

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 8, 2023 *

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Interview of: NICK RENDE, Foreman
Middlesex Corporation

Great Barrington, Massachusetts

Sunday,
August 6, 2023

APPEARANCES:

JOE GORDON, Track Group Chairman
National Transportation Safety Board

JOHN PATANE, Safety Inspector, Track Discipline
Federal Railroad Administration

RICHARD SKOLNAKOVICH, Investigator
National Transportation Safety Board

DARREN HOHN, Operations Director
Middlesex Corporation

JOSHUA WERNIG
Middlesex Corporation

P.J. BAILLY, Train Master
Housatonic Railroad

DAVID CASACELI, Railroad Investigator
National Transportation Safety Board

TODD KRAHOLIK, Rail Investigator
National Transportation Safety Board

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of Nick Rende:	
By Mr. Gordon	5
By Mr. Patane	8
By Mr. Skolnekovich	12
By Mr. Bailly	21
By Mr. Kraholik	22
By Mr. Gordon	28
By Mr. Patane	31
By Mr. Skolnekovich	35
By Mr. Wernig	42
By Mr. Bailly	43
By Mr. Casaceli	45
By Mr. Kraholik	47
By Mr. Casaceli	48
By Mr. Gordon	48
By Mr. Patane	50
By Mr. Skolnekovich	54
By Mr. Wernig	56
By Mr. Bailly	57
By Mr. Casaceli	57
By Mr. Gordon	58

I N T E R V I E W

(12:30 p.m.)

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2
3 MR. GORDON: All right, good afternoon. My name is Joe
4 Gordon, I'm the NTSB track group chairman for this accident.
5 We're here today on August 6th in Great Barrington to do an
6 interview with Nick Rende, Middlesex Corporation. This interview
7 is in conjunction with the NTSB investigation of the employee
8 fatality that occurred near Great Barrington. The NTSB accident
9 reference number is RRD23FR015. The purpose of this investigation
10 is to increase safety, not to assign fault, blame, or liability.

11 Before we begin the interview, we'll go around the table,
12 everybody will introduce themselves and give the spelling of their
13 last name for the record. Again, my name is Joe Gordon, spelling
14 of the last name, G-o-r-d-o-n.

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

17 MR. SKOLNEKOVICH: Richard Skolnekovich,
18 S-k-o-l-n-e-k-o-v-i-c-h, rail investigator, NTSB.

19 MR. WERNIG: Joshua Wernig, W-e-r-n-i-g, Middlesex.

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

22 MR. CASACELI: David Casaceli, C-a-s-a-c-e-l-i, NTSB
23 investigator.

24 MR. KRAHOLIK: Todd Kraholik, K-r-a-h-o-l-i-k, NTSB rail
25 investigator.

1 MR. RENDE: Nick Rende, R-e-n-d-e.

2 MR. GORDON: All right, thanks.

3 MR. RENDE: Middlesex foreman.

4 INTERVIEW OF NICK RENDE

5 BY MR. GORDON:

6 Q. All right. Thank you, Nick. And if you could just kind of
7 tell us about your railroad career, how long you've been in the
8 railroad industry and just kind of your career path since you
9 started.

10 A. Railroading for roughly 12 years, I started with the
11 Susquehanna & Jersey, with them for 5, 6 years and then went down
12 to RailWorks, Herzog, Rhinehart, I've been around. Anywhere from
13 laborer, started out as a laborer then went to operator and then
14 gradually made it to foreman. That's pretty much it.

15 Q. Okay. All right. And how long have you been working the
16 foreman job with Middlesex?

17 A. I started with them in August of the previous year --

18 Q. Okay.

19 A. -- 2022.

20 Q. All right. All right. If you can just kind of walk us
21 through the duties and responsibilities of a foreman.

22 A. My job was to oversee the work, prepare for the work, make
23 sure that all crew members were accounted for, obviously, at the
24 end of the day. Anywhere from planning to training on equipment
25 or making sure we have all the materials and kind of a broad

1 spectrum of everything into just making sure that the job got
2 done.

3 Q. Okay. All right. And how many -- how many people do you
4 oversee normally?

5 A. It's been all over. Right now, it's not really like a set,
6 like I got a solid 12 guys, it's been anywhere from 22 to -- we
7 started out here in Housatonic with two guys, so I mean, it's --
8 it's been all over, there's really not a set -- every day is
9 different. Sometimes Mark Sciotti, the other foreman, takes guys,
10 he needs laborers or something. On average, it's usually anywhere
11 from 12 to 15.

12 Q. Okay. So on the Housatonic property, how many foremen is --
13 are there representing Middlesex?

14 A. It's ranged from two to three. There's one guy out from
15 Boston area, when he was still out there, he comes out here for a
16 little while here and there to help out.

17 Q. Okay. So who assigns the work to the foreman, so who tells
18 you who you're going to be overseeing and where you're going to be
19 going?

20 A. That would be Jay, Jason Menard.

21 Q. Okay.

22 A. He's the superintendent.

23 Q. Okay. Yeah, I think we're going to speak with him later.

24 A. Yeah.

25 Q. All right. Okay. So if you could just kind of go to the --

1 the day of the accident and just kind of walk us through, you
2 know, what time everybody musters at the equipment and kind of
3 held -- assignments get presented and everything like that.

4 A. We started at 4:30, pretty sure we started at 4:30 that day,
5 and we had our briefing, our normal briefing, and everyone
6 dispersed into -- between the bridge guys and the guys that were
7 going to go to lagging. The guys that were going to the bridge
8 loaded up, got in the trucks, left, and then the guys that were
9 lagging had to move some equipment around on main line because
10 everything was buried from the previous CWR day.

11 So once they dug that out, then they went lagging and then
12 anyone else that was left went up, back down to the bridge and we
13 just worked on the bridge. Those guys were up there lagging.
14 Yeah, that's pretty much in the morning, anyway, do you want the
15 whole --

16 Q. No, we can probably get into that later on, so yeah, just
17 kind of trying to understand leading up to -- so 4:30 in the
18 morning, you guys get there, show up for the job briefing --

19 A. Yeah.

20 Q. -- work assignment, all that. Who's there from -- is there
21 anyone there from Housatonic?

22 A. Yeah, Bill Lewis and Ethan Boardman were there.

23 Q. Okay. Who was the -- who was providing the on-track safety
24 that day?

25 A. Bill Lewis.

1 Q. Okay. So does he -- do you guys kind of do a joint job
2 briefing or how does that --

3 A. Yeah, well, he usually gives his track -- so he gave his
4 track limits first thing and then our guys, Dan and Jay, went into
5 the whole safety schpiel and everything that needed to be talked
6 about, of hazards, and Dan read the JHA and all that and we signed
7 the book and then we just dispersed to go to work.

8 MR. GORDON: All right, I'm going to pass it to my right
9 there and we'll go around the table with some questions.

10 BY MR. PATANE:

11 Q. John Patane, FRA. How many -- you said -- how many foremen
12 have been typically assigned to this job that's presently going on
13 with the bridge?

14 A. Generally, it's two.

15 Q. It's just two, okay, so there hasn't been anybody else?

16 A. There's the third, but he's been -- he's not assigned to
17 here, he was just here filling in here and there.

18 Q. Do you typically observe the RMM operators performing their
19 initial morning inspection?

20 A. Yes. Yeah, they usually do it.

21 Q. Have you ever been -- have you ever done your own
22 inspections, just to observe how they're doing their
23 inspections --

24 A. Yes.

25 Q. -- to see if they're doing it correctly?

1 A. Yeah.

2 Q. Have you ever taken exception to something that one of them
3 might've missed during their inspection?

4 A. Define exception.

5 Q. Like if you've seen a headlight out and you -- you know, you
6 asked the operator hey, is there a reason that you didn't write
7 this defect --

8 A. Yes.

9 Q. -- down on the paperwork?

10 A. I'm usually the one that would go around and ask them why
11 and, you know, you got to tell the mechanic, you got to make sure
12 it's fixed.

13 Q. Okay.

14 A. I'll randomly go and check a machine here and there just to
15 see if it's actually being done or if it's just them checking
16 boxes.

17 Q. If you've ever seen like a safety rules violation, what would
18 be your typical protocol of dealing with that situation, whether
19 it be minor --

20 A. I'd stop operation and have a talk with them and try to make
21 sure it doesn't happen again.

22 Q. Have you been through something like that before?

23 A. In my career or on this job?

24 Q. Just with this company and, you know, on this railroad
25 property.

1 A. Well, there's always -- being that there's a lot of newer
2 faces, you can eventually see something here or there that you can
3 pick apart as that was unsafe --

4 Q. Um-hum.

5 A. -- stop, let's talk about it, figure it out --

6 Q. Okay.

7 A. -- make sure it doesn't happen again.

8 Q. Okay. And then do you -- would you report that up to Joe or
9 Jason, or how would that work?

10 A. It would be dependent on --

11 Q. Okay.

12 A. -- what the violation was, if it was just a simple not
13 beeping or, you know, it --

14 Q. It would be like a verbal?

15 A. Yeah, it would be a verbal conversation.

16 Q. Have you ever done written or is there a procedure for a
17 written write-up?

18 A. If it came down to it, yes, it would be, but usually it's one
19 talk and usually it's corrected.

20 Q. What's your typical communication with the roadway worker in
21 charge when you're asking him -- oh, when you're explaining to him
22 what you would like to get accomplished for the day, how does that
23 conversation normally go when you have separate work groups? Does
24 he -- does track -- does track get delegated to you, as you're
25 allowed to use a certain segment of track --

1 A. No.

2 Q. -- or is it --

3 A. They just tell us the limits and that's it.

4 Q. Okay.

5 A. It's never like this group's here, this group's there, you're
6 not allowed to enter this group or something like that.

7 Q. Okay.

8 A. If that's what you mean.

9 Q. Well, if you have like separate work groups working in
10 different areas of the track.

11 A. Normally, it's on us, they've told us it's on us to
12 coordinate between ourselves.

13 Q. Okay, okay. And if you're going to be making equipment moves
14 between, say, two different work areas --

15 A. Yeah.

16 Q. -- would you have to reach out to anybody to authorize that
17 move or --

18 A. They would let the flagger know that we were moving, but it
19 would be on us to coordinate it with our own guys.

20 Q. So if there's separate work groups in different areas, is
21 there always a foreman assigned to each separate work group?

22 A. Normally, a foreman is assigned to oversee it. Obviously,
23 being that there's only two of us, it's hard to have the same
24 foreman, have a foreman in each group, so that's been the
25 difficulty we've had.

1 Q. So if you have like a separate subgroup where there's no
2 foreman and they're kind of working in their own area --

3 A. Normally, it's non-track related work that's going to cause
4 any impedance to the trains, so whether it's picking up OTM or
5 it's lagging, per se, whereas --

6 Q. Okay.

7 A. -- yes, it's not going to impact track safety.

8 Q. Do you have like a designated point person that --

9 A. Yes.

10 Q. -- would -- that you would reach out to, of like a separate
11 subgroup?

12 A. Normally, there's a guy that's serving as like a lead guy,
13 whereas he's overseeing the guys and making sure that, hopefully,
14 everything's being done correctly, whereas they're usually the
15 guys that have been with us longest.

16 Q. Uh-huh.

17 A. We have some guys that are newer, some guys that have been
18 here for months, stuff like that.

19 MR. PATANE: Okay. All right, that's it for right now.

20 BY MR. SKOLNEKOVICH:

21 Q. Okay, Richard Skolnekovich, NTSB, a couple questions. We'll
22 start a little bit with your background. You said you started off
23 with Susquehanna Railroad and you were there, how long were you at
24 Susquehanna, you said 5, 6 years?

25 A. Five, six years, yeah.

1 Q. Okay. What did you do there?

2 A. I started out as a laborer, then I moved up to being an
3 operator.

4 Q. Okay. Did you go through any rules training with them?

5 A. Yeah, tons of stuff.

6 Q. What rule book?

7 A. What rule book?

8 Q. Yeah.

9 A. NORAC.

10 Q. NORAC, okay. Are you pretty familiar with NORAC rules?

11 A. I'm not going to give you Title C, section, appendix, but
12 yeah, I --

13 Q. Yeah, I'm not you asking that, but are you generally familiar
14 with --

15 A. The general knowledge of rules, yeah.

16 Q. Okay. All right. With the briefing that you guys conducted
17 that day, can you kind of walk me through what you guys discussed
18 during the job briefing?

19 A. Well, I'm not sure what was discussed, so previously it was
20 -- the foreman was leading the briefing and then all of a sudden
21 it was dictated that the superintendent had to do it, so I'm not
22 sure what Bill and Jay talked about as far as what we were doing
23 or anything of that nature, so I can't talk there. I know in the
24 briefing with everyone --

25 Q. Yeah.

1 A. -- it was discussed about the safety hazards and any possible
2 thing that could hopefully be solved to go wrong. But there's
3 always -- we always harped on beeping when you're backing, being
4 careful when you go into work areas, all that, but can't really
5 tell you word for word.

6 Q. Okay. No, no, that's good. Did they discuss, you know what
7 the Form B is, right?

8 A. Correct.

9 Q. Did they discuss the Form B at all?

10 A. Yes, they gave us limits, they use Form D, when it was
11 assigned, who the dispatcher was, all that.

12 Q. Okay. Can you remind me what those limits were, do you
13 remember?

14 A. Fifty to fifty-nine.

15 Q. Fifty to fifty-nine. Did they discuss the operation, any
16 switches in between those mileposts?

17 A. No.

18 Q. Okay.

19 A. They did say that they unlocked the main line there in the
20 yard and that was it.

21 Q. Unlocked the main line. Did they discuss anything about
22 communications of -- were they discussing anything about equipment
23 coming in and off the -- off the track?

24 A. We don't usually discuss that right then, usually we discuss
25 it as -- as we're needing to, whether it's putting a truck on,

1 taking a truck off, we'll tell them hey, this truck's getting on
2 here, is it all right, or we're going to move from here to here,
3 but there's no discussions as of the briefing yet.

4 Q. Okay. Do you know if that switch is normally locked or
5 unlocked?

6 A. It's normally unlocked during the day to allow us to get
7 anything that we might need out.

8 Q. Okay. And who unlocks that switch?

9 A. The flagger.

10 Q. Flagger. Is there a set time they open it up or --

11 A. After the briefing, after we have our limits.

12 Q. Okay.

13 A. Obviously, no briefing, no switch unlocked.

14 Q. What time was that briefing, do you think?

15 A. Like 4:30-ish, around that time.

16 Q. Okay. So after the 4:30 sign-up, you had the brief.

17 A. Yeah.

18 Q. And the flagman would've unlocked --

19 A. Yeah.

20 Q. Okay. All right. Was there any discussions or instructions
21 about contacting the employee in charge, the RWIC?

22 A. What do you mean by that?

23 Q. Okay, so -- well, who owns -- who is controlling -- okay, let
24 me rephrase it. On the Form B, who is listed as the employee in
25 charge?

- 1 A. Bill is.
- 2 Q. Bill is, okay. Was there any discussion --
- 3 A. No, that was Eric. I think it was Eric that day, wasn't it?
- 4 UNIDENTIFIED SPEAKER: Correct.
- 5 MR. RENDE: Yeah, that was Eric. Eric cut the track.
- 6 BY MR. SKOLNEKOVICH:
- 7 Q. Okay. Yeah, try not to --
- 8 A. Yes.
- 9 Q. This isn't a quiz, just remember what you can remember.
- 10 A. It was --
- 11 Q. Okay.
- 12 A. Because I think Eric held it from the day before, right?
- 13 Q. Well, just answer --
- 14 A. Yeah.
- 15 Q. -- whatever you can remember, okay?
- 16 A. Bill gave the briefing.
- 17 Q. Okay, so Bill gave the briefing, okay. And then Eric, you
- 18 think, best to your recollection --
- 19 A. Yeah.
- 20 Q. -- you think Eric had the Form D?
- 21 A. Yeah.
- 22 Q. Okay. Was there any discussion about talking to Eric to come
- 23 out on the track from the -- from the yard to the siding?
- 24 A. No, not to my recollection.
- 25 Q. All right. Do you recall, based on your recollection, any

1 radio traffic of your folks contacting the employee in charge to
2 come in and out?

3 A. No, Jay was in the yard moving equipment around with them, so
4 that would be on him as far as discussion with Bill, I was there.

5 Q. Okay. Was there any time in the past where they discussed it
6 or they would use the radio to talk to the employee in charge?

7 A. Yes, they would talk. If the flagger was not in the general
8 area to reach by verbal, then they would radio.

9 Q. Okay. Now, when the flagger opened up or unlocked the
10 switch, did he operate the switch or was that Middlesex employees?

11 A. I'm 90 percent sure he said he left the line for main line,
12 but we could throw it as needed.

13 Q. Okay. So now let me ask you this, was there any instruction
14 with your subordinates about if it wasn't lined for the main line,
15 what were they supposed to do?

16 A. We're allowed -- we've been told we're allowed to throw it as
17 needed.

18 Q. Okay, you're allowed to throw it. Who told you that?

19 A. That's been the general rule since we started here.

20 Q. Just a general -- all right. It's just in practice?

21 A. It's been left unlocked whenever we need it and --

22 Q. Okay.

23 A. -- obviously, if we don't -- if it's locked and we call them
24 and get permission and all that, but --

25 Q. Okay. Now, as far as you were talking about part of your

1 responsibility is accountability, how are you keeping track of all
2 your folks throughout the day?

3 A. Oh, I keep track of them, normally. Unless someone else
4 steps in, it's -- they call me whenever they're going to do
5 something, whenever they're leaving the area, normally. That day
6 was an exception, but they always are in communication with me as
7 far as if they have an issue or if there's anything that they need
8 as far as material-wise, like lags or something, they'll call me,
9 say hey, we need to get loaded and I send the gravel truck out to
10 load their cart again or if they need fuel or anything like that.

11 Q. Okay. How do they contact you, through radio or phone or
12 both?

13 A. Radio, normally. If they can't get me by radio because
14 mine's dead or something, then they call me by phone.

15 Q. Okay. Now, as the foreman, do you give them any instructions
16 about when they can and can't use their phone?

17 A. They know they have to be off the track a bare minimum of 4
18 feet.

19 Q. Okay, so that the -- go ahead and say that again.

20 A. Four feet.

21 Q. Four feet off the track --

22 A. Yeah.

23 Q. -- to use the phone, okay. So throughout the day they're
24 contacting you by radio or by cell phone, do you guys assemble up
25 at the end of day for accountability or do you just close out?

1 A. Yeah. Normally, everyone comes back to the yard and we -- I
2 always make sure everyone's there and go through all the equipment
3 and make sure everything's accounted for off track or whether it
4 was left at a crossing or -- I make sure of it myself.

5 Q. Okay.

6 A. I make sure there's nothing left on main line.

7 Q. All right. Now, are you required to let the roadway worker
8 in charge, the employee in charge, know when --

9 A. Yes, we're required to let Bill or whoever know that we're
10 clear and all the people are accounted for.

11 Q. Okay, is there a set time for that or is it just whenever
12 you're --

13 A. It depends on the work day, it depends on what's going on,
14 what time you finish, whether we're just doing an operation,
15 getting out earlier, but we always -- we try to let them know
16 every time.

17 Q. Okay. Another question I got for you, so the other work
18 that's going on, so I'm assuming there's some Housatonic work --
19 or is it just you, Middlesex, out there working or are there --

20 A. Normally. Normally, Bill will let us know or whoever the
21 flagger is will let us know if they're going to be in the area or
22 whether they're doing patrols or -- occasionally there's a patrol
23 once a week and if they have to come in the area, that they'll let
24 us know.

25 Q. Okay. Do they do that over the radio or do they do it during

1 the job brief or --

2 A. Normally, they know in the morning. There's been a few times
3 where a train or something wanted to come up and switch out and
4 that was normally known the day before, so they would tell us in
5 the morning.

6 Q. Okay. Now, if they didn't -- was there any time where they
7 didn't tell you during the brief, but it did happen during the
8 day?

9 A. There was a time or two where there was last second, like
10 random call throughout the day like hey, a train wants to get up
11 to the plastic plant up there and take a few cars, so we'd
12 accommodate them the best we could or --

13 Q. And just clear up and --

14 A. Yeah.

15 Q. Did they do that over the radio or do they do that through
16 the phone?

17 A. It depended on where we were and --

18 Q. Just where you're at.

19 A. -- you know, depending on the situation, what was going on.

20 Q. Okay. Now, did you guys ever talk to the dispatcher at all?

21 A. No.

22 Q. Okay. So you did everything through --

23 A. Everything was done through the flagger.

24 MR. SKOLNEKOVICH: Okay. Okay, that's all the questions I
25 have for now.

1 MR. WERNIG: Joshua Wernig, I don't have any questions at
2 this time.

3 BY MR. BAILLY:

4 Q. P.J. Bailly, Housatonic. Do you recall, like, during the job
5 briefing whether or not it was discussed what the RWIC, about the
6 two work groups or just the one work group?

7 A. I do not recall what was discussed in that regards.

8 Q. All right. Do you know how many times that you talked to
9 your guys about, you know, you mentioned doing spot checks and
10 stuff like that with the new guys, just double checking their work
11 and the quality --

12 A. There's a lot of times, you know, quality is -- it's hit or
13 miss, it depends on whether his tools are working right or, you
14 know, his --

15 Q. How about just like -- you know, like safety measures, like
16 if the guys are doing something? You know, I mean, I used to be a
17 foreman --

18 A. I don't count the amount of times --

19 Q. It's just the number of times --

20 A. Just kind of what I saw --

21 Q. Yeah, right.

22 A. -- but it was always done on the spot, whenever possible.

23 Q. I got you. Has there ever been times it's been discussed
24 about lack of communication with clearing or guys leaving the
25 sites without --

1 A. Yes.

2 Q. Yeah.

3 A. There was an instance where it was not -- where it was not
4 conveyed properly to the flagger.

5 Q. Would you say that Brady was qualified to lead that group or
6 who would you say was leading that group for the second or --

7 A. I would say it's -- would not be my first choice.

8 MR. BAILLY: All right. That's all I got for right now,
9 thanks. Thanks again.

10 BY MR. KRAHOLIK:

11 Q. Todd Kraholik, NTSB. I want to go back to the job briefing.
12 You said something, just clarification purposes, you said
13 something like you were leaving the briefing and then, now he has
14 to go through a superintendent or --

15 A. Correct.

16 Q. Can you explain what happened with that, like what --

17 A. As far as I've heard, Housatonic wanted the superintendent to
18 give the briefing and to harp more on safety compared to -- so
19 when I would give the briefing, I'd state what I was doing,
20 wherever we were going and who was going where, and then Dan would
21 give the safety briefing of going over safety and all that -- all
22 that aspect of it because he's a safety guy. But from what I was
23 told, Housatonic did not agree with that and they wanted
24 superintendents to do it and to harp more on safety, they felt
25 that my briefing was not informative enough on safety, but again,

1 I left that to the safety guy to do, whereas I focus more on what
2 was going on there in the day, any hazards that I knew of that
3 could be brought up, but as far as I know, that's what I was told
4 as to why it changed.

5 Q. And superintendent, you mean a Middlesex --

6 A. Middlesex superintendent, which would be Jay.

7 Q. So the railroad was only there to discuss the track limit
8 part of it.

9 A. Correct. But they felt it was -- our briefing was still not
10 informative enough.

11 Q. Okay.

12 A. To their standards.

13 Q. Okay. And when did it change, roughly?

14 A. About a week and a half ago, 2 weeks ago. Beginning of, not
15 this previous week, the week before, it changed, whereas our
16 superintendent was directed he had to be at the briefings.

17 Q. So from other interviews we've heard that people have been
18 coming and leaving this job, do you feel like everybody knew the
19 change, like how did --

20 A. No, I didn't even know about it until relatively recent. I
21 just assumed he was there and then I was -- I kind of brought up,
22 during the day of why is -- you guys here all of a sudden and then
23 he said well, they wanted me to be here instead, so it was a very
24 relative recent change, no one said anything to me, and then the
25 same with out in the field, it went from any issue that was out

1 there went through me to now all of a sudden, I got told nothing
2 about it, I was getting a call from the superintendent.

3 Q. Okay. And you get your railroad contact for the day, do you
4 know who that is every day, like, how do you know who --

5 A. As far as the flagger?

6 Q. Yeah.

7 A. Just whoever's there in the morning.

8 Q. So you don't know until they show up, you show up at the job
9 briefing, then he'll tell you --

10 A. Occasionally, they'll say like P.J.'s going to be the
11 flagger, but it's never like a set schedule of who's going to be
12 there and who's not.

13 Q. So let's say there was somebody new, how would you know how
14 to get a hold of him?

15 A. Well, it's generally been the same, three to four guys, so I
16 wouldn't say that as far as -- you mean like if just randomly
17 there was someone new?

18 Q. Well, I guess -- yeah.

19 A. I guess I would reach out to Eric or something to say hey,
20 who's the flagger and then go from there, but --

21 Q. But you would ask for their phone number?

22 A. Yeah.

23 Q. How would you know to get a hold of -- in the job briefing
24 you'd ask to --

25 A. Yeah, if it's someone new, we would ask in the briefing

1 what's your phone number, make sure that the job briefing was
2 complete, but everyone had pretty much everyone's number because,
3 like I said, it's only been like the same four, four to five the
4 entire job, so --

5 Q. Okay. And then you're in charge of both the bridge group and
6 this group doing the lagging.

7 A. Yeah.

8 Q. So on the day of the accident, you went with the bridge
9 group, you were there --

10 A. Oh, yes. I have to be there for any rail work, that's not --
11 so I had to be down there ripping apart the bridge, whereas I
12 cannot be with the lagging crew because there's no one else that
13 can rip apart the bridge.

14 Q. And both groups have been going on for a while or is this --

15 A. The lagging crew has been going on for about a month and a
16 half, two months.

17 Q. And the bridge or is the bridge --

18 A. No, no, the bridge is -- was a weekend outage thing, we were
19 going to change the rail out over the weekend along with doing
20 both approaches, but that was different, but it's not out of the
21 normal for the lagging crew to be out lagging.

22 Q. Okay. So you were changing rail on the bridge, that's
23 what --

24 A. We were taking the 107 off and we were going to be digging
25 both approaches, putting in new ties and then putting 136 across

1 in prep for doing the bridge timbers next weekend.

2 Q. Got you, okay. So Bill or Eric, do you have constant contact
3 to them throughout the day, are they --

4 A. If need be.

5 Q. Do they stay on site?

6 A. Yeah, they usually stay on site, usually they pick a crew.

7 (Music playing.)

8 (Pause.)

9 MR. SKOLNEKOVICH: Go ahead.

10 BY MR. KRAHOLIK:

11 Q. So -- I'm sorry. Bill and Eric, they're always on scene?

12 A. They're usually -- yeah, they're always around. If they're
13 not in a certain area where we are, then we'd call them and say we
14 needed them if we needed them and they're around.

15 Q. Would they -- has there ever been a time when they were RWIC
16 but then they would go do something different for the day, like
17 would they go --

18 A. I don't believe so, not to my knowledge.

19 Q. So they were there just for you and would stay relatively
20 close?

21 A. Relatively close, as far as I could tell. I mean, we didn't
22 always see them, but then usually if we called them, they were
23 usually right there, so I'd say yes, they're always around.

24 Q. Okay. So when you do your part of the job briefing, is
25 everybody there --

1 A. Yes.

2 Q. -- and even the railroad employees, they're there, as well?

3 A. The flagger's usually there, yes.

4 Q. And you speak during -- and your part of it is just telling
5 them what everybody's doing for the day?

6 A. That's what it was, yes.

7 Q. Sorry, I just want to clarify. The railroad person is there
8 when you're divvying out everybody's job --

9 A. Yes.

10 Q. -- task for the day, so every -- so everybody knows what
11 everybody's doing.

12 A. As of when I was giving the briefing, that's how it was
13 because I'd give it before -- before all the safety stuff went off
14 and all that, whereas normally they would either, like -- so since
15 Jay started doing it with briefing and the safety stuff came up,
16 normally you'd pass the book around, once it was signed the
17 flagger would walk away or they'd be around, but not necessarily
18 involved in it because just all the safety stuff and stretches, so
19 it's got a little more lax as of this past 2 weeks.

20 Q. So how would the flagger know what -- where everybody -- what
21 everybody was doing for the day?

22 A. Normally, it would be said in the briefing.

23 Q. All right. And then asking, was it said during the briefing
24 what was going to be taking place?

25 A. I do not recall hearing it, but I do not know.

1 Q. Okay.

2 A. Again, I'm not sure what was spoken of in private, because
3 when I walked up in the morning, Bill and Jay were kind of in the
4 same region talking, so I don't know what was discussed. I don't
5 know.

6 Q. Jay's a Middlesex employee or --

7 A. He's a superintendent.

8 MR. KRAHOLIK: Okay. Okay. All right, I think that's it,
9 all I have for now.

10 BY MR. GORDON:

11 Q. All right, Joe Gordon, NTSB. I want to talk a little bit --
12 you guys touched on some of the training, NORAC rules trained, and
13 from what you know that they were doing as far as, you know,
14 moving the equipment to get it worked on, moving the equipment
15 back to the location, what speed should that movement to have been
16 occurring at?

17 A. No more than 15, that's what we limit them to. Bare minimum.

18 Q. Okay.

19 A. Normally, they would -- they're supposed to stop outside of
20 the work area, but they're also supposed to be careful of where
21 people are, to know -- make sure there's no one behind them, so --

22 Q. So on that 15 mile an hour, is there any -- is there anything
23 else, like -- are you familiar with the term restricted speed?

24 A. Yeah.

25 Q. And in your words, what's restricted speed?

1 A. You can stop in one half of the sight distance.

2 Q. Okay. So is that something that is relayed to the operators
3 on the --

4 A. Yes. Yes. Everyone's been harped on that and there's no
5 excuse for not doing it.

6 Q. You mentioned kind of observing the groups out there,
7 observational testing, rules testing, whatever, is that -- is that
8 like documented formally or is -- like even --

9 A. I do not know what the office guys keep for documentation or
10 not, but I relay what I've seen to them and how that's handled is
11 not in my job scope.

12 Q. Okay. So when you relay it to them, who do you relay that
13 to, do you give it to Jason or --

14 A. It would be just generally to Jason or Jimmy or Dan.

15 Q. Okay.

16 A. Either Dan or Darren, it would be relayed like yes, I saw
17 them do this, they did a good job or so-and-so did not do so good
18 in this, he's not qualified, you know, something like that.

19 Q. Just a verbal conversation between you guys?

20 A. That would be my part --

21 Q. Okay.

22 A. -- and then from there, they would fill out the proper
23 documentation.

24 Q. Okay. When we were talking about who would be leading the
25 group when you weren't there, you said that Brady wouldn't have

1 been the first choice. What would be the reason?

2 A. As far as years of experience and qualifications, it's not --
3 he doesn't meet the quota, on my opinion.

4 Q. Yeah. So who's -- who, out of that four-person group would
5 you have --

6 A. None of them.

7 Q. None of them?

8 A. None of them.

9 Q. So just to go back a little bit, and I know we've talked
10 about this job briefing a lot, but I think it's important, you
11 know, everybody's trying to kind of understand what was -- what
12 was relayed in that job, in that job safety briefing, right, it
13 kind of sounds like your part was taking care of the work
14 assignment piece, so that would be the job briefing piece. The
15 safety briefing would've been -- that would've been Jason, is that
16 right?

17 A. That would've been Dan.

18 Q. Dan would've been doing the safety briefing. And then
19 Housatonic's involvement in any of that would've been just on the
20 track protection piece.

21 A. Correct.

22 Q. But on the day of the accident, we don't know that all three
23 of those --

24 A. I am not sure, yes, I cannot speculate --

25 Q. -- people were together.

1 A. -- on that.

2 MR. GORDON: Okay. All right. That's what I've got for
3 right now, I'm going to pass it to my right there.

4 BY MR. PATANE:

5 Q. John Patane, FRA. I think we're in agreement that there was
6 two work groups, Middlesex work groups working. There was a
7 bridge group and then there's a lagging group. Did you have any
8 specific identifiers for each individual group or was it just --
9 did you call them anything separately?

10 A. The lagging crew.

11 Q. You just called them the lagging crew --

12 A. Yeah.

13 Q. -- on the north end? You didn't call like Brady -- okay, so
14 we'll call it the lagging crew. And the bridge group, you just
15 called it, just --

16 A. There was no -- yeah, it was just a crew. Yeah, it was
17 calling --

18 Q. It was just you were with them, so was it like your group?

19 A. Yeah.

20 Q. Okay. Okay. What equipment did you have at the bridge site?

21 A. A Pettibone gravel truck, a work truck, and then --

22 Q. But -- okay.

23 A. -- my truck.

24 Q. Anything on track?

25 A. Yes, the Pettibone was on track along with the white truck,

1 which was the crew truck, hydraulics.

2 Q. Did the Pettibone and the crew truck, did that come out of
3 the lane switch in the morning?

4 A. No. The Pettibone drove down main line and then the white
5 truck drove around by road and got -- and set on down there at
6 Rannapo.

7 Q. So the Pettibone was let out at the switch and track-traveled
8 down.

9 A. Correct.

10 Q. During your initial on-track safety briefing with Housatonic,
11 the roadway worker in charge, was that discussed that you were
12 going to track-travel that equipment down?

13 A. It was discussed that we were going to be heading down that
14 way, the operator discussed it with the flagger saying he was
15 looking to go from the yard down to the bridge.

16 Q. Okay, so the -- so the roadway worker in charge was aware
17 that you were going to track-travel the one piece down?

18 A. Yes. As far as I'm aware, yes.

19 Q. Was it discussed that you were going to use the lagger and
20 the --

21 A. I was not -- I was not part of that discussion because Jay
22 was in the yard handling moving around the equipment and whatnot,
23 so --

24 Q. Okay, so Jay would've had that conversation?

25 A. Jay would've had that conversation because he got them going.

1 Q. Okay. Now, typically, I mean, the bridge was a few miles
2 down, like at 51, right?

3 A. Correct.

4 Q. So just out of curiosity, say you were working in a new
5 segment of track on Housatonic, so I don't know if you've ever
6 been on the north end, north of 59, but say you never have and you
7 have to work from 59 to 70 and there's a made-up bridge at 68,
8 would they just -- would there be a pilot that led you there or
9 would you just -- they just tell you, you go until you see the
10 bridge and --

11 A. No, not that I'm aware of, I never took a pilot --

12 Q. So you don't normally have pilots that --

13 A. Not that I've ever seen.

14 Q. -- leads you guys into areas that you've never been over
15 before?

16 A. No. We've had to go up that way and it was -- go up to 64
17 and you'll see us, pretty much.

18 Q. So would you say that when you guys are out there working,
19 that the limits that they give you, you guys are pretty much in
20 control of it and you can do what you need to do, is that pretty
21 much how it works?

22 A. Yeah, we just tell them hey, we're heading here and that's
23 it, and then you just go for it.

24 Q. Okay. So there usually isn't any kind of authorization
25 process for different segments of tracks, it's just -- if you have

1 the limits, then you can use them?

2 A. Pretty much. As long as we're within a relative area of
3 where -- like if we needed to go from 51.5 to 52.5 --

4 Q. Um-hum.

5 A. -- we'd just say hey, we're heading up there and that's
6 pretty much it. It's not like we need to get approval, we need to
7 go through --

8 Q. But if you wanted to go up to like, you know, the crossing at
9 57, a couple miles away, to grab a drink at the store, take the --

10 A. We would just say we're heading to 57.

11 Q. Just go out there. Who would you say that to, though?

12 A. We would just radio it.

13 Q. To yourselves?

14 A. To the flagger.

15 Q. Oh, you would tell the flagger.

16 A. The flagger has a radio.

17 Q. Okay, okay. So -- okay, so the flagger is listening to your
18 radio communications?

19 A. Yes, he gets a radio every day.

20 Q. Okay. So when the Pettibone track-traveled from lanes down
21 to the 51 bridge, was there any pilot on that?

22 A. No. Never is.

23 Q. Okay. And just out of curiosity, was there a safety stand-
24 down that happened recently?

25 A. Define safety stand-down.

1 Q. Like if there was like any incident and you guys just wanted
2 to go over safety procedures and just making sure that there was
3 no -- everybody's on the same page as far as kind of --

4 A. I'm not sure what you're referencing.

5 Q. -- briefing everybody of what -- the incident happened and
6 then kind of going over it to prevent it from happening again?

7 A. I'm not sure what you're referencing.

8 MR. PATANE: Okay. Okay, I was just wondering if you guys
9 were going through that. All right, that's all I have for right
10 now.

11 BY MR. SKOLNEKOVICH:

12 Q. Okay, just a couple follow-on questions. I'd like to go back
13 to your training, actually, so when you came over to Middlesex,
14 did you go through any training with Middlesex?

15 A. RWP trainings and that's pretty much it.

16 Q. Okay. And can you give me kind of an idea what that training
17 was, what did it cover?

18 A. Well, that would be like Housatonic's here with the RMM
19 training and the CWR training, and then the RWP training.

20 Q. Can you give me a little bit more detail about the RWP
21 training?

22 A. What do you mean by detail?

23 Q. What do they talk about, what was the topics?

24 A. On-track safety, working around machinery, crossings,
25 procedures, how they operated, all that.

1 Q. Okay. So you said earlier that -- so you're the foreman in
2 charge of the two groups, so you would do -- you would do spot
3 checks on them to make sure they're doing it correct.

4 A. Yeah.

5 Q. What kind of things are you looking for in spot checks?

6 A. Working safely, quality of work, the material, whatever they
7 might possibly need in the near future so I can make sure it's
8 arranged. Usually, I watch them just to make sure that they're
9 doing everything safely, they're staying clear and whatnot, but --

10 Q. Okay. Have you had any issues where you've had to go out and
11 make on-spot corrections?

12 A. Usually, just for quality, as far as like a lag is not driven
13 down all the way or --

14 Q. So more production based?

15 A. Yeah.

16 Q. Okay. Now, are you qualified on the equipment they operate?

17 A. Yes.

18 Q. How long have you been qualified on that type of equipment,
19 like for instance, drilling machine?

20 A. It's kind of one of those -- I was trained in the field, so I
21 don't know of any other way to be trained, to be honest, but I was
22 trained in the field, so I ran spikers, you know, I ran all that
23 and then as far as the drill machine? I mean --

24 Q. Drilling or lagging, either one.

25 A. Maybe a year I was running one.

1 Q. Okay, maybe about a year. You feel pretty comfortable with
2 the equipment?

3 A. Yeah.

4 Q. Okay. Comfortable enough to train or oversee?

5 A. Yeah.

6 Q. Okay, great. So with the -- with the lagging and the
7 drilling crew that was out there, you said that guy wouldn't be
8 your first pick, they probably shouldn't be out there. Is there
9 anything in particular that -- besides the level of experience
10 that you were seeing?

11 A. No, I didn't see any, like, any obvious -- otherwise, I
12 would've shut it down, but at the same time, it's -- obviously, I
13 would like a more experienced person to be out leading it, that
14 has a -- more idea of potential hazards.

15 Q. Now, do you get the opportunity to train any of these
16 subordinates?

17 A. Yes.

18 Q. How much time are you given to do that?

19 A. Given to train them?

20 Q. Yeah.

21 A. It all depends on the person and the process, it varies
22 anywhere from a week to 3 weeks to -- depends on what's going on
23 with it.

24 Q. Now, when do you do that type of training, is it in between
25 jobs or --

1 A. Well, what do you mean by in between jobs?

2 Q. So -- okay, well, let me ask you this. When do you -- when
3 you do start training some of the operators on the drilling
4 machine or lagging machine or any of the other equipment for that
5 matter, when would you do that?

6 A. I would do it -- I would start maybe a week or two before and
7 then stay with them while we're starting the process, and stay
8 with them and answer questions and make sure that they're doing
9 stuff very well as it's going on.

10 Q. Yeah.

11 A. Just kind of, again, in the field. It's the only way that I
12 can think of.

13 Q. Okay. Do you have any kind of manuals or instructions on how
14 to do that or are you just left to --

15 A. There's manuals in all the machines, on -- which I usually
16 make them reference before starting so they know what to expect
17 and all that.

18 Q. Is there a level of experience you kind of need to use the
19 lagging machine and the drilling machine?

20 A. No. It's very straightforward.

21 Q. Okay. If you needed to give additional training to
22 individuals, would your company allow you the time to do that?

23 A. Yes.

24 Q. Did you find any -- have you ever seen in the past, where
25 you've had somebody doing something unsafe and you corrected it,

1 you know, it didn't get corrected, were you able to correct it by
2 going through the company?

3 A. Yes.

4 Q. Can you give me an example?

5 A. Yes, they're very responsive to any issues that might arise.
6 As far as removing people from equipment, it was -- I'm trying to
7 think, you're putting me on the spot.

8 Q. It's okay, take your time.

9 A. Well, like Eric Alford was in the Gradeall, he was digging
10 out from the sand pile and almost flipped it, and I told him he
11 can't run it no more and they were like okay, whatever you think.

12 Q. Okay. The company supports you in doing that?

13 A. Yeah.

14 Q. Okay. Do you ever feel like -- you know, like with the folks
15 who are out there doing the drilling and lagging, could you have
16 waited and gotten more people more experienced out there or --

17 A. Very limited in contract experienced people, unfortunately.

18 Q. Okay.

19 A. Kind of came down to being trained in the field and that's
20 our experience.

21 Q. Okay. All right, if -- let me ask you this. So if -- if you
22 needed to, could you have spent more -- would the company have
23 been okay with the production level if you had spent more time or
24 if somebody had gone out there and spent more time with them? Or
25 was there production pressure?

1 A. That's -- that, I'm not sure.

2 Q. Okay. Well, I'm asking you, do you feel that --

3 A. Yeah.

4 Q. -- you could've --

5 A. Do I feel that I could have or do I feel that they would've
6 been okay with it?

7 Q. Yeah, would they have been okay with it. So you got
8 production that -- so you got the requirement for production --

9 A. Yeah.

10 Q. -- but you're also maybe seeing that they might need just a
11 little more training time, do you feel comfortable that you
12 could've stopped some of the production going on to do training or
13 was there just a lot of production or --

14 A. There was a lot of need for production.

15 Q. Okay. Do you think, as your job as a foreman, that your task
16 load is okay or does it get kind of high?

17 A. It gets high.

18 Q. Can you give me kind of an example when it gets high? Like
19 that particular day.

20 A. On that day I was focusing on a bridge and ripping it out and
21 preparing everything for that, so I had my full focus on that,
22 whereas -- yeah.

23 Q. Did you have a hard time to get that bridge work done?

24 A. Well, it's not hard, it just takes focus.

25 Q. No, I mean a set time that it had to be completed by.

1 A. Yes, we had a set time.

2 Q. What was that time?

3 A. We had, from what I was told, a 14-hour shift was planned on
4 Friday and then 14 hours on Saturday to get that done.

5 Q. Okay. Okay, do you think it was enough time to complete that
6 work?

7 A. Yes. I felt confident in it.

8 Q. Did you have any issues with the work that slowed it down at
9 all?

10 A. What do you mean by slowed it down?

11 Q. So you had -- okay, so you had a total of 28 hours to do the
12 work.

13 A. Yeah.

14 Q. Were you on -- were you on schedule?

15 A. We were.

16 Q. Okay.

17 A. We were doing okay.

18 Q. So you didn't have any issues with the --

19 A. No, there were no issues at hand that would've caused it --

20 Q. Okay.

21 A. -- to be delayed.

22 Q. Okay. Now, with the lagging and drilling, were they on
23 production as far as where they needed to be?

24 A. There was no production count.

25 Q. Okay.

1 A. It was a "take your time, do it safe, get done when you get
2 done" and that's what you get at the end of the day, there was no,
3 like, you have to reach this number.

4 Q. Okay. And I know that was for CWR work. When was that work
5 going to start?

6 A. CWR was already in, in that area.

7 Q. Was already, okay. So they're --

8 A. That's why they were back there following with us because
9 it's a slow process, so --

10 Q. Yeah. Okay. So they were -- they were right where they were
11 supposed to be.

12 A. They were in the area where they were supposed to be, yes.

13 Q. Okay. All right. Was there anything told to them about
14 anything time based, you need to get this --

15 A. No. There's never a time frame ever mentioned to them.

16 Q. Okay. So any distance requirements or anything like that?

17 A. As far as like you have to get between this point and this
18 point?

19 Q. Yeah, between this point and this point. Okay.

20 A. No.

21 MR. SKOLNEKOVICH: Okay. That's all I have, thank you.

22 BY MR. WERNIG:

23 Q. Josh Wernig, I just have a couple clarifications. You were
24 saying earlier that Bill and Jay were in the vicinity talking.

25 A. Correct.

1 Q. Was that at the yard?

2 A. Yes.

3 Q. When you walked up that morning for the briefing?

4 A. Yes.

5 Q. Were they in the middle of the briefing at that point?

6 A. No. It was before the briefing.

7 Q. Before the briefing, okay. And were you there for the entire
8 briefing?

9 A. Yes.

10 MR. WERNIG: Okay. That's all I have.

11 BY MR. BAILLY:

12 Q. P.J. Bailly, Housatonic. During the briefing, do you know if
13 all the tasks at that time has to be discussed?

14 A. Yes, but again, I don't know if there was prior discussion or
15 not, because the safety briefing incorporated both operations.

16 Q. Right, but say the operations part, you know, like who's
17 doing what, I mean, that's -- it should be in the briefing, it's a
18 job briefing, right?

19 A. Correct.

20 Q. All right. And then you have to sign off on if you
21 acknowledged the briefing was understood?

22 A. Correct.

23 Q. If Jason did the setup of the lagging, do you know when you
24 found out about it?

25 A. I found out about it that -- what do you mean by --

1 Q. Well, if Jason set out with the ladders, do you know when you
2 found about when they --

3 A. We had discussed it later on after the briefing of who was
4 going to be part of that crew because Jay asked me who would be
5 with them. Again, I had presumed, to my knowledge, that it was
6 already discussed and it was also covered in the briefing, safety
7 hazards of lagging, so --

8 Q. Yeah.

9 A. To me, I took that as acknowledgement between everyone that
10 it was known that there was going to be lagging done.

11 Q. Who qualified Brady or Rudy on those two pieces of machinery?

12 A. It was a general qualification as far as being that they ran
13 them for the past month and a half.

14 Q. Who said that they were proficient on them and they'll be
15 able to operate them --

16 (Music playing.)

17 MR. RENDE: There was a -- generally, it was mostly Jay
18 trained on the drill because I was busy with CWR during that
19 process when they showed up, then I went out and watched them
20 operate it and the operations of what he was doing was perfectly
21 okay, as far as my standards of operating the drill up/down/drill
22 it.

23 BY MR. BAILLY:

24 Q. All right, just a question. Is there anybody beside you at
25 Middlesex that qualifies the equipment?

1 A. Jay has the capabilities of doing it, as well.

2 Q. Jay does.

3 A. Along with Dan, because Dan has the proficiencies usually
4 written out.

5 Q. Are you aware that MassDOT requires certain personnel from
6 your company, from Middlesex, to be on the property at all times
7 when work is being performed?

8 A. To my knowledge, yes.

9 Q. Quality. Quality, safety.

10 A. Correct. I believe that was addressed.

11 Q. And in your professional opinion, do you think Middlesex was
12 prepared for this project?

13 A. My opinion, I'd say no, but I believe that was already
14 admitted.

15 Q. Going back to the questions of having a pilot or something
16 like that, I believe there was a move made outside of the normal
17 limits, but was or was not the flagger aware and the flagger was
18 present at most or all railroad crosses leading to where you were
19 going to stop, at the --

20 A. Yes.

21 Q. -- stopping point?

22 A. Yes, it was made clear as to where the stopping point was.

23 MR. BAILLY: Yeah. That's all I got, thanks. Thank you.

24 BY MR. CASACELI:

25 Q. David Casaceli, NTSB. You made a comment that somebody has

1 -- had all those proficiencies written down, can you just explain
2 what that means?

3 A. As far as I know, it's been written down, I have not seen
4 them, I do not know that aspect of what records are kept or not.

5 Q. Are we talking about like which operators are qualified on
6 which machines, is that we're talking about?

7 A. Yeah.

8 Q. Or as qualified machine operators.

9 A. I believe that was a talk a while back that that would be
10 done, but I do not know if it was or was not.

11 Q. How do you know who's qualified to run what machines?

12 A. I've seen them and I know which ones can run what.

13 Q. Because you've been out there the whole time --

14 A. I've been out there with them and --

15 Q. You're out here enough that you know every --

16 A. I'm out here every day.

17 Q. Okay.

18 A. I see them all.

19 MR. CASACELI: Do you want to take a break real quick, I
20 mean, we've been going for a while --

21 MR. RENDE: Yeah.

22 MR. CASACELI: -- or do you want to keep running?

23 MR. RENDE: Up to you guys.

24 MR. CASACELI: We could run all day.

25 MR. SKOLNEKOVICH: Yeah.

1 MR. RENDE: I'm sure you guys can.

2 MR. GORDON: Yeah. I mean, we're getting close, but if you
3 would like a break --

4 MR. RENDE: I'm fine.

5 MR. GORDON: Okay.

6 MR. CASACELI: Okay, good deal. That's all.

7 BY MR. KRAHOLIK:

8 Q. Todd Kraholik with the NTSB. I just want to clarify, Jason
9 and Jay are the same person?

10 A. Correct, correct.

11 Q. Okay, I wanted to make sure that was clarified.

12 A. We usually call him Jay for short.

13 Q. Okay. And I don't know if it's been said or not, but how far
14 away is -- what milepost is this bridge project?

15 A. Fifty-one seventy-three, I think. Yeah.

16 Q. So you were roughly 7 miles away, 6 miles, how far away?

17 A. It was roughly about 8 miles.

18 Q. And a week ago, roughly, I'm just going to say roughly, FRA
19 came on the property and notated some safety observations in
20 regards to blowing horns around --

21 A. Yes.

22 Q. -- employees. Were you aware of that?

23 A. I was at the location when it was -- when they came out, if
24 you're referring to the same time I was -- that I'm thinking of.

25 Q. Okay. Did you guys discuss that with --

1 A. Yes.

2 Q. -- everybody? Everybody knew?

3 A. It was discussed heavily in the next job briefing the next
4 day.

5 MR. KRAHOLIK: Okay. That's all I have.

6 BY MR. CASACELI:

7 Q. David, NTSB. Do you recall when that was?

8 A. It was during the 54.90 bridge, the time that I'm referring
9 to, 3 weeks ago, roughly.

10 Q. Do you recall who the FRA person was, by any chance?

11 A. I know Brian Kellum (ph.) and then I'm not sure of the other
12 guy, I can't think of his name.

13 MR. CASACELI: That's perfect, thanks.

14 BY MR. GORDON:

15 Q. All right, Joe Gordon, NTSB. We talked a little bit about
16 making moves within the limits of the authority, right?

17 A. Yeah.

18 Q. Are anybody from Middlesex, anybody that reports to you,
19 qualified on the characteristics?

20 A. Most of the operators have become very familiar with them as
21 far as if you reference a street or a location. Normally, they're
22 -- everyone's pretty on-point at this point because we've been
23 here long enough, but I don't have a list of like yeah, this guy
24 can tell you where this street is, this guy --

25 Q. Okay.

1 A. You know, it's --

2 Q. Okay. You mentioned that the lagging in that area, and of
3 course, they're making progress, but in that general area, that
4 lagging had been going on for days, right?

5 A. Relatively, a long time, yes.

6 Q. Okay. Had a Housatonic employee ever been out there to that
7 lagging job, like come out to check on that section --

8 A. I cannot speculate on that, but --

9 Q. -- to your knowledge?

10 A. To my knowledge, no.

11 Q. Okay.

12 A. As far as like checking up on them?

13 Q. Yeah.

14 A. No. Not to my knowledge.

15 Q. Okay. Would there have typically been a foreman out there
16 with them?

17 A. It depends on the day and what's going on, but generally,
18 it's -- no, it's -- they're -- usually, it's just a designated
19 lead guy and they just put lags in, that's it.

20 Q. And we know, from other interviews, that the day of the
21 accident there were four, but sometimes there was as many as six
22 that did the --

23 A. Generally, it was six.

24 Q. Okay. If there were -- had there been six, so say we got the
25 normal six-person lagging people --

1 A. Yeah.

2 Q. -- that had been doing that job for days, who would've been
3 the lead, normally?

4 A. Anthony was filling in some stuff in that, but -- I'm trying
5 to think who the sixth guy was, Nathan. It was -- Anthony usually
6 called me the most regarding any questions or anything, so I guess
7 he served a little more, but it was usually between Brady and him.

8 Q. Okay. Okay. But there wasn't like a physical assignment to
9 either from --

10 A. There's never a leader assigned --

11 Q. Okay.

12 A. -- as far as you're in charge, you dictate what everyone
13 does.

14 MR. GORDON: Okay. All right, that's -- I think that's what
15 I've got, I'm going to look around. You have any -- okay.

16 BY MR. PATANE:

17 Q. John Patane, FRA. Just going back to what we were saying
18 before, you said that the Housatonic railroad roadway worker in
19 charge would be monitoring radio transmissions.

20 A. Correct.

21 Q. But in the situation the day of the incident, as far as I
22 understand, Brady, the operator, he made a phone call to the
23 mechanic.

24 A. Correct.

25 Q. And it was via telephone, how they communicated.

1 A. Yes. The mechanic does not always have a radio.

2 Q. In that scenario, is the roadway worker in charge made aware
3 of the communications and the moves being made?

4 A. Due to the general nature of how close it is to the crossing
5 or to the yard, not typically because it's a mile, which is
6 obvious that everyone else was down at the bridge, so I'd say --
7 but normally, under most circumstances, they would've called me
8 first, anyway --

9 Q. Okay.

10 A. -- but he never did that day.

11 Q. So if there was telephone communication going on behind the
12 scenes --

13 A. Yeah.

14 Q. -- is there somebody who would be the liaison to tell --

15 A. Normally, it would be made --

16 Q. -- the roadway worker in charge what was going on?

17 A. That day I was not notified of anything, of the breakdown or
18 anything. Jay was sent a text regarding it.

19 Q. Okay.

20 A. I knew nothing of it.

21 Q. Okay. So I'm wondering, would you know -- so you weren't
22 even aware of the operation, you weren't aware of the lagging
23 operation going on?

24 A. I was aware of the lagging operation, but I was not aware
25 that he had left the work area to go get the machine fixed.

1 Q. Okay. Do you know if the roadway worker in charge was aware
2 of the lagging operation?

3 A. Again, I -- due to the new nature of the job briefings, I'm
4 not aware of what they are and are not aware of, so I had assumed
5 that he was, due to the nature that it's now dictated that
6 superintendents had to give it instead, so I'm not sure if it was
7 discussed beforehand or not.

8 Q. So you're saying the typical procedures of your job briefing,
9 on-track safety briefing have changed?

10 A. Mine, yes. Within the last 2 weeks they have --

11 Q. Okay.

12 A. -- due to Housatonic.

13 Q. Yeah. And is it just a totally different procedure or just
14 more details added to it?

15 A. I'm not sure of the nature of why or the reasoning of why
16 they want it changed, I just know that it was.

17 Q. Can you kind of explain a little bit of how it's changed?

18 A. So in the morning, normally I would give what we were doing,
19 who's going where, what pieces of equipment we were going to have
20 and then I'd go over any hazards that I could think of and I'd
21 have Mark tell what he's doing, and then Dan would go over all the
22 safety stuff, but then it was deemed that that was not informative
23 enough and Jay had to be there to give the job briefing.

24 Q. So would you say that it's an improvement although --

25 A. No, not in my opinion, because it was just -- and then

1 everything was diluted by safety, which safety is very important,
2 but at the same time, if you're diluting everything into it,
3 that's counterproductive because now everyone's going to get roped
4 up and focusing on the safety stuff, whereas instead of just
5 dictating that.

6 Q. So if it was the original procedure, do you feel like you
7 would've been made aware of the lagging operation during the
8 initial briefing?

9 A. I was aware of it, but yes, I feel that the flagger that --

10 Q. And the flagman with the --

11 A. The flagger definitely would've known.

12 Q. He would've known if it was the original procedure?

13 A. Because it would've been dictated that this crew's going
14 here, so-and-so and so-and-so and so-and-so, and then --

15 Q. Now, were you there when the Pettibone crane was pulling up
16 lane switching, heading out of the yard and heading down to the
17 bridge?

18 A. I was already on my way down to the bridge.

19 Q. You were already on the way down to the bridge. Do you
20 happen to know if -- were you -- was the lagger drill running and
21 being mobilized when you were in the yard?

22 A. I was not -- I was not there. The equipment was being
23 started to be moved, but I was not near. The lagger and the drill
24 were at the very back, so --

25 Q. Oh, it was in the back so --

1 A. Very back.

2 Q. -- they had to start up a bunch of other equipment?

3 A. They had to start everything up and move it out in order to
4 get it out.

5 Q. And was the roadway worker in charge on his way down to the
6 bridge at the same time when --

7 A. I'm not sure.

8 Q. -- everything was -- okay, so you're not sure where he was at
9 the time --

10 A. No.

11 Q. -- of all the stuff being mobilized and sorted out in the
12 yard?

13 A. No.

14 MR. PATANE: Okay, that's all that I have for now, thank you.

15 BY MR. SKOLNEKOVICH:

16 Q. Richard Skolnekovich, just a follow-up. So back to the
17 briefings again, so before -- before they had the superintendent
18 do it, you would brief with the flagger or the employee in charge?

19 A. I'd brief with everyone.

20 Q. Okay.

21 A. Everyone in the huddle.

22 Q. But I'm talking about with the railroad, Housatonic Railroad,
23 did you do any briefs with them first?

24 A. Normally, they'd ask what we were doing and what our limits
25 were, if we needed up to 60 or, you know, normally it was just

1 generally 50 to 59, but for a while there we were having trouble
2 with the tamper, so we had to get further.

3 Q. And who would you get that from?

4 A. Whatever flagger was on for that day.

5 Q. Okay, so the flagger is who you would get the information
6 from.

7 A. Yeah.

8 Q. Okay. And then -- so you get the information from a flagger
9 and then you would come back and brief your folks?

10 A. And then the flagger would join us in the huddle, they'd give
11 us our limits and then we'd go over everything that's being done
12 with everyone else.

13 Q. Okay. Now, with the change in the safety brief, so with the
14 safety briefs you were doing, was it more work-specific safety
15 that you would do?

16 A. Correct, I would focus more on what was being done, what
17 equipment and then any hazards I could think of around that
18 equipment, and then Dan would go into the general safety.

19 Q. Okay. And so now do you feel it's just general safety?

20 A. In my opinion, yes.

21 Q. Okay, so minus the work-specific hazards.

22 A. Correct, it's now --

23 Q. Okay.

24 A. Now we're -- I mean, they're still covering work specific but
25 it's again, it's getting diluted by everything.

1 Q. Do you feel it's just not on a level of detail that it needs
2 to be?

3 A. It's over detailed.

4 Q. Oh, okay.

5 A. It's too much at once, in my opinion.

6 Q. Okay.

7 A. Yes, you can have safety but you can also have to where
8 there's so much and no one's able to focus on any of it because
9 they're thinking of everything.

10 MR. SKOLNEKOVICH: Okay, I got you. Okay, I have no more
11 questions, thank you.

12 BY MR. WERNIG:

13 Q. Josh Wernig, I have a couple more. You said when you were
14 giving the briefings, you would brief with -- do guys see the
15 flagger beforehand?

16 A. Yes, we would just elaborate what was being done throughout
17 the day so they can make sure that they had the proper track for
18 it.

19 Q. And now that was Jason's responsibility to do it, so --

20 A. Yes. As far as I'm aware, yes. It was dictated to him now.

21 Q. And you weren't part of that conversation --

22 A. I had no conversation.

23 Q. -- that Jason had with you guys. Okay. But you did say
24 earlier, I think, that safety specific to the lagging operations
25 was discussed in that morning's briefing?

1 A. Correct.

2 Q. The day of the incident?

3 A. Yes.

4 Q. Okay. So you did discuss the job-specific hazards relative
5 to the lagging operations that were ongoing that day?

6 A. Yes.

7 MR. WERNIG: Okay. Thank you. Nothing further.

8 BY MR. BAILLY:

9 Q. P.J. Bailly, Housatonic. I guess the only thing I got is --
10 now, is -- would you say the lagging in the normal -- your
11 schedule is normal or was it pretty infrequent or --

12 A. Define infrequent.

13 Q. Is it like normal day-to-day stuff, I mean, was it CWR every
14 day, was it lagging?

15 A. No, no lagging. We did CWR. Due to the manpower. On days
16 that we did not do CWR, they lagged.

17 Q. All right. So when they were -- when you were doing CWR
18 there was no lagging done?

19 A. Correct, just being with the guys.

20 MR. BAILLY: All right, all right. That's all I have.

21 BY MR. CASACELI:

22 Q. David Casaceli, NTSB. You said you've railroaded for about
23 12 years?

24 A. Roughly, yeah.

25 Q. How many different railroad properties do you think you've

1 been on in that time? Ballpark.

2 A. I don't know, 15, 20.

3 Q. Great. And how many different employers do you think you've
4 had in that time?

5 A. Four.

6 Q. Four. So given that experience, what would be your judge of
7 the safety culture here on the Housatonic, with people you deal
8 with, you know, compared to the other --

9 A. As far as Middlesex goes or as far as Housatonic?

10 Q. No, Housatonic.

11 A. Everywhere you go, you get a different kind of culture as far
12 as whether it's more harped on this, more harped on that or not.
13 They're not unsafe, by any means, it's just different.

14 Q. Okay.

15 A. If that makes sense.

16 Q. What about Middlesex compared to your other employers that
17 you've worked with?

18 A. They're a little more construction-based safety whereas --
19 not rail specific, but generally, they're still safe and they
20 still focus on safety.

21 MR. CASACELI: Okay, thank you.

22 MR. KRAHOLIK: I don't have any.

23 BY MR. GORDON:

24 Q. All right, I think we're almost done. Yeah, so I think we've
25 touched on a lot of this during your interview because, you know,

1 I appreciate the perspective on the change to the job briefing,
2 safety briefing, everything like that, but you know, we want -- is
3 there anything you would like to add, you know, anything that we
4 haven't gotten to?

5 A. No.

6 Q. Aside from maybe revisiting the way that the job briefing's
7 structured and who's participating and how that goes, is there
8 anything else that you can think of that, you know, may have
9 prevented the accident?

10 A. No, it was an accident, I mean, can't think of really much
11 else. I mean, you harp on safety all day, but you know, if
12 they're complacent (ph.), stuff happens.

13 MR. GORDON: All right, thank you. If we have any follow-up
14 questions, okay to -- we've got your contact information --

15 MR. RENDE: Yeah, by all means.

16 MR. GORDON: -- okay to reach out?

17 MR. RENDE: Yeah.

18 MR. GORDON: Okay, thank you. We're going to go off the
19 record now.

20 (Whereupon, the interview concluded.)
21
22
23
24
25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

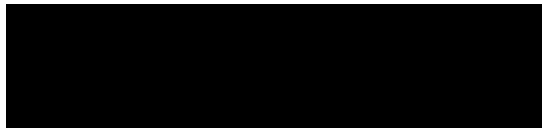
IN THE MATTER OF: MIDDLESEX RAILROAD EMPLOYEE
FATALITY IN GREAT BARRINGTON,
MASSACHUSETTS ON AUGUST 8, 2023
Interview of Nick Rende

ACCIDENT NO.: RRD23FR015

PLACE: Great Barrington, Massachusetts

DATE: August 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