

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: \*

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MIDDLESEX RAILROAD EMPLOYEE \*

FATALITY IN GREAT BARRINGTON, \*

Accident No.: RRD23FR015

MASSACHUSETTS ON AUGUST 4, 2023 \*

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Interview of: ETHAN BOARDMAN, Associate Project Engineer  
Housatonic Railroad

Great Barrington, Massachusetts

Monday,  
August 7, 2023

APPEARANCES:

JOHN PATANE, Safety Inspector, Track Discipline  
Federal Railroad Administration

RICHARD SKOLNAKOVICH, Investigator  
National Transportation Safety Board

P.J. BAILLY, Train Master  
Housatonic Railroad

DAVID CASACELI, Railroad Investigator  
National Transportation Safety Board

TODD KRAHOLIK, Rail Investigator  
National Transportation Safety Board

DAVID WRIGHT, HSE Corporate Director  
Middlesex Corporation

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I N T E R V I E W

(10:53 a.m.)

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2  
3 MR. SKOLNEKOVICH: All right. Good morning, my name is  
4 Richard Skolnekovich and I am the NTSB operations group chairman  
5 for this accident. We're conducting an interview today on 7  
6 August 2023 with Ethan Boardman, who works for Housatonic  
7 Railroad.

8 This interview is in conjunction with NTSB's investigation  
9 into the accident that occurred at Great Barrington, Massachusetts  
10 on 4 August 2023. The NTSB accident reference number is  
11 RRD23FR015. The purpose of this investigation is to increase  
12 safety, not to assign fault, blame, or liability.

13 Before we begin the interview, we'll go around and introduce  
14 ourselves. Please spell out your last name and title. I'll start  
15 off and then I'll pass it to my right. Again, my name is  
16 Richard Skolnekovich, S-k-o-l-n-e-k-o-v-i-c-h, NTSB investigator.

17 MR. BAILLY: P.J. Bailly, B-a-i-l-l-y, Housatonic Railroad,  
18 trainmaster.

19 MR. CASACELI: David Casaceli, C-a-s-a-c-e-l-i, NTSB rail  
20 investigator.

21 MR. PATANE: John Patane, P-a-t-a-n-e, FRA safety inspector,  
22 track discipline.

23 MR. WRIGHT: David Wright, HSE Corporate Director for  
24 Middlesex.

25 MR. BOARDMAN: Ethan Boardman, B-o-a-r-d-m-a-n, Housatonic

1 Railroad, associate project engineer.

2 MR. SKOLNEKOVICH: Okay. Thank you, Ethan. You understand  
3 today is being recorded?

4 MR. BOARDMAN: Yeah.

5 MR. SKOLNEKOVICH: And we have your permission to record it?

6 MR. BOARDMAN: Yeah.

7 MR. SKOLNEKOVICH: Okay. Do you understand that all of the  
8 interview will be transcribed and will be part of the public  
9 docket and that docket will be in public and so we can't guarantee  
10 any confidentiality?

11 MR. BOARDMAN: Understood.

12 INTERVIEW OF ETHAN BOARDMAN

13 BY MR. SKOLNEKOVICH:

14 Q. Okay, all right. So then we'll go ahead and begin. Ethan,  
15 if you could start off, could you start -- tell me a little bit of  
16 background about your railroad history and your background.

17 A. I started at the Housatonic Railroad in 2016, was a laborer  
18 there for a little over a year, about 15 months, full time. Then  
19 I went to college, I worked seasonally for the Housatonic  
20 Railroad, still doing track labor until I graduated in 2020.

21 I did two internships while I was in college, 2018 summer,  
22 2019 summer, both with Norfolk Southern in their engineering  
23 department. Came on here at Housatonic after I graduated December  
24 2020 as the associate project engineer and I've been doing that  
25 ever since.

1 Q. Okay. All right, can you tell me a little bit about what the  
2 associate project engineer does, duties and responsibilities?

3 A. So I kind of have my hands in everything as far as  
4 engineering goes. I do some track inspection, I do a lot on the  
5 project engineering side of things, so estimations, generating  
6 bills of materials, doing engineering procurement, daily  
7 recordkeeping. Sometimes I act like a foreman in our -- you know,  
8 our regular track maintenance gangs.

9 I'll fill in for the track inspector where needed and then on  
10 jobs like this, I act as a railroad track inspector, and on this  
11 job in particular, generally, I'm the railroad supervisor in  
12 charge as far as CWR laying because we're required to have a  
13 qualified supervisor on any CWR project on the railroad.

14 Q. Okay. So are you qualified just on CWR or what else are you  
15 qualified?

16 A. So CWR, I -- you know, I do my annual CWR qualification.  
17 RWP, RMM, RMM with crane, hazmat, NORAC.

18 Q. Okay. Well, that leads to my next question, so you're NORAC  
19 qualified?

20 A. Yes.

21 Q. Okay. Okay, now, the training you received, so the different  
22 qualifications and the NORAC rules training, did you get that  
23 through Norfolk Southern or did you get that through Housatonic?

24 A. So Norfolk Southern did, they gave the interns kind of a -- I  
25 guess what you would call a down-and-dirty RWP, you know, it's

1 basically how not to get hurt on the railroad, but I do annual RWP  
2 in house with the Housatonic and my NORAC is in house with the  
3 Housatonic.

4 Q. Okay. How often do you take -- do you take qualification  
5 tests for NORAC?

6 A. Yes, yes.

7 Q. How often do you do that?

8 A. Three years, every 3 years.

9 Q. Every 3 years?

10 A. Yeah.

11 Q. Okay. Now, you are involved in any of the RWP training or  
12 NORAC training that goes on with Housatonic?

13 A. I do not conduct any of the training, no.

14 Q. Okay. Do you have any subordinates?

15 A. Subordinates. I wouldn't say direct subordinates, I have a  
16 level of authority in the department, so on some jobs I'll have  
17 people reporting to me and on some jobs they report to my  
18 supervisor. If I had a subordinate, it would be more site  
19 specific than just in general, all these people report to me, if  
20 that makes sense.

21 Q. Yeah, it does. So you're more indirect --

22 A. Yes, yes.

23 Q. -- supervisory? Okay.

24 A. Yeah.

25 Q. Versus direct, okay. Now, are you assigned a project or are

1 you assigned multiple projects?

2 A. Multiple projects.

3 Q. Can you tell me where some of them projects are at right now?

4 A. So there's this one here from Milepost 50 to Milepost 59 in  
5 Massachusetts. There's a small project up in Pittsfield,  
6 Massachusetts involving 2,000 feet of full-depth track  
7 reconstruction. That has not left the engineering and design  
8 phase yet, we haven't broken ground on that.

9 Another project for CWR laying and full-depth track  
10 reconstruction in Canaan, Connecticut; that's again in the  
11 engineering phase, we haven't broken ground on that yet. Multiple  
12 grade crossing replacements in Massachusetts and Connecticut.

13 Some of those in Massachusetts, we've built track panels for  
14 them and we may have broken some ground on it, but most of those  
15 are still, again, in the engineering phase, haven't broken ground.  
16 We may have ordered materials and that kind of thing, but we  
17 haven't actually dismantled the track to perform the upgrade.

18 Q. Who builds the track panels?

19 A. Our people do.

20 Q. Okay.

21 A. Yeah.

22 Q. So how much interaction do you have with -- I know you're a  
23 project manager and you're overlooking basically the quality  
24 control and stuff with the railroad and figuring out what you  
25 need. How much interaction do you have with the operational



1 aspects? So once a project is started, how much interaction do  
2 you have with the operation while it's being constructed?

3 A. As far as the operation of actually performing the work?

4 Q. Yes.

5 A. You know, it depends. So if we've got, say, a grade crossing  
6 replacement going on in conjunction with the work that's going on  
7 in Massachusetts, like CWR laying, then typically I'll be on that  
8 CWR job in Massachusetts and my supervisor will be the direct one  
9 over something like a grade crossing replacement elsewhere or  
10 another project.

11 If we don't have something that demands a railroad supervisor  
12 to be present, so say the CWR job with Middlesex is not going on,  
13 then I would be directly involved in doing hands-on work on these  
14 other railroad-related projects.

15 Q. Okay. And you mentioned rail supervisors, how many rail  
16 supervisors are at Housatonic?

17 A. Let's see. As far as engineering, there's two of us.

18 Q. There's two engineers?

19 A. Yeah.

20 Q. Is there any other, like, operation or RWP?

21 A. So P.J. Bailly is a trainmaster and then Eric is the  
22 superintendent.

23 Q. Okay.

24 A. Yeah.

25 Q. Now, do you work with them pretty frequently?

1 A. Yes.

2 Q. Okay. Do you guys have any types of like production  
3 meetings?

4 A. None formal, really, because we all work out of the same  
5 office, you know, we're all across the hall from each other, so we  
6 meet up periodically throughout the week and, you know, I guess  
7 you could say the closest thing to a formal meeting we would have  
8 would be on Fridays, you know, typically Friday mornings we're all  
9 in the office so that's the best chance that all of us have to  
10 meet and talk about things. But that's not a formal meeting,  
11 that's just -- generally, that's when we're all in the same place  
12 at the same time.

13 Q. Okay. Is it more production-based type conversations or is  
14 it --

15 A. It's production based and then, you know, political  
16 conversations, the state of the railroad and upcoming projects and  
17 train schedules and scheduling trains around the work and  
18 scheduling with -- due to intermittent service from CSX, that  
19 dictates a lot of, you know, our train schedules and that kind of  
20 thing. So every aspect of the day-to-day operations, really.

21 Q. Okay.

22 A. I mean, we're so closely intermingled.

23 Q. Well, being so closely intermingled, is there any -- are you  
24 involved in any of the training that goes on inside operations as  
25 far as equipment operations or, you know, especially since you're

1 NORAC qualified, any specific like rule type, you know, advisories  
2 or briefs that you give operations?

3 A. I do not perform the training, I don't conduct the training,  
4 I will -- because our -- like our roadway maintenance machine and  
5 the RMM with crane and CWR training, because we don't conduct that  
6 ourselves, that's conducted through RailPros and I'll help the  
7 guys get set up annually.

8 So a lot of these railroad individuals are good at what they  
9 do as far as track work but technology escapes them, so I'll be in  
10 the office with them to help them, you know, get set up on the  
11 computer and get set up to do the training and, you know, make  
12 sure it's completed.

13 Q. Okay. So have you seen some of the training that they  
14 conduct to go out and do the work? Like the computer training.

15 A. Yeah, yeah. I have taken the same computer training.

16 Q. Okay. So let me ask you this, so the computer training that  
17 you take to get, what is it, the RWP and OSHA 10 --

18 A. So RWP is conducted in house.

19 Q. Okay.

20 A. For Housatonic employees, we conduct it in house.

21 Q. Okay.

22 A. The RMM, RMM with crane, and CWR is the online training that  
23 we take.

24 Q. Okay. How do you feel it compares to like some of the  
25 training you got at NS, do you think it's relative or --

1 A. I would say it's very comparable.

2 Q. Okay.

3 A. It's equivalent.

4 MR. SKOLNEKOVICH: Okay, I'm going to go ahead and let it go  
5 around the table and then we'll do some follow-ups.

6 BY MR. BAILLY:

7 Q. P.J. Bailly, Housatonic Railroad. I guess getting into the  
8 day of the incident and the job brief, do you -- do you know why  
9 they suggested that the Middlesex Corporation has changed the  
10 safety briefing personnel?

11 A. So occasionally, and very rarely, the rail foreman would give  
12 somewhat of a briefing. Typically, that would be a maximum of 10  
13 to 15 seconds of having a talk, I wouldn't consider it much of a  
14 job briefing, so an emphasis was made that briefings needed to be  
15 more thorough, more adequate.

16 So I think that's what led to that change or what people have  
17 perceived as a change, because all along, superintendent Jason  
18 Menard and safety supervisor, whoever the safety supervisor on the  
19 job was, whether it was Dan or, you know, Darren or the  
20 contractor, the individual that they had, they would all always  
21 speak and give the bulk of the briefing.

22 Q. All right. Was that brought to their attention, do you know,  
23 by the railroad itself or was it another entity?

24 A. I know the railroad brought it to their attention that the  
25 job briefings needed to be more thorough and I believe AECOM also

1 brought it to their attention that briefings needed to be more  
2 thorough.

3 Q. Did you ever witness this additional Middlesex briefing that  
4 was allegedly signed?

5 A. No. I just learned of that today.

6 MR.BAILLY: That's all I've got right now, thank you.

7 BY MR. CASACELI:

8 Q. David Casaceli, NTSB. We spoke with Richard there a little  
9 bit about your training in RWP and those things, and I heard you  
10 mention RWP training, certified or qualified on RMMs and RMMs with  
11 crane. Are you a qualified RWIC, as well?

12 A. Yes.

13 Q. And you said you took your RWP training from Housatonic and  
14 it's in house. Can you talk to me a little bit about what that  
15 training looks like?

16 A. So typically, it involved sitting down in our conference room  
17 and P.J. Bailly will conduct the training and we'll go through the  
18 OTMS and annually, you know, if there have been any changes to the  
19 on-track safety manual -- OTSM, not OTMS -- if there have been any  
20 changes, we'll go over that and we'll basically reiterate  
21 everything it says. Generally, there's not much that changes year  
22 to year, but you know, it's been a year since the last time you  
23 took it and, you know, some people may not have looked much at the  
24 manual since then, so you know, we basically just reiterate  
25 everything and review the whole thing again. We'll take a test on

1 it and then depending on, you know, whether you passed or failed  
2 the test, you get your card reissued.

3 Q. I'm pretty sure this was in there, but how often is that  
4 training conducted?

5 A. Annually.

6 Q. Okay.

7 A. So I think my card is up in January.

8 Q. And about how long is that training session for RWP here?

9 A. A couple hours, anyway. At least 2 to 3 hours, I would say.

10 Q. Okay, a couple housekeeping questions for me. I heard AECOM  
11 mentioned a couple times, what's their role here on property?

12 A. So they are the project management firm that was hired by  
13 Massachusetts DOT. MassDOT owns the physical railroad property,  
14 we're just the operating railroad. So with this upgrade project  
15 going on for the 36-and-change miles of track, AECOM serves as  
16 kind of the project management organization, there's a separate  
17 engineering firm that was contracted by the state and then  
18 obviously, for each contract there's a contractor that performs  
19 the actual work, so Middlesex is this time.

20 The previous contract, the previous contract was RailWorks,  
21 but on that previous contract, AECOM was still the -- kind of the  
22 project, the program manager, and HDR was still the engineering  
23 firm. AECOM also serves as -- I don't know if this is an --  
24 supposed to be an official capacity, but they also serve as a  
25 liaison between the railroad and the state.

1 Q. Would it be a fair characterization that AECOM is a  
2 consultant on behalf of MassDOT to kind of oversee their interests  
3 in this project?

4 A. Absolutely, yes.

5 Q. Okay.

6 A. Yes.

7 Q. You mentioned a prior project and contract. Can you just  
8 give me a quick introduction of what that project was and when it  
9 took place and who performed it?

10 A. So it was very similar to this, so this project is from  
11 Milepost 50 to Milepost 59. The previous project was from  
12 Milepost 59 to roughly Milepost 72 area with some additional work  
13 in some other locations just to -- for the purposes of spending  
14 all the contract money.

15 That involved much of the same type of work, it was laying  
16 CWR, private grade crossing replacements, full-depth track  
17 reconstruction in several locations, bridge replacements, bridge  
18 approach full-depth reconstruction, cleaning up OTM, you know,  
19 cleaning up after the job, basically, and that was performed by  
20 RailWorks. Time frame on that, I don't know the exact start time  
21 of that contract, that was in progress when I came into this  
22 position in 2020 and they demobilized from the railroad late  
23 spring, early summer of 2022.

24 Q. Okay. Now, speaking to Housatonic employees only, how many  
25 roadway workers that work in that capacity on a daily basis does

1 Housatonic employ?

2 A. Let's see. Right now, not many. One, two, three, four,  
3 five, I think there's only five of us total in the department  
4 right now.

5 Q. Give or take a few?

6 A. Yeah, yeah.

7 Q. Is that a typical number? It sounds like -- you made it  
8 sound like it might be on the low side, but --

9 A. It's a little on the low side. You know, we just lost a  
10 couple people for various reasons, you know. Typically it's, you  
11 know, in the realm of eight to nine, yeah.

12 Q. And what kind of work do those folks do?

13 A. Anything relating to daily track maintenance, so changing  
14 rails, doing spot ties, you know, changing joint bars and gauging  
15 track, that type of thing.

16 And then they also perform our -- whatever project work the  
17 railroad winds up performing as far as capital improvement, so if  
18 we get Section 130 money and do grade crossing replacements,  
19 they'll also perform that type of work. There are other grant  
20 programs that we may get money out of and they'll perform that  
21 work, as well.

22 Q. Okay. How many roadway maintenance -- let me rephrase. What  
23 types and approximately how many roadway maintenance machines or  
24 hi-rail vehicles does Housatonic own? Or lease or operate on your  
25 own.



1 A. I couldn't give you an estimate. Fifteen-plus, you know.

2 Q. Okay.

3 A. All in various conditions of "are they operable or not."  
4 Spikers, spike puller, tie crane, on-track excavator, hi-rail  
5 excavator, I should say. Off-track excavator, wheel loaders,  
6 which is, you know, not quite a track machine. Tamper, ballast  
7 regulator, various push machines like Geismar lag machines,  
8 Geismar tie drills, that sort of thing. I know I'm missing some,  
9 but --

10 Q. No, that's okay. I'm just trying to get a feel for the type  
11 of work that your people do, Housatonic employees. So how often  
12 or on what frequency would they be using some of these machines  
13 and let's say excluding a hi-rail section truck or, you know, like  
14 a backhoe, some of the on-track equipment, at what frequency is  
15 that?

16 A. On a weekly -- daily basis throughout the week.

17 Q. Very good. So you talked about a couple capital improvement  
18 projects, and I know the one started predating you, and it seems  
19 to me like a fairly high pace of maintenance work on these  
20 contracts, is that typical since you began as a laborer in 2016 or  
21 is that a change that happened somewhere along the way?

22 A. It was starting to pick up when I came in as a laborer.

23 Q. Okay.

24 A. The state had recently purchased the line from the Housatonic  
25 Railroad and after that happened, the -- you know, the paperwork

1 takes time, but basically the money started flowing in for various  
2 projects. At least in Massachusetts and Connecticut, we just take  
3 the money when it -- when we can get it, which is relatively  
4 infrequent.

5 Q. With these projects, contract projects specifically, how do  
6 you view the Housatonic's and your responsibility, I suppose,  
7 related to the safety of operations on those projects?

8 A. The contractor has to follow the Housatonic's safety  
9 guidelines and be qualified on, you know, our procedures as far as  
10 our RWP and roadway maintenance machines, you know, they have to  
11 take our RMM training and they have to be qualified on our CWR  
12 plan, those types of things.

13 Q. On a day-to-day basis, what is the Housatonic's involvement  
14 in the safety of maintenance -- or excuse me, capital improvement  
15 operations?

16 A. Performed by us or not performed by us?

17 Q. Well, your responsibility related to safety, so I suppose it  
18 could be oversight of somebody else doing something.

19 A. Yeah.

20 Q. If that makes sense. So just characterize what that would  
21 look like.

22 A. So, you know, on one of these contractor projects, we would  
23 -- you know, there's always a Housatonic employee or multiple on  
24 the job at any given time, whether it's an RWIC and myself or  
25 someone who's filling a role equivalent to myself. So if -- you

1 know, in the morning job briefings, the RWIC will typically touch  
2 on a couple safety topics. Generally, they're the same ones  
3 because honestly, the job briefing form list, you know, it's got  
4 the list that gets gone through every day and the same safety  
5 topics are on that list and he may throw in an additional safety  
6 topic. If I've seen something or if there's something that I  
7 particularly want to hit on when I'm filling that inspector role  
8 on these jobs, I'll touch on that.

9 If I -- you know, if I see something throughout the day or if  
10 that RWIC sees something throughout the day, then they will -- him  
11 or me will reach out to either the individual we see do it and/or  
12 the management from whatever company that individual works for and  
13 just have a conversation about it.

14 Q. Do Housatonic employees, yourself included, perform any  
15 formal observations or safety observations on contractors?

16 A. I do not.

17 Q. Are you aware of them being performed by Housatonic employees  
18 related to probably worker protection and safety of these crews  
19 doing the work?

20 A. As far as coming out and doing, you know, written  
21 observations of them, I'm not aware of any at this time.

22 Q. Do you do anything like that for your employees?

23 A. Yes, yes.

24 Q. Okay. Can you characterize that a little bit for me?

25 A. I'm not qualified to -- I'm not one of the authorized people

1 to write 217s, but I know that there is random observations  
2 performed on our employees, whether, you know, in the operation of  
3 machines and use of track, you know, Form Bs and adherence to  
4 operating rules and the C.F.R., so --

5 Q. I might be stretching a little bit here, as you said, you  
6 weren't qualified to do these, so no is a perfectly fine answer,  
7 but if that program is written out somewhere, do you know where  
8 that is?

9 A. It would be, I would say, probably on-track safety manual  
10 that might outline some. Certainly, in the C.F.R. But other than  
11 that, I'm grasping, really.

12 Q. Okay, yeah, don't -- don't speak to anything you're not  
13 knowledgeable of, so that's good. Thanks. As a qualified RMM  
14 operator, an operator of RMM with a crane, can you speak a little  
15 bit about what that training looks like to have received that  
16 qualification?

17 A. So it goes through knowledge of how to perform an inspection,  
18 a daily inspection before you actually start up your machine and  
19 take it out to perform work. Especially for RMMs with cranes,  
20 there's some additional training there. Your red zone on that is  
21 going to be a little bit different than the red zone on a machine  
22 like a spiker, because you've got additional reach. There's a  
23 potential with those machines for rollovers and, you know,  
24 asymmetrical loadings and other things that really have to be paid  
25 close attention to, you know, safe operating practices, follow

1 distances, speeds, that sort of thing that's touched on.

2 Q. How are those qualifications performed, is this classroom  
3 training, computer training, a combination of jobs?

4 A. So the general RMM training for us, it's the computer  
5 training. And then individuals get trained in person and  
6 qualified in person on each individual machine so you're -- you  
7 know, you have to get qualified even to operate RMMs in general  
8 before you can get qualified on a specific machine.

9 And then each individual has a qualification sheet that, you  
10 know, they would be taken out in the field, shown the machine by a  
11 qualified operator, the machine would be gone through, the  
12 qualified operator would ride with that individual or, you know,  
13 some machines it's not possible to ride with the individual at the  
14 time frame.

15 So in a controlled environment, the qualified operator would  
16 teach the training individual how to operate the machine,  
17 inspecting the machine, things like that. Then the training  
18 supervisor and the qualifying employee would sign that form and  
19 then there's a sheet that we all carry around where it's checked  
20 off and signed by a qualified supervisor, whether or not this  
21 individual is qualified on this machine, that machine.

22 Q. Okay, so that's a machine-specific qualification paper?

23 A. Yes, yes.

24 Q. And are those records kept somewhere other than on the  
25 individual?

1 A. Yes, yeah.

2 Q. Who's responsible for training roadway maintenance machine  
3 operators or RMMs equipped with a crane that operate on property  
4 that are contracted?

5 A. That would be the contractor them-self, they have to take the  
6 railroad-specific RMM and RMM with a crane training, but as far as  
7 qualifying on specific machines, that's contractor specific.

8 Q. Do you know if Housatonic ever audits or peers into those  
9 qualifications of an operator?

10 A. I don't know.

11 Q. Have you ever done that?

12 A. I have not, no.

13 MR. CASACELI: I think I'm okay for now. Thanks for your  
14 time.

15 MR. BOARDMAN: Okay.

16 BY MR. PATANE:

17 Q. How you doing? I'm John Patane, FRA. These are probably  
18 questions that were already asked, but a little more detail. You  
19 mentioned that you don't do site safety checks, generally, with  
20 contractors. Have you ever observed a safety concern that -- from  
21 a contractor and have you ever done anything to address that  
22 concern?

23 A. Yes. Sometimes you might, you might see someone not use  
24 their horn when moving forward or moving in reverse to indicate  
25 the direction of their move and that's -- you know, we'll have

1 that conversation with the operator and then typically, we'll talk  
2 to one of the -- someone in management on the job and say hey,  
3 just -- you know, just a reminder or remind your guys that we  
4 really need to be doing this, you know, something to that effect.

5 Q. Okay. Are you pretty much always aware of what the roadway  
6 worker in charge, in this case (indiscernible) Bill Lewis often,  
7 but whenever the contractor needs to make a change in their on-  
8 track safety procedures, are you generally always aware of those  
9 changes?

10 A. Define on-track safety procedures.

11 Q. Well, say they're going to be working between 50 and 55, but  
12 their machine broke down so now they're going to work on another  
13 project, 55 to 60, and now they have to be -- now they're going to  
14 get authorized to use the track in a different segment, would you  
15 often be made aware of that or is that something that --

16 A. If it affects me, yes.

17 Q. But not always?

18 A. Not always, no. Sometimes I have one of their radios and I  
19 sometimes I do not, so sometimes I hear the conversations that are  
20 being had and sometimes I don't.

21 Q. What is your typical conversation, like, in day to day  
22 between yourself and the contractor on the property, do you -- do  
23 you often know the details of what they're planning to do each  
24 day?

25 A. Yes, yes.

1 Q. Do they ever run it by you, any kind of questions they might  
2 have or concerns?

3 A. Yeah, from an engineering standpoint they might have  
4 questions about, you know, string numbers and CWR or lag patterns  
5 or maybe an issue they ran into with their machine having  
6 difficulty driving lags past the E-clips, you know, things of that  
7 nature.

8 Q. Okay. Say there's an issue at the job site, say something  
9 unforeseen happens, like a tree falls across a track or something  
10 like that and you need to bring in like a railroad grapple truck  
11 or something that wasn't originally planned in the day, do you  
12 have the authority to direct a move like that, to make it happen  
13 as far as arranging the truck to come onto the property and  
14 coordinating the procedure?

15 A. I could coordinate that, yes. Yes.

16 Q. Okay.

17 A. There would be a specific procedure I would have to go  
18 through to orchestrate that safely and in conjunction with the  
19 contractor. It would be the same way if the RWIC was going to  
20 bring a train through, I mean, there's a very specific procedure  
21 that's gone through to make sure the track is clear and that  
22 everyone has been briefed on what's going on so that there are no  
23 incidents.

24 Q. Well, I'm just kind of more focused on your personal -- as  
25 far as how involved you would be personally, would that be



1 something that you would directly be involved with or is that just  
2 basically something you catch wind of from the roadway worker in  
3 charge?

4 A. I could be.

5 Q. Okay.

6 A. I could be. It's not a cut-and-dry yes or no, it's sometimes  
7 yes, sometimes -- sometimes no.

8 MR. PATANE: Okay. That's what I have for right now, thanks.

9 MR. WRIGHT: I have no questions.

10 BY MR. SKOLNEKOVICH:

11 Q. Okay, I'm going to go around the room for some follow-on  
12 questions. I'd like to kind of start off the day of the actual  
13 incident. Can you start off by telling me where were you working  
14 and what kind of work were you doing at that time?

15 A. So at the actual time when the phone call came in that there  
16 had been an incident --

17 Q. Yeah.

18 A. -- I was at the bridge at 51.73 observing the Middlesex  
19 employees performing their work there. I was standing -- because  
20 there's a road that runs along the railroad there and there's a  
21 highway bridge right adjacent to the railroad bridge. I was  
22 standing between the highway and the railroad watching them, they  
23 were getting ready to pull the rail off the bridge and I heard --  
24 I just overheard Jason Menard talking on the phone and I heard,  
25 you know, this is -- I'm paraphrasing because I don't remember

1 specifically what was said, but you know, someone -- "what do you  
2 mean he got run over" and then immediately, I cued in on that and  
3 said it sounds like someone's injured, and I thought he was  
4 talking to someone on another job because I didn't have any  
5 knowledge of anyone else doing any work anywhere else in the out-  
6 of-service limits. Obviously, I was on that bridge job.  
7 Obviously, no one here has been run over, so I assumed he was  
8 talking to someone on one of their jobs in Boston.

9       And then he came over to me more frantic and he said, you  
10 know, Lining's (ph.) Crossing, Lining's Crossing, how do I get  
11 emergency to Lining's Crossing or what is that, and I said all  
12 right, well, EMS doesn't know that as Lining's Crossing, they're  
13 bigger and they know it as the business that's across the tracks  
14 there and I said that's Sheffield Farm Products.

15       And then he asked well, what town, what town, you know, which  
16 town do I tell them to go to and I was like, you know, that's  
17 Sheffield, call Sheffield police, call 9-1-1, I mean, they'll call  
18 the business line, call 9-1-1. And then he took off up there, I  
19 walked over and I told Bill Lewis, because Bill Lewis was sitting,  
20 you know, maybe 20, 30 feet away from me in his truck, I told Bill  
21 Lewis what was going on and then we all headed up there. And  
22 then, you know, my first phone call was to P.J. Bailly and then to  
23 John Brackenbury (ph.), kind of the AECOM inspector that was on  
24 his way out, so we all headed up that way to try and get an  
25 understanding of what was going on.

1 Q. Okay. So you said you didn't know that they were conducting  
2 the work up there?

3 A. Correct.

4 Q. Okay. Did you have anything on Middlesex's radio or were you  
5 just operating on Housatonic radio?

6 A. I was just -- I just had Housatonic radio.

7 Q. Okay.

8 A. I did not have Middlesex radio.

9 Q. Did you hear any radio traffic between Middlesex and  
10 Housatonic on the Housatonic radio channel?

11 A. No. No, there's not.

12 Q. Okay. Did you get any radio traffic about, you know, the  
13 logger and drilling crew going in and out of the yard, like when  
14 they first came out in the morning?

15 A. No, I was not in possession of the radio that they would  
16 have --

17 Q. Okay.

18 A. -- announced that on.

19 Q. Okay, so no knowledge whatsoever who they were?

20 A. Yeah, I can't comment. I don't know.

21 Q. All right. What work did you know they were going to do that  
22 day?

23 A. The bridge work, so they were doing an excavation of the  
24 north and south bridge approaches to the 51.73 bridge. They were  
25 going to be pulling the hundred-and-seven-pound rail off the

1 bridge and replacing it with hundred-36-pound rail and 80-foot  
2 sticks, they were -- like I said, they were going to excavate the  
3 approaches lane and re-lay the ties and re-ballast the approaches  
4 and surface of the approaches in preparation for the bridge deck  
5 to be replaced the following weekend.

6 Q. Okay. Now let me ask you this, were you at the job brief  
7 that morning --

8 A. Yes.

9 Q. -- when they talked about the work? Okay.

10 A. Yes, I was.

11 Q. Who gave the job brief for Housatonic?

12 A. Bill Lewis.

13 Q. Bill Lewis.

14 A. Yeah.

15 Q. Do you recall what he discussed during the job brief? Just  
16 best recollection.

17 A. He touched on -- well, he talked about his limits, 50 to 59,  
18 that it was out of service in someone else's name but he was in  
19 control of the track. No movements expected that day from the  
20 railroad side of things. He touched on use of horns for forward  
21 and reverse moves. He talked about overhead wires and, you know,  
22 staying off of phones unless absolutely necessary and then only  
23 outside the foul of the track. And then he -- as he goes through  
24 his sheet, he talked about, you know, we've got the bridge work  
25 going on, the excavating approaches and changing the rail. So I

1 know he's not as in tune with the engineering side of things, so  
2 he just briefly skimmed over, you know, changing rail and digging  
3 out the approaches and on with the rest of his briefing. And then  
4 it went into the Middlesex briefing with Dan and Jason. Dan  
5 talked for quite a while about bridge safety and fall protection  
6 and, you know, what they call their GHA (ph.).

7 And then Jason Menard added some -- just points that he  
8 thought were -- I guess he thought were important to make sure  
9 that individuals were aware of when conducting this bridge work.  
10 So that's how that went. And then Middlesex broke up into -- to  
11 do their stretches and yeah, I don't know. I don't know what  
12 happened after that.

13 Q. Okay.

14 A. After they broke up into their stretches, Bill Lewis and I  
15 walked back to our vehicles, we were parked next to each other,  
16 and I told him that I was going to be headed back to the office to  
17 do some paperwork and then I would meet the group at the bridge  
18 shortly thereafter.

19 Q. Okay, was Bill Lewis there during the Middlesex brief?

20 A. Yes.

21 Q. Okay, was he listening or was he engaged in something else?

22 A. He was listening. So --

23 Q. Okay.

24 A. -- when Dan and Jason were talking?

25 Q. Yeah.

1 A. Yeah, he was listening. Yeah.

2 Q. Okay.

3 A. Yeah.

4 Q. All right. So then after the job brief, Middlesex did their  
5 stretches and then is that when you went to the bridge or did you  
6 wait for the Middlesex folks?

7 A. No, no. I know they break up into like individual work  
8 groups, they got the civil guys who will do one portion of the  
9 work at the bridge, then they've got the rail guys. So the civil  
10 guys would do the dirt work and the grading at the bridge for the  
11 full-depth reconstruction and then the rail guys would actually  
12 conduct laying out the ties and installing rails, spiking, you  
13 know, clipping the rail, that sort of thing.

14 So they had said that after their stretches they were going  
15 to break up into their individual groups and discuss how they were  
16 going to perform the work there at the bridge. So --

17 Q. Best of your recollection, do you remember -- can you give me  
18 just a general idea how many Middlesex employees went out to do  
19 the work at the bridge with you?

20 A. I would say at least 20.

21 Q. At least 20?

22 A. Yeah.

23 Q. Okay.

24 A. Yeah, there were multiple vehicles down at the bridge.

25 Q. Okay. Did they, Middlesex, have a foreman with them?

1 A. At the bridge there were two foremen, there was a rail  
2 foreman, Nick Rende, and a civil foreman, Mark Scaotti (ph.),  
3 Sciotti.

4 Q. Sciotti.

5 A. S-c-i-o-t-t-i, I think.

6 Q. Okay. All right, so we'll now go ahead and the job brief,  
7 we've already hit the bridge, so now we'll go ahead and back and  
8 fast forward to the event. So you overheard the phone call.

9 A. Yeah.

10 Q. Somebody had been hurt. You stated coordinating, 9-1-1, do  
11 you know who called 9-1-1?

12 A. I don't. I later heard that a call was made, later that day  
13 I heard a call was made from the bridge, so I don't know for sure.  
14 I think Jason called from the bridge there and in Ashley Falls,  
15 which is a village in the south end of Sheffield. Other than  
16 that, I don't know --

17 Q. Okay.

18 A. -- who called 9-1-1.

19 Q. And I know at some point in time you ended up going up to the  
20 scene, can you kind of walk me how you got from your work at the  
21 bridge up to the scene?

22 A. So I drove up. Jason Menard was behind me in his truck,  
23 Bill Lewis was in front of me in his truck. We drove up and at  
24 some point in Sheffield, in the area of Sheffield, Egremont Road,  
25 where that intersects Route 7, a Sheffield cop was headed south with

1 lights and sirens and I saw in my rearview Jason leaning out the  
2 side of his truck and waved with his arm to turn around and then I  
3 saw the Sheffield cop pull over to the side and then they turned  
4 around and when the Sheffield cop came up behind us, everyone  
5 pulled over and Jason and the Sheffield cop sped ahead of the rest  
6 of us on the road and went up toward, I guess where they believed  
7 the incident to be.

8 I pulled back out after the officer went by and followed Bill  
9 Lewis up to Lining's Crossing, Sheffield Farm Products. I pulled  
10 in there with Bill Lewis and we didn't see anyone at the crossing.  
11 My current -- at that point, my understanding of the incident was  
12 that there was someone injured at Lining's Crossing. I pulled in  
13 there with Bill and obviously, there was no one there at that  
14 crossing, so you know, now we're kind of wondering where this is  
15 taking place. I pulled up next to Bill Lewis and I don't know who  
16 he had talked to, at that point I had no idea who he had talked  
17 to, I knew he had talked to someone.

18 He may have told me who he talked to, but I don't remember  
19 who he said, whether it was Jason or one of the other foremen or  
20 managers at Middlesex and he said Green River, Green River,  
21 somewhere up in that area is where the injury occurred. And he  
22 said that the VFW, Great Barrington VFW may be a better way to get  
23 in. So I left Lining's at that point and started heading north  
24 toward the Great Barrington VFW. Some of the railroad is visible  
25 from Route 7 in that stretch, so I kept going and I was looking to



1 see if I could see machines, lights, workers, anything like that  
2 as I went north and I couldn't. I got to the area of where the  
3 Green River goes under Route 7 and I was looking all around, I  
4 kept going north because the river kind of goes on an angle at  
5 that spot, so it doesn't cross a railroad right even with where it  
6 crosses Route 7, so -- I went a little bit further.

7 I couldn't see anything and I knew that if I kept driving  
8 around trying to find the best spot, it was going to take a lot  
9 longer than if I just said you know what, I'm just going to go  
10 Lining's and hoof it and so I turned around at Bistro Box in Great  
11 Barrington, drove back to Lining's, parked there and started  
12 moving up the tracks toward where I could see that there was a  
13 machine, I could see men in high-vis vests and hard hats moving  
14 around up at the incident location.

15 Q. Any idea about what time that was?

16 A. Let's see. It was -- I had checked, later that day I had  
17 checked the time stamp from when I made the phone call to P.J.  
18 Bailly, so that phone call was made, I want to say 10:08 or 10:09.  
19 By the time I got to Lining's to actually start moving up the  
20 track on foot, had to be at least 20 minutes after that, so I'm  
21 going to put it in the realm of 10:30, 10:35, that's an estimate.

22 Q. Okay.

23 A. Yeah, I started moving up the tracks toward the employees.

24 Q. And were you by yourself, was there anybody with you?

25 A. I was alone.

1 Q. Okay. And could you -- when you looked down the track and  
2 you saw them, were they moving towards you or did you see in the  
3 distance?

4 A. I couldn't tell if they were moving toward me, I didn't think  
5 they were coming toward me. I could just tell, I could see they  
6 went back and forth across the track, they were obviously moving  
7 around up at that location, I couldn't tell much beyond that, I  
8 couldn't -- yeah, I could kind of just see the blur of high-vis  
9 vests.

10 As I got closer, it became clear. I still saw an individual  
11 moving, you know, east to west across the track and then, yeah,  
12 like I said, as I got closer then it became very clear that there  
13 was an individual lying in the gauge of the track to the south of  
14 the drill.

15 Q. Okay. So can you give me kind of an idea about visibility?  
16 Was there cloud cover, was there rain, was there --

17 A. It was cloudy at that point, cloudy and I think it was in the  
18 seventies, maybe approaching 80 degrees at that point. Cloudy,  
19 was not raining. Visibility, as soon as I stepped into the foul  
20 of the track on the crossing, I could see the machine and the  
21 employees up at the incident location from Lining's Crossing.

22 Q. So you could see the high-vis vests and you could see the  
23 equipment?

24 A. Correct.

25 Q. Okay. Best of your recollection, was the -- on the

1 equipment, were the lights on?

2 A. Yes, yes. And one of the things that I -- that did stand out  
3 to me as I got closer is, you know, obviously the logger itself  
4 was north of the drill so for a while the drill was obstructing  
5 the view of the logger. As I got closer and my line of sight  
6 shifted some, I could see the headlights on the logger itself.

7 By the time I got there, it was there at the incident  
8 location. So I didn't know where it had been, where it had come  
9 from, but when I got to the incident location it was there just  
10 north of the drill, north of the cart at the incident location.

11 Q. Okay, so the lights on the logger were on and you were able  
12 to confirm that once you got up closer.

13 A. Correct.

14 Q. And then what about the drill?

15 A. The drill, I -- I can't specifically recall whether they were  
16 on or not.

17 Q. Okay. That's fine.

18 A. Yeah. I know the machine was off when I got there, the drill  
19 was off when I showed up there. It was shut down.

20 Q. Okay. All right, so at any point in time if you need to  
21 pause, we can stop, just let me know.

22 A. No, I'm good.

23 Q. Okay. All right, so you get up to where the incident  
24 occurred, can you walk me through what you saw and what was going  
25 on?

1 A. So as I got there I could see Rudy was lying in the track,  
2 his head was kind of against the west rail, he was lying  
3 diagonally, so his head was further north than his feet. Another  
4 individual, I believe it was Roberto, was at Rudy's head, kind of  
5 comforting him, I think he was on the phone. I knew 9-1-1 had  
6 been called, I had seen authorities, I heard sirens, and I could  
7 see out on Route 7, I could see flashing lights, fire engines and  
8 police officers going up and down the road there.

9 Yeah, I got there and I don't know at what point the logger  
10 was taken north to retrieve EMS from a location -- at that point I  
11 didn't know where they had come in at but, you know, I was there  
12 and I don't know how much time elapsed between when I first showed  
13 up there and when the logger got back with EMS. I don't even know  
14 who took the logger to get EMS, that part was kind of a blur, but  
15 while I was -- when I first got up there, Rudy was -- he seemed  
16 actually very coherent, responsive, anyway.

17 He was -- you know, he was crying out in pain. He was, you  
18 know, gasping for air and he was -- you know, he started to talk  
19 about how hard it was to breathe, it's getting hard to breathe,  
20 and honestly, at that point, I hadn't really seen the extent of  
21 his injuries because of the way his body was oriented and the  
22 clothing that he was wearing. But for an instant, I thought okay,  
23 maybe this isn't as bad as, you know, the worst-case scenario I  
24 had pictured in my head, you know, driving up here.

25 EMS shows up, you know, got a ride down from someone on the

1 lagger. Jason Menard shows up. Nick Rende was there before I  
2 showed up at the scene, he was there before me at the scene, so he  
3 was present, he wasn't -- you know, he was kind of walking around  
4 and -- okay. So yeah, now I'm remembering a little bit now, as --  
5 whoever was going to get EMS in the lagger, I was asking Nick,  
6 because I knew we had to get Rudy out of there and neither of  
7 those two machines that were there would've been a good platform  
8 to remove that individual.

9 So honestly, I hadn't even paid any attention to the cart at  
10 that point, I hadn't even noticed that it was there between the  
11 drill and the lagger. I asked Nick if he had a hi-rail truck  
12 coming, something with a bed or a better platform for moving the  
13 individual down to the nearest crossing or to wherever EMS wanted  
14 to get him to for their purposes. He said, it was something to  
15 the effect of it's -- you know, it's a slow go, I've got nothing,  
16 I'm having trouble getting anything.

17 So at that point I called my supervisor, Matt Boardman, and  
18 asked him, I said this is -- you know, this is the best shot I've  
19 got right now, this is the only lead I've got right now, can you  
20 get a hi-rail truck, one of our hi-rail trucks from our Canaan  
21 yard and bring it this way, we may need it to remove this  
22 individual. He told me he was preparing to at that point, he  
23 would have to drive to Canaan with his work truck, swap it for a  
24 hi-rail truck and get back up to the location, and I knew by then  
25 it was going to be -- it would probably be, you know, 45-plus

1 minutes before that occurred, so I told him to at least start  
2 moving in that direction. Then, at some point, I don't know whose  
3 idea it was, but someone pointed out that the cart's here, let's  
4 use the cart it may have been EMS, it may have been someone else.  
5 So the decision was made by EMS to use the cart to extricate the  
6 individual.

7 I called -- while EMS was -- they were still doing work, I  
8 guess they were trying to stabilize Rudy at that point, I called  
9 Matt Boardman back, told him to cancel the hi-rail truck and not  
10 to bother coming up here that, you know, his -- he didn't need to  
11 come anymore. So Nick and another individual first picked up the  
12 cart off the track between the logger and the drill, and they set  
13 it down in the shoulder. I don't remember why they set it down, I  
14 don't know if the other individual had to go do something or Nick  
15 had to go do something.

16 So I stepped in and picked up the one side of the cart while  
17 another individual, I don't remember who was on the other side of  
18 the cart, but one individual and I picked up the cart from the  
19 shoulder there, set it down to the south of the drill. Someone  
20 else went and got the tow bar for the cart. They made the  
21 connection from the drill to the tow bar, I made the connection  
22 from the tow bar to the cart and I just remember noticing how  
23 mangled the hitch was when I made that connection to the pintle  
24 hitch on the cart. At that point, EMS was still struggling with  
25 how we were going to get the individual on the cart because they

1 didn't know the extent of his injuries, they didn't want to do any  
2 further -- you know, cause any further harm to him. So we were  
3 kind of looking around to see what was there that could be used to  
4 move the person, they didn't have a stretcher or anything like  
5 that, so there was a large OTM sack, a gunnysack made of like --  
6 probably like a nylon material, but like a burlap type of sack,  
7 basically a huge one and someone asked if that would be, you know,  
8 sufficient to maybe try and use that to lift him onto the cart and  
9 EMS said yeah, that's the best we've got, let's try that.

10 So someone pulled that over and EMS directed that Rudy be  
11 kind of just slowly pivoted to slide the bag underneath him. And  
12 at that point -- up until then, Rudy had been, you know, somewhat  
13 responsive. I guess, you know, thinking back, his responses had  
14 been getting fewer and further between, less and less. He had  
15 become less and less responsive as time was going on.

16 We were, you know, attempting to help EMS with what they  
17 asked for and I remember looking up. Jason Menard and I, Jason  
18 Menard was -- I think he was to my right at that point, looking  
19 up. We kind of looked up at the same time and it was clear that  
20 Rudy was in bad shape, if he was even still alive at all, and  
21 Jason really started -- he really lost his composure at that point  
22 and really started freaking out, you know, as one would expect,  
23 and started yelling Rudy, and then, you know, got EMS's attention  
24 and they looked at his face and I think they realized that he was  
25 in -- he was declining very quickly. So they said, you know, get

1 this, get it under him and we got to get him out of here,  
2 basically. So we got the bag, we helped EMS get the bag the rest  
3 of the way under Rudy. Jason grabbed one of his legs and part of  
4 the bag, I grabbed one of his other legs and the other part of the  
5 bag and two, two or three other individuals, I think including the  
6 EMTs, grabbed -- were up toward his head and chest area, grabbed  
7 the bag up there and we lifted him and carried him, you know, the  
8 couple feet, at that point ,to the cart.

9 All of the Middlesex employees were absolutely frantic, in  
10 disarray, yelling, in tears, I mean, in complete shock and in very  
11 bad shape. No one was doing anything, he was on the cart. I know  
12 how to operate Nordco-type machines, so I started the drill up.  
13 EMS and Jason Menard were climbing onto the cart and I knew Brady  
14 had been the operator at that point. I started the machine, I got  
15 it ready to move and none of the controls would work when I went  
16 to use them.

17 So I screamed for Brady to come up, because I knew he had  
18 been the operator, to show me, you know, what switch I had missed  
19 because sometimes the switch layout on those Nordco panels,  
20 sometimes switches are in different locations, so he came up and I  
21 later found out that what he did was drop it from a high to a low  
22 idle because, you know, one of the things I do, you know, similar  
23 to a Nordco spiker, you know, you turn the pump on, pull the  
24 electrical cutout, you flip it to the left or right side pedal  
25 control and then you put the engine to a high idle. So he dropped



1 it to a low idle and started to move the machine and he -- he was  
2 in really, really bad shape, Brady was, he was in no condition to  
3 be operating anything. Just before that, I had seen him start to  
4 bang his head into the radiator on the machine, I mean, he was in  
5 really, really bad shape. So I took over the controls of the  
6 machine from Brady, we started to move south, EMS was on the cart  
7 with Jason Menard and the individual, with Rudy, at that point, we  
8 started to move south.

9 John Brackenbury and Bill Lewis were on their way, walking up  
10 the right-of-way at that point to where they could see the  
11 commotion and they got out of the way as we passed them in the  
12 machine and I could see a fire side-by-side ATV coming up the  
13 tracks, they're driving up the middle of the gauge at that point,  
14 so I slowed the machine to a stop to meet those individuals.

15 They got off, that's when P.J. Bailly got off that ATV with a  
16 couple other individuals. He climbed on the cart, you know, the  
17 people on the cart climbed off, kind of took stock again of what  
18 the situation was. Some other individuals started using some  
19 other equipment on Rudy, like, you know, breathing for him,  
20 basically CPR, they were performing CPR. So the EMTs climbed back  
21 on the cart. P.J. Bailly climbed onto the cart and began  
22 assisting EMS. Jason Menard had regained his composure, largely,  
23 at that point, so he climbed into the operator's seat of the drill  
24 and someone from the fire department backed that ATV back down the  
25 right-of-way because it was in the middle of the tracks and the

1 machine couldn't be brought further south than the ATV at that  
2 point. So they began backing that south toward Lining's. I know  
3 that a helicopter had been called at that point, they had said as  
4 much, so Jason Menard started to move the machine with the cart  
5 south toward Lining's. I hopped on the back of the machine as he  
6 did so and at the crossing, you know, additional EMS and fire  
7 department was there.

8 I hopped off the back of the machine as he stopped the  
9 machine at Lining's Crossing and I kind of went from a level 10  
10 panic down to like a level 2 panic because at that point, it was  
11 -- it was in better hands than my own, you know, they were -- they  
12 were the best individuals to be giving the care at that point. So  
13 I kind of came down for a second and took a breather and started  
14 making phone calls to my superiors.

15 They took Rudy and yeah, after that, it was just -- we stood  
16 around the crossing for the rest of the day while local police was  
17 already there, authorities were being contacted at the federal  
18 level, at the state level, and yeah, we basically hung out at the  
19 crossing for the rest of -- you know, at that point I don't know  
20 what time it was that we got back to the crossing, but from then,  
21 all the way on until well into the evening, if not into the night,  
22 as the sun had started to set, we hung out at the crossing. We,  
23 you know, talked to the local police, the local fire department.  
24 You know, obviously the crew that was there was in really bad  
25 shape as far as being in shock and being an emotional mess. Brady

1 was certainly in the worst shape, it was suggested multiple times  
2 that Brady get medical attention, you know, soon from -- probably  
3 from an ambulance. And the Sheffield deputy chief, deputy fire  
4 chief was there and he came over and really pushed for Brady to  
5 get looked at by an ambulance just because of his general health  
6 condition and with the adrenaline and the shock and everything  
7 that was affecting him at that point, he strongly recommended and  
8 offered to get an ambulance to look at Brady and just make sure  
9 that he wasn't going to go into any sort of a bad medical  
10 situation.

11           Eventually, an ambulance did come for Brady and after that,  
12 it was just kind of a hurry up and wait for the authorities to  
13 direct what needed to happen and we just assisted how we could,  
14 how we were asked to.

15 Q.    Okay.

16 A.    So that takes us through that day.

17 Q.    No, that is really great and I appreciate the --

18 A.    Yeah.

19 Q.    -- level of detail. Are you doing okay?

20 A.    Yeah, yeah, I'm fine.

21 Q.    Okay. I'd like to go back first with two questions.

22 A.    Yeah.

23 Q.    Okay, so when you first got -- when you first got up to the  
24 scene, was the lagger -- the lagger was there.

25 A.    The lagger was there, correct.

1 Q. All right. And then you started helping out there. At some  
2 point in time the lagger left to go get EMS or was EMS already  
3 there?

4 A. The lagger left to get EMS because I remember seeing the  
5 lagger come back and seeing EMS come out from behind --

6 Q. Okay.

7 A. -- or from inside the cab, I couldn't tell if it was from  
8 inside the cab or from behind the machine, but I knew that they  
9 had just ridden down on that machine and it was pulling up and  
10 they were hopping off and heading up to Rudy.

11 Q. Okay. Did you see them leave or do you just remember them  
12 coming back?

13 A. See the lagger leave?

14 Q. Yeah.

15 A. I did not notice it leave.

16 Q. Okay. All right. So no idea how long it was gone?

17 A. I don't know.

18 Q. Okay, okay. When you did get up to the drill machine and you  
19 had them help you kind of get it started again, do you remember  
20 the position of the drill, was the drill down or was it up?

21 A. I don't remember.

22 Q. Okay.

23 A. I don't.

24 Q. Did you have to operate anything to get the drill up?

25 A. No, no. I put the machine in travel mode which, you know,

1 generally again with those Nordco-type machines, as soon as you  
2 switch it from work to travel, it picks up all the work heads, it  
3 retracts them all.

4 Q. Okay. Okay. Do you recall, like when you first got up  
5 there, any conversations with the Middlesex folks about what  
6 happened, did they say anything about what happened?

7 A. Not without speculating, I really don't remember.

8 Q. Just to the best of your memory of what conversations you do  
9 remember or do you remember any?

10 A. I don't. I know had heard from talking, like from hearing  
11 Jason answer the phone call, and I could see -- when Jason  
12 answered the phone call and said someone had been run over, you  
13 know, obviously that's when that seed was planted that someone's  
14 been run over.

15 I got up there and when I saw the position of Rudy to the  
16 south of the drill, it was kind of the immediate south of the  
17 drill, I kind of put two and two together that it had been the  
18 drill that ran over him. And I know when we switched the  
19 orientation and the position of the pushcart, the Nolan cart,  
20 around, I noticed that the pintle hitch was bent and I assumed at  
21 that point that it had been bent in the collision because someone  
22 mentioned that the cart got hit, too.

23 Q. Okay, so when you first got up there, can you kind of  
24 estimate the distance between the drill and the lagger once you  
25 first got up there?

1 A. When I first got there, the lagger -- I'm going to  
2 guesstimate maybe 20 or so feet, somewhere in that realm.

3 Q. And I know you said you didn't really pay attention to the  
4 cart, but do you remember where the cart was at?

5 A. That was maybe 6, 5 to 8 feet, I'm going to say 5 to 8 feet  
6 to the north of the drill.

7 Q. Okay. Okay, so EMS got out there, you got everybody loaded  
8 up, and then you said you moved to the road crossing. Do you  
9 remember where the helicopter landed at?

10 A. The helicopter. So when we were up there, before we had even  
11 -- when EMS was first walking over to Rudy, they started to  
12 discuss where to put a helicopter down and the golf course, which  
13 is to the north and on the west side of the railroad was suggested  
14 and then I learned -- I'm not sure exactly at what point I learned  
15 where the helicopter was landing, but by the time we got to the  
16 crossing, I had learned that the helicopter was going to be  
17 landing in a field adjacent to Fiddleheads, which is a restaurant  
18 there just over the Great Barrington line, kind of to the north of  
19 Bachetti's Auto Sales but really kind of diagonal and across the  
20 street from Lining's Crossing, so you know, really a couple  
21 hundred yards away, maximum.

22 Q. Okay, a couple hundred yards. Do you remember how EMS got  
23 him over to the helicopter?

24 A. Yes. So they transferred Rudy onto -- I think they  
25 transferred him onto a stretcher because then they loaded him onto

1 the back of another fire ATV, a side-by-side that was actually set  
2 up to accept a stretcher on the back of it and I remember multiple  
3 EMS workers climbing onto that and they had made -- had  
4 discussions right then and there as to whether or not they should  
5 wait for an ambulance and transport him with that.

6 I'm sorry, that discussion had taken place prior to them  
7 loading him onto the ATV, so they had that conversation and they  
8 decided that it would not be wise to wait for an ambulance because  
9 the LZ was so close by, so they decided to use the ATV that was  
10 set up to accept the stretcher and transport him with that, out  
11 across, kind of diagonally across Route 7 and over to the landing  
12 zone and that they would use another one of their fire vehicles,  
13 it was an SUV, I think it was like a Ford Expedition or something  
14 like that, but they would use that with its lights and sirens to  
15 escort that ATV out kind of diagonally across the street, down the  
16 road to the field where the LZ would be.

17 Q. Okay. All right. Now, once you said that everybody came  
18 back to the crossing, you guys kind of hung out there pretty much  
19 the rest of the afternoon --

20 A. Yeah.

21 Q. -- was there any discussions about what occurred and how the  
22 event might have happened? It's just what you remember.

23 A. No, not that I can remember, and at that point when we got  
24 back to the crossing, so Brady never hopped back on the machine.  
25 When we stopped to first meet the ATV that had driven up the

1 tracks, Brady had hopped off the machine and when Jason Menard  
2 took control and started moving the machine south, Brady did not  
3 hop back on. So he had been walking down the tracks at that  
4 point. Rudy was taken over to the LZ and Brady took, I'm going to  
5 say, over an hour to get back to the crossing, he was walking with  
6 Bill Lewis.

7 Bill stopped and walked with Brady and basically kind of just  
8 watched him and stayed with him because Brady was in such,  
9 obviously, bad mental -- such a bad mental state, in shock and  
10 just complete disarray. So long story short, Brady was in such  
11 bad shape, nobody was going to go up to him and say hey, Brady,  
12 what happened, you know, what -- they didn't want to make a bad  
13 situation worse.

14 Q. What do you mean bad mental state, was he -- was he talking  
15 at all, was he in tears, can you kind of, you know, describe that?

16 A. He was just aimlessly wandering around when he got back to  
17 the crossing. I know he had told Bill Lewis, when he was -- they  
18 stopped and sat together on the side of the right-of-way for a  
19 while and he had told Bill Lewis that he thought he was going to  
20 vomit and he didn't want to walk the rest of the way from where  
21 they were, which was -- I could point it out on a map, roughly,  
22 where they were sitting, but they were within probably a hundred  
23 yards of the crossing and Brady did not want to walk any further  
24 at that point because he did not want to see the drill, he did not  
25 want to walk past the drill, it was going to be too traumatizing



1 and he was on the verge of puking as it was. Eventually, it was  
2 asked if we should move the drill, I don't remember who asked  
3 that, and the consensus was that, at that point, we shouldn't  
4 touch the machines anymore because it was going to be part of the  
5 scene and it was going to need to be investigated. So eventually,  
6 I guess, Brady regained his composure enough down there sitting  
7 with Bill Lewis and he was able to walk the rest of the way and  
8 walk by the drill.

9 From then on, he kind of -- he just kind of wandered around  
10 aimlessly and just -- I mean, he had a look of pure, like he was  
11 -- he didn't look like Brady, I've seen Brady around and talked to  
12 him some since he's been on this job for several months and he did  
13 not look like himself. He did not look like, you know, the Brady  
14 I had spoken to. He was clearly not in a sound mental state.

15 Q. Okay. Did any of the other Middlesex employees who were with  
16 him, did they say anything?

17 A. Not that I can recall.

18 Q. Okay.

19 A. I know some conversation was had, but none that I can  
20 specifically recall. I don't want to, I don't want to misspeak.

21 Q. No, I understand. Let's move on past the actual incident.  
22 So since the incident occurred, throughout Housatonic Railroad,  
23 has there been any kind of safety notices or safety alerts about  
24 this incident?

25 A. That night, I believe P.J. put out a mass message to all the

1 employees of the railroad, basically saying that an incident had  
2 happened and basically, to be careful out there, we -- you know,  
3 we need to slow down, take a step back, and really be careful and  
4 mindful of what we're doing and what our surroundings are as we're  
5 doing it.

6 Q. Okay, so was there any specific actions other than just slow  
7 down or --

8 A. Other than, you know, bulletin-wise, not to my knowledge, you  
9 know, safety notices put out, not to my knowledge.

10 MR. SKOLNEKOVICH: Okay. That's all I have for now, thank  
11 you.

12 MR. BOARDMAN: Okay.

13 MR. BAILLY: P.J. Bailly. I'm good, thanks.

14 BY MR. CASACELI:

15 Q. How would you -- but first, thanks, Ethan. Kind of leaving  
16 the actual scene and just kind of going to your experience again,  
17 any commentary or description of the safety culture of the  
18 Middlesex Corporation employees on this job?

19 A. It had been questionable, there were -- I know there had been  
20 a prior incident which occurred, I was at a wedding in Texas when  
21 the incident occurred, where a Pettibone was set out on the track  
22 without authority to do so from the RWIC, that was a specific  
23 incident. Issues had been raised because at certain projects, you  
24 know, little things like not announcing when a track deck was  
25 going to be dropped and individuals were observed using handles

1 from spike mauls to work track jacks rather than lining bars,  
2 things like that. And a lot of things had been noted and they  
3 were -- they wound up being brought to Middlesex's attention  
4 through one of the lawyers at the railroad, basically. My  
5 understanding, I didn't see a copy of the letter, but I know a  
6 letter was sent to the project, either project manager or some  
7 management on this project, addressing some of these issues and  
8 asking how they were going to be remediated.

9 The safety culture, though, I wouldn't say that these  
10 individuals were trying to be unsafe, I would say that it  
11 resulted, that it stemmed from a complete lack of experience and  
12 knowledge and understanding of the gravity of how serious railroad  
13 work is.

14 Q. Thank you. Could you categorize any differences or  
15 similarities in the safety culture between the rank and files, the  
16 laborers and the machine operators and maybe the on-site  
17 management and above at Middlesex? Is there a breakdown  
18 somewhere, was it -- how would you --

19 A. I don't know that I would identify a specific breakdown,  
20 there's really -- I can't cite any specific instances where I saw  
21 or I specifically noticed that management was being safer than the  
22 rank and file or that the rank and file was being worse than  
23 management or that one was worse or better than the other. I just  
24 can't comment on that at all because I just don't know.

25 MR. CASACELI: Thank you.

1 MR. BOARDMAN: Yeah.

2 BY MR. PATANE:

3 Q. A few things here on the -- John Patane, FRA -- on the job  
4 briefing documentation sheet. I noticed the day of the incident,  
5 as far as details that are outlined on the form itself, it  
6 basically says that what we are doing is track work and other  
7 items discussed laying switch unmarked (ph.). Is there typically  
8 -- is this the typical amount of detail you find traditionally in  
9 the job briefing documentation sheet?

10 A. No, I would say it varies from RWIC to RWIC. Generally, it's  
11 a bit more specific than that, it might cite the specific work  
12 that's going on or locations where work is being performed. When  
13 I fill them out, I do try to specifically state, you know, at  
14 which location or what work is going on. Generally, it is more  
15 specific than that one there.

16 Q. And that's actually where I was going to lead for my next  
17 question. If you had two separate work groups with different  
18 employees in charge running each work group, would you identify  
19 them on the sheet, typically?

20 A. When you say employee in charge, do you mean Middlesex  
21 employee?

22 Q. Oh, no, your own work groups on the Housatonic.

23 A. Oh, okay. Yes. Yeah, absolutely. I mean -- yes, yes, to  
24 answer your question.

25 Q. From your knowledge, is there anywhere in your rules book

1 that details what items are supposed to be indicated on the  
2 briefing sheet?

3 A. I don't know.

4 MR. PATANE: Okay. That's what I have for right now, thank  
5 you.

6 MR. BOARDMAN: Thank you.

7 MR. WRIGHT: I still have no questions.

8 MR. SKOLNEKOVICH: Okay. Looking around the table, we have  
9 -- go ahead, David.

10 BY MR. CASACELI:

11 Q. David Casaceli, NTSB, just a follow-up on that. Everything  
12 discussed in the job briefing, is that documented on the form?

13 A. Not everything. Well, in the job briefing, yes, yes. As far  
14 as safety briefing, that is not.

15 Q. And one other housekeeping thing, as I look back, you  
16 mentioned that at one point in your responses, you were getting up  
17 there, somebody told you Green River, Green River. Where is Green  
18 River? If you've got a milepost location, that would be fine.

19 A. Oh, okay. So Green River is roughly Milepost 58.9.

20 MR. CASACELI: Okay, thank you. That's it.

21 BY MR. SKOLNEKOVICH:

22 Q. Okay. Well, if there's no more questions, is there anything  
23 you would like to add?

24 A. No, I'm good.

25 Q. Anything that you think might've been able to prevent this,

1 other than what you've already said?

2 A. I think the biggest contributor here was lack of experience  
3 of the individuals. A lot of these individuals, I would say most  
4 of the individuals, laborers and even some of the foremen are  
5 very, very, very inexperienced when it comes to railroad work and  
6 it's unforgiving and it's a very, very hazardous environment to  
7 work in.

8 And I think it's important that anyone, especially new  
9 employees, but seasoned employees, as well, be constantly reminded  
10 of the gravity of the work that we're doing, that, you know,  
11 sometimes -- sometimes just cruising up the tracks in a machine is  
12 just that, cruising up the tracks in a machine, and some days it's  
13 this, so it could change in an instant.

14 MR. SKOLNEKOVICH: Definitely. If there's additional  
15 information we'd like to get later, is it okay for us to contact  
16 you?

17 MR. BOARDMAN: Yes.

18 MR. SKOLNEKOVICH: Okay. All right, nobody else has anything  
19 else?

20 (No response.)

21 MR. SKOLNEKOVICH: All right. Ethan, on behalf of NTSB, I  
22 want to thank you for coming here --

23 MR. BOARDMAN: Yeah.

24 MR. SKOLNEKOVICH: -- and I apologize, you had to go through  
25 that.

1 MR. BOARDMAN: Oh, that's okay.

2 MR. SKOLNEKOVICH: But unless there's anything else, the time  
3 is now 12:09 and the concludes the interview.

4 (Whereupon, at 12:09 p.m., the interview concluded.)  
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CERTIFICATE

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

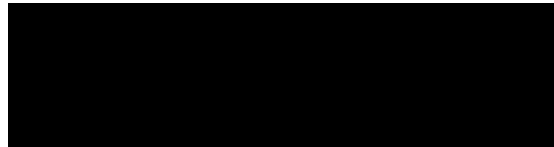
IN THE MATTER OF: MIDDLESEX RAILROAD EMPLOYEE  
FATALITY IN GREAT BARRINGTON,  
MASSACHUSETTS ON AUGUST 4, 2023  
Interview of Ethan Boardman

ACCIDENT NO.: RRD23FR015

PLACE: Great Barrington, Massachusetts

DATE: August 7, 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.



David A. Martini  
Transcriber