i-n. And your last name is B-o-l-t-o-n?

24 MR. BOLTON: Yes. That's correct.

25 MR. MOATS: Okay. All right, Zach, you go ahead.

1 MR. ZAGATA: Okay. All right. For the record, I'm going to
2 start over on that. So my name is Zach Zagata. I'm the NTSB IIC
3 for this accident. We're here today on November 20, 2020, to
4 conduct an interview with Marvin Bolton, who works for Continental
5 Railroad, Incorporated. This interview is in conjunction with
6 NTSB's investigation of the accident at Prichard. The NTSB
7 Accident Reference Number is RRD21LR005.

8 And the purpose of this investigation is to increase safety,
9 and not to assign fault, blame or liability. Once again, my name
10 is Zach, Z-a-c-h. Last name Zagata, Z-a-g-a-t-a, and I'm the IIC
11 for NTSB in this accident.

12 And I'll pass it over to Lee.

13 MR. DAMRON: Okay. Again, good morning, good afternoon. My
14 name is Lee Damron. I am an Accident Chief with the Accident
15 Analysis Branch for the FRA. And I will be listening in on the --
16 for the FRA Headquarters. Thank you.

17 MR. ZAGATA: I also have Joe Gordon.

18 Joe, if you want to introduce yourself.

19 MR. GORDON: Yeah. Joe Gordon, Rail Accident Investigator
20 with the NTSB -- last name spelling G-o-r-d-o-n, with the NTSB.
21 And, Marvin, I appreciate you being on -- spending some time with
22 us today.

23 MR. MOATS: All right. Go ahead --

24 MR. ZAGATA: Joe will be asking the questions on behalf of
25 NTSB. So with that, I'm done. So turn it over to you, Jeremy.

1 MR. MOATS: All right. Thank you.

2 Go ahead, Dillon.

3 MR. ONDO: Marvin, we've already talked. Track Safety
4 Specialist, District 3, in charge of the southeast track
5 discipline. Name is Dillon Ondo, D-i-l-l-o-n, last name is Ondo,
6 O-n-d-o. We've already talked, and thanks for coming in here
7 today.

8 MR. BOLTON: No problem.

9 MR. HESTER: Again, thank you. My name is Christopher
10 Hester, C-h-r-i-s-t-o-p-h-e-r, H-e-s-t-e-r. I'm the Railway
11 Safety Administrator for the State of Alabama, and thank you
12 again.

13 MR. McCOY: Mr. Bolton, Byrl McCoy, FRA Operating Practices
14 Safety Inspector based out of Mobile. That is B-y-r-l, M-c-C-o-y.
15 I want to thank you for coming and talking with us today,
16 Mr. Bolton.

17 MR. ADAMS: And good morning, Marvin. Thanks for coming in.
18 My name is Robert Adams or Bob Adams. I am the FRA Inspector out
19 of Memphis, Tennessee. Robert, R-o-b-e- -- or R-o-b-t-e-r [sic],
20 and Adams, A-d-a-m-s.

21 MR. MOATS: And I am Jeremy Moats. I am the FRA Track
22 Inspector out of Mobile, Alabama. It's J-e-r-e-m-y, last name
23 Moats, M-o-a-t-s.

24 INTERVIEW OF MARVIN BOLTON

25 BY MR. MOATS:

1 Q. We would like to start -- we'll start with some questions
2 right now. Okay?

3 MR. DAMRON: Hey, Jeremy.

4 MR. MOATS: Yes.

5 MR. DAMRON: This is Lee. Sorry to interrupt. Just, again,
6 I want to reiterate that some of the recording is going to be
7 broken up because it's hard -- sometimes it's in and out on this
8 end. So if somebody in the room could provide an additional
9 recording, that would be great.

10 MR. MOATS: Yes. We have one going.

11 MR. ZAGATA: Having a real difficult time hearing Marvin
12 already so --

13 MR. DAMRON: Yeah.

14 MR. MOATS: Yeah, we have, we have them going in the room.

15 MR. DAMRON: Okay. Thank you.

16 MR. MOATS: Yes.

17 BY MR. MOATS:

18 Q. First, how long have you worked in the railroad industry?

19 A. January will be 13 years.

20 Q. January it's been 13 years?

21 A. This coming January, it will be 13 years.

22 Q. Okay. Has all your time been with Continental Rail?

23 A. Yes. Yes.

24 Q. Okay. Has all your time in the railroad industry been on
25 maintenance of way, track crews?

1 A. Yes.

2 Q. Okay. What all positions have you held on the railroad?

3 A. Laborer, operator.

4 Q. Anything else?

5 A. That's it.

6 Q. Okay. All right. On November 17th, can you describe your
7 day starting at the beginning all the way up to and immediately
8 after the incident, the accident?

9 A. Yes.

10 Q. Okay.

11 A. We got to Mobile. Started -- met Patrick over in the yard,
12 had a little briefing, told us how we're protected, track
13 authority. And we drove around, had to put two headblocks in --
14 well, before we put the headblocks in, we set up -- he showed us
15 where he wanted the derails at, and we had total of four out at
16 this point. And got the headblocks in and adjusted the switch and
17 got the derails up, moved to another spot. So he didn't do
18 another briefing, because he never gave up his authority. So went
19 on down, and what we was going -- we went to put ties in it and
20 put our derails out.

21 Wayne went on past us, had to go get some ties, and we put
22 the derails in front of him and behind us on this end, south end
23 of us, and we start putting in ties. When Wayne was coming back
24 through, I think I was down to about my last two or three ties,
25 and I told Buck to go ahead and take the derails down, because by

1 the time he made it back to the truck with the derails, you know,
2 we normally would be done and have everything, you know, and I was
3 going to head to the crossing, wait on Wayne to help him get off
4 and (indiscernible) get stabilizers and all that.

5 Q. What was that -- there were a couple of individuals on the
6 phone -- before, before you get your stables up -- stabilizer up,
7 what happened?

8 A. Boom.

9 Q. Okay.

10 A. Got hit.

11 Q. Okay. All right. So were you present when the Alabama
12 Export roadway worker spoke to any of the other Alabama Export
13 employees about the work you were conducting at the work location
14 on November 17th? So, to clarify that question, were you present
15 at any time during November 17th when Alabama Export RWIC, Railway
16 Worker in Charge, talked to any other Alabama Export employees --

17 A. No.

18 Q. -- about the work location? About work locations?

19 A. No.

20 Q. Okay.

21 MR. ONDO: This is Dillon Ondo. I just one -- want to ask
22 one question.

23 BY MR. ONDO:

24 Q. You -- before we ask any more questions, do you think --
25 you're a/k/a, also known as, Peewee, correct?

1 A. Um-hum.

2 Q. Okay. I just wanted to put that on the note. And you were
3 -- you're -- basically, for this day, you were the supervisor of
4 the entire crew; is that correct?

5 A. Yes.

6 Q. Okay. I just wanted to reference that before we ask any more
7 questions.

8 MR. ONDO: That's all I have. I appreciate it.

9 MR. MOATS: Okay. All right.

10 BY MR. MOATS:

11 Q. How long have you worked as a contractor on the Alabama
12 Export Railroad?

13 A. Don't remember the exact date, but it's been a couple -- I'd
14 say around about 8 months or so.

15 Q. Okay.

16 A. I'm getting, you know, just I don't know the exact time.

17 Q. Okay. During your time at the Alabama Export Railroad, how
18 many Alabama Export Railway Workers in Charge have you worked
19 with?

20 A. Just one.

21 Q. Okay. And what -- do you know who that -- can you tell me
22 who that is?

23 A. Patrick.

24 Q. What's his -- what's Patrick's full name?

25 A. Bolton.

1 Q. Okay. Now, beginning when you arrived at the jobsite where
2 the accident occurred, can you walk me through and describe the
3 events that occurred?

4 A. At the beginning?

5 Q. At the beginning when you arrived at the jobsite where the
6 accident occurred.

7 A. When we got there, we drove down. The trucks drove down the
8 side.

9 Q. Okay.

10 A. And me and Wayne, we put on at the crossing, helped him get
11 on and take the -- no, I didn't come down. I drove down the side
12 with the backhoe. Wayne put on at the crossing and went on down
13 and put the -- Wayne went on past us. We put the derails up. Put
14 one behind me -- take that back. I did drive down there on the
15 crossing with the backhoe, and Wayne went on through to go get the
16 ties around the curve. (Indiscernible) couple weeks ago. Put a
17 derail up, put one behind, and we went to work.

18 Q. Okay. Can you recall what was covered in the job briefing
19 and where it was held?

20 A. The briefing was held at the main yard, and Patrick come
21 talked to us and told us how we was protected, track authority.

22 Q. Okay.

23 A. We actually set four out there where we started at because
24 they got all -- what is it, NS and all them coming through there.
25 He showed us where he wanted those derails at, and we put the

1 headblocks in and adjusted the switch and moved to our next spot.

2 Q. Okay. When you moved to your next spot where the accident
3 occurred --

4 A. Yes.

5 Q. -- was there another job briefing held?

6 A. No. Nothing changed.

7 Q. Nothing changed?

8 A. I mean, the location changed but --

9 Q. Okay.

10 A. -- he didn't -- he never gave up his authority.

11 Q. All right. Understood. Now, just for clarification
12 purposes, what form of on-track safety was provided for you at the
13 work location where the accident occurred? So I want to fully
14 understand what form of on-track safety was provided for you.

15 A. Track authority and derail.

16 Q. Track authority?

17 A. Um-hum.

18 Q. And?

19 A. And derail.

20 Q. Derails. Okay. All right. Who applied those derails?

21 A. We did, me and Patrick. Me and him put the derails up
22 (indiscernible) and put our locks on.

23 Q. Go ahead.

24 A. And went to work.

25 Q. So you said you applied it.

1 A. Yes.

2 Q. Correct? And who else applied it?

3 A. Patrick was there. I actually put them on.

4 Q. Oh, okay. So clarification. You put both derails on?

5 A. No. Buck, the other guy put one on, on the other end, and we
6 put the other one on ahead of the backhoe, and I really -- it's
7 getting clouded, but I want to say it was Buck put the other one
8 on.

9 Q. Okay. The derail that you put on, was it closest to Mobile
10 or was it further away from Mobile?

11 A. It was toward -- on the north end.

12 Q. It was on the north end. The derail you put on was on the
13 north end. Okay. And did you do that by yourself?

14 A. No.

15 Q. Who helped you with that?

16 A. Patrick was standing there.

17 Q. Patrick, the RWIC, right?

18 A. Yes.

19 Q. Okay. And then the derail to the south of your work
20 location, to the best of your recollection I understand, who put
21 that one on?

22 A. Dominique and DJ.

23 Q. Okay. Now, who directed to put these derails on? Who told,
24 who made -- who told them to put the derails on?

25 A. Patrick.

1 Q. Patrick told --

2 A. Patrick and myself.

3 Q. Okay. All right. Who is the owner of the derails? Who owns
4 the derails?

5 A. The one that was on the -- I can't remember which one is
6 which, but they own the ones on my truck, those are Alabama
7 Export's; and the ones on the other truck is ours, Continental.

8 Q. So both derails is owned by Continental or was only one
9 derail owned by Continental?

10 A. I had one Alabama. We had one of their derails and one of
11 ours.

12 Q. All right.

13 A. Because of the way the trucks were sitting, we had derails on
14 each truck.

15 Q. Okay. Now, were the derails locked?

16 A. Yes.

17 Q. Okay. Who owned the locks on the derails?

18 A. I had a lock on it, and Patrick had a lock on it at one
19 point.

20 Q. Okay. Let me clarify this. The physical owner of those
21 locks. Who owns -- like was it a Continental physically owned
22 lock or a Alabama Export physically owned lock?

23 A. Both.

24 Q. Both.

25 A. Um-hum.

1 Q. Both locks. Okay.

2 A. They own they locks, and we own our locks.

3 Q. Okay. Who all had keys to use the locks that were on the
4 derails?

5 A. Patrick and I.

6 Q. Okay. And for clarification purposes, the lock that
7 Continental owned, does anybody else outside of Continental have a
8 key to that lock?

9 A. Not outside Continental, no.

10 Q. Did the -- okay. The lock that was on the Alabama Export
11 Railroad derail, does anybody outside of Alabama Export, RWIC,
12 have a lock to that derail?

13 A. Yeah, we had a lock. We had our lock on it too. Is that the
14 question you asked?

15 Q. Okay. So --

16 A. I'm confused.

17 Q. All right. Let me help try to clarify this. So on the
18 derails, right, there's one space to hang a lock, right?

19 A. Right.

20 Q. Is that -- was there one or two locks on each derail?

21 A. It was -- what's you call the thing that you --

22 UNIDENTIFIED SPEAKER: Multiple --

23 BY MR. MOATS:

24 Q. Oh, so there's multiple locks on this?

25 A. Yes. Yes.

1 Q. Okay. So there was a multiple lock on it. So on -- let's
2 start with the derail to the north, okay. How many locks were on
3 the derail to the north?

4 A. Two.

5 Q. Two. What two locks were on the derail to the north?

6 A. Patrick lock and our lock.

7 Q. Okay. The derail to the south, how many --

8 A. Two.

9 Q. -- locks? Same thing?

10 A. Same thing.

11 Q. Same thing. Okay. All right. Where were you -- where were
12 the derails placed?

13 A. One toward the north of us around the curve.

14 Q. Okay.

15 A. About 150 feet from where we started at. And the other one
16 was about pretty close to where the backhoe was after he pushed us
17 down.

18 Q. All right. And just so I, so I fully understand, what kind
19 of work were you doing at the accident location?

20 A. Maintenance, installing ties.

21 Q. Installing ties. All right. Now, and if there's questions
22 that we are repeating or -- and/or sound similar, and you need
23 clarification at any time, please ask.

24 A. Okay.

25 Q. And also the reason why we might be asking those questions

1 because so we can get a clear understanding of what happened. So
2 what duties were you assigned?

3 A. Putting cross-ties.

4 Q. Okay.

5 A. Install.

6 Q. Okay. Now, when I mean duties, what was your position on the
7 curve? What was your job on the curve? Were you an operator?

8 Were you a laborer?

9 A. Operator.

10 Q. Okay.

11 A. Operator.

12 Q. And what were you an operator of?

13 A. Backhoe.

14 Q. Backhoe. Okay. All right. Were you aware the RWIC for
15 Alabama Export left the jobsite?

16 A. Yes.

17 Q. Okay. Was anything discussed prior to the RWIC leaving the
18 jobsite of where the accident occurred?

19 A. Yes.

20 Q. Okay. Can you elaborate on what was discussed?

21 A. He told me he had to meet -- forgot his name, but somebody to
22 get some come-along for what we had to do the next day, and when I
23 got done to call him and let him know that the men and equipment
24 is in the clear so he can give up his authority.

25 Q. Okay. So when you -- in the past when you've worked on the

1 Alabama Export Railroad, is it common that the RWIC, the Railway
2 Worker in Charge, leave the jobsite to perform another task?

3 A. No. He normally stays there.

4 Q. Okay. Were you aware the derails were being removed?

5 A. Yes.

6 Q. Okay. Do you know who removed the derails?

7 A. Dominique.

8 Q. Okay. Which ones did --

9 A. He move?

10 Q. Yeah. Which ones did he remove?

11 A. Both.

12 Q. Both. Okay. When were they removed?

13 A. Right -- Wayne come back through. We let Wayne --

14 Q. Okay.

15 A. -- only a few ties to pick up. He picked up those ties. At
16 this point, we had, what, two ties left, two or three, somewhere
17 up in there. And I just pick them up, put them up, you know,
18 finish up and get on out.

19 Q. Okay. With -- do you have -- I know, but do you have an
20 approximate time you think that occurred?

21 A. I really don't know the exact time.

22 Q. Okay. Do you know who directed the individual to remove the
23 derails?

24 A. I did.

25 Q. You're the one that told him?

1 A. Um-hum.

2 Q. Okay. All right. Where and what were you doing when you
3 became aware of the train?

4 A. When it hit me. (Indiscernible) the truck.

5 Q. Okay. We understand. What were you doing at that time?

6 A. I was done. I had spun around in my seat and reached back to
7 let the stabilizers up, and I was headed to the cross -- finna
8 head to the cross, then it come --

9 MR. DAMRON: Jeremy.

10 MR. MOATS: Sir.

11 MR. DAMRON: Yeah. This is Lee. Sorry to bother you. We
12 could hear the questions. We just can't hear any of the
13 responses. They're really -- it's really broken up. So I don't
14 know if there's a better angle, but --

15 MR. MOATS: I'm going to move the phone closer. Is that
16 okay, Lee?

17 MR. DAMRON: Yeah, that's fine. Thank you.

18 MR. MOATS: All right.

19 BY MR. MOATS:

20 Q. All right, let's go back to that, okay. Where were you at
21 again when you became aware?

22 A. In the backhoe.

23 Q. You were in the backhoe.

24 A. Um-hum.

25 Q. And what were you doing?

1 A. Finna get ready to get out the crossing. Well, head that
2 way. I was turning around, let my stabilizers up.

3 Q. Okay. Can you recall where the other roadway workers were at
4 when you became aware of the train?

5 A. I know the guy that was -- worked with the backhoe, which is
6 Tommy.

7 Q. Okay.

8 A. He run the shovel, and I know he walked off, and Pops, which
9 is Dexter, was finished set up his last tie, and DJ was on the
10 side of him ready to run it down and --

11 Q. For individuals that -- most of us, we come from the track
12 industry, okay. But for the individuals on the call that don't
13 come from the track industry, can you elaborate when you said that
14 Dexter was about to set it up? What do you mean set it up?

15 A. Nail the spike in.

16 Q. Okay.

17 A. And put it in the plate, nail it up.

18 Q. Okay. And DJ, you said he was about to do something. Can
19 you elaborate what that was?

20 A. It's the jackhammer. Going to run the --

21 UNIDENTIFIED SPEAKER: Spike hammer.

22 MR. BOLTON: Spike hammer. Was going to run it down.

23 BY MR. MOATS:

24 Q. Okay. Thank you. All right. And so you know where Tommy
25 was, Pops was -- which his real name is Dexter?

1 A. Dexter.

2 Q. DJ's real name is?

3 A. Dallas.

4 Q. Dallas.

5 A. Monzigo.

6 Q. Okay. And then do you happen to recall where anybody else
7 was at?

8 A. Dominique was -- I think he had his set up, and he was
9 standing over there on the side where Tommy was.

10 Q. Okay. And where anybody else was? Is that everybody that
11 was out there at the time?

12 A. Wayne was a couple feet behind. He was inside his truck.

13 Q. Okay. All right. Now, like to take a minute and talk about
14 the type of equipment being used. So can you tell me what
15 equipment was being used out there?

16 A. Material truck, backhoe.

17 Q. Any other mechanized device, mechanical device was being used
18 at that time?

19 A. Such as like -- spike hammer?

20 Q. Yeah. That would be something that's driven by mechanical
21 force. Anything driven by mechanical force.

22 A. That was it.

23 Q. Okay. Now, who is the owner of all that equipment?

24 A. Continental Rail.

25 Q. Okay. Now, what condition was the equipment in?

1 A. Good condition.

2 Q. Good condition.

3 A. Um-hum.

4 Q. Okay. Can you -- or can you recall any of the lights? Can
5 you recall, remember seeing lights or --

6 A. No.

7 Q. -- anything about lights?

8 A. No.

9 Q. On the equipment. I'm talking about the equipment now.

10 A. On the equipment?

11 Q. We're just talking about the equipment now.

12 A. On the material truck. Because I was facing it for a minute,
13 and beeping lights on or outer lights, head running lights, all
14 that was on.

15 Q. Okay. All right. Now, when -- during the time you came
16 aware of the train or prior to becoming aware of the train, did
17 you hear anything --

18 A. No.

19 Q. -- outside of your work that you were going on?

20 A. No.

21 Q. Did you have any warning that the train was approaching?

22 A. No.

23 Q. So --

24 A. I didn't hear nothing.

25 Q. You didn't hear nothing.

1 A. I didn't hear nothing.

2 Q. Okay. All right. Now, how long have you been trained as a
3 railway worker?

4 A. Ever since I've been here when we started working with CN.

5 Q. Okay. All right. So you've been trained as a road worker
6 you just told us. What type of training did you receive?

7 Meaning, was it just out in a field somewhere? Were you in a
8 classroom?

9 A. Classroom.

10 Q. Okay. And in that classroom setting, who gave the
11 instructions of your most recent one? I'm just talking about your
12 most recent one.

13 A. I can't remember his name.

14 Q. Okay. Was this a -- was it a Continental Rail --

15 A. No.

16 Q. -- instructor or was it an outside instructor?

17 A. Outside.

18 Q. Was an outside instructor?

19 A. Um-hum.

20 Q. Okay. Besides the classroom environment where you received
21 your training, was there any training with being as a roadway
22 worker?

23 A. I mean, we go over stuff amongst ourselves, George and Stony.
24 Something change and we didn't had no classes then they would
25 notify us.

1 Q. Okay. All right. Have you ever been trained or are you
2 qualified as a Railway Worker in Charge? Meaning that -- let me
3 explain what the Railway Worker in Charge -- what I'm looking for
4 is the individual that has received the training so that they can
5 make the determination of what on-track protection is going to be
6 provided?

7 A. Yes.

8 Q. You have received this training?

9 A. Yes.

10 Q. Okay.

11 A. Is that the same training that, you know, when you're in the
12 class they give -- they go --

13 Q. Well, there's -- now, there's railway workers, railway
14 workers --

15 MR. ONDO: Let me explain a little. This is Dillon Ondo.
16 Let me explain it a little bit. So this will be the person -- not
17 the supervisor on the worksite. This is the person that makes the
18 decision on a railroad, a specific railroad of how you are
19 protected from being struck by equipment or trains. That's the
20 one that provides the protection and gives the on-track safety job
21 briefing. Are you qualified in that?

22 MR. BOLTON: No.

23 MR. MOATS: Okay.

24 MR. ONDO: Does that explain it a little bit better for you?

25 MR. BOLTON: Yeah.

1 MR. MOATS: Yes. Thank you, Dillon.

2 BY MR. MOATS:

3 Q. All right. Okay. Since you've been working on Alabama
4 Export Railroad, have you received training on Alabama Export
5 Railroad's railway worker rules or their operating rules?

6 A. Yes. We did a class on everything.

7 Q. So you had a class down there with them?

8 A. Yes.

9 Q. When -- to the best of your recollection, when did you have
10 that class?

11 A. When we first, I guess, signed on, couple months ago.

12 Q. Who gave that class?

13 A. Let me see. Was it Scott? I think. Don't hold me to that.

14 Q. Okay. Let me clarify this. Was it an Alabama Export
15 Railroad employee or was it a contractor outside of Alabama Export
16 Railroad?

17 A. I think it was a Alabama employee.

18 Q. You think it was an Alabama Export employee?

19 A. I think.

20 Q. Okay. All right. And you have never been told or you don't
21 know if you're qualified as a railway worker on Alabama Export,
22 right? You've never been told you're a Railway Worker in Charge
23 on Alabama Export?

24 A. No, no.

25 Q. Okay.

1 A. No.

2 Q. I needed to clarify that. All right. Are you a qualified
3 equipment operator?

4 A. Yes.

5 Q. Okay. What type of training have you received as a qualified
6 equipment operator?

7 A. Just years, Joey and Charles, which is our foremen. They
8 walk me through it. When I first started here we took our time.
9 They stayed there with me and showed me the dos and the don'ts
10 and, you know.

11 Q. Okay. Is there any more?

12 A. No.

13 Q. Any other training?

14 A. That's it.

15 Q. Okay. Now, staying with the topic of training, okay, has --
16 in your training in your time on the railroad, and in particular
17 since you've been with Alabama Export Railroad, have you ever
18 heard of the term good faith challenge?

19 A. Yes.

20 Q. Okay. Have you been trained on that?

21 A. Yes.

22 Q. Also, with the -- in line with the -- sorry. I lost my train
23 of thought when I flipped page.

24 MR. MOATS: Go ahead, Chris. Do you have any questions?

25 MR. HESTER: Yes. I have a couple. This is Chris Hester

1 again.

2 BY MR. HESTER:

3 Q. And I know this is a lot, and some of these questions may
4 sound like they're repeating themselves. We're just trying to
5 capture what you're trying to convey to us. Let's go back to the
6 derails for a minute. You said each derail was equipped with two
7 locks.

8 A. Yes.

9 Q. Can you remove that derail with just removing one lock or do
10 both locks have to be removed to remove that derail?

11 A. Patrick took his lock off when he left, and --

12 Q. Patrick removed his locks when he left, and then when you all
13 made the decision to remove your derails getting ready to leave
14 the jobsite, you all removed your lock?

15 A. Um-hum.

16 Q. Okay. Yeah. When you all had the job briefing, you said you
17 had a job briefing first thing in the morning --

18 A. Um-hum.

19 Q. -- that covered what limits you had. You all had all yard
20 limits.

21 A. All yard limits.

22 Q. And you all did not have a rebriefing when you got to Mile
23 Post 4; is that correct?

24 A. No.

25 Q. Okay. You're saying, no, that is correct?

1 A. Yeah.

2 Q. Okay.

3 A. That's correct.

4 Q. And when Patrick -- so at the job briefing that morning, were
5 you all given the opportunity -- did Patrick or who -- or the RWIC
6 that held the job briefing, did he ask for verbal confirmation
7 that you understood the work, understood the limits and the forms
8 of protection being provided?

9 A. Yes.

10 Q. And everyone that you know of confirmed?

11 A. Yes.

12 Q. Okay. And were you given any instructions by the RWIC before
13 he departed that jobsite, or via telephone after he departed the
14 jobsite, to go ahead and remove the derails or were you just -- or
15 what was you told at that time?

16 A. Just whenever we get done just --

17 Q. Just get --

18 A. -- make sure you get the derails down, and let me know you're
19 off the track, because that being said, we was protected --
20 supposed to been protected, you know, traffic guard (ph.) because
21 we had the whole yard. And so, you know, we right there at the
22 end and then finish up, so I just told him to take them on down,
23 you know, nail the last couple ties up, and let's get out of here.

24 Q. Okay. And track authority was mentioned a couple of times.
25 Do you know if you were in a non-controlled track or a controlled

1 track or both?

2 A. Now, that -- should be a non -- well, no. Now, that I don't
3 know.

4 Q. Not sure?

5 A. Not sure.

6 Q. Okay.

7 MR. HESTER: Go ahead.

8 MR. MOATS: Do you -- were you finished? Because I have one
9 follow-up question.

10 MR. HESTER: I can -- go ahead, Jeremy.

11 BY MR. MOATS:

12 Q. So on the same lines of the conversation that the question
13 Chris asked, and going back to training. In your training, have
14 you received training on what is non-controlled track --

15 A. Yes.

16 Q. -- and what is controlled track?

17 A. Yes.

18 Q. Okay. So you understand the difference of the two?

19 A. Yeah. I understand, but sometimes your memory need to be
20 refreshed.

21 Q. Okay. That's why -- okay. I understand that. So with that
22 being said, you received training on both. Now, in that training,
23 did you receive how to properly protect yourself when you're on
24 non-controlled track versus controlled track?

25 A. Yes.

1 Q. Okay. And one last question, then I'm going to pass it back.
2 In the job briefing that was held in the beginning of the day, was
3 it ever stated what type of track you were working on?

4 A. I'm not aware.

5 Q. Okay.

6 A. Can't remember. If he did say it, I didn't -- don't
7 remember.

8 MR. MOATS: Okay. Chris, I'm sorry to interrupt you.

9 MR. HESTER: No, no. You -- I'm good. Thank you. Thank you
10 very much.

11 MR. MOATS: Byrl, you got anything?

12 MR. McCOY: Yes.

13 BY MR. McCOY:

14 Q. I've got a couple of questions for you, Mr. Bolton. You said
15 your day started at 7 a.m., is that correct?

16 A. Really, I made it there -- I really don't recall when I made
17 it there. It was around that time.

18 Q. Okay.

19 A. The exact time, I can't tell you, but it was around pretty
20 close to that time.

21 Q. Okay. At that time, did you go into the office building at
22 ALE or did you all stay in the parking lot?

23 A. Was at -- in the parking lot.

24 Q. In the parking lot?

25 A. Um-hum.

1 Q. And at this time, where was the Roadway Worker in Charge
2 located?

3 A. He was in the parking lot.

4 Q. He was in the parking lot?

5 A. Um-hum.

6 Q. Okay. And you mentioned during the job briefing with the
7 RWIC that he stated he had track authority; is that correct?

8 A. Um-hum.

9 Q. And at any time did you see the Track Authority Form during
10 the job briefing or any time during the day?

11 A. No. I didn't see.

12 Q. Okay. Did you see the Daily Operating Bulletin or the --
13 they refer to it as the DOB? Did you see that form any time
14 during --

15 A. No.

16 Q. Okay. Do you or your vehicles have radios that is able to
17 monitor railroad traffic?

18 A. Backhoe, the backhoe and material truck.

19 Q. Backhoe and material truck. Okay. At any time during the
20 day did you observe or hear the Railway Worker in Charge attempt
21 to contact the train crew?

22 A. No.

23 MR. McCOY: Okay. I have no further questions. Thank you,
24 Mr. Bolton.

25 BY UNIDENTIFIED SPEAKER:

1 Q. Good afternoon again, Marvin. I want to understand why -- so
2 you -- or how you understand two terms. One, track authority. So
3 the track authority, as far as you know, means that there's no
4 trains and that you can do any work in that area?

5 A. Far as my understanding, yes.

6 Q. Okay. So then, when you placed the derails, what are the
7 derails for? Because I'll use the term that's under the Roadway
8 Worker Safety Program. It's called inaccessible track. That's --
9 you talked about it when you were working in the yard. So you
10 make them inaccessible by lining switches. And that's your
11 understanding too?

12 A. Um-hum.

13 Q. And then put out derails?

14 A. Um-hum.

15 Q. So if the track is inaccessible, what kind of work can you do
16 in inaccessible when you only have track authority? Is there any
17 difference between those two as far as your understanding is?
18 They're the same or -- I'm not going to put words in your mouth.
19 I want you to answer.

20 A. I don't want to answer nothing that I don't -- I'm not --
21 (Simultaneous speaking.)

22 Q. If you don't know --

23 A. -- like I said --

24 Q. -- you don't know. That's fine.

25 A. I mean, it's been a -- I'm coming up on my class now. So --

1 Q. I can tell you're trying to be honest with me, and you're --
2 I'm not trying to be any leading questions. I just want to try
3 and see how you understand it. So then, so removing the derail,
4 as far as you know, wouldn't have taken away from your protection
5 because you, as far as you knew --

6 A. My understanding --
7 (Simultaneous speaking.)

8 Q. -- if there was --

9 A. -- was --

10 Q. -- the track authority gave you in the understanding that
11 that was your protection, and the derails were just an added as
12 far as your understanding goes. Okay. That's all I have to ask.
13 One more question. Were the flags installed with the derails --

14 A. Yes.

15 Q. -- since you were the one that put them up?

16 A. Yeah, was on top of the derails.

17 Q. And just to kind of understand, so maybe the non-railroad
18 people in here or others might ask, there's like a little
19 mechanism that goes through the -- where the hasp of the lock goes
20 through. And it will go in there, and it can hold multiple --

21 A. Locks.

22 Q. -- locks in it. That's the kind of mechanism you had?

23 A. Yes.

24 Q. You had one of those mechanisms in there. So then the --
25 Patrick could put his lock in --

1 A. Yes.

2 Q. -- or the railroad can, and then you can put your lock in?

3 A. Yes.

4 BY UNIDENTIFIED SPEAKER:

5 Q. Marvin, just a few questions. First thing is when the derail
6 was took off, was the -- Dexter and everybody was notified about
7 that?

8 A. Yes. They all knew it was --

9 Q. They all knew they were coming off?

10 A. Yeah.

11 Q. Okay.

12 A. Um-hum.

13 Q. Did the RWIC, did you notify him?

14 A. That I took the derails out?

15 Q. Yes.

16 A. No. Because, I mean, it's just -- we just take them down
17 and --

18 Q. Is that normal?

19 A. We do it, you know --

20 Q. Okay.

21 A. We normally, like, you know, it's just situations change.

22 Sometimes might have some dressing up to do on the track. We'll
23 leave them up until they -- the backhoe get through dressing up.
24 But I was dressing up as I went. I didn't have to go back there
25 no more with no equipment.

1 Q. Was the RWIC being at the location, the sites, when that same
2 practice has happened? We're talking about Patrick.

3 A. When we was taking the derails down?

4 Q. Yeah.

5 A. I mean, we take them down earlier or whatever.

6 Q. And still do a little bit of work --

7 A. Yeah.

8 Q. -- and he's --

9 (Simultaneous speaking.)

10 A. Because he don't never -- when they get protection, it's
11 always track authority, and he just put derails down too.

12 Q. Okay. But he has been at the location and saw you take the
13 derails down?

14 A. Yeah. Most of the time, my foreman be there. He'll tell me
15 to take the derail down or somebody else get the key, pass us the
16 key, and tell us to take the derail down.

17 Q. So that's a pretty common practice?

18 A. Yeah.

19 Q. Okay. All right. Did the (indiscernible) workers know to
20 access the RWIC, Patrick?

21 A. Yes. What you mean? Explain --

22 Q. Talk with --

23 (Simultaneous speaking.)

24 A. Oh, yeah.

25 Q. -- if had a question about on-track safety or anything?

1 A. I got his number. I want to say Dexter had his number
2 because he -- all of them should have his number, all of --

3 Q. Was that discussed at all in the day when you had your
4 briefings?

5 A. Did they have his number?

6 Q. Yeah, about how you could get in touch with him when he left.

7 A. Yes. By me or Dexter.

8 Q. Was it discussed by him at all?

9 A. Who? Patrick?

10 Q. Yes.

11 A. No. He -- we been working with him for a long time, so we
12 know -- we got his number. He know we can get in contact with
13 him.

14 Q. During the day, did you have like a -- that one job briefing,
15 did you have a extended briefing that covered all the operating
16 rules or the on-track safety rules for that -- for the Alabama
17 Export Railroad to explain all that?

18 A. Once we got to that second location, he -- I think he
19 mentioned that we, you know, had -- still had our same protection.

20 Q. Okay. What about -- let me, let me clarify a little bit.

21 What about the initial job briefing and the job briefing
22 subsequent? Did they -- was there like an extended, I'm going to
23 say a briefing that covered all the rules that applied to the
24 Alabama Export Railroad for your safety? Were they covered?

25 A. Yes. Yes.

1 Q. All the rules were covered?

2 A. I mean, what he told us in the briefing.

3 Q. Okay.

4 A. So --

5 Q. Okay. And he -- but he did not cover what type of operation,
6 if it was a non-controlled or controlled track?

7 A. I didn't recall hearing that.

8 Q. Okay. And I got one more question. Do you have a key or
9 does anybody -- your employees or anybody you know have a key to
10 that Alabama Export maintenance of way law lock or engineering
11 lock specific?

12 A. No.

13 Q. And does any of these locks have a, like a unique tag or tag
14 on them?

15 A. No. Just --

16 Q. It's just a -- is it like a standard lock?

17 A. Yeah.

18 Q. Okay. Is it like one you just go to Lowe's and buy or
19 something?

20 A. Yeah.

21 Q. It is? Okay. Is that the same as the Alabama's that --

22 A. No.

23 Q. -- kind of like that?

24 A. No.

25 Q. It's a special, specialty lock?

1 A. They're different from --

2 Q. Okay. So it's like a specialty lock?

3 A. Yeah.

4 UNIDENTIFIED SPEAKER: Okay. That's all I have. Thank you.
5 I appreciate your answers.

6 MR. MOATS: Okay. Lee, Zach, anybody on the phone, do you
7 have any questions you'd like to ask?

8 MR. DAMRON: Lee Damron doesn't have any follow-up questions.

9 MR. GORDON: Hey, Jeremy. This is Joe Gordon, NTSB.

10 MR. MOATS: Okay.

11 MR. GORDON: I've got just a couple.

12 BY MR. GORDON:

13 Q. Marvin, I appreciate you, you know, again, just coming in and
14 sitting down and having this discussion, helping us understand
15 better. Can you hear me okay?

16 A. I can, sir.

17 Q. All right. So I know we've talked about your on-track safety
18 training that you've received, and did I hear you right, you've
19 been working for Continental Rail and doing rail maintenance for
20 13 years; is that right?

21 A. Yes.

22 Q. Okay. And how long have you worked with the Alabama Export?
23 How much of that time has been spent there?

24 A. Give or take about 8 months, I'm assuming. It could be more.
25 Could be less. I really don't go down there as much as the rest

1 of the guys do.

2 Q. Okay. All right. And in that 8 months time that you've
3 worked there, about how many times have you had a job over on the
4 -- on that railroad?

5 A. Have I ever had a job?

6 Q. Well, about how many times have you actually gone out and
7 done work for them in that 8-month period?

8 A. It's a good, a good bit.

9 Q. Do you think you go out there once a month, once a week?
10 What do you think?

11 A. Yeah. It would be -- it may be times I don't and, you know,
12 like I say, I don't go as much as the rest of the guys go.

13 Q. Okay.

14 A. I -- lately here I've been going once, at least once or twice
15 a week.

16 Q. Okay. And when you're out there working on that railroad, is
17 there ever a location that you're working where you don't put down
18 the derails as like an added layer of protection? So say the
19 Roadway Worker in Charge gets a track authority, but you're in a
20 location where you don't put the derails down or do you always put
21 the derails down in conjunction with the track authority?

22 A. We always put the derail down. Only time we don't is when we
23 riding track.

24 Q. Okay. All right. Do you have any idea of the track speed in
25 that location? In the job briefing, has that ever been discussed

1 what speeds trains are allowed to operate?

2 A. In that location, I want to say it was 20.

3 Q. Okay.

4 A. Except for coming into the curve.

5 Q. Okay. And the day of the accident, did you guys have to
6 clear the track and allow any trains through the area you were
7 working or --

8 A. No.

9 Q. -- did you get the track and just get to stay out there
10 working?

11 A. We had been out there all day.

12 Q. Okay.

13 A. (Indiscernible) had to clear it for no trains, nothing.

14 MR. GORDON: And, Jeremy, I'm sure you guys will, but if
15 you'll just be sure to get the information on the types of derails
16 that were being used. I'm assuming they were just a portable like
17 the Cullen-Hayes derail.

18 MR. MOATS: Yes. We've already started that process.

19 MR. GORDON: All right. Sounds good.

20 I believe that's all the additional questions I have, and
21 thanks again, Marvin.

22 MR. BOLTON: Thank you.

23 MR. ZAGATA: This is Zach Zagata. The only thing I got, is
24 it okay if we contact you, if we have additional questions?

25 MR. BOLTON: Yes, sir.

1 MR. ZAGATA: Okay. And is there anything else you'd like to
2 add to this or --

3 MR. BOLTON: No.

4 MR. ZAGATA: Okay. That's all I got.

5 MR. MOATS: Lee, you okay?

6 MR. DAMRON: I'm good. We'll talk after -- we'll talk
7 offline here real quick after.

8 MR. MOATS: Okay. I just want to again say thank you for
9 coming in. Now, I open it up to you. Do you have any questions
10 for us?

11 MR. BOLTON: No.

12 MR. MOATS: You do not have no questions for us. Again,
13 thank you for coming in. And if we need any further information,
14 we'll be contacting you. Okay?

15 MR. BOLTON: Okay.

16 MR. MOATS: Thank you, again, sir.

17 MR. BOLTON: Thank you.

18 (Whereupon, the interview was concluded.)
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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: RAILROAD EMPLOYEE FATALITY
 IN PRICHARD, ALABAMA,
 ON NOVEMBER 17, 2020
 Interview of Marvin Bolton

ACCIDENT NO.: RRD21LR005

PLACE: Via telephone

DATE: November 20, 2020

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.



Katherine Motley
Transcriber