

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: DAVID ELLIS, Material Truck 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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I N T E R V I E W

1
2 MR. DAMRON: Good morning. My name is Lee Damron. I am an
3 Accident Chief with the Accident Analysis Branch with the FRA.
4 I will be recording this interview today. That's about it.
5 We'll turn it over to Zach at this point with the NTSB.

6 We got you Zach.

7 MR. ZAGATA: You got me. Okay.

8 How you doing today, David? You all right?

9 MR. ELLIS: Oh, yeah.

10 MR. ZAGATA: Okay. At any point, if you need a break, let us
11 know.

12 You guys there?

13 MR. DAMRON: Yeah. We're still here, Zach. We can hear you.

14 MR. ZAGATA: Okay. All right. Well, I got a disclosure I'll
15 read here first. I'll just let you know from NTSB we have myself
16 and we have Joe Gordon. He's a rail investigator, especially on
17 that track, so he'll be the -- asking sort of the questions from
18 NTSB. I'm going to go through this disclosure here.

19 My name is Zach Zagata. I'm the NTSB IIC for the accident.
20 We're here today on November 20, 2020, to conduct an interview
21 with David Ellis, who works for Continental Rail, Incorporated.
22 This interview is in conjunction with NTSB's investigation of the
23 accident at Prichard. The NTSB Accident Reference Number is
24 RRD21LR005. The purpose of the investigation is to increase
25 safety and not to assign fault, blame or liability.

1 Just want to remind everybody as we go through this to speak
2 clearly so we can get an accurate recording. So I'll turn it over
3 to Lee now.

4 MR. DAMRON: Again, just to reiterate what Zach said. I know
5 some of the conversation is kind of broken up, and I don't know if
6 it's maybe cell service. But if for some reason we don't
7 understand something, we may ask you guys to repeat it, if you
8 don't mind. Again, we want to make sure that the recording is
9 accurate so we could accurately depict what the conversation is.

10 So, Jeremy, are you ready?

11 MR. MOATS Okay.

12 MR. DAMRON: Before we get started, Jeremy, one thing because
13 that was kind of breaking up on that point. Just so we have that
14 on the record.

15 David, so we do have your permission to record this today?

16 MR. ELLIS: Yes, sir.

17 MR. DAMRON: Okay. Good. I just want that -- and then this
18 I have to disclose to you too that, from our standpoint, we're
19 going to have it transcribed. This will be going on the public
20 docket and, as such, we cannot guarantee confidentiality. Just
21 wanted you to know that as well.

22 MR. ELLIS: Okay.

23 MR. DAMRON: That's all I got.

24 MR. ZAGATA: Okay. I'm going to start with Dillon. Go
25 ahead.

1 MR. ONDO: Dillon Ondo, D-i-l-l-o-n, first name, O-n-d-o,
2 Supervisory Track Safety Specialist, District 3, which is the
3 Southeast states. And I cover track (indiscernible) we've already
4 talked a little bit.

5 Thank you for being here. I appreciate it.

6 MR. HESTER: Christopher Hester, C-h-r-i-s-t-o-p-h-e-r,
7 H-e-s-t-e-r. I'm the Railway Safety Administrator for the Alabama
8 Public Service Commission. And, again, thank you for talking to
9 us today.

10 MR. McCOY: Thank you, David, for coming in and talking with
11 us today. My name is Byrl McCoy. That is B-y-r-l, last name
12 McCoy, M-c-C-o-y. And I am the Federal Railroad Administration
13 Operating Practices Inspector based out of Mobile, Alabama.

14 MR. ADAMS: Good morning, David. My name is Robert,
15 R-o-b-t-e-r [sic] A-d-a-m-s. I am the Track Safety Inspector in
16 the Memphis, Tennessee, area.

17 MR. MOATS: And, David, we already spoke a little bit. My
18 name is Jeremy Moats. It's J-e-r-e-m-y, last name Moats,
19 M-o-a-t-s. I'm the FRA Track --

20 MR. DAMRON: Jeremy?

21 MR. MOATS: Sir?

22 MR. DAMRON: Jeremy?

23 MR. MOATS: Yes.

24 MR. DAMRON: This is Lee. Can you or Byrl maybe if you have
25 a -- and you have the opportunity, can you, Byrl, can you record

1 this on your phone? We are getting -- on the Team call, it's
2 breaking up from time to time. So if you could just record it
3 with your phone so we make sure we don't lose content.

4 MR. MOATS: Okay. Do you have me right now?

5 MR. DAMRON: I have you right now, but as we -- as folks talk
6 on that end, it's kind of cutting in and cutting out. We want to
7 make sure we get a full interview.

8 MR. ADAMS: Okay. I am already recording. This is Robert
9 Adams. I'm already recording, started recording it beginning this
10 conversation.

11 MR. DAMRON: Okay, so we'll have a backup. Because, like I
12 said, it's kind of cutting in and cutting out here. Apologize for
13 that.

14 MR. MOATS: Okay. Again, I'm Jeremy Moats. I'm the Track
15 Safety Inspector out of Mobile, Alabama. Okay. Again, thank you
16 for coming in and speaking with us. I'll go ahead and start.

17 INTERVIEW OF DAVID ELLIS:

18 BY MR. MOATS:

19 Q. My first question is how long have you worked in the railroad
20 industry, approximate?

21 A. Three years.

22 Q. Three years. All right. Have all your time with the
23 railroad industry been with Continental?

24 A. Yes.

25 Q. Has all your time in the railroad industry been on

1 maintenance way, meaning that you've worked on the track?

2 A. Yes.

3 Q. Okay. What all positions have you held in the railroad
4 industry?

5 A. Operator.

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

9 A. Showed up. Met Patrick at the yard. Had our briefing. Told
10 us what we was doing. Told us our protection. I gathered up the
11 ties. Went and laid the two headblock ties out. We put them in,
12 and then I took the material truck, and the rest of us went up the
13 track to the other spot.

14 Q. Okay.

15 A. Mile Post 4.

16 Q. All right.

17 UNIDENTIFIED SPEAKER: What was the time?

18 BY MR. MOATS:

19 Q. Yeah. What was the time that you showed up down there?

20 A. At Mile Post 4?

21 Q. No. At the jobsite down at ALE.

22 A. We was there at 7 o'clock.

23 Q. You were there at 07 in the morning?

24 A. Yes, sir.

25 Q. Okay. And what time did you guys move from there from your

1 work, put in the headblock ties to Mile Post 4, roughly,
2 approximate?

3 A. 9:30, 10 o'clock.

4 Q. 9:30, 10 o'clock. Okay.

5 A. We finished up there.

6 Q. All right. Was all your work conducted at the one location
7 on November 17th at ALE? Was all your work conducted there?

8 A. Yeah, on the yard.

9 Q. In the yard. All right. Were you present when the ALE RWIC
10 spoke to any other AOE employee about the work you were conducting
11 at the work location on November 17th?

12 A. No.

13 Q. You were not present. Okay. How long have you worked as a
14 contractor on ALE?

15 A. Three years. Long as I've been there.

16 Q. Three years?

17 A. Yeah.

18 Q. Okay. During your time on ALE Railroad, how many ALE RWICs,
19 Railway Workers in Charge, have you worked with and who? I'm
20 talking about the Alabama Export Railroad in particular.

21 A. Oh.

22 Q. Yeah, yeah, yeah, yeah.

23 A. I just started working with them this year.

24 Q. So you just -- okay. Let's go back to the following
25 question. How long have you worked as a contractor at the Alabama

1 Export Railroad?

2 A. I've been down there three times.

3 Q. Three times. When is the first time you can recall that you
4 went down there?

5 A. I couldn't tell you exactly when.

6 Q. Has it been in what year?

7 A. This year.

8 Q. This year, 2020?

9 A. Yeah.

10 Q. Okay. All right. So you fully understand, ALE is the
11 Alabama Export Railroad. That's the -- okay. That's the railroad
12 we're talking about. Okay. During your time at the Alabama
13 Export Railroad, how many Alabama Export RWICs have you worked
14 with?

15 A. One.

16 Q. Okay. Who is that one RWIC?

17 A. Patrick.

18 Q. Patrick. Do you happen to know Patrick's last name?

19 A. Pretty sure it's Bolton.

20 Q. Okay. You think it's Bolton. Okay.

21 A. Pretty sure.

22 Q. Okay. All right. Now, I want to talk about when you guys
23 arrived at the jobsite where the accident occurred on November
24 17th. Please walk me through the order of events that happened
25 from when you arrived all the way up to and after the incident.

1 A. Okay. We drove up at the crossing.

2 Q. All right.

3 A. Got on the rail. I got on the rail first.

4 Q. Okay. You got on the rail.

5 A. Backwards.

6 Q. Can you clarify what you mean by backwards?

7 A. Well, I had headed the truck facing towards Mobile.

8 Q. Okay. All right. Keep on going. I'm sorry.

9 A. Backed up to the spot. The other guys was coming in with the
10 pickups, and (indiscernible) was coming in with the backhoe. They
11 were sitting out derail. I was setting out ties, but then I had
12 to go further on around the track to Mile -- almost Mile Post 5,
13 and pick up a bunch of old ties.

14 Q. All right.

15 A. By the time I got those picked up, I come back through, and I
16 blowed the horn, and I can't remember who it was come picked --
17 took the derail off where I could get in, and the ties was
18 scattered out 3, 4 here, and 3, 4 there. And they was just about
19 through. And I was picked up 3 or 4 here, and had to get -- I got
20 down out of the truck because I didn't know how to make the
21 creeper work on it, once or twice. I think it was the second time
22 I got down, and moved the truck ahead to get another couple of
23 ties. We was hit.

24 Q. Okay. All right. Can you recall what was covered in the job
25 briefing, and were it was held?

1 A. Yeah. Right there on the yard. They told us we were putting
2 in two headblock ties. Just pointed it out right there -- big
3 intersection there. Bunch of (indiscernible) run through. We put
4 out five or six derails there. And then he said we had 35 go put
5 in up yonder. That's when I loaded them on the truck. I had
6 never been up there, worked up there.

7 Q. Okay. So what I have a question is you said you put on the
8 rail. You went out to the jobsite when the incident occurred.
9 Did you have a job briefing before you put on the rail at the
10 jobsite where the incident occurred out at Mile Post --
11 approximately Mile Post 4?

12 A. At Mile Post 4? No.

13 Q. You all did not have a job briefing?

14 A. No.

15 Q. Okay.

16 A. We had that at the yard.

17 Q. You had it at the yard. Okay. Now, when you went and picked
18 up the ties at Mile Post 5, what form of protection was given to
19 you at Mile Post 5?

20 A. Told we had track authority.

21 Q. You have track authority?

22 A. Um-hum.

23 Q. When was that told to you?

24 A. Before we got on the rail I asked about it.

25 Q. Okay. So that we're all clear. Before you got on the rail

1 at the crossing at Mile Post 4?

2 A. Um-hum.

3 Q. Okay. Approximately how long of time were you at Mile Post 5
4 picking up those ties?

5 A. I couldn't tell you for sure. Couple hours.

6 Q. Couple hours?

7 A. Yeah. It was 30, 40 ties there scattered out. I kept having
8 to get up and down, up and down, up and down, moving the truck
9 ahead to pick the ties up.

10 Q. Okay. I understand. Who told you, you had track authority
11 out there?

12 A. Peewee.

13 Q. Peewee?

14 A. My boss.

15 Q. Your boss told you you had track authority up there?

16 A. Yeah.

17 Q. All right. Was the ALE, Alabama Export, RWIC, Rail Worker in
18 Charge, out at the jobsite at Mile Post, approximate Mile Post 4,
19 (indiscernible) when the incident occurred?

20 A. He was there. He left about 5, 5 minutes before -- 5, 10
21 minutes before we got hit.

22 Q. Okay.

23 A. He talked to my boss.

24 Q. Okay.

25 A. I don't know what they was discussing. That's all I know.

1 Q. Okay. What form of on-track safety was provided at the work
2 location when the accident occurred? What kind of protection did
3 they have at the accident location?

4 A. Well, it was derails out until we took them up. And I don't
5 know if he put the one back behind me when they let me in or not,
6 but we was just about finished anyway.

7 Q. Okay. Who applied those derails? Do you know?

8 A. I didn't pay that much attention.

9 Q. Okay. So do you know who directed them to apply those
10 derails?

11 A. I'm pretty sure it was Peewee. He's the boss.

12 Q. Okay. All right. Who is the owner of those derails? Who do
13 those derails belong to?

14 A. (No audible response.)

15 Q. Don't know? Okay. If you don't mind with your responses,
16 just we have to --

17 A. I have no idea.

18 Q. Okay. Thank you. All right. Were the derails locked?

19 A. Don't really know. Far as I know they was.

20 Q. Okay. And do you know who the owner of the locks are? Whose
21 locks were on the derails?

22 A. Peewee's.

23 Q. Okay.

24 A. Or ours. I guess. I don't have a key to them.

25 Q. Okay. All right. Do you know who all had keys to those

1 derails?

2 A. No.

3 Q. Okay. What kind of -- you've already told us about Mile
4 Post 5. Okay. Now, at the accident location, what kind of work
5 was being performed at the accident location?

6 A. Putting in ties.

7 Q. Putting in ties. Okay. Do you happen to remember how many
8 ties you all had to put in?

9 A. 35.

10 Q. 35. Okay. All right. Now, what duties were assigned to
11 you?

12 A. Lay out ties, and pick up old ties.

13 Q. Lay out ties, pick up old ties. All right. And just to
14 clarify, was ALE's -- what time did ALE's RWIC left the jobsite,
15 approximate to the best your recollection?

16 A. 2:15.

17 Q. Okay. All right. Was there any discussion -- just to
18 clarify. Was there any discussions prior to the RWIC leaving the
19 jobsite with anybody else?

20 A. Not that I seen. No.

21 Q. Okay. When you worked on Alabama Export in the past, is it
22 common that the Railway Worker in Charge leave the jobsite
23 location to perform other tasks?

24 A. I never paid that much attention to it.

25 Q. Okay. All right. Were you aware the derails were removed?

1 A. Yes.

2 Q. Okay. All right. Do you know who removed those derails?

3 A. No.

4 Q. All right. So do you know who directed the individuals to
5 remove the derails?

6 A. I'm just guessing it would be the boss man.

7 Q. Okay. Where and what were you doing when you became aware of
8 the train? Can you explain that to me?

9 A. I was sitting in the truck.

10 Q. Okay. Sitting in the truck. Can you clarify what truck?

11 A. A Mac material handler.

12 Q. A Mac material handler. Okay. Thank you. So you were
13 sitting in the truck when you became aware the train was there?

14 A. Oh, yeah.

15 Q. Okay. All right. Can you recall where the other railway
16 workers were at when you became aware that the train was there?

17 A. Yeah. They was in front of my truck.

18 Q. Can you clarify that for me? Where, like, where the roadway
19 workers were at?

20 A. Well, I didn't see three of them. I seen DJ's head by the
21 time it vanished up under the hood, and I was up on top of the
22 back of the backhoe, and Peewee was on the hood of my Mac truck.

23 Q. Okay.

24 A. That's just about the time I realized it was a train that was
25 on me.

1 Q. Okay. All right. What type of equipment was being used out
2 there?

3 A. A material handler and a backhoe.

4 Q. Was there any other mechanized device being used out there?

5 A. Nothing but a hydraulic hammer.

6 Q. And who is the owner of the equipment?

7 A. Continental Rails.

8 Q. Continental Rails. All right. What condition was the
9 equipment in?

10 A. Good condition.

11 Q. All right. Can you -- do you remember anything about lights
12 or anything?

13 A. Lights was running on the material handler, and the lights
14 was on the backhoe. I know the flashing lights was on on the
15 backhoe. The regular work lights wasn't on.

16 Q. Okay.

17 A. Yeah.

18 Q. Okay. Now, have you been trained as a railway worker?

19 A. Yes.

20 Q. Okay. What type of railway worker training have you
21 received?

22 A. Been through a bunch of different classes.

23 Q. Okay. And so it's been classes. Have any other -- besides
24 classroom, any other training have you received?

25 A. No.

1 Q. Have you been trained and/or are you qualified as a Railway
2 Worker in Charge?

3 A. No.

4 Q. Okay. Have you received training on Alabama Export railway
5 worker rules or their operating rules?

6 A. No.

7 Q. Are you a qualified railway worker on ALE, Alabama Export
8 Railroad? Railway Worker in Charge on Alabama Export Railroad?

9 A. Am I in charge? No.

10 Q. No. Okay. Are you a qualified equipment operator?

11 A. Yes.

12 Q. Okay. What type of training have you received to be
13 qualified as equipment operator?

14 A. I've been trained at the Cat House two or three times. Been
15 trained here two or three times.

16 Q. Can you elaborate on the type of training you received?
17 Meaning that -- well, can you just elaborate on what it entailed?

18 A. The Cat House, made sure you could run a dozer, trackhoe,
19 backhoe, motor grader. I've done that for another company I
20 worked for. I've been trained on pipeline. Just about any piece
21 of equipment, yeah.

22 Q. Okay. The Cat House, can you tell me what the Cat House is?

23 A. Caterpillar (indiscernible).

24 Q. Okay. Thank you. Now, you said you also was trained here a
25 couple of times. Can you elaborate on the training you received

1 here?

2 A. Teaching me how to take ties in and out.

3 Q. On what piece of equipment?

4 A. Backhoe.

5 Q. Backhoe. Okay. And you were operating what piece of
6 equipment again on the November 17th?

7 A. Oh, during the crash, material handler.

8 Q. Okay. Can you -- have you been trained as an operator on the
9 material handler?

10 A. No, not really.

11 Q. You have not received any training at all to be an operator
12 on the material handler?

13 A. Not really. Because I ain't really found nothing I can't
14 run.

15 MR. MOATS: Okay. All right. At this time, I'm going to
16 open it up to the individuals in the room for any follow-up
17 questions they feel the need to ask before we move to the phone.

18 MR. HESTER: This is Christopher Hester. I have one.

19 BY MR. HESTER:

20 Q. You said the derails were in place. Then you went out to
21 Mile Post 5. When you returned, you honked your horn.

22 A. Um-hum.

23 Q. And they removed the derails so you could come back into the
24 work limits. You're not sure if they were reapplied behind you or
25 not?

1 A. Yes, sir.

2 Q. Do you -- can you tell, or do you know how far away toward
3 Mobile or away from Mobile the derails were placed from the work?
4 Just how far from the work itself from your equipment?

5 A. 150 yards, 200 either way.

6 Q. 100 and --

7 A. From where we was at.

8 Q. 150 to 200 yards?

9 A. Yeah.

10 Q. Okay.

11 A. Just guessing. I could still see it.

12 MR. HESTER: I think you touched on the other questions I
13 had.

14 BY MR. McCOY:

15 Q. When you referred to your boss, Peewee, what's his name --
16 sorry about that; this is Byrl McCoy with FRA OP side. When you
17 refer to Peewee, what's his name?

18 A. I couldn't really answer that.

19 Q. It's just Peewee?

20 A. Yeah.

21 Q. Okay. All right.

22 A. That's all I've ever called him was Peewee.

23 Q. And just to elaborate a little bit on his previous question.
24 You said the derails was placed 150 to 200 yards in either
25 direction, correct?

1 A. Yep.

2 Q. Do you know -- I went out to the jobsite, and I'm kind of
3 visualizing basically where they would have been in relation to
4 where the incident occurred. Were they south of the curve or just
5 north of the curve or were they on straight track?

6 A. You know where the backhoe stopped at?

7 Q. Yes, sir.

8 A. That's where those derails was at.

9 Q. That was where the south derail was?

10 A. Yeah.

11 Q. Okay.

12 A. Now, the other one was just before you get into the curve.

13 Q. Around the bend?

14 A. Yeah.

15 Q. Okay. All right.

16 A. Somewhere right in there.

17 Q. All right. Thank you. Because it helps us visualize exactly
18 where --

19 A. Well, I mean, I can picture it better than I can tell you how
20 many feet it is.

21 Q. Right. Okay. That's -- so it was on the other end of the
22 curve away from Mobile, right, towards Prichard? Towards Prichard
23 and towards Highway 98, is that right?

24 A. Well, from where the wreck was at, all right, the backhoe got
25 stopped way down here. The derail was right in there. Where I

1 was sitting at where the wreck started, it was -- the derail was
2 just before you got into the curve.

3 Q. Okay. I understand where it's at now.

4 A. You got me?

5 Q. Yeah.

6 A. It wasn't on the other side of the curve. It was before you
7 got into the curve. Yeah. Right back there.

8 Q. Okay.

9 UNIDENTIFIED SPEAKER: Let the recording reflect that Byrl
10 showed a picture of the curve on his phone, and David pointed to a
11 location on the Mobile side of the curve in the spiral.

12 MR. McCOY: Which would have been the -- on the south side of
13 the curve as -- through the right-hand curve it would have been
14 right at the location where the track began to straighten out and
15 become tangent.

16 UNIDENTIFIED SPEAKER: Which would have been close to that
17 100 yards or so, 300 feet.

18 BY MR. McCOY:

19 Q. Just to elaborate on Mr. Moats' previous question about your
20 training far as like the back truck and get out cross ties. At
21 any time, did they go out there and observe you doing that?

22 A. Oh, yes.

23 Q. Okay. So and, obviously, you were able to do that
24 proficiently.

25 A. Yes.

1 Q. All right.

2 A. I mean, they didn't just throw me in it, by no means.

3 Q. Okay.

4 A. They observed me, but I ain't never had no complaints on
5 being able to not run something.

6 MR. McCOY: Right. Okay. I have no further questions for
7 Mr. Ellis.

8 MR. ADAMS: I have a question. This is Robert Adams or Bob
9 Adams, FRA

10 BY MR. ADAMS:

11 Q. You stated that you had a job briefing prior to leaving the
12 yards. For me it wasn't clear. That job briefing was about the
13 work in the yards or that job briefing was about the work that was
14 going to be done as far as the 35 ties?

15 A. It was all of it.

16 Q. It was all of it. So during that job briefing, had they
17 discussed what type of protection besides the conversation with
18 Peewee?

19 A. No. Patrick said we had the whole yard track authority from
20 one end of the yard to the other. From the 0 to 06 something or
21 another.

22 Q. Okay. So besides Peewee telling you that you had --

23 A. Patrick told us that.

24 Q. Patrick. And Patrick told you that that was the form of
25 protection?

1 A. Um-hum.

2 Q. So where did the derails part of the conversation -- was that
3 a part of the conversation as far as your roadway worker safety?

4 A. Yeah. We've always put derails out.

5 Q. Okay. And the placement of the derails also that was part of
6 the conversation?

7 A. Uh-huh.

8 Q. Okay.

9 A. Patrick told us where to put them on the headblocks because
10 they was four or five tracks there.

11 Q. So --

12 A. (Indiscernible).

13 Q. Right. All right. So and that derail that was -- that you
14 said that was ahead of the backhoe where it stopped at, did the
15 backhoe actually contact that derail?

16 A. No. They had done pulled that up because he was fixing to be
17 leaving.

18 Q. Okay. So that was removed also --

19 A. Yeah.

20 Q. -- as far as you know?

21 A. Yeah.

22 MR. ADAMS: Okay. That's the only questions I have.

23 BY UNIDENTIFIED SPEAKER:

24 Q. Going back just for clarification about the job briefing, and
25 about the derail and placement, you just said that he told you

1 when you were doing the headblock ties. Who told you or how --
2 what was discussed about the derailment -- derail placement at the
3 accident site at Mile Post 3.7?

4 A. Peewee told us where to put them.

5 Q. Peewee told you (indiscernible) place to put them at. Okay.
6 Do you recall who installed the derails? Who applied them? You
7 do not?

8 A. No.

9 Q. Okay. Where were you at during that time when they were
10 putting up the derails for the protection at Mile Post 3.7?

11 A. I guess the first one they put up as I was backing up the
12 track.

13 Q. Okay.

14 A. And then the second one, I don't think they even put it out
15 until after I left.

16 Q. Okay. All right.

17 A. Because I didn't have to -- nobody moved it when I went to
18 leave.

19 Q. Okay.

20 MR. ONDO: Just a few questions -- this is Dillon Ondo. Just
21 a few questions.

22 BY MR. ONDO:

23 Q. The first one is, when you had your job briefing at the
24 location, was there something maybe that detailed all the rules
25 that apply for on-track safety for that particular location,

1 including the situation around the area, basically the
2 characteristics of the location?

3 A. On which one?

4 Q. The one at the accident location.

5 A. No. That one is pretty simple. The other one was more
6 complicated.

7 Q. Okay. Did you do -- was there any type of extended briefing
8 at all during the day that covered the rules of the railroad that
9 applied for -- just for your, just for your on-track safety?

10 A. No, not really.

11 Q. Okay.

12 A. He explained just up there where we was putting all them
13 derails out because they was -- and then we had a train come
14 through it, but it was on a different track. We had just been
15 there and --

16 Q. Okay. So --

17 A. -- Patrick showed us where to put all them because it was too
18 many tracks coming in there.

19 Q. So the procedures on the track authority that was given, did
20 they tell you how that protected you by their rules at all?

21 A. Not really.

22 Q. They didn't give that in the job briefing?

23 A. Well, a little bit of it. (Indiscernible) listen to all of
24 it.

25 Q. Okay. Now, a little bit about your material handling truck.

1 So it's equipped with a crane, right?

2 A. Um-hum.

3 Q. Boom. Have you ever had any type of crane training when you
4 went through --

5 A. Yes.

6 Q. Oh, so you had had training. That was -- was that anything
7 to do with OSHA certification?

8 A. Yes. I've had OSHA certifications on cranes, hydraulic
9 cranes, electric cranes, off-shore, on-shore. We used to hang
10 grid iron and (indiscernible) steel erectors out of Jackson,
11 Mississippi. I was qualified there.

12 Q. Okay. So a crane of this sort wouldn't be --

13 A. Ain't --

14 Q. -- pretty normal and basic for you, right?

15 A. Yeah.

16 Q. Your training --

17 (Simultaneous speaking.)

18 A. -- backwards.

19 Q. Your OSHA training would have covered --

20 A. Yeah.

21 Q. -- covered that through past experiences. Okay.

22 MR. ONDO: Go ahead, Jeremy.

23 MR. MOATS: Okay --

24 MR. ONDO: Oh, no, no, wait, wait.

25 UNIDENTIFIED SPEAKER: Go ahead, Dillon.

1 BY MR. ONDO:

2 Q. When you got on the rail, you said there was a track
3 authority, right? You had no derail placement in front of you to
4 protect you with a derail or any type of switch lock or anything
5 control nature from a train coming in?

6 A. No, sir.

7 Q. So you worked out there, what did you say, two, three hours
8 doing that?

9 A. Yes, sir.

10 Q. Okay. And they just basically told you that you were
11 protected under that authority?

12 A. Yes, sir.

13 Q. Okay.

14 MR. HESTER: This is Chris Hester again.

15 BY MR. HESTER:

16 Q. And, David, I want to -- if you feel like we're asking some
17 of the same questions over and over, I apologize. We just want to
18 make sure that we get an understanding of the message you're
19 conveying to us.

20 A. Um-hum.

21 Q. So one of my questions is from the time you returned from
22 Mile Post 5 to Mile Post 4, or 3.7 as we've referred to it, did
23 you exit the truck at any time with the other workers on the
24 ground or did you stay in the driver's seat of the truck the
25 entire time after you returned from Mile Post 5? Or where were

1 you?

2 A. I was in and out.

3 Q. You were in and out. Okay. During the job briefing at Mile
4 Post 4 where you sat on and backed up, that's the accident
5 location, were you asked by the RWI -- who gave the job briefing?

6 A. Patrick.

7 Q. Patrick. Were you and the other members of your work crew
8 asked if you all understood the job briefing and protection being
9 afforded at the end of that briefing? Do you recall?

10 A. Yes.

11 MR. HESTER: Okay. Great. Yeah. I think that's --

12 BY UNIDENTIFIED SPEAKER:

13 Q. You mentioned about the lights earlier, and I know you were
14 talking about -- you said you didn't know if the work lights were
15 on in the backhoe, the flashing light. We're talking about the
16 strobe on top?

17 A. The four flashing lights. Because I hit the switch in the
18 dash when I fired it up that morning.

19 Q. Okay. Now, you have a strobe light on your vehicle?

20 A. Front and rear.

21 Q. Front and rear.

22 A. And a flashy light bar on the front.

23 Q. Okay. And those lights were on during your whole operations,
24 even going picking up the ties back at Mile Post 5, and when you
25 returned?

1 A. Yes, sir.

2 Q. Okay.

3 BY MR. MOATS:

4 Q. I have one follow-up question for clarification.

5 A. Yes, sir.

6 Q. You said you had a job briefing at the morning with Patrick
7 when you put in the headblock ties.

8 A. Before we was putting --

9 (Simultaneous speaking.)

10 Q. Before you --

11 A. -- in the --

12 Q. Before you -- you then got finished with that job.

13 A. Yes, sir.

14 Q. You then moved out to where the accident location happened
15 at. Okay. Before sitting on the rail, was there another job
16 briefing held at there before you set on the rail?

17 A. No, sir.

18 Q. There was not?

19 A. No, sir.

20 MR. MOATS: Okay. That's the last. I just want to make sure
21 there's clarification. Is there any more -- we have one more
22 question in the room.

23 BY MR. McCOY:

24 Q. Byrl McCoy, FRA OP. Mr. Ellis, right before you felt the
25 impact, all right, at the time of the incident on November 17th,

1 do you recall hearing a train horn or ringing of the bell?

2 A. Nothing.

3 Q. Okay.

4 A. I didn't even hear a train horn when he come across the
5 crossing -- track from up.

6 MR. McCOY: Okay. I have no further questions. Thank you,
7 Mr. Ellis.

8 MR. ZAGATA: Is everybody done in the room? Good?

9 Okay. For the individuals on the phone, is there any
10 questions or any clarification you need from Mr. Ellis?

11 MR. DAMRON: This is Lee Damron. I have no further
12 follow-up. Go ahead, Joe.

13 MR. GORDON: Yeah. This is Joe Gordon with the National
14 Transportation Safety Board. I do have just a few questions.
15 And, again, if any of these are repeat, I apologize for that.
16 We're getting a little bit broken up on this end. But everybody
17 hear me okay?

18 MR. ZAGATA: Yes.

19 MR. GORDON: Okay.

20 BY MR. GORDON:

21 Q. So, David, if you could, I know there was a question asked
22 about your on-track safety training, roadway worker training. Was
23 that -- and I think I heard you say that was a classroom
24 environment. Was that done with an instructor or is that
25 something that you guys take online?

1 A. No, sir. That was with an instructor.

2 Q. Okay. And was that an instructor from your company?

3 A. No, sir.

4 Q. That came in.

5 A. No, sir.

6 Q. Okay. Do you remember who that instructor was with?

7 A. No, sir.

8 Q. All right. We'll follow-up with -- you said Peewee was the
9 boss, right? We'll talk to him later, I'm assuming.

10 A. Yes, sir.

11 Q. All right. So in that training, do you remember any
12 discussion about the different types of track that you work on out
13 there? There's primarily two distinct different types of track.

14 A. Yes, sir.

15 Q. Do you recall any discussion on that?

16 A. Yes, sir.

17 Q. Okay. In your own words, just kind of tell me what you
18 remember about that.

19 A. Not a lot right at this moment.

20 Q. Okay. Well, I'll give you two, I'll give you two of the kind
21 of the overarching words there. So you've got controlled track
22 and non-controlled track. Do you know -- in the locations that
23 you were working out there, do you know if it was all controlled
24 track, if it was all non-controlled or if there was some of each
25 type?

1 A. I don't really have a answer for that, sir.

2 Q. All right. And that's no problem. We, like we said before,
3 we're just trying to kind of gauge what the understanding is and
4 see where we might be able to make some safety improvements there.
5 So one other question. You said the -- primarily just one job
6 briefing that covered both the work that was going to be done, and
7 the type of protection that was going to be put in place, correct?

8 A. Yes, sir.

9 Q. All right. And at the end of that job briefing, do you
10 recall any discussion from any of the workers, questions being
11 raised, any concerns, anything like that?

12 A. No, sir.

13 Q. Okay. And from your on-track safety training that you got,
14 and we'll look to just get a date maybe -- maybe we can find out
15 from Peewee about the recordkeeping on that, but from that
16 on-track safety training that you took, do you recall any
17 information being given to you about a good faith challenge?

18 A. No, sir.

19 Q. All right. Most certainly your FRA guys that are there on
20 scene, they can certainly follow-up with you and give you some
21 more information on those things for the future when you work
22 around tracks.

23 MR. GORDON: So that's all that I have right now, Jeremy.

24 MR. MOATS: Okay. Zach?

25 MR. ZAGATA: I don't have anything, Jeremy. I'm good.

1 MR. MOATS: Okay. And we're finished in the room?

2 All right, Mr. Ellis, again, I want to thank you for coming
3 in. We do offer our full condolences for you. We understand it
4 was a traumatic event that you went through. And do you have -- I
5 like to open this up to you. Do you have any questions for us as
6 a group?

7 MR. ELLIS: No, sir.

8 MR. MOATS: Okay. All right. Well, we'll conclude right
9 now, if you don't have no questions for us, and thank you again
10 for coming in.

11 MR. ELLIS: Okay.

12 MR. ZAGATA: Guys, I'm going to hold on one second, and then
13 I'm going to take you off of speaker, okay.

14 MR. ADAMS: Okay. I'm going to go ahead and stop the
15 recording, guys.

16 MR. MOATS: All right, stop recording.

17 (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 David Ellis

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