



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

GROUP	G
EXHIBIT	
24	

Agency / Organization

NTSB

Title

**Interview Transcript – Mike Fabery
ATC Supervisor,
Norfolk Southern Railway,
April 13, 2023**



I, Michael Fabery, 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>
i	Title page	"Michael" not "Mike"; Full name
i	Title Page	"ATC Desk Manager" not "Manager"; Clarification
ii	N/A	"Anne" not "Ann"; Typo
ii	N/A	"WilmerHale, for Norfolk Southern" not "WilmerHale"; Clarification
4	5	"Mike" not "Mike (ph.)"; Clarification
4	6	"Michael" not "Michael (ph.)"; Clarification
4	7	"Mr. Fabery" not "Mr. Fabrey"; Typo
4	10	"Norfolk" not "Northfolk"; Typo
5	5	"WDS help desk" not "ATC (ph.) helpdesk"; Typo
5	20	"I understand that" not "understand that"; Typo
6	1	"quick synopsis" not "quick synapsis"; Typo
6	4-5	"Michael Fabery – excuse me – I"; not "Michael Fabery. Excuse me. Started"; Typo
6	5	"management trainee" not "manager trainee"; Typo
6	10	"the Conway" not "Callaway (ph.)"; Typo
6	14-15	"Basically, I was assistant" not "Basically, assistant"; Typo

6	15	“and handled” not “handled”; Typo
6	21	“wayside – well”; not “wayside (ph), well,”; Typo
6	22	“JWDS” not “JWS (ph.)”; Typo
6	23	“the WDS desk. It was” not “it’s WDS (ph.). But was”; Typo
6	24	“locomotive” not “locomotives”; Typo
7	4-5	“C&S” not “C&S (ph.)”; Typo
7	19	“Gary” not “Gary (ph.)”; Clarification
7	20	“assistant” not “associate”; Typo
7	21	“Mr. Dickson” not “Mr. Dixon (ph.)”; Typo
7	25	“Bruce Simon” not “Bruce Simon (ph.)”; Clarification
8	8	“the bearing that triggered” not “the, triggered”; Clarification
8	9	“on at 12:30 AM” not “on to 1230 (ph.)”; Typo
9	4	“Road Foreman Desk” not “road performing desk”; Typo
9	5	“Road Foreman engineers” not “road performing engineers”; Typo
9	6-7	“TBOGI” not “tebogey (ph.)”; Typo
9	7	“outlier” not “outliner”; Typo
9	9-10	“for largely –” not “for largely (ph),”; Typo
9	19	“three K values of four” not “three K (ph.) bodies before”; Typo
9	19	“minimum standard” not “minimal standard”; Typo
9	20	“stop the train for” not “stop the for”; Typo
9	21	“temperature” not “temperate”; Typo

10	3	“K values” not “K bodies”; Typo
10	15	“required – or” not “required or”; Typo
10	24	“exceeded” not “seated (ph.)”; Typo
10	24-25	“You could exceed the standard” not “You couldn’t see the standard”; Typo
11	1	“values above four” not “bodies above four”; Typo
11	6	“JWDS ATC” not “GWS (ph.) ATC”; Typo
11	18	“two standards” not “two centers”; Typo
11	21	“Sentry” not “century (ph.)”; Typo
11	24	“Micros” not “micros”; Capitalization
12	7	“sticking brake” not “braking a short”; Clarification
12	9-10	“announce” not “not a non-secruise (ph.)”; Typo
12	15	“Announced to” not “on opposite”; Typo
14	25	“him” not “them”; Typo
15	4	“Mr. Fabery” not “Mr. Staffleflied (ph.)”; Typo
16	15	“assist that crew”; not “assist him”; Clarification
18	9	“than 3 years ago” not “than years ago”; Typo
18	20-21	“Outten” not “Alton (ph.)”; Typo
20	14-15	“machine vision” not “machine division”; Typo
20	16	“machine vision --” not “machine division”; Typo
23	12-13	“the analyst will gage” not “the will gage”; Typo
29	13	“sticking brake” not “stick and brake”; Typo
29	16	“TBOGI research” not “tebogey research”; Typo

30	17	“miles” not “mils”; Typo
31	24	“Salient” not “salient (ph.)”; Typo
32	2	“WILD” not “wild (ph.)”; Typo
32	2	“Salient” not “salient”; Typo
32	5	“where we get” not “where we’re get”; Typo
32	7	“Salient” not “salient”; Typo
32	7	“WILD alerts” not “watt alerts”; Typo
32	19	“BEENAVISION” not “beena (ph.) vision”; Typo
32	21	“BEENAVISION” not “beena (ph.) vision”; Typo
32	23	“TBOGI also” not “tebogey also”; Typo
32	23	“TBOGI program” not “tebogey program”; Typo
32	25	“TBOGIs also” not “tebogey also”; Typo
33	16	“WM51” not “wild 851's”; Typo
34	4	“Railinc” not “rail main (ph.)”; Typo
35	4-5	“we were under the MOC, we were under MOC and SOC.”; not “we had the mock, we were under mock and sock.”; Typo
35	10	“positive” not “position”; Typo
37	1	“AAR meetings.” not “AAR meetings (ph.)”; Clarification
38	8	“5” not “35”; Typo
38	24	“cotter keys” not “catar (ph.) keys”
39	25	“Railinc system” not “RAILLINK system”
40	2	“Railinc system” not “RAILLINK system”
40	13	“UP” not “UP (ph.)”; Typo

40 20 “unless—” not “unless,”; Typo
52 24-25 “slips, trips and falls” not “slip strips (ph.) for falls”; Typo

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: 5/19/2023

Witness: 

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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

Accident No.: RRD23MR005

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Interview of: MIKE FABERY, Manager
Norfolk Southern

Atlanta, Georgia

Thursday,
April 13, 2023

APPEARANCES:

GREG SCOTT, Investigator
National Transportation Safety Board

RUBEN PAYAN, Investigator
National Transportation Safety Board

STEPHEN JENNER, Investigator
National Transportation Safety Board

ANN GARCIA, Investigator
National Transportation Safety Board

DAVID GRAUBARD, Accident Chief
Federal Railroad Administration

MASHA BRESNER, Counsel
WilmerHale

I N D E X

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I N T E R V I E W

1
2 MR. SCOTT: All right. We're recording. My name is Greg
3 Scott. I'm an NTSB investigator for this incident. Today is
4 April 13th, 2023 and we are at the Norfolk Southern Headquarters
5 in Atlanta, Georgia to conduct interviews with Mike (ph.) Fabery.
6 Do you prefer Mike or Michael (ph.)?

7 MR. FABREY: Mike. Mike is okay.

8 MR. SCOTT: Who is employed with Norfolk Southern. This
9 interview is in conjunction with NTSB's investigation for, we had
10 a derailment of a Northfolk Southern train in East Palestine, Ohio
11 on February 3rd, 2023. The NTSB accident reference number is
12 RRD23MR005. The purpose of this investigation is to increase
13 safety, not to assign fault, blame or liability. Before we begin
14 our interview and questions, we'll go around the table and
15 introduce ourselves. Please spell your last name and state who
16 you represent and your title. I'd like to remind everyone to
17 speak loudly and clearly for accurate recording of the interview.
18 Also, to go along with that, as you speak, so, if I'm asking
19 questions, before I start asking questions, please state who you
20 are when you begin to talk. That way the transcriptionist knows
21 who you are. So, again, my name is Greg Scott. The spelling of
22 my last name is S-C-O-T-T. And I am an NTSB investigator for this
23 incident.

24 MR. PAYAN: Ruben Payan, P-a-y-a-n. I'm the investigator in
25 charge for this accident, NTSB. I did say that. I'm sorry.

1 MS. BRESNER: I'm Masha Bresner, B-R-E-S-N-E-R. I'm outside
2 counsel for Norfolk Southern with WilmerHale.

3 MR. FABERY: Yes. My name is Michael Fabery, that's F, as in
4 Frank, a-b, as in boy, e-r-y. And I'm one of the managers at the
5 ATC (ph.) helpdesk for Norfolk Southern.

6 MR. GRAUBARD: David Graubard, G-r-a-u-b-a-r-d, with Federal
7 Railroad Administration, accident chief.

8 MR. JENNER: I'm Stephen Jenner, S-t-e-p-h-e-n, J-e-n-n-e-r.
9 I'm a human performance and system safety investigator with the
10 NTSB.

11 MS. GARCIA: I'm Anne Garcia, G-a-r-c-i-a. I am also a human
12 performance and system safety investigator for the NTSB.

13 MR. SCOTT. Thank each of you. I'd like to, I'd like you to
14 acknowledge that and be aware that this interview is being
15 recorded and we will provide a copy of the transcript as discussed
16 previously to review before we place it the accident docket. Do
17 you understand the transcript will be a part of the public docket?
18 As such, we cannot guarantee any confidentiality. Do you
19 understand that?

20 MR. FABERY: Yes. Michael Fabery, understand that.

21 MR. SCOTT: Okay. All right. I ask once again each party to
22 speak clearly when you're talking. Announce your name prior to
23 talking. And we'll get started.

24 INTERVIEW OF MIKE FABERY

25 BY MR. SCOTT:

1 Q. So, if you would, just give us a quick synopsis of your work
2 experience taking us up to your present job, including roughly how
3 long you've been in each position.

4 A. Yes. So, I started with, Michael Fabery. Excuse me.
5 Started with Norfolk Southern as a manager trainee in 2004. I
6 worked for roughly three years in Altoona, Pennsylvania in the
7 locomotive, excuse me, locomotive traction motor shop where
8 Norfolk Southern refurbishes traction motors. I was a mechanical
9 supervisor there. I was promoted roughly 2007 and I was
10 transferred to Callaway (ph.) locomotive shop where I was a
11 general foreman for running repair, basically to repair the
12 various locomotives, assigning job tasks. After that in 2008, I
13 received another promotion, assistant manager of locomotives
14 operations where I stayed for three years up to 2011. Basically,
15 assistant manager of locomotive operations handled the locomotives
16 and directed where the locomotives that needed repair would go,
17 you know, for maintenance or repair issues in our system, in the
18 Norfolk Southern system. Basically, juggling the workload amongst
19 the various locomotive shops that Norfolk Southern had at the
20 time.

21 So, I did that for three years and then the wayside (ph.),
22 well, back then it was called the JWS (ph.) desk, was started.
23 Presently, it's WDS (ph.) desk. But was started in 2011. That
24 was still under locomotives back then. And I applied for that job
25 and had that job ever since, you know. I was the first manager

1 and I'm still here, you know, from 2011 to present day. Of
2 course, the job titles have changed, you know. We've been passed
3 around. We've been in different departments, you know. We went
4 from mechanical and now, I consider that we're under the C&S
5 (ph.), communications and signals department there.

6 Q. Okay.

7 A. But that's pretty much my experience here at Norfolk
8 Southern.

9 Q. Okay. Now, were you working the night of the East Palestine
10 derailment?

11 A. No. I was not working the night of the East Palestine
12 derailment but I am the only manager. So, if there is an issue,
13 of course, the operator will give me a call.

14 Q. Now, can you walk us through what went on that evening as far
15 as your role in, in your ATC desk person --

16 A. Yes.

17 Q. -- and, and what responsibilities you held that night and
18 what you did?

19 A. Yes. So, Gary (ph.) Rambo gave me a call. Indicated that he
20 received a phone call from our associate vice, VP at the time, you
21 know, Mr. Dixon (ph.). He said that there was a derailment at
22 East Palestine. So, he just wanted to keep me in the loop. And
23 basically, I, you know, told him okay. Yes. Just, just pull the
24 basic research for now. And that was pretty much my role, you
25 know. I passed on to my manager, Bruce Simon (ph.), and basically

1 told him hey, we had a, had a derailment at East Palestine.
2 Apparently, Gary told me that something was, the town was on fire.
3 Buildings were on fire was how it was reported at first. So, from
4 there, I did some preliminary research, you know, at home. Saw,
5 saw no issues, nothing that was actionable in terms of an alert.
6 And, you know, throughout the night, Gary gave me a call,
7 consulted with me, you know. He pulled basic research just on
8 the, triggered the hot talker alert. And he just went over some
9 of the findings with me and he passed that on to 1230 (ph.).
10 Basically, my job role right there was, I was in a holding pattern
11 and until the morning where I secured all the raw data files.
12 But, you know, I did preliminary, I just looked at the hot box
13 detectors, there are 40 hot box detectors, to make sure that there
14 was no, no alarms or, excuse me, alerts.

15 Q. Okay. When we interviewed Gary, he talked about doing the
16 research.

17 A. Yes.

18 Q. And he basically had to do a report after each derailment
19 after he finished his research. He said sometimes that took him a
20 while just depending on what other actionable items were coming
21 in. He would do it in between them. But is that something he
22 sends out to multiple people, just to you and you forward it on
23 or --

24 A. No. We have a, he should send out a text message to a
25 predefined list. Of course, we have to, our operators have to

1 fill in some of the blanks, you know, depending on what division
2 it is, depending on the mechanical division, you know,
3 transportation. And, you know, it's just a brief report. The
4 majority of that report is filled out by the road performing desk.
5 The road performing engineers fill out a lot, the bulk of that
6 information. We're mainly concerned about, you know, tebogey
7 (ph.), were there any alerts or alarms, were there any outliner
8 values noted. Now, this was an interesting case, you know.
9 Something is reported on fire. In that case, we just, for largely
10 (ph.), we stay in a holding pattern due to preliminary research.
11 In this case, there was a 953 alert at the prior detector which I
12 believe was Salem, Ohio but nothing that would have been acted
13 upon. But of course, that's where that would have been notated.
14 Q. Okay. So, the 953 alert at the previous detector, what would
15 have, I guess you said it wasn't actionable. Can you kind of go
16 through what made it non-actionable versus something that would
17 have been actionable for, for him to proceed with?
18 A. Yes. So, the 953 alert, the way we handle a 953 alert is
19 three K (ph.) bodies before would be the minimal standard. We
20 would stop the for an inspection. Basically, it's a bearing
21 temperate spike.
22 Q. So, this was, this was a bearing temperature spike at the
23 previous detector --
24 A. Yes.
25 Q. -- before East Palestine. So, correct me if I'm wrong. But

1 if that was only the first one, he would have had to see two more
2 consecutive, what did you say, the four K (ph.) twice?

3 A. Two more K bodies of four. They do not have to be
4 consecutive.

5 Q. Okay. So, just three, doesn't have to be consecutive and
6 then he would take action. So --

7 A. Yes.

8 Q. -- even, he did mention that he was kind of busy at the time.
9 He didn't get to see the previous defect detector spike coming in.
10 So, even if he had noticed it right away, it wouldn't have been an
11 actionable item right then.

12 A. Absolutely correct.

13 Q. What would he have done with it?

14 A. Just clicked onto it. He could have put it in the watch
15 window but that's not required or wait until another alert is
16 triggered because obviously, you know, throughout the night, you
17 know, we had alerts coming in. And we could see the past 15
18 detectors. The operator can see the past 15 detectors and see any
19 trending.

20 Q. Okay. So, you wouldn't have had to monitor, per se. You
21 could have just waited until the next four K.

22 A. That is correct.

23 Q. Okay.

24 A. Now, sometimes the standard is a seated (ph.). You couldn't
25 see the standard at the desk. But the minimum standard is three K

1 bodies above four.

2 MR. SCOTT: Okay. I'll turn it over to Ruben.

3 MR. PAYAN: All right. This is Ruben Payan, NTSB. Just a
4 few questions.

5 BY MR. PAYAN:

6 Q. You said you were with the GWS (ph.) ATC desk since 2011.

7 A. Yes.

8 Q. During that time, do you recall NS changing the thresholds on
9 the hot bearing detectors, either raising them or lowering them to
10 when an alert or an alarm would --

11 A. Okay. You're referring to all bearing alerts, sir?

12 Q. Yes.

13 A. Okay. So, do I have to say Mike Fabery again?

14 Q. No.

15 A. Okay. Yes. So, we did actually. At one time, when the desk
16 started, okay, we alerted for differential talker alerts which is
17 a side to side bearing differential of 115 degrees or 90. Now, we
18 had two centers there. Let me explain this. Because we had two
19 manufacturers back then or, excuse me, one manufacturer but there
20 were two different types of detectors. They had the old school
21 which was a century (ph.) and a differential alert on that was 90
22 degrees side to side. Warm bearing I believe was 120 and a
23 critical bearing alert was 140 because it measured a different
24 part of the bearing. And then we had the NGs and the micros
25 which, which are our detectors present day. We did have some back

1 then where a differential was 115 degrees side to side, 170 for
2 warm bearing and 200 for a critical alarm. Now, I performed some
3 research because, you know, you know, and analyzed the data and we
4 noticed that the differential alerts, the majority of the alerts
5 that we stopped in our research were no defects found. When we
6 did find defects, the majority of those defects that were found
7 were, you know, braking a short, a hand brake. So, I provided
8 that research to the operating rules committee and of course, they
9 voted on, on, you know, having that type of detector, not a non-
10 secruise (ph.). We still get, the operators still get that alert
11 in the WDS system. But there was a vote and of course, the alert
12 was no longer talking in the field.

13 Q. So, at one time, the differential was provided to the train
14 crews?

15 A. Yes. On opposite crews. That is correct, sir.

16 Q. Okay. I didn't know that. So, during your normal duties, do
17 you ever get called and have to take over the ATC desk?

18 A. You mean, I just want to make sure I understand the question,
19 if somebody has an emergency and has to --

20 Q. Right.

21 A. Yes. I'm --

22 Q. You're part of the backup to, in case --

23 A. Yes. One of my job duties is vacation relief. I actually
24 work the desk quite a lot. So, I'm aware of, aware of the, you
25 know, how do I word this, you know, how to handle the alerts.

1 Q. Yes. Okay.

2 A. Yes.

3 Q. So, you do it regularly then, routinely.

4 A. A lot more than I would like.

5 MR. PAYAN: Okay. Very good. That's all I have.

6 Mr. Graubard?

7 MR. GRAUBARD: Yes. Dave Graubard, FRA.

8 BY MR. GRAUBARD:

9 Q. Is there a maximum response time or like a goal time that the
10 ATC desk tries to impose for the analyst to respond to an alert?

11 A. We do not have a maximum goal time. We, we have to
12 constantly triage the alerts as they come in, you know. We might
13 have spurts. Okay. There might be five or six, I mean, and it's
14 occurred. I've worked the desk. You might have spurts where you
15 might have, you know, three to five trains coming all at once.
16 The operator has to triage the alerts. And while they're triaging
17 and they're handling the alerts, the alerts that they have might
18 be displaced with additional alerts that are coming in at the
19 desk.

20 Q. Okay.

21 A. So, it's consistently triaging.

22 Q. Okay. Is there a system in place that ensures wayside
23 detector alerts are eventually answered or responded to somehow or
24 is it possible that one could populate and go unnoticed?

25 A. The, the way our system is set up, we, it's pretty much the

1 honor system. We don't know when an operator clicks onto an
2 alert. I mean, there's no record of it. It's, you know, the
3 operators are told to, you know, click on every single alert but,
4 but, you know, that's based on the honor system. There's no way,
5 I can't go in and pull. The way the system is built, we don't
6 have it built to where we could say, okay, Mike Fabery just
7 clicked on this minor alert, you know, at 9:00. 9:01 he clicked
8 on this moderate alert. There's no system in place at this time.

9 Q. Okay. That answers that one. Sorry. Give me a second.

10 A. No problem.

11 Q. If an ATC analyst is overwhelmed by multiple alerts, is there
12 a process through which they can call for help or say, or tag
13 somebody else in?

14 A. The, the, I'm it. Basically, the operator would give me a
15 call but I've never, I mean, they'll give me a call, you know, if
16 they need assistance or, you know, advisement on how to handle an
17 alert. You know, obviously, we have SOPs but, you know, some of
18 it's on the job training. You know, they'll give me a call and
19 I'll try to assist them with handling it. But I've never had to,
20 I don't recall an instance where I've had to jump in.

21 Q. Okay.

22 A. Actually, correction. I've got a new employee. And of
23 course, we just hired a new employee, you know, for vacation
24 relief and other duties. Of course, you know, during the training
25 process, still training them, you know, I'll be next to him.

1 He'll work the desk and he's been overwhelmed a few times. And of
2 course, I'm training him so I've got to jump in and handle the
3 alerts.

4 Q. Okay. Mr. Stafflelied (ph.). So, I understand there's no,
5 there's no system to ensure that they're, that everything is
6 handled. It's kind of the honor system.

7 A. Yes.

8 Q. Is there any, does NS ever do an audit to kind of go back and
9 look periodically and say we missed so many in this period of
10 time?

11 A. I've, I've never done an audit.

12 Q. Okay, okay.

13 MR. GRAUBARD: That's all I have for now. Thank you.

14 MR. JENNER: Thank you. This is Stephen Jenner, NTSB.

15 BY MR. JENNER:

16 Q. Could I get a more detailed description of your duties in
17 your current position?

18 A. Yes. So, I, I write the SOPs at the desk, you know, with
19 assistance from, you know, research and test on some, some of the
20 items. I'm vacation relief. Pretty much I'm the on call person
21 if anybody at the desk has any issues, you know, needs any help.
22 And of course, right now, we're doing upgrades as we mentioned
23 previously. I'm tasked with that, upgrading the program with new
24 functionality, streamline the process, make the desk more
25 efficient. That takes a big chunk of time. And basically,

1 managerial duties, you know. Making sure everybody, you know, is
2 aware of the rules and such.

3 Q. Okay. Thank you. You talked about triage --

4 A. Yes.

5 Q. -- for alerts and I think we gave the example of let's say
6 three of them came in. And I guess, triage is a way of
7 prioritizing which one needs to be ranked first, second, third
8 that you have to tend to. Is that right?

9 A. That's correct.

10 Q. Okay. How long does it take to, to triage if you have three
11 alerts come in or alarms to, for someone to determine I need this
12 one to be first, this one to be second, this one to be third?

13 A. Okay. By, by looking at the alerts, we could see what type
14 of alerts we have. Like if we have a talker alert, that's
15 stopped, you know. We'll have to assist him. We've got trains
16 stopped and we have to make sure that they did stop. Okay.
17 Actually, they're told to, of course, you know, contact the desk
18 but we need to make sure if they're not getting to us in time.
19 We, we have, the operator can triage. Basically, they have to
20 know the SOPs generally and they could also use, some times they
21 could use the criticalities. Each alert has a criticality.

22 Q. Okay.

23 A. But we can't always use the criticality because the 953 alert
24 comes in as a critical but it is not a critical. I mean, it
25 sounds really bad. It's something we're working on, you know, to

1 change, to make triaging simpler here.

2 Q. All right. So, if I could get a sense of time that three
3 alerts come in and he has to do some analysis to decide which one
4 is most important --

5 A. Yes.

6 Q. How long does that process take?

7 A. It depends on the person but it could be, it could be pretty
8 quick. For instance, you'd probably want to, well, how many
9 alerts are there? What did you say?

10 Q. If three came in, does it take him 30 seconds, a minute, two
11 minutes, five minutes to say this is the way I need to attend to
12 first?

13 A. I'll use personal experience because I had to do this the
14 other day where I had a spurt of alerts. It probably took about
15 two to three minutes.

16 Q. Okay.

17 A. I think I had maybe three to five alerts come in.

18 Q. And at that point, after two to three minutes, then you can
19 attack the first one that you saw most important?

20 A. Yes.

21 Q. Okay.

22 A. Yes.

23 Q. All right. From talking to our previous witness, he
24 discussed three years or a little more. He's been here for six
25 years. And I think in the first three years, he talked about what

1 I called a resource person, analogous to what you're describing
2 yourself. But there was someone he could call on to help him if
3 there was a derailment because that takes a lot of time to sort of
4 help manage his workload a little. Does that make sense to you,
5 this other person that was available?

6 A. I don't, I don't know if it was three years the other person
7 was available but --

8 Q. More than three years ago or something.

9 A. Someone was available more than years ago?

10 Q. Yes. Like while he's working his shift, he can call. Like
11 we have an emergency and I'm going to use you to help me with this
12 derailment, with this situation.

13 A. I'm not familiar with the time period but we did have someone
14 like that. In fact, I believe we had two people.

15 Q. Okay. Can you tell me about those people?

16 A. Yes. They were, at one time, Norfolk Southern had
17 researchers that would research the various alerts. And we no
18 longer have those two people. They were assigned to the wayside
19 desk. In fact, hold on one second. Yes. Who, they, they, the
20 jobs went away. And yes. I remember that. One was David Alton
21 (ph.). He's been with me the longest but he did have one of those
22 research positions. And then another individual went to customer
23 service. But yes. We did have somebody that you could call upon.

24 Q. Right.

25 A. They were mainly day shift.

1 Q. Right. Why did those positions go away?

2 A. I couldn't really answer that. That would have to be
3 somebody higher, higher than myself.

4 Q. Sure, sure.

5 A. But I believe during that time, well, no. I really couldn't
6 tell you why they got rid of jobs, sir.

7 Q. Did you see them as an asset?

8 A. Absolutely. I saw them as an asset.

9 Q. Okay. So, they went away. So, that resource is no longer
10 available. So, does that affect how an ATC person approaches his
11 job or approaches critical situations?

12 A. Well, when a job is abolished, somebody else has to take the
13 tasks and that is me.

14 Q. Okay. But, but I think you mentioned that you're, you're not
15 called upon very often. You are a resource available but you're
16 not called on very often.

17 A. We streamlined the derailment process.

18 Q. Okay.

19 A. The preliminary derailment process. And, to where the
20 operators can, can handle it in a timely fashion there.

21 Q. Yes. What's a timely fashion? What's your expectation?

22 A. Okay. You know, it depends on what's going on. A few hours.

23 Q. Okay. And how common is it that someone who's working a 12
24 hour shift has to manage a derailment?

25 A. I'd have to look at the records there, on a hotline there.

1 But that's not something that we, I'd have to look. Maybe, maybe
2 not more than once a week for the entire --

3 Q. Okay.

4 A. -- operation.

5 Q. Right.

6 A. But I'd have to look at the records, sir.

7 Q. Okay. Thank you. Has the, has the job become more
8 challenging through the years or, or less demanding? What do you
9 think?

10 A. I believe that the job has become more demanding.

11 Q. Why?

12 A. We're adding on more alerts.

13 Q. You're adding on more alerts?

14 A. More alerts. More alerts are coming online of the machine
15 division. As we add detectors, there will be more alerts. And
16 we're still developing the machine division, awesome technology.
17 And, you know, as more alerts come on, more portals, as they call
18 them, we'll begin more, I mean, the workload will definitely
19 increase.

20 Q. Right. So, if you introduce more detectors and more alerts,
21 what's the ATC person to do? How is he supposed to manage that?
22 Is that a good thing? Is that a bad thing?

23 A. I've, I've requested more manpower and I've been, I've been
24 at this since 2011. And I've, I've consistently requested more
25 manpower.

1 Q. And, and what, how would those manpower, those persons, what
2 would they be doing?

3 A. They'd be handling the additional alerts. They'd allow me to
4 do more managerial tasks because one thing, I believe I mentioned,
5 I do SOPs. Right. But I mean, if I'm working the desk, I can
6 only do so much.

7 Q. Sure.

8 A. So, you know, more people can, you know, allow me to do my
9 tasks and also, you know, cover vacations and such.

10 Q. Sure. Do, do you foresee an operation where two people are
11 working at the same time or do you see the extra manpower just a
12 resource that's available?

13 A. I see a point, and this is my opinion. I do see a point
14 where we'll need two people, not as an extra resource just to
15 cover the desk and the alerts.

16 Q. I appreciate that. Thank you.

17 Mr. GRAUBARD: That's all the questions I have.

18 MS. GARCIA: Okay. Thank you. Anne Garcia and I just have a
19 couple of follow up questions to what Steve was asking and the,
20 kind of the line of thought that people have been asking.

21 BY MS. GARCIA:

22 Q. You had mentioned that you just hired another employee for
23 vacation relief.

24 A. Yes.

25 Q. Was that for the wayside desk?

1 A. Yes, yes. That was for the wayside desk. We finally got a
2 position and that was, that was, yes. That was recently. The
3 position was effective March 1st. The individual came to us March
4 15th.

5 Q. Okay. So, March 1st it was official.

6 A. Yes.

7 Q. So, do you know when it was requested for this new position?

8 A. It was prior, I believe it was prior to the derailment if
9 memory serves me correctly.

10 Q. Okay. And what is their job going to be besides just
11 vacation relief?

12 A. They'll be assisting me. The goal, the vision, once we get
13 him fully trained up to work at the desk, will be to assist me
14 with some tasks and also assist the operators. It's pretty much,
15 we're still feeling out what we're going to do there outside
16 vacation relief. But, you know, it's definitely going to be
17 assisting, you know, the operators when they're there or myself.

18 Q. Right. So, this person has 12 hour shifts?

19 A. The individual right now, when they're not covering
20 vacations, will have a nine hour shift, 7:00 to 4:00.

21 Q. Okay.

22 A. Five days a week.

23 Q. Okay. So, that doesn't help the employees who were on the
24 6:30 p.m. to 6:30 a.m. shift.

25 A. That is correct.

1 Q. Okay. Any particular reason that it was decided for those
2 hours?

3 A. Yes. The, the individual, the way we looked at it is the
4 individual was going to be covering both day and night shift, 12
5 hours. And so, with that, it's sort of a, hey, when you're not
6 covering the desk, you'll be working these hours.

7 Q. Okay. Thank you. So, also, continuing with ATC analysts.
8 They work 12 hour shifts.

9 A. Yes.

10 Q. So, when is there meal break and how long is it?

11 A. When we work the desk, you take the break, you know, when you
12 have a lull. There's no specific time. When there's a lull, the
13 will gage when the, when the alerts are subsiding and then they
14 will take their break. They'll generally eat at the desk, you
15 know, and you'll still be monitoring the desk.

16 Q. So, how long is their meal break.

17 A. We don't have a, we don't have a time limit there because we
18 really, someone needs to be watching the desk.

19 Q. Okay. So, it sounds like there really isn't a meal break
20 that they can leave the desk to go and grab their food. But then
21 they're back and they're still monitoring while they're eating.

22 A. That's correct. Yes. They, they get up and yes. I could
23 vouch for that, you know. I'll get up when I'm hungry and when
24 the alerts are subsiding and handle, and that's just the nature of
25 the desk at this time. And if I've got to go to the bathroom,

1 same thing. I'm going to go to the bathroom, you know. No choice
2 there, you know.

3 Q. Okay. So, just for my clarification, the railroad then, does
4 it fall under the OSHA regulations for employees that, you know,
5 they have to have a meal break? Like all of us, we're required to
6 be given by our employer a meal break that's, you know, a half an
7 hour, a morning break 15 minutes, an afternoon break 15 minutes,
8 you know. We work eight or nine hour shifts.

9 A. I couldn't answer to that. You'd have to talk to somebody
10 above me. I'm sorry.

11 Q. Okay. Thank you.

12 MS. GARCIA: That's all I have right now.

13 MR. SCOTT: This is Greg Scott. I have a few follow up
14 questions.

15 BY MR. SCOTT:

16 Q. So, earlier I'd asked you about changes to the parameters on,
17 had there been any changes to like the thresholds and you gave him
18 an example of the differential alarm, where they had changed some
19 of that. Have you ever changed the actual threshold itself?
20 Maybe not necessarily whether it alerts the train crew versus
21 yourself but say on the HBDs (ph.), have, I think your range right
22 now is 170 to 200 and then above 200. Has that ever been lower or
23 has it always been 170 to 200?

24 A. It's always been 170 to 200. And by the way, I'd just like
25 to emphasize this, make one clarification. That's, that, at one

1 time, we, remember at the beginning I told you we had two
2 different brands. Those have never been changed --

3 Q. Okay.

4 A. -- to my knowledge.

5 Q. So, it's never been lower than 170.

6 A. That's, that's correct for that particular detector type
7 which is what we have now.

8 Q. Okay. So, when we were monitoring, we were down visiting the
9 ATC desk, we saw when the alerts come in, they come in on a line
10 and the line is red until they actually acknowledge that and open
11 it up and look at it. Those stay that way regardless. Say it's,
12 you know, he doesn't look at it for five minutes versus five
13 hours, it stays at a red status until it's open up and looked at.

14 A. No. I believe after, after a few minutes, the red status
15 will go away.

16 Q. Okay, okay. My next question was going to be if they're ever
17 missed because they stay red. But if they switch over to the
18 white, it'd be, do you feel like any of your alerts ever get
19 missed and not opened up or looked at or monitored?

20 A. I'm sure there's probably been some missed alerts, you know.
21 Human nature, human error. But not intentionally.

22 Q. Would there be, would there be any way to keep the alert a
23 certain highlighted color so you knew that it hadn't been looked
24 at yet?

25 A. We've discussed that with IT, our IT department, and they

1 told us that the way the program is built, there's really no way
2 unless they completely revamped the program to, to allow it to
3 stay highlighted.

4 Q. Okay.

5 A. That would be a clarification I'll need to get from the IT
6 department.

7 MR. SCOTT: Okay. I think that's it. Ruben.

8 MR. PAYAN: All right. Ruben.

9 BY MR. PAYAN:

10 Q. You doing okay? You need a break or anything?

11 A. I'm okay.

12 Q. All right. I just want to make sure I get this in my head
13 straight. So, every time a train goes by a defect detector,
14 whether it be hot bearing or dragging equipment, the train crew is
15 going to receive a radio message.

16 A. Yes.

17 Q. It's going to be either no defects or critical alarm. Is
18 there anything in between?

19 A. Okay. So, this is just for bearing alerts. Correct?

20 Q. Right, right.

21 A. Okay. Yes. So, you'll have critical alarm or, and then
22 you'll have the, you'll have the ones for the 170s. It'll read
23 something to the effect of hot box, something and, you know, I'll
24 have to make the correction here. But it makes something to the
25 effect of hot box, axle 170, north rail. That would be a non-

1 critical. It won't say critical. But, you know, the 170, let me
2 correct that again, 171 degrees to 200 degrees --

3 Q. Right.

4 A. -- will not, won't have the word critical in it.

5 Q. Okay. But they get, okay. So, there are three messages that
6 the train crews can receive.

7 A. Yes, yes. For hot box detectors or hot box alert, bearing --

8 Q. Right, right.

9 A. -- bearing alerts.

10 Q. Right.

11 A. Yes.

12 Q. I missed the middle. Okay. And then so, from, on the ATC
13 desk, they're either going to get an alert, like a 953 alert, non-
14 critical, just like information or an alarm, like an 853 where
15 they have to do something.

16 A. Okay.

17 Q. Right?

18 A. No. So, so, the talker alerts, it's an 870 class.

19 Q. Okay. But I mean, that's the code. But besides an alert or
20 an alarm, is there any other kind of message that, that you're,
21 the ATC desk gets?

22 A. Yes. That won't announce to the crews. Correct, sir.

23 Q. Right. The, yes.

24 A. Yes. We've got, we've got different alert classes. We'll
25 have an 850, 851, 953, different alert classes.

- 1 Q. Right.
- 2 A. And yes.
- 3 Q. But besides alerts and alarms, is there another, another kind
4 of message that the ATC desk handles?
- 5 A. That's pretty much it for --
- 6 Q. Just alerts and alarms.
- 7 A. Yes.
- 8 Q. That's how they classify it.
- 9 A. I just want to make sure I'm understanding your question.
- 10 Q. On your, on your WDS screen, the messages come in. They're
11 either going to be an alert with a code or an alarm with a code.
12 Correct
- 13 A. Yes. That's correct. I see. We're making a distinction
14 between ones that talk and ones that don't talk.
- 15 Q. Right.
- 16 A. Yes. That's correct.
- 17 Q. Okay, okay. So, okay. That's, I think I understand now.
- 18 A. Okay. I'm sorry.
- 19 Q. No, no. That's good. It did help.
- 20 MR. PAYAN: That's all I have. Yes.
- 21 MR. GRAUBARD: Dave Graubard, FRA.
- 22 BY MR. GRAUBARD:
- 23 Q. Follow up. The ATC researcher position, when did those go
24 away?
- 25 A. I'll give you a rough estimate.

1 Q. Yes. Sure.

2 A. I think it was 2019.

3 Q. 2019.

4 A. And don't quote me if I'm a year or two off. But --

5 Q. Sure. Can you give me a quick example of something that a
6 researcher would do? So, when would they have gotten tagged in
7 and then what would they have done? What would they have
8 provided?

9 A. Okay. So, that researcher back then, if memory serves me
10 correctly, they would have done derailment research. Right. And
11 they would have done, my memory is failing me there. I don't want
12 to tell you incorrectly. But I believe they had, they were
13 manually taking a look at stick and brake railcars, you know,
14 repeater cars, I believe, and stuff of that nature, you know.
15 Looking at the equipment. I think they might have been doing some
16 tebogey research. I'd have to go, I'd have to go take a look
17 there.

18 Q. And just to be clear, you said derailment research. So, they
19 would only come in if there was a derailment or they would be
20 looking at --

21 A. No. They had, they had set hours.

22 Q. Okay. So, they, is it correct to say they would have been
23 looking at pretty much everything?

24 A. What do you mean by everything?

25 Q. So, they could have been assigned to look at basically

1 anything. They're an additional resources that can be tapped --

2 A. Yes.

3 Q. -- at any time.

4 A. At any time.

5 Q. Okay, okay. The critical alerts, you said they, the talker
6 alerts, they, they start at 170 degrees. Is that correct?

7 A. No. The critical alerts start at 201, well, not until 201
8 degrees, to the crew.

9 Q. Okay. And so, what was the --

10 A. The non-critical, well, 171 degrees to 200 degrees will be a
11 non-critical talker alert.

12 Q. Okay.

13 A. Now, both of them have to stop. It's when they have to stop.
14 So, the critical alert, they need to stop, bring the train to a
15 safe stop immediately which means they could possibly stop on the
16 detector. And the non-critical, basically, they could, they have
17 to reduce speed, I believe, about eight mils per hour and they
18 could clear the detector. And the wayside desk operator will get
19 that information there.

20 Q. Does the non-critical alert, so the 171 degrees, will that
21 also initiate a talker?

22 A. Yes, yes.

23 Q. Is there a system in place or again another audit, whatever,
24 any kind of check and balance that goes back to check these
25 detectors to ensure that they are actually emitting talkers when

1 they're supposed to?

2 A. Do you mean, are you asking if some alerts, someone is
3 checking to see if alerts are missed? I'm sorry.

4 MS. BRESNER: Do some --

5 MR. GRAUBARD: Sorry.

6 MS. BRESNER: I'm just going to help maybe.

7 BY MR. GRAUBARD:

8 Q. Is, you good? Okay. Is there, is at any point someone going
9 out there and checking to make sure that those talkers are
10 actually working? I guess, to ensure, you know, I guess, maybe on
11 a random basis, whatever, to ensure that, that the talker modules
12 are actually talking, broadcasting correct --

13 A. Okay.

14 Q. -- when they're supposed to?

15 A. Yes. That's another department. That's C&S, communications
16 and signals. The maintainers have to calibrate the detectors.

17 Q. Okay.

18 A. I believe at that time is when they, when they test, test the
19 detectors.

20 Q. How often do they do that?

21 A. I couldn't, I couldn't indicate how often they do that, sir.

22 Q. Okay, okay. There were two applications I believe that I had
23 questions about that, correct me if I'm wrong, that the wayside
24 analysts use. One of them was salient (ph.).

25 A. Yes.

1 Q. What does that do?

2 A. Salient. So, our wild (ph.) detectors are made my salient
3 systems and that's --

4 Q. Okay.

5 A. -- where we're get our, we could go there whenever, you know,
6 an alert occurs, you know, and the crew contacts us. We could
7 also use, use salient. Some of the watt alerts will show up on
8 our WDS program but some that don't, that's where we'll go and
9 take a look.

10 Q. Okay. The salient, so, that's only relating to wild?

11 A. Yes. That's correct.

12 Q. Okay. The WDS, is it correct to say that that's pretty much
13 everything else?

14 A. That is, that is all our hot box alerts.

15 Q. Okay.

16 A. Hot wheel alerts, dragging equipment. Yes.

17 Q. Is there any other application that they use frequently?

18 A. Yes. So, for machine vision, the pictograms, we use, we use
19 beena (ph.) vision. That's where we'll get the machine vision
20 pictures, you know. We can look at those. And there's also,
21 wheel profile detector data in the beena vision. Okay. We have
22 something called KLD Labs which is also wheel profile detector
23 data and tebogey also. And then we have, our main tebogey program
24 is some Canadian company. I've got a link, you know. They'd
25 look, there are two, two companies that do tebogey also. So, you

1 know, we've got one site to go to a particular detector and
2 another site to go to the majority of the detectors. And that's,
3 that's pretty much it. I think I covered it all.

4 Q. Okay. Couple more questions. Are the, are the alerts shared
5 with other railroads through some means?

6 A. There's a subscription service. I can't speak on that
7 service though.

8 Q. Okay. Does NS receive detector data from other railroads?

9 A. I could only speak on hot box and hot wheel. I've never
10 received detector data from foreign railroads in that regard.

11 Q. Okay. One more question. The trending alerts for, for hot
12 bearings. So, I think they're the 953s. Do I have that right?

13 The K values, if it sees three of them --

14 A. Yes. We've got those. Trending is a broad term. I mean --

15 Q. Okay.

16 A. -- there are also 850s, 851s. You know, even the wild 851s
17 also can be trending.

18 Q. I guess what, the non-defined or the alerts that aren't the
19 170s or the 200, the we absolutely have a problem here type
20 alerts, does that data get shared with other railroads as well or
21 if it, is it possible that if you have your K values, you know,
22 two that are above four and then it, a piece of equipment goes to
23 another railroad, if it hits that K value off NS, would that
24 receiving railroad be able to go back and look at NS's data to
25 track that trend?

1 A. If, if they have that subscription service, they would be
2 able to see that.

3 Q. Okay.

4 A. Which is controlled by rail main (ph.).

5 Q. Okay. All right.

6 MR. GRAUBARD: That's all I have. Thank you.

7 MR. JENNER: This is Steve Jenner. Just a couple more
8 questions, follow up questions.

9 BY MR. JENNER:

10 Q. You had mentioned in your current position --

11 A. Yes.

12 Q. -- that you've been pushing for additional manpower.

13 A. Yes.

14 Q. How, when did you realize that you needed additional manpower
15 and when did you start pushing for it?

16 A. Probably 2012 or 2013. And most recent, I did last week
17 because I see what's about to occur, sir. You brought that up,
18 you know, about detector spacing.

19 Q. Right. So, back in the day, 2012, 2013, were those vacation
20 people, resources available?

21 A. No. In fact, I actually, I actually looked over my records.
22 There have been times where there's not even four people to man
23 the desk, including myself and I'm the manager. And I can't do my
24 managerial duties. I had to work the desk, the 12 hour shifts,
25 like everyone else and that was months at a time. So, no. We did

1 not have vacation relief back then. We did, you know, throughout
2 the years, we have relied on other departments to give us cross
3 training. Back then when we were in the mechanical department
4 right around 2012, 2013, we, we had the mock, we were under mock
5 and sock (ph.). So, they provided us with people that could be
6 cross trained. But no. We've, the honest truth right there is
7 I've always vocalized that and, you know, I mean, I see, I see
8 where everyone is coming from on the lunch breaks and such. But,
9 you know, it's, now, they've started to mitigate, started some
10 mitigation processes and we did get, we're starting in a position
11 step. You know, we got that new employee that started March 15th.
12 But, and we've got a new leadership team. I'm pretty optimistic
13 about the new leadership team that just came in after, or right
14 around East Palestine, right after East Palestine. I'm very
15 optimistic that we will get more manpower.

16 Q. Right. But for a long time, for nine years, ten years, you
17 were pushing for it. And what was the response that you received?
18 Did you get a justification about why you could not get additional
19 manpower?

20 A. I've always gotten we're looking into it. Okay. And, you
21 know, shame on me. I don't have documentation, except for one
22 incident. The one incident I do have documentation for occurred
23 in 2020 and I was working the desk. There were only four people,
24 okay, including myself, and I had somebody on loan. They did not
25 fill a position. The position was not filled. Okay. And what

1 irked me was I was told that the person on loan was to get their
2 vacations. Well, if there are only four people, I have to cover
3 or other members of the team have to cover it. So, they, you
4 know, that's what we had to do. We had to give that one person
5 vacation while members of my team didn't get vacation. I talked
6 to a senior director and the senior director said hey, go talk to
7 your manager. But there's a reason I went to the senior director
8 because I didn't feel that my manager was receptive at that time.

9 Q. I, I foresee the manpower beneficial for a couple reasons.
10 One, if you're understaffed, then you're constantly moving pieces
11 to fill in empty shifts. But if you only have four people
12 working, then there's no room for vacations or things like that or
13 you're doing the whole shift. So, you have to fill in a 12 hour
14 shift.

15 A. Yes.

16 Q. That's one type of manpower. And the other type, as we
17 discussed earlier, the researcher types who are available to help
18 ease your workload. Do you see the manpower as being beneficial
19 to both components of that?

20 A. I could see, I could see it being beneficial to both
21 components. Now, we do have a research and test arm where there
22 are two individuals but they're in another department.

23 Q. Right.

24 A. And of course, you know, they've got their own tasks bringing
25 up, you know, you know, doing research on their end, you know,

1 with the machine vision detectors. You know, AAR meetings (ph.).

2 Q. Right. But, but I think I heard earlier if I understood,
3 that at the time when they were available, the researchers could
4 jump in and do the derailment aspect of it. And --

5 A. Yes. Those were. But there are some researchers in another
6 department that we don't really on their --

7 Q. Okay. For the ones that you did do, it sounds like they were
8 available to, to help manage the workload of the full time ATC.

9 A. Yes. The ones from three years ago, sir?

10 Q. Yes, yes.

11 A. Yes, yes.

12 Q. I'm sorry.

13 A. I'm sorry. I'm confusing --

14 Q. Yes. The one from --

15 A. -- myself there, sir. Sorry about that.

16 Q. No, no. I'm not asking great questions. The ones from three
17 years ago, they were available to, to help ease the workload.

18 A. Yes.

19 Q. Okay. But those positions went away.

20 A. Yes.

21 Q. So, so, when you asked for manpower, do you have their type
22 of assistance in mind? That we could use these people once again
23 in our, in our mix.

24 A. Yes. That would be something, you know. Whenever, yes.

25 Whenever they're not assisting the desk, they could work on other

1 tasks.

2 Q. Okay.

3 A. Yes.

4 Q. Just wanted to fully understand that. Okay. Thank you.

5 A. And also, want to clarify. Once again, machine vision is, I
6 know we're concentrating on hot bearing detectors but machine
7 vision is about to flip where there's, you know, you saw the chart
8 where there are 35 only. But we don't even have a full corridor
9 up yet and there's supposed to be 17 full corridors. So,
10 eventually, those pictures are going to be flipping the WDS desk.
11 There's going to be more machine vision alerts.

12 Q. Wow.

13 A. So, you know, how we handle that, we'll, it is my opinion
14 that we're going to need more manpower.

15 Q. Well, since you brought it up, how do you see that affecting
16 that additional information coming in? What's, is that going to
17 be a burden for ATCs, the machine vision?

18 A. Burden in what sense, sir? I'm sorry.

19 Q. Is more information coming in because of that or maybe I'm
20 not understanding?

21 A. Yes. There's going to be more alerts.

22 Q. Yes.

23 A. But, you know, they're, you know, you might have missing
24 catar (ph.) keys. Different components, they look for cracked
25 wheels. Yes. We're going to have to analyze those. Safety --

1 Q. Sure.

2 A. -- of course.

3 Q. Very good. Thank you.

4 MS. GARCIA: Okay. I have no further questions.

5 MR. SCOTT: I wanted to clarify two things and then we'll go
6 back to Anne. Think it was, this is Greg Scott by the way. I
7 think there was a question asked about who, if the radios were
8 working to talk to the train crews, how do you, is there somebody
9 that maintains those? And you said the C&S department comes and
10 maintains the defect detectors to see if the radios are actively
11 working to announce the critical alarm or non-critical alarm to
12 the train crews. If the radio doesn't announce to a train crew, I
13 mean, they know they're going over the defect detector and it does
14 not announce, is that something they have to report in?

15 A. Yes. That would be a no response.

16 Q. Okay. So --

17 A. And we do have a procedure for no response.

18 Q. So, that's another way to determine that the radios are in
19 fact working. Correct?

20 A. Yes.

21 Q. Okay.

22 A. Yes.

23 Q. The last thing I wanted to clarify was you talked about
24 you've never received an alert from another, a foreign railroad,
25 another railroad. Have you ever gone into the RAILLINK system and

1 looked at data from another railroad?

2 A. We can use RAILLINK to go look at data. We'll do that
3 sometimes in derailment research.

4 Q. So, you do. You do as an NS employee. You do have that
5 capability. They subscribe to it where you can go in and look at
6 it.

7 A. Yes. And that's, there's no subscription service to that --

8 Q. Okay.

9 A. -- to clarify.

10 Q. Okay.

11 A. What I meant was, maybe I misinterpreted the question. The
12 way I interpreted the question, to clarify, is so Kansas City is a
13 gateway. Right. Okay. So, let's say UP (ph.) has three
14 detectors west of Kansas City. Okay. Do we get those alerts?
15 No.

16 Q. Okay. So, you don't actually get an alert. But if you see
17 something on the first defect detector that the train hits on your
18 property, you can go back and look at like the previous two on the
19 other property?

20 A. No. Unless, we don't have a subscription service I don't
21 believe.

22 Q. Okay.

23 A. Well, I'm certain because we're not doing that at the desk.
24 We're not looking at, at the gateways there.

25 Q. Okay. If you had a subscription service, would that, that

1 would allow you to go back and look at that?

2 A. That's my understanding but we'd have to get clarification
3 from the research and test department.

4 MR. SCOTT: Okay. That was the only, things I wanted to kind
5 of clarify. I guess if nobody has anything else, we'll turn it
6 over to Anne for her safety culture questions.

7 MR. GRAUBARD: One real quick question. Dave Graubard, FRA.

8 BY MR. GRAUBARD:

9 Q. In those instances, I understand the employees are eating at
10 their desk. So, they don't get official lunch breaks.

11 A. Yes.

12 Q. But inevitably, they do have to get up and walk away from
13 their desk at some point in 12 hours. Is anybody watching their
14 terminal while they're away?

15 A. No one is watching the terminal while they're away.

16 Q. Okay. Thank you.

17 MS. GARCIA: Okay.

18 MR. SCOTT: All right. Now, over to Anne.

19 MS. GARCIA: Okay. Thank you. So, I've got a series of
20 questions. We're looking at Norfolk Southern's safety culture.
21 So, we already talked about it a bit and about the types of
22 responses and that we are open to having examples because this is
23 a conversation. Okay.

24 BY MS. GARCIA:

25 Q. So, the first set of questions are about you, yourself and

1 your opinions. Okay. Would you agree that you understand your
2 responsibilities with regard to safety?

3 A. Strongly agree or, excuse me, completely agree. That's the
4 highest. Correct?

5 Q. Yes.

6 A. I'm sorry.

7 Q. Okay. Would you agree that you are adequately trained on the
8 tasks you are expected to perform?

9 A. Can you give me clarification on adequate, adequate training?
10 I'm sorry.

11 Q. That's your interpretation.

12 A. That's my interpretation. I'm sorry. Can you repeat the
13 question? Sorry. My fault.

14 Q. Yes. Would you agree that you are adequately trained on the
15 tasks you are expected to perform?

16 A. I'd completely agree.

17 Q. Okay. That you are aware of the procedures to use for
18 reporting safety concerns?

19 A. I'd completely agree there.

20 Q. That you are encouraged to challenge assumptions and
21 routines?

22 A. Strongly agree.

23 Q. That you are given the resources you need to carry out your
24 work in a safe way?

25 A. I agree.

1 Q. Okay. The next are on your department. Okay. Would you
2 agree that the people in your department are clear how their roles
3 contribute to railway safety?

4 A. Completely agree.

5 Q. That they encourage contractors to systematically provide
6 safety feedback?

7 A. No experience with contractors.

8 Q. Okay.

9 A. I'm sorry.

10 Q. Would you agree that the people in your department are
11 encouraged to report deviations from procedures?

12 A. Completely agree.

13 Q. Okay. That they do not report safety concerns because they
14 fear reactions from colleagues?

15 A. Okay. So, you're asking if they'll report a safety concern
16 and that they don't fear retaliation. Right? Is that what you're
17 asking?

18 Q. Yes. Let me repeat the question. Okay. Would you agree
19 that the people in your department do not report safety concerns
20 because they fear reactions from colleagues?

21 A. I completely disagree and I just want to clarify. There, you
22 know, they should report safety concern with no, no fear of
23 reprisal in regards to colleagues saying hey, that's not a good
24 idea or whatnot.

25 Q. Good. Thank you. Would you agree people in your department

1 understand the purpose of the safety rules that apply to their
2 tasks?

3 A. Completely agree there.

4 Q. Okay. The next set of questions are about Norfolk Southern
5 management. Okay. Would you agree that Norfolk Southern
6 management considers safety to be an investment?

7 A. Completely agree.

8 Q. That management clearly explains how safety supports overall
9 performance?

10 A. Strongly agree.

11 Q. That management understands the reality of how work is
12 actually done?

13 A. I agree.

14 Q. Okay. That management adequately addresses safety during
15 meetings?

16 A. When we, when we have meetings, I completely agree.

17 Q. Okay. That management is keen to development safety
18 leadership skills?

19 A. Strongly agree.

20 Q. That management recognizes staff for safety achievements?

21 A. Yes. Completely agree there.

22 Q. Okay. That management is aware that poor working conditions
23 can lead to accidents?

24 A. I agree.

25 Q. Do you agree that management reacts appropriately in an

1 emergency?

2 A. Completely agree.

3 Q. That management supports learning from incidents?

4 A. Completely agree.

5 Q. That management effectively communicates the outcomes of
6 safety investigations to staff?

7 A. Strongly agree.

8 Q. Okay. That management informs relevant staff of corrective
9 and preventative actions following an incident?

10 A. Strongly agree there.

11 Q. That management learns from safety performance and experience
12 of other companies?

13 A. Completely agree.

14 Q. The next set of questions are about the organization in
15 total. Okay. Would you agree that Norfolk Southern employees
16 have all the information and equipment necessary to conduct their
17 work safely?

18 A. Can you repeat that? My apologies.

19 Q. Yes. Would you agree that Norfolk Southern employees have
20 all the information and equipment necessary to conduct their work
21 safely?

22 A. Completely agree.

23 Q. Okay. That employees are adequately involved in risk
24 assessments?

25 A. In regards to risk assessments, do you mean, what exactly do

1 you mean by risk assessments? I'm sorry.

2 Q. However it applies in your area.

3 A. Okay. Our employees, okay. Can you repeat that? My
4 apologies.

5 Q. Yes.

6 A. I'm sorry.

7 Q. Would you agree that Norfolk Southern employees are
8 adequately involved in risk assessments?

9 A. Okay. Yes. Strongly agree.

10 Q. Okay. That employees are involved in safety initiatives that
11 effect their jobs?

12 A. Strongly agree.

13 Q. That employees feel included in safety initiatives and
14 motivated to stay involved?

15 A. I'd strongly agree there.

16 Q. That Norfolk Southern management and staff effectively
17 monitor known safety problems?

18 A. Completely agree there.

19 Q. Okay. And identifying new ones?

20 A. I completely agree there.

21 Q. Okay. That the Norfolk Southern organization learns enough
22 from safety feedback?

23 A. Strongly agree.

24 Q. That Norfolk Southern is able to adapt safely to unexpected
25 situations?

1 A. Strongly agree.

2 Q. Would you agree that Norfolk Southern is aware that
3 overconfidence and complacency can lead to accidents?

4 A. Overconfidence and complacency. Overconfidence and
5 complacency can, completely agree.

6 Q. Okay. That some activities impacting safety are difficult to
7 perform due to fatigue or time pressure?

8 A. Agree.

9 Q. That Norfolk Southern employees are never encouraged to
10 deviate from a safety rule even when it facilitates operations or
11 production?

12 A. Completely agree. We don't, I mean, even if it hurts
13 operations, safety first.

14 Q. Okay. That Norfolk Southern management does not pressure
15 staff to maintain service or operations potentially at the cost of
16 safety?

17 A. Completely agree.

18 Q. That adequate safety information is communicated at the start
19 of each shift or hand over of duties?

20 A. Completely agree there.

21 Q. That Norfolk Southern people support each other when safety
22 is at stake, despite competing goals?

23 A. Completely agree.

24 Q. That Norfolk Southern people always intervene when someone is
25 at risk?

1 A. Completely agree.

2 Q. That employees are encouraged to speak openly to federal
3 authorities when requested?

4 A. Completely agree.

5 Q. Okay.

6 A. Yes. No, no. I'm just kidding.

7 Q. Okay. Would you agree that Norfolk Southern management does
8 not place blame for safety violations before completing a root
9 cause analysis?

10 A. We, Norfolk Southern does an investigation first. So, I
11 completely agree.

12 Q. Okay. That Norfolk Southern's investigations of safety
13 incidents and accidents focus on finding root causes and lessons
14 learned?

15 A. Completely agree.

16 Q. That accidents are predominately seen as the result of
17 individual's mistakes.

18 A. So, Norfolk Southern, okay. So, Norfolk Southern accidents
19 are, can you restate that? I'm sorry.

20 Q. Would you agree that accidents are predominately seen as the
21 result of individual's mistakes?

22 A. So, when an accident occurs, your knee jerk reaction, hey,
23 it's, it's the employees fault without doing an investigation.

24 Okay. I strongly disagree and hopefully I'm interpreting this
25 correctly. How I interpret what you just indicated right there

1 is, you know, we're going to jump the gun and if there's an
2 accident, you know, that that individual it's his fault on that.
3 We don't place blame on somebody automatically. We still have to
4 do the investigation.

5 Q. Okay.

6 A. Hopefully I got that correct there.

7 Q. Okay. Would you agree that Norfolk Southern safety
8 investigations aim at finding all causes and contributing factors?

9 A. Yes. I completely agree with that.

10 Q. That Norfolk Southern employees regularly report safety
11 concerns that impact operations when it is appropriate to do so?

12 A. Strongly agree.

13 Q. That Norfolk Southern has established procedures that are
14 easy to use for staff to report safety issues?

15 A. Completely agree there.

16 Q. And what are they?

17 A. You know, you've got the ethics hotline. I think it's the
18 compliance hotline if you have a safety concern.

19 Q. Okay.

20 A. Is one of them.

21 Q. Okay. That at Norfolk Southern, safety issues are reported
22 and logged for future workplace improvements?

23 A. Can you repeat that? My apologies.

24 Q. That at Norfolk Southern, safety issues are reported and
25 logged for future workplace improvements?

1 A. Completely agree.

2 Q. Okay. That at Norfolk Southern, any safety improvement is
3 only initiated after the intervention of the federal authorities?

4 A. No, no. We're proactive. We don't wait for the federal
5 government. So, I completely disagree with that statement.

6 Q. Okay. At Norfolk Southern, the key operational processes are
7 safe and efficient?

8 A. Key operational processes are safe and efficient? I strongly
9 agree with that statement.

10 Q. Okay. Would you agree that in the Norfolk Southern
11 organization, safety related information is not difficult to
12 access?

13 A. Completely agree with that.

14 Q. Okay. That inputs from frontline staff are systematically
15 considered when changing a procedure?

16 A. Completely agree.

17 Q. That training is systematically provided when changes
18 impacting safety are introduced?

19 A. Yes. Completely agree with that.

20 Q. That Norfolk Southern staff is trained to a competent level
21 of understanding and skill before changes are made that can effect
22 safety?

23 A. Can you repeat that? I'm sorry.

24 Q. That Norfolk Southern staff is trained to a competent level
25 of understanding and skill before changes are made that can effect

1 safety?

2 A. Completely agree.

3 Q. Okay. That safety training only focuses on technical skills
4 and rules knowledge.

5 A. Safety training on technical skills and rules knowledge?

6 Q. Yes. Let me repeat it. That safety training only focuses on
7 technical skills and rules knowledge?

8 A. I completely disagree and this is how I'm interpreting it.
9 In our meetings, meetings that I have weekly, we also discuss
10 safety outside of the workplace. So, that's why I strongly
11 disagree with that comment and hopefully --

12 Q. Okay. Thank you. That Norfolk Southern top managers have a
13 vision of safety that is understood by the staff?

14 A. I completely agree with that.

15 Q. That top managers are regularly seen on site engaging with
16 staff?

17 A. Yes. I completely agree with that.

18 Q. Okay. Would you agree that Norfolk Southern management
19 clearly communicates and explains decisions about safety?

20 A. Completely agree.

21 Q. That Norfolk Southern management follows clear and consistent
22 procedures for deciding on disciplinary actions for safety
23 violations?

24 A. Completely agree there.

25 Q. Would you agree that Norfolk Southern management participates

1 regularly in safety events?

2 A. Regularly in safety events? Yes. We had, we had a safety
3 standdown recently. So, I completely agree.

4 Q. Okay. That Norfolk Southern management provides
5 opportunities for employees to discuss safety issues with them?

6 A. Absolutely. Completely agree.

7 Q. That Norfolk Southern management seeks employee opinions and
8 ideas about the effectiveness of workplace safety?

9 A. Completely agree.

10 Q. That Norfolk Southern management clearly and repeatedly
11 informs staff that safety is the first priority?

12 A. Completely agree with that.

13 Q. And supports those words with actions?

14 A. Supports those words with actions? Yes. I'd say that I
15 completely agree there.

16 Q. Okay. That Norfolk Southern staff, along with management,
17 openly discuss safety issues, identify risks and develop
18 safeguards?

19 A. I completely agree there.

20 Q. That Norfolk Southern management uses data to analyze and
21 prioritize identified safety issues?

22 A. Yes. Absolutely. Completely agree. You know, they use data
23 to, you know, with safety blitzes out in the field, they'll use
24 data to, you know, concentrate on these slip strips (ph.) for
25 falls or something of that nature.

1 Q. Okay. That Norfolk Southern management takes responsibility
2 to fix safety issues once they have been identified?

3 A. I completely agree there.

4 Q. Okay. And the last two questions. Would you agree that all
5 Norfolk Southern managers fulfill their safety responsibilities?

6 A. All Norfolk Southern manager fulfill their safety
7 responsibilities?

8 Q. Yes.

9 A. I strongly agree.

10 Q. Okay. And that Norfolk Southern management is committed to
11 workplace safety?

12 A. Completely agree.

13 Q. Okay. Thank you so much.

14 MR. SCOTT: All right. That concludes our portion of it. Is
15 there anything you would like, like to talk about or anything
16 you'd like to add to this interview? Anything you'd like to tell
17 us or talk, make sure we're aware of?

18 MR. FABERY: No, sir.

19 MR. SCOTT: Okay. If I have any follow up questions to the
20 interview or something comes up, is it all right to contact you or
21 we'll work that out?

22 MS. BRESNER: It's up to you.

23 MR. FABERY: Yes.

24 MR. SCOTT: Okay. But it is all right to follow up?

25 MR. FABERY: Of course, of course.

1 MR. SCOTT: Okay. I'd just like to say thank you. I know it
2 was kind of a spur of the minute thing as far as us calling you in
3 for an interview and for you staying over. I appreciate it.
4 Thanks everybody that showed up. I know it took a little
5 coordination to get these two interviews going today but I just
6 want to thank everybody for their time. And if you don't have
7 anything else, then I'll stop recording.

8 (Whereupon, the interview was concluded.)
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CERTIFICATE

This is to certify that the attached proceeding before the
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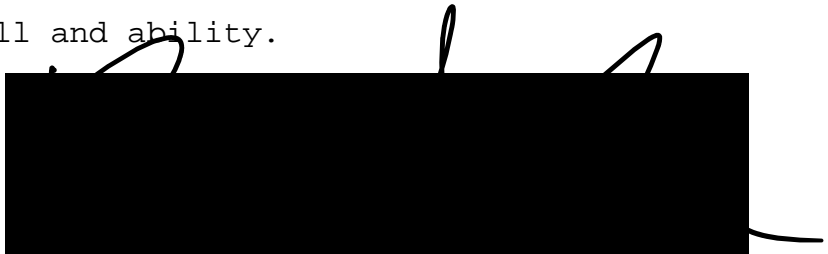
IN THE MATTER OF: NORFOLK SOUTHERN TRAIN DERAILMENT
 IN EAST PALESTINE, OHIO
 ON FEBRUARY 3, 2023
 Interview of Mike Fabery

ACCIDENT NO.: RRD23MR005

PLACE: Atlanta, Georgia

DATE: April 13, 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.

A large black rectangular redaction box covers the signature area. Above the box, there are several handwritten scribbles in black ink.

Brenda Field
Transcriber