

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: PAUL SCOTT CONTI, Project Manager
Massachusetts Department of Transportation

via Microsoft Teams

Wednesday,
September 6, 2023

APPEARANCES:

DAVID CASACELI, Track Investigator
National Transportation Safety Board

RICHARD SKOLNEKOVICH, Operations Investigator
National Transportation Safety Board

TROY LLOYD, Railroad Accident Investigator
National Transportation Safety Board

OWEN SMITH, Railroad Safety Inspector
Federal Railroad Administration

JOSHUA WERNIG, Senior Vice President/Chief Legal Officer
Middlesex Corporation

DARREN HOHN, HSE Operations Director
Middlesex Corporation

P.J. BAILLY, Trainmaster
Housatonic Railroad

ERIC BOARDMAN, Superintendent of Operations
Housatonic Railroad

PATRICK LAVIN, Chief Safety Officer
Massachusetts Department of Transportation

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I N T E R V I E W

(1:04 p.m.)

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2
3 MR. CASACELI: All right, hello, my name is David Casaceli.
4 I'm an NTSB track investigator for this accident. We here today
5 on September 6th, 2023 at 1:04 p.m. Eastern time in a virtual
6 Teams meeting to conduct an interview with Mr. Paul Scott Conti,
7 who works for the Massachusetts Department of Transportation.
8 This interview is in conjunction with NTSB's investigation of the
9 Great Barrington contract fatality. The NTSB reference number for
10 this accident is RRD23FR015. The purpose of this investigation is
11 to increase safety, not to assign fault, blame, or liability.

12 Before we begin our interview in question, let's go around
13 and introduce ourselves. Please spell your last name, mention who
14 you are representing, and your title. I'd like to remind everyone
15 to speak clearly so we can get an accurate recording for
16 transcription. I'll start off and then call you out one at a time
17 and this is the order we'll use for questioning. Again, my name
18 is David Casaceli, spelling of the last name is C-a-s-a-c-e-l-i.
19 I'm an NTSB track investigator for this accident.

20 Owen, go ahead.

21 MR. SMITH: Yes. Owen Smith, S-m-i-t-h. I'm with the
22 Federal Railroad Administration, I am a railroad safety inspector.

23 MR. CASACELI: Richard.

24 MR. SKOLNEKOVICH: Richard Skolnekovich,
25 S-k-o-l-n-e-k-o-v-i-c-h, NTSB operations investigator.

1 MR. CASACELI: Joshua.

2 MR. WERNIG: My name is Joshua Wernig, W-e-r-n-i-g, Senior
3 Vice President/Chief Legal Officer for the Middlesex Corporation.
4 I am not here in my legal capacity.

5 MR. CASACELI: Thank you.

6 Mr. Bailly.

7 MR. BAILLY: Yeah, P.J. Bailly, Housatonic Railroad. It's
8 B-a-i-l-l-y.

9 MR. CASACELI: Thank you, sir.

10 And Mr. Lloyd.

11 MR. LLOYD: Good morning, everyone, my name is Troy Lloyd.
12 Spelling of my last name is L-l-o-y-d. I'm with the National
13 Transportation Safety Board and assisting Dave with the track
14 portion of the accident.

15 MR. CASACELI: Mr. Conti, go ahead, we'll get you on there.

16 MR. CONTI: Paul Scott Conti, I go by Scott. Project manager
17 from MassDOT. And it's spelt C-o-n-t-i.

18 MR. CASACELI: Thank you, sir. We have a couple observers in
19 the room with us.

20 Darren, you want to go ahead?

21 MR. HOHN: Yes, Darren Hohn. Last name H-o-h-n. I'm the HSE
22 operations director for Middlesex Corporation.

23 MR. CASACELI: Thank you, sir.

24 And Mr. Lavin.

25 MR. LAVIN: Patrick Lavin, spelling of my last name is

1 L-a-v-i-n. I'm the MassDOT Chief Safety Officer.

2 MR. CASACELI: Thank you, sir.

3 And I believe we have Mr. Boardman, as well.

4 MR. BOARDMAN: Yeah, Eric Boardman, Housatonic Railroad,
5 Superintendent of Operations, B-o-a-r-d-m-a-n.

6 MR. CASACELI: Do we have anyone else in the room virtually?

7 (No response.)

8 MR. CASACELI: All right, thank you.

9 So Scott, it's okay if I call you Scott, right?

10 MR. CONTI: Yes. Yes.

11 MR. CASACELI: All right. You are aware that this is going
12 to be recorded and we have your permission to do so?

13 MR. CONTI: Yes, you do.

14 MR. CASACELI: Good deal. And you understand that the
15 transcription of this interview will become part of the public
16 docket of this accident and as such, we cannot guarantee any
17 confidentiality?

18 MR. CONTI: Yes.

19 MR. CASACELI: Good deal. And as we discussed, you can have
20 a representative with you today, is that Mr. Lavin?

21 MR. CONTI: Yes, it is.

22 MR. CASACELI: Okay, good deal. And we already have him
23 introduced, so we're glad to have him here. Again, I would just
24 ask that everybody try to speak clearly, announce your name and
25 organization before any line of questioning. Scott, you don't

1 have to say your name every time, you're going to be answering
2 quite a lot. The transcriptionist will learn your voice quickly.
3 But so, let's proceed.

4 INTERVIEW OF PAUL SCOTT CONTI

5 BY MR. CASACELI:

6 Q. So to start things off, can you just give us a synopsis of
7 your background of your work experience with MassDOT and then
8 railroad work, leading you up to your present job, you know,
9 letting us know how long you've been in your current position and
10 your experience kind of in general?

11 A. I started with MassDOT in 2018, so I've been here almost,
12 just under 5 years. I'm a project manager and I oversee capital
13 improvements on MassDOT property and basically, in Western Mass.
14 I'm responsible for the Conn River Line, the Adams Branch, and the
15 Housatonic Railroad, all owned by MassDOT. My prior experience is
16 I worked with a contractor, Perini Corporation, for 8 years,
17 worked on -- actually got involved in railroad then with the Red
18 Line extension and New York City MTA rehabilitation of Flushing.

19 I joined the railroad, Providence-Worcester Railroad, in
20 1988 and worked there for 30 years before I came here to MassDOT.
21 And my experience there was track supervisor, became engineer and
22 manager, became vice president of engineering and I became
23 president of the railroad in 2005 and stayed there until it was
24 sold in 2017, which is -- and I stayed on as a consultant for --
25 until 2018.

1 Q. Okay, so you got a little railroad experience, that's for
2 sure. So Scott, if you can kind of walk us through a little bit
3 of the history of MassDOT's involvement with the Berkshire line on
4 the Housatonic here, if we can get to have some of that on the
5 record, so kind of tell us the story as you know it, anyway.

6 A. MassDOT purchased the Housatonic Railroad in 2015 and entered
7 into an agreement with Housatonic Railroad to do a rehabilitation
8 of the line, basically capital improvements for -- to a level that
9 would accommodate potentially future passenger services on the
10 line. So when I came on to MassDOT in 2018, starting in 2019 we
11 started engaging in -- in doing those capital improvements, which
12 was significant, it's bridges, culverts, track, crossings, private
13 crossings, basically rehabilitation of the entire -- entire 36-
14 mile line in Massachusetts.

15 And so what MassDOT engaged in is we put -- we decided to
16 divide the railroad up into three segments and to put each segment
17 out to bid through the MassDOT COMMBUYS process, and when we
18 completed one segment, a 12-mile segment in the middle of the
19 line, back in -- well, last -- basically, 2022, I guess it was
20 completed and that was performed by RailWorks organization. A
21 second bid went out in 2022, or -- yeah, and it was awarded in
22 2022 for the Middlesex segment of the contract, which is an 8.1-
23 mile segment. Each of these segments included all the physical
24 characteristics of -- on those segments of line, so like bridges,
25 crossings, culverts and turnouts, things of that nature.

1 Middlesex has a contract for the 8.1 miles, it includes five
2 bridges, improvements on five bridges including four decks and
3 five bridges with bearing repairs, three with walkways, groups,
4 three turnouts, one's new, two are existing, and replaced five
5 private crossings and six culvert cleanings and five culvert
6 replacements. That's generally the nature of that work. And
7 their contract was awarded in August of 2022 but work initially
8 began around January of '23 and heavily in April of '23. And it's
9 still ongoing.

10 Q. Good deal, that's a pretty good overview and you answered a
11 couple of my next questions, so we'll talk a little bit about the
12 contract and the arrangement with Middlesex. I guess first I'll
13 ask does MassDOT have prior experience with Middlesex as a
14 contractor or is this a -- you know, a first job you've done with
15 them?

16 A. Well, I believe it's -- it's my first job with Middlesex and
17 I believe it's MassDOT and the rail division's first job with
18 Middlesex.

19 Q. But it might have business elsewhere, outside of the rail
20 division, just you're not sure, is that correct?

21 A. Correct.

22 Q. Okay, good deal. Speaking a little bit about how things go
23 together, what is your understanding of the responsibilities of
24 each of the parties regarding worksite safety and compliance with
25 federal regulations? And by each of the parties, I mean, I'm

1 talking MassDOT; Middlesex, as the contractor; Housatonic, as the,
2 I guess, operating railroad, I think that's a good description,
3 and anyone else that might happen to be on site, how do those
4 parties kind of play together specifically in the realm of safety
5 and compliance?

6 A. Well, MassDOT has -- well, has an engineering firm, HDR, but
7 we write the specifications, the design and specifications for the
8 contract that includes a significant description of safety
9 requirements that the contractor, the winning contractor, has to
10 abide by and those are laid out very specifically in this
11 document, it's hundreds of pages long and it has a lot of
12 references to safety within it, including submitting a health and
13 safety plan, amongst many other items. So MassDOT works closely
14 with the submissions of the winning contractor to do that, so in
15 this case it's Middlesex.

16 Middlesex has the full responsibility of on-the-job safety,
17 they determine the means and methods of how the construction in
18 the contract is going to be built, and they determine the means
19 and methods of how they're going to accomplish those goals and
20 tasks. And they have to also submit a health and safety plan in
21 addition to all of the -- you know, the safety requirements and
22 qualification requirements of the employees and supervision
23 working on the project. The railroad is the operating railroad,
24 Housatonic Railroad. MassDOT is not an operating railroad. So
25 Housatonic provides all of the FRA guidance for on-the-job safety,

1 they have their own safety plan that has to be followed by the
2 contractor and they employ the daily employee in charge, roadway
3 worker in charge for the contractors to work on the property.

4 Q. So as far as on-site safety oversight, let's say, who plays a
5 role in that process -- yeah, who plays a role in that process and
6 if there's multiple parties, how is that delineated?

7 A. It's primarily Middlesex's responsibility for on-site safety,
8 pretty closely, I mean, MassDOT creates the policy for which they
9 need to follow and we make sure that they have all the submissions
10 and the qualifications to be able to follow those safety policies.
11 The railroad -- and we do periodic on-site visits, but not daily.

12 The railroad has daily employees in charge, they give --
13 they're there for the daily briefing, to show them the work
14 limits, and they observe periodically throughout the day. All of
15 us have the ability for -- if you see something, say something, to
16 be able to stop work should you see an unsafe condition at any
17 time during your visits and occupation on the property.

18 Q. We talked about Housatonic providing the railroad, railway,
19 roadway worker in charge, excuse me, RWIC. Do they have
20 additional safety responsibilities as part of the contract that
21 you're aware of, or in practice, or is their portion kind of the
22 roadway worker in charge activities to get track and time, and the
23 rest is on Middlesex? I'm just trying to get a little deeper into
24 how those two parties play together from MassDOT's understanding.

25 A. They set the work limits for the day, I don't -- you know, if

1 they see something unsafe, obviously they're going to bring it up
2 to our attention if something is out there, but realistically,
3 Middlesex has those responsibilities for all the daily -- they do
4 daily job briefings, they do the daily designation and assignments
5 for all of their crews and they are the ones that set the work --
6 the workplace in motion.

7 Q. Good deal. And I've become aware, too, in some of our other
8 interviews, that there is an AECOM representative on site at
9 times, can you give me a little insight into what that person's
10 role is on site?

11 A. Yeah, the AECOM employee is a -- he oversees work relative to
12 invoicing, so it's an administrative task, so basically, he -- if
13 they're doing work on a project and we have to pay for time and
14 materials, he monitors the labor and equipment time and material-
15 type actions on a project and he determines, with me, anyway, that
16 -- to determine the percents complete on each pay task.

17 So he's the on-site representative for dealing with
18 invoicing, primarily. But he has -- also is -- has rail
19 experience and would have the same "see something, say something"
20 designation, if he -- and he has done that from time to time when
21 he's visiting the job sites. So he's experienced and trained in
22 all the qualifications for being on the property.

23 Q. Okay, give me a moment here. You mentioned HDR Engineering
24 in the early portion of the contracting process, can you give me a
25 little bit more on the role that they play?

1 A. So they're a general engineering contractor, MassDOT has
2 several, but on the Housatonic Railroad, MassDOT is using HDR. So
3 they're a design/engineering firm, you know, they create and write
4 the plans and specifications to be put out to bid and to be
5 followed during the construction.

6 They also administer document controls, you know, throughout
7 the project. There's submittals from when it's qualifications and
8 the health and safety plan, and all the different parameters for
9 materials and construction activity are submitted in advance so
10 the -- they control all the document controls for those
11 submissions. They go --

12 Q. Okay.

13 A. -- directly to the engineer.

14 Q. Thank you. So --

15 A. And they also -- they do provide field oversight when you're
16 getting into specific design issues like bridges. They monitor
17 like bridge construction quite closely.

18 Q. What is MassDOT's level of control and ability, let's say, to
19 oversee the Housatonic's railroad operation with regards to safety
20 and compliance, in general?

21 A. They provide all of the FRA inspections and safety
22 monitoring, they follow their own operating rules throughout
23 there. If MassDOT enters a property, it's always with their
24 permission. You know, we do the same roadway worker protection
25 training. If we're out there doing an inspection on the line,

1 they're with us to do those types of things, but basically, they
2 have control over all of the routine maintenance and operations of
3 the line pretty much without MassDOT input. They're a freight
4 operating railroad and have always been before MassDOT and they're
5 still that way today.

6 Q. Okay. And another kind of general question, Scott, what
7 familiarity with federal safety regulations does yourself and
8 MassDOT employees have in relation to this Housatonic Railroad and
9 the Middlesex project, so mostly the maintenance-of-way side of
10 the house and construction?

11 A. Well, details on the federal regulations. I know we
12 basically follow -- I mean, we do the roadway worker-type
13 protections. If you're involved with CWR installation and need
14 that knowledge, we have that type of training, as well. We have
15 to follow, basically, any on-property federal guidelines and we
16 use the Housatonic Railroad to work with us to be compliant.

17 (Crosstalk)

18 BY MR. CASACELI:

19 Q. Okay, so when it comes to -- when it comes to Part 213 and
20 Part 214 regulations, yeah, you mentioned your long career, are
21 you generally familiar with those regulations?

22 A. Yes. And I guess I failed to mention that MassDOT, as part
23 of our specifications, MassDOT has their own MW-1, which -- it's a
24 maintenance-of-way specification that meets all of that criteria.
25 So in addition -- so we have the design plans that are out there,

1 we have the MW-1, we also have the Housatonic specifications and
2 safety parameters all included in our specifications on that.

3 Q. All right, thanks. Thank you. Now, I know in Part 213, the
4 track safety standards, there's a lot of talk about the track
5 owner, which I believe would be MassDOT in this case, but it also
6 talks about assigning responsibility with regards to Part 213 for
7 track maintenance. Has that responsibility then been assigned to
8 the Housatonic or how does that relationship work on that side or
9 -- if you don't know, that's fine, too.

10 A. That has been assigned to the Housatonic Railroad. I mean,
11 we assist -- if the railroad, say, was maintained to an FRA Class
12 I condition and MassDOT wanted it to be an FRA Class III
13 condition, which is kind of the case here, their segment is going
14 to be permanently restricted along the line, but for the most
15 part, today's design standards are an FRA Class III track
16 standard. The speeds might not be FRA Class III at all locations.

17 So in the area of design, I am familiar with that, I'm an
18 engineer, actually, I don't think I mentioned that, but -- so the
19 idea is that we might do some elevation (ph.) for 25 miles an
20 hour, but we're building the track to FRA Class III tie and rail
21 and gauge standards.

22 Q. That makes sense. So regarding this project with Middlesex,
23 ballpark Milepost 50 to 59, and on that 8.1 miles you mentioned,
24 what service is the Housatonic Railroad required to provide to
25 Middlesex employees?

1 A. Well, the daily roadway worker, employee-in-charge type
2 positions for any of the crews working out there, especially if
3 they're separated, they're also able to provide, well, the timing
4 of everything, you know, because they run evenings and you're
5 allowed to work during the day and then they also will provide
6 potentially work trains, you know, with discussions with the
7 contractor, if needed.

8 Q. What are the nature of those agreements, I guess -- I guess
9 what I'm getting at is if Middlesex needs one roadway worker in
10 charge today or maybe they need three and a train crew to move a
11 work train, how does that arrangement work between Middlesex and
12 Housatonic, is there -- is that contractually in this contract
13 with Middlesex, is that arranged another way? How do those, you
14 know, type of things get worked out?

15 A. Basically, they coordinate with each other, Middlesex and the
16 railroad will talk. If the Housatonic supplies an activity that
17 requires reimbursement, MassDOT has a force account agreement with
18 Housatonic Railroad to be able to reimburse them for any costs
19 incurred for the maintenance and oversight of MassDOT's project.
20 It doesn't cover, you know, their daily maintenance activities.

21 Q. Sure.

22 A. In addition, Middlesex has a contract with MassDOT to be
23 reimbursed under the contract terms, you know, for each pay task,
24 pay item.

25 Q. So in the case of this incident, if -- or this contract, if

1 on any given day Middlesex required two roadway workers in charge,
2 let's say, maybe the work was split up, you had mentioned that, is
3 -- there's a mechanism when there's reimbursement and there's no
4 -- is there limits on how many folks they can have at a time or
5 anything of that nature?

6 A. The limits are within the Housatonic's, you know, control in
7 the sense of, you know, who's available to be able to perform the
8 work with the understanding that work continues but it might not
9 be split up as much as Middlesex may need, but they will employ
10 all the necessary personnel for each daily activity.

11 Q. Okay.

12 A. And the reimbursement is through the contracts.

13 Q. Thank you, thank you. Okay, I'm getting towards the end of
14 my line of questioning before we pass it around, Scott. I did
15 have a chance to peruse some of the contract materials that were
16 submitted as part of our investigation and I noticed the contract
17 mentions approved safety personnel required to be on site. If
18 you're familiar with it, can you walk me through those
19 requirements a little bit?

20 A. Well, I know the details behind it, but they have to have a
21 safety, on-site safety supervisor, and they have to have an on-
22 site quality supervisor on the project at all times in addition to
23 superintendents and foremen. Those are specifically written into
24 the contract and detailed with a description of each position.

25 Q. And do those people need to be approved by MassDOT or

1 Housatonic or is it whoever Middlesex selects?

2 A. They have to submit the qualifications and experience of each
3 -- of each position and it has to be approved by MassDOT and its
4 engineer, HDR.

5 Q. Do you know who was the qualified site safety personnel on
6 the day of this incident, August the 4th, '23?

7 A. I think it was -- was it Daniel? I'd have to look that up.

8 Q. Okay, "I don't recall" is a perfectly good answer, if you
9 don't know for sure, but Daniel, let's say it was him, so he's
10 been approved as an on-site safety supervisor. Who would've done
11 that approval? What does that process look like?

12 A. Their resumes are submitted by Middlesex to MassDOT and the
13 engineer. When the engineer and I -- you know, we talk through
14 the submittals and then usually we send back a "revise" or
15 "resubmit" or an acceptance for that position and it goes through
16 several renditions if it isn't accepted on the first go-round.

17 Q. With regards to this Middlesex contract, does Middlesex meet
18 the requirement for having this person on site every day as far as
19 you're aware, or were there ever any issues that you were made
20 aware of?

21 A. We went through a few renditions with safety supervisors, I
22 think maybe three or so, where they changed throughout the
23 project, you know, from the beginning of -- you know, since
24 January of '23.

25 Q. All right, they changed but, as far as you're aware, was it,

1 you know -- was that piece of the contract fulfilled all the time
2 or was there, you know, maybe some changeover time where maybe we
3 didn't have an approved person on site, I'm just trying to get a
4 feel for that.

5 A. Yeah, there was changeover time, there definitely was -- they
6 weren't on site every single day, there were changeover times
7 throughout the contract.

8 MR. CASACELI: Okay, so that's -- that gets me through my
9 first main line of questioning here, Scott, so what we'll do next
10 is I'll -- we'll kind of pass it around to the others to fill in,
11 and I failed to mention at the beginning, I am going to ask you at
12 the end, you know, to editorialize anything we've missed or, you
13 know, maybe our line of questioning didn't let you get everything
14 off your chest that you wanted to, so -- know that that's coming
15 at the end, too. So I will pass it to Owen Smith with the FRA at
16 this time.

17 BY MR. SMITH:

18 Q. Yes, good afternoon, Scott. Owen Smith with the FRA. Two
19 questions. Late last year I saw Middlesex working on the Conn
20 River main line. Was that contracted directly with the state or
21 was that contracted through Pan Am (ph.)?

22 A. No, it was contracted through the state in our competitive
23 bid COMMBUYS, you know, bid process.

24 Q. Okay. And on that job did they have similar pay items, like
25 the site safety supervisor?

1 A. Yes, they did.

2 Q. Okay. I did look through the contract documents and I
3 noticed in the -- one of the appendices they had a roadway worker
4 plan in it, it was not the current one, it -- what date was the
5 contract actually signed and NTP (ph.) given? If you don't
6 recall, it doesn't matter.

7 A. Yeah, I don't recall. It was definitely in advance of the
8 Housatonic project. Yeah, I'd have to -- I'd have to look that
9 up. It was probably --

10 Q. Yeah, the reason --

11 A. Yeah.

12 Q. The reason I asked is mainly, the health and safety plan, is
13 that a document that can be revised, you know, has it been changed
14 since the initial notice of receipt given on the Berkshire
15 project?

16 A. Yes, it's gone through, I believe, four revisions.

17 Q. And each revision gets approved by MassDOT representatives?

18 A. Yeah, if it's final. You know, as an example, there's a
19 submission that has been recently submitted this week, we'll
20 review and comment them back on it this week. So yeah, if it's
21 not -- if it's not approved, it will have to be revised and
22 submitted as an additional revision, so I don't recall if all four
23 were all approved or they were just part of a process of
24 submissions.

25 Q. Can you recall any significant changes from the first version

1 to the version we're using now?

2 A. Yeah, there have been additions since -- well, since the
3 incident. So it has been revised with stronger editions and
4 additional controls within each of the -- some of the items.

5 Q. Okay, thank you. A few more here. You mentioned earlier
6 periodic on-site safety visits either conducted by yourself or
7 other state representatives. Do you recall any adverse findings,
8 you know, findings where an improvement needed to be made?

9 A. Mostly on quality, but not findings on safety, per se.
10 Although, you know, all these items that have occurred throughout
11 the project were discussed at certain times, but they weren't
12 occurring during any of, say, my visits.

13 Q. Okay. You may have answered this earlier, but I didn't catch
14 it, the pay item for the site safety supervisor, who at MassDOT
15 approved the current site safety supervisor we have, who in the
16 organization would have the final sign-off on that to pay that
17 item?

18 A. Well, it's part of their contract, so there isn't a specific
19 pay item for that position, but the approval comes from myself and
20 HDR Engineering and their staff.

21 Q. Okay. I know you talked about this with Dave, but I'll ask
22 it this way, is MassDOT considered the track owner on the
23 Berkshire line?

24 A. Yes. We own the property.

25 Q. Okay. And HRC would be considered the assignee?

1 A. Correct.

2 Q. Okay. Do you know when that letter of assignment -- or do
3 you know if a letter of assignment was sent to the FRA? That was
4 probably before your time.

5 A. It might've been before my time, yeah, but -- yeah. Yeah,
6 because we purchased the line in 2015, Housatonic already owned
7 the line, that assignment must have taken place soon after that,
8 because we never worked -- we're not an operating railroad, so
9 they'd have to have that assignment fairly quickly.

10 Q. Routinely in the Rail and Transit Division, I'm familiar with
11 quite a few state-owned lines, does MassDOT receive any notice
12 from your contract operators of FRA noted noncompliance? If the
13 FRA does an inspection on the Berkshire line, are you made aware
14 of it, through the operator?

15 A. I don't recall. I mean, I know they perform whatever
16 inspections, you know, when they show up or when they want to, FRA
17 can. If there is something that occurs and I have -- I don't
18 recall any specific ones, but they will notify us, especially if
19 it's significant enough for capital improvement that MassDOT has
20 to contribute towards, we obviously would find out. But if it's
21 something minor in nature we wouldn't normally see, you know, a
22 missing cotter pin-type report or anything like that.

23 Q. Okay. And then this is specific to the circumstances of the
24 accident, you know, there were statements from previous
25 interviewees about there being two separate work groups that day,

1 one on the bridge and then this other group involved with the
2 accident, which was four people. Would MassDOT consider those
3 separate work groups and would the contract require having like a
4 Housatonic representative at each site or would they consider it
5 all part of one job?

6 A. A lot of the decisions locally would be with the Housatonic
7 Railroad, obviously, Owen. Basically, if you have two working
8 groups in our current conversations is there would be two
9 employees-in-charge required. During that day, I'm not sure --
10 I'm not sure of all the details behind the notifications, I've
11 only heard conversations from it, I can't recall. I wasn't there
12 that day.

13 Q. In general, you know, you mentioned there was a force account
14 agreement between Housatonic and the state. Have you seen the
15 need to have multiple railway workers in charge invoiced under
16 that force account agreement in the past or is it normally a
17 steady number of people involved with providing RWIC services?

18 A. Primarily, I mean, there's employees involved with the
19 project from the Housatonic Railroad and we don't set a limit to
20 the Housatonic for how many employees they charge with us, we keep
21 the budget -- you know, we coordinate with the budget pretty much
22 on an annual basis and they charge whoever's assigned to the
23 project on any particular day. So there isn't an issue whether,
24 you know, MassDOT would determine whether they can have two or
25 four employees on the project, it's what's required for the

1 project to get it -- keep it moving.

2 Q. Okay.

3 A. So if they require four, they invoice MassDOT for four, you
4 know, there's no questions about that.

5 MR. SMITH: All right, very good. That's all for me, thank
6 you.

7 MR. CONTI: Thank you, Owen.

8 BY MR. SKOLNEKOVICH:

9 Q. Hey, good afternoon, Scott. I am Richard Skolnekovich, NTSB
10 operations, how are you doing today?

11 A. Good, Richard, thank you.

12 Q. Very good. I've just got a few questions, I know you're
13 getting hit with a lot of them already. I kind of want to go back
14 just a little bit. So how many state-owned lines are there, do
15 you know offhand?

16 A. I'd call it 14.

17 Q. Fourteen. How many --

18 A. One of them is the East Deerfield yard, just to clarify.

19 Q. And they're across the state, I take it?

20 A. Correct.

21 Q. Okay. How many different railroads operate on those lines,
22 do you know offhand?

23 A. No, I don't. It's not 14, though.

24 Q. I hope not.

25 A. It's probably six or eight, somewhere in that range.

1 Q. Six or eight, okay. Now, are you doing all the contracts for
2 all the RWP work that's going on on those different lines or do
3 you guys bust it up into regions or something?

4 A. I oversee three lines, actually. Some of the lines are
5 administered by the T (ph.) and there's another employee that
6 covers the southeastern Mass lines. But I'm covering western Mass
7 lines.

8 Q. So let me ask you this, so the -- go back to the contract
9 portion of it. So you're talking about like the development of
10 the specifications, now you got a heavy deck on a track, do you
11 have like a working group that determines the specifications for a
12 particular contract and what's required?

13 A. Yeah, it is a team effort, not so much on the MassDOT side,
14 myself included, and I have an assistant project manager who's an
15 engineer, it's heavily created by the general engineering
16 contractors that MassDOT has engaged and hired under contract to
17 do. So they have experience, you know, they have structural
18 engineers, they got PEs, they got track experts, they got civil
19 experts, they have a team of people within their group that
20 contributes to that overall package.

21 Q. Okay, so like when contracts go out, do you kind of task
22 organize it for the type of work you're going to do and then bring
23 people together or do you have like a rail division and a bus
24 division?

25 A. Well, here it's a handful, two people, but -- and my boss,

1 who is a third, but we -- we identify the task based on the items,
2 say, to be paid, so you break it down into -- you know, into each
3 task based on how it could be paid under the contract. So
4 usually, it's a measureable type quantity or a number that you
5 identify within the contract so it's divided up into -- in those
6 types of segments. Then you can track progress based on those pay
7 items.

8 Q. Okay, got you. All right, so when you're doing the
9 specifications, I guess for like railroad operating type stuff,
10 who's kind of overlooking that contract to make sure that, you
11 know, like -- you know, specific industry-wide railroad stuff is
12 included in the contract? Or into the bid, I guess. You know,
13 the requirements.

14 A. I think -- well, we converse with the railroad through the
15 creation of the document for those types of responsibilities and
16 included in there, you know, especially when dealing with
17 insurances and things outside of construction, right, all of their
18 requirements are generally included and, as I mentioned, you know,
19 the entire operating plan, you know, they have to -- the
20 contractor has to follow all the criteria, the pulling orders,
21 their timetables, everything has to be inclusive in the contract
22 so the railroad is engaged and the knowledge of it is engaged as
23 part of the contract package.

24 Q. Okay, so when a specification is made, so you have that hot
25 (ph.) project to work on, you identify, okay, we're going to use

1 this railroad, does the railroad get the opportunity to go okay,
2 these are the things -- for the contract work on our property,
3 these are the things they need to do, do they have the ability to
4 do that with MassDOT?

5 A. Yes.

6 Q. Like specify stuff in the contract?

7 A. Yes, they do. The idea is mostly for the support of the
8 construction services, but MassDOT generally determines the type
9 of bridge to be built or the type of culvert to be replaced, you
10 know, we generally determine those types of physical
11 characteristics. But to accomplish those goals, the railroad has
12 input into, you know, how it's going to get done and when and
13 such.

14 Q. Okay. Now, let me ask you this, does the railroad have any
15 input on what contract is selected? So I know, so a bid goes out,
16 you know, and the railroad gives you some information that they --
17 you know, requirements they need for that contractor to operate on
18 the territory they're assigned to, do they get any input on what
19 contractor's assigned or the performance level once a contract
20 starts of a particular contractor on their particular line?

21 A. Are you implying before the award?

22 Q. So before the award, do they have any input on who's selected
23 and then after they're selected, you know, is there any -- I guess
24 this is a two-part question. Is there any -- anything the
25 contractor can do, go back to MassDOT if they have issues with the

1 contractor on their property?

2 A. Well, before the award, it's primarily MassDOT and its
3 engineer who are -- you know, it's a competitive bid COMMBUYS
4 process, you know, for MassDOT laws and after the award, if there
5 is -- it's kind of like as we followed earlier, you know, they
6 have input into the nature of not so much the means and methods of
7 the contractor, but they can determine that if -- how they're
8 approaching it with respect to the use of the property, you know,
9 operations on the property with machines and things of that
10 nature, they have input into the oversight of those types of
11 things.

12 If there's a safety -- as an example, if there's a safety
13 incident of any kind, that they recognize, they're there every
14 day, you know, MassDOT isn't, you know, they bring it to all our
15 -- all attention to me and we deal with under the severity of it
16 at that time. They have the ability to do that.

17 Q. Okay, so does the railroad -- so does the railroad -- a
18 contractor that's operating, do they have the ability to stop
19 their work and remove them from the area until a safety issue has
20 been resolved or how does that work?

21 A. Yes, they do. The railroad has that full authority.

22 Q. Okay. Is that something in writing or is that just something
23 in practice?

24 A. I guess it's in practice. I suppose it's -- yeah. I guess
25 it's in practice. Although, the contract language, if you look

1 into the legality of how these things are awarded, they have
2 oversight like that. We can't interfere with any freight
3 operations. If the construction is going to interfere with any
4 freight operations, they can cease it at that time. They have
5 that ability right from the get-go.

6 Q. Okay. Now looking at these in the contract, you know, in
7 this particular case, a lot of the contractors are required to
8 provide some of the rail equipment, is that correct?

9 A. Yes.

10 Q. Okay. Is there anything that directs them or a railroad to
11 qualify their folks to operate that equipment, that you know of?

12 A. Under -- oh, speaking in reference to MassDOT, as an example,
13 for that?

14 Q. Yeah, so --

15 A. And --

16 Q. Go ahead.

17 A. -- our specifications require them to be trained and
18 knowledgeable on the work and the operations of machines and all
19 of that. We require that, to be experienced or trained operators.

20 Q. Now, is that required to the contractor or is it a
21 requirement to the railroad to make sure they're qualifying to
22 operate the equipment?

23 A. That's to the contractor directly.

24 Q. Okay. Now, as far as like oversight of that, does that fall
25 under the responsibility of the railroad or is it something the

1 contractor submits back to you?

2 A. It's the responsibility of the contractor.

3 Q. Just to do it or to submit qualifications to anybody?

4 A. To, well, submit qualification and to abide by the
5 qualifications and obviously, there's training involved with all
6 jobs, you're always learning, so I mean, they're responsible for
7 all of that. And again, it's the same thing, though, it's see
8 something/say something in that safety scenario, if there's
9 something that's awry from any observation, you can speak up and
10 stop work or do what's necessary to correct that.

11 Q. Okay. So their qualifications, they're responsible for their
12 qualifications and that's something that's actually placed in the
13 contract that they have to have qualified people operating
14 equipment.

15 A. Correct.

16 Q. Is that correct? Okay. All right. So let me ask you this.
17 You talked about the state folks going out and conducting site
18 observations. Who are the state folks that go out there and look
19 at the -- well, conduct the observations and then what are they
20 actually observing for?

21 A. Yeah. There's just two of us on this contract, myself and my
22 assistant are state employees. We have representatives out there
23 from HDR and AECOM that also do observations on the project. But
24 there's only two from the state.

25 Q. So when you go out there, are you just looking production

1 base, you're looking at quality, or are you looking at railroad
2 operations, what do you -- as the state representative, what are
3 you looking at?

4 A. All aspects of the project, you know, the productivity, the
5 -- you know, safety, the manpower, equipment, everything that's,
6 you know, functioning towards the project, you're just observing
7 all of what's going on, on a particular day.

8 Q. Now, you said you and your assistant have gone out there a
9 couple times?

10 A. Yes.

11 Q. Okay. You can use your characterization of, you know, what
12 you saw, particularly in lines of safety or operations.

13 A. The work completed to date, there has been some CWR
14 installed, they've done all the culverts, they brought up, you
15 know, the culvert cleaning, culvert replacement, they've done
16 turnouts. They're usually observed upon completion of those or on
17 the -- or the initial state, start-up of those types of projects.

18 Usually, they were done during weekend outages, so I would go
19 out on a Friday or a Monday and check on the project. I pretty
20 much observed all the elements that have been completed to date at
21 some point or another.

22 Q. You're just looking more for production completion and --

23 A. Exactly.

24 Q. Okay. And kind of where it's at status wise?

25 A. Yeah. And answering questions that arise from anything being

1 done.

2 Q. Okay. Let me ask you this. So with the relationship with
3 MassDOT and Housatonic, who provides oversight of Housatonic? Are
4 you relying just on the FRA or do you have any kind of state
5 oversight for, you know, compliance and operations? If you know.

6 A. I don't, yeah, I don't know of any -- I mean, there are
7 probably state requirements, but I'm not aware of it. I mean, me,
8 I understand it to be, you know, FRA performing, providing all the
9 inspections and requirements.

10 My thought in working with any projects is to exceed FRA
11 standards so the idea is to build a project that's not going to be
12 right at the borderline of a class reduction, so we stay ahead of
13 it. You know, I look to that in my background, anyway, I would
14 look to that, anyway, so -- in my own observations.

15 Q. Understood. Okay, so with Housatonic, have you ever been
16 involved in any of their compliance testing, either with their own
17 folks or any contractors as far as, you know, federal regulations
18 or any state requirements besides contracts?

19 A. No, I mean, we take the roadway protection-type exams. We'll
20 ask for geometry reports from time to time, they're generally FRA
21 reports. So we do ask for certain reporting requirements from
22 time to time.

23 Q. Is that just more, once again, production based or is it --

24 A. Yeah, basically, it would be, you know, production based for
25 the most part.

1 Q. Okay. You may not know this, but is there any state
2 requirements for railroads like Housatonic to train and qualify
3 any contractors that come on their property? Do you know of any
4 requirements?

5 A. No, not anything specific. No, I don't know of any.

6 Q. Okay. Let me ask you this. So the relationship with the
7 contractors on railroad property, can you kind of characterize
8 that relationship, do they -- do they fall under the umbrella of
9 the railroad, are they working in conjunction with the railroad,
10 are they just working in between railroad operations? How would
11 you characterize the relationship between the contractors and the
12 railroad within MassDOT?

13 A. Well, the contractor is hired by MassDOT to work on an
14 operating railroad property, so we have, you know, our
15 specifications and regulation, you know, MassDOT regulations for
16 them to abide by. Once you get on any particular railroad, they
17 have to also follow the railroad operating rules and abide by
18 their own operating plans and meet their criteria, so they have
19 dual entities to abide by, they have -- we all have to work
20 together, so all three of us have to work together to make the
21 project successful.

22 Q. Okay. Do you have like planned meetings with the contractors
23 and with the railroad like before work to discuss just how work is
24 going to be completed, you know, and under what requirements or is
25 it, you know, contractor, link up with the railroad and figure out

1 what your requirements are and that kind of characterization?

2 A. On our projects we do provide weekly meetings.

3 Q. Okay.

4 A. They can be Teams meetings. And we'll have interim phone
5 calls and meetings on an as-need basis beyond that, but we have
6 detailed meetings with all parties involved once a week.

7 Q. Now, if the railroad has an issue with a contractor and the
8 contractor has an issue with the railroad, would they -- do they
9 -- because you're the contracting -- I'm assuming you're basically
10 on the contract, right?

11 A. Yes.

12 Q. You supervise the contract. So if they had issues, would
13 they go to you or would they go to some other state
14 representative?

15 A. No, they'd call me directly.

16 Q. Okay. So with this, with this particular contract, has
17 either Housatonic or Middlesex come to you about any safety issues
18 or any concerns over the safety concerns at the worksites?

19 A. We have had conversations for those, yes, from certainly
20 since -- you know, since construction began, say, in April.

21 Q. Okay. So from both parties, I take it? From both of them or
22 just --

23 A. Yes, yeah, it involved both parties.

24 Q. Okay. So when that happens, who adjudicates those, do you
25 adjudicate those or do you require someone else?

1 A. Yes. It's everybody involved. You might have two or three
2 on an initial call or two on a call, but it ends up being a team
3 of people that go to a resolution. We can call a meeting about it
4 or an on-site visit or just deal with it over -- you know, over a
5 Teams call.

6 Q. Okay. And along that line, was there -- prior to this
7 incident was there any unresolved issues as far as safety concerns
8 between Housatonic and Middlesex on that stretch of line, that you
9 can recall?

10 A. Nothing, nothing specific in detail. I mean, we have had
11 safety issues with respect to -- in the past that, you know, we
12 dealt with when they occurred, but nothing, you know, recent to
13 have like reached (indiscernible), no.

14 Q. Okay. I think the last I got with the -- I'd like to go back
15 to full-time safety supervisor again. I know in the contract they
16 got a lot of requirements, 5 years, they've got to be thoroughly
17 knowledgeable of Part 213 and 214 of the C.F.R. When they're, you
18 know, looking at the resume to determine the background of the
19 site safety supervisor, what documentation besides just a resume
20 do they have to provide? Do they have to provide any kind of
21 qualifications like, you know, rules qualifications or specific
22 training qualifications or is it just a resume that they submit to
23 the state?

24 A. They are required to have rules and safety qualification in
25 addition to a resume, and showing experience, as well, is

1 required.

2 Q. Now, is that current or just past training qualification in
3 rules?

4 A. It has to be current, you know, not historical rules, exams,
5 I mean, you have to have current qualifications.

6 Q. Okay. And is it just RWIC qualifications or RW, the roadway
7 worker online training or is there additional training that
8 they've got to provide?

9 A. There is additional training, the OSHA training, I mean,
10 there is additional training required.

11 Q. All right. And then you guys review it and you let them know
12 whether or not it's sufficient or not?

13 A. Correct.

14 MR. SKOLNEKOVICH: Okay. Scott, I think that's all my
15 questions, I appreciate it.

16 MR. CONTI: Okay, Richard, thank you.

17 MR. CASACELI: It goes to you, Josh.

18 MR. WERNIG: Mr. Conti, Joshua Wernig here. I have no
19 questions at this time.

20 MR. CONTI: Thank you.

21 MR. CASACELI: Then it's to Mr. Bailly next.

22 BY MR. BAILLY:

23 Q. Good afternoon, Scott, how are you doing?

24 A. Hi, P.J., good.

25 Q. So I just -- I guess I got one quick one. Who at MassDOT

1 actually determines the qualification of the contractor? Is it --
2 I mean, is it you or is it the organization itself or --

3 A. Good question. All contractors that bid on MassDOT work have
4 to be pre-qualified under, you know, the pre-qualification
5 requirement, that is they have to meet the MBTA class standards
6 for the type of construction they're bidding on. So for this
7 project there's a pre-qualification for MBTA Class III trackage
8 (ph.), and MBTA Class IV bridges that each --

9 A. Yeah.

10 Q. -- any contractor had to use. So those qualifications come
11 from a pre-qualification committee that's devised by the T, the
12 MBTA, to bid on that --

13 (Crosstalk)

14 BY MR. BAILLY:

15 Q. C.F.R. regulations and stuff like that, though, to make them,
16 you know, able to work on, you know, FRA -- or the Housatonic or
17 anybody's track regulated by the FRA?

18 A. Yeah, it does involve the C.F.R. 213. You cut out a little
19 bit, P.J., but -- yeah, but I'm not -- I'm not familiar with all
20 the details behind the pre-qual committee, it's a committee, so
21 it's not like one person --

22 Q. Yeah, yeah.

23 (Crosstalk)

24 MR. BAILLY: Yeah, okay. That's all I got. Thanks, Scott.

25 MR. CONTI: Okay, P.J., thanks.

1 MR. BAILLY: Yeah.

2 MR. CASACELI: Troy?

3 BY MR. LLOYD:

4 Q. Yes, sir. Thank you, Scott. It's Troy Lloyd here from the
5 NTSB, spelling of my last name is L-l-o-y-d. Scott, I just want
6 to hit on some of the contract, on how it's awarded, you know, per
7 contract and all that stuff. So looking at the contracts, a lot
8 of pages to try to read to try to formulate everything and come up
9 with some questions and the "should've, could've, would've" stuff,
10 but the big thing to me is the safety certification of who's being
11 awarded and how is that justified.

12 So example, Middlesex wins this contract to do the upgrades
13 to this track. Middlesex provides "we're trained in the following
14 situations, we have CWR experts, we have, you know, operators, RMM
15 certified, certified on the book of rules," all that stuff.
16 Where's the proof in the pudding that what Middlesex is giving you
17 is legit, that MassDOT went that extra -- that extra mile to go
18 "these guys are -- these guys are better than white sliced bread,"
19 how do we -- does MassDOT get to that point?

20 A. Well, you know, kind of like I previously described, they're
21 already pre-qualified to bid on a MassDOT project and then they
22 have to provide all the submittals, as you just mentioned, to give
23 us the paperwork behind all of their experience and
24 qualifications. And basically, that -- if they meet all of the
25 MassDOT rules, requirements, laws, whatever, regulations for those

1 specifications, they're able to commence with the work and then we
2 have to --

3 Q. Yeah, so --

4 A. And then it's up to us to administer the project.

5 Q. Right. So there's no -- and I guess we're using the buzz
6 words, the SMS, the safety assurance behind it and all that stuff,
7 you know, I can get someone, "here's my portfolio," but, you know,
8 where's the homework behind that they're actually getting the
9 robust training to step on MassDOT-owned property that's being run
10 by HRRC, that they're meeting these requirements?

11 I can understand the foreman, the supervisor that's going to
12 be out there supervising, but I'm looking at the operators, the
13 people operating the equipment, understanding proper RWIC
14 instructions, simple roadway worker protection policies and
15 procedures. We all know what happened here at this accident, it's
16 just -- I'm trying to grasp that, why it happened. You know, if
17 we're looking at trained, trained people that's trained on
18 equipment, trained on this, trained on that, you know, where's
19 that -- that oversight at? Does it come from MassDOT, HRRC?

20 A. That comes from Middlesex. They have to have qualified
21 trained supervision at all times on the project covering all of
22 the -- all employees on the project.

23 Q. And do we know who is -- who provides Middlesex's training,
24 is that -- do they provide it themselves, you guys, or are they
25 trained by a third party and then that's given -- given to

1 MassDOT? You know, does Middlesex have their own training
2 division or are they trained by another corporation or something
3 or --

4 A. They're trained by -- who is it, RailPros or the Spark
5 Training Solutions, they're trained by an outside entity.

6 Q. Okay. And does MassDOT go that far to see if that training
7 is up to par with what these contractors should know who are going
8 out and doing these jobs?

9 A. We understand it to be, we have -- we've taken it ourselves,
10 a lot of these, a lot of the training, so I mean, we go by, you
11 know, what the requirement is from the entity that's doing the
12 training.

13 Q. All right. Now, how far does that training go, does MassDOT
14 require anything that would hit the FRA Part 243 program when it
15 comes to the contractors and winning contracts and things of that
16 nature?

17 A. They are required to follow the 243 plan, the contractor is,
18 and they have to meet that criteria for training.

19 Q. Okay. And does MassDOT get a copy of -- I think you
20 mentioned RailPros. Does MassDOT get a copy of the RailPros
21 training stuff to make sure that they're -- they're checking all
22 the checks and balances and stuff when it comes to the training of
23 the contract?

24 A. I suppose if we ask for it, they could give it to us.

25 Q. Yeah.

1 A. I mean, we've taken -- we've taken the RailPros, as an
2 example, you know, we've taken those ourselves, but we could ask
3 for it and obtain that.

4 Q. Okay.

5 A. I don't recall --

6 Q. And --

7 A. I don't recall seeing that. RailPros I've seen, the other
8 one, Spark Training Solutions, I haven't seen any training manual
9 for that.

10 Q. Right, okay. And the reason why I bring it up, everybody --
11 you know, the stuff that we put in, in the (indiscernible), it's
12 all there, it's the transparency of the NTSB organization and, you
13 know, you do on-site interviews and, you know, you're getting
14 questions of restricted speed, RWP, and you're getting some
15 answers that sort of make your -- sort of makes your -- you know,
16 your mind spin on -- eh, you know, or you get that answer from --
17 or whatever and I'm just -- I'm asking, I'm all about the training
18 and stuff, so that's why I'm going down the safety certification
19 process, and is MassDOT -- who at MassDOT looks at any contract,
20 I'm just not putting Middlesex out there, it could be Troy Lloyd
21 Contractors, who's making sure that I'm getting the robust
22 training and I'm giving it to Scott Conti, that's hitting all the
23 checks and balances.

24 A. Yeah. It's a challenge because when they do their submittals
25 for qualifications and experience, you know, that's a big key to

1 it all. When you have 1-year experience or you have, you know,
2 10, you know, it's a big difference, right?

3 Q. Yeah, agree.

4 A. And I think in dealing with that, with all of the leadership,
5 supervision and such, that's a big telling entity for it, whether
6 -- you know, whether you've been with Middlesex 1 year or 10 years
7 or what is your experience and knowledge on it, and that is a
8 weakness all around, you know --

9 Q. Yeah, agree.

10 A. -- it's something to watch and follow.

11 Q. Yeah, agree. So just asking, MassDOT-owned property, HRRC
12 operates the railroad, Middlesex Corporation, the third party
13 coming in to do some upgrades to take it up to Class III.

14 A. Yeah.

15 Q. Who's responsible for the oversight, the safety oversight of
16 that operation, would it come from MassDOT, would it come from
17 HRRC, I mean, the give or take, this ain't working, settle down
18 for the day?

19 A. Well, I mean, ultimately it's Middlesex that, you know,
20 determines the means and methods of what's going on and the
21 procedures that they're following and such. Anyone that's on
22 site, whether it's Housatonic or MassDOT, could say, you know,
23 this isn't going right and if you can't correct it immediately in
24 the field, then yeah, you can make a decision to say we're done
25 for the day until we come up with a better plan.

1 Q. Right.

2 A. I mean, it can happen at that magnitude, if necessary.

3 Q. Yeah, yeah. Does MassDOT have any oversight responsibilities
4 of going out and making sure that the contract's being fulfilled,
5 everybody's working within the contract, safety's being met, the
6 contract's meeting its obligations, does MassDOT do those kind of
7 oversight audits, on-site oversight audits?

8 A. Well, it's inclusive within the project as it goes, we have
9 the weekly meetings, we discuss all these things, if we make a
10 site visit the next day, we head out to have -- you know, if you
11 want something that you're pointing out, what's not done
12 correctly, I mean, if there was -- you know, as an example on
13 other projects, you know, if there's a gauge issue, you know, on a
14 contracted work and you want to resolve it or if there's track
15 movement from de-stressing and things of that nature, we go out
16 there and deal with it, we do an inspection, joint inspection, and
17 determine the best nature to resolve it. It isn't always on that
18 -- you know, it happened, it was after the fact, you want to
19 resolve it, but those are -- there are safety concerns and defects
20 you want to resolve. Those types of conversations happen
21 continuously throughout the project, you know.

22 Q. So you mentioned something about an HRRC safety plan that
23 would have or did -- supplied to Middlesex, so describe to me what
24 is a -- what is a safety plan that would be coming from HRRC?

25 A. It's their manual, I guess, within their -- within their own

1 railroad document. It's attached to our specifications. So we
2 have our NW1, which is a MassDOT plan, and we have all the
3 Housatonic safety requirements and that's dealing with roadway
4 workers, dealing with all the things, they're repetitive, you
5 know, everyone has it, but it's specifically stated under their
6 letterhead and they're involved with their plan.

7 Q. Okay. And each contractor's trained to that safety plan, so
8 you may have a contractor that's operating under GCOR rules, you
9 may have a contractor that's operating under NORAC rules, or a
10 contractor that's working under railroad written rules that's
11 approved by FRA, that's how the contractors are trained or are
12 trained accordingly to that operating railroad safety plan?

13 A. Well, definitely for the FRA, I think -- I don't believe --
14 they're trained with elements of NORAC or they're trained elements
15 of GCOR, I mean, Housatonic's NORAC, so they're trained for the
16 elements of it and, you know, we deal with the specific elements
17 that are necessary for them to operate on that line.

18 Q. Yeah. I know it's with me, with accidents, you know, we go
19 to various locations and it's -- you're looking at this written
20 rule and then I'm looking at a NORAC, I'm looking at a GCOR and
21 it's --

22 A. Yeah.

23 Q. -- Form D versus Form C and --

24 A. Yeah.

25 Q. -- how does someone compensate, how do they comprehend, you

1 know, what a Form D is, what does 241 "pass a red signal," you
2 know, what am I -- what can I do within these working limits if
3 it's NORAC versus GCOR versus it? And I was just wondering how --

4 A. Yeah.

5 Q. -- you know, how's -- how they trained within the whole realm
6 that --

7 A. Well, I mean, you know, you can do specifics for the job
8 technically in a daily briefing on a specific location type of
9 thing, but the supervision, the superintendent, you know, those
10 types of people should have knowledge of all of those types of
11 rules, you know, the general laborer or operator might not.

12 Q. Right.

13 A. So there's a level there of experience and that would be on
14 every job.

15 Q. Yeah. So I know we have -- what is your expectations, I know
16 we have expectations for Middlesex, how to go to work safely and
17 work within the contract, work with one another, what's your
18 expectations or MassDOT's expectations from the Housatonic
19 Railroad in supplying the overall safety responsibility of what's
20 taking place, the out-of-service requirements, who can walk here,
21 who can walk there, robust quality job safety briefings, what's
22 MassDOT's expectations regarding the overall safety working with
23 HRRC?

24 A. MassDOT relies on Middlesex to provide all of the -- you
25 know, the safety requirements for performing the work on their

1 job, that they determine those means and methods. Housatonic has
2 the oversight of that in the sense that they give them the
3 briefing of their work limits, they give the briefing of the rule
4 of the day, they give a briefing of all the things that they need
5 to know to be able to go out and perform that work, but the safety
6 is entirely with Middlesex.

7 Q. Okay.

8 A. You know, it quotes the safety component of that. I mean,
9 again, if Housatonic sees something awry, you know, operating a
10 machine incorrectly or in a wrong location, you know, immediately
11 they take action on it and they have the right to do that. But
12 aside from, you know, actually dictating that hour by hour, day by
13 day, no, that's Middlesex's responsibility.

14 Q. Okay. See, I look at the roadway worker in charge as the
15 boss, he's going to say we're going to stay together, we're not
16 going to split up, we're going to lock a switch, we're not going
17 to lock a switch, call me before you go here, call me before you
18 go there, you know, that kind of stuff, that's all coordinated
19 through the RWIC, in essence.

20 A. Oh, I agree with that, yeah. Well, that happens the first
21 thing in the morning, I imagine, before any shift or whatever, but
22 they -- and then if anything changes during the day, they have a
23 regroup on what's going on. But yeah, they determine those types
24 of limits. They don't determine how they get there, you know,
25 where they're going to go, they set the limits for the project for

1 the day, yeah, they do have that responsibility.

2 Q. Yeah. And what happens if -- and I think the question was
3 asked, I think it was asked by Casaceli, but once the RWIC gets
4 provided and Middlesex wants to do three different jobs, three
5 different jobs cannot fall under one RWIC, you got to have an EIC
6 for one, you know, under -- under that HRCC (sic), HRC realm that
7 someone's overseeing this, hey, you know, we're coming south; hey,
8 we're coming north, you know.

9 So how does that -- how does that work out, is that worked
10 out amongst the work groups that's there on a day that if -- if
11 they're overwhelmed, hey, you know, I'm going to need another
12 RWIC, how does that work out, is that worked out between Middlesex
13 and HRRC on site or --

14 A. Well, I know the manpower limitations with Housatonic and we
15 haven't reached that goal, you know, that scenario yet, but you
16 know, looking ahead, we are doing a CWR job and it's spread out
17 over -- you know, you're doing whatever, quarter mile segments of
18 rail, you know, you're going to be spread out over a mile or two
19 and, you know, those types of things do happen, but those might be
20 the work limits for the day.

21 But, you know, taking off to go do a bridge on one end and a
22 culvert on the other end and doing CWR in the middle, yeah, you're
23 going to require three different people, I would say, and that
24 might not happen because you might not have three people.

25 Q. Right.

1 A. So the idea is it won't happen, it would happen with the
2 availability of who's available to work that day from the start.

3 Q. So within -- a little bit, I'm a little bit confused on -- so
4 we got MassDOT-owned railroad, HRRC operates it, contractor
5 fatality. Who's responsible for reporting the accident to FRA,
6 who would be responsible, would it be MassDOT, would it be HRRC
7 that would report this fatality to FRA because it's weird that
8 MassDOT doesn't -- they're not the railroad, but I guess you are,
9 you know what I mean, it's -- looking at that reporting process,
10 going to FRA, who would be the responsible party?

11 A. It would probably be the railroad only in the context if
12 they'd be the first to know about it and they know that
13 requirement to notify the FRA. Sometimes MassDOT, it doesn't
14 matter what railroad we're running on, we're not the first to be
15 notified, dispatcher is identified first and that's a railroad
16 employee.

17 Q. Okay. So MassDOT gives the authority to HRRC to any FRA
18 reporting, they handle it, correct?

19 A. Yes.

20 MR. LLOYD: Okay, okay. Scott, that's all I have. Thank you
21 for the questions, answers, and everything and go ahead, Cas.

22 MR. CASACELI: Dave Casaceli, NTSB. Thank you, Troy. Thank
23 you, Scott. I'll have a scatter board of follow-ups from all the
24 different lines of questioning and I'm sure others might have a
25 few more, Scott, but definitely this will probably be the home

1 stretch lap around the question panel. So if you need a drink of
2 water, take it, but I'm going to hit you from about six different
3 angles just on some random follow-ups, if you're ready.

4 MR. CONTI: Okay. No, I'm ready, David, go ahead.

5 BY MR. CASACELI:

6 Q. You mentioned a couple times on the -- you know, the --
7 anybody out there, whether it's Housatonic or AECOM could see
8 something, say something on safety related issues. Can you share
9 any previous safety related issues on this Middlesex contract just
10 as an example? I don't expect you to remember all of them, but
11 share any details of any of them or generalizations.

12 A. We had a machine hit a high-tension wire at one point. We
13 had -- you know, we had the changes in the safety supervisor
14 scenario out there where they weren't -- there weren't any, we had
15 those lapses, as I mentioned earlier, that happened a few times.
16 I mean, those are the big things. The one -- we had a safety
17 stand-down on a -- Middlesex occupied a track where they weren't
18 -- they didn't notify the EIC about.

19 The EIC, an example, gave up the track but then noticed that
20 there was a machine out on the track at a different location. So,
21 I mean, it didn't -- it wasn't near miss or anything like that, it
22 just was an observation that was significant in the context that
23 we did a safety stand-down and had a regroup from the -- with the
24 railroad, of Middlesex and MassDOT. You know, going on, I don't
25 recall any other, you know, safety type issues of significance, I

1 mean, I know bridge safety, we always watch that closely, if
2 there's -- if someone's walking outside of limits, not properly
3 roped off or the equipment isn't there, we'll make a note of that,
4 but I haven't -- those are some of the things that I remember at
5 this point.

6 Q. Good deal. And in some of these lines of questions you
7 mentioned some HR -- excuse me, HDR representatives on site doing
8 observations as the project went along. Kind of the same question
9 I asked you on AECOM, what are the nature of those observations?

10 A. It's mostly following quality with respect to design
11 standards, so if they're actually, you know, constructing the
12 culverts correctly, the bridges, mostly correctly, the bridges are
13 the biggest items that they watch very closely with respect to it.
14 It's not the type of construction, but it's the actual -- the
15 actual physical construction in place, you know, to make sure --

16 Q. Right.

17 A. -- that they're meeting the design parameters. And that's
18 mainly with --

19 Q. And HDR --

20 A. Yeah.

21 Q. Sorry. HDR was part of creating those design standards, so
22 using them to make sure they're being built as such.

23 A. Correct, exactly. I mean, track is track, it's
24 straightforward and somewhat simple, but de-stressing reports, as
25 an example, is monitored by HDR.

1 Q. Okay.

2 A. So those reports are -- I know they're kept by the railroad
3 but the state is also -- the engineer has also those records.
4 We're watching a lot of -- all the details behind that.

5 Q. Thank you. How many different contractors have you dealt
6 with in your time with MassDOT on similar -- I won't say just
7 similar, but other track rehabilitation projects on Housatonic,
8 other properties, and stuff like that. Ballpark it, I know you're
9 not going to have an exact number.

10 A. No, it would be several, it would be several because it's
11 multiple lines. Even if MassDOT doesn't own a line, as an
12 example, there's a federal grant on the New England Central
13 Railroad and that's a \$30 million dollar grant for track and
14 bridge rehabilitation, so it's a big deal.

15 Q. What's the order of magnitude, five contractors, 500
16 contractors, how many would you care to guess that you've dealt
17 with?

18 A. I would say -- I would say in the teens.

19 Q. Okay. So prior to this tragedy, if you can try to take that
20 out of your mind for a little bit, how would you have categorized
21 Middlesex's, you know, safety record, performance, culture,
22 related to safety in comparison to those other operations you've
23 worked with in the railroad space? I know that's tough to do with
24 the tragedy that's happened --

25 (Crosstalk)

1 MR. CONTI: Yeah, it's hard. I mean -- just based on the
2 experience level, I'd say needs improvement. The experience level
3 is light with Middlesex.

4 BY MR. CASACELI:

5 Q. Now, when you say the experience level is light, is this at
6 management, is this with the folks on the tools and the machines,
7 across the board, can you give me a little bit more insight into
8 that?

9 A. In the labor force, generally speaking.

10 Q. In the labor force.

11 A. I mean -- and lack of quantity of supervision, I'd say.

12 Q. Quantity of supervision, quantity, okay. So thank you, I'm
13 going to pivot hard on you again, like I warned you. Back to the
14 on-site safety supervisors that we've spent a little bit of time
15 discussing, you helped us characterize, you know, what their job
16 is on site. Is part of that job to oversee adherence to roadway
17 worker protection rules and working safely around on-track
18 machines? Would that be part of that person's job?

19 A. I would say so, yes.

20 Q. Would you expect that person to be familiar with the
21 railroad's roadway worker protection plan and rules regarding
22 working around machines and moving equipment?

23 A. Yes.

24 Q. And would you expect them to have a copy of that plan?

25 A. Yes.

1 Q. Okay. And I don't know --

2 A. It used to be -- everything's electronic today, David.

3 Q. Sure, sure. Likely, that is or is not outlined in the
4 contract. We can read it, I just don't --

5 A. I don't recall if it isn't. I don't --

6 Q. Yeah, we can check it. Okay.

7 A. I can check.

8 Q. Okay. Don't read too much into this question, but I think
9 it's somewhat relevant as we talk about, you know, the contractor
10 selection process. Do you have a choice in the operating railroad
11 on the Berkshire line or was part of your purchase agreement to
12 use HRRC?

13 A. We do not have a choice.

14 Q. So it's fair to say that was part of your purchase agreement
15 that you're locked in there?

16 A. Correct.

17 Q. Okay. I think it's important to -- in light of the other
18 lines of questioning. We had asked some questions on Middlesex
19 history with the state on rail or other projects. If we were to
20 make a document request to see if they had worked with the state
21 before, do you guys do like post-contract evaluations where there
22 might be some records of how the project managers like yourselves
23 rated contractors on different things, is that something you guys
24 do?

25 A. I understand that to be a process although I've never -- I

1 haven't done that in my tenure.

2 Q. Okay.

3 A. I can't answer that for history.

4 Q. We'll probably request it and then you guys can kind of dig
5 in and see if those documents exist.

6 A. Okay.

7 Q. This is something that popped into my head as we were going
8 through some of the lines of questioning is we have a third party
9 on site and AECOM to oversee, let's say, billing and production
10 and state of the project. And we have a third party on site at
11 times to oversee design standards on bridges, for example, and at
12 times MassDOT comes out and does the same thing in rail-related
13 spaces to make sure they're meeting the needs of the contract.

14 Are you ever aware of a -- of MassDOT having a third party
15 with sole safety responsibilities on a project?

16 A. I'm not aware of that, you know, for the short duration I've
17 been there, no, I'm not aware of that.

18 Q. Okay. Just a thought that popped into my head. And then
19 kind of pivoting to post-accident and there's a lot more time to
20 follow up on that, but I'm just -- if you have anything to share,
21 any changes that MassDOT has made since the incident to, you know,
22 attempt to positively affect safety on their railroad operations.

23 A. We have asked Middlesex to enhance, you know, basically their
24 safety plan. We asked them for updated 243 submissions to the
25 FRA, which they acknowledged. We asked them for experienced

1 supervision, you know, more experienced supervision. They all had
2 to be retrained on RWP and the operating rules and, you know, the
3 HRRC operating rules. They're going to learn physical
4 characteristics from the Housatonic Railroad under the new --
5 before we start work because we haven't started work yet on the
6 project and they're going to be -- the reporting requirements,
7 even though they do daily reports, we're going to have them submit
8 them monthly to us as a requirement for all, basically job daily
9 reports, daily huddles, all the things that they perform on the
10 job we're going to receive monthly.

11 We added cameras to the equipment, both front and rear. So
12 we have made safety enhancements as part of -- in addition to and
13 since the accident.

14 Q. Good deal. And I'm sure there's, you know, likely more to
15 come as we learn more, but thanks for --

16 A. Yes.

17 Q. -- giving us a little insight into it.

18 MR. LAVIN: Excuse me. Excuse me, David, it's Pat Lavin,
19 could I just jump in for a minute? Or do you want me to wait
20 until the end where I could editorialize?

21 MR. CASACELI: Yeah, let's keep it -- let's keep it with
22 Scott and then we'll chat afterward. Thank you, Pat.

23 MR. LAVIN: All right, thank you.

24 MR. CASACELI: No problem.

25 BY MR. CASACELI:

1 Q. So the only other one I have for you, I want to ask it now
2 just in case there's any follow-ups as we go around the table, you
3 know, you've heard our line of questioning so far. Where else do
4 you think we should be looking or focusing as we move forward with
5 our investigation?

6 Is there something we haven't asked that, you know, we should
7 know as the investigative team? Kind of an opportunity for you to
8 share something you haven't been able to share with us that could
9 probably or hopefully help our investigation to, you know, to the
10 ends of improving safety.

11 A. I know you covered a lot of ground and you're talking to a
12 lot of different people and I mentioned the -- and encourage that
13 to continue. I think if there's things that pop up from any of
14 our conversations as you move forward that we can add to our
15 specifications, I know when we're talking with -- who is it?

16 Anyway, one of the gentlemen there that -- regarding, you
17 know, how can you, you know -- if we can enhance the
18 specifications any way whatsoever, obviously MassDOT would
19 encourage that and add those into the system as things develop.

20 Q. Excellent.

21 A. But I mean, you asked a lot of good questions and I don't
22 have any additional to add on those.

23 MR. CASACELI: Okay. And then we'll follow up with Mr. Lavin
24 afterwards, as well, but as a party to the investigation, I
25 believe Pat has access to all of the documentation we're

1 gathering, so there's an opportunity there for MassDOT to dive in
2 and, you know, learn what they can as part of the investigation
3 and not have to wait, you know, a year for our final report, so --
4 and we're happy to see you guys already doing some of that as far
5 as the safety improvements we've been working on so far. I will
6 go around the room again, I'm sure there's a few more follow-ups.

7 Mr. Owen Smith, FRA.

8 BY MR. SMITH:

9 Q. Yeah. Hi, Scott. Owen Smith, FRA. You mentioned earlier
10 the term COMMBUYS, could you clarify or state for the record what
11 COMMBUYS is?

12 A. That's a good one. Well, it's a MassDOT procedure for
13 bidding public work and it has a lot of rules and requirements to
14 -- registrations and everything to be able to compete, you know,
15 probably you'd call it to engage in that event. And basically,
16 it's a public bidding process and they just call it COMMBUYS,
17 Commonwealth of Mass -- I'm not even sure what it stands for.

18 Q. Yeah, okay. That's good. We did discuss contractor
19 pre-quals, the discussion basically said it was an MBTA process.
20 I know MBTA and MassDOT are somewhat related somehow. Does the
21 MassDOT Rail and Transit Division have input in how a contractor's
22 qualified or the ability to recommend that they not be qualified
23 in the future?

24 A. Not at this time, but internally we're talking about
25 reviewing, on the rail side, what -- yeah, reviewing what they do.

1 And I haven't even had a conversation with the committee yet, it's
2 mostly just internal in the rail division that we're talking about
3 that.

4 Q. Okay. Mr. Lloyd with NTSB talked about reporting, I'll ask
5 some questions a bit more formally. Are you familiar with the
6 reporting requirements found in 49 C.F.R. Part 225, 2-25?

7 A. I don't recall it directly.

8 Q. Okay. They have to do reporting, you know, railroad
9 accidents or casualties caused by railroad operations, and your
10 opinion and MassDOT's opinion with this tragedy be a result of
11 railroad operations?

12 A. No. I'm not so sure. I don't know how to answer that. It's
13 on a railroad, but it wasn't tied to the railroad. It was a
14 contractor.

15 Q. Okay. A contractor with MassDOT, right?

16 A. A contractor with MassDOT.

17 Q. Okay. The other regulatory reference, would you consider
18 yourself familiar with the requirements of Part 243? We mentioned
19 that earlier.

20 A. The training associated with that?

21 Q. Yeah.

22 A. I'm not specific to it, but I'm aware of it.

23 Q. Yeah, you and me both, I think. The one thing I didn't hear
24 much about was periodic oversight, we talked about the training
25 aspect and qualification, but are you familiar with any type of

1 periodic oversight activities that would be occurring by the
2 people required to be -- you know, that are bound under Part 243?

3 A. Well, yeah, I'm not sure of the details behind that if
4 there's timing involved, you know, with respect to, you know,
5 oversight and timing requirements for training or retraining or
6 whatever. We've been following through with retraining on this
7 project, on several aspects of it.

8 Q. And would you be aware in the contract with Middlesex, any
9 submittals from them in regards to reporting of the results of
10 their periodic oversight or training and qualifications?

11 A. Yeah, I don't -- I don't have a direct answer to that. I
12 mean, I know HDR administers a lot of the specifications and
13 requirements, they keep the paperwork for MassDOT.

14 (Crosstalk)

15 BY MR. SMITH:

16 Q. Okay, yeah. Thank you. So to this on-site safety
17 supervisor, if there is no safety supervisor present, is the
18 contractor required to take any sort of remedial action when that
19 occurrence happens?

20 A. Yeah, there's phrasing to accommodate that, you know, for
21 short periods like 2 weeks or something, but they have to work on
22 -- you know, they have to have some qualified superintendent of
23 some sort administering the project in the interim until the
24 replacement is found. I mean, there's language in there that
25 discusses that, you know, because people do leave, right, so --

1 Q. Yeah.

2 A. -- we have to have somebody relocate and come back to this
3 project.

4 Q. So if Site Supervisor A leaves and, you know, Site Supervisor
5 B hasn't been approved yet, what's the longest type of interim
6 period has this project experienced between A and B being on the
7 scene?

8 A. It's probably between 1 and 2 weeks, I'd say.

9 Q. So the work can continue as planned, even if the person
10 wouldn't be there for 1 to 2 weeks.

11 A. That one person, but you still have qualified supervision on
12 the site. They might not be a "safety supervisor" position, but
13 they have qualified supervision on site.

14 Q. And is there a minimum number that the contract requires for
15 qualified supervision? Is it tied to some sort of like measurable
16 goal kind of like a pay item?

17 A. No, there's no number designated.

18 MR. SMITH: Okay. I think that's it, thank you.

19 MR. CONTI: Thank you, Owen.

20 MR. CASACELI: Thank you, Owen.

21 It's Richard's turn here. I just want to say thanks to
22 everyone here as we go a few minutes over to wrap this one up, so
23 thanks for everyone's time.

24 Go ahead, Richard.

25 BY MR. SKOLNEKOVICH:

1 Q. Hey, Scott, Richard Skolnekovich again. I just got a couple
2 quick questions for you. The deals with the railroads that are --
3 you know, that the contractor is working with, so if -- okay, if a
4 contractor's awarded, does a railroad -- do they get any kind of
5 compensation for additional work or additional employees they may
6 need to execute a contract?

7 A. There isn't a written limitation on any of that, Richard,
8 it's -- if they require additional help on the project, you know,
9 they're able to supply that and be paid, compensated for that,
10 whether it's an employee or even if it has to be a subcontractor
11 of some sort.

12 Q. Okay, so that if they need additional flaggers and additional
13 roadway worker to provide the provision, they've got the ability
14 to do that and they would get reimbursed by the state, is that
15 correct?

16 A. That's correct. That's correct.

17 Q. Okay. Is that something they got to submit in advance or can
18 they -- you know, as they're on the site as the work commences and
19 they realize they may be short, is that something they can go to
20 the state and get money for or is it --

21 A. Yeah.

22 (Crosstalk)

23 MR. CONTI: No. I suppose it's who they ask. With me,
24 Housatonic, and I know them pretty well, they'll just give me a
25 call, tell me what's going on, what they need, and we usually work

1 it out without a problem.

2 MR. SKOLNEKOVICH: Okay, great. Scott, I appreciate all your
3 candid answers today and that is all I have.

4 MR. CONTI: Thank you, Richard.

5 MR. SKOLNEKOVICH: Thank you.

6 MR. CASACELI: Mr. Wernig.

7 MR. WERNIG: Joshua Wernig. Mr. Conti, I really appreciate
8 your time. I have no questions at this time.

9 MR. CASACELI: Thank you, sir.

10 Mr. Bailly.

11 MR. BAILLY: Yeah, Scott, thank you. I have no further
12 questions at this time. Appreciate it, thank you.

13 MR. CONTI: Thank you, P.J.

14 MR. CASACELI: Thank you, P.J.

15 Mr. Lloyd.

16 MR. LLOYD: Dave, this is Troy from the NTSB, I have no
17 further questions.

18 MR. CASACELI: Okay. I think that's going to conclude the
19 line of questioning there, Scott, so as we sign off here, if we
20 have any follow-up questions, would you mind if we reach out to
21 contact you?

22 MR. CONTI: Don't mind at all, David.

23 MR. CASACELI: Very good. And so on behalf of the NTSB and
24 really, the industry, you know, I want to give you a sincere
25 thanks for your time and cooperation. Our hope is that, you know,

1 this is a safer railroad industry by the time we're done with this
2 investigation and you've been a part of that so far in helping us
3 achieve that goal, so thank you. I know it's not fun to sit in
4 that seat and it's much better now that's over, I'm sure. So if
5 nobody has any further questions, we'll go off the record.

6 MR. SMITH: Point of order, do you want to talk to Mr. Lavin?
7 He did say he wanted to speak.

8 MR. CASACELI: Sure, we'll -- thank you, Owen.

9 Pat, go ahead and introduce yourself one more time and go
10 ahead and share what you have to add at length.

11 MR. LAVIN: Pat Lavin, Chief Safety Officer at MassDOT.
12 Scott did a great job of kind of trying to remember a lot of
13 things at once. I just wanted to add a couple of the follow-up
14 actions. So we also asked that the Middlesex radios that they use
15 be recorded so this way, as part of reconstruction activities, if
16 there's another event you actually have recorded radios. I think
17 that adds to the value of we can now see the interaction of the
18 RWIC and the employees in charge.

19 I spoke to Scott, two other -- you know, we've been going
20 directly to Middlesex, really, through Scott. So two other
21 concerns I had is one was the control of the switches in and out
22 of the yard, I think they need to strengthen those processes. I'm
23 sure, you know, Housatonic has their own railroad rules for that,
24 so I asked Scott to reach out to them to make sure they're
25 complying with that. The other issue I had was the -- kind of a

1 lack of communication about the location of employees, I think
2 that's demonstrated by the previous incident they had where the
3 RWIC surrenders the track but he's not aware that there's a work
4 train or work equipment on an adjacent track, so I asked Scott to
5 reach out to Housatonic and Middlesex and try to strengthen that
6 process so there's a full accountability of location of people.
7 So I just wanted it known that these are things we're working on
8 and that's all I have.

9 MR. CASACELI: Very good. And we'll have continued
10 conversations with all parties going forward on what other actions
11 we're taking and we'll have you document those for us in a memo or
12 something, but we appreciate it at this time.

13 Okay. Any other points of order before I say we're going off
14 the record?

15 (No response.)

16 MR. CASACELI: Thank you, everyone. We are going off the
17 record.

18 (Whereupon, at 2:43 p.m., the interview concluded.)
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CERTIFICATE

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

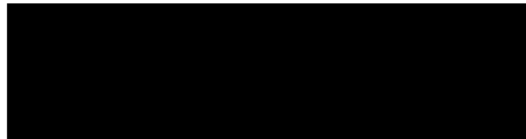
IN THE MATTER OF: MIDDLESEX RAILROAD EMPLOYEE
FATALITY IN GREAT BARRINGTON,
MASSACHUSETTS ON AUGUST 4, 2023
Interview of Paul Scott Conti

ACCIDENT NO.: RRD23FR015

PLACE: via Microsoft Teams

DATE: September 6, 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.



Karen D. Martini
Transcriber