

Investigation of the Norfolk Southern Railway Employee Fatality  
In Bessemer, Alabama,  
On December 13, 2022

NTSB Docket No. RRD23FR003

**Norfolk Southern Railway Company's Party Submission**

## **INTRODUCTORY STATEMENT**

Norfolk Southern Railway Company (“Norfolk Southern”)<sup>1</sup> appreciates the opportunity to provide this party submission to the NTSB pursuant to 49 C.F.R. § 831.14. Norfolk Southern has cooperated with the NTSB’s investigation of this accident, and fully supports the NTSB’s mandate to determine its cause and issue any appropriate safety recommendations to prevent future accidents. Along with other parties to the investigation, Norfolk Southern was provided with a 60-page draft, dated May 31, 2023, of the Group Chair’s Factual Report concerning this accident. Norfolk Southern was given the opportunity to comment on same and request needed changes. Norfolk Southern has also seen a version of this report (reabeled as Investigative Report) with changes to the original draft as of June 22, 2023, and has communicated with the NTSB about a couple of factual errors in the report to be corrected. Those issues are not addressed here. Norfolk Southern hereby submits its proposed findings to be drawn from the evidence produced in the investigation, as well as a proposed probable cause of the accident.

**FACTUAL FINDING NO. 1 – US Pipe had sole possession and control of railcar SSEX 100843 from December 4, 2022, through December 12, 2022.** All parties agree that the piece of angle iron involved in the accident that caused Mr. Griffin’s death came from one of the top cords of railcar SSEX 100843. US Pipe Fabrication, LLC (“US

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<sup>1</sup> References to Norfolk Southern below would include The Alabama Great Southern Railroad Company (“AGS”), the Norfolk Southern subsidiary that operates in this area.

Pipe”) had sole possession of this car in its Bessemer facility from December 4, 2022, through December 12, 2022, when Norfolk Southern train A39A712 received it.<sup>2</sup>

**FACTUAL FINDING NO. 2 – The suspect car was undamaged and serviceable when US Pipe received it at its Bessemer facility on December 4, 2022.** Security camera video evidence from US Pipe referenced in the Factual Report (confirmed by testimony from US Pipe) proves that the SSEX 100843 car was undamaged and serviceable when US Pipe received it as a loaded car at its Bessemer facility on December 4, 2022. In particular, there was no protruding angle iron from the car, which was loaded at that time.<sup>3</sup> Further video evidence from US Pipe confirms that, two days later on December 6, 2022, the suspect car was still undamaged and serviceable when US Pipe transported it inside its facility to be weighed.<sup>4</sup>

**FACTUAL FINDING NO. 3 – US Pipe caused the damage to the suspect car that later caused this accident on December 7, 2022, and US Pipe knew of the damage it had caused.** Video evidence from US Pipe further proves that on December 7, 2022, US Pipe damaged the car while it was unloaded by US Pipe inside its Bessemer facility,<sup>5</sup> resulting in portions of the angle iron on the top cord of one side of the car being

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<sup>2</sup> See, e.g., USP Safety Coordinator (SC) Interview, Pg. 8, Lines 5-9 (A: ... it came in on December the 4th and left on December the 12th.)

<sup>3</sup> See also USP SC Interview, Pg. 11, Lines 8-14 (Q: ... Do you notice anything unusual about [railcar SSEX 100843]? A: No, sir, not in this picture.)

<sup>4</sup> See also USP SC Interview, Pg. 11, Lines 22-25, Pg. 12, Lines 1-11 (Q: Did you notice anything unusual about it? A: Nothing was unusual about it in that picture.); and USP Safety Manager (SM) Interview, Pg. 11, Lines 1-13 (As I describe it got a defect on it. That car wasn't broke when I took it up the hill, it wasn't broke, it wasn't damaged when I took it up the hill. On the 6th. When I noticed, when we removed that car on the 7th, I noticed that car had a broken piece on it.)

<sup>5</sup> See also USP SC Interview, Pg. 13, Lines 16-25 (A: ... It's hard to see and I'll have my cursor [on the video] in the neighborhood of where it's going to happen, but you will see it break.); Pg. 14, Lines 1-17 (The magnet picks the stuff up. The magnet is out and you see the piece of angle iron break right there. [Q:] And it springs loose from the top sill. [A:] Yes, sir.)

separated and protruding<sup>6</sup> from the top of the car body.<sup>7</sup> The video evidence further establishes that an environmental contractor (EC) for US Pipe later noticed the broken piece on the car and put up caution tape going from the car to the US Pipe baghouse,<sup>8</sup> and then later took down the caution tape from the car.<sup>9</sup> Prior to the caution tape being taken down, a US Pipe locomotive engineer called the Mills Handling Supervisor (MHS) to report the caution tape on the railcar, as he had been instructed “not to move stuff that’s

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<sup>6</sup> See also USP SC Interview, Pg. 17, Lines 1-3 (A: It has a piece of angle hanging off of it that it did not have when it left the scales to be moved.), Pg. 22, Lines 2-10 (A: ... This is December the 12th, 2022 at 12:39 p.m., this is car SSEX100843 and on this view you clearly see two broken pieces of angle or the piece of angle is on the side of the car broken into two and it’s hanging off the side of the car.); and the USP Mills Handling Supervisor (MHS) Interview, Pg. 11, Lines 2-4 (A: ... I see caution tape on the railcar taped off to the baghouse in two locations, which you can only see one from the video.), Pg. 12, Lines 1-2 (A: ... I could tell that there were problems on the railcar at the top of the railcar.)

<sup>7</sup> The Factual Report notes that the US Pipe Safety Coordinator, in his February 2023 interview (which Norfolk Southern representatives did not have notice of and did not attend), “challenged” this video because of alleged “dust and fog in the area that morning.” However, the video clearly shows the damage done to the car during US Pipe’s unloading process. Further, the US Pipe Crane Operator (CO) confirmed in his interview (P. 10, Lines 20-23) that he had no problem seeing on the video where the angle iron on the car broke loose. Numerous other video clips similarly confirm and prove that: (i) the car was damaged on December 7<sup>th</sup>, and was not damaged before then; and (iii) the car was in US Pipe’s possession and control when it was damaged.

<sup>8</sup> See also USP SC Cole Interview, Pg. 14, Lines 22-25, Pg. 15, Lines 1-6 (A: ... You’ll see this gentleman here, this is our environmental contractor. He notices the car is broke, he’s working in that area, he’s not wanting any of the people he works with to be exposed to that, so he puts caution tape up, going from the car to the baghouse.); USP Environmental Maintenance (EM) Contractor Interview, Pg. 7, Lines 17-25, Pg. 8, Lines 1-25 (... the reason I put that up was maybe make someone aware that ... to maybe let somebody be aware that there’s something there, but – but in reality, now I wished that I’d got up there and just cut the – just cut it down or – you know., Pg. 9, Lines 1-13 (Q: Fair to say it didn’t look exactly right to you? A: Oh, yeah. Q: And the purpose of putting up the warning tape or caution tape ... A: That is right ... just to bring it to somebody’s attention ... [t]here’s something there ...), Pg. 14-15, Lines 23-25, 1 (Q: Yes. And so when you looked up at the car, there was enough that concerned you that you put up the caution or warning tape, correct? A: That’s correct.)

<sup>9</sup> See also USP SC Interview, Pg. 15, Lines 17-25 (A: So this, our baghouse contractor is doing what he’s working on around the baghouse area, he’s done with it, so he begins taking the caution tape down since he’s no longer going to be working in that area.), Pg. 16, Lines 1-8 (A: He’s just rolling up the caution tape he used to tape the area off. Q: And where he had that attached to a car, that was the suspect car, right? A: Yes, sir.); USP EM Contractor Interview, Pg. 12, Lines 12-24 (A: ... it had been pulled down and the tape was broke, so I just was picking it up. Q: And what did you end up doing with the tape? A: I threw it away.), Pg. 15, Lines 9-13 (Q: And you went back down there and retrieved the tape and threw it away. A: Yes.)

taped.”<sup>10</sup> The MHS (along with his supervisor) rode out to look at the car and – despite the fact that he could admittedly tell that there were problems with the railcar at the top of the railcar – gave the engineer permission to move it a short distance “so we could keep the plant running.”<sup>11</sup> When asked about what conversation he and his supervisor had about what to say or do with the car, the MHS supervisor testified: “Other than we would get it fixed, we hoped, but it wouldn’t be pulled off the hill with the caution tape on it.”<sup>12</sup>

**FACTUAL FINDING NO. 4 – US Pipe failed to repair the damage to the subject car that it had caused, and failed to notify Norfolk Southern of the damage to the car.** US Pipe later notified Norfolk Southern that the SSEX 100843 car as well as other cars were ready to be released and be picked up. As noted above, these cars were received by Norfolk Southern and picked up from the US Pipe facility by train A39A712 on December 12, 2022.<sup>13</sup> Despite the testimony of the USP MHS supervisor noted above in which he acknowledged knowing of the damage to the car and the need for US Pipe to take remedial action about the car, it is undisputed that, at no time while the subject car was in US Pipe’s possession and control, and indeed at no time prior to the accident at issue at December 13, 2022, at 12:01 a.m., did US Pipe ever repair the damage to the

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<sup>10</sup> See USP MHS interview, pp. 10-11.

<sup>11</sup> See USP MHS interview, pp. 11-12.

<sup>12</sup> See USP MHS interview, p. 12.

<sup>13</sup> See, e.g., USP SC Interview, Pg. 18, Lines 10-12 (A: ... The next video I have is on December the 12th, 2022 at 12:39 p.m., and it’s Norfolk Southern leaving the property with the car.), Pg. 20-21, Lines 25, 1-2 (So this is 12:37 p.m., on December the 12th, 2022 -- 2022, I’m sorry. This is Norfolk Southern’s Number 6998 locomotive pulling our outbound cars off the site.), Pg. 22, Lines 2-7 (Okay, so this is -- this is that same camera view as mentioned earlier, where the trains come in and off, come on and off the property. This is December the 12th, 2022 at 12:39 p.m., this is car SSEX100843 and on this view you clearly see two broken pieces of angle or the piece of angle is on the side of the car broken into two and it’s hanging off the side of the car.)

subject car that it had caused, nor did it notify Norfolk Southern of the damage to that car. US Pipe's MHS acknowledged in his interview that US Pipe should have either repaired the car or notified Norfolk Southern of the damage before releasing the car.<sup>14</sup>

**PROPOSED PROBABLE CAUSE: The probable cause of this accident was the actions and omissions of the industry, US Pipe, in damaging the SSEX car while it was inside the US Pipe facility, which caused the protruding angle iron from the top of the car, and in failing to either repair the issue or notify Norfolk Southern of the damage to the car which US Pipe had caused.**

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<sup>14</sup> See USP MHS Interview, Pg. 14-15, Lines 23-25, 1-12 (Q: Okay. So Eric, now that you know everything that's kind of happened with this accident, let's replay the same thing. That was then, that was on December 7th. If you had an occasion tomorrow and it was the same set of circumstances, you got cars up there to be unloaded, they need to move them, somebody's got it taped off, and you and your supervisor come up there, what do we do tomorrow with that same set of circumstances? A: We don't release a car like that. Q: Okay. And who says what to who? A: I go tell the guy who releases the cars that we're not releasing this car until it's fixed and it don't go on the track to be pulled out. Q: So you're notifying the railroad, they've got an issue with the car, they're going to have to come and look at it? A: That's correct.)