

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: \*

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AMTRAK WORKER FATALITY \*

BOWIE, MARYLAND \* Accident No.: RRD18FR006

APRIL 24, 2018 \*

\*

\* \* \* \* \*

Interview of: BRIAN BROOKS, Foreman  
Amtrak

Holiday Inn Express & Suites  
North East, Maryland

Thursday,  
December 13, 2018

## APPEARANCES:

TROY LLOYD, Investigator in Charge  
National Transportation Safety Board

ROBERT "JOE" GORDON, Rail Accident Investigator  
National Transportation Safety Board

DAVE KANNENBERG, Regional Administrator, Region II  
Federal Railroad Administration (FRA)

JOHN DEFRANCESCO, Director of Safety Mechanical  
Amtrak

STEVE STEARN, Vice Chairperson  
Brotherhood of Maintenance of Way Employes Division  
(BMWED)

CARL FIELDS, Safety Task Force  
Brotherhood of Locomotive Engineers and Trainmen (BLET)

TYRONE NELSON, Union Representative  
(On behalf of Mr. Brooks)

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I N T E R V I E W

1  
2 MR. LLOYD: All right. We've got the recorders on. Go on  
3 the record.

4 So my name is Troy Lloyd. Today is December 13, 2018, and we  
5 are at the Holiday Inn Express & Suites located in North East,  
6 Maryland. And we are interviewing Mr. Brian Brooks.

7 Okay to call you Brian?

8 MR. BROOKS: Yes, it is.

9 MR. LLOYD: Okay. Mr. Brian Brooks. Brian, who works as a  
10 track foreman for Amtrak, or the National Rail Passenger  
11 Corporation. This interview is in connection with an accident  
12 that occurred on April 24, 2018 in Bowie, Maryland. The NTSB  
13 accident number is RRD18FR006.

14 The purpose of this investigation is to increase safety, not  
15 to assign fault, blame, or liability. NTSB cannot offer any  
16 guarantee of confidentiality, or immunity from legal or  
17 certificate actions. A transcript, which Joe was talking about  
18 earlier, a transcript or summary of the interview will go into the  
19 public docket. You will get a copy of that for review before it  
20 goes in.

21 Now the interviewee can have one representative of the  
22 interviewee's choice. Do you understand that this interview is  
23 going to be recorded?

24 MR. BROOKS: Yes.

25 MR. LLOYD: Okay.

1 MR. BROOKS: Yes, I do.

2 MR. LLOYD: So before we start this interview and questions,  
3 let's go around the table and let's introduce ourselves, okay?  
4 I'll start with myself. Say your first name, please spell your  
5 last name, and speak clearly because it is being recorded.

6 My name is Troy Lloyd, last name is, spelling is L-L-O-Y-D.  
7 And I'm with the NTSB, and I'm the investigator in charge.

8 MR. GORDON: Joe Gordon, G-O-R-D-O-N, NTSB, rail accident  
9 investigator.

10 MR. FIELDS: Carl Fields, F-I-E-L-D-S, Brotherhood of  
11 Locomotive Engineers and Trainmen.

12 MR. DEFRANCESCO: John DeFrancesco, D-E-F-R-A-N-C-E-S-C-O,  
13 Amtrak system safety.

14 MR. STEARN: Steve Stearn, S-T-E-A-R-N, Brotherhood of  
15 Maintenance of Way Employees.

16 MR. KANNENBERG: Dave Kannenberg, Regional Administrator of  
17 Federal Railroad Administration, K-A-N-N-E-N-B-E-R-G. And just so  
18 you know who I am, I've got Pennsylvania, Ohio, Maryland,  
19 Virginia, West Virginia, Delaware, and D.C. is my territory that I  
20 cover for all aspects of FRA, not just track.

21 MR. BROOKS: Okay.

22 MR. KANNENBERG: And you've got my card.

23 MR. BROOKS: Yeah. My name is Brian Brooks, B-R-O-O-K-S,  
24 foreman for Amtrak.

25 MR. NELSON: My name is Tyrone Nelson, N-E-L-S-O-N. I'm the

1 vice chairmen for the Eastern Region. I'm the union rep,  
2 representation.

3 MR. LLOYD: You'll be representing Mr. Brooks?

4 MR. NELSON: Yes.

5 MR. LLOYD: Okay. All right, are we ready to start?

6 MR. BROOKS: Um-hum.

7 INTERVIEW OF BRIAN BROOKS

8 BY MR. LLOYD:

9 Q. So, thanks, Brian, for coming up. Just to get started, if  
10 you can just start out with, give us your railroad history. When,  
11 you know, the day you started at Amtrak, and work your way up  
12 through how you've been promoted and all that.

13 A. Well, I started in -- May 11, '09. I started at Perryville  
14 MW base track department, worked there for about a year and a half  
15 or so, and then went to B&B Department. Got a foreman date there.  
16 Went back to track eventually, put my time in and got my MW-1000  
17 class, became a foreman, was a track inspector for 6 months in  
18 Perryville.

19 Left there, went back to B&B production, Harrisburg for about  
20 a year and a half, and then that's when I come to the undercutter  
21 for the first time. I was there for about 2 years. I was foreman  
22 doing RWP with the undercutter for I'd say about a year. And then  
23 I took the foreman job with the spoils gang with the undercutter  
24 for about another year, and then I went back to B&B.

25 And then last year, November before this accident happened, I

1 went back with the surfacing gang in the undercutter.

2 Q. What'd you say your foreman date was?

3 A. Track foreman date?

4 Q. Yeah.

5 A. Is April 10th, or -- yeah, April 10th, 2013.

6 Q. Okay. Describe the type of training you would go through if  
7 you would want to get promoted from the trackman level or the B&B  
8 mechanic level to how you worked your way up to a foreman.

9 A. Well, you have to bid a MW-1000 class for the foreman  
10 depending on what territory it comes in. Usually you have to take  
11 your PCs first, but with our class it was kind of rushed through.  
12 I already had my PCs from B&B where I went. But you go through --  
13 I don't even remember now -- is it a 4 or a 6 week course? Go  
14 through the whole MW book and take several tests. They do take  
15 you out to a yard and kind of give you a quick showing of how to  
16 string line track for alignment and profile. Basically that's it.

17 Then when you're done, you go to either what job you're  
18 assigned, if you're assigned a job or if you bid a job, and you  
19 start work.

20 Q. All that -- I guess the NORAC qualifications, all that stuff  
21 is in the same training?

22 A. Well, I had all that before --

23 Q. All that? Okay.

24 A. -- training going in, before then. My NORAC, RWP, AMT2.

25 Q. Okay.

1 A. But it's -- kind of just learn a whole book in 4 weeks and  
2 take a couple tests, and you're good to go.

3 Q. Yeah. How about the RWP training? How do you guys do that?

4 A. If you hire in, and then, the same thing. You have a -- I  
5 think it's a 2-week orientation. You do RWP, AMT2. You learn all  
6 about the codes of conduct and everything through Amtrak. If you  
7 pass your test, then you come out as a worker.

8 Eventually you bid NORAC after you have time. Well, you also  
9 have your time, grace period or whatever it is for watchman  
10 qualification that you go back for. But your NORAC class, that's  
11 a weeklong class, test at the end.

12 And then annually you have AMT2 -- or no, AMT2's probably  
13 every 2 years. RWP and NORAC is annual refresher course. It's a  
14 4-hour course and you take a test at the end.

15 Q. Any type of difference in training RWP versus trackman, or  
16 B&B mechanic versus a foreman or a supervisor?

17 A. Between trackman positions and B&B?

18 Q. I'm talking if -- I mean, is there any difference --

19 A. No. It's still got your --

20 Q. -- in the RWP training between rank and file personnel?

21 A. No. It's all the same class, as far as I know, for track and  
22 B&B, and I'd assume ET except for AMT2. They have a better class  
23 AMT2 than we do because they mess with the wires.

24 Q. Okay. What about RWP training? Does a foreman go through  
25 the same type of --



1 A. A foreman goes through the same training --

2 Q. -- training as a trackman would? Or --

3 A. -- a trackman does, yeah. Yeah, it's all the same for our  
4 refresher and all.

5 MR. LLOYD: Okay. Joe, you got anything?

6 MR. GORDON: Yeah.

7 BY MR. GORDON:

8 Q. I think -- and, Brian, as Troy mentioned, we're appreciative  
9 of you coming in and talking with us. And the reason for that is,  
10 you know, you've got the perspective that we need as far as kind  
11 of how the on-track safety was established out there that day.

12 So, you know, understanding that we're months removed from  
13 the accident, but, you know, this is the first opportunity we've  
14 had to talk with you. If you could just kind of go back to the  
15 beginning of the day, kind of where you reported, talk to us --  
16 all the way through job briefing and everything like that. No  
17 detail is too small. If, you know, something -- if you think of  
18 something, please share that with us and just kind of walk us  
19 through the sequence of events.

20 A. Oh, I started our morning, I was headquartered out of the  
21 Jessup Holiday Inn on Washington Boulevard, I think it is called,  
22 or something. Usually what we do, we come in in the mornings.  
23 The foremen usually get down about -- we start at 6. We get there  
24 about quarter of. You know, we'll have a sheet for everybody to  
25 sign in, for the sign-in for the day, and job briefing, we go over

1 for them to go to the jobsite.

2 We'll meet with the supervisors, managers, we'll get our jobs  
3 for the day. You know, talk to all the foremen. We'll disperse  
4 from there, go to the jobs. You have, you know, like at that  
5 point the rail gang was working, and surfacing, and then the  
6 undercutter. We leave the hotel, you know, the supervisor tell  
7 who he wants to take track.

8 So you go out, get out there, you -- I'll say you've just got  
9 two. You run under a speed restriction. So the undercutters at  
10 that point in time was, they -- the speed restriction was just to  
11 cover them. It didn't cover beyond them. It covered probably a  
12 couple cat poles at the south end of them. They were headed in a  
13 north direction, and then whatever they perceived they were going  
14 to cut for the day would cover to where they -- how far they felt  
15 they would get to. So they would have -- one of their foremans  
16 would come in and set all the speed signs and whistle boards.

17 Q. Okay.

18 A. And would let us know if anything was moved, so we would know  
19 where we'd be at for our job briefings.

20 When I got there, you know, I met with my gang. We met at 1-  
21 8 -- milepost 118 is where our equipment was tied down. I did my  
22 job briefing and all with them there, a track briefing.

23 Meanwhile, beings I took the track that morning, I talked to  
24 CTEC, got track conditions, did my Form D. The way we would do  
25 things, then we would take a picture of our Form D, send it to all

1 the other foremen, letting them know, you know, let me know your  
2 track condition at the end of the day. You know, they would let  
3 you know that they got your Form D. I would mark them down in  
4 Form O that each foreman was on.

5 At the end of the day, they text you back that they're off  
6 the tracks, what their track conditions are, and you'd take them  
7 back off your Form O.

8 Q. Okay. So you spoke about the supervisor decides who's going  
9 to take track. So you're talking about the Form D to place the  
10 track out of service --

11 A. Yes.

12 Q. -- the middle track?

13 A. Yeah.

14 Q. And there -- these were the three gangs that were working,  
15 the rail gang, the surfacing unit, and the undercutter, right?

16 A. Yes.

17 Q. And does each one of those gangs have their own individual  
18 number --

19 A. Yeah. It's --

20 Q. -- identification number? And you don't, you don't have to  
21 search for the --

22 A. It's (indiscernible) -- 202 is the undercutter, we were 222,  
23 and I believe the rail gang was Y222X.

24 Q. Okay. And as far as that goes, is there a -- when all these  
25 groups are working together, do they come under the header of just

1 one gang, or do you guys still use that individual identification?

2 A. We all -- when I do a job briefing with just my gang, then  
3 I'll -- just my gang is working with me. Like I say, if I have  
4 track, when I let them know that I have the Form D out, send them  
5 a picture of it, and then that's when I do my Form O of the  
6 foremen in the other gang.

7 Q. Okay.

8 A. At the end of the day, when they text me back and, you know,  
9 let me know this is my track conditions, we're all clear of the  
10 track, and then, you know, I'll text them back I got their text  
11 and take them off the Form O and do all the track conditions for  
12 all the gangs. If you have tracks, you put it in to CTEC when you  
13 put the track back on hold.

14 Q. Okay. And the Form O, is that -- you familiar with the term  
15 joint occupancy? Is that --

16 A. Yeah.

17 Q. That's what that is? Okay. Yeah. That helps.

18 So when a -- when they request joint occupancy to work on  
19 your track out of service, is there any discussion with the  
20 foreman of that individual gang about how the adjacent track on-  
21 track safety is going to be established?

22 A. Yeah. I think for the most part, then we was -- if we -- you  
23 know, we're doing our separate job briefings, track briefings, the  
24 only thing we would tell you, if I'm going to send anything back  
25 your way, I'll let you know. But for the most part, no, I don't

1 think there was really a whole lot established in between gangs  
2 other than, you know, if I need to send something back that way  
3 or --

4 Q. Okay.

5 A. Like my last two pieces would have been the regulator towards  
6 the rail gang. The regulator crew. If I had worked back that  
7 way, I would have let that foreman know that I got this coming  
8 back.

9 Q. Okay. So would it be fair to say that once the joint  
10 occupancy is established, it's up to the individual gang foremen  
11 to decide what form of adjacent track on-track safety they would  
12 use?

13 A. Yeah. I mean, if it's -- they do their own track briefing --

14 Q. Okay.

15 A. -- job briefing with their own gang and establish their own  
16 protection.

17 Q. Okay. And for the work that you were doing just with your  
18 gang, what did you -- did the work you were doing require adjacent  
19 track protection?

20 A. Yeah. I had -- was in an S curve. I had like 10  
21 watchmen out --

22 Q. Oh, okay.

23 A. -- to cover the work I was doing. I didn't even get them all  
24 put out that day.

25 Q. Okay.

1 A. Actually, I had two more guys I was walking to their post  
2 when I was called and told to get off the tracks.

3 Q. Okay. So let's talk a little bit more about the placement of  
4 the watchmen. You were still in the process of placing watchmen.  
5 Is there -- how does that go with the job briefing as far as  
6 fouling the -- is there just an understanding that no one fouls  
7 the track until all of those watchmen --

8 A. Most definitely. I usually write, that writes -- I usually  
9 write on my job briefing, no one foul the tracks until all of the  
10 watchmen and are in place.

11 Q. Okay.

12 A. I put that on mine every time.

13 Q. Okay.

14 A. Now, as far as placing watchmen, I mean, I don't think  
15 there's no standard way that's going do for -- you can say this is  
16 how it's going to be done, it's going to cover all type of work we  
17 do out here.

18 And I think where I'm trying to tell them that RWP is wrong.  
19 Depending on noise, the equipment moving, how many tracks you have  
20 adjacent, I mean, there's many different variables you got to look  
21 at in how your watchmen are going to be placed. You know, the  
22 separation between watchmens, curves. Like I say, we was in an S-  
23 curve. I had -- I wanted -- I needed like 10 watchmen at that.

24 Q. Okay.

25 A. Equipment moving back and forth, being able to keep watchmen

1 either close enough we're not getting too far apart when a piece  
2 of equipment travels, dust being kicked up by regulators, yeah.

3 Q. Okay.

4 A. There's just a lot of different variables.

5 Q. Yeah. So do you guys have -- when you're working a surfacing  
6 unit, are there people on the ground? Do you have trackmen that  
7 are on the ground working in coordination with that equipment?

8 A. Usually we have a surface -- the tampers have two guys  
9 pulling measurements that the surveyors have on the adjacent rail  
10 for track centers and track elevations, and at least one guy  
11 that's a tap man with them because of the noise --

12 Q. Okay.

13 A. -- that moves along with them.

14 MR. GORDON: Okay. All right. Well, thank you. That's all  
15 I've got for that first round. I'll pass it around the table  
16 there.

17 MR. FIELDS: Carl Fields, BLET. No questions, thank you.

18 MR. DEFRANCESCO: John DeFrancesco, Amtrak. No questions.

19 MR. STEARN: Steve Stearn, Brotherhood of Maintenance of Way.

20 And, Brian, thanks for coming in and participating in this  
21 discussion. I would have a couple of questions, and probably not  
22 in any specific order.

23 BY MR. STEARN:

24 Q. But one question I would have would be that typically the  
25 gang, the undercutter gang, that includes surfacing, the rail gang

1 -- on that day, the rail gang and the undercutter would have a job  
2 briefing at a headquarters?

3 A. Yeah. We meet at the hotel. I mean, I don't do a job  
4 briefing for all three gangs. But I do know my guys and my gang,  
5 I -- every day I do a job briefing with them when I have them sign  
6 my sheet.

7 Q. So that was my question, is how many workers would  
8 participate in this initial job briefing at the headquarters?

9 A. My job briefing, every day I have -- I had like 28 guys I  
10 think was in my gang. It would vary because, I mean, a lot of  
11 rotation of the men in and out of the gang. It was up to like 28,  
12 30 guys, but -- well, just in my gang along. Now I took care of  
13 just my gang.

14 Q. So then it would be fair to say that the undercutter would  
15 have their own job briefing at the at the headquarters and --

16 A. I haven't talked to them. I don't know. I didn't -- I don't  
17 know if they did or not, or --

18 Q. And so then when you're out on the tracks and you're  
19 preparing to have an RWP briefing, it would be the same, that your  
20 briefing would be exclusive to your group, maybe the surfacing  
21 group?

22 A. Yep.

23 Q. And other foremen would be responsible for the briefings for  
24 their functions?

25 A. Yeah. That's correct.



1 Q. Okay. You had referenced that there was a speed restriction.  
2 Would that restriction -- what dictated that restriction? Can --  
3 do you remember?

4 A. As far as I know, the only -- back at that point, the only  
5 gangs that required speed restrictions are the -- I guess the TLM  
6 and the undercutter. It would be an 80-mile-an-hour restriction  
7 on the adjacent tracks. And like I said, if you were south moving  
8 in a north direction, usually they would go like one to two poles  
9 behind the undercutter, the last piece. And then, say if they are  
10 cutting 2500 feet a day, they might set it out to, I don't know,  
11 like 3500 feet in front of them, allowing them room to be able to  
12 do what they think they're going to get cut for the day.

13 Q. So generally, we'd say that the undercutter had an 80-mile-  
14 an-hour slow-by?

15 A. Eighty-mile-an-hour slow-by.

16 Q. But your surfacing unit was farther away?

17 A. Yeah. We would be behind them, depending on how far they  
18 were running ahead of us. You know, we didn't fit under their  
19 restriction, their slow-by.

20 Q. And it's typical for a unit such as an undercutter to be  
21 spread out over a sizeable geographic?

22 A. Yeah. It's -- they can get pretty far out ahead of us, or at  
23 times, you know, depending on how big of a hurry that they wanted  
24 to worry about the undercutter getting somewhere. Like, you know,  
25 they could slow us down, run one tamper or have us doing other

1 stuff and let the undercutter get ahead of us and plan to have him  
2 -- on having us catch up later if they need us to do other things.  
3 But the undercutter could get way out in front at times.  
4 Actually, our equipment was having problems. I mean, I think we  
5 were at 116 and they cut out at Grove.

6 Q. Which is milepost?

7 A. 112. That's before.

8 Q. So 4 miles away?

9 A. Yeah.

10 Q. Basically. So another question I would have, Brian, when it  
11 comes to the placement of watchmen, is that you said there's -- to  
12 generally state, you said there was no defined norm as to placing  
13 watchmen, that there are variables and circumstances would  
14 dictate?

15 A. I mean, the rule reads 15 seconds in the clear. So, I mean,  
16 I don't even think at that time there was a hotspot thing where  
17 there was watchmen they used anymore.

18 So yeah, it's pretty much on the foreman to provide the  
19 protection for his men based on his decisions -- sight distance,  
20 noise, anything else that can interfere with the watchmen. Like,  
21 I mean, you're working at milepost 117.5, you're right under where  
22 the planes come in the airport. So when you do your whistle test,  
23 it tells you -- there might not be a plane at that time, but you  
24 still have to allow for it. It's being -- knowing the territory  
25 and the equipment you're working around and your surroundings.

1 Q. So the number of workers that you would have who would be  
2 available to be watchmen, typically do you have enough people to  
3 provide watchman protection?

4 A. Typically for most curves. I mean, like I think when we were  
5 doing right there, we were doing -- we were having to put guys out  
6 where they didn't have relief because we were using so many in the  
7 S curve. So the relief policy would be, probably like after 3 --  
8 somewhere between the third and fourth hour, we'd give them a  
9 break. And there was, no -- we didn't have enough guys to give  
10 anybody relief in the section we were in that day as far as  
11 surfacing.

12 Q. So then as a foreman, if you determine that you needed, I  
13 don't know, X number of watchmen, and you didn't have those forces  
14 available to you, what would we do at that point?

15 A. Oh, as far as the surfacing gang, at that point we had two  
16 tamers kind of running. We had like two foremen, sometimes three  
17 foremen in that gang; we could split them up. We run -- the first  
18 tamer would run, running raise in a track. The second tamer in  
19 the other half of the gang would come back and they would be  
20 finalizing the track.

21 If you didn't have enough watchmen for both, we would shut  
22 one unit down or the other. Whether we needed to run raise or if  
23 we were doing final on the track, we would shut one of them down.  
24 Or you'd have to call your supervisor and tell him you have to  
25 find somebody somewhere else.

1 Q. And would those type of circumstances, find somebody else,  
2 could they lead to, I don't know, arguments or discussions about  
3 how maybe they felt? For example, a supervisor might feel you  
4 didn't need the number of watchmen you felt you needed?

5 A. I mean, you might get questioned. I felt with my -- Mike  
6 Roden (ph.), any time you could prove a point with safety, you  
7 didn't have to fight with him.

8 Q. Okay.

9 A. But, yeah, I've really never run into that case. But I'm  
10 sure there's probably times you'd have to prove your case.

11 Q. So backing up a little bit farther, we talked about your RWP  
12 training. That was, I guess, with your initial hire and in your  
13 2-week orientation. But you also referenced there was other  
14 information covered in that, such as the code of conduct or what  
15 we call the standard of excellence. So then, I would be  
16 interested in knowing how much in that 2-week orientation was  
17 spent on the RWP training?

18 A. It's been 10 years ago, Steve. Yeah --

19 Q. It was like it was yesterday, right?

20 A. I'm not as young as I used to be.

21 UNIDENTIFIED SPEAKER: We all aren't. Believe me.

22 MR. BROOKS: Yeah. I mean, the pace is pretty good. I mean,  
23 there's a lot to learn when you're talking about, you know,  
24 learning that whole book and coming out here. I mean, by the time  
25 you get out of class, honestly, you don't know nothing. You ain't

1 going to know it till you get out here and you start working.

2 BY MR. STEARN:

3 Q. Then we -- annually we requalify on RWP. How long of a  
4 process is that and what's involved with that?

5 A. I think RWP's a 2-day class with your requalification and  
6 your AMT2. Usually, I think every other year, they kind of give  
7 you something else in there to do with it.

8 Q. So the record's clear, AMT2 is our Awareness of the  
9 Electrical --

10 A. Electrical, yeah.

11 Q. -- and catenary system, and the --

12 A. Catenary system of the --

13 Q. -- safety precautions there. So in that 2-week  
14 requalification period, it's not exclusively devoted to RWP.  
15 There are other disciplines involved in that 2 days?

16 A. Yeah. Like I said, I don't know how much of it was, but I  
17 know you kind of go over the code of conduct standards and all  
18 that. I don't know if you do, maybe paperwork. It's been a long  
19 time.

20 Q. Okay. All right. And then just one other thing I'd like to  
21 talk a little bit about, hotspots. I mean, could you -- what are  
22 hotspots?

23 A. Hotspots are the curves and time you watch when you're  
24 supposed to be at post in that curve at a minimum.

25 Q. And you are aware, before the accident, that there were

1 hotspots on Amtrak's Northeast Corridor?

2 A. There was at one time. As far as my, understood it. They  
3 weren't put in the RWP book again at -- the last one, I don't  
4 think. When RWP book changed in --

5 Q. Okay.

6 A. -- with the January before that going into April, I don't  
7 think the hotspots were in there. Or at least they all weren't  
8 put in the book.

9 Q. In your travels as a foreman up and down, either as a B&B  
10 foreman or as a track department foreman, are hotspots on Amtrak's  
11 property, are they identified somehow? Are they marked?

12 A. Yeah.

13 Q. Placarded?

14 A. There were signs on the post with the orange disk in the  
15 middle, or red disk.

16 Q. Are they all -- are all hotspots posted, do you believe?

17 A. I know they were posting a lot of them one time, back in  
18 2010. Like I said, I'm not even sure they weren't taken down.  
19 I'm not sure.

20 Q. Okay. And then one other thing. Just to talk a little bit  
21 about PCs, which are physical characteristics. Generally,  
22 physical characteristics, you would be responsible for  
23 understanding the aspects of the railroad, the numbers of the  
24 tracks, the speeds of the tracks, passenger and freight, the  
25 breaks in the rail, sidings, switches, turnovers, turnouts, et

1 cetera?

2 A. Interlocking, stations --

3 Q. And so how do you get -- you're tested on physical  
4 characteristics at some point?

5 A. Your NORAC book and track charts. And head-end passes, take  
6 a train ride.

7 Q. So basically, you, on your own, familiarize yourself with the  
8 physical characteristics of the railroad?

9 A. Yeah.

10 Q. So there's a lot of memory involved?

11 A. Well, the more territory, the more memory.

12 MR. STEARN: Okay. I'm -- and, Brian, thanks. No questions  
13 for me for this round, the rest of this round. Dave?

14 MR. KANNENBERG: What do you mean no questions? You just  
15 asked 30 of them.

16 MR. STEARN: I'm sorry. I have 30 more.

17 MR. KANNENBERG: You guys didn't leave me --

18 MR. STEARN: I thought I'd take a break.

19 MR. KANNENBERG: You guys didn't leave me much left to ask.

20 MR. STEARN: Give me a drink of water.

21 MR. KANNENBERG: Yeah. They got all the good questions out  
22 of the way there, and so maybe we can dig just a little bit  
23 deeper.

24 BY MR. KANNENBERG:

25 Q. And I want to go back. On your job briefing -- I don't want

1 to go through the whole thing, but suffice it to say you don't --  
2 you didn't job brief everybody that day that was out on the  
3 jobsite with every single gang?

4 A. No. I had just Y222, the surfacing gang.

5 Q. Yeah. And then the other gangs took care of their own job  
6 briefings?

7 A. Yeah.

8 Q. Okay. So you -- and we'll put it in simple layman's terms.  
9 You essentially got one -- the track that everybody was working  
10 out of service for the day?

11 A. Yeah.

12 Q. And then they were responsible for their -- and I'm asking,  
13 not telling -- responsible for their own adjacent track  
14 protection?

15 A. Yeah.

16 Q. And the type of protection they were going to use, and  
17 everything that involves with that, and job briefings, and  
18 everything, correct?

19 A. Correct.

20 Q. Okay. That's what I thought.

21 I got a question. Do you think everybody -- I shouldn't say  
22 that. Do you understand the concept of when you're using  
23 watchman/lookout everybody has to be in the clear 15 seconds prior  
24 to the train getting there?

25 A. Yeah.



1 Q. Okay. So do you think everybody -- and this is an opinion.  
2 It doesn't have to be -- you know, this is just your feelings. Do  
3 you think everybody else out there knew that they had to be in the  
4 clear 15 seconds before a train got there and not just -- and the  
5 way this ties in is in sight distance. You need to have more than  
6 15 seconds worth of sight distance because you have to add in any  
7 additional time to clear the track.

8 A. Yeah. The way I do mine, it gives you on your RWP card,  
9 breaks down cat poles in, you know, the southern district we're  
10 in, for the track speeds, how many cat poles you need. I believe  
11 125 is like 11½ or 12½ poles. The way I do mine is, I divide that  
12 in half.

13 If I need 15 seconds, it takes 11 poles, I cut that in half  
14 and I add the poles to that. That should give me 22, 23 seconds  
15 to get my men in the clear in time. So that allows five, six,  
16 seven watchmen out, delays from one to the other, and usually 4 or  
17 5 seconds for the watchmen to get from one track off to the other  
18 track.

19 Q. That's a great way to do it. I understand Amtrak is now --  
20 and I don't know if you've heard about this, but I believe Amtrak  
21 is now going to incorporate into their watchman/lookout books time  
22 built into the tables to where it'll essentially do what you're  
23 already doing. So maybe that'll be a help. Hopefully it comes  
24 out soon, and maybe it is coming out soon.

25 MR. STEARN: No, it's out.

1 BY MR. KANNENBERG:

2 Q. Let's go back to the day. Did you -- of course, now I --  
3 understanding that you didn't have a job briefing with all of the  
4 crews, but the job crew that you had your job briefing with, the  
5 surf crew, do you remember what the rule of the day was that day?

6 A. No, I don't -- no.

7 Q. Okay. I remember what it was. It was to stay in the clear  
8 as a watchman/lookout as you're giving the --

9 A. I was going to say, I think it -- I think you're right.  
10 Because I do think I remember that of all things.

11 Q. I was there that day. I remember it well.

12 A. I believe you're right.

13 Q. I couldn't believe it.

14 A. Because I believe I can remember saying that. That was the  
15 safety rule of the day.

16 Q. I couldn't believe it.

17 UNIDENTIFIED SPEAKER: Is that right?

18 MR. KANNENBERG: Yep. Not that that --

19 MR. BROOKS: No. I think we -- remember discussing that.  
20 You're exactly right.

21 MR. KANNENBERG: So that was just a weird -- horrible  
22 coincidence, I guess. Not weird.

23 BY MR. KANNENBERG:

24 Q. Do you think everybody went -- well, you went through that  
25 with your group, and I assume everybody -- I guess we're not going

1 to assume, but to your knowledge --

2 A. I --

3 Q. -- everybody else went through that at (indiscernible) --

4 A. I am the person that's always been very against putting a  
5 watchman in the gauge of the track for any reason. Unless I  
6 absolutely have to, I do not let my guys stand on the shoulders.

7 Q. Keep doing that.

8 A. Throughout the day, they come up and I start catching them.  
9 I mean, it -- I put a lot of his guys -- get a lot of guys mad.  
10 They don't like the way I do things.

11 Q. Yeah, they get to go home though, right? So -- well that's  
12 good.

13 I got, I guess, two more things to talk about a little bit.  
14 And you were talking also about, you know, getting protection out  
15 there and sometimes maybe you don't feel real comfortable with  
16 using watchman/lookout, and I don't blame you. 135 mile an hour,  
17 125 mile an hour, 80 mile an hour, those are fast silent trains  
18 out there. Do you feel comfortable -- and part of roadway worker  
19 protection, and that should be taught, is that if you don't feel  
20 comfortable, you have the right to get a higher form of  
21 protection. Do you feel comfortable asking for a higher form of  
22 protection if you're not feeling comfortable for whatever reason?

23 A. Yeah. I mean, I just -- if I don't have the watchmen, we're  
24 either going to work under, you know, a track out of service and a  
25 foul and a shunt, you know, if I'm anywhere close. So --

1 Q. Okay. You ever get any pushback if you decide to use a  
2 higher form of protection from anybody?

3 A. I never have myself personally. I mean, I've --

4 Q. That's good.

5 A. I've had to explain myself and why I feel the way I do, but  
6 I'm pretty hard-headed.

7 Q. Well, that's good. That's good. I guess last thing I want  
8 to talk a little bit about is, are you familiar with FAMES?

9 A. Yeah, the accident and --

10 Q. Yeah. Fatality Analysis of Maintenance-of-way Employees and  
11 Signalmen.

12 A. Got all the data and stuff of --

13 Q. I'll probably get it wrong --

14 A. Yeah. We read them --

15 Q. -- now that I'm being recorded.

16 A. We get to read them every once in a while.

17 Q. Yeah. We'll -- Roy down there is on there as well. And I  
18 participate with that, and we'll be looking at this accident, you  
19 know, probably a year or two down the road after every -- all the  
20 dust settles. And what -- if you were on the FAMES group, what  
21 would you focus on if you were looking at this fatality?

22 A. I think we need better training for our watchmen. Even as  
23 far as the foremen, I don't understand why 2 years -- no matter  
24 what background a person comes from, 2 years they can become a  
25 foreman out here. I was 43 when I hired in here and I spent my

1 whole life in construction. I can tell you right now, 2 years  
2 ain't enough.

3 Q. Well, I'll tell you what, I value that opinion. Thank you.  
4 That's all I got for this round, unless you got anything else you  
5 want to say about that.

6 A. I mean, there's guys that come out that can do it, but, I  
7 mean, as a whole, it's not enough. There needs to be assistant  
8 watchman program in my opinion. You need to come out -- you know,  
9 assistant foreman rather. Come out, spend time in all aspects of  
10 the track department, learning to pilot, learning division work,  
11 learning to work with these production gangs.

12 I mean, the same thing, you're going in there, you have MW  
13 book I think on just the rules of -- the conditions of the tracks  
14 that you have to learn. Nothing about learning to pilot. There's  
15 nothing really to learn other than your RWP card on how to place  
16 watchmen. You know, a lot of these guys are 20-something years  
17 old. They ain't even worked in the construction field.

18 MR. KANNENBERG: I appreciate that. I guarantee I will, I  
19 will remember that. I appreciate your insight. Nobody knows  
20 better than you. That's all I got.

21 MR. LLOYD: So if you don't mind, I'm going to continue on.  
22 So I like to piggy back off of a couple of questions that Dave and  
23 Stearn was asking.

24 BY MR. LLOYD:

25 Q. So while the RWP's fresh in your mind, what we're talking

1 about -- that's why I asked it before about the RWP training, the  
2 difference between rank and file. How does Amtrak train a foreman  
3 on how do I know if I'm putting that watchman out at the proper  
4 sight distance? A train's going 125 mile an hour, 1.466, he's  
5 moving this -- so many feet per second, I need this to get my  
6 minimal 15, and then he's got a welding helmet on and it's going  
7 to take him an extra, what? How do they train that in that  
8 program? I -- and I know what you're saying --

9 A. Tracks, track speeds.

10 Q. And I know what you're saying. I was at Amtrak when we had  
11 PAT before RWP, and we had the same little cards.

12 A. Track speeds.

13 Q. But I'm just sitting there saying, so --

14 A. Track speeds, take into consideration of your surrounding,  
15 the work that's going on, noise. That's about it.

16 Q. So let me throw --

17 A. That I can really --

18 Q. So let me throw a caveat in that area. At Bowie, there's  
19 multiple track speeds on Track 1. It goes from 105 up to 110,  
20 back down to 105. So how do I check that that --

21 A. Me, myself, you've got your NORAC book, and it gives you all  
22 that in there. If you've got a curve, it's 90 or whatever. My  
23 point is, if I'm working in that track and it says at 125 mile an  
24 hour at any point, that's the speed I go with --

25 Q. Okay.

1 A. -- on 2, 3 track, whatever. Yeah. Say 1 track's 110 at the  
2 highest point, then, you know, 1 track's 110. You still need to  
3 put your watchmen at 125 an hour because that's where they need to  
4 be able to see the other tracks.

5 Q. So does Amtrak actually do tabletop exercise? Do they take  
6 you out and they say, okay, you know, for me to be a greenhorn  
7 foreman, now I got to work with another foreman for whatever, and  
8 he's going to teach me or the trainer's going to show me how to  
9 place watchmen, you know, how to determine 15 --

10 A. Well, you're --

11 Q. -- seconds or I need 30 seconds, or --

12 A. You have to spend 10 days on a track, I believe it is, 70  
13 some days at Amtrak before you can get watchman qualified. I  
14 believe it's just a 1-day? Is it 1 day for the watchmen course,  
15 the initial?

16 UNIDENTIFIED SPEAKER: No, it was a couple days.

17 MR. BROOKS: It's a couple days?

18 You go in and they teach you everything as watchman, advance  
19 watchman, daytime, nighttime, what you're allowed to use and all.  
20 And then I believe you're supposed to be mentored for 3 days,  
21 which is going out and you stand behind a watchman while he  
22 exercises his, you know, job for the day. The next day you'll be  
23 beside him and you'll mimic him. Third day he will be behind you  
24 and make sure you do it.

25 BY MR. LLOYD:

1 Q. Who mentors the foreman? Who mentors the foreman that  
2 they're out there providing the right on-track protection and the  
3 proper adjacent track protection?

4 A. When I come out of class I asked if I could have -- because I  
5 bid the job. This job come out quick, so there was no -- usually  
6 when foreman classes come out, you don't have PCs. So usually you  
7 got a few weeks to a couple of months between the time you get  
8 awarded the class and you actually start class, to get your PCs.

9 Q. Oh, okay.

10 A. Now, most of the places I've been, supervisors or whatever  
11 let you go out and you walk with the track inspectors and all  
12 that, and you start learning the PCs of the track and learning how  
13 to do certain things. So I asked if I could have that courtesy  
14 when I went, because I already had PCs from being a B&B foreman.

15 Q. Got you.

16 A. I was told -- they had a supervisor meanwhile retired. I was  
17 put into a gang from 6 weeks, and four guys with 120-some years  
18 between them of railroad experience, were track inspectors for  
19 four sections of tracks, which is probably about 40 to 50 miles of  
20 track, all bid other jobs when they knew they were leaving. I got  
21 home, I had a letter in my mailbox that said -- this was like, May  
22 5th -- April 10th, you were awarded track inspector of this  
23 territory, and that's where I started Monday morning. And the guy  
24 that me and him ended up doing all four sections, he had been  
25 inspecting track for 6 months. And we had 40 miles of track to



1 inspect.

2 But there is a guy was -- I don't know if he's still here,  
3 Mitch Sullivan. He is supposed to be a mentor for the track  
4 inspectors. I called him, he come down with me for 4 days.

5 Q. So Joe asked a question about JO authority.

6 A. Right. Yeah.

7 Q. Joint occupancy authority. So what's the difference -- and  
8 Amtrak may have a different policy. What's the difference between  
9 the RWIC and the EIC?

10 A. RWIC is he's got the track out -- like if we had a track  
11 Bowie to Grove, he's got the track out the whole way. He gives  
12 you permission with your gang to come in and work on his track,  
13 which back in the day was piggybacking with a radio.

14 Q. So who owns the real estate?

15 A. The Bowie, the RWIC.

16 Q. Okay. So --

17 A. So that day would have been me having Form D.

18 Q. Right. So how is it the term, because I knew -- I think  
19 Stearn was asking, you will do the Form D -- I have a copy of it  
20 here. You had the line 13, barricades erected at --

21 A. Exactly.

22 Q. -- Bowie and Grove. So how would RWIC do the job? So the  
23 RWIC that day -- you were the RWIC -- you don't job, you don't on-  
24 track job safety brief the whole crew.

25 A. Yeah.

1 Q. So you would do your gang. I would be the EIC of a rail  
2 cutting crew; I would do my gang. And then Dave would do his,  
3 correct? So how does the RWIC come to an understanding that  
4 you're comfortable with my adjacent on-track protection? Because  
5 you're the guy --

6 A. Right.

7 Q. -- because the RWIC is the guy that owns the real estate. So  
8 how's, how's that --

9 A. Well, I only had track a couple times probably. It's usually  
10 Jeffery Carowick (ph.), Foreman Carowick would take track. I did  
11 have an incidence where right around the same spot, 1940, he was  
12 doing work, I had track. So I would go over to him with -- you  
13 know, I got the undercutters up here, we're going to be working in  
14 this area. That was before the rail gang even hit the tracks.  
15 They were still working in the yard.

16 And we let him know, you know, what all my equipment was  
17 going to be doing and everything, and we get what he's, you know,  
18 got to do, put him on my Form O and the time he -- you know, his  
19 name, where his location was, where he's going to be working at on  
20 your Form O, and what time he started, then have him call me when  
21 he would leave. Then I would take him off the Form O and I would,  
22 you know, inform the guys who worked with me that, you know,  
23 somebody is in here.

24 Now, as far as the undercutter, we all knew what we were  
25 doing. My process was, I took track, I would take a picture of

1 the Form D, send it to -- text to all the other foremen, let them  
2 know I have Form D, track was clear. Send them a -- let me know  
3 at the end of the day track conditions and when you're clear. And  
4 that's, you know, pretty much the way we do things, and that's  
5 when I would log in to my Form O.

6 If one of them was going to be near where I needed to, you  
7 know, work, we would, you know, talk ahead of time at the hotel or  
8 we would call on the phone and say, hey, look, I need to send  
9 equipment back there or guys back there to work with you, and let  
10 him know ahead of time.

11 And there would also be times we would get close enough to  
12 each other to where you might, you know, if we called the  
13 undercutter, so before the job brief -- you know, the job would  
14 start in the morning and I might call Foreman Otsenberg (ph.) or  
15 the undercutter, or Foreman Duff (ph.), whoever is doing our track  
16 briefing that morning, and we would talk together and -- hey, I'm  
17 going to be having them guys up close to you; can, you know, my  
18 watchmen join in with your watchmen? If I go to pull out, I'll  
19 let you know ahead of time. Or if you're going to pull your guys,  
20 you let me know. And we would log it on our briefings.

21 I mean, that didn't happen often, but, you know, sometimes  
22 that was needed to --

23 Q. So within this realm of multiple people in charge, who's in  
24 charge?

25 A. Whoever takes the track, Form D.

1 Q. So how --

2 A. That's your RWIC.

3 Q. So how's it hashed out if the foremen have a discrepancy on I  
4 think we need this type of adjacent track protection?

5 A. Well, that --

6 Q. Or I think we need a higher level of protection.

7 A. That's their --

8 Q. I mean, they're 2½ miles down the road.

9 A. That's up to their -- each individual gang. My track  
10 protection comes between me and the surfacing gang.

11 Q. Okay.

12 A. We do -- unless you do a job briefing with them and track  
13 briefing with them. If we go together as one unit and we do a job  
14 briefing and track briefing together, then whoever does that job  
15 briefing and track briefing is in charge of those two gangs.

16 Q. So how --

17 A. But if you're by yourself, the foreman of that gang has the  
18 protection for them.

19 Q. So how does CTEC too, handle five different foreman calling  
20 for five different styles of on-track adjacent track protection  
21 between barricades?

22 A. If you're in the same block, then you talk to each other. If  
23 I'm in the same block and the undercutter is needing foul -- we're  
24 cutting 2 track, they need foul on 3, I need foul on 3, and we  
25 can't put up our own shunts to distinguish the difference on who's

1 got it, one of us will decide to do it and when they get their  
2 foul, they call you on the radio: I got foul, confirm shunt at  
3 this time.

4 CTEC calls in: Two clear. He'll tell him to stand by.  
5 He'll call us, hey, I need you to clear up; let me know when  
6 you're clear. When you get cleared, you call him, all right, I'm  
7 all clear at this milepost. He'll call back and let CTEC know  
8 that he's cleared the track when he's clear.

9 Q. Okay. So how would it work out if you would get a foul, it  
10 could be a 4 or 5 minute foul, then all of the sudden I'm 2½ miles  
11 and all of the sudden I need a foul? Then, but I'm probably going  
12 to be a little bit longer than you.

13 A. If you're 2½ miles, there's probably an automatic block  
14 signal between us. So he'll give this foreman foul at a milepost  
15 location and you foul at this milepost location. You put your  
16 shunt down, it's going to confirm each shunt.

17 Q. So you're fouling, rather than between absolutes, you're  
18 fouling at milepost --

19 A. Mile, yes.

20 Q. -- 12 and milepost 13 and milepost 14, and each foreman would  
21 put down a shunt. So if you would clear your foul and pick up  
22 your shunt, Dave would still have his shunt down and still show  
23 some type of --

24 A. Yeah.

25 Q. -- track occupied light? Is that how that works?

1 A. Yep. Yep. You all got it.

2 Q. And that's how you guys do the joint occupancy? Okay.

3 And you said on top of that, you guys fill out that NRPC form  
4 for joint occupancy --

5 A. Well, it's --

6 Q. -- that's in your RWP?

7 A. No, that's -- no, when you're -- if you're on one side of the  
8 -- say, like part of my Form O is in the morning, yeah, I know  
9 he's out there and he's working.

10 Q. Right.

11 A. He's still in charge of his own, getting his own TOL and  
12 stuff, and protecting his guys. I would do mine. And then the  
13 next block down, if the rail gang was below that block, then they  
14 do theirs.

15 Q. Okay.

16 A. But the -- I wasn't sure if I had one. Here's your Form O.

17 Q. Okay.

18 A. This just lets you know the employee in charge of the other  
19 work crew -- you know, I notified about the work crew being over  
20 there. This is where you put the location they're going to be  
21 working in, and the time he would start.

22 Q. Okay.

23 A. And then the time they clear.

24 Q. Okay.

25 A. So it -- when I did my Form D --

1 Q. Right.

2 A. -- I send the rail gang theirs, the undercutter theirs, I put  
3 their name in here, and the time, and where they're working at,  
4 and I check this box.

5 Now, as far as foul throughout the day, their foul book and  
6 them is their fouls. They call their fouls in, I call my fouls  
7 in. Other than -- unless we both get inside the automatic signals  
8 together. They're in between automatic and the interlocking, and  
9 we're both in that section at the same time, then CTEC can't give  
10 us both foul at the milepost because they can't tell which one's  
11 got the light and which one doesn't. So you have to -- and I  
12 could -- we could both have shunts down. His might be drawing a  
13 light and mine might not be working. So if he gets his back and  
14 pulls his shunts up, then, you know, I wouldn't be showing a TOL.  
15 So that's where we end up sharing a foul together that way, and  
16 CTEC can decide which one they're going to give it to.

17 Q. Yeah.

18 A. You know, can call the other guy and let you know that, you  
19 know, I got foul at this time, you got permission to foul the  
20 track.

21 Q. What day did you -- what day was you awarded into or fill the  
22 (indiscernible) into the undercutter gang?

23 A. I believe it was November 6th.

24 Q. So you were there when the Bowie project started up?

25 A. Yeah. I finished --

1 Q. Okay.

2 A. -- when they finished the end of it the year before, I think  
3 they finished going from Bridge to Grove, I came in -- probably  
4 Grove's 112.4; I think I started at 108. They were at Baltimore  
5 Commons, so 108.3. We finished that track up, worked in the yard  
6 for the winter, and then went back out.

7 Q. Now, as the foreman, do you guys review the site-specific  
8 safety work plan, and the hazards, and all that? How to --

9 A. Yeah. They --

10 Q. -- mitigate the hazards and all that? You review it and get  
11 a copy of it?

12 A. Yeah. You get a copy of it, read, tells you everything in  
13 there from medical facilities or somebody to repair your truck.

14 Q. So are you aware of the new 60-mile-an-hour slow-by speeds?

15 A. For 5 miles.

16 Q. And how -- describe to me how does that work?

17 A. Now it's the whole unit has 5 miles to work in, and you have  
18 60-mile-an-hour covers everybody instead of just the undercutter  
19 itself.

20 Q. So would that be from -- in this case, would that be from,  
21 would that speed restriction, 60, go from barricade to barricade?

22 A. No. It goes from -- say if you had Bowie to Grove, which is  
23 120.5 to 112.4, the person on the south end is working at 118, it  
24 would cover from 118 5 miles is the furthest you could put it. So  
25 the north part of the gang could not go out of the 5-mile stretch.



1 Q. So that means that -- I guess I'm trying to understand what  
2 you're saying. So it could be that the whole entire gang's not  
3 protected by this --

4 A. Right.

5 Q. -- 60-mile-an-hour slow-by, right?

6 A. No. If this was -- if that was the undercutter there at  
7 milepost 113, and the rail gang was at milepost 118, that's 5  
8 miles. The south end of the slow-by is covered and the north  
9 end's here, the undercutter could not move any further until this  
10 comes closer.

11 MR. LLOYD: Do you understand that?

12 MR. BROOKS: You can't get out of the 5 mile.

13 UNIDENTIFIED SPEAKER: I didn't know that.

14 UNIDENTIFIED SPEAKER: Yeah. It's a rolling limit.

15 MR. BROOKS: Well, that was something that just started last  
16 year after the, you know, after the incident that they come up  
17 with it.

18 UNIDENTIFIED SPEAKER: Yeah. You've just got a rolling  
19 window of track.

20 BY MR. LLOYD:

21 Q. Yeah. And I think that speed restrictions only covers like,  
22 I think, continuous outage gangs -- undercutter, TLS work, things  
23 of that nature?

24 A. Yeah. I'm not exactly sure. I haven't seen nothing written  
25 on how this works. But I actually --

1 Q. Have you seen it?

2 A. No.

3 Q. Have you seen how --

4 A. I have really no written -- know how it works. But I  
5 think --

6 Q. So --

7 A. -- I was told by somebody that it, actually it's just the  
8 manager's discretion. So the undercutter and the TLM that used to  
9 have to have them are now manager's discretion.

10 Q. So it's manager discretion on --

11 A. On whether if they get them or not.

12 Q. -- if it's going to be a safe, a better safety environment or  
13 not?

14 A. Yeah. From my understanding --

15 Q. Is that what you're saying?

16 A. -- that's the way it is now, yeah. They -- for now, from my  
17 understanding, it's the manager's discretion if they're even  
18 putting them -- I mean, they're putting them up, but I mean --

19 MR. STEARN: Can I ask one other --

20 MR. BROOKS: Instead of saying it has to be out there for the  
21 undercutter or TLM now, I think it's under --

22 BY MR. LLOYD:

23 Q. I'm asking you.

24 A. I don't know. I haven't seen any paperwork on that.

25 Q. Yeah. I mean -- yeah.

1 A. But that's what I'm being told. I'm being told it's a  
2 manager's discretion now, that it's not a absolutely have to.

3 Q. Yeah. And the reason why I'm asking, because you're a  
4 foreman in a production gang, or you were, and now we got a new  
5 safety directive out and you have no clue on what it means, how  
6 it's written, what it says --

7 A. I haven't seen nothing.

8 Q. -- or anything. And that's what I'm trying to get.

9 A. No, I haven't seen nothing on it. Like I said, I just --  
10 somebody told me that it's not even a rule that the undercutter  
11 and TLM have to have them, it's the manager's discretion to put  
12 them there. Or he'll get --

13 Q. Your guess is as good as mine. It just -- I just wanted to  
14 bring into light that --

15 A. That's what I was told. And I don't know how to -- what  
16 proof of it is, but --

17 Q. -- you're a foreman out there and you don't know what it  
18 means, so --

19 So let's talk about foul time, okay? Talk about foul time.  
20 I know that day before Train 86, there was a MARC train that went  
21 through, and there was a 15-minute span of open window that a  
22 train come down track 1. And just, is there a reason, is there a  
23 reason why a track foreman wouldn't say, okay, you know what?  
24 Just for that second layer of protection, I'm going to get foul  
25 time on track 1 or track 3, whatever, and get that positive TOL,

1 then when that train dispatcher calls me and I got a clear, I give  
2 my guys that positive confirmation that, hey, guys, a train's  
3 coming. So it's not -- you know, be looking for it, expect it.

4 A. Honestly, that time in the morning down there, you ain't  
5 getting a foul.

6 Q. And why is that when I got --

7 A. Too much --

8 Q. -- 15 minutes between trains?

9 A. Well, you may have 15 minutes between trains, but you also  
10 have 8 miles of track, two station stops for a MARC train. They  
11 just don't give you foul based on the 15 minutes. They have to  
12 have so far out to the next train before -- you know, that  
13 everything's clear for all of the lights, where they're not  
14 restricting the trains behind them.

15 Q. Yeah. The reason why I say it because I know in the SSWP, I  
16 guess this was approved by management, says we will need as much  
17 foul times as possible on track 1 and 3, Bowie to Grove. So it  
18 seems like transportation would probably be in the loop on  
19 something like this, knowing that track 2's center track is out of  
20 service, I got a minimum of probably 13-foot track centers and I  
21 got trains buzzing by me that, possibly up to 125. That's why I'm  
22 trying to --

23 A. It's --

24 Q. Is it a pain trying to get it?

25 A. It's not easy to get foul.

1 Q. Well, talk to me. Talk to me.

2 A. I'm trying to figure out how to word it to you.

3 Q. Yeah. Talk to me. Why is it, why is it so hard? Is it, I  
4 mean --

5 A. Honestly, I think there needs a little bit -- I don't know,  
6 it's in CTEC's job. I don't know what -- you know, I talked to  
7 somebody that say, you know, they've always thought that, you  
8 know, they didn't understand why CTEC don't work with it better  
9 too, but they got to go up there and see it. They say, you know,  
10 there's a lot on their plate.

11 You know, I mean, as us foremen out here, there's a lot on  
12 us, too. I mean, I don't like the idea that -- I don't like this.  
13 I don't think I should have to communicate with another foreman.  
14 In my opinion, I think that's up to CTEC; he should be able to do  
15 a spot foul for me, and then the next guy too.

16 Our -- most of the time I have a portable radio. It might  
17 not work a mile and a half down the track to talk to the foreman.  
18 We move with the surfacing gang, you know, we're -- we can be  
19 moving along at a good clip. So if you run into the lunchtime  
20 hour where you've got a track foul for 45 minutes, and I'm moving  
21 along and the next guy's still down where he's at, I can talk to  
22 him on the radio. By the time I get up here, CTEC calls me and I  
23 need to clear him, I got to have his phone number too because my  
24 radio might not reach him. CTEC will be able to reach him.

25 After the Wilmington incident, we did things that way. I

1 liked it better that way to where there was no piggybacking  
2 between foremen.

3 Q. So was no other gangs out there allowed; is that what you're  
4 saying? Or what?

5 A. No. I mean, I we have a book and a piece of paper, you know,  
6 your pen that you write a name in. I mean, I don't know how CTEC  
7 works. I thought they had something they put on the light or  
8 something where they can't give foul back while somebody has the  
9 track fouled. You got 150 things going on as a track foreman, the  
10 guy's piggybacking off of you and you forget to tell him you're  
11 giving foul back -- I mean, I don't know what their process is up  
12 there, but it's very easy for that book to be in your pocket and  
13 you miss that I had somebody working down the track on Form O.

14 I got watchmen moving around. I got guys doing work, I mean,  
15 coming to me that the track has to meet MW-1000 qualification when  
16 they're done with it, so you got to make sure they're doing their  
17 work properly. You got a foreman here doing work down there; he  
18 wants something. My supervisor might have me doing 10 other  
19 things sending people somewhere, doing something. You know, send  
20 me this guy up here, I need somebody to go operate the loaders,  
21 somebody to go do this. You know, we got a lot of things going  
22 on. It's very easy to forget you've got somebody on a piece of  
23 paper.

24 MR. LLOYD: All right. Good. I'm good. Thank, Brian. I  
25 appreciate it. Thank you.

1 MR. GORDON: Brian, you're doing great. Do you need a break  
2 or anything?

3 MR. BROOKS: I'm good.

4 MR. LLOYD: You want to push on through? Okay.

5 BY MR. GORDON:

6 Q. I'm going to get these gang numbers mixed up, I'm sure, but  
7 I'm trying to get an understanding of -- I think we heard from  
8 previous interviews that there 52 men when you grouped everybody  
9 together?

10 A. I would say that's an understatement.

11 Q. Is that an understate? Yeah. Because I --

12 A. Because I probably -- like I said, I probably had 30.

13 Q. Yeah.

14 A. I'm sure they had 30 in the rail gang, and I'm sure they  
15 probably had that many in the undercutter there.

16 Q. Okay.

17 A. So they were probably 90 to 110 out there.

18 Q. Okay, okay. Yeah, that was one of the questions that I had.  
19 Because I was thinking if you pulled 28 to 30 of those 52, that  
20 didn't leave a whole lot of other bodies out there.

21 A. When I did the RWP for the undercutter when I first come --  
22 the first time I worked with the undercutter, I just worked with  
23 the cutter itself doing RWP, and we always did job briefings  
24 together at the same spot with every gang. And I think, yeah, I  
25 had -- I would probably have anywhere from 90 to 120 guys on my

1 job briefing every day.

2 Q. You got a bullhorn or something? How are you talking to that  
3 many? You just got to speak out? Yeah, yeah, I'm sure that's  
4 difficult.

5 So if all of these, you know, individual gangs that make up  
6 the one big gang -- and I guess this just as good a time as any.  
7 Bowie to Grove, you said it's about 8 miles of track, right?

8 A. Yeah. It's 120.5 I believe is Bowie interlocking, and 112.4  
9 is Grove.

10 Q. And then I believe you, in an answer to a question from  
11 Mr. Stearn, you said that the -- that you guys were spread out  
12 about 4 miles?

13 A. I can't remember where the undercutter was, but they were at  
14 19 -- 19.4 is where the incident happened with Luke. We were at  
15 -- our equipment was tied down at 118 because there was a tangent  
16 track to get people on and off the equipment, but our work was  
17 from starting at 117.5 or 117.4 going north around the S curve.

18 Q. Okay. And so out of your 30, 28 to 30 people in the  
19 surfacing unit, how many of those people would have been on the  
20 ground?

21 A. Just working?

22 Q. Yeah. Take the watchmen out of the equation.

23 A. I can't remember -- I think we were only working just the  
24 rear tamper finalizing track. So I probably would've had like  
25 three to four guys on the ground.



1 Q. Three to four guys on the ground?

2 A. Yeah.

3 Q. And then you've got --

4 A. Probably would've had a guy -- being as we were in an S  
5 curve, one guy, he writes down the geometry sheet. He writes down  
6 the elevations of actual, what the track is and what's desired.  
7 Another guy -- two guys pulling the measurement, working the tape,  
8 and then we use a tap man with it.

9 Q. Okay. And so, the other gangs, just with your familiarity  
10 with the work that they do, would they have more people on the  
11 ground --

12 A. Oh, yeah.

13 Q. -- working --

14 A. The rail gang definitely would, yeah.

15 Q. Okay. The rail gang would have the most people on the ground  
16 probably and then the undercutter --

17 A. The whole other, other two gangs plus -- yeah.

18 Q. Okay. Has anybody ever discussed with you, you know, what  
19 risk that the guys working on the ground with the undercutter are  
20 exposed to? You know, I know at one time the undercutter was a  
21 trigger for slowing trains down past that work group. Is there a  
22 reason that people working on the ground near the undercutter are  
23 more at risk than people --

24 A. Noise.

25 Q. -- working on the ground? So what about the noise with the

1 surfacing unit? Is the undercutter much louder?

2 A. It's probably -- yeah. The undercutter's loud. I mean, the  
3 only thing we really have that's loud is right there at the tamper  
4 itself, and then you have the stabilizer vibrates the rail. But  
5 he's usually behind a ways so he's not up -- we try to keep him  
6 vibrating up from us. But the tampers going down and tamper  
7 head's grabbing the ties, they're noisy. That's why I use the tap  
8 man with it.

9 Q. Okay. Thank you. Advance watchmen and gang watchmen, can  
10 you just in -- you know, I don't want the definition from the  
11 book. But just --

12 A. Like with the surfacing gang, there's really no gang  
13 watchmen. You're putting out the watchmen on the south end from  
14 where you're starting from, that, you know, or whatever you need  
15 to the north end. Most of the time you could take the guys and  
16 move them along a tangent track going to a curve, but at some  
17 point until the machines start getting into the curve, 15 poles  
18 up, you've got one guys that's seeing down the tangent track. And  
19 you've got to be able to see from the end of -- the end of the  
20 guys on the ground, I have to have my watchman see 15 poles behind  
21 those guys, my last watchman.

22 So at some point either he's got to go stationary, and then I  
23 put the watchman, I usually -- I found with the tamping guy -- or  
24 the surfacing guy and the tampers, every other cat pole. And then  
25 with the tap man walking in between, he can hear.

1 Q. Okay.

2 A. And then, you know, enough watchmen going all the way to  
3 where we're going to be working as -- each watchman that's  
4 stationary you go by, the tap man's walking with them until  
5 everybody can -- the back end can start moving with us.

6 Q. Okay. So for a gang watchman, is it safe to say that the  
7 gang watchman would be reliant on the other advance watchmen in  
8 the area or does he by himself have to have the required sight  
9 distance?

10 A. Well, if a gang watchmen, you're -- he's -- if you've got a  
11 gang that's just stationary, I mean, you have a gang watchman.  
12 But like I said, usually with the surfacing gang, it's just the  
13 whole unit is moving and at some points the watchmen have to stop.

14 Q. Okay.

15 A. And then after you get so far ahead, it starts moving again.

16 Q. Okay.

17 A. So that's where a tap man comes in with the watchmen. The  
18 watchmen are every other pole apart, so the tap man's there when  
19 the watchmen sound off, you know, the tap man's to make sure the  
20 guys working hear the horns.

21 Q. And that's kind of the same role as the gang watchman?

22 A. Kind of, it's kind of the same.

23 Q. He's more -- there close, but he's also reliant a lot of  
24 times on the advance watchman's warning --

25 A. Yeah. But he --

1 Q. -- to provide his warning?

2 A. He'd be able to go up and walk up, and he'll actually, you  
3 know, if they have to, tap on them and say come on.

4 Q. Okay. All right. That helps.

5 When the supervisor, I'm assuming, you know, the work that  
6 you guys are doing, the supervisor assigns the work, tells you,  
7 you know, this is the location that we're going to be working,  
8 this is the work that we want to get done. Do they -- is there a  
9 discussion then about on-track safety? Do they tell you how they  
10 expect you to protect your group when they're -- when you're out  
11 there?

12 A. No. It's pretty much, you know, you're the foreman. You're  
13 supposed to know what your job is.

14 Q. Okay.

15 A. I mean, I'm not going to say that they don't ever, you know,  
16 like say every once in a while to you, you know, don't forget you  
17 got a sharp curve up there or something like that. Or --

18 Q. Yeah.

19 A. Or they might tell you, you're on tangent track today; I'm  
20 going to take half your guys.

21 Q. Right, right. Yeah, so -- and just to mention, you know,  
22 we're looking for any kind of safety improvements that we can  
23 make. So, you know, when we're having a discussion about a  
24 possible new safety rule, and we're not trying to point the finger  
25 and say, you know, we're concerned that you don't know about this

1 or that might be a deficiency on your -- we're wanting to make  
2 sure that the messaging is getting out. If they are making safety  
3 improvements to better protect you guys, then, you know, you're  
4 the ones that need to know about it.

5 A. Right.

6 Q. So we want to make sure that the information flows the way  
7 that it needs to. So I've just got -- I'm -- I've got just a few  
8 more.

9 Operational testing. You've got supervisors out there with  
10 your gang. Do they -- to your knowledge, have you ever been  
11 checked on, you know, compliance with adjacent track on-track  
12 safety, on-track safety radio communications --

13 A. Oh, yeah. I mean, if you're -- if they catch something,  
14 they'll let you know about it. I can't just really think of  
15 nothing right now, but --

16 Q. Yeah. But can you ever remember a time with like watchmen  
17 where they came out and said, you know, hey, in this location I  
18 think we need more watchmen? I mean, has that ever been an  
19 experience that you've had?

20 A. If anything, I probably -- with me, they probably -- the only  
21 thing I can think of is justifying why I had so many out. But, I  
22 mean, really, I haven't had too much of a problem if, you know,  
23 you can explain why you need it. But, I mean, like I said, I  
24 mean, I haven't worked in a whole lot of different places other  
25 than the B&B I'm in and with the undercutter too much, other than,

1 except for when I first came to track when I hired in.

2 Q. So just one other thing, and this is just to kind of get your  
3 perspective. I came from a freight railroad. We had Amtrak out  
4 there, but we were crawling in comparison to what you guys do up  
5 here. So we don't run trains as fast here as other places in the  
6 world. Europe's got us beat. They're running them quicker. One  
7 thing that they do there is they give a window of work to the work  
8 groups every day. They get a window -- it's normally at night,  
9 but they get a window when they can work with no trains running.  
10 If that was an available option, would that be something that --

11 A. I don't see how, even with our window now, that you can just  
12 run only nights. But --

13 Q. Yeah.

14 A. I mean, you get more time -- I mean, I worked last Friday  
15 night to where they run so many freight trains up on this end, it  
16 was as bad as working during the week down there with them MARC  
17 trains.

18 Q. Oh, okay. Yeah. And that's one thing, they -- we do move a  
19 whole lot more freight than they do. You know, they're good at  
20 moving people but not moving as much freight.

21 So, just another question. If foul time, and understanding  
22 that -- I think you did an excellent job explaining, you know,  
23 that you've got to -- the dispatcher has to worry about more than  
24 just 15-minute headway, because he's got to keep things flowing.  
25 But if the option is available to you, do you feel more

1 comfortable with foul time than train approach warning as a --

2 A. I mean, if you can get foul time, it's always better than  
3 just having a watchman there, but -- you know, there is just  
4 certain work you don't do unless you do have foul neither. So if  
5 you have to use equipment on the adjacent track, you have to have  
6 foul, you have to have shunt. It's why a -- it's just really  
7 nothing I can say. I'm just not a big believer that there's one  
8 scenario that's going to fit everything we do out here.

9 Q. Right. Yeah.

10 UNIDENTIFIED SPEAKER: Amen.

11 BY MR. GORDON:

12 Q. And I -- I don't have any more questions. I would like to  
13 recognize what you said and thank you for laying out some of the  
14 challenges with trying to keep up with everything that you guys  
15 need to keep up with. And so maybe, you know, maybe some work  
16 sharing in that regard, and it becomes difficult when you've got  
17 roadway worker in charge, you know, you've got certain  
18 responsibilities. But, you know, if as a roadway worker in charge  
19 with all of these responsibilities, if that was your only  
20 responsibility, and not looking at production and things like  
21 that --

22 A. I mean, it's also hard. I mean, a foreman have a lot on  
23 them. There's not a -- the undercutter has a foreman that works  
24 with the guys working the undercutter and the 40 car operators,  
25 and the other foreman usually takes care of the RWP. I think they

1 use him a little bit more now too for the casting of the spoils.  
2 I'm not sure if there was even more than one foreman with the rail  
3 gang at the time. But you're trying to get all the work,  
4 everybody do their job, and everything else, and then take can of  
5 RWP too. It's a lot. Especially if things are moving along. I  
6 mean, you're coming up tangent track, you have your watchmen out.  
7 You have to keep to where at some point I'm losing my distance as  
8 I'm coming into the curve. If you're distracted somewhere else  
9 and these guys are up, they're steady moving, it's a big task.

10 Q. Yeah. And we all think we can multitask, but we really --

11 A. Well, it's --

12 Q. -- but something's going to take a hit. You know, we're  
13 going to concentrate more on the --

14 A. You might get away with it 1,000 times, but at some point  
15 it's -- yeah, you got to get caught up on --

16 Q. Yeah.

17 A. But it's also, too, trying to teach these watchmen too to  
18 count them seconds every once in a while from the time you see  
19 that train that it's a work zone.

20 MR. GORDON: All right. That's all I've got.

21 MR. FIELDS: Carl Fields, BLET. No questions. Thank you.

22 MR. DEFRANCESCO: John Defrancesco, Amtrak. No questions.

23 MR. STEARN: Steve Stearn, Brotherhood of Maintenance of Way  
24 Employees. Brian, you still good?

25 MR. BROOKS: Yeah.



1 BY MR. STEARN:

2 Q. Okay. Real quick, Brian, we talked about the SSWP, the site-  
3 specific work plan. And you say that foremen are given an  
4 opportunity to review --

5 A. I ain't going to say it always happens, but I do believe we  
6 had them down there. I don't -- yeah, you're given them to -- you  
7 know, usually they have like a safety meeting before you start the  
8 job and you start cutting in and all, and then, you know, it's  
9 handed to you in that safety meeting. If you go review it, I  
10 guess that's on you.

11 Q. You said that a couple items that came to your mind  
12 immediately that were included on a site-specific work plan were  
13 like the locations of hospitals?

14 A. Yeah. Usually I think the emergency room's on there. And,  
15 you know what I mean, you find things even like to get -- for a  
16 flat tire on your truck, the day the undercutter is supposed to  
17 start cutting in, or, you know, usually the -- one thing we  
18 usually do is send a trip machine out and then a tie handler, and  
19 they take out any ties that are bad that's going to drop down, you  
20 know, that has clips or bolsters broken off. So they'll give you  
21 a projected date where that's going to come in, projection for  
22 when the undercutter's going to start cutting the interlockings,  
23 which usually, you know, you start at night on this time and  
24 you're going to spend three or four nights working at nighttime  
25 because you're in the interlocking. You know, then surfacing's

1 going to come in, you're going to have so many nights to be in the  
2 interlocking and get out. So it kind of gives you a general  
3 information of what's supposed to happen. Does it always happen  
4 that way? Probably more not than so.

5 Q. Okay. So the question that I would have regarding that site-  
6 specific work plan would be are on-track protections somehow  
7 referenced in that plan, or watchmen requirements or --

8 A. Yeah. I would have to get one back out and read it. Like I  
9 say, it's been several months since I've probably even looked at  
10 one.

11 Q. Okay.

12 A. We're actually getting ready to start the tunnel jobs for  
13 Baltimore, and I got one setting on the desk up here now at the  
14 B&B shop for our working there.

15 Q. Okay. Fair enough. We talked about how we had an 80-mile-  
16 an-hour slow-by for undercutter TLS operations, and since, now  
17 it's a 60-mile-an-hour. Do you feel that 60 mile an hour is  
18 sufficient or insufficient?

19 A. I believe either still would work. I mean, you still could  
20 do the 80 or the 60. I mean, any time it's slower it's always  
21 better because things are happening at a slower pace. But you  
22 still got to, you know, keep your watchmen at a safe distance and  
23 -- like I say, it's just (indiscernible). One foreman should be  
24 taking care of the work, one foreman should be up there just  
25 keeping with RWP.

1           When you have that much going on, then your work is moving  
2 along with the tracks and changing throughout the day, it's --  
3 you're taking your RWP foreman and you have him doing other tasks,  
4 something's going to get missed sooner or later.

5 Q.   Okay. The equipment, the surfacing equipment, the rail gang  
6 equipment associated with the undercutter, the undercutter itself  
7 have radios for communicating?

8 A.   I don't know about the rail equipment, what all has it back  
9 there, but most of the surfacing equipment does. I think they had  
10 one or two pieces that were leased equipment. The leased  
11 equipment don't have them, but they try to get the operators  
12 handhelds.

13           I do know, probably when it comes to the rail gang, sometimes  
14 they're using the earth moving equipment, loaders and stuff. Some  
15 of them have them, some of them don't, which could be a problem as  
16 far as, you've got to be right near the guy. You know, you've got  
17 to be able to hand signal him, let him know if you lose foul or  
18 not. Some of the earth-moving equipment you're using a backhoe,  
19 changing ties out, or you have a loader that's coming up dumping  
20 ballast in or doing something out behind the tracks, putting a  
21 panel in, you know, you should be able to -- the guys should be  
22 able to have a radio.

23 Q.   With these radios on bigger pieces of equipment, say a tamper  
24 or an undercutter machine, are there intercoms integrated with  
25 that radio system? And where I'm going --

1 A. I'm going to say no in most cases, but I do -- I'm trying to  
2 think which one it was. Something just come out and it did have  
3 intercom. I think that might have been a welding truck, that new  
4 welding truck out there, I believe.

5 Q. So with an intercom, employees on the ground would be able  
6 to, if they were within earshot, hear radio communications such as  
7 foul time?

8 A. Foul time or, you know, when you're clearing out.

9 Q. So with your surfacing unit, for example, and you're several  
10 miles perhaps away from the rail or the undercutter operations,  
11 would your operators typically get on the radio and call out a  
12 warning, hey, we got one coming on the rail?

13 A. A lot of times that's done. But a lot of times because of  
14 all of the chatter on the radio, like the undercutter might run  
15 under channel 47, surfacing gang might run under channel 23 or  
16 something like that, and somebody might run, you know, the rail  
17 gang under another one, we keep stepping all other each other if  
18 we are close enough. Which the operator is doing it, that's fine.  
19 I don't mind that. I tend not to -- I found for myself, I don't  
20 like doing it because I move so much, walking up and down the  
21 railroad. If I'm working up in front of the guys and I'm going as  
22 the train's coming south, and then I walk back past the guys and  
23 now I'm south of them, you know, I don't want them to be relying  
24 on me to let them know that there's traffic coming down the tracks  
25 if I'm not there. I mean, you know, I don't want to be over the

1 truck doing something or south of them now, not to report, you  
2 know, a southbound train and they're waiting, you know -- as long  
3 as the equipment's on the track and it's in line, I don't have a  
4 problem with them letting them know. You know, it's a good thing.

5 Q. So then would I be correct that our watchmen out there, they  
6 don't know if we have foul time on an adjacent? Or they would not  
7 know --

8 A. They wouldn't know --

9 Q. -- there was a train approaching on the --

10 A. No. They wouldn't know foul or if we don't have foul.

11 Q. Okay. We talked -- and just so that the record is clear. A  
12 lot of times acronyms get lost in the translations here. We  
13 talked about TOL. Am I correct that a TOL is a track occupancy  
14 light?

15 A. Yes. It comes up in CTEC.

16 Q. And so when we are getting foul time, we'll put a hardwire  
17 shunt on the rail, and as part of the function of the rail return  
18 circuit, it puts a signal light on in dispatching operations to  
19 allow them to know that that track is somehow occupied?

20 A. And then you're supposed to confirm it.

21 Q. And we call back and confirm --

22 A. Yeah.

23 Q. -- that they've got a good light?

24 A. Yep.

25 Q. Okay. Good. Thanks, Brian.

1           Then on the day of, you're holding the Form D for the out of  
2 service. How is that selection made? There's probably, what, 10  
3 foremen out there?

4 A.   A lot of times it might be up to like if the undercutter's  
5 going to be working later that night, if they got one gang that's  
6 going to be staying over later, somebody in that gang foreman-wise  
7 will be asked to do it if they want to stay late. So that way  
8 that we ain't clearing the tracks at the end of the day and  
9 somebody else has to redo the whole Form D and all through CTEC,  
10 or do it through the change of the track form.

11 Q.   The transfer of authority?

12 A.   Transfer of authority, yes. Yes, thank you. Because why  
13 that's being done, everybody has to clear up and job briefings all  
14 have to be redone, track briefings all have to be redone.

15 Q.   So on any given day with this undercutter operation, any  
16 foreman could have the potential of the holding the Form -- what I  
17 would call --

18 A.   Yeah.

19 Q.   -- hold the Form D?

20 A.   Yeah. Anybody could be the RWIC, any -- at any day.

21 Q.   Okay. All right. Great. Another topic I wanted to talk  
22 about that I haven't heard discussed was a whistle test.

23 A.   Whistle tests are done after all the watchmen are out and  
24 established and then to be done again when your equipment's up and  
25 moving. Or, you know, if any other changes need to be done.

1 I never put my watchmen far enough apart to where they can't  
2 be -- heard a whistle test. And at any time they can't hear  
3 anything -- I let them know on my job briefing that any time that  
4 you see anything that's unsafe, you have the right to stop this  
5 work out here. Don't ever seem to really work too good. I've  
6 had --

7 Q. Why do you think that is?

8 A. I've had watchmen leave their post because they ran out of  
9 air. And being the advance watchmen, they come down to get air  
10 from another guy instead of stopping all work first.

11 Q. Does that scare you? I'd get scared.

12 A. Yeah, it scared me. I mean --

13 Q. And, I mean, do you think -- I'm asking you to speculate  
14 here. Perhaps if they were, had a little different training as  
15 watchmen, then that condition wouldn't exist?

16 A. Yeah. I think a lot of times when, you know, the guys are  
17 going through their training and their mentoring in the division,  
18 where they might be pulling a tie out with a backhoe or  
19 (indiscernible) run, fixing a little spot, and, you know, they  
20 might be in tangent track, just need a gang watchman or -- you  
21 know, small gangs are out there working near one track without any  
22 equipment or maybe just a backhoe with shunts at some point, and  
23 that's where they get their watchmen qualifications from.

24 You have a quarter mile of equipment moving up and down the  
25 tracks, it's a little different. I've had it out with them

1 before, well, that's the way the instructor showed me in the  
2 class. Well, that doesn't work out here.

3 Q. So from that, I gather you think that some of the training  
4 would be benefitted by having real-time scenarios relayed to the  
5 students, if you will?

6 A. I think something needs to be done a little better with it,  
7 yeah. I mean, I don't have the answer because there's no one way  
8 that's going to cover everything we do. So I don't have an answer  
9 for you. But I know telling these guys that, if you're here  
10 working, put a watchman here; if you've got a curve, put a  
11 watchman here, there ain't nothing to say you can put watchmen  
12 here, here, and here because you ain't going to get watchmen here,  
13 here, here, and there if you don't have the guys. You've got to  
14 -- I mean, the watchmen have to learn how to do their jobs and --  
15 there's a big thing out there right now, I can tell you with these  
16 watchmen, they don't know how to put their head on a swivel.  
17 Meaning anybody under 3 years out there, all day long.

18 Q. All day long they just look north or south?

19 A. If they're advance this way and the work's back that way,  
20 that's the way they work.

21 Q. When you and I know and have been instructed that trains run  
22 any track any direction.

23 A 261 territory, any time, any direction.

24 Q. Yeah. And that's something that's emphasized in job  
25 briefings?



1 A. I walk up to them all the time and tell them, look, dude, I  
2 ain't trying to bust your ass. It might save your life one day.  
3 Don't -- you might have to be on the tracks at some point where  
4 you have -- well, now that you're not allowed, but to where you  
5 have to be on the tracks watching. You don't want to make bad  
6 habits.

7 But I'm telling you, there's an issue out there right now  
8 with the advance watchmen, they don't know how to look both ways.

9 Q. Brian, I hate to bring this up, but I'm going to do it  
10 anyway, that -- we may recognize that some workers are really  
11 good, competent at their jobs, others maybe not so much. So when  
12 we find a guy who's good at his job, we want to keep him on that  
13 job. And then I guess the question would be, would we look at  
14 someone who's maybe not good at their job and we'll put them as a  
15 watchman that day because they're not good at running a rail saw or  
16 a --

17 A. Oh, I'm sure it happens. If -- yeah, if somebody can't use a  
18 sledgehammer quick enough or use a saw, I'm sure they get stuck  
19 out there.

20 Q. That's --

21 A. If they can't be utilized due to manual labor, I mean, that's  
22 probably where they get stuck on the flag.

23 Q. Are sometimes workers assigned watchmen duties as a -- I  
24 don't want to say a punishment or discipline, but, you know, are  
25 they placed on the watch for something that happened previous?

1 A. I don't know if it's previous. Like you say, if they don't  
2 perform their duties on the -- you know, where they're getting as  
3 much work done, sure. I'm sure they get put out there. There  
4 ain't no doubt about that.

5 Q. Which is unfortunate, Brian. And I've got one other question  
6 now. I guess it's the big question. Thinking back to this day,  
7 that day in April, what do you think could have been done to have  
8 prevented that?

9 A. I haven't even talked to none of the guys that were really  
10 down there to ask them whether, you know -- (indiscernible)  
11 around, you know, to make sure -- be able to know what happened to  
12 prevent anything from happening again, but -- and just it's  
13 uncomfortable to talk about.

14 Q. I understand.

15 A. I only met the boy twice, and I never had no problem with  
16 him. You know, actually, most of the guys kind of piss and moan  
17 when you get them to go out and try to get them to get their gear  
18 on and go watch. He actually -- the couple days he worked for me,  
19 he was up and going. Didn't have no issue with the way he was  
20 watching. Worked with his uncle for a couple of different times  
21 out here. I really just don't know what happened down there.

22 MR. STEARN: All right, Brian. Thanks for -- like I said,  
23 thanks for participating in this discussion. I don't have any  
24 other questions at this time.

25 MR. KANNENBERG: Dave Kannenberg. I don't have any

1 questions. I just want to highlight a couple of things you said  
2 that I think are very important, and I think are exemplary that I  
3 want to put a spotlight on.

4 BY MR. KANNENBERG:

5 Q. You talked about, you go out there and you correct people a  
6 lot. And, you know, I think you said you might piss a lot of  
7 people off doing that. That's good. That's peer to peer self-  
8 policing. That is what -- where you get safety in a workforce,  
9 everybody watching out for each other. And I want to commend you  
10 for that. We need more people doing that.

11 A lot of people are afraid to say anything because they're  
12 afraid that they're going to get yelled at or criticized or  
13 something. Obviously that doesn't bother you. That's a good  
14 thing. So if we can get more people to do that, I'd sure  
15 appreciate it. Because ultimately everybody in here is interested  
16 in safety. You know, we all come from the same background. I've  
17 worked surfacing crews, tie gangs, rail gangs; you name it, I've  
18 worked them. So yeah, what you're doing is really what needs to  
19 be done.

20 And the critical thinking of the younger guys on their own, I  
21 think you were making a point that it takes them a few years to be  
22 able to go out there and make -- and be able to think on their own  
23 and not look one direction all the time, have their head on a  
24 swivel.

25 A. I don't understand where that -- that's an issue that's

1 seemed to be recent. I don't know how that --

2 Q. I guess I do have a question. You made a statement that that  
3 -- they say that that's not the way they were taught in school.  
4 They make an argument that's not the way they were taught.

5 A. I can't remember --

6 Q. Well, how are they taught?

7 A. -- exactly what it was. But there's an issue on how -- you  
8 know, you blow your horn, put your banner up, train goes by; at  
9 what point do you come down and then to finish off? I know a  
10 couple of years ago, I went to RWP, the guy was trying to tell  
11 them work zone's here, you got five watchmen out, southbound goes  
12 by, this guy should automatically drop his flag. Not the case.  
13 You got six pieces of equipment down here in a curve, this guy  
14 drops his flag, this guy drops his flag, this guy jumps off the  
15 equipment. You got two tracks. A train comes by, he ain't going  
16 to have time to get out of the way or he's going to be close.

17 I mean, that's just, it's just -- you can't do that in this  
18 type of -- now if you had three tracks out there, you're working  
19 on one track and there's nothing blocking your view, that might  
20 work. But you got equipment moving up and down.

21 Q. So --

22 A. I mean, it can't work the way they're teaching them in all  
23 scenarios.

24 Q. To try to put a name to what you're saying, which is a great  
25 example, people have to be able to assess every situation on their

1 own and not just be, you know, given a definition and run with  
2 that.

3 A. And it also comes with the foreman too. But the foreman, in  
4 my opinion, when you're working in a gang that big, you need an  
5 RWP foreman that does nothing but RWP. He's checking, making sure  
6 the watchman's moving along, making sure they're paying attention.

7 Q. That's another point I was going to bring up.

8 A. Yep.

9 Q. When you're saying these foremen -- and I was a foreman as  
10 well, I get it. You're essentially a dispatcher once you've got  
11 the track and you've got three, four, two, one, however many  
12 people with joint authority with you, how easy is it to forget to  
13 call them back when the dispatcher is calling you? That's a very  
14 valid point. And I appreciate you bringing that one up. It's one  
15 that a lot of people don't think about sometimes. And it's a lot,  
16 it's a lot on your shoulders out there as a foreman.

17 That' all I got. I appreciate it. And if you're ever -- if  
18 you come up with any advice for us on the FAMES committee, you got  
19 my card, you've got Roy, you got Steve, anybody. Give us a call  
20 and let us know and, believe me, I'm going to take your advice.

21 MR. LLOYD: I've just got a couple. I'm just trying to  
22 refresh my memory. This is Troy Lloyd from the NTSB.

23 BY MR. LLOYD:

24 Q. Just to cover -- I know Joe was talking about operational  
25 testing, and people coming out and auditing the (indiscernible).

1 I think Amtrak calls it 1872s.

2 UNIDENTIFIED SPEAKER: 1872s.

3 MR. LLOYD: 1872s.

4 BY MR. LLOYD:

5 Q. I just want to refresh something. I know you was sitting  
6 there saying that you can understand not enough watchmen out, but  
7 they would actually pinpoint on if you had too many out. So they  
8 wouldn't say anything if you had not enough out, but they would  
9 say you have too -- is that what you were --

10 A. Well, yeah --

11 Q. I'm just trying to refresh myself. You --

12 A. I've had them tell me I've had too many out before, yeah,  
13 because that way they -- there's a lot of other work that needs  
14 done out there. They want -- you know, they're short on hand and  
15 on other spots, so they try to get everybody they can and run  
16 where they can.

17 Q. But even though it's their roadway workers in charge is, I  
18 feel that this is the protection that we need --

19 A. Right.

20 Q. -- you have management or supervision going out sort of  
21 saying, you know, this is --

22 A. Yeah. I mean, it's -- yeah, I've had them question it  
23 before. I ain't ever tell somebody, well, I'm taking these guys.  
24 But, yeah, I've been questioned on it.

25 Q. Okay. So that's going to lead me up to -- I know you were

1 sitting there saying you've seen advance watchmen -- advance  
2 watchman head has to be on a spindle, you know, looking both ways.  
3 You know, some are just fixed on, you know, if they're southbound,  
4 looking southbound, northbound, and even advance watchmen leaving  
5 their post to get air without shutting the group down.

6 So a question is, what is your view of Amtrak's safety  
7 culture when it comes to the workers and management? What's your  
8 personal view?

9 A. I think, honestly, from everywhere I've worked, I can have 30  
10 guys in my gang, I'd say at any time 25 of them are good workers  
11 and they do work safely. You've got a few of them that don't want  
12 to work or they just, they don't take the watchman job serious.  
13 You know, they're bored, they're out there just sitting. But for  
14 the most part, yeah, they're -- most of them are pretty decent.

15 I haven't worked for a lot of different supervisors.  
16 Everybody -- I've been lucky so far. Mostly you can explain to  
17 them if -- you know, they might think something different; you  
18 explain your version and -- so you point out that there was a  
19 safety issue, sometimes you don't get a good looking face, but  
20 they don't fight it too much. Like I said, I haven't been around  
21 a lot of different places. I've only been here for 9½ years, and  
22 I've pretty much worked Perryville track division for a couple  
23 years, and the production B&B gang and with the undercutter. So I  
24 haven't been to a lot of different places. Pretty much I've  
25 worked under three or four different supervisors.

1 Q. So what's a foreman to do if I put out watchmen and you've  
2 already known that they're not good at -- they don't like doing  
3 the job, they're only doing it, doing it half the way they're  
4 supposed to. So what does a foreman, the roadway worker in charge  
5 to do when I know I just appointed that watchman, I know he's only  
6 going to do a half-assed job? What am I going to do?

7 A. A few guys that's been there for a while working with you,  
8 you kind of figure out who's good and who isn't. I try not to put  
9 somebody that isn't going to take the job seriously on the point  
10 out front. I'll at least put them where somebody's -- does the  
11 job better, keep them in between where there the noise at least  
12 going to keep their attention. Other than that, you can go to  
13 your supervisor and, you know, tell him, you know, we got to do  
14 something with this guy. But usually just talking to them, you  
15 can get them to straighten up and do their job. It might not be a  
16 pleasant conversation.

17 Q. So you mentioned that -- about keeping the watchmen at a safe  
18 distance or out of the foul. How does a foreman guarantee on-  
19 track protection for -- because the flagman and watchmen are  
20 considered --

21 A. I have yet --

22 Q. -- or the watchman/lookouts are considered roadway workers.  
23 So how would that foreman guarantee that on-track protection, that  
24 that watch was not going to come up in the foul or anything?

25 A. Well, what I do when I'm moving along, or if I stay still,



1 watchmen on this end blows his horn, work zone's down here -- you  
2 know, if I'm down here, I'm looking where the train is and I'm  
3 counting, you know, 1,001, 1,002, making sure that we got those 15  
4 seconds. Plus the guys on the ground usually have a radio. So if  
5 anything ever gets close, you know, they'll call me and let me  
6 know and we'll hold everything up until, you know, I get back to  
7 and see what's going on, why we didn't have the sufficient amount  
8 of time we --

9 Q. Would a foreman be allowed to go the extra mile and maybe  
10 place a restricted speed between barricade to barricade or  
11 absolute to absolute?

12 A. No. You --

13 Q. On adjacent tracks?

14 A. No. The only slow-by orders you're getting with the -- you  
15 know, what they're going to give us with the undercutter. Like I  
16 said before, it just covered the undercutter, now it covers the 5  
17 miles.

18 Q. So as a --

19 A. But if you had -- yeah, if you're going to start now and  
20 you've got 3 miles of track for use and you're only getting 3  
21 miles. You know, you're going to cover from pretty much where  
22 work left off the day before and track's final to where they think  
23 they're going to get today. They won't 5 miles if they don't need  
24 5 miles because we're slowing the trains down for 2 miles.  
25 They're going to take what we need.

1 Q. So as an RWP, or as a roadway worker protection, you wouldn't  
2 have the authority to sit there and post a restricted speed  
3 between --

4 A. No. You don't have, you can't use --

5 Q. -- whistle board to whistle board or barricade to barricade  
6 for adjacent tracks to --

7 A. No. You --

8 Q. -- ensure that extra safety?

9 A. No. You don't have the authority to just put speed up  
10 because you want it up. Like I said it's -- what it is right now,  
11 it's with the -- you're allowed up to 5 miles; it doesn't have to  
12 be 5 miles, but nobody's allowed to work outside of the work that  
13 -- not allowed to do work outside of the speed restriction.

14 Q. Of that speed restriction. So that day, so let's sit there  
15 and say I've appointed, I appoint a gang watchman, okay? And that  
16 watchman's got the instructions to, when this gang clears, you  
17 clear with the gang; that watchman clears with the gang. And then  
18 I've got a set of watchmen in a row, okay? Is this gang watchman  
19 that's instructed to, just to be that gang watchman of that crew  
20 and clear when that crew clears, is he calculated in the overall  
21 sight distance?

22 A. Yeah. I've never really been in that scenario, but like if  
23 you had a gang watchman was there and -- say, you know, if you  
24 were just working in one area and you need an advance watchman,  
25 yeah. Your gang watchman's here and then your watchmen to each

1 end is going to be -- he's going to be part of the amount of time  
2 for clearing.

3 Q. So he would be included in the calculation for --

4 A. Yeah.

5 Q. So what happens with his -- if his gang was stopped and his  
6 foreman said, okay, let's clear up, and you're my gang watchman,  
7 you clear up too. So what happens to that sight distance  
8 calculation? How's that --

9 A. I don't know. I've never been in a situation where anybody  
10 cleared nobody out that way.

11 Q. Okay.

12 A. I mean, you would get everybody off the tracks before any  
13 watchman clears off.

14 MR. LLOYD: Joe?

15 MR. GORDON: Oh. Yeah. So, first off, I just want to let  
16 you know, the reason that it's going as long as it is, is because  
17 you're giving us so much good information. So kudos to you. But  
18 I hate, I hate -- I know that you got to feel somewhat that you're  
19 getting punished for giving us good answers. But we're going to  
20 try to move --

21 MR. BROOKS: Yeah. I've got a son that hired in, in January  
22 of last year. So he's got 42 years to do it here.

23 MR. GORDON: And --

24 MR. LLOYD: Keep him in C&S.

25 MR. GORDON: Yeah. And that's a great, that's a great way to

1 look at it, it really is. Because, you know, we're going to try  
2 to use a lot of this information to see if we can make  
3 improvements that, you know, make sure you guys get home every  
4 day. Dave mentioned that everybody in this room is here for the  
5 same reason, and it's because we don't ever want to come out to  
6 another one of these again.

7 BY MR. GORDON:

8 Q. So I'm just going to touch on a few things for you. You've  
9 been out -- you're coming up on 10 years. Good-faith challenge,  
10 you're familiar with. I think you spoke about, you know, bringing  
11 it to the supervisor's attention. In that, in your almost 10  
12 years, have you ever been around a good-faith challenge that was  
13 initiated?

14 A. Right around October 12th, the only time.

15 Q. Okay.

16 A. And it wasn't really a good-faith challenge. I believe the  
17 the guy, he -- one of the guys that hasn't been here that long,  
18 usually I try to be about as fair as I can with everybody. A lot  
19 of times if I need to start putting watchmen out real quick, when  
20 I go and I ain't got time to start -- you know, to ask them for  
21 volunteers or nothing, I'll start at the lower seniority again.

22 So you got the guy that's second lowest from the junior, he  
23 doesn't like that. I was working at 108.3, got a vertical curve,  
24 before we got done our surfacing, I like to walk ahead, check out  
25 what's going on. So I stood there, before we got down there,

1 watched the vertical curve to where I could see the train, knew  
2 this was where the point I have to stop; my watchman can't move on  
3 the south end past here if we were going north. One watchman was  
4 there, we had no problem. A guy comes out to relieve him.

5       The watchman before him still needed to keep moving up  
6 because they was, I mean, about a half a pole apart. So I called  
7 him up, but we waved at the other guy to come up, and I didn't see  
8 it. I asked him, so why did you leave? Oh, I said didn't the guy  
9 you relieved told you, you needed to stay there? He said, yeah,  
10 but he just waved me forward. I said, all right, well, let's get  
11 back here. I blew my whistle. When I got everybody in the clear,  
12 I was putting him back.

13       Well, he starts giving me a hard time, and he says, well, I  
14 can't see from here. So I try to tell him it's how I come up with  
15 where I'm placing you and why you're stopped there with the  
16 vertical curve. And, of course, he didn't want to let me talk.  
17 And he said, I don't feel safe there. So the other guy was coming  
18 back by. I asked him to put his watchmen gear back on, why I took  
19 him off the flag, and we would call the managers in.

20       And then as I'm getting the guys put back out to make sure  
21 things were good, that's finally when he said, I want to use my  
22 good-faith challenge, which I was already bringing the managers  
23 down for. Which when they got there, we had 30 seconds from the  
24 time -- right when they pulled up, I was starting to talk to JP  
25 Miller, the manager, and was letting him know what was going on,

1 and I actually stopped and I counted 1,001, 1,002, when the train  
2 hit the work zone, we had 30 seconds. But that's the only time  
3 anybody's ever used the good-faith challenge.

4 I'm not going to say the guy was wrong. If he didn't feel  
5 safe, that's fine. But that's the only time I've ever had the  
6 encounter.

7 Q. Okay. And also, in that time, trains passing you guys all  
8 the time -- warning from trains. Are the trains doing a good job  
9 giving you bell and whistle as they come by?

10 A. No, not all the time. Some of them either aren't hitting it  
11 good enough, or some of them are -- like to wait and get right on  
12 us and blast our ears.

13 Q. Okay.

14 A. But yeah, some of them, I don't -- we're always getting a  
15 good whistle. That's another issue that we've kind of discussed  
16 out there among ourselves is how many whistle boards do you put  
17 up? Even myself, I'd like to know that question. It'd be  
18 something good to answer.

19 Undercutters out front, they have a whistle board for him. I  
20 can be moving along 70-some-hundred feet a day, you know, a mile  
21 and a half. Where does my whistle board need to be? Or do you  
22 stop work due to the process? There's not really a rule written  
23 on that one.

24 Q. Do you have a reporting mechanism if a train does come  
25 through? Or, I mean, is there a way that you can report

1 locomotive number, train number --

2 A. Yeah. I never --

3 Q. -- time of day, anything like that?

4 A. I never really had to do it. Like I said, are -- do you know  
5 they're not hitting the whistle or are they just not hitting it  
6 loud enough? I mean, that's a question. There's a lot of noise.

7 Q. Yeah. Exactly. Near miss. You know, everybody's going to  
8 have a different definition of a near miss, but, I mean, in that  
9 -- in your time out there -- you guys use train approach warning  
10 most any time you're out working. That's the, I guess, the main  
11 method of on-track safety on adjacent tracks. In your time out  
12 there, something that you would characterize as a near miss, have  
13 you --

14 A. If you characterized near miss under 15 seconds, sure, I'm --  
15 there's probably times we do have it. Anything that was probably  
16 close enough to make you think that, you know, if we need to stop  
17 doing what we're doing and change something now.

18 One incident I can think of, like I said, the guy left his  
19 spot, he was an advance watchman. I'd say that train was a little  
20 close to him, you don't know how close. You had the undercutter  
21 guys. So I come back to find out what happened, shut everything  
22 down, walked back to the watchman. You know, this guy was an  
23 advance watchman, run out of air; he was down here.

24 Another one was a guy said he couldn't hear the guy's horn.  
25 I go back up, talked to that guy; I was blowing my horn, I was

1 blowing my whistle. Walked back to the other guy, well, I didn't  
2 hear his horn, but I thought it just another whistle test. Walked  
3 back to the other guy, I start walking back, the train comes. He  
4 blows his horn, and I mean, probably closer to him than I was to  
5 the next watchman, I barely heard his horn. He's got his cone in  
6 his pocket. It's freezing up.

7 Q. Yeah.

8 A. That's why the guy didn't hear his horn.

9 Another instance, a guy working on the undercutter called me  
10 and says, I had about 7 seconds to that train. I knew the  
11 protection I had. Stop everything, go back check everything, go  
12 back to work. Standing there, the next train comes. The watchman  
13 blows their horn, tap man tells him let's go. It was like 6  
14 seconds before he cleared. You got to clear up immediately.

15 Q. Right, right, right.

16 A. I can't put 20 watchmen out till you figure out you want to  
17 decide to clear.

18 Q. Right.

19 A. So, I mean, most of the times the issues can be resolved.

20 Q. Okay. All right. And have you worked as a watchman? Did  
21 you, before you got to the foreman, did you like being a watchman?

22 A. I like to work, so no.

23 Q. I understand. And that's, I mean --

24 A. It's something I took serious, so --

25 Q. Yeah.



1 A. I mean, you got to find something, whatever, do a little  
2 dance. I don't care what it is, get yourself kept in the game.

3 Q. Yeah, yeah. But that's common. I mean, anybody that's  
4 worked as a watchman -- I've worked as a watchman. I couldn't  
5 stand working as a watchman, and I've even told people in the  
6 past, you know, if I had somebody that wanted to be a watchman,  
7 then I didn't want them to be my watchman. You know, because I  
8 don't know that they, that they fully understand --

9 UNIDENTIFIED SPEAKER: I can see that.

10 MR. GORDON: -- the, you know, the gravity, the importance --

11 MR. BROOKS: Right.

12 MR. GORDON: -- of the job if they're raising their hand to  
13 be a watchman, so -- that's all I have. We'll look around the  
14 table and try to wrap up. We good?

15 UNIDENTIFIED SPEAKER: I just wanted to latch onto that. But  
16 you said earlier you think 20 out of 25 guys do a good job as a  
17 watchman/lookout, so --

18 MR. BROOKS: Yeah. I think it's -- most guys do do their job  
19 out here, but you know --

20 UNIDENTIFIED SPEAKER: So just because we don't -- in other  
21 words, just because we don't like it, doesn't mean there's  
22 somebody else that --

23 MR. BROOKS: Oh, I'm not saying they don't --

24 MR. GORDON: -- doesn't do a good job at it.

25 MR. BROOKS: -- they don't like doing their job, but --

1 MR. GORDON: Yeah, yeah.

2 UNIDENTIFIED SPEAKER: There's lots of stuff I do that I  
3 don't like. Believe me.

4 MR. GORDON: Right. Absolutely.

5 MR. BROOKS: But, yeah, most of the guys are doing a good job  
6 here.

7 UNIDENTIFIED SPEAKER: Well, that's good to know. It --

8 MR. LLOYD: Steve, you got anything?

9 MR. KANNENBERG: Oh, I'm sorry. I keep (indiscernible) --

10 UNIDENTIFIED SPEAKER: I would never cut you off, Dave.

11 MR. FIELDS: You got something, or you want to hit it?

12 MR. GORDON: Yeah. No, no -- I think Carl's got one.

13 MR. FIELDS: Yeah. I got a couple if I may. Carl Fields,  
14 BLET.

15 BY MR. FIELDS:

16 Q. Brian, bear with me. I'm transportation, not engineering.  
17 So I think it was referenced earlier about double bubble, or what  
18 the scenario is. Can you explain that briefly, please?

19 A. If you have three track or more territory, you've got one  
20 track out of service, two trains, or even if you've got two track  
21 territory and you're given fouls back or whatever, two trains  
22 going by, usually in opposite directions.

23 Q. And then that occurred on the day --

24 A. That's what happened when -- that day that happened, from my  
25 understanding, yes.

1 Q. Does Amtrak afford any type of training to the watchmen on  
2 double bubble scenarios?

3 A. I mean, it -- I really don't recall. I mean, they could be  
4 telling you you have to watch out for it in the RWP class if  
5 you're taking your watchman qualifications. But, that I recall,  
6 nothing really being said too much about it.

7 Q. Is there anything in the RWP manual about double bubbles?

8 A. Not that I recall. But like I said, I'm probably as guilty  
9 as most; I don't read that book as often as I should. But I don't  
10 ever remember hearing a rule or seeing a rule about it.

11 Q. You referenced earlier about some guys on the ground having  
12 radios. What guys on the ground have a radio?

13 A. Like when you're working with the surfacing guy and the  
14 tamper, the guys pulling the measurements, at least one of those  
15 guys will have a radio because he needs to communicate to the  
16 operator to either throw track left, right, or raise track more,  
17 or take some lift out of it as they're going. Maybe they're  
18 starting to get too much lift.

19 Q. Okay. And do all of the respective foremen of the groups,  
20 are they afforded a portable handset radio?

21 A. Yeah. All of the foremen should have a hand, portable radio.

22 Q. And are all of the foremen, therefore, on the same radio  
23 frequency?

24 A. Like I said, not necessarily. Like if we're two to three  
25 foremen in the surfacing gang, yeah, we'll all be on the same

1 radio channel unless one guy's calling foul. We might run under  
2 channel 47; that's a production channel for the equipment and  
3 foremen to talk together so we're not interfering with CTEC. If a  
4 foreman, one foreman's duty today, I want to give foul for and  
5 puts (indiscernible) down to take care of that, he'll be on 54 to  
6 talk to CTEC.

7 Q. Aside from procuring foul time, you all would be on the same  
8 frequency then?

9 A. Yeah. Unless, like I would be getting foul as we're going  
10 along or something, and then I might be on 54, and as I need to  
11 talk to them, I could jump over to 47.

12 Q. Okay.

13 A. But I would let them know -- like the tamper, stabilizer,  
14 double broom, they could be running off of 47. I could be getting  
15 foul for a regulator. So me and a regulator or two regulators  
16 will go to 54. So that way they can hear me talking to CTEC. I  
17 get foul, let them know what track I have foul on and that I have  
18 a confirmed shunt, and they'll repeat it back to me.

19 When we lose foul, I'll tell CTEC to stand by, you know, 31  
20 regulator, you can clear up on 1 track. And he'll let me know,  
21 all clear 1 track. Call 32 regulator, you can clear 1 track, and  
22 he'll let me know when he's clear. Then I'll unhook my shunt and  
23 let CTEC know they can have the track back.

24 Q. Thank you. Is, as a roadway worker in charge on the day of  
25 the incident, you performed -- you were the RWC, RWIC, correct?

1 A. Correct.

2 Q. You secured a Form D and you released a Form D normally,  
3 correct?

4 A. Well, at the end of the day, I would have when everybody  
5 would've given me their track conditions and reported they were  
6 clear of the tracks.

7 Q. Right. So are you -- in between that time period, are you  
8 just in charge of your group then and that's it?

9 A. It's --

10 Q. You're not in charge of that whole period that you just --

11 A. I mean, I own it --

12 Q. -- secured?

13 A. I own the whole track, but they're in -- their foremen of the  
14 other gangs are in charge of doing track briefing, job briefing,  
15 track briefing with their gang and posting their own protection.

16 Q. And I appreciate -- and I apologize for being --

17 A. That's all right.

18 Q. -- redundant. I heard you say that earlier.

19 A. Yeah.

20 Q. And I just wanted to be clear on that.

21 A. That's okay.

22 Q. And once you secure the Form D, you're in charge of your work  
23 crew, you -- I believe you stated you were, at the time of the  
24 incident, placing your watchmen, about approximately 10 of them,  
25 in position?

1 A. Yeah. I had about seven or eight of them out probably, maybe  
2 even nine. I don't remember what it was when I got the call to  
3 clear out.

4 Q. So therefore, is that common practice or policy for those in  
5 a segment of track that is out of service, to begin working prior  
6 to all watchmen being -- not being placed properly?

7 A. My watchmen here was protecting this; they were here.

8 Q. I understand.

9 A. So they only had to protect this --

10 Q. But I'm asking for that segment of track, though, it's okay  
11 to work --

12 A. Yeah.

13 Q. -- down towards the absolute 1 end while you're still getting  
14 your watchmen --

15 A. Yeah. Because --

16 Q. -- at the other, the other end?

17 A. Okay. There was 2 miles in between us. So --

18 Q. I got you. Okay. I just wanted to be sure on that.

19 A. Yeah. I wasn't that -- I wasn't close to him at all. There  
20 was 2 miles.

21 Q. So you don't radio to the other foreman, my watchmen are in  
22 place and so on?

23 A. No. The only time we would do that is if I know we're going  
24 to be close to one group or the other --

25 Q. Got you.

1 A. -- and I need to use his watchmen in conjunction with mine.  
2 Then it has to be done and put on the job briefings.

3 MR. FIELDS: All right. Thank you. That's all the questions  
4 I have. I appreciate it.

5 MR. STEARN: So one more from me. Steve Stearn, Brotherhood  
6 of Maintenance of Way Employees.

7 BY MR. STEARN:

8 Q. Brian, we talked about near misses, which we've probably all  
9 had them, and terrifying as they may be, near misses, close calls,  
10 are you familiar with at close call reporting policy?

11 A. Yeah.

12 Q. How was that awareness -- how did you gain that awareness?

13 A. Just through, I guess, you know, being out here and knowing  
14 what you're supposed to do; how you learn everything I guess.

15 Q. Is close call reporting, is that part of a curriculum in RWP  
16 or NORAC, or --

17 A. Yeah. I believe so.

18 MR. STEARN: Okay. No more. Thank you. And nothing further  
19 from me.

20 MR. DEFRANCESCO: When I said I didn't have any questions, I  
21 meant it.

22 MR. LLOYD: Now I'm going to, I'm going wrap --

23 MR. GORDON: Yeah. I think --

24 MR. LLOYD: I'm just going to wrap things up, I'm just doing  
25 so good. Carl asked a good question about the double bubble.

1 MR. BROOKS: Yeah.

2 BY MR. LLOYD:

3 Q. So when you have two track guys servicing the 1 track and 3  
4 track on the outside, you had the MARC train coming south, and all  
5 the watchmen are signaling. They've got their banners up, their  
6 horns are blowing, and all that stuff. So now here it comes, and  
7 it used to be Amtrak policy, it still may be, that once I see that  
8 train, now the equipment's blaring their horns.

9 A. Right.

10 Q. Okay? So now I got watchmen blowing their horn, now I got a  
11 louder air horn on equipment blowing their horn, now here comes  
12 something northbound. And this watchman's got an air horn about  
13 this big, and he's blowing, and he's -- my banners are still up  
14 and I'm blowing for the first train. How does the gang recognize  
15 that now there's something coming this way? What's different in  
16 the way I warn people that, you know -- what I'm --

17 A. So you need --

18 Q. -- sort of saying is just, you know, to stop that watchman  
19 from coming up into that foul, or any other person from stepping  
20 over into 1 or something. Here comes a southbound train, now here  
21 comes a northbound train, and I'm already signaling, whistles are  
22 blowing. Now the watchmen probably can't hear. But how is that  
23 double bubble handled?

24 A. Well, they first blow the whistle for the first train and  
25 they're (indiscernible) lights or whatever if it's night. Nobody



1 should be on the tracks at that point. Usually when, you know,  
2 you've got a southbound coming, you'll hear a whole 'nother set of  
3 air cans going, starting to come off the other way, letting you  
4 know there's another one coming the other way.

5 But I would say the instance I was telling you about them  
6 saying, if a train goes south on this end --

7 UNIDENTIFIED SPEAKER: Start dropping, right.

8 MR. BROOKS: -- start dropping. That's why you shouldn't do  
9 that. Because if you drop yours here, and you've got a piece of  
10 equipment here, and you've got eight more watchmen down this way  
11 and you're in two track, another track next to this track -- say  
12 you have two tracks on this side; one's coming on the outside and  
13 these watchmen start dropping their banners. You got a guy on  
14 this piece of equipment. He see's these banner goes down, what if  
15 he got to take a leak? And he comes stepping off, and now you've  
16 got guys down here blowing their horns again, still got their  
17 banners up.

18 UNIDENTIFIED SPEAKER: Right.

19 MR. BROOKS: And now you've got a train on adjacent track  
20 next to him coming the other way.

21 BY MR. LLOYD:

22 Q. So it's a rule or Amtrak policy that, you know, if it's --  
23 that foreman has to maybe get that best distance approach, that  
24 best sight advantage, that I do have to stand a little closer and  
25 I'm in the foul. I can be in the foul if I'm watching train

1 approach warning, correct? Can I be in -- can I foul the track if

2 I'm still --

3 A. If you've got a watchman out there --

4 Q. -- performing as a watchman?

5 A. If you got -- as a watchman foul?

6 Q. As a watchman, can I --

7 A. I believe now they've changed the rule. You're not allowed  
8 to be on a live track and watch. But before there wasn't a rule  
9 that said you could, but it was supposed to be marked on the job  
10 briefing that you have permission to. If the foreman was going to  
11 let you up in that track to watch, then it had to be on the job  
12 briefing.

13 Q. Okay. So I can, if I put on a job briefing I can have that  
14 watchmen to look -- you know, I got to stand here to get that best  
15 sight distance. I can stand within the fouling point, right?

16 A. Yeah. Before --

17 Q. So -- now or then?

18 A. Then.

19 Q. Then.

20 A. Then you could.

21 Q. Can't do it now?

22 A. No.

23 Q. Okay.

24 A. No. But honestly with all the noise out there, there's no  
25 reason to. I mean, there's --

1 Q. You answered my question.

2 A. -- a cat pole and a half, two cat poles, I mean, it's not  
3 real noisy. Three cat poles distance, there's no curves out here  
4 that tight.

5 Q. Okay. Because I was going say, the now and then, how do you  
6 guarantee that watchman that something's now coming northbound and  
7 I'm allowed to be within that foul zone. I've been hearing horns  
8 for the last 2 minutes, 30 seconds, and now something's coming  
9 this way. What's that -- you know, and I'm watching that train  
10 coming by. You know, it's -- but you answered my question, the  
11 then and now, so --

12 BY MR. GORDON:

13 Q. Yeah. So just for the record, would a good training for  
14 watchmen be you maintain the warning of the train with your  
15 audible and visual until you know that all tracks are clear?

16 A. Yeah. I mean, like -- yeah, there's a big discrepancy out  
17 here when you have advance watchmen, you know, a whole bunch of  
18 watchmen out that -- a train goes south, advance watchman on the  
19 north end, he holds his banner up. He blows his horn. Everybody  
20 else blows their horn, raises their banner. The train goes by.  
21 You all can't see each other, equipment, curve, whatever. Now  
22 you've had your banner, if you're in the north advance watchman  
23 for the southbound train, up probably close to 15 seconds before  
24 that train got to you. Now it's got to go through a work zone of  
25 however long for however many seconds. And then a lot of common

1 practices is for, after it goes through the work zone, the  
2 watchman on the south end is going to hold his up till he gets 15  
3 seconds that he can see around that train for it to come back. So  
4 you're talking, you're 45 seconds to a minute holding your banner  
5 up. The guy's arm's getting tired.

6 And at what point do they go back to work, right? I mean, it  
7 seemed like they were just holding the banner up too long.

8 A lot of times is, too, your -- now they don't know why  
9 they're holding their banners up. Hey, I'm good, but can I put my  
10 banner down? The trains going this way, is there something else  
11 coming that way? They don't know what they're doing.

12 So that's where it comes in at this arm length, and then down  
13 for a second; still we got to hold it for a second to let  
14 everybody know that the trains are gone and you're ready to let --  
15 go back, let them go back on the tracks. You just stop for a  
16 second and let them down.

17 But I don't know if that's something we can use as training,  
18 to where you come to arm length and you hold it there until  
19 everybody comes to arm length and then drop. I mean, I don't know  
20 if that's the only solution to this or not, but I do know the guy  
21 at the class doesn't agree with that.

22 UNIDENTIFIED SPEAKER: But there is confusion when it comes  
23 to train approach warning, correct?

24 MR. BROOKS: Like I said, I don't want to get in -- be the  
25 one that comes up with this solution.

1 BY MR. GORDON:

2 Q. I understand. I've just got one more and then I think I'm  
3 going to speak for everyone when it's going back to Troy after  
4 that. During the job briefing, completing the job briefing with  
5 the guys and the job briefing form, is it acceptable to have a  
6 range of watchmen or do you put a actual number --

7 A. Well, it's on there how many watchmen you're going to use.  
8 I'd say most cases, division, you can go out there and you can  
9 write one gang watchman or you could write three watchmen or five  
10 watchmen. Most of the things I can tell you is, with something  
11 like the undercutter, you know you're going to be somewhere  
12 between -- you know, you might be starting off at tangent track,  
13 getting the guys on the equipment checking the oil and all that,  
14 and you might need two watchmen. When you start surfacing and  
15 getting up there, you might have 10 out. So it's yeah, kind of  
16 common practice to say 2 to 10.

17 Q. Two to 10? Okay. So there's not a requirement that as the  
18 conditions of the jobsite change and now more watchmen are  
19 required, that's not something that would trigger a re-briefing?

20 A. If we did, we'd never get nothing done, if you're saying that  
21 we have to start doing that. Because now I got to brief to get  
22 two or three watchmen out, I mean, it's just -- we'll start going,  
23 we'll just start putting 10 watchmen out from the start.

24 Q. Right.

25 A. I mean --

1 Q. Then you've got to be prepared to answer for what those 10  
2 watchmen are out there doing, right?

3 A. Well, not just that, but --

4 Q. But you've gotten good support.

5 A. -- you're going to have some bad morale.

6 MR. GORDON: That's right. All right. I'll look back at  
7 Troy.

8 MR. LLOYD: Hey, Brian, we've kept you here, but you've been  
9 -- gave us some valuable information. I had some very good  
10 questions. Does anybody else have anything?

11 UNIDENTIFIED SPEAKER: No. We're good.

12 MR. LLOYD: Dave does. What's that again?

13 MR. KANNENBERG: No.

14 MR. LLOYD: Okay. Brian, I'd like to end it with a -- end  
15 with a note that, you know, if there's anything that you could  
16 change today with rules or whatever that would make the place  
17 safer and better for everybody, what would you -- what could we  
18 do? What could you --

19 MR. BROOKS: I think everybody just needs to slow down a  
20 little bit. The pace is too -- it's pushed too much. And I  
21 think, you know, a lot of the foremen have too much territory on  
22 them. Some of them probably disagree. I mean, for me, it -- I  
23 mean, I have about a 128 miles of territory right now. I used to  
24 have more on the Harrisburg Line. I know some guys go all the way  
25 to Boston from D.C. The pace, especially first thing in the

1 morning, everybody's in a hurry. Slow down and pick up as the day  
2 goes.

3 MR. LLOYD: What about protection for employees out on the  
4 tracks? Was there -- is there anything you can see that'd be done  
5 differently, more better?

6 MR. BROOKS: Like I said, I'd like to see that in the big  
7 production units like that somebody just have RWP and not have  
8 nothing else on their plate for the day.

9 MR. LLOYD: Good point. Good point.  
10 You guys good?

11 UNIDENTIFIED SPEAKER: Um-hum.

12 MR. LLOYD: Brian, I appreciate it.

13 MR. GORDON: Go off the record.

14 MR. LLOYD: Yeah, we're off the record.

15 (Whereupon the interview was concluded.)  
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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:           AMTRAK WORKER FATALITY  
                                  BOWIE, MARYLAND  
                                  APRIL 24, 2018  
                                  Interview of Brian Brooks

ACCIDENT NO.:               RRD18FR006

PLACE:                       North East, Maryland

DATE:                         December 13, 2018

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.



\_\_\_\_\_  
Christy Wilson  
Transcriber