



NATIONAL TRANSPORTATION SAFETY BOARD  
**Investigative Hearing**

Norfolk Southern Railway general merchandise freight train 32N  
derailment with subsequent hazardous material release and fires,  
in East Palestine, Ohio, on February 3, 2023

<b>GROUP</b>	<b>G</b>
<b>EXHIBIT</b>	
22	

Agency / Organization

**NTSB**

Title

**Interview Transcript – John Fleps,  
Vice President Safety & Environmental,  
Norfolk Southern  
April 12, 2023**

**The latter portion of this interview has been removed because it is a separate topic not directly related to the NTSB hearing. The entire interview will be entered into the NTSB public docket at a later date.**

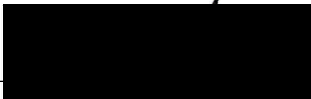


I, John Fleps, have read the foregoing pages of a copy of my testimony given during a follow-up interview stemming from NTSB's investigation of the derailment of a Norfolk Southern freight train on February 3, 2023, in East Palestine, Ohio, and that these pages constitute a true and accurate transcription of same with the exception of the following amendments, additions, deletions or corrections:

<u>PAGE NO:</u>	<u>LINE NO:</u>	<u>CHANGE AND REASON FOR CHANGE</u>
<u>5</u>	<u>21</u>	<u>"positions" instead of "a position"; Typo</u>
<u>6</u>	<u>4</u>	<u>"Safety &amp; Environmental" instead of "Safety Environmental"; Typo</u>
<u>7</u>	<u>8</u>	<u>"on the ground" instead of "at the ground"; Typo</u>
<u>9</u>	<u>9</u>	<u>"at" instead of "is"; Typo</u>
<u>9</u>	<u>12</u>	<u>"spacing of less" instead of "spacing less"; Typo</u>
<u>9</u>	<u>22</u>	<u>"safety over the line" instead of "safety over line"; Typo</u>
<u>11</u>	<u>11</u>	<u>"bearing detectors –" instead of "bearing detector " Typo</u>
<u>14</u>	<u>22</u>	<u>"bit of" instead of "bit"; Typo</u>
<u>14</u>	<u>24</u>	<u>"alluded" instead of "eluded"; Typo</u>
<u>18</u>	<u>5</u>	<u>"categories—" instead of "categories"; Typo</u>
<u>32</u>	<u>2</u>	<u>"C3RS" instead of "C3RES"; Typo</u>
<u>41</u>	<u>9</u>	<u>"ago and has" instead of "ago has "; Typo</u>
<u>44</u>	<u>16</u>	<u>"It is embedded into any change in any task" instead of "it is embedded into change in any task"; Typo</u>
<u>48</u>	<u>17</u>	<u>"comment about" instead of "comment to"; Typo</u>

I declare that I have read my statements and that it is true and correct subject to any changes in the form or substance entered here.

Date: 5/8/2023

Witness: 

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

\* \* \* \* \*

Investigation of:

\*  
\*  
\*  
\*  
\*  
\*

NORFOLK SOUTHERN TRAIN DERAILMENT  
IN EAST PALESTINE, OHIO  
ON FEBRUARY 3, 2023

Accident No.: DCA23SR002

\* \* \* \* \*

Interview of: JOHN FLEPS, Vice President Safety & Environmental  
Norfolk Southern

Norfolk Southern Headquarters  
Atlanta, Georgia

Wednesday,  
April 12, 2023

APPEARANCES:

MICHAEL KUCHARSKI, Investigator  
National Transportation Safety Board

STEPHEN JENNER, Investigator  
National Transportation Safety Board

ANNE GARCIA, Investigator  
National Transportation Safety Board

CHRIS DAVIES  
WilmerHale for Norfolk Southern

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of John Fleps:	
By Mr. Jenner	5
By Ms. Garcia	12
By Mr. Jenner	14
By Ms. Garcia	19
By Mr. Jenner	21
By Ms. Garcia	27
By Mr. Jenner	29
By Ms. Garcia	33
By Mr. Kucharski	36
By Ms. Garcia	39

I N T E R V I E W

(9:17 a.m.)

1 MR. JENNER: All right. Good morning.

2 MR. FLEPS: Good morning.

3 MR. JENNER: Today is Wednesday, April 12th. The time is  
4 9:17 a.m. My name is Stephen Jenner, and I am a Human Performance  
5 and System Safety Investigator with the National Transportation  
6 Safety Board. We are at Norfolk Southern Headquarters in Atlanta,  
7 Georgia. And today we are meeting with Norfolk Southern officials  
8 as part of NTSB's investigation of Norfolk Southern's safety  
9 practices and safety culture.  
10  
11

12 First, I would like to go around the room and have everyone  
13 introduce themselves and if you would spell your name. Again, I  
14 am Stephen Jenner. I am a Human Performance and System Safety  
15 Investigator with the NTSB. We'll go to my right.

16 MS. GARCIA: Anne Garcia, Human Performance and System Safety  
17 Investigator with the NTSB. G-A-R-C-I-A.

18 MR. FLEPS: John Fleps, Norfolk Southern, Vice President  
19 Safety and Environmental and J-O-H-N and F-L-E-P-S.

20 MR. DAVIES: I am Chris Davies with WilmerHale, D-A-V-I-E-S  
21 and WilmerHale is W-I-L-M-E-R-H-A-L-E.

22 MR. JENNER: Very good and just to follow my own rules, S-T-  
23 E-P-H-E-N, J-E-N-N-E-R.

24 Very good. Thank you. So, in the last few months, Norfolk  
25 Southern has had some train derailments on the main line as well

1 as some other incidents. And we have heard from Norfolk Southern  
2 officials that their goal is to have this stronger safety culture  
3 in the industry.

4 So, we would like to explore with you the challenges and your  
5 plans for achieving that goal and other processes that are already  
6 in place. So, again, thank you for meeting with us today and  
7 sharing your insights.

8 INTERVIEW OF JOHN FLEPS

9 BY MR. JENNER:

10 Q. So, we will just start off and have you tell us a little bit  
11 about your background in the rail industry.

12 A. Certainly. So, I started at Norfolk Southern almost 17 years  
13 ago. It will be 17 years in July. I came straight out of college  
14 -- I am a civil engineer by degree and joined our management  
15 training program. The career path that I have taken which has  
16 consumed 90 percent or 95 percent of my career has been through  
17 our engineering branch of operations. And that's the branch that  
18 manages our infrastructure, our track, bridges, tunnels, the  
19 things that trains operate over to get from A to B. So, I was in  
20 that organization based in the field.

21 I have moved nine times across the system and held a position  
22 within engineering up to, you know, the top of that organization  
23 and transferred crafts in November of 2022 to our transportation  
24 organization. And that's just another branch of operations -- the  
25 branch responsible for operating our trains over the road. And



1 that was a career development opportunity for me to gain  
2 experience.

3 And then on March 2nd of this year, I assumed the role that I  
4 am currently in, which is VP Safety Environmental.

5 Q. Thank you. So, you have just been in this position for just  
6 over a month, how was the handoff getting from your predecessor?  
7 How were you prepared for this position?

8 A. In terms of the physical transition, is that question?

9 Q. Well, the physical and getting up to speed with what you are  
10 now responsible for.

11 A. Sure. So, I have been tangentially exposed to a lot of what  
12 my department is responsible for today through my other roles in  
13 operations. The safety environmental team and particularly the  
14 safety team is woven into the fabric of the other operating  
15 departments. So, I have worked closely with that group over the  
16 course of time.

17 The transition was smooth. The -- my predecessor -- she and  
18 I spent time together during the transition understanding the  
19 priorities, the initiatives that were underway, the  
20 responsibilities and obligations. I received kind of a download  
21 on our regulatory compliance obligations. And then also have  
22 learned a lot about what our environmental team is doing.

23 And in light of what's going on in East Palestine obviously,  
24 there is a lot of heightened focus on that specific project and  
25 then our response efforts across the system.

1 Q. Okay. Thank you. So, that's a general overview. Are there  
2 any specific issues that were -- that you sort of inherited? You  
3 just mentioned East Palestine, is there any -- anything else that  
4 -- this is now, you know, your responsibility and this is pressing  
5 that you have to tackle?

6 A. I think part of what I bring to this role is field experience  
7 -- a pretty significant and thorough understanding of what our  
8 folks do on a day-to-day basis at the ground and the background of  
9 my predecessor was not a field-oriented position. So, you know,  
10 part of my charge was to bring my institutional knowledge, my  
11 subject matter expertise, my judgment to this position and help  
12 enhance the way that we interact with our folks in the field. And  
13 ultimately drive our organizational safety to a new level.

14 And that's a strategic mission of our corporation, not solely  
15 because of East Palestine. We were on the trajectory long before  
16 then, but that's essentially what my charge has been stepping into  
17 the job.

18 Q. All right. Can I ask for an example that your background  
19 gives you insight into a particular problem? Can you give an  
20 example of what you are able to tackle now given your experience?

21 A. Certainly. The way that we interact with our craft employees  
22 -- and when I use the term craft, it's synonymous with labor  
23 unions which we have several labor unions that our employees  
24 subscribe to, but the way that we engage with those individuals  
25 depending on what branch of operations you fall beneath.

1           There are different ways that outreach has to occur just by  
2 the nature of the way that people show up for work, the way that  
3 they execute their jobs and the location they start their day and  
4 the location that they end their day differs whether you are train  
5 crew, a mechanical employee in a locomotive shop, or an  
6 engineering employee who is working on the track. So, I have a  
7 pretty good understanding of the different modes and mechanisms  
8 that are available to us to achieve that communication to help  
9 leverage technology that we have available to us to bridge gaps  
10 and to just open up the lines of transparency and help ensure that  
11 we have a consistent message communicated to everybody who is out  
12 in the field. And at the same time that there is a mutual  
13 understanding and commitment and really a covenant surrounding our  
14 safety culture at NS.

15 Q.   Very good. You mentioned East Palestine. What are you  
16 bringing to the table in terms of addressing that issue? How are  
17 you planning to attack that? What are you focused on?

18 A.   So, in terms of the specific event, obviously you all know  
19 that you are leading the investigation, there is still more to  
20 learn with regard to root cause and opportunities.

21           We do know that there are specific facts that are readily  
22 available, primarily the mechanical failure of the wheel bearing  
23 and, you know, even though our systems were in place, they  
24 performed as designed. There is always opportunity, and clearly,  
25 an accident of this nature is not something that we sit back and

1 say, well, we were doing the right things and it is what it is.  
2 There is a lot of opportunity to get better.

3 So, from a -- just a technological perspective we laid out a  
4 six-point action plan coming out of the preliminary investigation  
5 findings of the NTSB, things that we could do immediately to help  
6 enhance our detector network. So, we have committed to installing  
7 an additional 200 detectors across our system focused on hot wheel  
8 bearing detectors. Our average spacing system-wide is below the  
9 industry average is 13.9 miles, but there are locations where we  
10 exceed 15-mile spacing and we are committed to closing that gap  
11 and ensuring that our core routes are protected with detector  
12 spacing less than 15 miles.

13 We have other more predictive technology solutions that are  
14 available to us whether they be acoustic bearing detectors,  
15 inspection portals, vision systems. We have a strategy around the  
16 deployment of that technology. We have committed to enhancing and  
17 accelerating the speed with which planned investments are actually  
18 put in the ground as well as expanding some of the investment  
19 commitments, particularly around acoustic bearing detectors, and  
20 taking full advantage of the technology that is out there to  
21 predict issues earlier in their emergence and ultimately improve  
22 safety over line of road.

23 Q. Okay. I'm glad you raised that. I had some questions in the  
24 area of detectors, so I am going to jump over to that.

25 A. Sure.

1 Q. What -- how do you go about collecting data and doing an  
2 analysis of -- as just what you referred to, to say we need more  
3 in this area, we need a different type of technology? How do you  
4 gather data on that and perform an analysis to come to those  
5 conclusions?

6 A. Sure. So, this is an area that I am still learning about.  
7 Most of my expertise is within our engineering organization and I  
8 can speak about the technology very, very thoroughly there. In  
9 terms of detector technology, we evaluate a lot of different  
10 variables. What is the route classification? What is the traffic  
11 profile over that route? What is the tonnage, speed, geographic  
12 conditions, the commodities that we transport, whether they be  
13 hazmat if it's a key route? And ensure that we have a thorough  
14 understanding of the risk profile of that territory.

15 And then use either historical data or the best research  
16 available and/or any emerging best practices to evaluate, you  
17 know, whether we meet or ideally exceed, not just regulatory  
18 standards but industry standards as well. Does that answer the  
19 question?

20 Q. Yeah, yeah. So, obviously, a lot of, I assume, a lot of your  
21 analysis is done post-accident, but how do you do -- when things  
22 are just running routinely, do you perform a similar type analysis  
23 on an intermittent basis, every month, every year, to see how the  
24 system is running?

25 A. So, root cause analysis is a fundamental element of who we

1 are and how we approach problems, and certainly a reactive  
2 approach waiting for an accident to happen to decide that you need  
3 to do something differently is not ideal and it's not -- that's  
4 not how we manage problems.

5 So, we look at trending, we look at recurring issues, we look  
6 at small problems, and use a data-driven approach to evaluate  
7 where the risk is the greatest or where the risk is emerging or  
8 increasing in order to find ways to leverage data to ultimately  
9 identify problems earlier in their existence.

10 So, for example, you think about wheel bearings. The  
11 historic technology that's deployed, how bearing detector or you  
12 detect a temperature that exceeds ambient by a certain threshold,  
13 and you have procedures that are in place to handle that alert.  
14 You know, as technology improves, and data analytics continues to  
15 become a more powerful part of risk mitigation you are -- start to  
16 use -- you take advantage of trending and the knowledge that can  
17 be gained from change over time to ultimately identify  
18 opportunities to set new alert criteria.

19 So, we have a series of trending algorithms that we use.  
20 Those have been developed not just internally but through research  
21 and we are also benchmarking with the other Class Is to evaluate  
22 the types of trending technology and the trending logic that they  
23 deploy to see if there is other opportunities for us to get  
24 better.

25 And I mention benchmarking, benchmarking is a big part of how

1 we evaluate best practices, how we evaluate new technology. We  
2 don't want to be a closed loop. We work with our industry  
3 partners. We work with our vendors. We work with different  
4 education institutions to help us evaluate anything that's  
5 emerging that we could benefit from.

6 MS. GARCIA: If I could jump in?

7 MR. JENNER: Sure.

8 BY MS. GARCIA:

9 Q. You talked about risk analysis and mitigation. Who is it at  
10 Norfolk Southern that does the risk analysis and mitigation plan  
11 for safety issues like hot wheel bearings?

12 A. So, we have a research and test arm of operations that has --  
13 whose responsibility is investigating issues that are brought to  
14 their attention, whether they be post-accident analysis -- whether  
15 that be post-accident analysis or something that we identify that  
16 we need to understand more.

17 So, the -- so, that research group will take a task, they  
18 will deploy the scientific method, they will evaluate the  
19 different contributing variables, identify primary cause,  
20 contributing causes, and also provide solutions or proposed  
21 solutions to help mitigate that risk.

22 Q. And how is that documented? Is there a report --

23 A. Yes.

24 Q. -- that is generated?

25 A. Yeah, we keep a record of -- that team, there is a standard

1 format that is produced as a -- as soon as a file is initiated and  
2 their -- and a research effort starts, that file in that matter of  
3 record is initiated and then when their investigation is complete  
4 or if there is an interim stage that information is relevant to  
5 the user, that will be made available and ultimately when the  
6 investigation is complete that complete report is produced.

7 Q. And who does it go to?

8 A. All operating department vice presidents and any other  
9 stakeholder that -- our legal team, labor relations, senior  
10 leadership.

11 Q. We would like a copy of that report -- the initial report on  
12 the hot wheel bearings. And was there a reassessment done after  
13 East Palestine?

14 A. With regard to the derailment or just historic research  
15 surrounding hot wheel bearings?

16 Q. I'm talking about the risk assessment report on hot wheel  
17 bearings.

18 A. Okay. I'll have to find out if and how that report exists.

19 Q. Okay.

20 A. Yeah.

21 Q. Because that's what you said, it would be generated and then  
22 it would go up to all of the vice presidents.

23 A. Right. So it -- I guess we are talking -- well, the  
24 investigation process that I'm speaking to --

25 Q. Pre-investigation. Pre-East Palestine, we're looking -- was



1 there a risk assessment that was done of hot wheel bearings?

2 A. I would have to look closer at the history --

3 Q. Okay.

4 A. -- surrounding that research.

5 Q. Yeah, and you can get back to us on that.

6 A. Sure.

7 Q. That's perfect.

8 A. Okay.

9 MS. GARCIA: Okay. Thank you.

10 MR. JENNER: Sure, okay.

11 BY MR. JENNER:

12 Q. When you do an analysis for hot box detectors and spacing and  
13 the technology is adequate, does the hazard -- if the train is  
14 carrying hazardous materials or it's in a certain route that you  
15 know is -- there is going to be hazardous materials on this route,  
16 does that change the way you do your analysis for hot box  
17 detectors and the spacing of the equipment? I was a little choppy  
18 on that too.

19 A. Yeah, well, and it -- this is a subject that I'm not  
20 incredibly well versed on just because of the recent nature of my  
21 exposure to the subject matter. So, I would want to go do a  
22 little bit research about how -- I know we have documentation that  
23 conveys how we assess detector replacement.

24 Q. Okay. Thank you. You have eluded to this but we have heard  
25 from your CEO and during testimony that Norfolk Southern is very

1 data-driven in the terms of policies and practices that you do.  
2 You have certainly alluded to that already. Can you just talk  
3 about general areas of safety-related data that you gather to help  
4 you make decisions about practices?

5 A. Sure. So, when I think about safety-related data there are  
6 kind of two big buckets that you could evaluate. So, you have  
7 safety surrounding human behavior and injuries and safety related  
8 to human beings and then you have the safe movement of our  
9 equipment from A to B, so infrastructure, equipment, and how we  
10 evaluate the exposures associated with our infrastructure.

11 So, in terms of our people, we have different practices and  
12 different policies and standards in place for how we assess safety  
13 in the field. Some of that is also guided by regulation.

14 An example would be how we evaluate rules compliance and, you  
15 know, we don't want to just wait 'til injuries occur or accidents  
16 happen to decide where we need to place our focus. We use data  
17 that's associated with the thousands of rule checks and safety  
18 interactions that occur over the course of a month or a year out  
19 on our property and drill into that data to look for leading  
20 indicators, trends that can help us focus on particular areas.  
21 And that may be a target population, whether that be craft-based,  
22 experience-related.

23 If there are particular exposures that we see trends  
24 associated with we can develop a strategy to attack those whether  
25 that be through heightened communication training, focus rules

1 attention -- or rule compliance attention, a communication  
2 campaign, something of that nature. So, we look at our rule check  
3 data very closely to evaluate where we need to be spending our  
4 time.

5 We also have post-accident data that's associated with  
6 injuries, incidents, you know, and use that as a lagging indicator  
7 also of areas where we either need to, you know, deploy training,  
8 coaching, if we need to look at engineering-out a problem, if we  
9 have a way to modify the work or the process that ultimately  
10 contributes to that accident that we have a -- that we use data to  
11 drive those -- that focus.

12 And then on the equipment side and the infrastructure side,  
13 we have a lot of technology available to us that we use to help  
14 objectify the decisions that need to be made. You know,  
15 historically when we have made assessments of our infrastructure,  
16 particularly a lot of that has been done manually. People out in  
17 the field taking manual measurements, very time-consuming. A lot  
18 of potential for data quality problems. And we use now really the  
19 most advanced technology that's available to assess our  
20 infrastructure, whether it's evaluating the rail, the tie  
21 condition that supports the track, the ballast conditions, the  
22 subgrade conditions, and we use data and technology to evaluate  
23 those three major components and guide us on where to invest in  
24 infrastructure.

25 So, for this -- the calendar year 2023, Norfolk Southern is

1 going to invest over \$1 billion in just our infrastructure alone.  
2 And all of those decisions are driven by, where does the data tell  
3 us we need to apply that capital. And the same mentality can be  
4 employed, or the strategy is employed with our equipment.

5 We talk a lot about hotbox detectors. That's a primary  
6 focus. There is a lot of other equipment out there, inspection  
7 systems that can be used to evaluate the condition and the  
8 performance of a rail car, a vehicle, a locomotive. We have  
9 really advanced technology that monitors what's going on in the  
10 engine compartment of a locomotive and that data is available to  
11 help us identify trends in areas where, you know, we can -- we  
12 could take that locomotive and stay in front of a problem instead  
13 of wait until it breaks down a line of road and exposures are  
14 introduced to the operation -- stay ahead of those problems.

15 Q. So, what I'm hearing -- not to put words in your mouth --  
16 this is -- you are gathering data to help you assess risks and  
17 provide you with mitigation strategies.

18 A. Yes.

19 Q. Is that fair?

20 A. Yes.

21 Q. Okay. So, if we can talk just about like derailments,  
22 managing the risk for derailments and what mitigation, you know,  
23 is necessary. Can you walk me through that process? What data  
24 would you gather to do a risk analysis on derailments? What's  
25 important for you to know?

1 A. I think you have to look and think about the discrete, I call  
2 them buckets that can contribute to an accident. And generally,  
3 if we have a derailment occur, there are a series of opportunities  
4 to prevent that accident.

5 And the major categories you have human factor. So, how  
6 people interact with the operation of our trains. You have the  
7 equipment, so locomotives and cars. And then you have the  
8 infrastructure. And we have, you know, the methods that I just  
9 spoke to that we use to evaluate those potential risks.

10 We also evaluate the route and the area that we operate  
11 through. So, if we are on a core high -- a core route -- a high-  
12 speed route as opposed to a low-speed branch line there is a  
13 different risk potential that's associated with that route. If we  
14 are in an urban area or in a community there is a different risk  
15 that's associated with an accident as opposed to out in the middle  
16 of a cornfield or somewhere in a remote part of the mountains.

17 So, there is regulation that helps guide us in that direction  
18 as well and if we're going to make an investment decision we  
19 consider the potential exposure and the potential consequences  
20 associated with that risk when we make an investment.

21 Q. Now, your title is environment -- environmental, can you just  
22 talk a little more detail about your responsibilities under the  
23 environment? What are you responsible for?

24 A. So, there are three branches within our environmental  
25 department that fall within my purview. We have compliance. So,

1 that's the group that manages our regulatory responsibilities,  
2 whether that be with wastewater, air, solid waste. We have an  
3 environmental operations group that is out in the field managing  
4 our facilities, so that would be a wastewater treatment plant. If  
5 we have a clean-up effort that we are responsible to manage, they  
6 manage those projects. And then we have a hazardous materials  
7 team that deals with exactly that, the movement of hazmat material  
8 across our system. The day-to-day function engages with small  
9 releases, if there is a spill of some nature they manage that and  
10 then a significant portion of their time when they are not dealing  
11 with problems is committed to training.

12 So, we do a lot of first responder training across all 22  
13 states. We have a hazmat teaching train that travels around our  
14 network, and we will set up classes with communities and teach  
15 local fire departments, first responders what to do in the event  
16 of a train accident and our hazmat team is responsible for  
17 executing that training.

18 BY MS. GARCIA:

19 Q. Thank you for that answer and you mentioned when Steve asked  
20 you about the areas of safety-related data that Norfolk Southern  
21 gathers, you mentioned there are two areas, human behavior with  
22 injuries and then safe movement of equipment and infrastructure,  
23 but you didn't mention environmental. So, is that another area of  
24 safety-related data that you gather or?

25 A. Certainly, and again, forgive me this is not an area that I

1 have a lot of exposure to.

2 Q. Yeah.

3 A. That team, specifically that compliance team, they manage  
4 risk associated with our facilities. We have continuous  
5 monitoring in compliance with our permitting obligations, whether  
6 it be for one of our wastewater treatment plant facilities or some  
7 legacy risk associated with a facility that no longer exists.

8 But yes, we have a compliance team, and then our legal  
9 department also has an environmental branch that doesn't report to  
10 me. They evaluate our response and mitigation efforts and ensure  
11 that you know, that we are considering risks and exposures.

12 Q. Okay. So, who is it then that would do the risk analysis and  
13 mitigation plan for environmental issues?

14 A. That would be our legal team.

15 Q. That's the legal team, not the compliance group.

16 A. Correct. Yeah, the compliance group is going to ensure that  
17 our written obligations are -- comply with permitting and --

18 Q. Okay.

19 A. -- mainly permitting, yeah.

20 Q. Okay. Thank you. And Steve mentioned that there is also the  
21 community risk. So, does that fall under environmental for you,  
22 or is that a fourth area that you collect data on in terms of risk  
23 assessment?

24 A. I don't think that would necessarily fall in the  
25 environmental wheelhouse. That's -- that would be aggregated

1 through the safety department. How we go about doing that  
2 specifically is something I have to learn more about.

3 MS. GARCIA: Okay. Good. Thank you.

4 BY MR. JENNER:

5 Q. Okay. What I like to do is if you are comfortable talking  
6 about rail car inspections.

7 A. I'll answer whatever questions you've got to the best of my  
8 ability. Again, that's an area that I'm not really well versed in  
9 but --

10 Q. That's fine.

11 A. -- I'll do my best.

12 Q. Very good. So, as we are learning more about the industry  
13 and the inspections and this is across -- with what appears to be  
14 across the whole industry, is that the timing for that car men  
15 have to inspect cars in the yard before they depart that the  
16 amount of time they have available has decreased through the  
17 years. Are you familiar with that? Is that an accurate  
18 statement?

19 A. The way that I would -- my knowledge around the subject would  
20 convey that historically there may not really have been a standard  
21 for the time that is required to inspect a car. Over the course  
22 of recent history standards have been applied for the amount of  
23 time that a typical railcar inspection would take. And that time  
24 is the result of a study.

25 So, observing and measuring the requirements of a freight car



1 inspection and applying a reasonable standard to the safe  
2 execution of that requirement. And we manage to a standard and  
3 there is always exceptions to a standard. The expectation is that  
4 no task will be done if it compromises safety.

5 If time is needed to ensure that that task can be completed  
6 to an appropriate level of satisfaction, we will manage that  
7 exception and the expectation for our employees is to make  
8 decisions that ensure their own safety and that of their coworkers  
9 or any other potential, you know, third party community that the  
10 outcome of their efforts would potentially impact.

11 Q. Okay. I'm going to play the ignorant card here. I'm not  
12 familiar with that study.

13 A. Okay.

14 Q. So, I have to get smarter on that. But -- so I am hearing  
15 historically there were no standards, now there are standards  
16 based on a study that you referenced. So, I assume that those  
17 standards are applied to, you know, all of your trainyards and  
18 facilities. Have -- is there a process to get feedback from the  
19 people who wear the boots on the ground to say, okay, these are  
20 our new standards, how is it going for you?

21 A. Mm-hm.

22 Q. Is there a feedback loop there?

23 A. With local supervision, yes. Yes.

24 Q. Okay.

25 A. So, that would be the arm that an inspector would reach out

1 to. We engage with and particularly with our car inspectors  
2 daily. They have a pre-shift safety meeting. They have debriefs  
3 at the end of the day. And then there is that line of  
4 communication that exists on a day-to-day basis. So, if there was  
5 a problem or feedback that needed to be provided it would flow  
6 through that front-line supervisor, excuse me, and then up the  
7 chain of command.

8 Q. Right. Are you familiar with any type of feedback that made  
9 it up to higher level decision makers that is -- this is working,  
10 this is not working? Are you familiar with any of that?

11 A. Personally, I am not. No.

12 Q. Okay. Do you know if, again if my hypothesis is correct at  
13 the time has decreased, do you know what conditions, you know, how  
14 that came about and is it that the -- now we have additional  
15 technology to help them or equipment is becoming less complicated  
16 and I don't want to put answers in your mouth there but what is  
17 the justification for what we are seeing in other properties as a  
18 decrease in time?

19 A. So, I can apply my understanding of how you evaluate a  
20 process. You -- when it comes to freight car inspection there is  
21 a standard list of things that that inspector should be  
22 evaluating. Is the car leaning? Is there a problem with the  
23 bearing? Are the safety appliances where they should be? Those  
24 are -- you can measure the amount of time that it would take to  
25 observe those specific elements of the car and my understanding is

1 that -- and that our management team within our mechanical craft  
2 perform those assessments. Evaluating the time that it would take  
3 to do -- to reasonably inspect those -- the elements of that car  
4 and applied that to the standard.

5 Now, if you are working at night that may -- that's a  
6 variable that could impact the ability to do that task. If there  
7 is adverse weather that's another variable that could impact the  
8 ability to meet that standard and we work with our people on  
9 those. And the expectation is that you do the task safely to its  
10 -- to meet the standard and we manage the exceptions from there.

11 Q. All right. What's your overall impression of your  
12 relationship working with labor at that level of those who  
13 represent carmen and mechanical folks? How is your relationship  
14 with the labor?

15 A. So, my history has been exposure to our engineering craft. I  
16 could speak to that pretty extensively.

17 Q. Sure.

18 A. My relationships with mechanical craft employees are, you  
19 know, I have spoken with many of them over the years and generally  
20 my perception of the relationship is a good one that, you know, we  
21 have hundreds of car shops and locomotive shops across our system,  
22 you know, we have a, you know, we have a relatively well-defined  
23 set of processes and standards that people use to execute their  
24 work. We have a -- and we have a -- continuous improvement teams  
25 over there that help evaluate the tasks that they need to do and

1 stand up the tools and capabilities that are necessary.

2 Now, you know, I am fully aware of what's been in the press  
3 and what's out there and the story that's being told. I am trying  
4 to speak from my experience and I'm not trying to blow any smoke.  
5 This is the God's honest truth that generally my experience has  
6 been we have a very good relationship with our people in the field  
7 and if there is a safety concern or there is a problem and it is  
8 brought to the attention of their supervisor, we are going to take  
9 that very seriously and we have to take that very seriously.

10 Q. All right. Thank you. I'm swimming out of my lane a bit  
11 here, actually quite a bit with the car inspection. We do have  
12 people who are -- who have worked that in their careers. I am not  
13 one of them. But we were going through like the FRA standards  
14 requirements for an inspection and they talk about like a 92-point  
15 inspection. I have never done this work. From a layman's  
16 perspective, it sounds like a lot to look at.

17 So, with that in mind, to get a car from point A to point B  
18 there are like checks and balances. So, you want the mechanical  
19 folks to pipe in and the carmen, and you want your hotbox  
20 detectors and things. So, can you talk about how reliant one is  
21 with the other? Is there expectation when the car leaves a yard  
22 that it's fully inspected from these 92-point inspections that are  
23 -- people are able to do it given the conditions that they work  
24 under? Is the expectation that the car is going to leave fully  
25 confident that it's truly inspected, or do you rely on the hotbox

1 detectors to sort of fill in the gaps that may have been missed in  
2 the yard?

3 A. Again, I don't want to seem like I am dodging the question.  
4 My mechanical expertise is relevant but when it comes to the  
5 equipment evaluation, the expectation is what is being evaluated  
6 that we are departing a compliant car.

7 Now, what's going on inside the bearing is not always  
8 something that you can inspect visibly and that's what the  
9 inspection -- the mechanical inspection -- that outbound  
10 inspection is a visual inspection. So, the hotbox detectors and  
11 some of our other wayside detectors are designed to evaluate the  
12 things that you can't see, and some of those things that need to  
13 be evaluated you need to be -- you need to evaluate during  
14 movement, while it's traveling over the road.

15 An overheated wheel bearing is a consequence of friction. In  
16 order to generate friction it's got to be moving and we can't --  
17 you can't perform that outbound inspection on a static train. So,  
18 that's what the detectors are out there to do the things that you  
19 can't do inside a rail yard.

20 Q. That last sentence answered the question.

21 A. Okay.

22 Q. I'm sorry for it being --

23 A. No, no, you're good.

24 Q. -- disjointed.

25 A. I'm -- yeah if I'm not hitting the mark please let me know.

1 Q. No, we're good.

2 MS. GARCIA: If I could jump in while you're --

3 MR. JENNER: Sure, sure.

4 BY MS. GARCIA:

5 Q. So, just to jump back to Norfolk Southern's safety goals  
6 regarding employee fatalities or community safety. So, when you  
7 look at the probabilities of extremely high-impact events, what is  
8 an acceptable level of risk that Norfolk Southern is willing to  
9 take regarding the employee fatalities and community risks? Let's  
10 start with employee fatalities first. What's an acceptable  
11 number, I mean, do you look at it in terms of how many employee  
12 fatalities per year is acceptable?

13 A. Yeah, I mean, emphatically zero. Zero fatalities are --

14 Q. Right.

15 A. And zero close calls that could lead to a fatality.

16 Q. Right. And so you have got a gap there --

17 A. Right.

18 Q -- because there are and it's not just you, it's, you know,  
19 the railroads, the -- in general. So, this is something of  
20 concern I would think because every year there are still employee  
21 fatalities. So, do you make adjustments to your risk assessment  
22 based on that? Or is there any high level of guidance on how to  
23 get to zero?

24 A. There is a lot that, I think, goes into answering that  
25 question. Clearly, any even risk or threat to life is something

1 that we -- the expectation is that we don't get to that point.  
2 And our safety culture has to drive the result that you are  
3 talking about. Zero is a consequence of a lot of things going  
4 right and it's not just the right set of rules, it's not just the  
5 right set of procedures or the right investment. It's a  
6 consequence of the commitment, the mutual commitment.

7 I think I mentioned the word covenant before. It's -- that's  
8 the, I think, the requirement organizationally that has to be met  
9 and it's a mutual relationship. Norfolk Southern takes this very  
10 seriously and then every individual that's out there on a ballast  
11 line has that same mutual commitment.

12 Q. Okay.

13 A. Not just to compliance, not just to rules compliance but to  
14 their coworkers, to the people that are subject to the  
15 consequences of their decisions and their families.

16 Q. Okay. Thank you. And just the second half of that was about  
17 community hazards. What's the acceptable number of, you know,  
18 accidents that impact so severely a community as East Palestine  
19 was?

20 A. Again, emphatically, zero. What has happened in East  
21 Palestine is not acceptable and the chain of events that lead to  
22 an accident of that magnitude, again there are a lot of  
23 opportunities that -- some we understand today and some we are  
24 going to learn more about as your investigation concludes. In my  
25 experience during my career, I -- we haven't had an event of this

1 magnitude and we are going to evaluate every nook and cranny of  
2 opportunity to ultimately ensure something like this doesn't  
3 happen again.

4 MS. GARCIA: Thank you.

5 BY MR. JENNER:

6 Q. You mentioned close -- the term close call so I have to  
7 pursue that area real quick.

8 A. Go for it.

9 Q. Do you have a close-call reporting system at Norfolk  
10 Southern?

11 A. We do.

12 Q. Can you just talk about that?

13 A. Sure. It's called the close-call experience. It's been  
14 around for approximately a little over a decade I'd say. So,  
15 2012, 2013 is when that program was stood up. It's designed to be  
16 employee-driven. It's a confidential close call reporting program  
17 where an employee who either has a close call personally or  
18 observes a close call of any nature can report that and those  
19 reports are taken in confidence, they are reviewed, scrubbed of  
20 any identifying information, and then evaluated and communicated  
21 back to -- either to the local team where that event is relevant  
22 but also more broadly to the organization.

23 It's a process that started on paper, or essentially you have  
24 a box that's mounted to a wall inside of a crew room and slips  
25 that are available you can fill out your paperwork, drop it in the



1 box. The keys to those boxes were managed by craft employees to  
2 help strengthen that level of trust that they are going -- that  
3 there is not going to be consequences.

4 And we also have an online portal that's available where  
5 employees can go in and report that digitally. That comes back  
6 and is -- are ultimately evaluated by my department and then we  
7 take those and communicate them back to the field to, you know,  
8 take lessons and learning opportunities and try to make something  
9 good out of something that was almost bad.

10 Q. How -- do you have a number about how frequently you will get  
11 a report?

12 A. I don't have a good statistic for you right now. I know from  
13 my previous experience like in engineering we would aggregate  
14 those close calls that were either related to engineering activity  
15 or submitted by engineering employees and use those. So -- and it  
16 would ebb and flow from maybe dozens a month to one or zero a  
17 month.

18 Q. Okay.

19 A. And the drivers behind that I couldn't tell you what  
20 influences the rate that those are submitted.

21 Q. Are you satisfied with the rate that you are receiving that  
22 you could make a positive change based on the number of reports  
23 that you are receiving? Do you wish you had more to work with?  
24 Do you wish you had more in different areas of operations?

25 A. I do. And I think that technology is another way that -- to

1 help encourage people to produce those reports. And one of the  
2 things that was -- well, when I first started digging through the  
3 data that was relevant to my team, you would think a confidential  
4 close call reporting people are going to report something and then  
5 it's not going to have their name, you're not going to know where  
6 it came from, may not even know where it was, but a surprising  
7 number had that employees name on there. They wanted to know what  
8 we did with it.

9 And, you know, right now the technology that's available, you  
10 have to go to a desktop, you have to go through a portal, and you  
11 have to submit that online. It's laborious and I think when it  
12 comes to reporting safety conditions or reporting close calls or  
13 opportunities the more we could do to create that real-time  
14 capability to do it, the better.

15 And we are in the process of developing a comprehensive  
16 mobile application to focus solely on the safety process and one  
17 of the features of that mobile application will provide that  
18 mobile opportunity that someone can report that close call in  
19 real-time. And then in parallel to that we are going to be  
20 participating in FRA's confidential close-call reporting program.

21 So, that is a commitment that we made coming out of East  
22 Palestine, that's part of our six-point action plan -- all Class  
23 Is are going to participate, but we are going to lead that charge  
24 and we have a meeting in two weeks with FRA's team that manages it  
25 and facilitates that program here to move it down the field.

1 Q. Do you see added value to now incorporating the FRA? Is the  
2 C3RES program?

3 A. Right.

4 Q. What -- do you see added value to that?

5 A. So, it's a program I don't know a whole lot about. I know  
6 that there are mechanisms there that could encourage more  
7 participation and if we get that then that's a good thing. You  
8 know, having the program being managed through a third party and  
9 really through a non-railroad entity -- NASA is who receives the  
10 complaints and who processes them and who delivers it back. If  
11 that helps generate more useful data that we can ultimately turn  
12 into something that drives safety in a positive direction at NS, I  
13 am all about it.

14 The only concerns that I have there are the time. The time  
15 to turn around a close call. The process can be extended from  
16 what I have been told and if something happens we would like to do  
17 something with it as quickly as we possibly can. So, I know  
18 that's an issue we are going to be working through with them.

19 Q. Right. Do you see any type of -- from the people who want to  
20 report something, is there any disincentive for them to make a  
21 report that you can think of?

22 A. I mean, if there is a perception by that individual -- a lack  
23 of trust, that would influence their desire to report something.  
24 A lot of close calls are discussed locally, with the local team.  
25 I know as I came up as a supervisor and in the thousands of safety

1 briefing meetings that I have been a part of, that's a standard  
2 element to the discussion, hey, do we have any close calls  
3 yesterday. Nine times out of ten that's where the opportunity is  
4 and that's where that close call is discussed. But it doesn't  
5 always make it to the broader audience when it's just covered in  
6 that closed environment there in the crew room or in the shop or  
7 wherever that safety briefing is occurring.

8 Q. Okay. Thank you.

9 A. Mm-hm.

10 MR. JENNER: I think I have covered the major areas that I am  
11 interested in.

12 MS. GARCIA: Okay.

13 MR. JENNER: Do you have any follow-ups to the areas we just  
14 discussed?

15 MS. GARCIA: I did have one question.

16 BY MS. GARCIA:

17 Q. Just jumping way back to the beginning. You mentioned that  
18 from November of 2022 to March 2nd that you were in  
19 transportation. What was your title there?

20 A. AVP Transportation.

21 Q. Okay. And what were your safety duties in that position?  
22 Your safety oversight or --

23 A. So, that role was focused on technology. That's something  
24 that I have spent a lot of my time and my career investing effort  
25 into, which is deployment of technology that benefits people at

1 the ballast line, making technology more user-friendly, mobile,  
2 help them do their work more effectively. So, I have a lot of  
3 experience doing that with the engineering organization. Moving  
4 into transportation that is a -- that was a primary part of my  
5 focus in that effort.

6 So, we have every conductor and locomotive engineer -- all  
7 7,600 of them that are out there on the property have a cell phone  
8 that's a railroad-provided cell phone. It doesn't have -- you  
9 can't make a phone call from it but it's a wireless device -- it's  
10 a tool that they have to do their job. There are a lot of  
11 opportunities to use this tool to drive the safety process.

12 One of the challenges that exists particularly with a  
13 locomotive engineer with a conductor is they report for duty at  
14 different times every day. There is not a standard report time.  
15 You report when you are called to operate that train. So,  
16 coordinating and standardizing a way to engage with those  
17 employees when they come on duty it's not as easy as it is for a  
18 shop environment where everyone shows up -- the first shift, they  
19 go on duty at the same time. You can catch them all.

20 So, using the -- using technology to ensure that that initial  
21 and concerted safety engagement exists every single day across the  
22 property that was part of the project -- that was a project that I  
23 worked on. You know, we want to be able to ensure that we  
24 communicate from top to bottom. That the -- that our commitment  
25 to safety is very transparent.

1 Q. So, what type of safety metrics did you look at in that  
2 position?

3 A. In transportation? The same metrics that I have looked at my  
4 whole career. So, you have injuries, incidents, accidents, rule  
5 violations, and that pretty much covers the gamut.

6 Q. Okay. Thank you. And prior to that you were engineering  
7 branch of operations. What was your title there?

8 A. Do you want me to list them all off or the last one I held?

9 Q. The last one.

10 A. AVP Engineering.

11 Q. Okay. And the same type of safety metrics that you would  
12 look at there?

13 A. Yes. Yeah, there are some -- I call them boutique metrics  
14 that are kind of specific to the engineering organization. Like  
15 we have on-track equipment that does maintenance so we manage  
16 metrics specific to on-track equipment more closely than  
17 transportation does. Theirs is locomotives and cars. But  
18 injuries, accidents, that type of stuff.

19 MS. GARCIA: Thank you.

20 MR. JENNER: You have a distinct area -- since we discussed  
21 beforehand -- but I want to ask -- before we get into that, if  
22 Mike, do you have any questions that --

23 MS. GARCIA: Just real quickly Mike because we are short on  
24 time.

25 MR. KUCHARSKI: I do. I understand time is of the essence

1 but thanks Steven and Anne, I appreciate it. Just a couple of  
2 really quick follow-ups. Just a couple of point in questions.

3 BY MR. KUCHARSKI:

4 Q. There was a discussion about the application of standards to  
5 the inspections. And I apologize if I missed this, did you say  
6 what that standard was for a rail car?

7 A. The time?

8 Q. Yeah.

9 A. I -- no, I did not and that's because I don't know the answer  
10 to that question.

11 Q. Oh, okay. I got you. Yeah, we can -- we will request that  
12 you know, offline, and then did you say there was a study that was  
13 done to come up with that time?

14 A. And when I use the term study, I don't know if it was like a  
15 formal commissioned mission statement, but people went out and  
16 used empirical methodology to measure and collect data surrounding  
17 the times that are associated with performing those basic tasks.

18 Q. Okay. Yeah, and again we can follow up offline if maybe  
19 there was some notes or something taken --

20 A. Yeah.

21 Q. -- you know, kind of in that process. That would be great.  
22 The -- something else you said I think just -- I just wanted to --  
23 I think you were pretty clear on your statement there, but just to  
24 make sure we got this straight. In terms of overheated bearings,  
25 I think, you know, I think what you basically said is you really

1 can't get that during a pre-departure inspection. Is that a fair  
2 characterization?

3 A. To the best of my knowledge, unless you have a grease that is  
4 leaking out of the bearing, the bearing is a sealed component so  
5 if you have grease that's coming out of the endcap, that's an  
6 indicator that you got a problem. You could call that out during  
7 an inspection. But generally yeah, if you have issues with the  
8 bearings or the roller bearings that are inside that capsule  
9 that's not something you are going to see there in a static  
10 inspection.

11 Q. Okay. Okay, I see what you're saying. So, there could be  
12 potentially some visual indication, but it sounds like you are  
13 probably more so relying on the detectors -- the hotbox detectors.

14 A. Correct.

15 Q. Okay. And then again and I don't want to -- this is my last  
16 question here for you, but just kind of to the extent of your  
17 knowledge, it sounds like my understanding was that those just use  
18 the static threshold for the heat that those are going but there  
19 was some discussion you were talking about trending algorithms and  
20 things like that. So, just to clarify, are there any trending  
21 algorithms in use now? Or is that, like, is that you know, at the  
22 time of the accident it was static, but you are working on the  
23 trending algorithms? Can you just clarify?

24 A. Oh, no. There are algorithms that are -- that have been  
25 deployed for years at NS. And our wayside detection team could





CERTIFICATE

This is to certify that the attached proceeding before the  
NATIONAL TRANSPORTATION SAFETY BOARD


IN THE MATTER OF:           NORFOLK SOUTHERN TRAIN DERAILMENT  
                                  IN EAST PALESTINE, OHIO  
                                  ON FEBRUARY 3, 2023  
                                  Interview of John Fleps

ACCIDENT NO.:               DCA23SR002

PLACE:                       Atlanta, Georgia

DATE:                        April 12, 2023

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.

  
\_\_\_\_\_  
Julie Brumbarger  
Transcriber