

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: \*

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BNSF RAILWAY EMPLOYEE \*

FATALITY IN DENVER, COLORADO \* Accident No.: RRD22FR006

ON FEBRUARY 9, 2022 \*

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\* \* \* \* \*

Interview of: TOM KENNEDY, Foreman Remote Control Operator  
(RCO)/Switchman  
BNSF Railway

SMART-TD Facilities  
Denver, Colorado

Friday,  
February 11, 2022

APPEARANCES:

RYAN FRIGO, Rail Accident Investigator  
National Transportation Safety Board

SCOTTY SCOTT, Operating Practices Inspector  
Federal Railroad Administration

AARON RATLEDGE, General Director, Operating Practices  
and Rules  
BNSF Railway

RYAN RINGELMAN, General Director, System Safety  
BNSF Railway

MATTHEW CRUZ, Remote Control Operator  
BNSF Railway

BRIAN FRANSEN  
BLET Safety Task Force

DAN BONAWITZ  
SMART-TD National Safety Team

JIM KRANCE, Local Chairman, Denver  
SMART-TD

BRAD WARREN  
SMART-TD National Safety Team  
(Posting)

BRAD "BUCK" BAKER, Local Chairman 202  
SMART-TD  
(Representative on behalf of Mr. Kennedy)

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I N T E R V I E W

1  
2 MR. FRIGO: Good morning. My name is Ryan Frigo. I'm an  
3 investigator with the National Transportation Safety Board. We  
4 are here -- it's February 11th, 2022, and we are at the local  
5 sheet metal hall in Denver, Colorado. This is in reference to  
6 NTSB accident number RRD22FR006, employee fatality that occurred  
7 on the BNSF property on February 9th, 2022, in Denver, Colorado.

8 We're going to be speaking with Mr. Tom Kennedy this morning,  
9 but before we do that, we're going to go around the room and  
10 introduce ourselves for the benefit of the transcriptionist. When  
11 it's your turn, please spell your last name for the  
12 transcriptionist, and I'll make sure that we have good audio as we  
13 go around. I'll start and then I'll pass to my right.

14 Ryan Frigo, F-r-i-g-o, NTSB operations and system safety.

15 MR. FRANSEN: Brian Fransen, F-r-a-n-s-e-n, BLET Safety Task  
16 Force.

17 MR. SCOTT: Scotty Scott, S-c-o-t-t, FRA operating practices  
18 inspector.

19 MR. RATLEDGE: Aaron Ratledge, R-a-t-l-e-d-g-e, operating  
20 practices and rules, BNSF Railway.

21 MR. BONAWITZ: Dan Bonawitz, B-o-n-a-w-i-t-z, SMART-TD  
22 National Safety Team.

23 MR. WARREN: Brad Warren, W-a-r-r-e-n, National Safety Team,  
24 SMART-TD, and I'll be posting.

25 MR. RINGELMAN: Ryan Ringelman, R-i-n-g-e-l-m-a-n, BNSF

1 system safety.

2 MR. CRUZ: Matthew Cruz, C-r-u-z, BNSF RCO.

3 MR. KRANCE: Jim Krance, SMART-TD local chairman Denver,  
4 K-r-a-n-c-e.

5 MR. KENNEDY: Tom Kennedy, K-e-n-n-e-d-y.

6 MR. FRIGO: Mr. Kennedy, do I have your permission to record  
7 this conversation with you here today?

8 MR. KENNEDY: Yes.

9 MR. FRIGO: Thank you. And is it okay if we go on a first-  
10 name basis?

11 MR. KENNEDY: Definitely.

12 MR. FRIGO: Thank you, Tom. And Tom, do you have a  
13 representative here with you today?

14 MR. KENNEDY: I do.

15 MR. BAKER: Brad "Buck" Baker, SMART local chairman 202.

16 MR. FRIGO: Okay. Thank you.

17 INTERVIEW OF TOM KENNEDY

18 BY MR. FRIGO:

19 Q. Tom, why don't we just start out about -- talking about  
20 your -- how long you've been with BNSF, how long you've been on  
21 this railroad.

22 A. Going on 20 years now. I hired out in 2002 in Galesburg,  
23 Illinois. I moved to Colorado in 2000- -- late or early '10 or  
24 '11, I can't really remember at the time. But I've been here  
25 since then.

1 Q. Okay. Same craft the entire time?

2 A. Well, I worked a little road and a little yard and -- I  
3 prefer the yard, but I worked the road when I first got here for  
4 my daughter's college.

5 Q. Okay. And how -- what is your current title or  
6 classification?

7 A. Foreman RCO/switchman.

8 Q. Okay. Foreman RCO/switchman. And how long you been in that  
9 position?

10 A. On this particular job -- I've been working this particular  
11 job for probably going on 6 years.

12 Q. Okay.

13 A. I started RCOs as a new hire in 2002. I believe I was in one  
14 of the very first RCO classes.

15 Q. So it's been -- you've been using that box for a while?

16 A. My whole career, yeah.

17 Q. Okay. So I'm sure maybe you could help us answer some  
18 questions on the use of the box at some point today also.

19 So 6 years in your current position?

20 A. Yes.

21 Q. And this job that you're on right when the accident happened,  
22 is that a regularly scheduled job?

23 A. Yes, Monday through Friday, Saturday/Sundays off, 7:01 a.m.  
24 to 7 -- 1901 p.m.

25 Q. Okay. And would you say it's the same work every time, the

1 same type of work?

2 A. I mean, it's generally the same deal. A lot of times, due to  
3 the cluster of the Denver Yard, we're either in the yard or what  
4 we call up in the zone --

5 Q. Okay.

6 A. -- which is where our customers that we service are.

7 Q. Okay.

8 A. Okay. So sometimes we start there; sometimes we start in the  
9 zone. It all depends on the time frame of when we get our chance  
10 to get out of there.

11 Q. And are you just building trains?

12 A. No. We -- yes, we build our train in a pattern that we use  
13 so we can better service our customers. But we also do a lot of  
14 spotting and pulling industries once we build our train.

15 Q. Okay. Is it -- so it could be either in the zone or in the  
16 yard?

17 A. Yes.

18 Q. Okay. And the day of the accident, where were you guys  
19 working?

20 A. The day of the accident we started in the zone and we brought  
21 a cut of cars from the zone into the yard. And then we went to  
22 what we call our tracks, which is the team lead, which is 15  
23 through 19. That's where they put our cars for the industries we  
24 service.

25 Q. Okay. So, and at that point what was the work that had to be

1 completed?

2 A. Basically at that point our cars were scattered amongst three  
3 different tracks. We were switching them out, blocking them  
4 together, putting them in the order we wanted them based on the  
5 work order that we had for the day.

6 Q. Okay. So you know going into that day what you had to put  
7 together?

8 A. Yes. When the morning starts we print our paperwork, I mark  
9 up the switch list, I make a copy for my helper. Me and Jeff  
10 would go over what -- basically our safety briefing, what we're  
11 going to be doing for the day, and then we go about our work.

12 Q. And would you say that the work for that day, pretty typical  
13 of the job?

14 A. Yeah.

15 Q. Okay. Okay. So we've been out there. We were out there  
16 looking around, and like if you could help describe to me -- you  
17 know, there were some boxcars that were on that train, there were  
18 some tank cars at the end, there's a caboose adjacent, but we  
19 really don't know what was supposed to be the end result.

20 A. Okay. So, 18 track had two intermodal cars followed by, I  
21 believe, six or seven tank cars, then the caboose. What was  
22 the -- 16 track had like six asphalt tanks, seven -- six or seven  
23 sand hoppers, and nine empty boxcars. That's how we sorted our  
24 train. We were making the final move to sort our train and we  
25 were going to double 15 or -- excuse me -- 16 to 18, build it that



1 way. Like I said, we build the train in a pattern based on the  
2 work that we have for the day. We were going to pull out of the  
3 yard with that cut, cut off the intermodal cars in the Rennix Yard  
4 on our way by to our work zone. I was going to shove the rear  
5 tank cars to the middle spur, cut the cabooses off with those  
6 tanks, grab a cut of cars that were there that are now going to  
7 come to town later in the day, pull them up, grab the cabooses,  
8 pull up, go to the other side of the zone, deposit my town cars  
9 and then go do my work.

10 Q. Okay.

11 A. So that's the reason why we build the cut the way we do.  
12 There's always a different scenario every day of what we're going  
13 to be doing and why we're going to be doing it that way.

14 Q. And you as the foreman, with your experience, it's up to you  
15 to figure out how that's going to happen or is that prescribed to  
16 you?

17 A. We do it together. You know, a lot of times -- Jeff is a  
18 good switchman and he knows what's going on, too, and a lot of  
19 times we didn't even have to discuss what we were doing. I just  
20 hand him a list and he'd look at it and say, "I got it, Tommy."

21 Q. You know the job?

22 A. We were experienced, yes.

23 Q. How long did you work directly with Jeff?

24 A. Maybe a year total on this job and another job. Not all at  
25 this job, but both of those jobs were RCO jobs.

1 Q. Okay. And that was the same regularly scheduled Monday  
2 through Friday?

3 A. The other job I worked, the ramp job, I believe at that time,  
4 before they changed it, it was, what, Sunday -- it was  
5 Sunday/Monday.

6 Q. But still like a regularly scheduled --

7 A. A daylight -- yes, daylight Sunday -- Sunday/Monday in this  
8 case.

9 Q. Okay. All right. No, and that helps me understand a  
10 little -- a lot more actually.

11 So when this happens, what was the move you guys were doing?

12 A. Before I heard the tilt timeout from the Beltpack  
13 announcement on the radio, the -- when you saw that caboose  
14 sitting toward 18?

15 Q. Um-hum.

16 A. Okay. We had ahold of two boxcars on the head end and the  
17 caboose was on (indiscernible). That was the final move before we  
18 started to -- then we were going to double up and call the carman  
19 for our air test. Okay. That was the final move.

20 That whole time we were switching everything out, Jeff was on  
21 the point. Okay? Because he had to protect the point because at  
22 the time I'm handling anywhere from 10 to 20 cars, so somebody's  
23 got to be protecting the point.

24 Q. Um-hum.

25 A. I booted the caboose. I don't know if you got film or not.

1 I missed it. It had a freaking handbrake on it. So I had to go  
2 in between and whatever and I knocked the handbrake off. I gave  
3 it another little bump. It rolled in -- it didn't roll in all the  
4 way, but it rolled in and it was out of the foul. I said, well,  
5 whatever, I'm getting ready to double to that here in just a  
6 minute, I'll worry about that when I have to worry about it.

7 Q. Um-hum.

8 A. And but I just switched three tracks out, sorted all the  
9 cars, and the whole time Jeff, you know, had to protect the point.  
10 And I was getting a little tired. And this is the hardest part  
11 I'm having with this whole scenario. I didn't have to do this but  
12 I did. I asked him, would you get off at that switch after I  
13 booted that car to 18 because the head end was close to 16. I was  
14 like, hey, Jeff, I only got ahold of two cars, go ahead and hop  
15 off at 16, I'm going to pull up, line into 16, and I'll stretch it  
16 and give it back to you.

17 So I booted that car, he stepped off, I pulled ahead. He  
18 lined me into 16. I shoved back into 16. I'm probably in there  
19 four or five cars deep, make the joint, give it a stretch. I tell  
20 him I'm going to give it a stretch. He said, you're good for 10.  
21 I maybe stretched it two, two and a half cars. And I made a  
22 comment on the radio, wow, that's a first, that all the joints  
23 actually made. You know, I had no butted knuckles. And I gave  
24 him the pitch, the motor moved, the motor stopped, the motor  
25 moved, the motor went into emergency.

1 He said when I pitched it to him, I'm going to pull up a  
2 couple, pick myself up. The motor moved, the motor stopped, the  
3 motor moved, the motor went into emergency. And when it said tilt  
4 timeout, I thought nothing of it. I thought, fat ass went in  
5 emergency climbing on the motor because his big belly's in the way  
6 or whatever. Because they tilt out -- we have new boxes now and  
7 they definitely seem to go to tilt timeout a little quicker than  
8 the CANAC boxes that we had previously. And I thought nothing of  
9 it. I actually made a little snip on the radio. I said, oopsy  
10 daisy, you know, cracking a joke. Then I fucking found he was  
11 dead under the fucking motor.

12 Q. Where were you at? Where were you when --

13 A. I was on the other side of the train. I would have been on  
14 the south side of the train there between 15 and 16 back where I  
15 made that joint. And as he started to pull, I started to walk up  
16 because he's going to pull it out of 16 and then I'm going to have  
17 to get 16 switch to line it into 18.

18 Q. So are you back by the tank cars?

19 A. No, no, no, no. Like I said --

20 UNIDENTIFIED SPEAKER: You're not that far.

21 MR. KENNEDY: -- I went in there with two tank cars.

22 BY MR. FRIGO:

23 Q. Okay.

24 A. Or, excuse me, two boxcars. Right? To finish that build.

25 Q. Okay.

1 A. So, but that cut was in there three or four deep. So I had  
2 to go in there with those two tanks to grab the rest of that --

3 Q. But you're back?

4 A. Yeah. I can't see what's going on with Jeff. I can't see  
5 him. He's on the one side of the train and I'm on the other side  
6 of the train. And I started walking up. Like I said, I thought  
7 nothing of it because that happens frequently. And when he tried  
8 to recover -- you know, I was waiting for it. I was like, all  
9 right, sometimes it take a while to recover. And a lot of times  
10 when you get a tilt timeout and you go to recover, it doesn't take  
11 the first time.

12 Q. Okay.

13 A. Okay? So you -- it takes -- almost every time, if you go in  
14 a tilt timeout, you have to try to recover twice, has been my  
15 experience.

16 Q. Okay.

17 A. So I didn't think nothing of it. When it made the second  
18 announcement, I'm like, he didn't get it the first time and he's  
19 trying to recover again. But when it made the third announcement,  
20 that's when I really started to get concerned. And I'm walking up  
21 and I start walking faster and I find his Beltpack by itself. I  
22 see a red thing because of the bottom of the new Beltpacks are  
23 red. It's laying upside down against the rail, on the outside of  
24 the rail.

25 Q. On the outside of the gauge?

1 A. And that's when I found him.

2 Q. And did you -- at any point do you remember trying to contact  
3 him on the radio or anything as you're walking up?

4 A. I did not because I did not want to -- you know, there's a  
5 lot of kind of embarrassment about going into tilt timeout. You  
6 know what I mean? And I've been working with these things for 20  
7 years, I know how it is, and I know how Jeff is. We all kind of,  
8 aw, shit, you know, I just went in tilt timeout.

9 Q. Right.

10 A. You know, so --

11 MR. FRIGO: All right. Tom, I'm going to pass it on here to  
12 Mr. Fransen.

13 If you could just introduce yourself again?

14 MR. FRANSEN: Brian Fransen, BLET Safety Task Force,  
15 F-r-a-n-s-e-n.

16 BY MR. FRANSEN:

17 Q. Tom, I don't have many follow-up questions. I just -- my  
18 only -- in my mind, I would like to know where you were at, and  
19 then you described it, but just -- it's more just for my own  
20 personal from being out there. Were you like 8 to 10 cars back,  
21 do you think, then?

22 A. No. I wouldn't say it was that far. I'd say four or five.

23 Q. Okay.

24 A. Like I said, the cut that was in there was, you know, in  
25 there four or five cars. So I went in there with those two to

1 make that joint.

2 Q. Right. That's all I've got. I appreciate --

3 A. That was one of the reasons I pitched it, because I -- you  
4 know, I was there and I'm like, well, I could just climb on and  
5 ride these boxcars out or he's -- the head end's right at the  
6 switch --

7 Q. Sure.

8 A. -- I could ask him to get off.

9 Q. Yep.

10 A. And unfortunately, that's what I did. If I didn't do that,  
11 the whole time Jeff would have been in the cab and I'd have made  
12 the joint. And then I would have pitched it to him and he'd have  
13 been inside the cab, and he wouldn't have went over the nose when  
14 the slack ran out.

15 MR. FRANSEN: That's all I've got for you. Thank you very  
16 much, though, for being here today and everything.

17 MR. SCOTT: All right. Tom, I'm Scotty Scott with the FRA.  
18 Just a couple questions.

19 BY MR. SCOTT:

20 Q. You said you guys' on-duty hours was 0701 --

21 A. 0701 --

22 Q. -- to 1901?

23 A. Yeah.

24 Q. So you typically work 12 hours, 5 days a week?

25 A. No, not usually. But some days yes, some days no. Like I

1 said, Denver's very --

2 Q. Unpredictable, yeah.

3 A. -- unconducive to productive shift -- or switching. Let's  
4 put it that way. There's one lead. Everything funnels down  
5 basically to one lead.

6 Q. Gotcha. Okay. When you guys don't work your full 12 hours  
7 and you're back in the yard, are you guys done? Do they find  
8 other stuff for you to do? How's that work?

9 A. Normally if we get done early, they'll let us go anytime  
10 after 2.

11 Q. Okay. All right. And then like as far as your position and  
12 the other like -- are those your normal positions that you work or  
13 do you guys kind of swap? Like one day you might work the head  
14 end and he works the rear end?

15 A. Yes. We distribute the work. Jeff's an experienced  
16 switchman and I had no problem whatsoever. You know, like, for  
17 example, when we would be up in the zone working, we would kind of  
18 swap different days of switching different customers.

19 Q. Right.

20 A. Because just like in the yard, we got ahold of a big handle  
21 of cars, somebody's got to be on the head end.

22 Q. Right.

23 A. We got places out there where even though we have remote  
24 control zones, well, we don't use them basically because there's  
25 freaking road crossings and --



- 1 Q. Right.
- 2 A. -- you know.
- 3 Q. Okay. And like are there -- there were three cars tied on  
4 the east end; is that --
- 5 A. Tied down? Are you talking about the tanks that are tied  
6 down on 16? Yes, because I was moving cuts of cars in there.
- 7 Q. Okay. So that's -- okay.
- 8 A. Large cuts.
- 9 Q. Okay. Okay.
- 10 A. That's why I tied three.
- 11 Q. Okay. Just curious --
- 12 A. I was moving loaded tanks and loaded sand hoppers.
- 13 Q. Okay. Gotcha. Gotcha.
- 14 A. In twos and threes.
- 15 Q. When you guys are switching, do you guys ever hang air at all  
16 on any of your cars? Like maybe on one and two in the head end or  
17 you just -- is that a --
- 18 A. Not usually. We're usually switching one track at a time.
- 19 Q. Usually --
- 20 A. We got two locomotives -- we had two six-axle locomotives.
- 21 Q. Right.
- 22 A. Plenty of good stopping power.
- 23 Q. Okay. Yep. No, that's fine.
- 24 And then as far as your air test, you said the carman -- car  
25 department comes out and does your air test, correct?

1 A. That's their job.

2 Q. Okay. And then the air test is, I'm assuming, always done by  
3 the carman when you're all -- when you're ready to go, never in  
4 more than one piece?

5 A. Sometimes if we can't fit in one track --

6 Q. Sometimes they have to do it in more than one piece?

7 A. A lot of times if -- I'll ask the yardmaster can I double up  
8 and pull up the lead and we can finish our air test on the lead.  
9 If he says, no, I need to get in there, then I'll have to do it on  
10 two tracks and the carman will have to hang a long hose from the  
11 front of the locomotive to the adjacent track so we can air test  
12 both tracks at the same time, and then when they're done, we  
13 double up when we leave.

14 MR. SCOTT: Okay. All right. That's all I have for you. I  
15 appreciate it, and my thoughts and prayers are with you.

16 MR. KENNEDY: Thank you.

17 MR. RATLEDGE: Aaron Ratledge, BNSF Railway.

18 Tom, thanks for being here. I can only imagine what you're  
19 going through. My condolences, sir. I don't have any questions.

20 MR. BONAWITZ: Dan Bonawitz, SMART-TD National Safety Team.  
21 Again, appreciate you being here. Condolences.

22 BY MR. BONAWITZ:

23 Q. I'm only going to ask one question so we can expedite this.  
24 You said the carmen usually come out and do the air test. Did  
25 mechanical forces come out and inspect the units that day?

1 A. No, because at the start of that day our locomotives were in  
2 the zone.

3 Q. Okay.

4 A. In the industry park where we service customers. So, you  
5 know, the previous day we had a lot of work and we didn't get a  
6 chance to bring the cut to town, so our locomotives with the train  
7 was left up there. And that's what we did first thing that  
8 morning was bring the cut to town.

9 Q. And just for clarification, do they normally inspect your  
10 units?

11 A. Daily?

12 Q. Yes.

13 A. Mechanical?

14 Q. Yes.

15 A. Definitely not. Shit, there's days they run out of fuel.

16 Q. So that falls onto the crews, correct?

17 A. I guess you could say that. But I've pulled motors off the  
18 pit and ran out of fuel before, let's put it that way. If you can  
19 believe that.

20 MR. BONAWITZ: That's all. I want to help expedite this.

21 MR. FRIGO: Are you okay if we keep going another round?

22 MR. KENNEDY: Yeah. Yeah.

23 MR. FRIGO: Okay. And, Tom, I -- you know, you're filling in  
24 a lot of blanks for us. Thank you.

25 BY MR. FRIGO:

1 Q. So can you just describe to me -- I've never operated one of  
2 these boxes. From -- and you've got a lot of experience doing  
3 this. Can you just describe to me kind of how one would kind of  
4 do what Jeff was doing that day, where he's waiting for it to come  
5 up, he's going to get on, and then he's going to move it forward?  
6 Like how would you do that? Like what kind of manipulations would  
7 you do on the box and how would you do that work?

8 A. Well, everybody has a different style of operating the  
9 Beltpack, you know. For example, you know, just like any job,  
10 there are certain people you enjoy working with and there's  
11 certain people you dread working with, not because they're bad  
12 people but just because of the way they do things will drive you  
13 nuts. But Jeff wasn't one of those guys. He was skilled and he  
14 was good at what he does.

15 You know, if you're asking me the way that -- if you're  
16 trying to ask me the way I think he should have done it, I can't  
17 tell you that because Jeff's got enough experience to know what to  
18 do. But I will tell you this: He is a hell of a switchman and  
19 I'm shocked that this happened. And I feel guilty.

20 MR. FRIGO: Why don't we take a break. Let's take a break.  
21 We're going to go off the record here.

22 MR. KENNEDY: No.

23 MR. FRIGO: We can take a, we can take a pause.

24 MR. KENNEDY: I don't want to take a break.

25 MR. FRIGO: Are you sure?

1 MR. KENNEDY: Yeah. It's all right.

2 MR. FRIGO: All right. Well --

3 MR. KENNEDY: You know, everybody's got a different way of  
4 running the Beltpack and, you know --

5 BY MR. FRIGO:

6 Q. You know, and I don't know. I haven't had a chance to look  
7 at any documents, so --

8 A. There's a lot of factors here why what happened happened.  
9 Just like you asking me what was with the three cars tied down,  
10 that's probably a big factor why he went over the head end. I did  
11 that.

12 Q. You know when we, when we put together -- one of the things I  
13 learned early on in railroading was that we have more in common  
14 with the medical profession than we do with other stuff, and that  
15 is because all we do is practice. We practice every day. There's  
16 nothing that says here's how you do it. And you rely on that  
17 experience and you practice. And I think the other part of it is  
18 that when events happen and accidents happen, it's not just one  
19 thing; it's a multitude of things that build up over time.

20 A. Totally. It's like everything aligned in the proper --

21 Q. And that's why we're here. And that's why we're here, Tom.  
22 This group here, we're here to talk about that. We're here to  
23 look into that and -- and, you know, we -- our job is to prevent  
24 reoccurrence. And if you have some thoughts and ideas, and I know  
25 you've been running -- I can tell you've been playing this over

1 and over. And if there's anything you think of that you want to  
2 talk about now, that you want to tell me later, I value what you  
3 have to say to prevent this from happening again. And I want you  
4 to know that. And that's why, you know, by you helping me  
5 understand just generally how does one operate this Beltpack -- I  
6 don't know. I don't know that without you telling me. And if  
7 it's, if it's something where, you know, with -- if someone on the  
8 controls, if -- I don't know if you're supposed to start at the  
9 first, I don't know if you're supposed to start midway. I, I --  
10 A. Well, that's just it, I don't know. They're going to have to  
11 look at the tapes. I don't know if Jeff went to couple, or if  
12 Jeff went to 4, or if climbing as he stepped on the motor and  
13 started to move that he bumped his Beltpack and clicked it faster  
14 than he thought he was going.

15 Q. Right.

16 A. Which happens frequently. Maybe that's why it happened.  
17 Maybe he bumped his box on the way up and it went to 7 instead of  
18 4 and it pulled harder than he expected and jerked harder than he  
19 expected. Maybe he was hanging on. Maybe he wasn't hanging on.  
20 I don't know.

21 Q. And you know what? And that's all stuff we're looking into.  
22 We're going to get those answers. We will. And, you know, one of  
23 the things -- you know, why I asked you the question is just to  
24 understand how you do it. You know, how do you get a train moving  
25 from a stop position with that Beltpack?

- 1 A. Normally I go to 4, 7.
- 2 Q. Okay. And then as that thing starts to move, do you taper  
3 back or do you --
- 4 A. It all depends.
- 5 Q. Okay. And is that part of with your experience, does it take  
6 that much effort to get it -- to get things moving in that  
7 direction to build up that momentum?
- 8 A. No. Two six-axles it doesn't.
- 9 Q. Okay. So that's just kind of your style?
- 10 A. That's probably why Jeff went straight to 4 or whatever he  
11 went to; we got two six-axles, ain't got to worry about it.
- 12 Q. Okay. Do you find that these -- that the Beltpack responds  
13 fairly -- is it fairly quickly, the response to the commands?
- 14 A. No. No. I will say this without a doubt. After 20 years of  
15 working with Beltpacks, different consist definitely, and the same  
16 consist throughout the day, respond and react differently  
17 throughout the day. The -- like the -- I don't know, the  
18 solenoids inside and changing from forward to reverse and engage  
19 the motors or whatever, a lot of times like, well, son-of-a-bitch  
20 took off like a rocket that time. And the next time you're like,  
21 come on, what the hell's the matter with this piece of shit, let's  
22 go.
- 23 Q. Okay. So it's different?
- 24 A. For sure. Without a doubt.
- 25 Q. There could be some lag time?

1 A. It's 60-year-old equipment with new technology. Not new  
2 technology, technology from the nineties. You know, all to get  
3 rid of the, you know, guy like Buck.

4 Q. So your -- in your experience -- I just want to make sure I  
5 capture it -- that box responds differently?

6 A. For sure.

7 Q. How was it on that day? How was everything working that day?

8 A. Same as every day. It's working inconsistent, but as  
9 somebody that works with it, it's something you adapt to, you  
10 know.

11 Q. So it was normal for you?

12 A. Yes.

13 Q. Normal?

14 A. Normal.

15 Q. Okay.

16 A. Yes.

17 Q. Okay.

18 A. You know, it's just like, you know, like driving somebody's  
19 car, it's a little bit different than yours. You know, you may  
20 need to get on that brake a little bit sooner or get on that gas a  
21 little bit harder or whatever.

22 Q. Nothing that -- nothing out of the ordinary for an  
23 experienced --

24 A. No. No.

25 Q. Okay. And how often do you --



1 A. That being said --

2 Q. Okay. Go ahead.

3 A. That being said -- I don't -- was it that day, that motor?  
4 Was it that day? I don't know. You'll have to listen to the  
5 tapes. It may have been the previous day. But that freaking  
6 motor, Jeff pitched it to me. I was in forward, but -- even the  
7 little indicator light on my Beltpack says forward; I started in  
8 reverse. I was like, holy shit, this is interesting. Stop, click  
9 everything back and forth a little bit and tried it again, and  
10 then, okay, here we go, now we're going the right direction. That  
11 was -- that's -- and that's the way things are.

12 Q. Do you -- so when something like that happens, is there a way  
13 you can report that to mechanical or to a yardmaster? I mean,  
14 how -- what would you --

15 A. Well, you're opening up a can of worms there because frequent  
16 problems with the remote boxes are very common in, well, in  
17 Denver, and I hear everything from, well, it's from the light rail  
18 power lines or it's the transponders go bad or this or that. And,  
19 for example, many days we have nothing but problems with them with  
20 communication problems or transponder problems or -- what's the  
21 other one -- locomotive movement failure or speedometer fault.  
22 And so a lot of times you'll link up, you'll move your train --  
23 and Jim can attest to this because he's worked this job with me --  
24 you'll go to the roundhouse to get a power that the previous day  
25 was doing these things and they tell you they fixed it, but what

1 they do is, yes, they link up and yes, they move the train 25  
2 feet, they're like, yep, everything's good, we fixed it. But then  
3 we move it 50 feet, the brakes set up and we recover the air  
4 basically 25 to 30 times before we even get out of the roundhouse.

5 MR. BAKER: I just want to clarify something.

6 MR. FRIGO: Yeah, you can clarify something. Go ahead.

7 Just --

8 MR. BAKER: Buck Baker, representative.

9 When you say normal operation -- and Tom said, yeah, that's  
10 normal -- for us on the ground, the failures that we see is normal  
11 and we deal with them but it shouldn't be normal operation. These  
12 failures shouldn't happen as much as they do, but we just have to  
13 deal with the failures. Tom's very experienced and he --

14 MR. KENNEDY: Yeah, we're just trying to do our -- we want to  
15 do our job. You know, I want to do my work. I want to service my  
16 customers. You know, I want my job to mean something and -- but,  
17 you know --

18 MR. FRIGO: No, and I appreciate that and --

19 MR. BAKER: I just don't want it to be seen that these  
20 failures are normal operation because that's really not how  
21 these -- this should work. It's just what we have to deal with.

22 MR. FRIGO: It's part of the job.

23 MR. BAKER: And it's part of the job.

24 MR. KENNEDY: It's the frustrations that we, that -- the  
25 Denver terminal is a -- it's not a nice place work, let's put it

1 that way.

2 BY MR. FRIGO:

3 Q. Let me ask you a clarifying question then. When those  
4 failures do occur that you just deal with because you have to deal  
5 with it, it's part of the job, is there any way that you pass that  
6 information along that --

7 A. I deal with the industry trainmaster, and he's well aware of  
8 our issues, and he -- he's from the ground. He understands what  
9 we deal with and he's constantly trying to help us, and he  
10 appreciates the stuff that we do to get through the day and make  
11 things work.

12 Q. Okay.

13 A. You know, it's -- the whole terminal with a guy like me and  
14 Jeff on that job -- just the previous week I was off for 5 days  
15 for Covid exposure.

16 Q. Um-hum.

17 A. Jeff took some days off. The job fell apart. Monday of this  
18 week back on the job was the worst cluster I have ever seen up  
19 there in the zone. It was insane. There was 12 cars in one track  
20 at Nexeo. You know, I'm like, you know what, I get smacked in the  
21 face by management after 20 years of hard service. They abolished  
22 this job because we had one customer shut down for maintenance.  
23 They abolished the job. There's a culture about this job that  
24 they want this job gone.

25 Q. Let me ask you this.

1 A. It goes from management to trainmasters to yardmasters. We  
2 are -- to make it -- to put it in layman's terms, this job that I  
3 work is the redheaded bastard stepchild.

4 Q. You mentioned about the -- about you and Jeff being off and  
5 things getting out of control. You used that example. Have you  
6 seen it getting worse over the past year? Was there a point in  
7 time where maybe something changed? Can you, you know, recall any  
8 of that?

9 A. Well, like when I said we went from 701 to 1901, we used to  
10 get 12 hours a day and it was warranted. We were busy. We had a  
11 lot of customers. And you combine that with the Denver Yard being  
12 a cluster, I'm sorry, you're going to get overtime if you want us  
13 to service the customers. It's just the name of the game, you  
14 know. I'm not passing the buck and I'm not playing the blame  
15 game, but the culture is not a good thing in Denver.

16 Q. You ever see any --

17 A. A hundred times I have been approached and told by management  
18 that we need to do something about all this overtime, we need to  
19 do something about all this overtime, and my response to them is  
20 that's it, that's the word, that "we" part is you. You either  
21 tell me to tie it down and go home or you tell me to service the  
22 customers. You don't tell me we need to do something about  
23 overtime when you won't move my train or you won't fix my train or  
24 I don't get my locomotives out of the roundhouse until 2:30 in the  
25 afternoon and now we got to hurry up. That very culture may be

1 part of the reason why Jeff felt like he had to hurry up because  
2 we had a lot of work to do that day and we've been pressured.

3 Q. How many times do you -- that culture that you're describing,  
4 how many times do you see officials out there watching what you're  
5 doing?

6 A. Not a whole lot. I mean, they don't, they don't come out of  
7 the office very much, you know. You know, they -- you know, hell,  
8 they don't have to, there's cameras everywhere.

9 Q. Do you remember the last time you were tested in the yard?

10 A. Wow. Well, I mean, I've seen -- it's probably been 6 months  
11 since I've actually seen a physical body actually testing me. But  
12 many days when I tie up, there's tests on my screen that said I  
13 passed, passed, passed. So --

14 Q. Okay.

15 A. -- you know, I don't --

16 Q. Okay.

17 A. Yeah, I don't know if they did it via the camera or if they  
18 were sitting somewhere I couldn't see them or whatever.

19 Q. But it's happened?

20 A. Yeah.

21 Q. Okay. Do you get recertified on using the equipment, the  
22 box?

23 A. Yeah.

24 Q. Do you remember the last time that happened?

25 A. I can show you. I think it was, what, September, maybe. I

1 don't know. It's somewhere in here.

2 Q. You could give me that date at another time.

3 A. Yeah. We -- it's standard procedure.

4 Q. Okay.

5 A. We have to get what they call a check ride.

6 Q. Okay.

7 A. You know, it's kind of like engineers have to do their sim  
8 run. You know, we just get a check ride.

9 Q. So they'll show up and they'll observe?

10 A. Yeah. They'll show up and watch us operate for a while  
11 and --

12 Q. Okay.

13 A. I mean, like on our job, the Denver terminal doesn't have --  
14 there's only two remote jobs, the D&I job that I work and the ramp  
15 job. So, you know, a lot of the extra board guys have to get  
16 qualified so there's a lot of days where we have to hand the box  
17 over to somebody they bring up to get qualified or to keep their  
18 certification before it runs out.

19 Q. Yeah. No, that helps me understand that.

20 Any reoccurring training or anything like that on the use of  
21 the equipment or even just how you do your job in general?

22 A. No. No, there's not really anything like a -- nothing like  
23 that with the Beltpacks. It's kind of like a hostler thing. They  
24 just give you a check ride every year, you know.

25 Q. Okay.

1 A. I mean, it's a -- as shitty as they work a lot of times, it's  
2 really a -- it's actually pretty intuitive when you get used to  
3 them. You know, they're not -- they're actually simple to  
4 operate.

5 Q. Um-hum.

6 MR. FRITO: Tom, thank you. I'm going to --

7 Brian, do you have any other --

8 MR. FRANSEN: Brian Fransen, BLET.

9 BY MR. FRANSEN:

10 Q. There is one thing that I heard people talking about  
11 yesterday and, Tom, they went -- at one time Denver went all RCO,  
12 right, and then they came back and now there's only two jobs left  
13 that are RCO?

14 A. Well, I don't know about that. Like I said, I came here in  
15 late '10, early '11, and there was, what, two other remotes at the  
16 other end of the yard, at 38th end?

17 MR. BAKER: Yeah. At one time half of the yard, which would  
18 be the, I guess, north end of the yard or east end.

19 MR. FRANSEN: 38th Street?

20 MR. BAKER: 38th Street was remote, that was a remote job on  
21 that end.

22 MR. FRANSEN: Any idea just working here why did they leave  
23 those two jobs RCO and put engineers back on the other job? Does  
24 anybody know why they were --

25 MR. BAKER: Yeah. So at that time one was cost cutting.

1 They wanted to get rid of one of the jobs because they had two  
2 jobs on, on every shift. They wanted to cost cut, get rid of one  
3 of the jobs. They also wanted to be able to utilize the crews  
4 over there to do other jobs, drag trains in, take trains out,  
5 whatever. So they put --

6 MR. FRANSEN: Okay. That makes --

7 MR. BAKER: -- put them on, so instead of having two jobs  
8 working 8-hour shifts, you had one job doing double the amount of  
9 work, so they put an engineer on.

10 At one point prior to them going to that system, prior to  
11 that, they did two ground crews, so what was the remote crews,  
12 with one engineer and they switched between. The engineer stayed  
13 out there the whole entire time and had two different ground crews  
14 attached to him.

15 MR. FRANSEN: Okay.

16 MR. BAKER: That went on for, I believe, about a month and  
17 then they went all to just one job.

18 BY MR. FRANSEN:

19 Q. Okay. And so, Tom, it's just your -- your job and that ramp  
20 job are the only two RCOs left then?

21 A. Correct.

22 Q. Okay.

23 MR. FRANSEN: I don't have any other questions. Thanks  
24 again.

25 MR. SCOTT: I don't have anything else. Thank you.



1 MR. RATLEDGE: Excuse me. Aaron Ratledge.

2 BY MR. RATLEDGE:

3 Q. A question earlier, Tom, was asked about locomotive  
4 inspections and if they're not in the house -- you know, I'm  
5 assuming they were talking about the locomotive daily inspection.

6 A. Well, of course we sign the cars daily on locomotives, but --

7 Q. But eventually they've got to make it to the pit to get  
8 service, get fuel --

9 A. Yes.

10 Q. -- get sand, get oil, get all that good stuff checked.

11 A. He was asking mechanical. We're not mechanical.

12 Q. Right.

13 A. We're basically --

14 Q. Yeah, I just wanted to make --

15 A. -- looking at fuel level and --

16 Q. Right.

17 A. -- brake shoes and that's pretty much it.

18 Q. I just wanted to make sure that part of the locomotive daily  
19 inspection that's what you --

20 A. Yeah.

21 Q. -- or Mr. Jones or any other RC operator does in that  
22 location.

23 A. That's, you know -- as much as I don't want to, I really want  
24 to see the video. I want to see did he go over that chain or did  
25 he flip over the rail, the hand railing?

1 Q. Yeah.

2 A. You know?

3 Q. Is it common to ride on the platform?

4 A. I don't think he was riding on the platform. I think he was  
5 climbing onto the platform and making his way.

6 Q. Yeah, I'm not saying he was. But just in general RCO  
7 operations is it uncommon to ride on the platform of the front or  
8 the rear of a locomotive?

9 A. No.

10 Q. Would it be preferable to ride on the platform versus the  
11 steps?

12 A. Depends on where you are.

13 Q. Agreed. Different considerations have to be given based upon  
14 car types you're handling just like, you know, when you're riding  
15 on the end of equipment, I mean, you've got to take into  
16 consideration -- is that true?

17 A. Yeah, you -- I get it. I mean, you know, you got to be  
18 hanging on.

19 Q. Yeah.

20 MR. RATLEDGE: That's all the questions I had. Thank you  
21 very much, Tom.

22 MR. BONAWITZ: Dan Bonawitz, SMART-TD.

23 BY MR. BONAWITZ:

24 Q. I got a few more this time around, Tom, so please bear with  
25 me. The Beltpack, how long have you been using that style?

1 A. We got that new style, what, like --

2 MR. BAKER: Seven, 8 months ago at max.

3 MR. KENNEDY: It hasn't been that long. We went from CANAC  
4 to -- I don't even know what these ones are called.

5 MR. BAKER: I don't know. Red bottom ones.

6 MR. KENNEDY: They're a lot lighter, I will say that. They  
7 are lighter. They're a little more bulkier than what we had  
8 before but they are bigger.

9 BY MR. BONAWITZ:

10 Q. Okay.

11 A. But they are lighter because the -- you know, it's a plastic  
12 housing now instead of cast aluminum thing.

13 Q. Did you receive any new training on this new box?

14 A. The new training on them, they basically operate the same.  
15 They have all the same features. The only thing that's  
16 technically different that we use with it is the way that we link  
17 up to the locomotive with the Beltpack.

18 Q. So just for clarification --

19 A. And that's just you're pushing some different buttons on the  
20 Beltpack is all.

21 Q. So just for clarification, did you receive any formal new  
22 training from like someone from the RCO department or a trainer  
23 or --

24 A. There was a guy there when the new boxes showed up and they  
25 basically went over it with all the crews about how to link up.

1 It was just, you know, hold two buttons instead of one. It's, you  
2 know --

3 Q. Fifteen minutes? Two hours?

4 A. A couple minutes. It's nothing --

5 Q. A couple minutes?

6 A. -- nothing big. It's, you know, just --

7 Q. No computer-based training on it or anything?

8 A. No. No.

9 Q. Okay.

10 A. All the controls are -- have you seen them? You haven't seen  
11 them, have you? I'm trying to --

12 UNIDENTIFIED SPEAKER: Yesterday was the first time I saw  
13 them.

14 MR. BONAWITZ: Okay.

15 MR. KENNEDY: Yeah, all the controls are basically the same.  
16 The toggles are a little bit different and, like I said, they're  
17 bulkier.

18 BY MR. BONAWITZ:

19 Q. And moving from training to safety, you talked a bunch about  
20 the locomotives, and I know we hit on them here, but do you feel  
21 that as an employee your safety concerns are looked after properly  
22 or addressed?

23 A. I was on another job, turned in SERPs for horrible walking  
24 conditions. The SERP was closed with the comment do not walk  
25 there, we now consider this issue resolved.

1 Q. And continuing with that SERP, was that a manager that closes  
2 it out?

3 A. I don't know. I couldn't tell you.

4 Q. So no one ever --

5 A. I don't know who the hell's --

6 Q. -- come back and reach out to you or anything?

7 A. That was the response I got, we now consider this matter  
8 resolved, don't walk there.

9 That was on the (indiscernible), by the way.

10 MR. BAKER: Yeah. It got fixed after the flood.

11 MR. KENNEDY: Yeah.

12 BY MR. BONAWITZ:

13 Q. You talked about the extra board being out there and the yard  
14 being a mess. So when you came back, would have been Monday, you  
15 and Jeff. It was a complete mess. Did you feel pressured to have  
16 to clean up that yard?

17 A. I don't let them pressure me anymore. I don't give a shit.  
18 They can kiss my ass as far as I'm concerned. And I'm sorry you  
19 had to hear that, being a representative for the company. But it  
20 is what it is. Because you can reap what you sow.

21 Q. So staying with that Monday and Tuesday, you talked about  
22 your hours are 0701 up to possibly 1901. How many hours do you  
23 think you worked Monday and Tuesday?

24 A. Oh, Monday we got 12 and Tuesday we got 11.

25 Q. Going back earlier, you talked about you were moving the

1 movement from yourself to Jeff. You wanted him to get the switch,  
2 I think you said. Did you feel fatigued?

3 A. That's part of the reason why I asked him to get off at the  
4 switch and get that switch for me.

5 Q. Okay. Do you --

6 A. I mean, it was -- you know, some days -- and it's just luck  
7 of the draw. They don't, you know -- for example, some of the  
8 other industry jobs like the Market job or the Hudson job, their  
9 cut is built for them. They just get on their train and go. I  
10 have to, 9 times out of 10, get on the phone in the morning and  
11 say, hey, where the hell's my locomotives? Nobody knows. I'll go  
12 to the roundhouse, it's not there. Go up to the zone, it's not  
13 there. You know, there's been many a days I'll spend hour and a  
14 half looking for our locomotives before I can even start my job  
15 because nobody in management knows what the hell's going on. So  
16 then that's an obstacle to cross. You get on your train, you go  
17 to your track. Some days, you know, purely coincidence the cars  
18 are in order.

19 But we get pressured into not getting overtime, but on this  
20 job they don't build your cut, they can't even put my cars into  
21 one track, they scatter them throughout. I never go down there  
22 and just grab cars out of 17, which is where they should be.  
23 They'll be seven cars in 15, three cars in 16, ten cars in 17,  
24 eight cars in 19. It's like, are you freaking kidding me? When  
25 every other industry job, their cars are in one track, put

1 together for them, and they just go to work, but yet I'm getting  
2 pressured when I have to go do all this extra work because of  
3 shitty management can't even put my cars in one goddamn track and  
4 I got to go down there and spend all this -- and a lot of times  
5 they'll ask me, well, can't you just grab cars and take them to  
6 the zone? And I'm like, Jesus Christ, do you know how much work  
7 that is for me to take them cars up to the zone when I have  
8 basically two tracks I can switch with to sort them out, when I  
9 can do it down here with all these tracks? At least I can make it  
10 work here. Yeah, you created a lot of extra work for me, but at  
11 least I can make it work and make my job easier when I get to the  
12 zone to service my customers. But, you know, and then you're  
13 harping on me about overtime when you don't make a goddamn thing  
14 easy. You drop shit in my lap day after day after day after day  
15 and you harp on me about overtime.

16 Q. So is that something that's on your mind a lot while you're  
17 at work?

18 A. All the time. They rag me, you know. But like I said, if I  
19 get off the job, the job goes to shit. They service -- they were  
20 lucky to service one customer a day when I was gone.

21 Q. I know we hit on the safety aspect and whether or not you  
22 felt like your concerns were properly looked at. But what's the  
23 relationship between the workers and management here in Denver?

24 A. It's not pleasant. They cut our jobs. They cut our hours.  
25 Which makes no sense to me whatsoever because it's cut our

1 productivity as far as the company being willing to service  
2 customers. I mean, like on my job, there was a long stretch of  
3 time there where they were telling me to tie it down and come in.  
4 Like, I got four more customers to service, I'm in the zone;  
5 you're not going to let me service these customers? This is a  
6 factory here trying to run a factory and they need their product  
7 to run their factory. Tie it down and come in, because they don't  
8 want to pay me. God forbid you have pay somebody to perform a  
9 service.

10 Q. What's the mood like in your opinion?

11 A. People are unhappy. I mean, I get it, you know, companies  
12 want -- it's all about the shareholders, is what it boils down to.  
13 That's where it comes from. They want large profit margins and  
14 that's it, and whatever it takes to get it. They just want  
15 basically unit train. They don't want the overhead of crews and  
16 locomotives and servicing mom and pops shops, as they call them,  
17 you know. But in Denver, there is a vast wealth of industry, you  
18 know. I don't -- I can't wrap my mind around their management  
19 style. Just like when they abolished my job because one customer  
20 was shut down. I got six other customers up there.

21 Q. And sticking with relationship, mood, are there any other  
22 distractions that you feel are out in the field?

23 A. Well, for sure, I mean, the new attendancy policy is  
24 definitely on everybody's mind. I mean, everybody's upset about  
25 that. We don't get anything. We haven't even gotten a raise in



1 years, for Christ sakes. People are talking about leaving this  
2 fucking job. I'm talking about -- I'm at 20 years in May. I'm  
3 seriously considering bowing the hell out of here, you know. I'm  
4 a competent, skilled worker. There's not a lot of people in that  
5 yard that can do that job like I do that job. And I'm not saying  
6 that's a great thing, but it is what it is. When you have  
7 manpower use it.

8 Q. Is there anything else you would like to add?

9 A. I miss my brother.

10 MR. BONAWITZ: And again, on behalf of everyone here, our  
11 condolences. I'm sorry that you have to experience that and we  
12 wish we could have met under different circumstances. And with  
13 that --

14 MR. FRIGO: That's for sure.

15 MR. BONAWITZ: -- I want to --

16 MR. FRIGO: You good?

17 MR. BONAWITZ: I'm good.

18 MR. FRIGO: All right. Does anybody have any follow-up?  
19 You're going to have one and --

20 UNIDENTIFIED SPEAKER: Nope. I'm good.

21 MR. FRIGO: All right. Okay. I just -- Tom, I only have --  
22 I have a few more questions and we'll wrap this up.

23 BY MR. FRIGO:

24 Q. I apologize if this one was asked already, but that unit,  
25 that box, do you check that in and out every day?

1 A. Yeah.

2 Q. Okay. And is there a process when you do check it into  
3 yourself that validates that it's in a proper working order?

4 A. Well, we basically check the boxes out. Like we got to log  
5 into the little -- there's a cabinet, like that cabinet over  
6 there, that --

7 Q. Okay.

8 A. -- we log in and it unlocks itself, and then we take the  
9 Beltpack and our batteries for it. But the safety check we do is  
10 when we link up the first time. We do like a safety test and --

11 Q. Okay.

12 A. You know, where it'll go into penalty without touching it for  
13 a while and then you also tilt it to make sure the tilt timeout,  
14 man down thing works.

15 Q. Okay. Thank you for helping me understand that.

16 I've got to ask some questions about Jeff that you might know  
17 because we're having a hard time finding anybody locally to talk  
18 to and --

19 A. Yeah, I don't think --

20 Q. -- you might be the only one to kind of fill in some of these  
21 questions. And if you don't know the answer, you know, that --  
22 just tell me that.

23 A. Yeah.

24 Q. But do you know, what did Jeff usually do after work?

25 A. I know that Jeff was big into his video games, you know.

1 Q. Okay.

2 A. I know he liked watching the Cardinals football team. You  
3 know, I know that he played online video games with a couple guys  
4 from work frequently, which, you know, I don't do that crap. I'm  
5 too old for that silly shit, so --

6 Q. Okay.

7 A. I don't, I don't do that crap.

8 Q. Did he live with anybody else that you know of or --

9 A. No. I think he was, I think he was basically by himself  
10 here.

11 Q. Okay.

12 A. You know, he recently just come back. He transferred back to  
13 Arizona for a while. I don't know if there was, you know, family  
14 issues or whatever, but he wasn't there very long.

15 Q. Okay.

16 A. He went back and worked there for a while and then he come  
17 back here, so --

18 Q. Did -- you know, can you recall him talking about any issues  
19 outside the job with you?

20 A. You know, he was complaining about his rent going up, you  
21 know.

22 Q. Typical stuff?

23 A. Yeah.

24 Q. Nothing out of the ordinary?

25 A. Sign of the times.

1 Q. Right.

2 A. Yeah.

3 Q. Anything you can remember from that day of the accident that  
4 would be not normal that you would perceive about Jeff?

5 A. No.

6 Q. Okay.

7 A. No. I mean, Jeff was, you know, being Jeff, you know.

8 Q. Thank you, Tom.

9 I usually wrap these up with one final question and, you  
10 know, you can -- if you don't want to answer it now, you can send  
11 me an email or call me or whatever. But, I mean, is there  
12 anything you can think of that could've prevented this based on  
13 what you know?

14 A. Well, I told you what I thought could have prevented it.

15 Q. Okay.

16 A. I could have kept the pitch.

17 Q. Besides that, I mean -- and we've talked about some of the  
18 work pressures, talked about some of that. I mean, it's sprinkled  
19 in there throughout our conversation today.

20 A. Well, you know, it's not conducive to a productive work  
21 environment, let's put it that way.

22 Q. Yeah.

23 A. I will say that I -- you know, we've had some horrible  
24 management here. I've worked in numerous terminals throughout my  
25 career and I got to tell you, it's shit here. Everybody thinks

1 there's a -- you know, a lot of guys talk about, oh, man, you got  
2 go work here, there's -- and I always told people was, like, yeah,  
3 there's no pot of gold on the railroad; it's all shit. But by  
4 far, this has been shittiest. They just take, take, take, take,  
5 and take. And cram shit down our throats, tell us we're going to  
6 do this or you'll be fired or -- it's like what the hell kind of  
7 style of management is that? Why are you slapping me in the face?  
8 I've been here for 20 goddamn years and you treat me like I'm a  
9 fucking 4-year-old.

10 Q. Yeah, nobody wants to work in that kind of environment.

11 A. You know, man to man, that ain't how you treat somebody.

12 Q. I'm with you, Tom. I'm with you.

13 MR. FRIGO: Do you got -- anything you want to clarify?

14 MR. BAKER: Yeah, just some -- a little bit of clarification.  
15 Buck Baker.

16 So, you know, when you start talking about the pressures,  
17 too, that Tom says -- and anybody who's worked an industry job  
18 knows this. You know, Tom's been on this job for 5 years. He  
19 knows the customers. He has personal responsibility over that  
20 job. You know, Jeff was on that; he had personal responsibility.  
21 He talks about that job going to hell, it's his job. Like he was  
22 at my job, that was his and Jeff's job. And that job was a 12-  
23 hour-a-day job and then they took it back and said no, we're not  
24 going to let you do everybody, you do these guys.

25 MR. KENNEDY: I made less money in my 17th, 18th, and 19th

1 year than I have in my 5th year with the railroad. Now tell me  
2 that's not a fucking slap in the face.

3 MR. BAKER: So some of those pressures are there because you  
4 feel compelled to do your job and do it professionally, do it  
5 right. You know, you -- he knows what the job is.

6 MR. KENNEDY: I've given this company my life. I'm -- this  
7 is -- used to be my ball and chain until I had enough seniority to  
8 hold a standard job with a set time. I used to answer this phone  
9 4 a.m., 5 a.m., 3 a.m., and just go, go, go. They take your life  
10 from you.

11 MR. BAKER: I just --

12 MR. KENNEDY: They don't give a shit.

13 MR. BAKER: I just want to make sure that it's understood  
14 that the pressure is there, you know. He -- you're talking about  
15 guys who have a certain amount of credibility. You know, they  
16 want this job. And he knows if he doesn't perform that job, like  
17 he's already said, is -- one of the jobs that they've looked at  
18 cutting a lot, one customer cuts the job. That's his job.

19 MR. KENNEDY: Yeah. That's part of the pressure, right. You  
20 know, I can -- I enjoy servicing the customers. I enjoy -- the  
21 actual work is enjoyable, but -- you know, this job used to be  
22 fun, but they've taken that. They have completely and totally,  
23 they've taken that from us.

24 MR. FRIGO: I appreciate your honesty with us today, I do. I  
25 think everybody in the room can attest to that. And, you know,

1 and like Dan said, I'm sorry we had to meet under these  
2 circumstances, but I --

3 MR. KENNEDY: Yeah.

4 MR. FRIGO: -- I appreciate you being honest with us. I  
5 appreciate you answering our questions. And, you know, I'll close  
6 this out with just saying -- you have my contact information. If  
7 there's anything else you want to share, you know, feel free to do  
8 that with me, okay?

9 MR. KENNEDY: Yeah.

10 MR. RATLEDGE: Ryan, can I -- just one final question,  
11 comment.

12 MR. FRIGO: Absolutely, Aaron.

13 MR. RATLEDGE: I appreciate the honesty also. From the  
14 craft, ran trains, (indiscernible), done the exact same thing you  
15 have. Not for as many years. I've been here for 28. But just  
16 one final question.

17 BY MR. RATLEDGE:

18 Q. With all the pressures and everything as bad as it is from  
19 the management, and I'm not, I'm not -- I am not challenging you  
20 at all, but I just want to know one answer. Based upon all those  
21 pressures, would it jeopardize any decision against your safety?  
22 If you know there is an unsafe act, would you commit it?

23 A. Oh, no. I take care of myself.

24 Q. I'm the same way. I just want to make sure that --

25 A. I take care of myself.

1 Q. Yeah.

2 A. My responsibility is to myself.

3 Q. That's right.

4 A. It's like I had a manager tell me once, which I thought was  
5 hilarious and about laughed in his face -- he said I was his  
6 responsibility. And I let him know, no, no you're not. I'm  
7 responsible for myself and you don't ever say that to me again  
8 because I know how you run this place, I've seen the shit that  
9 goes on; I don't want to hear that.

10 Q. And I'm with you every second on the lead, every joint, every  
11 coupling, every lacing, it's real responsibility on the safety.

12 MR. RATLEDGE: Okay, so Ryan. Thanks.

13 MR. FRIGO: All right. Tom, thank you. We'll go off the  
14 record.

15 (Whereupon, the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

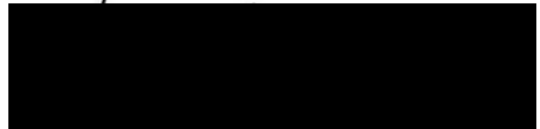
IN THE MATTER OF:           BNSF RAILWAY EMPLOYEE FATALITY  
                                  IN DENVER, COLORADO ON  
                                  FEBRUARY 9, 2022  
                                  Interview of Tom Kennedy

ACCIDENT NO.:               RRD22FR006

PLACE:                        Denver, Colorado

DATE:                         February 11, 2022

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.



Kay Maurer  
Transcriber