

EXHIBIT 10

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: EAST PALESTINE) CASE NO.
5 TRAIN DERAILMENT) 4:23-CV-00242-BYP
6) JUDGE BENITA Y. PEARSON

7 FRIDAY, NOVEMBER 3, 2023

8 CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

9 - - -

10 Videotaped deposition of 30(b)(6)
11 designee of Norfolk Southern Railway Company,
12 David Dixon, held at the offices of Wilmer
13 Cutler Pickering Hale and Dorr LLP,
14 2100 Pennsylvania Avenue NW, Washington, DC,
15 commencing at 9:18 a.m. Eastern, on the above
16 date, before Carrie A. Campbell, Registered
17 Diplomate Reporter, and Certified Realtime
18 Reporter.

19 - - -

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Page 2	Page 4
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<p>Page 6</p> <p>1 7 July 21, 2023 letter to Michelle 52 Kranz from David Schneidewind, 2 re: Response to Subpoena 3 directed at Terminal Railroad Association of St. Louis in the 4 below captioned matter</p> <p>8 System Safety and Human 63 Performance Group Chair's 5 Factual Report, 6 NS-CA-001623465 - NS-CA-001623485</p> <p>9 October 20, 2023 letter to 65 8 counsel from WilmerHale re: In re: East Palestine Train 9 Derailment, No. 4:23-CV-00242-BYP (N.D. Ohio): 10 Production of Documents 11 10 Map of Eastbound NS Train 32N, 82 NS-CA-001622398</p> <p>11 Screenshot as place holder for 84 13 Video of the Norfolk Southern train, NS-CA-001618174</p> <p>12 Exhibit 1- bearing images, 88 14 NS-CA-001622039 - NS-CA-001622042</p> <p>13 Hazardous Materials Group 102 Chair's Factual Report, 18 NS-CA-001624324 - NS-CA-001624482</p> <p>14 Incident Status Report, 159 20 February 5, 2023, NS-CA-001621932 - NS-CA-001621939</p> <p>15 Incident Status Report, 166 22 February 6, 2023, 23 NS-CA-001620320 - NS-CA-001620331</p> <p>16 Photo 30 of 32, Pittsburgh 167 25 Post-Gazette</p>	<p>Page 8</p> <p>1 27 E-mail(s), 293 NS-CA-000249678 - 2 NS-CA-000249681</p> <p>3 28 Cross-Notice of Deposition of 314 Rule 30(b)(6) Videotaped 4 Deposition of Norfolk Southern Railway Company</p> <p>5 29 Transcript of Investigative 360 6 Hearing - Day 2. June 23, 2023, Feb. 3 Norfolk Southern Railway 7 Derailment in East Palestine, OH 8 (Exhibits attached to the deposition.) 9</p> <p>10 CERTIFICATE.....393 11 ACKNOWLEDGMENT OF DEPONENT.....395 12 ERRATA.....396 13 LAWYER'S NOTES.....397 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 7</p> <p>1 17 Photo 10 of 32, Pittsburgh 171 2 Post-Gazette</p> <p>3 18 Photo 15 of 32, Pittsburgh 172 4 Post-Gazette</p> <p>5 19 E-mail(s), 174 NS-CA-001384312</p> <p>6 20 Vinyl Chloride Monomer Safety 205 Data Sheet, NS-CA-001620234 - 7 NS-CA-001620252</p> <p>8 21 Vinyl Chloride Tank Care 216 Temperature Measurement Reports, 9 Text Message Screenshots, February 6, 2023, 10 NS-CA-001620211 - NS-CA-001620220</p> <p>11 22 OCPX80370 Shell Temperature 216 12 Measurements, February 5, 2023, 4:00 p.m. to February 6, 2023, 13 2:30 p.m. Data provided by Norfolk Southern Railway, 14 NS-CA-001622488 - NS-CA-001622489</p> <p>15 23 Mechanical Group Factual Report, 261 16 No Bates</p> <p>17 24 Application for Approval and 276 Certificate of Construction, 18 NS-CA-000017058 - NS-CA-000017059</p> <p>19 25 Vinyl Chloride Tank Car 283 20 Temperature Measurement Spreadsheet, 21 No Bates</p> <p>22 26 Timken "Installing and 283 23 Maintaining Timken AP and AP-2 Bearings, Diesel Locomotive, Passenger and Freight Care 24 Applications," NS-CA-000020758 - 25 NS-CA-000020785</p>	<p>Page 9</p> <p>1 VIDEOGRAPHER: We are now on 2 the record. My name is Chris Ritona. 3 I'm the videographer with Golkow 4 Litigation Services. 5 Today's date is November 3, 6 2023, and the time is approximately 7 9:18 a.m. Eastern. 8 This video deposition is being 9 held in Washington, DC, at WilmerHale, 10 2100 Pennsylvania Avenue, in the 11 matter of the East Palestine Train 12 Derailment, US District Court for the 13 Northern District of Ohio, Eastern 14 Division, Case Number 15 4:23-CV-00242-BYP. 16 And the deponent today is David 17 Dixon. 18 All counsels' appearances will 19 be noted upon the stenographic record. 20 The court reporter today is 21 Carrie Campbell, and she will now 22 please swear in the witness. 23 24 DAVID DIXON, 25 of lawful age, having been first duly sworn</p>

<p style="text-align: right;">Page 10</p> <p>1 to tell the truth, the whole truth and 2 nothing but the truth, deposes and says on 3 behalf of the Plaintiffs, as follows: 4 5 DIRECT EXAMINATION 6 QUESTIONS BY MR. DENTON: 7 Q. All right. Good morning, 8 Mr. Dixon. 9 A. Good morning. 10 Q. My name is Roger Denton. I 11 think we shook hands briefly before the 12 deposition. I represent the group of 13 residents in East Palestine involving the 14 Norfolk Southern train derailment that 15 happened on February 3, 2023. 16 Do you understand that? 17 A. I do. 18 Q. Okay. We served a notice of 19 deposition on Norfolk Southern and requested 20 that they provide a witness to testify on 21 behalf of the corporation, that would be the 22 Norfolk Southern Railway and the Norfolk 23 Southern corporation, concerning certain 24 topics that were in our notice of deposition. 25 And you're the person that they have</p>	<p style="text-align: right;">Page 12</p> <p>1 Pamphlet 171; Vinyl Chloride Monomer 2 Tank Car & Car {sic} Tank Handling 3 Manual; the NTB docket Group B, 4 Exhibit 26, vinyl chloride monomer 5 safety data sheet. 6 I reviewed the disaster story 7 at Kingman, Arizona, historic 8 district; The Southern Boulevard Fire: 9 Kansas City Remembers a Tragedy in the 10 Firehouse. 11 The NTB docket Group B, 12 Exhibit 10, hazardous group chair 13 factual report. 14 The NTB docket for the 15 operations factual report. 16 And the NTB docket for the 17 mechanical factual report. 18 And then the NTB docket group F 19 for -- the exhibits for the 20 application, approval of certificates 21 of construction, Exhibits 29, 30, 31, 22 32. 23 Also a document in the matter 24 of East Palestine Train Derailment 25 site, East Palestine, Columbiana</p>
<p style="text-align: right;">Page 11</p> <p>1 designated. 2 Do you understand that, sir? 3 A. I do. 4 Q. Okay. Before you came in here 5 to give a deposition, did you review any 6 documents, videos, photographs? 7 A. Yes. 8 Q. Could you tell me what you 9 reviewed, please? 10 A. I reviewed the NTSB, the 11 dockets Group B exhibits. I reviewed the 12 NTSB investigative hearing transcripts, day 1 13 and day 2. The air brake inspection and test 14 certificates on TRRA. 15 MS. PUJARI: While you're 16 taking a minute, Mr. Dixon, just be 17 sure to keep your voice up so that the 18 court reporter can hear you and the 19 video is clear and counsel can hear 20 you. 21 THE WITNESS: Okay. 22 All right. So as I said, the 23 NTSB investigative hearing transcripts 24 day 1 and day 2; the Chlorine 25 Institute and Vinyl Institute</p>	<p style="text-align: right;">Page 13</p> <p>1 County, Ohio, EPA unilateral 2 administrative order. 3 And Norfolk Southern's third 4 quarter 2023 results. 5 Also, 49 CFR 179.3, CFR -- 6 well, 49 CFR 179.6; 49 CFR 180.507(a), 7 49 CFR 180.417(a). 8 And then I didn't repeat -- if 9 I didn't state this, the NTSB docket 10 group F, Exhibit 49; NTSB docket 11 group, Exhibit 30; NTSB docket 12 Group B, Exhibit 10, and then NTBS 13 {sic} docket F, Exhibit 31; NTBS -- 14 NTSB docket group F, Exhibit 32; NTSB 15 docket Group B, Exhibit 10. 16 And I believe that concludes 17 the material. 18 QUESTIONS BY MR. DENTON: 19 Q. Okay. Thank you, sir. 20 You're referring to a document 21 that you were just, I don't want to say 22 reading from, but referring to to answer that 23 last question. 24 True? 25 A. Yes, that's true.</p>

<p style="text-align: right;">Page 14</p> <p>1 MR. DENTON: Could we mark 2 that, Carrie, please, as Exhibit 1? 3 Do we have another copy of that 4 for counsel? Thank you. 5 (Dixon 30(b)(6) Exhibit 1 6 marked for identification.) 7 QUESTIONS BY MR. DENTON: 8 Q. So Exhibit 1, Mr. Dixon, I've 9 been handed a copy, which you have right 10 there. I assume that was prepared for you in 11 anticipation of this litigation -- or this 12 deposition? 13 A. Yes. 14 Q. Okay. I guess a better 15 question, you did not prepare that document, 16 true? 17 A. I did not prepare this 18 document. 19 Q. Okay. The other document you 20 have over there to your right, that one-page 21 document, it looks like, could you tell us 22 what that is, please? 23 A. These -- this is a list of 24 vinyl chloride and polyethylene tank cars 25 that were part of the 30(b)(6) -- part of the</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. And then I'll just -- 28 is 2 another OCPX, 80179, vinyl chloride, true? 3 A. Correct. 4 Q. Car Number 29 was GATX95098, 5 loaded with vinyl chloride. 6 Correct? 7 A. Correct. 8 Q. And then Car 53, an OCPX80370, 9 was loaded with vinyl chloride. 10 Correct? 11 A. Correct. 12 Q. Okay. So in addition to 13 reviewing the documents that you told us 14 about earlier, what else, if anything, did 15 you do to prepare for this deposition here 16 today? 17 A. I took a look at the Norfolk 18 Southern operating rules and, excuse me, and 19 the Norfolk Southern NS-1 rules. 20 Q. NS what, sir? 21 A. NS-1 rules. 22 Q. Okay. Other than lawyers, did 23 you talk to anyone at N S in preparation for 24 this deposition to try to get some factual 25 information?</p>
<p style="text-align: right;">Page 15</p> <p>1 32N consist and part of this deposition. 2 (Dixon 30(b)(6) Exhibit 2 3 marked for identification.) 4 QUESTIONS BY MR. DENTON: 5 Q. Okay. Let's mark that as 6 Exhibit 2, please. 7 Looks like it's -- Exhibit 2 8 appears to be a listing of five or six 9 different railcars that were in Train 32N 10 that derailed in East Palestine, correct? 11 A. That's correct. 12 Q. Okay. It's the Car Number 23, 13 the GPLX75465, which was a hopper car that 14 had plastic pellets in it. 15 Correct? 16 A. Correct. 17 Q. And then there's Car 26, which 18 is TILX402025, which was loaded with vinyl 19 chloride at the time of the derailment. 20 True? 21 A. Correct. 22 Q. Car 27, OCPX80235, again, a car 23 loaded with vinyl chloride. 24 True? 25 A. Correct.</p>	<p style="text-align: right;">Page 17</p> <p>1 A. I had a conversation with 2 Dianne Barnett, who is in our mechanical 3 department, because I had a question about 4 one of the hot box detector alerts. 5 And another hot box detector 6 alert that appeared when I read the documents 7 appeared to say the same thing. 8 Q. Uh-huh. 9 A. So I did ask what the 10 difference between those two alerts were. 11 Q. Okay. Did you talk to any 12 other Norfolk Southern employee to gather 13 information or facts or explanations for 14 preparation for this deposition? 15 A. In reviewing the 2020 emergency 16 response guide, I did not know if that was 17 the latest, the greatest, and I did not know 18 if that was -- again, if it wasn't the 19 latest, I wanted to make sure we were looking 20 at the right emergency response guide. 21 So I spoke with Robert Wood at 22 Norfolk Southern, who confirmed that it was 23 the latest issue from PHMSA, the Department 24 of Transportation. 25 Q. Okay. And what is Robert</p>

<p style="text-align: right;">Page 18</p> <p>1 Wood's position with Norfolk Southern?</p> <p>2 A. He works in our HAZMAT area.</p> <p>3 Q. Hazardous materials?</p> <p>4 A. Hazardous materials.</p> <p>5 Q. Okay. And, Mr. Dixon, your</p> <p>6 background at Norfolk Southern, what job do</p> <p>7 you have for them, sir?</p> <p>8 A. I am currently the director of</p> <p>9 labor relations, and I work with our</p> <p>10 operations group to analyze train and engine</p> <p>11 productivity.</p> <p>12 Q. Say that again? I'm sorry.</p> <p>13 I'm having a little trouble hearing.</p> <p>14 A. I currently work as a director</p> <p>15 of labor relations --</p> <p>16 Q. Okay.</p> <p>17 A. -- in our labor relations</p> <p>18 department, where I'm in charge of working</p> <p>19 with others in operations to measure train</p> <p>20 and engine productivity and ensure we have</p> <p>21 proper staffing on the railway.</p> <p>22 Q. Okay. So you're involved with</p> <p>23 trying to get the trains moving efficiently?</p> <p>24 A. I'm involved with resource</p> <p>25 staffing.</p>	<p style="text-align: right;">Page 20</p> <p>1 Like the one that derailed in</p> <p>2 East Palestine on February 3, 2023, that's a</p> <p>3 through-freight train. Have you ever</p> <p>4 operated one of those as a conductor or</p> <p>5 worked on one as a conductor?</p> <p>6 A. No, not as a conductor.</p> <p>7 Q. Okay. Did you talk to the</p> <p>8 lawyers, meet with the lawyers, to prepare?</p> <p>9 I don't want to know what you</p> <p>10 talked about, but you can tell me how many</p> <p>11 times did you meet with lawyers and how long</p> <p>12 did you spend preparing for your deposition.</p> <p>13 Don't tell me what you talked about. Just</p> <p>14 tell me time.</p> <p>15 MS. PUJARI: Objection to the</p> <p>16 extent it calls for privileged</p> <p>17 information.</p> <p>18 You can answer, but not as to</p> <p>19 any content.</p> <p>20 THE WITNESS: I believe we met</p> <p>21 on four occasions, and I believe the</p> <p>22 longest of those four was up to four</p> <p>23 hours. Most of them two.</p> <p>24 QUESTIONS BY MR. DENTON:</p> <p>25 Q. So four different meetings with</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Resource staffing from a labor</p> <p>2 relations point of view?</p> <p>3 A. From a labor relations point of</p> <p>4 view --</p> <p>5 Q. All right.</p> <p>6 A. -- yes, sir.</p> <p>7 Q. Have you ever worked in</p> <p>8 railroad operations, actually as a trainman</p> <p>9 or a conductor or a carman, like that, a</p> <p>10 union craft job?</p> <p>11 A. I've never been in a union</p> <p>12 craft job. I've been a certified conductor</p> <p>13 when I worked in our transportation</p> <p>14 operations department.</p> <p>15 Q. Were you actually working on</p> <p>16 trains, or were you in the office?</p> <p>17 A. I was working in the field.</p> <p>18 Q. Doing what?</p> <p>19 A. I held a position of</p> <p>20 superintendent of terminals at Chattanooga,</p> <p>21 Tennessee, as well as the assistant division</p> <p>22 superintendent on our central division.</p> <p>23 Q. Okay. But did you actually</p> <p>24 work as a conductor on a freight train going</p> <p>25 across the country?</p>	<p style="text-align: right;">Page 21</p> <p>1 lawyers. You estimate somewhere between two</p> <p>2 and four hours for each meeting?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. Where were those</p> <p>5 meetings held, sir?</p> <p>6 A. I think two were online. Two</p> <p>7 were in person.</p> <p>8 Q. Okay. And where were the</p> <p>9 in-person ones handled?</p> <p>10 A. One in Atlanta, Georgia, at our</p> <p>11 corporate office.</p> <p>12 Q. Okay. And where was the other</p> <p>13 one?</p> <p>14 A. Here in this building.</p> <p>15 Q. In DC at the WilmerHale law</p> <p>16 firm?</p> <p>17 A. Yes, sir.</p> <p>18 Q. The lawyers that represent</p> <p>19 Norfolk Southern in this litigation, correct?</p> <p>20 A. Correct.</p> <p>21 (Dixon 30(b)(6) Exhibit 3</p> <p>22 marked for identification.)</p> <p>23 QUESTIONS BY MR. DENTON:</p> <p>24 Q. Okay. So I want to display --</p> <p>25 let's mark this as Exhibit 3, the deposition</p>

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1 notice.
 2 Okay. Have you seen this
 3 before, sir, Exhibit 3, the deposition
 4 notice, that brought you here today?
 5 A. Yes, sir.
 6 Q. Okay. And if we go to page 2
 7 of that document, it refers to various
 8 allegations that were made in a lawsuit that
 9 Norfolk Southern filed against third parties
 10 and -- in this derailment case, the East
 11 Palestine derailment case, and references
 12 certain paragraphs in that pleading that the
 13 railroad filed.
 14 Correct?
 15 A. Yes, it appears to do just
 16 that.
 17 Q. Okay. And it looks like your
 18 Exhibit 1, this document where you talked
 19 about all that, it looks like the lawyers or
 20 somebody -- strike that.
 21 It looks like somebody took
 22 those paragraphs and provided those for you
 23 from the notice.
 24 Correct?
 25 A. Yes, sir.

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1 Q. Okay. All right. So and
 2 you're ready to talk about these today on
 3 behalf of both corporations, both Norfolk
 4 Southern corporations?
 5 A. Correct.
 6 (Dixon 30(b)(6) Exhibit 4
 7 marked for identification.)
 8 QUESTIONS BY MR. DENTON:
 9 Q. Okay. Let's start with the
 10 very first paragraph. Let's pull up the
 11 third-party complaint, please. We'll mark
 12 that as 4.
 13 And let's go to paragraph 29 on
 14 page 8 of the third-party complaint. It's
 15 the very first paragraph that's in the
 16 notice, and it's in the document that was
 17 provided for you to be prepared for.
 18 Do you see that? Very first
 19 one.
 20 A. Can you repeat what page?
 21 Q. I've got page 8 of the
 22 third-party complaint.
 23 A. Okay.
 24 Q. And I think paragraph 29 is
 25 right at the top, and I think I highlighted

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1 it for you.
 2 A. Yes.
 3 Q. Okay. And that's -- on this
 4 Exhibit 1 that you brought with you is the
 5 first paragraph that's on that document as
 6 well.
 7 Correct?
 8 A. Correct.
 9 Q. Okay. So let's read this
 10 together so the jurors understand what we're
 11 talking about.
 12 It says, quote, "The train was
 13 assembled in Madison, Illinois, and was
 14 destined for Conway, Pennsylvania. On
 15 February 1, 2023, in Madison, a qualified
 16 mechanical inspector conducted a mechanical
 17 inspection and an air brake test," period,
 18 end quote.
 19 Do you see that?
 20 A. I do.
 21 Q. Okay. And then I want to ask
 22 you about that information.
 23 But before -- and you've listed
 24 a number of documents on your Exhibit 1 that
 25 relate to answering that question.

Page 25

1 Right?
 2 A. That's correct.
 3 Q. Okay. You still have that,
 4 don't you, in front of you, Exhibit 1?
 5 A. I do.
 6 Q. You mentioned the NTSB docket
 7 Group B, Exhibit 5; the ALS TRRA 31 consist;
 8 NTSB docket Group B, Exhibit 6 and 10;
 9 hearing transcript day 1 at page 27; and the
 10 air brake inspection and test certificate
 11 from TRRA.
 12 And TRRA is the Terminal
 13 Railroad Association St. Louis.
 14 Correct?
 15 A. That's correct.
 16 Q. And do you know anything about
 17 that railroad?
 18 A. Not a lot, no.
 19 Q. What little do you know about
 20 them?
 21 A. I know it's a terminal
 22 switching rail service.
 23 Q. Okay. So they're in the
 24 St. Louis area. They do local switching,
 25 interchange with big carriers like NS, right?

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1 A. That's correct.
 2 Q. Okay. I think they're a
 3 Class III railroad, aren't they?
 4 A. I'm not positive on that.
 5 Q. Okay. Certainly not a Class I
 6 railroad?
 7 A. That's correct.
 8 Q. Okay. All right. So when we
 9 talk about a, quote -- can we underline that,
 10 Michael? -- quote, "qualified mechanical
 11 inspector" paragraph? Yeah.
 12 That means something under the
 13 FRA regulations, doesn't it, sir?
 14 A. Yes.
 15 Q. Okay. And that regulation is
 16 governed by 49 CFR 215, right?
 17 A. Correct.
 18 (Dixon 30(b)(6) Exhibit 5
 19 marked for identification.)
 20 QUESTIONS BY MR. DENTON:
 21 Q. Can we pull that up, please?
 22 Because I don't see that on your list here of
 23 what you reviewed, and I just want to make
 24 sure we get through this correctly.
 25 Are we on Exhibit 4, Carrie?

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1 5.
 2 Have you -- you've looked at
 3 this in the past, haven't you, sir, Part 215
 4 of the Railroad Freight Car Safety Standards?
 5 A. I'm not familiar with the whole
 6 Part 215.
 7 Q. Okay. But you do understand
 8 it's the regulations that govern freight car
 9 safety standards?
 10 A. It's part of the regulations.
 11 Q. Right. Okay.
 12 But when we talk about a
 13 certified mechanical -- or qualified
 14 mechanical inspector, that's defined in these
 15 regulations, isn't it, sir?
 16 A. Yes, sir.
 17 Q. Let's go to -- I think it's
 18 actually right there, 215.11, Designated
 19 inspectors.
 20 Are you following me, sir?
 21 A. I'm not there yet.
 22 Q. Okay. Are you with me now?
 23 A. I am.
 24 Q. Okay. And this is the
 25 section -- and if we read it, starting

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1 with -- well, read the title. "Designated
 2 inspector."
 3 That's what you're -- what is
 4 being referred to in paragraph 29 of this
 5 third-party complaint, is this is the
 6 qualified mechanical inspector, correct?
 7 This defines what they are?
 8 MS. PUJARI: Objection as to
 9 the document stating "designated
 10 inspector." It's in the complaint
 11 stating "qualified inspector."
 12 Misstates the document.
 13 MR. DENTON: Okay.
 14 QUESTIONS BY MR. DENTON:
 15 Q. Is there any other section in
 16 the Federal Code of Regulations that define a
 17 qualified mechanical inspector for railcars
 18 other than 215.11?
 19 A. I don't know.
 20 Q. Well, you're here on behalf of
 21 the Norfolk Southern Railway speaking for the
 22 corporation.
 23 Are you telling me the
 24 corporation doesn't know the answer to that
 25 question?

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1 A. I know that the FRA, who is
 2 responsible for governance of railcar
 3 operations, mechanical activities, as stated,
 4 if we look at the NTB investigative hearing
 5 transcript, day 1 --
 6 Q. Yeah.
 7 A. -- page 7 --
 8 Q. Right.
 9 A. -- that the cars were inspected
 10 by -- at the TRA -- TRRA by a mechanical
 11 qualified inspector.
 12 Q. Well, I'm going to test you on
 13 that, sir, because I don't believe that to be
 14 the case. That's what we're here for today.
 15 Okay? Are you ready to go?
 16 A. Sure.
 17 Q. Okay. Because you're not here
 18 to testify on behalf of the NTSB. You're
 19 here to testify on behalf of Norfolk Southern
 20 Railway Company, the knowledge of the
 21 railroad, correct?
 22 A. Correct.
 23 Q. Okay. So let's look at what
 24 the regulations defined as a qualified -- or
 25 a designated, quote -- sorry, designated

1 inspector.
 2 "A, each railroad that operates
 3 a railroad freight car to which this part
 4 applies shall designate persons qualified to
 5 inspect railroad freight cars for compliance
 6 with this part to make the determinations
 7 required by 215.9 of this part."
 8 Right? Follow me?
 9 A. That's what it states.
 10 Q. Okay. It goes down -- it goes
 11 on in B. "Each person designated under this
 12 section shall have demonstrated to the
 13 railroad a knowledge and ability to inspect
 14 the railroad freight cars for compliance with
 15 the requirements of this part and to make the
 16 determinations required by 215.9."
 17 Correct?
 18 A. Correct.
 19 Q. Okay. Let's look at all the
 20 things that a qualified inspector under 215
 21 is supposed to look at.
 22 Let's go to the next set.
 23 Let's go to Section 215.103.
 24 Are you with me?
 25 A. 215.103.

1 Q. Right.
 2 "Defective wheels."
 3 Correct?
 4 A. Correct.
 5 Q. It lists a lot of information
 6 as to what the inspector is supposed to look
 7 for on each railcar. Talks about wheel
 8 flanges in paragraph A. Talks about wheel
 9 flanges in paragraph B, thickness of the rim,
 10 et cetera, a lot of information. Whether the
 11 wheel is loose, down in paragraph G, whether
 12 there's oil leaking from the wheels.
 13 Do you see that?
 14 A. I do.
 15 Q. All right. In addition to that
 16 in 215.105, a qualified inspection requires
 17 that you look for defective axles.
 18 Right?
 19 A. Correct.
 20 Q. What is an axle, sir; do you
 21 know?
 22 A. The axle attaches the two rail
 23 wheels. It comes as a wheel set.
 24 Q. Okay. We've got pictures of
 25 that. We'll look at that later.

1 But you have to -- that's part
 2 of what the inspection is required by the
 3 qualified mechanical inspection, right?
 4 A. According to 215.105, yes.
 5 Q. Okay. Let's go to 215.107,
 6 "Defective plain bearing box: General."
 7 What is a plain bearing box?
 8 A. Give me a second to read what
 9 they stated here.
 10 I believe they're referring to
 11 the housing of the bearing.
 12 Q. Right.
 13 And one of the things is to
 14 make sure it's visible, free of oil, right?
 15 Under A?
 16 A. Yes, free of oil.
 17 Q. And we'll skip 215.09 just to
 18 move on to 215.111, "Defective plain
 19 bearing."
 20 Do you know what a plain
 21 bearing is?
 22 A. I assume it's just a bearing.
 23 Q. Just a bearing.
 24 Okay. Let's go down to
 25 215.115, "Defective roller bearing."

1 Okay. That's what caused the
 2 derailment here in East Palestine, was a
 3 defective roller bearing, correct?
 4 A. I don't believe that the actual
 5 investigation has been finalized at this
 6 point, so --
 7 Q. What is the position of the
 8 Norfolk Southern Railway Company, sir? Did
 9 or did not a defective roller bearing cause
 10 this derailment?
 11 A. I believe that we're in support
 12 of the investigation to determine the cause.
 13 Q. We're nine months out.
 14 Are you telling me that Norfolk
 15 Southern Railway Company doesn't know that a
 16 defective roller bearing caused this
 17 derailment?
 18 A. I would assume that the -- that
 19 the company would assume that the roller
 20 bearing, the defective roller bearing,
 21 resulted in the derailment of Car 23.
 22 Q. Okay. Thank you.
 23 And then back to 215.115.
 24 That's one of the many things that a
 25 qualified inspection is supposed to review,

<p style="text-align: right;">Page 34</p> <p>1 and let's go through it.</p> <p>2 Part A, "A railroad may not</p> <p>3 place or continue in service a car that has a</p> <p>4 roller bearing that shows signs of being</p> <p>5 overheated as evidenced by: discoloration."</p> <p>6 Right?</p> <p>7 A. Right.</p> <p>8 Q. "Or telltale signs of</p> <p>9 overheating, such as damage to the seal or</p> <p>10 distortion of any bearing component."</p> <p>11 Right?</p> <p>12 MS. PUJARI: Counsel, I'm going</p> <p>13 to object to the characterization of</p> <p>14 the document as requiring an</p> <p>15 inspection under this section as</p> <p>16 opposed to a prohibition on placing</p> <p>17 this component into service.</p> <p>18 MR. DENTON: Well, let's go</p> <p>19 back to...</p> <p>20 QUESTIONS BY MR. DENTON:</p> <p>21 Q. Let's go back to 215.11.</p> <p>22 "A railroad" -- I'm sorry, sir,</p> <p>23 you're not there yet.</p> <p>24 A. I'm not.</p> <p>25 Q. "A railroad may not place or</p>	<p style="text-align: right;">Page 36</p> <p>1 A. I do.</p> <p>2 Q. All right. And if we go back</p> <p>3 to 215.15, one of the sections under that</p> <p>4 part is that a railroad may not place or</p> <p>5 continue in service if the car has a roller</p> <p>6 bearing that shows signs of being overheated,</p> <p>7 et cetera.</p> <p>8 Correct?</p> <p>9 MS. PUJARI: Counsel, which --</p> <p>10 MR. DENTON: 215.115.</p> <p>11 THE WITNESS: Correct.</p> <p>12 QUESTIONS BY MR. DENTON:</p> <p>13 Q. Okay. So let's go back to</p> <p>14 paragraph 29, and let's talk about whether</p> <p>15 Norfolk Southern performed this inspection of</p> <p>16 the railcars and train in Madison, Illinois.</p> <p>17 Okay? You with me?</p> <p>18 A. I'm with you.</p> <p>19 Q. Okay. Norfolk Southern</p> <p>20 Railway, or none of its employees, inspected</p> <p>21 this train, did they?</p> <p>22 A. At Madison?</p> <p>23 Q. Yes.</p> <p>24 A. The TRRA inspected the train.</p> <p>25 Q. So answer my question.</p>
<p style="text-align: right;">Page 35</p> <p>1 continue in service if the car has a plain</p> <p>2 bearing that is cracked, missing," et cetera.</p> <p>3 Oh, we went to the wrong</p> <p>4 section. Strike all that. Sorry. It's</p> <p>5 215.11, not 111. That's my fault.</p> <p>6 MS. PUJARI: Thank you.</p> <p>7 QUESTIONS BY MR. DENTON:</p> <p>8 Q. Just to be clear, I'm at</p> <p>9 215.11, sir.</p> <p>10 Have you got it in front of</p> <p>11 you?</p> <p>12 A. I do.</p> <p>13 Q. All right. It says, "Each</p> <p>14 railroad that operates a freight car" --</p> <p>15 Certainly that applies to NS,</p> <p>16 right?</p> <p>17 And this is a railroad that is</p> <p>18 putting a freight car in trains, right?</p> <p>19 Right?</p> <p>20 A. We're operating -- yes.</p> <p>21 Q. -- "shall designate persons</p> <p>22 qualified to inspect the freight cars for</p> <p>23 compliance with this part and to make the</p> <p>24 determinations required by this part."</p> <p>25 See that?</p>	<p style="text-align: right;">Page 37</p> <p>1 No one employed by Norfolk</p> <p>2 Southern did a mechanical inspection of this</p> <p>3 train.</p> <p>4 Correct?</p> <p>5 A. Correct.</p> <p>6 MS. PUJARI: Object.</p> <p>7 Objection. Vague as to which train.</p> <p>8 QUESTIONS BY MR. DENTON:</p> <p>9 Q. N32 that derailed in East</p> <p>10 Palestine, Ohio, on February 3, 2023, left</p> <p>11 Madison, Illinois, February 1, 2023.</p> <p>12 Correct?</p> <p>13 MS. PUJARI: Could you restate</p> <p>14 the question?</p> <p>15 QUESTIONS BY MR. DENTON:</p> <p>16 Q. Did any Norfolk Southern</p> <p>17 employee do a mechanical inspection of</p> <p>18 Train 32N on February 1, 2023, in Madison,</p> <p>19 Illinois?</p> <p>20 A. No.</p> <p>21 Q. Did any Norfolk Southern</p> <p>22 employee do a mechanical inspection of</p> <p>23 Train 32N from Madison, Illinois, to the time</p> <p>24 it derailed in East Palestine at 8:56 on</p> <p>25 February 3, 2023?</p>

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1 A. The train was inspected -- or
 2 the cars that were added to the train at
 3 Decatur, Illinois, were -- those cars were
 4 inspected by a Norfolk Southern qualified
 5 mechanical employee.
 6 Q. That was an air brake test,
 7 wasn't it?
 8 A. It was a mechanical inspection
 9 on an air brake.
 10 Q. But Car Number 23, the
 11 defective wheel bearing car, GATX car, was in
 12 the first part of that train, right?
 13 MS. PUJARI: Objection. Vague.
 14 QUESTIONS BY MR. DENTON:
 15 Q. You've seen the consist?
 16 MS. PUJARI: Objection.
 17 Could you restate the question,
 18 please?
 19 QUESTIONS BY MR. DENTON:
 20 Q. Let me just -- this is not
 21 hard, sir.
 22 The GPLX75465 that caused this
 23 derailment left Madison, Illinois, on
 24 February 1, 2023, in a Norfolk Southern
 25 train, right?

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1 A. That's correct.
 2 Q. That's the train that derailed,
 3 and that's the car that caused the derailment
 4 in East Palestine on February 3, 2023.
 5 Correct?
 6 A. Again, that's a -- that's what
 7 we believe to have caused the derailment,
 8 but, again, I do not believe the
 9 investigation has been completed.
 10 Q. I don't care about the
 11 investigation. I care about the knowledge of
 12 Norfolk Southern.
 13 A. And our knowledge is, again, we
 14 believe that car to be the cause; however,
 15 the investigation is not complete.
 16 Q. Okay. And my question is this,
 17 from the time that car left Madison,
 18 Illinois, on February 1st, the defective car,
 19 GPLX75465, the hopper car, Number 23, from
 20 the time it left Madison, Illinois, until the
 21 time of the derailment, not a single Norfolk
 22 Southern inspector inspected that particular
 23 car.
 24 True?
 25 MS. KARIS: Object to form.

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1 THE WITNESS: That's true.
 2 QUESTIONS BY MR. DENTON:
 3 Q. Now, I want to understand what
 4 you claim the Terminal Railroad Association
 5 did in Madison, Illinois, with respect to
 6 this railcar.
 7 Was there an inspection by that
 8 railroad?
 9 A. The TRRA did perform a
 10 mechanical inspection and brake test.
 11 Q. Have you seen a single document
 12 that would verify that the Terminal Railroad
 13 of St. Louis did a mechanical inspection on
 14 this car?
 15 A. The only thing that I have seen
 16 was both the mechanical factual report and
 17 the NTSB hearing information supplied by the
 18 FRA and the Norfolk -- or the National
 19 Transportation Safety Board that states
 20 during their hearing that the NTSB
 21 investigated the car inspections for those
 22 cars and that a mechanical -- a qualified
 23 mechanical employee inspected those cars and
 24 performed a Class I brake test at the TRRA.
 25 Q. I understand that. There's two

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1 different tests; there's a mechanical test
 2 and an air brake test.
 3 Two completely different tests,
 4 right, sir?
 5 A. Yes, I would consider those --
 6 the mechanical inspection and the Class I
 7 test as two separate tests, yes.
 8 Q. Okay. Have you seen a single
 9 piece of paper generated by the Terminal
 10 Railroad Association that they performed a
 11 qualified mechanical inspection on this
 12 defective railcar?
 13 MS. KARIS: Object to form.
 14 THE WITNESS: No, I've not seen
 15 any documentation on each one of the
 16 cars that were inspected from the
 17 TRRA.
 18 QUESTIONS BY MR. DENTON:
 19 Q. Let me ask a different
 20 question.
 21 Do you have any documentation
 22 the Terminal Railroad inspected any part of
 23 Train 32N from a mechanical -- qualified
 24 mechanical inspection?
 25 A. I think my response is the same

<p style="text-align: right;">Page 42</p> <p>1 as the last question. I do not have any 2 documentation from the TRRA outside of the 3 Class I brake slip. 4 Q. Okay. 5 A. That I've seen. 6 (Dixon 30(b)(6) Exhibit 6 7 marked for identification.) 8 QUESTIONS BY MR. DENTON: 9 Q. All right. Let's -- yeah. No. 10 No. Let's call up -- let's call up 11 1397047049, this e-mail. It's 12 NS-CA-001397049. 13 Have you seen this document 14 before, sir? 15 A. What exhibit is this? Is this 16 Exhibit 6? 17 Q. No. Down at the bottom you'll 18 see a number. It's NS-CA, and the last three 19 digits are 049. 20 Do you see that? 21 A. I do. 22 Q. Okay. That's the correct 23 document. It's actually a two-page -- it's 24 an e-mail string. If you go to the second 25 page, which ends in 50, that's the beginning</p>	<p style="text-align: right;">Page 44</p> <p>1 right? 2 A. Correct. 3 Q. All right. And so who is 4 Randall Hunt at NS? 5 A. He's the senior director of 6 rail line services at Norfolk Southern. 7 Q. Okay. He's at corporate 8 headquarters in Atlanta? 9 A. Yes, sir. 10 Q. So we've got, it looks like, 11 that Norfolk Southern corporate headquarters 12 reached out to the general manager of the 13 Terminal Railroad after the derailment to get 14 information about this railcar. 15 Correct? 16 MS. PUJARI: Objection. 17 Misstates the document. 18 THE WITNESS: Yeah, I don't -- 19 I don't believe this indicates that 20 Norfolk Southern reached out -- 21 QUESTIONS BY MR. DENTON: 22 Q. Okay. Well, we at least know 23 that the general manager of the Terminal 24 Railroad Association sent an e-mail to 25 Randall Hunt, subject GPLX75465, on</p>
<p style="text-align: right;">Page 43</p> <p>1 of the string. 2 When you prepared for your 3 deposition here today, sir, did you see this 4 document? 5 A. No, I did not. 6 Q. Okay. Well, let's go through 7 it. I'll go through it with you. 8 We start on page 2, which is 9 the Bates number 50. 10 You can see at the bottom, Adam 11 Mahlandt, general manager, Terminal Railroad 12 Association of St. Louis. The date of the 13 e-mail is February 22, 2023. That's about 14 19 days post-derailment. And he is 15 responding to and sending an e-mail to 16 Randall Hunt at NS corporation. 17 Do you see that, sir? 18 A. Yes, sir. 19 Q. And it's reference to the 20 GPLX75465. 21 Correct? 22 A. That's the subject heading, 23 yes. 24 Q. And that's the hopper car. 25 That's the number 23 car that derailed,</p>	<p style="text-align: right;">Page 45</p> <p>1 February 22, 2023. 2 Correct? 3 A. Correct. 4 Q. Okay. Let's go to page 1. 5 MS. PUJARI: For the record, 6 I'm going to note that the information 7 below the e-mail header on this 8 document at Bates 50 is faint, very 9 difficult to read, and at least 10 illegible as to my ability to read 11 this. 12 So if we could get a better 13 copy so that we can see the entirety 14 of this document, that would be 15 appreciated. 16 MR. DENTON: Well, first of 17 all, no speaking objections. 18 Second of all, this is exactly 19 the way the NS produced it to me. I 20 can't do any better than what they 21 produced to me. Sorry about that, but 22 y'all better produce better documents. 23 QUESTIONS BY MR. DENTON: 24 Q. Let's go to page 1, 49. 25 You see Mr. Hunt, after</p>

<p style="text-align: right;">Page 46</p> <p>1 receiving this, on the very same day, within 2 seven minutes, forwards it on to James L. 3 Williams at Norfolk. 4 Do you see that down at the 5 bottom? Bottom of 49. 6 A. Yes, sir. 7 Q. Okay. It says, "Jamie, see the 8 screenshot confirming the car was 9 humped/classified at the TRRA before being 10 built into the Train 32N. The train received 11 a Class I brake test prior to departure." 12 Correct? 13 A. That's what it says. 14 Q. Okay. He sends that to Jamie, 15 and Jamie responds, doesn't he? Right above 16 that. 17 Do you see that? 18 It's dated February 22, 2023, 19 at 1:21:55 p.m. It's from Tom Schnautz. 20 MS. PUJARI: Objection. 21 Misstates the document. 22 QUESTIONS BY MR. DENTON: 23 Q. That's to Tom Schnautz, I'm 24 sorry. 25 Okay. Let's read through it.</p>	<p style="text-align: right;">Page 48</p> <p>1 sections. 232.205 is the Class I air brake. 2 Right? 3 A. Correct. 4 Q. And then the 215.13 5 predeparture inspection. 6 Correct? 7 A. Correct. 8 Q. So these people at Norfolk 9 Southern are saying, okay, they did the air 10 brake test. Where is the predeparture 11 mechanical test. 12 That's what this is about, 13 right? 14 MS. PUJARI: Objection. 15 Misstates the document. 16 MR. DENTON: No speaking 17 objections. 18 THE WITNESS: Could you repeat 19 the question? 20 QUESTIONS BY MR. DENTON: 21 Q. What's going on here is Tom is 22 telling -- or Jamie is telling Tom, who got 23 this from Norfolk Southern -- or from TRRA, 24 well, yeah, you got the air brake slip; where 25 is the mechanical slip?</p>
<p style="text-align: right;">Page 47</p> <p>1 This is what's important. Let's read through 2 this. 3 "Tom, the screenshot below 4 indicates GPLX75465 was reclassified on the 5 Terminal Railroad in St. Louis between the 6 dates of 1/31 and 2/1/2023." 7 Are you with me? 8 A. Yes. 9 Q. "The fact that a brake 10 inspection slip was furnished at the time of 11 the departure will indicate that a Class I 12 brake inspection was performed, per 49 CFR 13 232.205." 14 Following me? 15 A. Yes. 16 Q. And it says, "The attachment, 17 quote, 'air brake inspection,' end quote, 18 confirms this." 19 He goes on to say, "A 20 mechanical predeparture inspection under 249 21 CFR 215.13 would be required since the car 22 was placed on the train." 23 Correct? 24 A. Correct. 25 Q. And then he cites the two</p>	<p style="text-align: right;">Page 49</p> <p>1 MS. PUJARI: Objection. 2 Misstates the document. 3 QUESTIONS BY MR. DENTON: 4 Q. That's what's going on here, 5 isn't it? 6 MS. PUJARI: Objection. 7 Misstates the document. 8 MR. DENTON: Can you please 9 quit making speaking objections? 10 MS. PUJARI: I'm not making 11 speaking objections. 12 MR. DENTON: Yes, you are. 13 THE WITNESS: What this tells 14 me is they have -- they had the 15 attachment, the air brake inspection, 16 to confirm, excuse me, the air brake 17 test -- 18 QUESTIONS BY MR. DENTON: 19 Q. Right. 20 A. -- and that the other piece, 21 stating that 49 CFR 215 would be required 22 since this car would be placed on the new 23 train. 24 Q. Correct. 25 A. Now, at TRRA, I'm not sure if</p>

<p style="text-align: right;">Page 50</p> <p>1 they're doing both inbound or an outbound 2 inspection, but the reason they're saying 3 this car was classified -- and I believe they 4 said earlier that the car was humped -- 5 Q. Right. 6 A. -- and classified, so they're 7 either doing an inbound mechanical inspection 8 when the car comes into the yard at the TRRA 9 or they're doing an outbound mechanical 10 inspection. 11 Q. Maybe that's what they're 12 supposed to do. Do you have any evidence 13 that happened? 14 A. I can tell you from reviewing 15 the documents -- 16 Q. What document? 17 A. -- that the hearing at the 18 NTSB -- 19 Q. What document? 20 A. Reviewing the transcripts from 21 the NTSB hearings. 22 Q. Okay. 23 A. The NTBS {sic} investigator in 24 charge, Mr. Payan, basically states that they 25 reviewed and investigated the mechanical</p>	<p style="text-align: right;">Page 52</p> <p>1 Norfolk Southern, have no idea of whether or 2 not Terminal did a mechanical inspection, 3 correct? 4 MS. PUJARI: Objection. Asked 5 and answered. Argumentative. 6 THE WITNESS: I don't agree 7 with that. 8 QUESTIONS BY MR. DENTON: 9 Q. Show me a document. Show me 10 the inspection certificate. 11 MS. PUJARI: Objection. 12 Argumentative. 13 QUESTIONS BY MR. DENTON: 14 Q. Do you have a -- do you have an 15 inspection certificate? 16 A. I have not seen an inspection 17 certificate. 18 Q. Have you seen a single 19 statement from Terminal Railroad that they 20 did the inspection? 21 A. I have not had any 22 communications with TRRA. 23 Q. Well, we have. Let's get the 24 subpoena out. 25 (Dixon 30(b)(6) Exhibit 7</p>
<p style="text-align: right;">Page 51</p> <p>1 inspection, predeparture mechanical 2 inspection, and Class I brake tests, and that 3 all the cars were mechanically inspected and 4 received a Class I brake test before 5 departing TRRA. 6 Q. I understand they had a brake 7 test, but there was no mechanical test. 8 There's no evidence of a mechanical test done 9 at the Terminal Railroad Association, 10 correct? 11 MS. PUJARI: Objection. Asked 12 and answered. Argumentative. 13 QUESTIONS BY MR. DENTON: 14 Q. I want a piece of paper. I 15 want -- have you talked to anybody at 16 Terminal? Terminal Railroad? 17 A. No, I have not talked to 18 anyone. 19 Q. Has anybody at Norfolk 20 Southern, other than this e-mail that I 21 showed you, talked to anybody at Terminal 22 Railroad? 23 A. I'm not -- I have no idea if 24 somebody else from Norfolk Southern -- 25 Q. And you have -- you, being</p>	<p style="text-align: right;">Page 53</p> <p>1 marked for identification.) 2 (Discussion off the record.) 3 QUESTIONS BY MR. DENTON: 4 Q. So you indicated that Norfolk 5 Southern hasn't talked to the Terminal 6 Railroad, but I did. 7 Do you see on page 1 of 8 Exhibit 7, this is a subpoena that we sent to 9 the Terminal Railroad Association of 10 St. Louis? 11 Do you see that? 12 A. I do. 13 Can you repeat what you just 14 said, though, because I don't believe I'd 15 agree with what you just stated? 16 Q. Have you talked to anybody -- 17 A. I personally have not, but I -- 18 Q. Has anyone from the Terminal 19 Railroad -- or from Norfolk Southern talked 20 to the Terminal Railroad about this 21 mechanical inspection? 22 A. And my response was, I am not 23 aware of any discussions -- 24 Q. Okay. 25 A. -- but I don't know.</p>

<p style="text-align: right;">Page 54</p> <p>1 Q. Okay. But you're testifying on 2 behalf of the railroad, right? So the 3 railroad doesn't know, right? 4 MS. PUJARI: Objection. 5 Misstates the testimony. 6 QUESTIONS BY MR. DENTON: 7 Q. Norfolk Southern railroad does 8 not know whether or not they've communicated 9 with the Terminal Railroad about a mechanical 10 inspection. 11 Is that your testimony? 12 A. My test -- 13 MS. PUJARI: Objection. Beyond 14 the scope of the 30(b)(6) topics and 15 misstates prior testimony. 16 MR. DENTON: Any more speaking 17 objections before we get the judge on 18 the phone? 19 MS. PUJARI: They're not 20 speaking objections. 21 MR. DENTON: Yes, they are. 22 Why don't we -- Carrie, would 23 you mind, I'm sorry, but read back the 24 last question? 25 (Court Reporter read back</p>	<p style="text-align: right;">Page 56</p> <p>1 the Terminal. It's a legal document. 2 They're required to respond to the subpoena 3 with the information they have. 4 Okay? 5 A. All right. 6 Q. Follow me now? 7 A. I do. 8 Q. Paragraph 4. We asked them to 9 provide any information on a mechanical or 10 air brake test on this railcar, GPLX75465. 11 And what's their answer? "None 12 located other than the air brake inspection 13 and test certificate dated 2/1/23." 14 Right? 15 A. That's what it states here, 16 yes. 17 Q. Okay. So the Terminal Railroad 18 Association has no evidence, paper evidence 19 or otherwise, that a mechanical inspection 20 took place on this railcar on February 1st in 21 Madison, Illinois, correct? 22 MS. PUJARI: Objection. 23 Misstates the document. 24 QUESTIONS BY MR. DENTON: 25 Q. That's what it says, right?</p>
<p style="text-align: right;">Page 55</p> <p>1 question.) 2 THE WITNESS: My testimony is 3 I'm not aware of any communications 4 outside of what I was just provided in 5 Exhibit B, any communications with 6 TRRA, other than the brake slip that 7 was provided to us. 8 QUESTIONS BY MR. DENTON: 9 Q. Okay. And so let's look at the 10 subpoena. Let's go to page 4 of 5. 11 Let's go right up to the top, 12 paragraph 4. "We subpoenaed the Terminal and 13 asked for them to provide copies of all 14 documents that showed any other mechanical 15 and/or air brake inspection of GPLX74565 on 16 or about February 1, 2023." 17 Do you see that? Do you see 18 where I'm reading from? 19 A. I do. 20 And this document is a request. 21 Can you explain what it is? 22 Q. It's a subpoena. 23 A. Okay. 24 Q. I subpoenaed, on behalf of the 25 residents of East Palestine, information from</p>	<p style="text-align: right;">Page 57</p> <p>1 MS. PUJARI: Objection. 2 Misstates the document. 3 THE WITNESS: It appears the 4 response is, "None located" -- 5 QUESTIONS BY MR. DENTON: 6 Q. Yeah. 7 A. -- "other than the air brake 8 test and test certificate." 9 Q. Right. 10 So there's no evidence from 11 Terminal Railroad Association that they did a 12 mechanical inspection on this GPLX75465 13 railcar, correct? 14 MS. PUJARI: Objection. Form. 15 THE WITNESS: Yeah, I would 16 state that they did not supply any 17 documents, or they're stating they 18 don't have any other documents. 19 QUESTIONS BY MR. DENTON: 20 Q. Okay. 21 A. But I don't believe they're 22 saying that they did not perform a mechanical 23 inspection. 24 Q. Well, you have to have a 25 document if you did it, wouldn't you, sir?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. I'm not quite sure how the TRRA 2 captures their mechanical inspections on 3 railcars. They -- 4 Q. They didn't do it, did they? 5 They didn't do it. 6 MS. PUJARI: Objection. 7 Leading. Argumentative. 8 QUESTIONS BY MR. DENTON: 9 Q. Let me ask you this. 10 Does Norfolk Southern Railway 11 Company have any evidence that Terminal 12 Railroad did a mechanical inspection on this 13 car? 14 A. Again, I'll go back to what I 15 told you that was -- that I read from the 16 transcript from the NTSB hearings. 17 Q. I don't care what the NTSB 18 said. I want to know what Norfolk Southern 19 knows. 20 MS. PUJARI: Objection. Asked 21 and answered. 22 QUESTIONS BY MR. DENTON: 23 Q. Norfolk Southern has done no 24 investigation, filed a lawsuit against GATX 25 saying there was a mechanical inspection done</p>	<p style="text-align: right;">Page 60</p> <p>1 that a mechanical inspection was not 2 performed by a qualified mechanical employee 3 at the TRRA. 4 Q. Well, wouldn't you, as Norfolk 5 Southern's representative, want to know the 6 answer to that before you sued GATX and made 7 that allegation? 8 MS. PUJARI: Objection. Calls 9 for a legal conclusion. 10 THE WITNESS: Yeah, I can't 11 speak on behalf of -- 12 QUESTIONS BY MR. DENTON: 13 Q. Of whom? You're speaking on 14 behalf of Norfolk Southern. That's your role 15 here. 16 A. I can't speak on behalf of 17 counsel, legal counsel, with respect to any 18 lawsuit. 19 Q. Well, you were asked to testify 20 about the lawsuit. That's what these notices 21 are, the paragraphs in the lawsuit. 22 Right? 23 A. And I'm prepared to talk to 24 those -- 25 Q. Okay. Well, the very first</p>
<p style="text-align: right;">Page 59</p> <p>1 on this car, and you have no evidence that 2 took place; is that the Norfolk Southern way? 3 MS. PUJARI: Objection. Asked 4 and answered. Argumentative. 5 You can answer. 6 THE WITNESS: As I stated 7 before, I have not seen a mechanical 8 inspection or a document that states, 9 here's the mechanical inspection on a 10 particular railcar from the TRRA. 11 QUESTIONS BY MR. DENTON: 12 Q. Or that train at all. There 13 was no mechanical inspection done on that 14 train. There's no document to suggest that 15 that happened, right? 16 MS. PUJARI: Objection. Vague. 17 QUESTIONS BY MR. DENTON: 18 Q. From the TRRA. 19 A. On the first part of your 20 question, I would say there -- that I -- we 21 don't -- we don't have a document that 22 states, that shows, that that mechanical 23 inspection occurred -- 24 Q. Okay. 25 A. -- but I'm not going to claim</p>	<p style="text-align: right;">Page 61</p> <p>1 topic is the allegation of a mechanical 2 inspection on this railcar that you have no 3 evidence for, "you" being Norfolk Southern, 4 right? 5 MS. PUJARI: Objection. 6 Misstates prior testimony. 7 MR. DENTON: It does not, but 8 quit making speaking objections. 9 MS. PUJARI: Sir, stating the 10 grounds for the objection -- 11 MR. DENTON: No, no, no. 12 MS. PUJARI: -- is not a 13 speaking objection. 14 MR. DENTON: You're coaching 15 the witness. You're coaching the 16 witness. 17 MS. PUJARI: I'm entitled to 18 state the grounds. 19 MR. DENTON: You're not 20 entitled to coach the witness. 21 MS. PUJARI: I'm not coaching. 22 MR. DENTON: Carrie, please, 23 one more time. 24 (Court Reporter read back 25 question.)</p>

<p style="text-align: right;">Page 62</p> <p>1 THE WITNESS: I would respond 2 that I don't -- as I stated earlier, I 3 don't have any documents that I've 4 seen that indicate -- from the TRRA, a 5 document from them showing a 6 mechanical inspection. 7 Do I believe a mechanical 8 inspection was performed at the -- by 9 the TRRA? The answer is, yes, either 10 on the inbound or outbound. 11 QUESTIONS BY MR. DENTON: 12 Q. Well, what's an inbound 13 inspection? Is that a roll-by inspection? 14 A. No. 15 Q. What's an inbound -- 16 A. Since the cars -- the cars that 17 you had indicated earlier through other 18 exhibits, I guess Exhibit 6, where you say, 19 note the screenshot below confirming the car 20 was humped -- 21 Q. Right. 22 A. -- classified. 23 So at the TRRA, when the car 24 came into the yard or before the car departed 25 the yard, the car would have had a mechanical</p>	<p style="text-align: right;">Page 64</p> <p>1 QUESTIONS BY MR. DENTON: 2 Q. Let's get -- I don't have a 3 copy of that one, I don't think, with me, but 4 I do have one that you reviewed. 5 Let's get NS 1623465. 6 Exhibit 8. 7 This is one of the documents 8 you reviewed, correct? 9 A. This is not the document that I 10 was referencing. 11 Q. Well, it's one of the documents 12 that was in the documents that you reviewed. 13 Did you look at this one at 14 all? 15 MS. PUJARI: Could you point us 16 to where this is listed? 17 MR. DENTON: Yeah, it's in the 18 Bates range in the letter from Al. 19 MS. PUJARI: Exhibit -- on 20 Exhibit 1, Counsel? 21 MR. DENTON: It's in the 22 production letter. Let's get the 23 production letter. All of them that 24 start with 162 were in this range. 25 Here, we'll just mark this as</p>
<p style="text-align: right;">Page 63</p> <p>1 inspection. 2 Q. I know it's required. I know 3 it's supposed to. 4 You have no evidence it took 5 place, do you? 6 A. Again, I can't put my hands on 7 a document, but I have read numerous -- well, 8 I read, again, from the NTSB hearings that 9 the NTSB and the chief investigator confirmed 10 that the cars were mechanically inspected and 11 a Class I brake test -- 12 Q. Show me that document. I don't 13 believe it. 14 MS. PUJARI: Objection. 15 Argumentative. 16 QUESTIONS BY MR. DENTON: 17 Q. Show me the document. 18 A. Okay. We can -- 19 Q. Let's get -- let's get -- 20 A. We can get the NTSB 21 investigative hearing transcripts, day 1, if 22 I can get a copy. 23 (Dixon 30(b)(6) Exhibit 8 24 marked for identification.) 25</p>	<p style="text-align: right;">Page 65</p> <p>1 an exhibit. 2 MS. PUJARI: Counsel, have you 3 marked this exhibit -- 4 MR. DENTON: Not yet. 5 MS. PUJARI: Let's mark it. 6 MR. DENTON: I'm going to the 7 letter. You're saying it wasn't in 8 the documents you reviewed. We're 9 going to that question first. 10 MS. PUJARI: And which exhibit 11 is this, Counsel? 12 MR. DENTON: This is -- this is 13 a -- do they have a copy? 14 MS. PUJARI: I don't. 15 MR. DENTON: Okay. 16 MS. PUJARI: Okay. Thank you. 17 (Dixon 30(b)(6) Exhibit 9 18 marked for identification.) 19 QUESTIONS BY MR. DENTON: 20 Q. All right. So I'm sure you 21 haven't seen this letter. It's a letter 22 between lawyers. It's when Norfolk Southern 23 lawyers sends documents to plaintiffs. 24 And down there at the bottom of 25 the paragraph it says, "This production</p>

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1 contains responsive documents to Request
 2 Number 1, Exhibit 8, Plaintiff's Amended
 3 Notice of 30(B)(6) Deposition and requests,"
 4 and it talks about the document range that
 5 you, the witness, reviewed.
 6 Do you see that?
 7 And it goes from
 8 NS-CA-001617983 to 001625358.
 9 Do you see that?
 10 A. I see where it states that,
 11 yes.
 12 Q. Okay. And 1623465, which is
 13 Exhibit 8, the document I -- Exhibit 9 that I
 14 handed you, is in that range.
 15 Correct?
 16 A. Exhibit 9 is the -- by e-mail,
 17 the WilmerHale.
 18 MS. PUJARI: Counsel, has this
 19 exhibit been marked 8 or 9? I had 8,
 20 and Mr. Dixon has it as Exhibit 9.
 21 MR. DENTON: Okay. I don't
 22 know. I'm not marking the exhibits.
 23 The letter is Exhibit 8.
 24 MS. PUJARI: Counsel, this is
 25 marked Exhibit 9?

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1 MR. MURRY: Right.
 2 But we've switched them because
 3 he's talking about the letter first.
 4 So we went and Roger laid foundation
 5 with this and --
 6 MR. DENTON: That's all right.
 7 Just leave it as 9. That's fine.
 8 QUESTIONS BY MR. DENTON:
 9 Q. Exhibit 9, the letter.
 10 All I'm trying to point out,
 11 it's real simple.
 12 The document I'm showing you
 13 from NTSB is in the range of documents that
 14 they told -- the lawyers told me you
 15 reviewed.
 16 MS. PUJARI: Objection.
 17 Misstates the letter.
 18 THE WITNESS: I don't -- I
 19 don't take any issue with what you
 20 stated --
 21 QUESTIONS BY MR. DENTON:
 22 Q. Okay. All right.
 23 A. -- but I've not reviewed this
 24 document.
 25 Q. Okay. Well, they told me it

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1 was in the materials that you were going to
 2 rely upon, but independent --
 3 MS. PUJARI: Objection.
 4 QUESTIONS BY MR. DENTON:
 5 Q. Withdraw the question.
 6 Independent of that, let's look
 7 at the document, Exhibit 9. 8. And it's
 8 NS-CA-001623465.
 9 Do you see that at the bottom,
 10 sir?
 11 A. I do.
 12 Q. Turn to page 5 of 20 in this
 13 document.
 14 Do you see that?
 15 A. I'm on page 5.
 16 Q. It says, "Timeline of NS
 17 railcar GPLX on NS Train 32N, February 1" --
 18 February 1, 1 -- "February 1, 2023, Madison
 19 yard terminal."
 20 Do you see that?
 21 A. Yes.
 22 Q. Follow me?
 23 A. Yes.
 24 Q. It says, "Class I air brake
 25 test certified by the Terminal Railroad."

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1 Right? Right?
 2 A. Right.
 3 Q. And we've got a brake slip test
 4 from Terminal that said they did that, right?
 5 A. Correct.
 6 Q. Okay. "Train crew engineer and
 7 conductor on duty."
 8 They're talking about the NS
 9 crew, right?
 10 A. Correct.
 11 Q. Okay. And then it says again,
 12 "Terminal employees did the Class I air brake
 13 test."
 14 Right?
 15 A. Correct.
 16 Q. All right. Then it says,
 17 "Train crew conducted the predeparture
 18 mechanical inspection of Train 32N."
 19 That's not what you testified
 20 to, is it?
 21 A. No. I testified to what I had
 22 read on the -- from the NTSB hearing.
 23 Q. Well, this is an NTSB report,
 24 right? It was part of the hearing?
 25 A. I assume it is part of the SCD

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1 report.
 2 Q. Okay. So who told NTSB that
 3 the NS train crew did the mechanical
 4 inspection in Madison, Illinois?
 5 MS. PUJARI: Objection. Lack
 6 of foundation.
 7 THE WITNESS: I'm not aware of
 8 who would have informed NTSB.
 9 QUESTIONS BY MR. DENTON:
 10 Q. Because it didn't happen, did
 11 it? The train crew didn't inspect this
 12 train, correct?
 13 MS. PUJARI: Objection. Lack
 14 of foundation.
 15 THE WITNESS: I don't know.
 16 QUESTIONS BY MR. DENTON:
 17 Q. You don't know? Norfolk
 18 Southern Railway Company doesn't know if its
 19 own train crew inspected this train in
 20 Madison, Illinois?
 21 MS. PUJARI: Objection.
 22 Misstates the document. Lack of
 23 foundation. Asked and answered.
 24 THE WITNESS: Again, as I
 25 stated, what I'd -- what I had read in

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1 the NTSB hearings, that a qualified
 2 mechanical inspection was -- was
 3 completed at the TRRA on those
 4 railcars.
 5 QUESTIONS BY MR. DENTON:
 6 Q. The NTSB said the train crew
 7 did. I'm looking at the document.
 8 MS. PUJARI: Objection.
 9 Misstates prior testimony.
 10 QUESTIONS BY MR. DENTON:
 11 Q. The train crew isn't a
 12 qualified mechanical inspection, is it?
 13 A. Train crews are capable of
 14 mechanically inspecting a --
 15 Q. So did you talk to that
 16 conductor? Did he walk that entire 200 -- or
 17 two-mile-long train and inspect every wheel
 18 bearing?
 19 A. I'm not aware of -- myself, I'm
 20 not aware of those conversations with the
 21 conductor.
 22 Q. So the train was two miles long
 23 when it left Madison. You know that, don't
 24 you? 163 cars?
 25 The length is 10,713 feet,

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1 right there in front of you.
 2 Right?
 3 A. That's correct.
 4 Q. So do you think the conductor
 5 walked two miles down one set of track
 6 looking at 600 wheel bearings and came back
 7 the other two miles? Do you think that
 8 happened?
 9 MS. PUJARI: Objection. Calls
 10 for speculation. Lack of foundation.
 11 THE WITNESS: I don't know if
 12 the train crew inspected it, but,
 13 again, I'm going from what I
 14 understood from the NTSB hearing, that
 15 these cars were mechanically
 16 inspected.
 17 QUESTIONS BY MR. DENTON:
 18 Q. This is the NTSB document.
 19 Train crew conducted the inspection.
 20 A. This is one NTSB document.
 21 Q. Right. Okay.
 22 The truth of the matter is,
 23 Norfolk Southern Railway has no
 24 understanding, no paperwork of its own, that
 25 any inspection was done on this train before

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1 it left Madison, Illinois, mechanical
 2 inspection?
 3 MS. PUJARI: Objection. Lack
 4 of -- argumentative and misstates
 5 prior testimony.
 6 THE WITNESS: Again, as I
 7 stated prior, I don't have, or have
 8 not seen, a particular document on
 9 each car's inspection.
 10 QUESTIONS BY MR. DENTON:
 11 Q. All right. Let's move on then.
 12 After the train leaves Madison,
 13 Illinois, it's being operated by a Norfolk
 14 Southern crew, an engineer and a conductor.
 15 Correct?
 16 A. Correct.
 17 Q. And it heads up north in
 18 Illinois to Decatur, Illinois.
 19 Correct?
 20 A. Correct.
 21 Q. And I don't know if you know
 22 the geography. I was from Illinois
 23 originally. Decatur is about 120 miles from
 24 Madison.
 25 Is that about right?

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1 A. I've been on our Illinois
2 division, but I'm not familiar with the
3 distance between the two.
4 Q. All right. But in Madison --
5 or in Decatur, Illinois, when the train gets
6 there, it goes into the yard.
7 Correct?
8 A. Correct.
9 Q. A number of cars are taken off
10 that were on the train from Madison,
11 Illinois, and some other cars are put on.
12 Correct?
13 A. Correct.
14 Q. And I think one of the engines
15 that was on the front -- there were three on
16 the front -- it was moved -- one of the
17 engines was moved towards the middle, or
18 line 110 or 112 of the train.
19 Right?
20 A. Correct.
21 Q. We call that a distributed
22 power, DP, unit in the railroad lingo?
23 A. Correct.
24 Q. Okay. So let's go back to --
25 all right. Let's go from there.

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1 And then --
2 MR. DENTON: Do we have a map
3 of where this train route went from
4 Decatur, leaving from Madison, all the
5 way to East Palestine? Do we have a
6 Bates number for that?
7 It's NS-CA-1622398. We've got
8 an image of it.
9 And I don't know. What number
10 is this, Carrie? 10.
11 No, that's not the right one,
12 guys. It's the one that was on the
13 screen, is the right one, but that's
14 not the right one.
15 Can we take a short break
16 anyway?
17 MS. PUJARI: Sure. Take a
18 break.
19 THE WITNESS: Okay.
20 VIDEOGRAPHER: 10:32, we are
21 off the video record.
22 (Off the record at 10:32 a.m.)
23 VIDEOGRAPHER: 10:48, we are on
24 the video record.
25

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1 QUESTIONS BY MR. DENTON:
2 Q. Mr. Dixon, I want to go back to
3 Exhibit 8, which is the safety -- System
4 Safety and Human Performance Group Chair's
5 Factual Report, and I want you to look at
6 page 10 of 20, please, sir.
7 And on that page, I'm going to
8 look at 2.2, Post-Derailment Inspection of
9 the NS Train 32N's Cars.
10 Do you see that?
11 A. Yes.
12 Q. It says, "Post-derailment
13 inspection was conducted by the mechanical
14 factual report."
15 Okay. So car GPLX75465, that's
16 the hopper car.
17 Correct?
18 A. Correct.
19 Q. Okay. And that was Car
20 Number 23 in the consist.
21 Right?
22 A. Correct.
23 Q. Okay. So Cars 1 through 22 did
24 not derail because they're in front of
25 GPLX75465.

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1 Correct?
2 A. They did not derail, correct.
3 Q. But when we talk about
4 inspections, mechanical inspections, FRA went
5 out and looked at those 22 cars, and six of
6 22 had FRA defects.
7 Right?
8 A. According to this document,
9 correct.
10 Q. Okay. Cars 23 through 60
11 derailed, so they couldn't look at those.
12 Right?
13 MS. PUJARI: Objection. Lack
14 of foundation.
15 QUESTIONS BY MR. DENTON:
16 Q. Well, let me just ask this.
17 Cars 23 through 60 derailed.
18 Right?
19 A. Correct.
20 Q. Okay. Car 61 to 72 did not
21 derail but were damaged.
22 Right?
23 A. Correct.
24 Q. And then let's go look at
25 Cars 73 to 149. That's towards the end of

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1 the train.
 2 Right?
 3 A. Correct.
 4 Q. And those cars stayed on the
 5 track, did not derail.
 6 Right?
 7 A. Correct.
 8 Q. And they were moved to the
 9 Canton, Ohio, yard, NS yard.
 10 Right?
 11 A. Correct.
 12 Q. And then look at this. 20 of
 13 those 77 cars had FRA defects.
 14 Right?
 15 A. Correct.
 16 Q. The FRA list of defects include
 17 low couplers, right?
 18 A. According to this document,
 19 correct.
 20 Q. Brake pipe leaking on one car,
 21 correct?
 22 A. Correct.
 23 Q. Cross key retainer missing.
 24 Right?
 25 A. Correct.

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1 Q. Brake shoe missing -- brake
 2 shoes, multiple, plural, missing.
 3 Right?
 4 A. Correct.
 5 Q. Cut level bent.
 6 Right?
 7 And a major defect on Car 113.
 8 Right?
 9 A. Correct.
 10 Q. All of those FRA defects were
 11 supposed to be picked up from the mechanical
 12 inspection.
 13 Right?
 14 MS. PUJARI: Objection. Lack
 15 of foundation. Beyond the scope of
 16 the 30(b)(6) notice.
 17 THE WITNESS: I'm not sure what
 18 all of these FRA defects were, so I
 19 can't --
 20 QUESTIONS BY MR. DENTON:
 21 Q. Well, let's look at the ones
 22 that they outline.
 23 Brake pipe leaking. That's
 24 supposed to be found in the air brake test.
 25 Right?

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1 A. Correct.
 2 Q. Brake shoes missing. That's
 3 supposed to be made in the mechanical
 4 inspection.
 5 Correct?
 6 A. Correct.
 7 Q. Problems with couplers. That's
 8 part of the mechanical inspection.
 9 Right?
 10 A. A view of the couplers,
 11 correct.
 12 Q. Right.
 13 And a cross key retainer
 14 missing.
 15 You know what that is?
 16 A. Vaguely familiar with the cross
 17 key.
 18 Q. What is it?
 19 MS. PUJARI: Objection. Beyond
 20 the scope of the 30(b)(6) topics.
 21 THE WITNESS: Yeah, I'd have to
 22 reference some material. I can't
 23 remember --
 24 MR. DENTON: Okay.
 25 THE WITNESS: -- off the top of

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1 my head.
 2 MR. DENTON: So if that's not a
 3 speaking objection -- you got the
 4 answer you wanted -- I've not seen
 5 one. No more speaking objections.
 6 MS. PUJARI: Sir, stating the
 7 grounds of an objection is not a
 8 speaking objection.
 9 MR. DENTON: You're stating it
 10 by giving him the answer. He had an
 11 answer until you told him it was
 12 beyond the scope. That's what's going
 13 on here, and it's not allowed under
 14 the local rules.
 15 MS. PUJARI: I am familiar with
 16 the local rules, and all I'm doing is
 17 stating my grounds.
 18 QUESTIONS BY MR. DENTON:
 19 Q. All right. Back to you, sir.
 20 All of those things we just
 21 underlined in red are things that are
 22 supposed to be evaluated and examined in a
 23 mechanical inspection.
 24 True?
 25 A. All the things --

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1 MS. PUJARI: Mr. Dixon, the red
 2 underlining is on the screen.
 3 QUESTIONS BY MR. DENTON:
 4 Q. Yes.
 5 A. I believe that's correct.
 6 (Dixon 30(b)(6) Exhibit 10
 7 marked for identification.)
 8 QUESTIONS BY MR. DENTON:
 9 Q. All right. So let's move on,
 10 and I want to show the jurors and you,
 11 Mr. Dixon, a map that was prepared by the
 12 NTSB. What exhibit number are we on, please
 13 and thank you? 10?
 14 So this is marked Exhibit 10.
 15 It's also got an NS Bates number of
 16 001622398.
 17 And this was one of -- it was
 18 just a demonstrative map of where -- of where
 19 this train traveled before the derailment.
 20 Right, sir?
 21 A. Correct.
 22 Q. Started in Madison, Illinois,
 23 went to Decatur, a couple small towns in
 24 Illinois and Indiana, but went to Peru,
 25 Indiana, which is just north of Indianapolis.

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1 Right?
 2 A. Correct.
 3 Q. Over to Toledo.
 4 Right?
 5 A. Correct.
 6 Q. Then into Cleveland. There's a
 7 big NS yard there in Cleveland.
 8 Right?
 9 A. I wouldn't necessarily call it
 10 big, but there's an NS yard in Cleveland.
 11 Q. Well, how would you describe
 12 the size of that yard?
 13 A. It's a regular-sized rail
 14 yard --
 15 Q. Okay.
 16 A. -- in the Norfolk Southern
 17 system.
 18 Q. Okay. And then the train
 19 travels kind of southeast from Cleveland down
 20 through east -- to East Palestine where it
 21 derails.
 22 Right?
 23 A. Correct.
 24 Q. Okay. So there's another
 25 document that was in that group you looked

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1 at. It's that native video.
 2 And so the native production is
 3 NS-CA-001618174, which is the cover sheet,
 4 and this is a screenshot of the beginning of
 5 that video. We'll mark that, and I think --
 6 right. All right.
 7 But the actual exhibit is going
 8 to be the video that we play, Carrie. But
 9 this is the production sheet that came with
 10 it from NS, and this is the first screenshot
 11 of that video.
 12 (Dixon 30(b)(6) Exhibit 11
 13 marked for identification.)
 14 QUESTIONS BY MR. DENTON:
 15 Q. So are you ready, sir? You're
 16 going to have to watch the monitor. We're
 17 going to play a video for you.
 18 A. Okay.
 19 Q. Are you ready to go?
 20 A. I'm ready.
 21 MR. DENTON: Michael, please.
 22 (Video played.)
 23 QUESTIONS BY MR. DENTON:
 24 Q. Do you see that circle there,
 25 sir, on the video?

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1 A. I do.
 2 Q. Fire underneath the front axle
 3 of that car.
 4 Do you see that?
 5 A. I see the fire. I'm not quite
 6 sure exactly where it is --
 7 Q. Okay.
 8 A. -- axle-wise.
 9 Q. Okay. But it's certainly down
 10 towards the bottom of the car?
 11 A. Correct.
 12 Q. Okay. Please continue,
 13 Michael.
 14 (Video played.)
 15 Q. See that, sir, that -- all that
 16 fire under that car?
 17 A. Yes.
 18 Q. It's a hopper car, isn't it,
 19 sir?
 20 A. It is.
 21 Q. All right. Okay. Michael,
 22 please.
 23 (Video played.)
 24 Q. Stop right there, Michael.
 25 See that red fire underneath

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1 the bottom of that car?
 2 A. I do.
 3 Q. All right.
 4 (Video played.)
 5 Q. Stop that, please.
 6 You see the fire under the lead
 7 axle of that hopper car?
 8 A. I do see what appears to be a
 9 flame.
 10 Q. Okay. Keep going, Michael,
 11 please.
 12 (Video played.)
 13 Q. See the fire and the sparks
 14 flying out of that car? Or flying off the
 15 bottom of that car?
 16 A. I do.
 17 Q. Okay. There's some more.
 18 (Video played.)
 19 Q. Look at that.
 20 Do you see that, sir? All that
 21 fire under that car? And sparks?
 22 Do you see it?
 23 A. I do.
 24 (Video played.)
 25 Q. See the car going by on fire?

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1 MS. PUJARI: Objection to the
 2 characterization.
 3 QUESTIONS BY MR. DENTON:
 4 Q. Go back, Michael, just a little
 5 bit.
 6 Stop.
 7 Do you see all the fire under
 8 that hopper car, sir?
 9 A. I do see fire under the hopper
 10 car.
 11 Q. Okay. This is just seconds
 12 before the derailment.
 13 Please play the video longer,
 14 please, Michael.
 15 (Video played.)
 16 Q. In the far left, you'll see the
 17 fire start.
 18 See that bright flash of fire
 19 right before the -- that's the derailment,
 20 sir.
 21 Do you see that?
 22 A. I do see the light --
 23 Q. All right.
 24 A. -- increase.
 25 Q. Is that the end of the tape,

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1 Michael? Thank you.
 2 After seeing that, sir -- have
 3 you ever seen video before?
 4 A. I have not seen that video.
 5 Q. It was part of the NTSB
 6 investigation.
 7 You saw that on the tape,
 8 right?
 9 A. Yes.
 10 Q. Is there any doubt in your mind
 11 that the wheel bearing on that hopper car was
 12 overheating and that's what caused the
 13 derailment?
 14 MS. PUJARI: Objection. Calls
 15 for expert testimony.
 16 THE WITNESS: I'm not quite
 17 sure if, again, from the video that I
 18 saw the exact -- it was a hopper car
 19 that I observed. You know, it appears
 20 the fire is under the car. That's
 21 what I can glean from the video.
 22 (Dixon 30(b)(6) Exhibit 12
 23 marked for identification.)
 24 QUESTIONS BY MR. DENTON:
 25 Q. Okay. Let's go to the next

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1 document, please, which is the bearing
 2 photos.
 3 Michael, it's NS-CA-1622039.
 4 This will be Exhibit Number 12. Thank you,
 5 Carrie.
 6 This is another NTSB document.
 7 It's -- it has some images of the bearing,
 8 the wheel bearing.
 9 Do you see that, sir?
 10 A. I do.
 11 Q. Let's go to page 2, and I want
 12 to talk to you about certain sections.
 13 Let's -- maybe Michael can help
 14 me here.
 15 The photo in the upper left,
 16 can we grab that and make it a little larger
 17 on the screen so we can see it better,
 18 please?
 19 MS. PUJARI: Counsel, for the
 20 record, can you identify the report to
 21 which this Exhibit 1, NTSB Exhibit 1,
 22 is connected? It says Group B,
 23 Exhibit 1.
 24 Do you have the report, sir?
 25 MR. DENTON: I'm sure we do,

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1 and so do you. I just want to ask him
2 about this document.

3 Is there some problem with this
4 not being a document?

5 MS. PUJARI: I'm just trying to
6 keep the record clean and identify
7 which --

8 MR. DENTON: We'll have to
9 get -- we'll get it to you. We'll get
10 it to you, but I want to ask questions
11 about the document. We'll clean that
12 up at the end.

13 QUESTIONS BY MR. DENTON:

14 Q. Let's go back to this document,
15 sir, Exhibit -- what did we say it was? --
16 12.

17 Page 2, it's the wheel set.
18 You talked earlier that a wheel set, there's
19 an axle and there's two wheels. That
20 basically is the two wheels and the axle.
21 Right?

22 A. Correct.

23 Q. And this is actually the wheel
24 set. As you can see, that L1 bearing and
25 journal is separated on the right.

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1 Do you see that label there
2 that's showing that it's missing?

3 A. Yes.

4 Q. That's where the wheel bearing
5 is supposed to be, right, sir?

6 MS. PUJARI: Objection. Vague.

7 THE WITNESS: From the picture
8 I'm looking at with the L1 bearing and
9 journal separated, correct, that would
10 be the location of the --

11 QUESTIONS BY MR. DENTON:

12 Q. Okay. And maybe this will help
13 orientate us and help the jurors.

14 Let's go down to the image
15 right below it, which is the opposite view of
16 wheel set 1.

17 That's the opposite side where
18 the right, or R1, bearing and journal was
19 still intact.

20 Do you see that?

21 A. I do.

22 Q. And where it says, "R1 bearing
23 and journal intact," that's what burned off
24 and was missing on the left side.

25 Right, sir?

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1 A. Correct.

2 Q. Okay. And let's go to the
3 image in the middle, which is L1 bearing.
4 L1 means left 1 bearing, right?

5 A. Correct.

6 Q. Okay. That's the wheel bearing
7 that the investigators found after the
8 derailment.

9 Right?

10 A. And is this a particular wheel
11 bearing --

12 Q. Yeah, the one that derailed the
13 train.

14 A. So is the question, is this the
15 L1 bearing on the GPLX74 -- 75465?

16 Q. I know it is.

17 But my question is, do you see
18 the defective wheel bearing in that
19 photograph?

20 MS. PUJARI: Objection.

21 Misstates the document.

22 I think where Mr. Dixon is
23 having trouble is this doesn't have a
24 connection to the railcar, sir.

25 QUESTIONS BY MR. DENTON:

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1 Q. There wasn't any other wheel
2 bearing the FRA looked at, was there, other
3 than the one that was on this hopper car?

4 A. I couldn't answer that.

5 Q. All right. Let's just talk
6 about this. The L1 wheel bearing that you
7 see on the screen, that's a mangled mess,
8 isn't it?

9 MS. PUJARI: Objection. The
10 photo speaks for itself.

11 MR. DENTON: It sure does. A
12 mangled mess.

13 MS. PUJARI: Same objection.

14 THE WITNESS: I would describe
15 it as a mangled bearing, that's for
16 sure.

17 QUESTIONS BY MR. DENTON:

18 Q. A mangled bearing. Okay.

19 And you see that other image to
20 the right of it, L -- the L1 journal?

21 A. I do.

22 Q. Okay. And what's a journal,
23 wheel journal, sir?

24 A. It's what houses the bearings.

25 Q. Okay. And you see the far left

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1 tip of that? Looks like it's certainly
 2 broken off, but it looks like it melted off.
 3 Do you see that?
 4 A. I do see the broken piece.
 5 Q. All right. Let's go to the
 6 next page.
 7 And the graphic on the right is
 8 an exemplar. This is what a wheel bearing is
 9 supposed to look like on the right when it's
 10 manufactured, correct?
 11 The different -- describes the
 12 different pieces of it, right?
 13 A. Correct.
 14 Q. And then you see in the middle,
 15 the left one, bearing off the hopper car,
 16 again, is shown there.
 17 And you would call that a
 18 mangled wheel bearing?
 19 A. Correct.
 20 Q. All right. And then let's go
 21 to the last page of this exhibit.
 22 And these are some exemplar
 23 photographs that the NTSB provided, and it
 24 talks about what the inspectors are supposed
 25 to look at.

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1 Let's do the left side of that
 2 document, Michael, if we could. There we go.
 3 Perfect.
 4 Do you see that it says in the
 5 bottom right picture, "inspector external
 6 view," with the blue arrow pointing?
 7 A. I do see that.
 8 Q. All right. And that's pointing
 9 to the outside of the cap of the wheel
 10 bearing, right?
 11 A. Correct.
 12 Q. And there's actually -- and
 13 that's -- that -- and when we talk about a
 14 railroad car, there's actually two wheel
 15 bearings and two axles on the -- on either --
 16 on the front of the car -- there's one axle
 17 on the front of the car that has two wheels
 18 and four-wheel bearings, and there's a set on
 19 the back.
 20 Right?
 21 A. Typically two axles on a truck.
 22 Q. Right.
 23 And that picture in the top
 24 there, that would be what in the railroad
 25 industry we call a truck. It's a wheel

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1 truck, right? Or an axle truck?
 2 A. Yeah, connecting the two axles.
 3 Q. Right. Okay.
 4 And then it -- and then the
 5 close-up down there in external inspector
 6 view, that one down there, that's a close-up
 7 of the cap on top -- on what holds the
 8 bearing on.
 9 Right?
 10 A. Bottom right --
 11 MS. PUJARI: Objection.
 12 What's -- bottom right or top?
 13 MR. DENTON: I'm sorry, the one
 14 that's on the screen. The
 15 inspector --
 16 THE WITNESS: External view?
 17 QUESTIONS BY MR. DENTON:
 18 Q. Yeah.
 19 A. Correct.
 20 Q. Those three bolts, that's
 21 what's holding --
 22 A. Those are the three cap
 23 screws --
 24 Q. Right.
 25 A. -- and the cap.

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1 Q. That hold the bearing on,
 2 right.
 3 And then you see under that it
 4 says, "Inspector under-car view."
 5 That's what the inspector is
 6 supposed to look at when they inspect, these
 7 qualified mechanical inspections.
 8 Right?
 9 A. Correct.
 10 Q. And then let's look at the
 11 right side of that exhibit.
 12 And again, these are exemplar
 13 pictures the NTSB provided at the hearing,
 14 but it shows examples of what the inspector
 15 is supposed to look for.
 16 Do you see that top picture of
 17 a wheel bearing that says they look for
 18 "clearly formed droplets"?
 19 Do you see that?
 20 A. I do.
 21 Q. The red arrow pointing to it?
 22 And then the two other arrows
 23 on the wheel bearing on the right side of
 24 that picture, do you see that?
 25 A. I do.

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1 Q. And then the inspector is
2 supposed to look for the "inboard seal," if
3 it's out of position. That's the middle
4 picture with the red arrow.
5 Do you see that?
6 A. I do see the picture of the
7 inbound {sic} seal.
8 Q. Okay.
9 A. Inboard seal.
10 Q. And then down at the bottom,
11 there's some exemplar pictures of a bearing
12 leak, indicating slung grease on the truck
13 from the wheel bearing.
14 Do you see those various
15 arrows?
16 A. I do see those arrows.
17 Q. And that's what a mechanical
18 inspector is supposed to look at during this
19 required inspection on each and every wheel
20 set on the train, right?
21 MS. PUJARI: Objection. Lack
22 of foundation.
23 THE WITNESS: Those are some of
24 the things rail inspectors are trying
25 to identify when inspecting a train.

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1 QUESTIONS BY MR. DENTON:
2 Q. Okay. All right. So I'm going
3 to switch gears. All those documents you can
4 probably set aside for now. I'm going to
5 change topics, if you don't mind, and I'll
6 set the stage here.
7 I want to talk about the
8 derailment response. That was, I think,
9 paragraphs 72 to 100 in the third-party
10 complaint.
11 Let's go to paragraph 72,
12 page 16, Michael. There it is.
13 You see where F, it says,
14 "Derailment response"? Do you see that?
15 A. I do.
16 Q. And that whole page is all
17 painted yellow, highlighted yellow, because
18 those are all things that you were asked to
19 be prepared to testify about.
20 Correct?
21 A. I have reviewed this, yes.
22 Q. You have reviewed this? Is
23 that what you said, sir?
24 A. Yes.
25 Q. Okay.

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1 A. I'm sorry.
2 Q. Okay. And so I just want to
3 kind of --
4 MS. PUJARI: Sorry, Counsel.
5 In terms of the notice, I don't
6 believe it is -- oh, 54 to 141.
7 Okay. Thank you. Sorry about
8 that.
9 QUESTIONS BY MR. DENTON:
10 Q. Okay. So I want to ask you
11 about the derailment response. And I'm just
12 going to do kind of a high level right now to
13 just kind of put timelines in context.
14 We can agree the derailment
15 occurred on February 3, 2023, at about
16 8:56 p.m.
17 Correct?
18 A. Correct.
19 Q. And there was an immediate
20 fire.
21 Correct?
22 A. I believe there was.
23 Q. Okay. And then there's a lot
24 of emergency response from a lot of people
25 trying to battle the fire, but I want to kind

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1 of move forward to the next date in this
2 document, which is paragraph 76.
3 There's a mention in here by
4 Norfolk Southern that on February 4th, early,
5 sometime after midnight, so that must be just
6 a few hours after the derailment, the vinyl
7 chloride tank cars began activating and
8 releasing pressure in a cycle of 30 seconds
9 on, releasing, and two minutes off.
10 Is that your understanding?
11 A. That is my understanding.
12 Q. Okay. And the vinyl chloride,
13 you understand, was hazardous material,
14 right, that was in those tank cars?
15 A. Correct.
16 Q. And there were a total of five
17 of them that were involved in the derailment
18 and the surrounding pool of fires.
19 Correct?
20 A. Correct.
21 Q. And frankly, those -- but those
22 weren't the only railcars that burned. There
23 were other tank cars that had material in
24 them that burned.
25 Right?

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1 In addition to the vinyl
2 chloride cars.
3 Right?
4 A. Correct.
5 Q. There were hopper cars with
6 plastic pellets that were burning.
7 Right?
8 A. Correct.
9 Q. There were boxcars, I think.
10 One of them even had a bunch of beer in it.
11 Somebody didn't get their beer. It burned
12 up.
13 Right?
14 A. I believe there were some
15 boxcars that were -- that sustained fire
16 damage.
17 Q. Okay. And one of the documents
18 you mentioned that you looked at with respect
19 to the derailment response was the hazardous
20 materials report from the NTSB.
21 Am I right about that?
22 A. Correct.
23 (Dixon 30(b)(6) Exhibit 13
24 marked for identification.)
25

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1 QUESTIONS BY MR. DENTON:
2 Q. Okay. I'm going to try to get
3 that document out. We'll mark it. It's a
4 big, thick one, unfortunately.
5 And, Michael, for the -- it's
6 NS-CA-001624324, but it's marked as Exhibit
7 Number 13.
8 Okay. And this is the
9 Hazardous Materials Group Chair's Factual
10 Report.
11 You said you reviewed that one,
12 right?
13 A. I didn't read every single
14 word, but I have reviewed most of the -- most
15 of the document here.
16 Q. Okay. Well, let's -- I'm not
17 going to read it all, it's 150 pages, but I'm
18 going to ask you about parts of it, if you'll
19 work with me.
20 If we go to page 5 of 158.
21 Are you able to get that, sir?
22 A. I am.
23 Q. I think you'll do better if you
24 take the paperclip off. That's what I just
25 found out. But it's up to you.

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1 Okay. And I just want to go
2 down, about two-thirds down. It shows that
3 Robert Wood, Norfolk Southern Railway,
4 Atlanta, Georgia, was a group member.
5 Do you see that?
6 A. I do.
7 Q. And I think that was one person
8 you said you may have talked to in
9 preparation for the deposition.
10 You told me that earlier,
11 didn't you?
12 A. That was. What I had stated
13 is, I had a question concerning -- that I
14 posed to Robert Wood concerning the emergency
15 response guide and confirming that 2020 --
16 2020 was the last version.
17 Q. Okay. So the point of it is,
18 Robert Wood is knowledgeable about HAZMAT at
19 the NS, right? He's one of the managers?
20 A. I believe he does have
21 knowledge of HAZMAT.
22 Q. Okay. And he was on -- and he
23 was part of the group that wrote this report.
24 Right?
25 A. I don't know if he wrote

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1 anything. I'm thinking he was part --
2 Q. But he was a group member for
3 this report.
4 Right?
5 A. He was a group member, yes.
6 Q. All right. Let's just go right
7 over to page 6 of 158. I think it's just one
8 over.
9 And I'm not going to go through
10 everything, but train information down at the
11 bottom of the page, it says, "11 of the
12 derailed tank cars contained hazardous
13 materials, including five tank cars with
14 stabilized vinyl chloride monomer, one tank
15 car each of isobutylene butyl acrylate,
16 2-ethylhexyl acrylate, ethylene glycol
17 monobutyl ether, and two tank cars of benzene
18 residue."
19 Is that your understanding,
20 that all of those hazardous materials cars
21 derailed?
22 A. Yes.
23 Q. All right. Let's go to page 8
24 of 158.
25 I don't know if you can blow

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1 that up a little bit, the map, Michael.
 2 This is an aerial photograph
 3 that shows some of the derailment.
 4 Do you see that?
 5 A. I do.
 6 Q. And the -- I think the red
 7 numbers, if I read this correctly, are at
 8 least four of the Oxy Vinyl -- not Oxy
 9 Vinyl -- vinyl chloride cars.
 10 Do you see that? 28, 29, 30,
 11 31, bottom paragraph?
 12 A. Yes.
 13 Q. And then at the top, I think
 14 Car Number 50 -- what is that? I can't read
 15 it. It's too small for my eyes. But it's
 16 the other vinyl chloride car, the one down.
 17 It's 55.
 18 Right? Do you see that?
 19 A. I have Car 53.
 20 Q. Okay. Well, sometimes these
 21 numbers get off. But the bottom line is,
 22 this is an aerial photograph that shows the
 23 derailment.
 24 Right? Part of the derailment?
 25 A. Correct.

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1 Q. Okay. And there's some attempt
 2 to try to point out where the vinyl chloride
 3 cars are and where other cars are, right?
 4 A. Correct.
 5 Q. Okay. Let's go over to 9 of
 6 158. And there's a chart down there at the
 7 bottom that I'd like you to pull out, and it
 8 says this is the bill of lading on the vinyl
 9 chloride cars. And let's see if it checks
 10 with the list you brought here to your
 11 deposition, sir.
 12 Car 28, TILX car; 29, 30, an
 13 Oxy car; 31's GATX car; and 55 is an Oxy car.
 14 Does that match your list?
 15 A. It does.
 16 Q. Okay. And if we look at this,
 17 based upon the bill of lading -- and that's a
 18 document that describes what's inside the
 19 tank cars.
 20 Correct?
 21 A. Correct.
 22 Q. It says that the five vinyl
 23 chloride cars, they had a -- between 178,300
 24 net weight down to -- I think the smallest
 25 one was 176.

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1 But the bottom line is,
 2 887,400 -- or 887,000 pounds of vinyl
 3 chloride in those five cars.
 4 Right?
 5 A. Correct.
 6 Q. 115,000 gallons in the vinyl
 7 chloride cars, just those five cars.
 8 Right?
 9 A. I'm not going to do the math on
 10 it. It's 887,000 pounds.
 11 Q. Well, they did the -- the NTSB
 12 did the math for us.
 13 A. Okay. The 15. The 15, I see
 14 it.
 15 Q. Okay. I wasn't trying to be --
 16 A. Oh, I didn't see that.
 17 Q. Okay. All right. Then I want
 18 to go to page -- I'm going to jump around
 19 just a little bit and put into perspective
 20 everything that's been dispersed into the
 21 environment here.
 22 Let's go to page 45 of 158.
 23 And you see that chart. That's
 24 a summary of the breaching damage and
 25 hazardous materials released as a result of

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1 the derailment. It has the five vinyl
 2 chloride cars, but it also has these other
 3 hazardous materials that were released.
 4 Do you see that?
 5 A. I do.
 6 Q. Car 36, 38 and 50?
 7 A. Yes.
 8 Q. All right. And then if we go
 9 to page 56 of 158, there's a summary of the
 10 nonhazardous commodity tank car breaches.
 11 Do you see that?
 12 A. I do.
 13 Q. And it says the entire load of
 14 propylene glycol was dumped onto the ground,
 15 petroleum lube and these other chemicals, the
 16 entire load, because these cars were actually
 17 damaged to where they were punctured, to
 18 where the contents spilled on their own out
 19 onto the ground.
 20 Right?
 21 MS. PUJARI: Objection.
 22 Compound.
 23 THE WITNESS: Could you restate
 24 the question?
 25

<p style="text-align: right;">Page 110</p> <p>1 QUESTIONS BY MR. DENTON:</p> <p>2 Q. Yeah, it wasn't a very good</p> <p>3 question. I'll withdraw it.</p> <p>4 This is just other materials</p> <p>5 from other cars other than the vinyl chloride</p> <p>6 cars that were breached and released their</p> <p>7 load.</p> <p>8 Right?</p> <p>9 A. Correct.</p> <p>10 Q. And all of these cars, the</p> <p>11 reason we have a fire out there is because of</p> <p>12 the wheel bearing being on fire.</p> <p>13 Right?</p> <p>14 MS. PUJARI: Objection. Calls</p> <p>15 for expert testimony. Lack of</p> <p>16 foundation.</p> <p>17 THE WITNESS: Yeah, I don't</p> <p>18 know why -- if that's the only reason</p> <p>19 we have a fire.</p> <p>20 QUESTIONS BY MR. DENTON:</p> <p>21 Q. Well, can you think of any</p> <p>22 other reason?</p> <p>23 MS. PUJARI: Objection. Calls</p> <p>24 for --</p> <p>25</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Right.</p> <p>2 A. I can't tell you if there -- I</p> <p>3 mean, to answer your question is, I don't</p> <p>4 know. I don't think the investigation is</p> <p>5 complete to say this was the cause.</p> <p>6 Q. Nine months into it, Norfolk</p> <p>7 Southern doesn't accept the fact that the</p> <p>8 wheel bearing that was on fire that we all</p> <p>9 just saw didn't cause this fire?</p> <p>10 MS. PUJARI: Objection.</p> <p>11 QUESTIONS BY MR. DENTON:</p> <p>12 Q. Is that Norfolk Southern's</p> <p>13 testimony?</p> <p>14 MS. PUJARI: Objection. Asked</p> <p>15 and answered. Argumentative.</p> <p>16 THE WITNESS: My testimony is</p> <p>17 that, as I stated before, we saw the</p> <p>18 pictures of the fire underneath the</p> <p>19 railcar.</p> <p>20 QUESTIONS BY MR. DENTON:</p> <p>21 Q. Right.</p> <p>22 A. And to the extent could that</p> <p>23 have been the ignition source for fires?</p> <p>24 It's a possibility that that's --</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 111</p> <p>1 QUESTIONS BY MR. DENTON:</p> <p>2 Q. Kids weren't out there with</p> <p>3 matches, were they?</p> <p>4 MS. PUJARI: Objection. Calls</p> <p>5 for speculation.</p> <p>6 THE WITNESS: Repeat the</p> <p>7 question for me, please.</p> <p>8 QUESTIONS BY MR. DENTON:</p> <p>9 Q. The only reason these cars are</p> <p>10 on fire is because the wheel bearing was on</p> <p>11 fire. That was the ignition source.</p> <p>12 MS. PUJARI: Objection. Calls</p> <p>13 for expert testimony. Asked and</p> <p>14 answered.</p> <p>15 THE WITNESS: I don't know that</p> <p>16 to be the case.</p> <p>17 QUESTIONS BY MR. DENTON:</p> <p>18 Q. Do you know of any other</p> <p>19 ignition source other than the wheel bearing</p> <p>20 we all saw on the video that was on fire?</p> <p>21 A. Again, I think this is being</p> <p>22 investigated. Anytime you have a derailment,</p> <p>23 there are going to be cars hitting the</p> <p>24 ground, hitting ballast, hitting all sorts of</p> <p>25 things, tanks being punctured.</p>	<p style="text-align: right;">Page 113</p> <p>1 A. -- that was the ignition</p> <p>2 source.</p> <p>3 Q. Okay. Thank you.</p> <p>4 Let's go back -- now I'm going</p> <p>5 backwards a little bit, I'm sorry, but I want</p> <p>6 to go back to page 12 and 13 of 58 {sic}.</p> <p>7 And this is some of the other</p> <p>8 chemicals that were hazardous materials that</p> <p>9 were breached and burned and that was</p> <p>10 contained in this report, this hazardous</p> <p>11 material report, that you reviewed.</p> <p>12 Correct?</p> <p>13 A. So what paragraph are you</p> <p>14 referencing?</p> <p>15 Q. Page 12. I want to go 3.2.1,</p> <p>16 ethylene glycol monobutyl ether physical and</p> <p>17 chemical properties. That was one of the</p> <p>18 tank cars that breached and burned.</p> <p>19 See that?</p> <p>20 A. I see that.</p> <p>21 Q. And then I just want to go over</p> <p>22 to page 13 under General Hazards.</p> <p>23 "The product is toxic."</p> <p>24 Do you see that?</p> <p>25 A. I do see that.</p>

1 Q. "Fumes and vapors are heavier
2 than air."
3 Do you see that?
4 A. I do.
5 Q. The very last sentence of that
6 paragraph, "It may" -- this can -- "It may
7 cause headache, dizziness, incoordination,
8 nausea, vomiting, diarrhea and general
9 weakness."
10 Do you see that, sir?
11 A. I do.
12 Q. Then if you go up a little bit
13 in that paragraph, it begins with "The SDS"
14 on the right side of that paragraph.
15 No, the next SDS. There you
16 go. Follow along.
17 "The SDS states that ethylene
18 glycol monobutyl ether is regarded as the
19 most toxic of all glycol ethers."
20 Do you see that?
21 A. I do see that.
22 Q. All right. That's just one of
23 the tank cars that burned, right?
24 MS. PUJARI: Objection.
25 Assumes facts not in evidence.

1 QUESTIONS BY MR. DENTON:
2 Q. Okay?
3 A. I think that was a product
4 involved in the derailment. I don't see any
5 reference to the tank car on this.
6 Q. Well, there's no reason it
7 would be in the hazardous materials report
8 for this derailment if it wasn't part of the
9 derailment, would it, sir?
10 A. No.
11 Q. All right. Let's go to the 14
12 to 158, 3.31.
13 This is my favorite.
14 Ethylhexyl. My Aunt Ethel, it reminds me of
15 her every time.
16 Ethylhexyl acrylate and the
17 physical and chemical properties.
18 Do you see that?
19 A. I do.
20 Q. Down at the bottom of that
21 section it says, "The SDS states that
22 ethylhexyl acrylate may cause skin
23 irritation, allergic skin reaction and
24 respiratory irritation."
25 Do you see that?

1 A. I do.
2 Q. All right. Let's go to 16 of
3 158, 3. -- 3.5.1, butyl acrylate.
4 Do you see that?
5 A. Yes.
6 Q. Right there in the middle.
7 "Contact with butyl acrylate may cause skin
8 irritation, allergic skin reaction, serious
9 eye irritation, respiratory irritation. May
10 be harmful if inhaled. It's harmful to
11 aquatic life, with long-lasting effects."
12 Do you see that?
13 A. I do.
14 Q. You read the news reports of
15 all the dead fish in the streams, didn't you,
16 after this derailment?
17 A. I read some news reports that
18 had mentioned aquatic life.
19 Q. All right. Then let's go over
20 to page 17 of 158 where they start talking
21 about the vinyl chloride.
22 Okay?
23 And the actual name of what was
24 in the -- what we refer to as the vinyl
25 chloride tank cars was a substance known as

1 vinyl chloride monomer.
2 Correct?
3 A. Correct.
4 Q. And throughout this litigation,
5 I've seen some places in the reports they
6 refer to that as VCM.
7 Have you seen that?
8 A. I have.
9 Q. Okay. So we're talking about
10 the vinyl chloride. And let's go to the next
11 page, page 18 of 50 -- of 158.
12 And let's talk about the
13 paragraph that starts at Section 2, the vinyl
14 chloride monomer, SDS. Talks about the
15 problems that they put in their SDS.
16 Let's look at that. Bullet
17 point 1. "Vinyl chloride is a known human
18 cancer agent."
19 Do you see that?
20 A. I do.
21 Q. Next dot. "May produce, among
22 other things, central nervous system
23 depression, including headaches, dizziness,
24 nausea, loss of balance and drowsiness."
25 Do you see that, sir?

<p style="text-align: right;">Page 118</p> <p>1 A. Yes.</p> <p>2 Q. Pretty significant health</p> <p>3 hazard associated with vinyl chloride monomer</p> <p>4 exposure.</p> <p>5 Correct?</p> <p>6 MS. PUJARI: Objection. Calls</p> <p>7 for expert testimony. Vague as to</p> <p>8 "significant."</p> <p>9 THE WITNESS: Can you repeat</p> <p>10 the question?</p> <p>11 QUESTIONS BY MR. DENTON:</p> <p>12 Q. I'll make it easier. Would you</p> <p>13 want to inhale that stuff?</p> <p>14 MS. BROZ: Objection.</p> <p>15 MS. PUJARI: I'm sorry.</p> <p>16 Objection. Form.</p> <p>17 THE WITNESS: No, there's no</p> <p>18 question here, based on the safety</p> <p>19 data sheet, that this is a hazardous</p> <p>20 chemical, extremely flammable gas.</p> <p>21 Polymerization can occur.</p> <p>22 QUESTIONS BY MR. DENTON:</p> <p>23 Q. Oh, we're going to get into</p> <p>24 that.</p> <p>25 A. It's...</p>	<p style="text-align: right;">Page 120</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. Have you ever heard of phosgene</p> <p>4 gas?</p> <p>5 A. I have seen it in documents to</p> <p>6 include the SDS.</p> <p>7 Q. All right. So let's go to</p> <p>8 page 74 of this document. 74, 158.</p> <p>9 Yep, that's it. I want to talk</p> <p>10 about the incident response.</p> <p>11 When we're talking about the</p> <p>12 incident here, this is the response to the</p> <p>13 derailment.</p> <p>14 Right?</p> <p>15 A. Correct.</p> <p>16 Q. 8.1 talks about the initial</p> <p>17 railroad response actions. It looks like in</p> <p>18 the first bullet point, Norfolk Southern</p> <p>19 hired a contractor, SPSI.</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. Okay. Let's move over to</p> <p>23 page 76 of 158.</p> <p>24 At the top it says, "On</p> <p>25 February 5, 2023, at 18:00, Norfolk Southern</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. Okay. It's not good to have it</p> <p>2 in your backyard?</p> <p>3 MS. BROZ: Objection. Form.</p> <p>4 MS. PUJARI: Objection. Form.</p> <p>5 THE WITNESS: Again, as the SDS</p> <p>6 states, it's a -- it has all sorts --</p> <p>7 it presents physical hazards.</p> <p>8 QUESTIONS BY MR. DENTON:</p> <p>9 Q. Okay. Let's go to page 20,</p> <p>10 158, up at the top. It talks about hazardous</p> <p>11 decomposition products of vinyl chloride.</p> <p>12 Do you see that?</p> <p>13 A. Can you state that again?</p> <p>14 Q. Yeah. Hazardous decomposition</p> <p>15 products.</p> <p>16 A. Okay. I do.</p> <p>17 Q. And it tells you what they are.</p> <p>18 Oxides of carbon.</p> <p>19 Right?</p> <p>20 A. Correct.</p> <p>21 Q. Chlorine?</p> <p>22 A. Correct.</p> <p>23 Q. Hydrogen chlorine?</p> <p>24 A. Correct.</p> <p>25 Q. And phosphene.</p>	<p style="text-align: right;">Page 121</p> <p>1 system manager for hazardous material was" --</p> <p>2 "reported the following."</p> <p>3 Is that Robert Wood? That</p> <p>4 would be his title, wouldn't it?</p> <p>5 A. I can't remember his exact</p> <p>6 title at Norfolk Southern, but he -- again,</p> <p>7 he works within our hazardous materials</p> <p>8 group.</p> <p>9 Q. Okay. But February 5th --</p> <p>10 let's put this in perspective -- the</p> <p>11 derailment is at, let's call it, nine o'clock</p> <p>12 Friday night, correct? That's February 3rd?</p> <p>13 A. Correct.</p> <p>14 Q. So February 5th is a Sunday,</p> <p>15 right?</p> <p>16 A. I believe that is -- yes.</p> <p>17 Q. And at 18:00, that's military</p> <p>18 time, so that would be 6 p.m. on Sunday.</p> <p>19 Right?</p> <p>20 A. Correct.</p> <p>21 Q. And what's going on here is</p> <p>22 they're -- that the contractors at NS are</p> <p>23 monitoring the VCM tank cars, the vinyl</p> <p>24 chloride tank cars, to figure out what to do</p> <p>25 with them.</p>

<p style="text-align: right;">Page 122</p> <p>1 Correct?</p> <p>2 A. I believe there was a lot of</p> <p>3 things still going on, but was there -- was</p> <p>4 there a monitoring of the vinyl tank cars at</p> <p>5 the same time? Yes.</p> <p>6 Q. Right.</p> <p>7 And what was determined after</p> <p>8 the derailment, that all five tank cars that</p> <p>9 contained the vinyl chloride, every single</p> <p>10 one of them withstood the derailment and</p> <p>11 there was no breach. In other words, none of</p> <p>12 the vinyl chloride spilled out onto the</p> <p>13 ground.</p> <p>14 True?</p> <p>15 MS. PUJARI: Objection.</p> <p>16 Compound. Calls for speculation.</p> <p>17 THE WITNESS: I have not read</p> <p>18 anything that would indicate there was</p> <p>19 a breach.</p> <p>20 QUESTIONS BY MR. DENTON:</p> <p>21 Q. Okay. Well, we'll get into</p> <p>22 that then.</p> <p>23 Have you read anything that</p> <p>24 suggests that the vinyl chloride cars were</p> <p>25 breached and were leaking?</p>	<p style="text-align: right;">Page 124</p> <p>1 bottom of the car, and blew 2-inch holes into</p> <p>2 the side of these cars, steel cars.</p> <p>3 Right?</p> <p>4 A. I would say that's a better --</p> <p>5 a more accurate description, set off</p> <p>6 discharges to open two holes, one at the top,</p> <p>7 one at the bottom, for a vent and burn. I</p> <p>8 would not describe that as blowing up</p> <p>9 railcars.</p> <p>10 Q. Well, you blew two holes into</p> <p>11 the railcars, steel railcars, and set them on</p> <p>12 fire, right? "You" being NS?</p> <p>13 MS. PUJARI: Objection to the</p> <p>14 characterization. Asked and answered.</p> <p>15 Argumentative.</p> <p>16 THE WITNESS: I would say we</p> <p>17 conducted a successful vent and burn.</p> <p>18 QUESTIONS BY MR. DENTON:</p> <p>19 Q. Successful?</p> <p>20 A. Yes.</p> <p>21 Q. Successful.</p> <p>22 How do you define -- how does</p> <p>23 Norfolk Southern define "success"?</p> <p>24 A. When you're trying to conduct a</p> <p>25 vent and burn, you obviously have -- you have</p>
<p style="text-align: right;">Page 123</p> <p>1 MS. PUJARI: Objection.</p> <p>2 Compound.</p> <p>3 THE WITNESS: Not prior to the</p> <p>4 vent and burn.</p> <p>5 QUESTIONS BY MR. DENTON:</p> <p>6 Q. Not until you blew them up.</p> <p>7 Right?</p> <p>8 MS. PUJARI: Objection.</p> <p>9 Objection to the characterization.</p> <p>10 QUESTIONS BY MR. DENTON:</p> <p>11 Q. Well, that's what NS did. They</p> <p>12 put dynamite on these cars and blew two holes</p> <p>13 in them.</p> <p>14 Right?</p> <p>15 A. I would say --</p> <p>16 MS. PUJARI: Objection to the</p> <p>17 characterization.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: Yeah, I would say</p> <p>20 vent and burn is not blowing up a</p> <p>21 railcar.</p> <p>22 QUESTIONS BY MR. DENTON:</p> <p>23 Q. Well, you put explosives in the</p> <p>24 top of the car, "you" being NS and your</p> <p>25 contractors, at the top of the car and at the</p>	<p style="text-align: right;">Page 125</p> <p>1 personnel in harm's way with a purpose of,</p> <p>2 again, creating through those set explosives</p> <p>3 an opening on one end -- on top of the car</p> <p>4 and on the bottom so any other product or</p> <p>5 lading can drain.</p> <p>6 Q. And burn?</p> <p>7 A. Drain.</p> <p>8 Q. And burn?</p> <p>9 A. And burn.</p> <p>10 Q. Into the environment. Into the</p> <p>11 village of East Palestine, right? Right</p> <p>12 downtown.</p> <p>13 MS. PUJARI: Objection.</p> <p>14 Argumentative.</p> <p>15 And please let the witness</p> <p>16 complete his answer.</p> <p>17 QUESTIONS BY MR. DENTON:</p> <p>18 Q. This happened -- excuse me. Go</p> <p>19 ahead. Finish your --</p> <p>20 A. So when I say it was</p> <p>21 successful, what I'm referring to is the vent</p> <p>22 and burn, as designed, was implemented.</p> <p>23 There was no -- at the time, we didn't have</p> <p>24 individuals setting those charges. They did</p> <p>25 them, you know, as they were to supposed to</p>

<p style="text-align: right;">Page 126</p> <p>1 do. And when I say it's a success, is the 2 planned vent and burn went according to plan. 3 Q. But I want to get into the 4 decision why the vent and burn ever became 5 the plan. 6 Can we talk about that? 7 A. Sure. 8 Q. All right. Because it says 9 right here on page 76 of 158 that to conduct 10 a vent and burn, that's the last resort. 11 Do you see that in there? 12 MS. PUJARI: Can you 13 reference -- 14 THE WITNESS: Could you 15 point -- 16 QUESTIONS BY MR. DENTON: 17 Q. Yeah. It's the one, two -- 18 third bullet point. Right there. 19 A. I see that. 20 Q. All right. So let's move on a 21 little bit. 22 MS. PUJARI: And, Counsel, 23 could you orient us to the paragraphs 24 of the complaint that you are focused 25 on at the moment under the notice?</p>	<p style="text-align: right;">Page 128</p> <p>1 to you just a little bit about that. It's 2 the Specialized Response Solutions, SRS, 3 actions. 4 Do you see that paragraph? 5 A. I do see the paragraph. 6 Q. And that was another contractor 7 that Norfolk Southern brought on to respond 8 to the derailment. 9 Is that right? 10 A. That's correct. 11 Q. So we have SPSI as one 12 contractor NS hired, and we have SRS as 13 another one. 14 Correct? 15 A. That is my understanding, yes. 16 Q. Okay. And in the first 17 paragraph it says the first thing that SRS 18 did was to do a damage assessment of the 19 vinyl chloride cars, formulate wrecking, 20 clearing plans and identify loads versus 21 empties within the derailment. 22 Correct? 23 A. That's what's written, yes. 24 Q. And then the next paragraph, 25 the senior project manager observed active</p>
<p style="text-align: right;">Page 127</p> <p>1 MR. DENTON: All of these. It 2 all talks about derailment response. 3 It starts at paragraph 72. This is 4 all part of the derailment response, 5 72 through 100 and something. 120, 6 137, 185. 7 MS. PUJARI: Thank you, 8 Counsel. 9 MR. DENTON: You're welcome. 10 Let's take a short break. 11 Could we? 12 MS. PUJARI: Sure. 13 VIDEOGRAPHER: 11:44, we are 14 off the video record. 15 (Off the record at 11:44 a.m.) 16 VIDEOGRAPHER: 11:57, we are on 17 the video record. 18 QUESTIONS BY MR. DENTON: 19 Q. All right, sir, I want to 20 continue with talking to you about the 21 Exhibit 13, which is this hazardous materials 22 group report that you told us you reviewed. 23 And I want to go to page 82 of 24 158, if you could join me there, please. 25 And it's 8.2.2. I want to talk</p>	<p style="text-align: right;">Page 129</p> <p>1 fires involving materials constructed of 2 wood, plastic pellets -- 3 That was what was in the hopper 4 car, correct, plastic pellets? 5 A. Correct. 6 Q. Railroad ties, lubricating oil, 7 glycols, acrylates. 8 So they're still burning on 9 February 5th, the morning of February 5th, 10 which was Sunday morning. 11 Right? 12 A. Yes, that's what's written. 13 Q. Okay. Let's go to the next -- 14 let's skip a couple pages. Let's go to 86 of 15 158, and I want to talk to you about 8.3, Oxy 16 Vinyl communications. 17 Do you see that? 18 A. I do see that. 19 Q. And just to orientate the jury, 20 Oxy Vinyls is the shipper of the vinyl 21 chloride monomer that was in the five tank 22 cars. 23 Correct? 24 A. Correct. 25 Q. In fact, Oxy Vinyls is also the</p>

<p style="text-align: right;">Page 130</p> <p>1 manufacturer of that product. That's the 2 business they're in, is to make and ship VCM. 3 Right? 4 A. I believe that's a product -- 5 I'm not quite sure if Oxy Vinyls only 6 produces -- 7 Q. Well, I'm not sure it's the 8 only thing -- 9 A. -- the vinyl chloride -- 10 Q. -- but certainly that's one of 11 their products? 12 A. Yes. 13 Q. Okay. And certainly one would 14 expect that Oxy Vinyls would understand the 15 properties of a hazardous material that it 16 manufactures and ships across the country. 17 Wouldn't you agree with that 18 concept, sir? 19 MS. PUJARI: Objection to the 20 extent it calls for speculation. 21 THE WITNESS: I believe they're 22 required to communicate hazards 23 related to that product for shipping 24 purposes. 25</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. About the characteristics of 2 vinyl chloride monomer. 3 Right? 4 A. Right. 5 Q. It goes on to say that the Oxy 6 Vinyls team met with SPSI and SRS to discuss 7 the derailed tank cars. 8 Right? 9 A. It does state that they met 10 with them to obtain a situation briefing, 11 yes. 12 Q. All right. Then I want to go 13 to page 88 of 158, because Oxy was notified 14 that the Norfolk Southern contractors and 15 Norfolk Southern wanted to conduct a vent and 16 burn, in other words, put dynamite charges on 17 two places on these railcars and burn up the 18 product. 19 That was the communication that 20 was going on and the decision whether or not 21 to do that. 22 Right? 23 A. What paragraph are you 24 referencing? 25 Q. I'm not referring to any</p>
<p style="text-align: right;">Page 131</p> <p>1 QUESTIONS BY MR. DENTON: 2 Q. But wouldn't you expect, sir, 3 as a Norfolk Southern representative, that 4 Oxy Vinyls, the manufacturer of this product, 5 would be a subject expert on the properties 6 of that VCM? 7 A. Yes. 8 Q. Okay. And so let's discuss 9 that. 10 We know that at some point 11 there was communication from Norfolk Southern 12 to Oxy Vinyls about the derailment. 13 Correct? 14 A. Correct. 15 Q. And in fact, at 8.3.1, it shows 16 that Oxy Vinyls had three representatives at 17 the derailment site on February 5th between 18 14:00 and 14:30. 19 Do you see that? 20 That's 2 to 2:30 on Sunday, 21 there's actually Oxy Vinyls folks present in 22 East Palestine, Ohio, right, to provide 23 technical assistance? 24 Right? 25 A. I see that.</p>	<p style="text-align: right;">Page 133</p> <p>1 paragraph. I'm just referring to what was 2 going on. 3 A. I don't know -- 4 MS. PUJARI: Objection. Vague 5 as to time. 6 QUESTIONS BY MR. DENTON: 7 Q. You don't know? 8 A. I don't know what the 9 discussions was with Oxy Vinyls throughout 10 the whole period. 11 Q. I understand that. 12 A. So that's why I'm asking -- 13 Q. Okay. Well, I'm just trying 14 to -- yeah, let me withdraw the question. 15 Let me help you. Okay? Fair enough. I'm 16 just trying to set the stage. 17 One of the -- the discussion 18 that was really going on between the NS and 19 its contractors and Oxy Vinyls was, what do 20 we do with the five derailed vinyl chloride 21 cars and the VCM that's within them. 22 That was the general topic, 23 right? 24 MS. PUJARI: Objection. Vague 25 as to time.</p>

<p style="text-align: right;">Page 134</p> <p>1 THE WITNESS: Again, I don't 2 know what the -- the discussions that 3 took place. All I can say is that I 4 know Oxy Vinyls sent representatives. 5 I would assume that the NS 6 contractors and NS personnel and the 7 response team there would have been 8 having discussions ongoing -- 9 QUESTIONS BY MR. DENTON: 10 Q. Right. 11 A. -- from the start of the 12 derailment. 13 Again, once Oxy Vinyls' 14 representatives got there, they would 15 probably have been included in some 16 discussions. 17 Q. Well, let's go back to page 86 18 of 158. Let's just look what the report 19 provided that you reviewed. 20 It says, quote, down at the 21 bottom, "The Oxy Vinyls team met with SPSI 22 president, SRS representatives, for a 23 briefing." Held it at the SPSI office in a 24 trailer. 25 What were the topics they</p>	<p style="text-align: right;">Page 136</p> <p>1 representative of SRS. 2 A. And you stated who else from -- 3 Q. That was it. That's all I 4 stated. 5 A. So the Oxy Vinyls team -- 6 Q. It says the Oxy Vinyls team, 7 which the paragraph above says three 8 individuals, and the president of SPSI and 9 SRS, they all got together to talk about 10 topics, which are those four bullet points 11 that we have highlighted on the screen. 12 Right? 13 A. I don't dispute that. 14 Q. Okay. Very good. 15 MR. DENTON: I need a short 16 break. My numbers are out of order. 17 Give me just a second off the record. 18 VIDEOGRAPHER: 12:07, we are 19 off the video record. 20 (Off the record at 12:07 p.m.) 21 VIDEOGRAPHER: 12:09, we are on 22 the video record. 23 QUESTIONS BY MR. DENTON: 24 Q. Let's go to page 90 of 158, the 25 bottom paragraph.</p>
<p style="text-align: right;">Page 135</p> <p>1 discussed? Location of the derailed tank 2 cars; the temperatures of the vinyl chloride 3 tank cars; concerns about polymerization of 4 the tank cars; and the possibility of 5 conducting a vent and burn of the VCM tank 6 cars. 7 So that's what they were 8 talking about, right? 9 A. That's what's written here. I 10 would assume that's correct. 11 Q. Well, you're the Norfolk 12 Southern representative. That's in fact what 13 happened, right? 14 MS. PUJARI: Objection to form. 15 QUESTIONS BY MR. DENTON: 16 Q. And this is the report you said 17 you studied, and Robert Wood was a member of 18 the team. 19 Do you have any reason to 20 dispute this report? 21 A. I don't dispute what's written 22 on this paper. I don't know who was involved 23 in that briefing with Oxy Vinyls. 24 Q. Well, it says right here on 25 this paper. The SPSI president. A</p>	<p style="text-align: right;">Page 137</p> <p>1 It's talking about the next 2 contact between the Oxy Vinyls Dallas team 3 and SPSI occurred on the early morning of 4 February 5, 2023. 5 Do you see that? 6 A. I do see that. 7 Q. Same individuals, mostly, who 8 participated on the February 4th call. 9 Do you see that? 10 A. I do. 11 Q. And it says, "SPSI raised the 12 topic of the VCM polymerization within the 13 tank cars and the possibility of conducting a 14 vent and burn." 15 Do you see where I'm at? 16 A. I do see that. 17 Q. And Oxy Vinyls, who 18 manufactured the VCM and shipped the VCM, 19 said, quote, in re -- well, no quote. 20 In response, the Oxy Vinyls 21 senior vice president of manufacturing, who 22 wasn't on the February 4th, reportedly 23 interjected, quote -- follow me? -- "Let me 24 be clear. Polymerization is not occurring," 25 end quote.</p>

<p style="text-align: right;">Page 138</p> <p>1 Can you underline that in red, 2 please, Michael, that quote? 3 Do you see that? 4 A. I do see it written here, yes. 5 Q. Okay. So the senior vice 6 president of manufacturing at Oxy Vinyls, the 7 company that makes this product, this VCM, is 8 making it perfectly clear that polymerization 9 is not occurring. 10 Correct? That's what he told 11 NS and its contractors. 12 MS. PUJARI: Objection to the 13 characterization. The document speaks 14 for itself. 15 QUESTIONS BY MR. DENTON: 16 Q. Right? 17 A. That's what's written here. 18 Q. And polymerization was the 19 reason that -- well, strike that. Let me 20 withdraw that. 21 Let's go on to this same 22 paragraph. And it says, last sentence, 23 "According to the Oxy Vinyls vice president 24 Hess, he further suggested that if a vent and 25 burn is being considered, it should be done</p>	<p style="text-align: right;">Page 140</p> <p>1 But go ahead. 2 THE WITNESS: The reason I 3 wanted the question asked again is, I 4 would not state -- I can't necessarily 5 agree with "the leading expert." I 6 would say that, as I stated before, 7 Oxy Vinyl obviously has expertise in 8 vinyl chloride. 9 I know we have a statement here 10 from -- according to the Oxy Vinyls 11 vice president Hess, he suggested. 12 And I read what's written here, and I 13 agree what's written here. 14 But I would just again state, I 15 don't necessarily agree with "the 16 leading expert of vinyl chloride." 17 QUESTIONS BY MR. DENTON: 18 Q. Okay. Certainly an expert of 19 vinyl chloride? 20 A. I would agree that he has some 21 expertise in vinyl chloride. 22 Q. All right. And let's be 23 perfectly clear. He said, quote, "Let me be 24 me clear. Polymerization is not occurring," 25 end quote.</p>
<p style="text-align: right;">Page 139</p> <p>1 because of" -- "not be done" -- not, 2 underline "not" because I misspoke -- "not be 3 done because of polymerization, because 4 polymerization is not occurring." 5 Right? 6 A. That's what's written. 7 Q. So the subject matter expert on 8 VCM, vice president of manufacturing, made it 9 perfectly clear to NS and its contractors 10 there was no need to vent and burn these tank 11 cars. 12 MS. PUJARI: Objection. 13 Mischaracterizes the document. 14 QUESTIONS BY MR. DENTON: 15 Q. Correct, sir? 16 A. Can you restate the question? 17 MR. DENTON: Thank you, Carrie. 18 (Court Reporter read back 19 question.) 20 MS. PUJARI: Mischaracterizes 21 the document. 22 THE WITNESS: Yeah, I would -- 23 MR. DENTON: If that's not a 24 leading -- or a speaking objection, I 25 don't know what it is.</p>	<p style="text-align: right;">Page 141</p> <p>1 Right? 2 A. That's what is stated here, 3 yes. 4 Q. All right. And there was no 5 reason to vent and burn these tank cars 6 because of a polymerization. It would have 7 to be for some other reason. 8 Right? 9 That's -- that was the position 10 of Oxy Vinyls, correct? 11 A. I believe that is the position 12 of Mr. -- Vice President Hess at Oxy Vinyls. 13 Q. Well, let's see what happened 14 after that. Let's go to the next page, 15 page 91. 16 The on-site team from Oxy 17 Vinyls -- it's the second full paragraph, 18 last two lines. The outcome of that meeting 19 on February 5th was "an agreement that Oxy 20 Vinyls' on-site team would continue to convey 21 the message to SPSI that there was no signs 22 of polymerization occurring within the tank 23 cars." 24 Do you see that? 25 A. I do see that.</p>

<p style="text-align: right;">Page 142</p> <p>1 Q. So Oxy Vinyls is telling NS and 2 its two contractors, no polymerization, 3 right? 4 MS. PUJARI: Objection. 5 QUESTIONS BY MR. DENTON: 6 Q. That's what they're saying to 7 them. That's the advice they're giving them. 8 MS. PUJARI: Objection. 9 Mischaracterization as to Oxy Vinyls. 10 THE WITNESS: I guess the -- my 11 response would be the meeting that 12 you're referring to, the outcome of 13 that meeting was an agreement that the 14 Oxy Vinyls on-site team would convey 15 the message to SPSI that there was no 16 signs of polymerization occurring 17 within the tank cars. 18 QUESTIONS BY MR. DENTON: 19 Q. All right. And then it goes on 20 to say, last sentence of that paragraph, "At 21 this point, SPSI and Norfolk Southern did not 22 direct any further questions or provide any 23 situation updates to the Oxy Vinyls Dallas 24 team." 25 Do you see that?</p>	<p style="text-align: right;">Page 144</p> <p>1 QUESTIONS BY MR. DENTON: 2 Q. Right? 3 A. I think the answer to that is 4 they were basically making a claim, Mr. Hess 5 and the vice president, that polymerization 6 was not occurring. 7 Q. Right. 8 That was Oxy Vinyls' position, 9 right? 10 A. That was not everybody from -- 11 that I'm -- I can speak to would say that was 12 everybody at Oxy Vinyl on that on-site team, 13 but those individuals made those statements, 14 as I read earlier. 15 Q. The on-site team from Oxy and 16 the vice president of manufacturing in Dallas 17 on a conference call, all the Oxy people 18 said, no polymerization, no need to vent and 19 burn. 20 Right? 21 MS. PUJARI: Objection. 22 Misstates evidence. 23 THE WITNESS: You had an 24 on-site Oxy Vinyl representative prior 25 to that meeting making the claim that</p>
<p style="text-align: right;">Page 143</p> <p>1 A. I do see that. 2 Q. And so this was -- that was on 3 February 5th. So let's move forward to 4 page 93 of 158, the decision to vent and burn 5 the tank cars. 6 So here we are. Oxy Vinyls 7 says, don't vent and burn. They're not asked 8 back to any of the meetings. 9 And then SPSI and SRS and 10 Norfolk make plans to go forward to go ahead 11 and vent and burn the tank cars, right? 12 MS. PUJARI: Objection. 13 Compound and misstates prior evidence. 14 THE WITNESS: Could you repeat 15 the question, please? 16 QUESTIONS BY MR. DENTON: 17 Q. All right. So we know Oxy 18 Vinyls has said -- their vice president of 19 manufacturing said, no polymerization, no 20 need to vent and burn. 21 That's where we're at from 22 their point of view, right? 23 MS. PUJARI: Objection. 24 Misstates evidence. 25</p>	<p style="text-align: right;">Page 145</p> <p>1 he was not sure or he was -- he 2 couldn't say with a definite response 3 that polymerization was not occurring 4 or could not occur. 5 QUESTIONS BY MR. DENTON: 6 Q. And that's why you got Mr. Hess 7 down in Dallas on the phone, the main man 8 down at Oxy, for this chemical said, don't 9 blow them up, they're not going to 10 polymerize. 11 Right? 12 MS. PUJARI: Objection. 13 Misstates evidence. Prior testimony 14 and lack of foundation. 15 THE WITNESS: I don't believe 16 that -- that having the main man 17 somewhere else at a location that's 18 not on site takes away from the fact 19 that you had an on-site rep that 20 wasn't sure. 21 I believe what you stated is 22 what's written here, that he made the 23 statement -- 24 QUESTIONS BY MR. DENTON: 25 Q. Right.</p>

<p style="text-align: right;">Page 146</p> <p>1 A. -- at some point that 2 polymerization was not occurring. 3 Q. Right. 4 And as soon as that statement 5 was made, the Oxy Vinyl people on scene were 6 excluded from all further discussions with 7 Norfolk Southern and its contractors. 8 Correct? 9 MS. PUJARI: Objection. 10 Misstates evidence. 11 MR. DENTON: It does not. It's 12 right in the report. Quit making 13 those stupid objections. 14 MS. PUJARI: Excuse me? I will 15 make the objections that I am 16 permitted and allowed to make. 17 MR. DENTON: Let's go -- I'll 18 withdraw the question so your 19 objection -- 20 MS. PUJARI: You'll withdraw 21 the bullying, sir. 22 MR. DENTON: Oh, fine. I'll 23 withdraw the question. 24 QUESTIONS BY MR. DENTON: 25 Q. Let's go back to page 91 of</p>	<p style="text-align: right;">Page 148</p> <p>1 A. Again, I don't take any issue 2 with what's written here as far as that 3 meeting and what was dis -- 4 Q. Okay. Thank you. 5 A. -- what was written. 6 Q. All right. So at some point 7 there was a meeting between NS and its 8 contractors, SPSI and SRS, with the local 9 fire chief, Chief Drabick, concerning the 10 vent and burn. And I'm referring you to 11 page 94 of 158. 12 Are you with me? 13 A. I'm on page 94. If you could 14 point me to -- 15 Q. Yeah, we'll go to the middle 16 paragraph. 17 A. Okay. 18 Q. It says, "According to the 19 IC" -- that's the incident command, which was 20 Chief Drabick, the fire chief of East 21 Palestine -- "the SPSI president and the SRS 22 project manager insisted that he only had 23 13 minutes to decide whether to allow the 24 vent and burn to proceed because they wanted 25 to begin at 15:00 and before sunset to avoid</p>
<p style="text-align: right;">Page 147</p> <p>1 158. 2 "Following that meeting, the 3 Oxy Vinyl Dallas team was not informed of 4 further temperature monitoring of data 5 collected, and at that point the NS and SPSI 6 did not direct any further questions or 7 provide any situation updates to the Oxy 8 Vinyls Dallas team." 9 That's exactly what I just 10 said, didn't I? 11 A. So following -- following that 12 meeting -- and I don't disagree with anything 13 that's written here. 14 Q. Okay. 15 A. If you could repeat the 16 question, though, because, again, we have two 17 different people, and you said "following 18 that meeting." 19 What exact meeting, other than 20 this -- the meeting that we were referenced 21 on page 91? 22 Q. Right. 23 The one where he said, let's be 24 perfectly clear, they're not polymerizing. 25 That meeting.</p>	<p style="text-align: right;">Page 149</p> <p>1 atmospheric temperature inversions and vapor 2 cloud to disperse." 3 Is that right? Is that what 4 happened, sir? 13 minutes? 5 A. I don't dispute what's written 6 here. 7 Q. Go down to the next paragraph. 8 "The incident commander said that at no 9 point," at no point, "did any official from 10 Oxy Vinyls have discussions with him or the 11 unified command. He said there was no 12 dissenting opinion provided to him about 13 polymerization." 14 Right? 15 A. Could you point out that on 16 page 94 where -- 17 Q. Yeah, I sure can. Let's go to 18 down to one, two, three -- fourth paragraph. 19 "The IC told the investigators that at no 20 point did an official from Oxy Vinyls have 21 discussions with him." That's Chief Drabick. 22 "He stated there were no dissenting opinion 23 provided to him about whether polymerization 24 was occurring within the tank cars." 25 Do you see that?</p>

<p style="text-align: right;">Page 150</p> <p>1 A. I do see that.</p> <p>2 Q. Well, there sure as heck was a</p> <p>3 dissenting opinion from Oxy Vinyls; it just</p> <p>4 wasn't shared with the chief, was it?</p> <p>5 A. What's written here is the IC</p> <p>6 told investigators that at no point did any</p> <p>7 official from Oxy Vinyl have discussions with</p> <p>8 the IC or unified staff command.</p> <p>9 Q. Right.</p> <p>10 So what happened here, if we</p> <p>11 summarize this, you go to Chief Drabick, you</p> <p>12 give him 13 minutes. You don't give him the</p> <p>13 dissenting opinion from Oxy Vinyl, and you,</p> <p>14 "you" being NS, say, is it okay if we blow up</p> <p>15 these tank cars?</p> <p>16 MS. PUJARI: Objection.</p> <p>17 Misstates evidence, the document and</p> <p>18 prior testimony, and compound.</p> <p>19 THE WITNESS: I don't agree</p> <p>20 with that statement.</p> <p>21 QUESTIONS BY MR. DENTON:</p> <p>22 Q. What do you disagree with? He</p> <p>23 had 13 minutes --</p> <p>24 A. It's not the -- the fact that</p> <p>25 you're saying everything was -- the decision</p>	<p style="text-align: right;">Page 152</p> <p>1 because I'm not quite sure what you're</p> <p>2 referencing.</p> <p>3 Can you explain to me --</p> <p>4 QUESTIONS BY MR. DENTON:</p> <p>5 Q. They set up Chief Drabick to</p> <p>6 get his permission to blow up the railcar so</p> <p>7 you could get the track back open. That's</p> <p>8 the setup.</p> <p>9 MS. PUJARI: Objection.</p> <p>10 Numerous objections to form.</p> <p>11 THE WITNESS: Okay. I disagree</p> <p>12 with that statement.</p> <p>13 QUESTIONS BY MR. DENTON:</p> <p>14 Q. You disagree with that?</p> <p>15 A. I do disagree with that.</p> <p>16 Q. He was given 13 minutes, right?</p> <p>17 That's what this document says.</p> <p>18 MS. PUJARI: Objection.</p> <p>19 Misstates --</p> <p>20 QUESTIONS BY MR. DENTON:</p> <p>21 Q. Right?</p> <p>22 MS. PUJARI: Objection.</p> <p>23 Misstates the document.</p> <p>24 MR. DENTON: Well, let's read</p> <p>25 the document, this one that I'm</p>
<p style="text-align: right;">Page 151</p> <p>1 was made in 13 minutes was --</p> <p>2 Q. That's what it says --</p> <p>3 A. Chief Drabick was the incident</p> <p>4 commander. He was there from the start up</p> <p>5 until this time. And I do believe there were</p> <p>6 discussions that took place with the IC</p> <p>7 commander, Chief Drabick, throughout the</p> <p>8 derailment response.</p> <p>9 Q. That may be true, but according</p> <p>10 to Chief Drabick -- read it right here in</p> <p>11 this document -- they gave him 13 minutes to</p> <p>12 decide. 13 minutes with no dissenting view</p> <p>13 from Oxy Vinyls.</p> <p>14 MS. PUJARI: Objection.</p> <p>15 Misstates.</p> <p>16 QUESTIONS BY MR. DENTON:</p> <p>17 Q. That's the setup, right?</p> <p>18 MS. PUJARI: Objection.</p> <p>19 Misstates the entire document.</p> <p>20 QUESTIONS BY MR. DENTON:</p> <p>21 Q. That's what happened, right?</p> <p>22 MS. PUJARI: And prior</p> <p>23 testimony.</p> <p>24 THE WITNESS: I don't agree</p> <p>25 with the term "that's the setup,"</p>	<p style="text-align: right;">Page 153</p> <p>1 misstating.</p> <p>2 QUESTIONS BY MR. DENTON:</p> <p>3 Q. Quote, "He had only 13 minutes</p> <p>4 to decide."</p> <p>5 That's the third paragraph.</p> <p>6 MS. PUJARI: Let's read the</p> <p>7 whole document and the pages --</p> <p>8 MR. DENTON: All 158? Is</p> <p>9 that -- go ahead, you can redirect him</p> <p>10 on 158 pages.</p> <p>11 MS. PUJARI: The pages -- pages</p> <p>12 and pages --</p> <p>13 MR. DENTON: I'll withdraw it.</p> <p>14 QUESTIONS BY MR. DENTON:</p> <p>15 Q. It says right there the IC had</p> <p>16 13 minutes to decide whether to allow a vent</p> <p>17 and burn. That's exactly what it says.</p> <p>18 Right?</p> <p>19 A. You're leaving out the</p> <p>20 vent/burn to proceed, so it's not as if he</p> <p>21 was offered this vent and burn for the very</p> <p>22 first time he had ever heard of vent and burn</p> <p>23 and then has 13 minutes. So I disagree with</p> <p>24 that.</p> <p>25 Q. Even though it's written on</p>

<p style="text-align: right;">Page 154</p> <p>1 that document right there? It says it. They 2 gave him 13 minutes. 3 A. 13 minutes to respond. I don't 4 dispute what's written on this document. 5 Q. Okay. And then if we go down 6 to the other part that's highlighted. "At no 7 point did any official from Oxy Vinyls have 8 discussions with the chief. He stated there 9 were no dissenting opinions as to whether 10 polymerization was occurring within the tank 11 cars." 12 Correct? 13 That's what it says. That's 14 what happened. 15 Right? 16 MS. PUJARI: Objection. 17 Compound. 18 THE WITNESS: That's what's 19 written on the paper. And when I read 20 that, I think as anybody would read 21 that, that the entire incident team, 22 he had -- Chief Drabick himself had 23 not heard of any dissenting 24 opinions -- 25</p>	<p style="text-align: right;">Page 156</p> <p>1 the track reopened, getting the cars out of 2 the way, right? 3 MS. PUJARI: Objection. 4 Argumentative. 5 QUESTIONS BY MR. DENTON: 6 Q. Right? 7 A. No, that is not a factor in a 8 vent and burn. 9 Q. All right. Well, we'll test 10 you on that. How about -- no, not that one. 11 I'm talking status reports. 12 MS. PUJARI: Roger, I think 13 this is probably a good time to break 14 for lunch. It's 12:30. 15 Sound good? 16 MR. DENTON: Sure. It's your 17 witness. 18 How long do you want to take? 19 MS. PUJARI: 30. 20 MR. DENTON: 30? 21 MS. PUJARI: 30. 22 VIDEOGRAPHER: 12:29, we are 23 off the video record. 24 (Off the record at 12:29 p.m.) 25 VIDEOGRAPHER: 1:05, we are on</p>
<p style="text-align: right;">Page 155</p> <p>1 QUESTIONS BY MR. DENTON: 2 Q. And the dissenting -- 3 A. -- concerning polymerization. 4 Q. And the dissenting opinion came 5 from the people that made it, Oxy Vinyls, who 6 said, don't blow up the cars. There's no 7 polymerization. 8 That was the dissenting opinion 9 that NS didn't want the chief to hear, right? 10 MS. PUJARI: Objection. 11 Compound. Misstates evidence. 12 THE WITNESS: Your question 13 concerning the decision and no 14 dissenting opinions -- 15 QUESTIONS BY MR. DENTON: 16 Q. Uh-huh. 17 A. -- the decision to vent and 18 burn was not solely based on whether or not 19 polymerization was occurring or not. That 20 wasn't the single point that was made. Is 21 polymerization occurring or not? Okay. 22 We'll do a vent and burn. That wasn't the 23 only factor involved here in the incident. 24 Q. Right. 25 The other factor was getting</p>	<p style="text-align: right;">Page 157</p> <p>1 the video record. 2 QUESTIONS BY MR. DENTON: 3 Q. So, sir, I want to go to 4 paragraph 97 of the third-party complaint, 5 which is page 21. It's highlighted in yellow 6 there. 7 Do you have a copy of that, 8 sir? 9 A. I do. 10 Q. And it says -- Norfolk Southern 11 says in this pleading that "At approximately 12 4:37 p.m. on February 6th, unified command 13 gave the green light to execute the vent and 14 burn, and the response team detonated the 15 controlled explosives of the five vinyl 16 chloride cars." 17 Do you see that? 18 A. I do see that. 19 Q. So basically if I'm 20 understanding this paragraph, help me if I'm 21 wrong, that on February 6th, at about 22 4:37 p.m., this is when the explosives went 23 off on the vinyl chloride cars and they were 24 burned. 25 Right?</p>

<p style="text-align: right;">Page 158</p> <p>1 A. I agree that what's written 2 there is written there, that that's -- 3 Q. Well, you're the corporate rep. 4 Is that what happened? I'm just trying to 5 establish a time, really, a date and a time. 6 A. At 4:37 p.m.? 7 Q. Yeah. 8 A. The unified command provided a 9 radio -- or provided by radio the official 10 green light to execute the vent and burn. 11 Q. Let me ask you this, not 12 with -- keep the document, but not related to 13 the document. 14 Were you involved in any way in 15 responding to this derailment when it took 16 place? 17 A. No, I was not. 18 Q. No involvement whatsoever? 19 A. No involvement. 20 Q. So your only involvement was 21 because you were designated by the defendants 22 here to testify about these topics. 23 Correct? 24 A. I was designated by our law 25 department to represent Norfolk Southern.</p>	<p style="text-align: right;">Page 160</p> <p>1 MS. PUJARI: Counsel, can I get 2 a copy? 3 MR. DENTON: Oh, yes. 4 MS. PUJARI: Thank you. 5 MR. DENTON: Sorry about that. 6 MS. PUJARI: No problem. 7 THE WITNESS: No, I don't 8 believe I reviewed this document. 9 QUESTIONS BY MR. DENTON: 10 Q. Okay. Well, we'll do it now 11 then. 12 Let's just look at the front 13 page. It's the -- it says it's the "Incident 14 Status Report, February 5th" -- this was 15 before the vent and burn. This is on 16 Sunday -- "2023." 17 And then if we go to page 2, 18 it's an NS Incident Status Report. 19 Do you see that? 20 A. Page 1 of 7? 21 Q. Yes, sir. 22 A. I see that. 23 Q. And it says right there at the 24 top, "Status report dated 2/5/2023." 25 Do you see that?</p>
<p style="text-align: right;">Page 159</p> <p>1 Q. Right. Okay. 2 And then if we go on to 3 paragraph 98 on that document, sir, again, 4 I'm just looking for time. It says, "The 5 released vinyl chloride burned through the 6 night of February 6th." 7 Do you see that? 8 A. I see that. 9 Q. So that's Monday night. The 10 derailment happened on the 3rd, Friday, the 11 4th, Saturday, the 5th was Sunday. Vent and 12 burn, 4:37 in the afternoon, and then the 13 cars burned all night. 14 Do you see that? 15 A. I see that. 16 (Dixon 30(b)(6) Exhibit 14 17 marked for identification.) 18 QUESTIONS BY MR. DENTON: 19 Q. Okay. So I want to show you 20 Exhibit 14, which is, for the record, 21 NS-CA-001621933 {sic}. Again, a document 22 that was in the range I was informed that you 23 had available for your review. 24 Do you remember reviewing this 25 document, sir?</p>	<p style="text-align: right;">Page 161</p> <p>1 A. Yes. 2 Q. Okay. And this is a document 3 where someone in the field or somewhere is 4 keeping track of what's going on as a 5 response to this derailment. 6 Correct? 7 A. Correct. 8 Q. Okay. Let's go to page 4 of 7. 9 So again, this is Sunday, 10 before the decision to vent and burn on 11 Monday. Look at that at the top, "overall 12 site strategy and objectives." 13 Page 4 of 7, Michael. Right 14 there. There you go. Highlight that, 15 please. 16 Do you see that, sir? That's 17 what we're talking about. 18 A. I see that. 19 Q. The very first site objective 20 and strategy was "Remediating track bed and 21 rebuild track." 22 Do you see that? 23 MS. PUJARI: Objection. 24 Mischaracterizes the document. 25 Misreads the document.</p>

<p style="text-align: right;">Page 162</p> <p>1 QUESTIONS BY MR. DENTON:</p> <p>2 Q. "Sequencing of remediating</p> <p>3 track bed versus rebuild track."</p> <p>4 Did I read that correctly?</p> <p>5 A. That's what's written here.</p> <p>6 Q. "Objectives re." -- r-e,</p> <p>7 colon -- "timeline for reopening the line and</p> <p>8 resuming traffic."</p> <p>9 Do you see that?</p> <p>10 A. That's what's written here.</p> <p>11 Q. So the objective was to get the</p> <p>12 track opened in the incident report, right?</p> <p>13 MS. PUJARI: Objection.</p> <p>14 Mischaracterizes the document.</p> <p>15 QUESTIONS BY MR. DENTON:</p> <p>16 Q. Well, let me read it again.</p> <p>17 "Objectives: Timeline for</p> <p>18 reopening line and resuming traffic."</p> <p>19 Did I read that correctly?</p> <p>20 MS. PUJARI: Objection.</p> <p>21 Mischaracterizes the remainder of the</p> <p>22 document.</p> <p>23 THE WITNESS: Yeah, I read this</p> <p>24 as sequencing of remediating track bed</p> <p>25 versus rebuilding track.</p>	<p style="text-align: right;">Page 164</p> <p>1 of 7. The date of the report is 2/5/23.</p> <p>2 A. I agree. That's the -- that's</p> <p>3 the date.</p> <p>4 Q. Okay. And let's look at</p> <p>5 something else on page 3 of 7. Let's go</p> <p>6 down. There's a box there with a yellow</p> <p>7 highlighting across the top.</p> <p>8 And it says right there on</p> <p>9 February 5, 2023, on Sunday, that NS is</p> <p>10 already scheduling a, quote, "Vent and burn</p> <p>11 operation for 2/6/23."</p> <p>12 They already made up the</p> <p>13 decision before they ever talked to Chief</p> <p>14 Drabick, didn't they?</p> <p>15 A. I don't know what was</p> <p>16 communicated at -- to Chief Drabick or the</p> <p>17 incident command. And again, this is the</p> <p>18 first time I'm seeing this recovery plan</p> <p>19 document.</p> <p>20 Q. Well, it was in the documents I</p> <p>21 was told by the lawyers that was in the</p> <p>22 package for you to review. That's number</p> <p>23 one.</p> <p>24 And number two, it's an NS</p> <p>25 document, right?</p>
<p style="text-align: right;">Page 163</p> <p>1 QUESTIONS BY MR. DENTON:</p> <p>2 Q. Right.</p> <p>3 A. As the priority being</p> <p>4 remediating track bed.</p> <p>5 Q. But the objective, the next</p> <p>6 line -- you see the title of this whole</p> <p>7 section is "Overall Site Strategy and</p> <p>8 Objectives."</p> <p>9 Right?</p> <p>10 That's what this document is</p> <p>11 for, right?</p> <p>12 A. That is what's written here --</p> <p>13 Q. Okay.</p> <p>14 A. -- on the document.</p> <p>15 Q. And let's read it one more</p> <p>16 time.</p> <p>17 The objectives, "Timeline for</p> <p>18 reopening the line and resuming traffic."</p> <p>19 Did I read that correctly?</p> <p>20 A. That's what's written here.</p> <p>21 Q. And that's February 5th.</p> <p>22 That's Sunday, before there's ever a decision</p> <p>23 to vent and burn.</p> <p>24 Right?</p> <p>25 I'll help you out. It's page 1</p>	<p style="text-align: right;">Page 165</p> <p>1 A. That's what's on the header</p> <p>2 here.</p> <p>3 Q. Okay. And you don't have to</p> <p>4 review it to understand what it means, quote,</p> <p>5 "Vent and burn operation scheduled for</p> <p>6 2/6/23," end quote.</p> <p>7 So whoever wrote this knew that</p> <p>8 that was going to happen the day before,</p> <p>9 regardless of the meeting with Chief Drabick,</p> <p>10 right?</p> <p>11 A. I can't say for certain that</p> <p>12 that's exactly what they knew.</p> <p>13 MS. PUJARI: Counsel, one point</p> <p>14 of clarification on Exhibit 9 --</p> <p>15 MR. DENTON: No, no, no, no,</p> <p>16 no. No, no, no, no, no. You're not</p> <p>17 going to educate the witness with a</p> <p>18 speaking objection. Not going to</p> <p>19 happen.</p> <p>20 MS. PUJARI: No, it's just to</p> <p>21 you, and we can go off the record if</p> <p>22 you'd like. Or we can step outside.</p> <p>23 MR. DENTON: Well, let's get</p> <p>24 the witness out of here.</p> <p>25 MS. PUJARI: Well, you and I</p>

<p style="text-align: right;">Page 166</p> <p>1 can just step out instead of --</p> <p>2 MR. DENTON: Okay. That's</p> <p>3 fine.</p> <p>4 VIDEOGRAPHER: 1:14, we are off</p> <p>5 the video record.</p> <p>6 (Off the record at 1:14 p.m.)</p> <p>7 VIDEOGRAPHER: 1:17, we are on</p> <p>8 the video record.</p> <p>9 (Dixon 30(b)(6) Exhibit 15</p> <p>10 marked for identification.)</p> <p>11 QUESTIONS BY MR. DENTON:</p> <p>12 Q. I have in front of you</p> <p>13 Exhibit 15, which is NS-CA-001620320, which</p> <p>14 is the Incident Status Report of February 6,</p> <p>15 2023. It's the next day.</p> <p>16 Do you see that?</p> <p>17 A. I see that.</p> <p>18 Q. Okay. And if you'll go to</p> <p>19 page 6 of 11, there are pictures of the vent</p> <p>20 and burn.</p> <p>21 Do you see that one on page 6?</p> <p>22 Do you see that?</p> <p>23 A. I see the picture.</p> <p>24 Q. Flames and dark smoke.</p> <p>25 Do you see all that?</p>	<p style="text-align: right;">Page 168</p> <p>1 QUESTIONS BY MR. DENTON:</p> <p>2 Q. I want to show you another</p> <p>3 picture.</p> <p>4 MR. DENTON: What number are we</p> <p>5 on, Carrie?</p> <p>6 COURT REPORTER: 16.</p> <p>7 QUESTIONS BY MR. DENTON:</p> <p>8 Q. Do you see that picture,</p> <p>9 Exhibit 16?</p> <p>10 A. I see the picture.</p> <p>11 Q. What do you see in that</p> <p>12 picture?</p> <p>13 A. I see ballast.</p> <p>14 Q. A lot of ballast.</p> <p>15 A. I see --</p> <p>16 Q. Would you agree that's a lot of</p> <p>17 ballast, all of that white stone?</p> <p>18 MS. PUJARI: Objection to the</p> <p>19 characterization. The photo speaks</p> <p>20 for itself.</p> <p>21 THE WITNESS: I wouldn't</p> <p>22 characterize that as a lot of ballast.</p> <p>23 It's ballast.</p> <p>24 QUESTIONS BY MR. DENTON:</p> <p>25 Q. Okay. How many truckloads of</p>
<p style="text-align: right;">Page 167</p> <p>1 A. I see the picture on page 6,</p> <p>2 yes.</p> <p>3 Q. The picture on the next page?</p> <p>4 See that?</p> <p>5 A. I see the picture, yes.</p> <p>6 Q. The picture on the next page.</p> <p>7 That's part of the explosion</p> <p>8 from the vent and burn?</p> <p>9 A. I see the picture.</p> <p>10 Q. All right. Let's go to page 9</p> <p>11 of 11.</p> <p>12 You see that picture?</p> <p>13 A. I see the picture on 9.</p> <p>14 Q. And let's go to 10 and look at</p> <p>15 the smoke plume from the residents in East</p> <p>16 Palestine. In fact, there's one down there</p> <p>17 in the bottom left taking a picture of it by</p> <p>18 his cell phone by his car.</p> <p>19 Do you see that picture that NS</p> <p>20 provided?</p> <p>21 A. I see the picture on page 10,</p> <p>22 yes.</p> <p>23 (Dixon 30(b)(6) Exhibit 16</p> <p>24 marked for identification.)</p> <p>25</p>	<p style="text-align: right;">Page 169</p> <p>1 ballast do you think are sitting there?</p> <p>2 A. I couldn't even gather a guess</p> <p>3 based off the size of the truck and the bed</p> <p>4 of the truck. I don't know.</p> <p>5 Q. Multiple truckloads?</p> <p>6 A. I would say multiple, yes.</p> <p>7 Q. Okay. What else do you see?</p> <p>8 A. I see some individuals working.</p> <p>9 Q. Right.</p> <p>10 A. I see some equipment.</p> <p>11 Q. Right.</p> <p>12 A. And I see some track panels</p> <p>13 and...</p> <p>14 Q. Okay. For the jurors who may</p> <p>15 not be familiar with railroad like you and I</p> <p>16 are, what is a track panel, and where is it</p> <p>17 in the picture?</p> <p>18 A. It's on the left-hand side.</p> <p>19 You see it sitting up top of -- of the rail</p> <p>20 there. Those are rail ties and ribbon -- or</p> <p>21 rail mounted to those ties.</p> <p>22 Q. Right.</p> <p>23 And what are track panels used</p> <p>24 for, sir?</p> <p>25 A. Track panels are used to lay</p>

<p style="text-align: right;">Page 170</p> <p>1 track.</p> <p>2 Q. You bring in pre-made panels,</p> <p>3 "you" being the Norfolk Southern or their</p> <p>4 contractors, and use those to repair the</p> <p>5 damaged rail?</p> <p>6 Is that what they're for?</p> <p>7 A. Track panel is always used to</p> <p>8 replace rail.</p> <p>9 Q. Okay. All right. So we have</p> <p>10 however much ballast we have there. I see</p> <p>11 two big CAT pieces of equipment. We see</p> <p>12 three guys, at least, working. We see track</p> <p>13 panels. And there's some equipment off in</p> <p>14 the distance, maybe a third CAT.</p> <p>15 What's the date of that</p> <p>16 picture, sir?</p> <p>17 I'll help you. It's written</p> <p>18 right up there on the top right.</p> <p>19 A. I don't think that's the date</p> <p>20 of the picture. That basically says, "On</p> <p>21 Sunday, February the 5th, a smoldering tangle</p> <p>22 of dozens of derailed freight cars, some</p> <p>23 carrying hazardous materials, has kept an</p> <p>24 evacuation order in effect in Ohio near the</p> <p>25 Pennsylvania state line as environmental</p>	<p style="text-align: right;">Page 172</p> <p>1 please? Thank you.</p> <p>2 QUESTIONS BY MR. DENTON:</p> <p>3 Q. Do you see that?</p> <p>4 That's the flame and black</p> <p>5 plume on February 6th from the vent and burn.</p> <p>6 Do you see that?</p> <p>7 You know when that took place,</p> <p>8 4:37 on the 6th.</p> <p>9 Right?</p> <p>10 A. That's what's on the picture</p> <p>11 here.</p> <p>12 (Dixon 30(b)(6) Exhibit 18</p> <p>13 marked for identification.)</p> <p>14 QUESTIONS BY MR. DENTON:</p> <p>15 Q. Let's go to 15 of 32.</p> <p>16 MS. PUJARI: Exhibit 18?</p> <p>17 QUESTIONS BY MR. DENTON:</p> <p>18 Q. Do you see that?</p> <p>19 A. I see that.</p> <p>20 Q. That's just the smoke going up</p> <p>21 from the vent and burn on February 6th,</p> <p>22 Monday.</p> <p>23 Do you see that?</p> <p>24 A. I see what's written on this</p> <p>25 document.</p>
<p style="text-align: right;">Page 171</p> <p>1 authorities warily watch air quality</p> <p>2 monitors," by the Pittsburgh Post-Gazette.</p> <p>3 Q. Right.</p> <p>4 A. So I don't know the date of</p> <p>5 that picture.</p> <p>6 Q. It says it right on there,</p> <p>7 Sunday, February 5th.</p> <p>8 Do you want to see all 32</p> <p>9 pictures?</p> <p>10 MS. PUJARI: Objection. Asked</p> <p>11 and answered. Argumentative.</p> <p>12 (Dixon 30(b)(6) Exhibit 17</p> <p>13 marked for identification.)</p> <p>14 QUESTIONS BY MR. DENTON:</p> <p>15 Q. Let's get all 32 pictures out</p> <p>16 if there's any doubt what date it is.</p> <p>17 Want to see them all? I don't</p> <p>18 think so.</p> <p>19 Here's 10 of 32. Here's</p> <p>20 another one.</p> <p>21 Look at 10 of 32 -- or which</p> <p>22 one do you have? Do you have 10 of 32? Do</p> <p>23 you see that?</p> <p>24 A. Yes, I see it.</p> <p>25 MS. PUJARI: Can I have a copy,</p>	<p style="text-align: right;">Page 173</p> <p>1 Q. Okay. Let's go back to 30 of</p> <p>2 32, Exhibit 16.</p> <p>3 From the same news article</p> <p>4 where it says -- you see all this track work</p> <p>5 being staged, all this stone piled up, track</p> <p>6 panels out, that's Sunday, February 5th, the</p> <p>7 day before the vent and burn.</p> <p>8 Right?</p> <p>9 A. Sunday, February 5th, is the</p> <p>10 day before the vent and burn, yes.</p> <p>11 Q. Right.</p> <p>12 And it said in the incident</p> <p>13 report for February 5th the decision had</p> <p>14 already been made and the objective was to</p> <p>15 get the track rebuilt.</p> <p>16 Right?</p> <p>17 MS. PUJARI: Objection.</p> <p>18 Mischaracterizes the document and</p> <p>19 prior testimony.</p> <p>20 QUESTIONS BY MR. DENTON:</p> <p>21 Q. That was the objective of the</p> <p>22 status report on the 5th.</p> <p>23 Want to look at it again?</p> <p>24 Page 4 of 7 on Exhibit 14.</p> <p>25 The objective was to reopen the</p>

<p style="text-align: right;">Page 174</p> <p>1 line and resume traffic. That was the 2 objective, right? 3 A. As written -- 4 Q. Get that exhibit. It's 5 1621936. There you go. Page 4 of 7. 6 That's what's written right 7 there, right? 8 A. That is what's written there. 9 Q. All right. Let's see what 10 happens. So the cars, they were detonated at 11 4:37 p.m. on Monday night, Monday afternoon. 12 They burned all night. 13 And this is 19. Let's see what 14 happened. Let's see what happened. 15 (Dixon 30(b)(6) Exhibit 19 16 marked for identification.) 17 QUESTIONS BY MR. DENTON: 18 Q. Take a look at that. It's a 19 short e-mail message. 20 Sir, do you see that? It's 21 NS-CA-1384312. 22 A. Yes, I'm looking at the 23 document. 24 Q. Okay. And if we start at the 25 bottom, it's Wednesday, February 8th. Okay?</p>	<p style="text-align: right;">Page 176</p> <p>1 A. That's what's on the document. 2 Q. So the objective to get the 3 track reopened was met because of the vent 4 and burn. 5 Right? 6 MS. PUJARI: Objection. 7 Compound. Argumentative. 8 THE WITNESS: No, I don't 9 believe the objective itself was to 10 vent and burn to meet what was on, I 11 guess, your Exhibit 15. 12 QUESTIONS BY MR. DENTON: 13 Q. Want us to put it back up? 14 A. No, I read the -- what's 15 written on this sheet. 16 Q. Right. 17 A. I read the objective -- 18 Q. "Objective: Timeline for 19 reopening line and resuming traffic," on 20 February 5th, before the vent and burn. 21 That was the objective, right? 22 That's what the document says. 23 A. It says, "Timeline for 24 reopening line and resuming traffic." 25 Q. Right.</p>
<p style="text-align: right;">Page 175</p> <p>1 The vent and burn was at 4:37 2 on Monday, the 6th. The cars burned all 3 night, and by 6:11 p.m., quote, "Main 2 is 4 clear, and our first train lined up to 5 traverse the derailment site." 6 Correct? 7 MS. PUJARI: Objection. Beyond 8 the scope of the 30(b)(6) topics. 9 What paragraph in the complaint 10 does this refer to? 11 QUESTIONS BY MR. DENTON: 12 Q. Answer the question, please. 13 You can preserve your 14 objection. 15 A. That's what's written on this 16 document. 17 Q. And then let's go up one more. 18 Update, February 8th, still 19 Wednesday at 7:26. "Update: Main 1 track 20 was cleared and back in service at 7:05 p.m." 21 Right? 22 MS. PUJARI: Objection. Beyond 23 the scope of the 30(b)(6) topics. 24 QUESTIONS BY MR. DENTON: 25 Q. That's what it says, right?</p>	<p style="text-align: right;">Page 177</p> <p>1 A. That's exactly what it says. 2 MR. DENTON: I have no more 3 questions. 4 MS. BROZ: Can we go off the 5 record? 6 VIDEOGRAPHER: Stand by. 1:30, 7 we are off the video record. 8 (Off the record at 1:30 p.m.) 9 VIDEOGRAPHER: 1:39, we are on 10 the video record. 11 CROSS-EXAMINATION 12 QUESTIONS BY MS. BROZ: 13 Q. Good afternoon, Mr. Dixon. My 14 name is Alycia Broz, and I represent Oxy 15 Vinyls in this litigation. 16 Do you have all the deposition 17 exhibits in front of you that have been 18 handed to you to this day? 19 You do. Okay. 20 A. Yes. 21 Q. All right. Great. 22 Can you please turn your 23 attention to Exhibit 8? 24 MS. PUJARI: Counsel, before 25 you begin your questioning, I believe</p>

<p style="text-align: right;">Page 178</p> <p>1 we were going to substitute. 2 MS. BROZ: Sure. 3 MS. PUJARI: So we have agreed 4 to substitute for original Exhibit 3, 5 which was the Amended Notice of 6 Rule 30(B)(6) Videotaped Deposition of 7 Norfolk Southern Railway Company, with 8 the Second Amended Notice of the 9 Rule 36 -- Rule 30(b)(6) Videotaped 10 Deposition of Norfolk Southern Railway 11 Company. 12 So we will have a new 13 Exhibit 3. It will be the second 14 amended notice. 15 And counsel for Oxy Vinyls has 16 agreed that the questions from Oxy 17 Vinyls will be constrained to the 18 paragraphs identified in the second 19 amended notice. This is by agreement 20 because Oxy Vinyls did not serve its 21 own cross-notice of the 30(b)(6) 22 deposition. 23 So the paragraphs are going to 24 be limited to those on the second page 25 of the second amended 30(b)(6) notice</p>	<p style="text-align: right;">Page 180</p> <p>1 extent it calls for a legal 2 conclusion. 3 THE WITNESS: I'm not -- I'm 4 not sure I can properly answer that, 5 not knowing exactly what's within that 6 range. 7 QUESTIONS BY MS. BROZ: 8 Q. Okay. Let's turn to what 9 you -- we previously marked as Exhibit 1 10 then. 11 A. Okay. 12 Q. Did you rely on any other 13 documents, other than the documents that are 14 listed in Deposition Exhibit 1, in preparing 15 for your testimony today? 16 A. The only thing, as I had stated 17 earlier today, is that I did reference the 18 operating rule books, Norfolk Southern's 19 operating rule books, and not Norfolk 20 Southern's NS-1. 21 Outside of that, these are the 22 documents. 23 Q. If you turn your attention, 24 please, back to Deposition Exhibit 9, and I 25 want to turn to the second page of that</p>
<p style="text-align: right;">Page 179</p> <p>1 of deposition. 2 MS. BROZ: Thank you. 3 QUESTIONS BY MS. BROZ: 4 Q. Can you turn your attention, 5 please, to Exhibit 9? I know I said 8, but 6 we switched it between 8 and 9 in the 7 morning. So can you turn your attention to 8 Exhibit 9? I apologize. 9 A. That's fine. 10 Q. Are you there? 11 A. I am there. 12 Q. In the third paragraph of that 13 letter from counsel, it says that you are 14 producing documents in response to the 15 subpoena -- or the Rule 30(b)(6) deposition 16 notice that was served on you, Bates range 17 NS-CA-001617983 through NS-CA-01625358. 18 Do you see that? 19 A. I see that. 20 Q. Did you rely on any other 21 documents other than those identified in this 22 letter in preparing the third-party complaint 23 and the paragraphs listed in the deposition 24 notice? 25 MS. PUJARI: Objection to the</p>	<p style="text-align: right;">Page 181</p> <p>1 document. 2 Do you see that paragraph where 3 it says, "As explained in Norfolk Southern's 4 e-mail"? 5 A. I see the paragraph. 6 Q. And it says you're "withholding 7 from production responsive documents based on 8 NTSB's directives from October 13, 2023." 9 Do you see that? 10 A. I see that. 11 Q. Can you describe for me the 12 types of documents that you are withholding 13 from your production based upon the NTSB's 14 directive that were responsive to this 15 Rule 30(b)(6) deposition notice? 16 MS. PUJARI: Objection. Calls 17 for a legal conclusion. 18 THE WITNESS: Yeah, I'm not 19 aware of any documents that have been 20 withheld. 21 QUESTIONS BY MS. BROZ: 22 Q. Okay. I apologize for bouncing 23 around. This is what happens when you go 24 second. 25 Can you please turn your</p>

1 attention to what we've marked as Exhibit 4?
 2 Are you there?
 3 A. I'm there.
 4 Q. Okay. Can you please turn your
 5 attention, please, to paragraph 57 of that
 6 document?
 7 Are you at that paragraph?
 8 A. I am.
 9 Q. Okay. When did Norfolk
 10 Southern first become aware that the five
 11 vinyl chloride cars were stabilized using
 12 oxygen purging?
 13 A. I can't speak to when Norfolk
 14 Southern or anyone at Norfolk Southern first
 15 became aware of it.
 16 Q. You're testifying today on
 17 behalf of Norfolk Southern.
 18 Correct?
 19 A. I am.
 20 Q. And this was one of the
 21 paragraphs that you were asked to provide
 22 testimony on.
 23 Correct?
 24 A. It is.
 25 Q. And you don't know when Norfolk

1 Southern first became aware of this
 2 allegation?
 3 A. I can tell you that I read -- I
 4 read this in the documents that we were --
 5 that I reviewed, that Oxy Vinyls uses
 6 oxygen -- or utilized oxygen purging to
 7 stabilize its vinyl chloride.
 8 Q. But you're unable to tell me
 9 today when Norfolk Southern first became
 10 aware of this allegation?
 11 A. I would assume --
 12 Q. I don't want you to assume. I
 13 want you to answer my question.
 14 When did Norfolk Southern first
 15 become aware of this allegation?
 16 MS. PUJARI: Objection. Asked
 17 and answered.
 18 THE WITNESS: Yeah, I'm not
 19 aware.
 20 QUESTIONS BY MS. BROZ:
 21 Q. Who from Norfolk Southern was
 22 aware of this allegation?
 23 MS. PUJARI: Objection. Calls
 24 for speculation.
 25 THE WITNESS: I'm not aware, as

1 I had stated.
 2 QUESTIONS BY MS. BROZ:
 3 Q. Was the fact that the vinyl
 4 chloride cars were stabilized using oxygen
 5 purging made aware -- let me start that
 6 question again.
 7 Was unified command notified
 8 that the vinyl chloride cars were stabilized
 9 using oxygen purging after the derailment on
 10 February 3, 2023?
 11 MS. PUJARI: Objection. Beyond
 12 the scope of the 30(b)(6) topics.
 13 THE WITNESS: Could you repeat
 14 the question?
 15 MS. BROZ: Can you read that
 16 back, please? Thank you.
 17 (Court Reporter read back
 18 question.)
 19 MS. PUJARI: Objection. Beyond
 20 the scope of the 30(b)(6) topics.
 21 THE WITNESS: Yeah, I'm not --
 22 I'm not aware when unified command was
 23 notified.
 24 QUESTIONS BY MS. BROZ:
 25 Q. Does Norfolk Southern have any

1 evidence that the vinyl chloride in the five
 2 railcars was not properly stabilized?
 3 MS. PUJARI: Objection. Vague
 4 as to time.
 5 THE WITNESS: Please repeat the
 6 question.
 7 QUESTIONS BY MS. BROZ:
 8 Q. Sure.
 9 As of today, sitting here, does
 10 Norfolk Southern have any evidence that the
 11 vinyl chloride in the five railcars was not
 12 properly stabilized?
 13 MS. PUJARI: Objection. Vague
 14 as to time.
 15 THE WITNESS: I don't -- I
 16 don't know of any information that
 17 tells us that, other than the vinyl
 18 chloride was stabilized at the
 19 point -- upon the point -- or the
 20 point of us transporting those
 21 railcars.
 22 QUESTIONS BY MS. BROZ:
 23 Q. What was the point of you
 24 transporting the railcars?
 25 MS. PUJARI: Objection. Vague.

<p style="text-align: right;">Page 186</p> <p>1 THE WITNESS: We were providing 2 a service for a shipper. 3 QUESTIONS BY MS. BROZ: 4 Q. Okay. Your testimony reads 5 that you don't have any information that the 6 vinyl chloride was stabilized at the point of 7 transporting the railcars. 8 So I'm trying to understand 9 what you're trying to say -- 10 A. No, I said -- I was stating 11 that other than having information that tells 12 us that the vinyl chloride -- that they came 13 on with their safety data sheets, and the 14 information in the bill of lading tells us 15 this is vinyl chloride. 16 Q. Did it also tell you it was 17 vinyl chloride stabilized? 18 A. All of our -- all of our 19 emergency response guides indicate vinyl 20 chloride stabilized as a product we haul. 21 Q. And was that the product that 22 was being hauled on February 3, 2023, as part 23 of rail line 32N? 24 A. Yes, it was vinyl chloride. 25 Q. Vinyl chloride stabilized,</p>	<p style="text-align: right;">Page 188</p> <p>1 papers that indicated it was vinyl chloride 2 properly stabilized at that point. 3 Q. In several paragraphs of the 4 third-party complaint, you reference several 5 treatises or manuals or handbooks that speak 6 to the properties of vinyl chloride. 7 Correct? 8 MS. PUJARI: Counsel, could you 9 orient us to the paragraphs you're 10 referring to? 11 MS. BROZ: Sure. 60, 64, 65, 12 66, 67, 134, 69, 70 and 71. 13 MS. PUJARI: Thank you. 14 THE WITNESS: Yes, we had a 15 number -- a number of manuals or 16 regulations that pertain to it. 17 QUESTIONS BY MS. BROZ: 18 Q. And I believe those manuals or 19 regulations include Pamphlet 171, correct? 20 A. It does. 21 Q. Sittig's Handbook? 22 A. Can you state exactly which 23 document you're referring to? 24 Q. Paragraph 60 of the complaint, 25 Sittig's Handbook. I don't know if I'm</p>
<p style="text-align: right;">Page 187</p> <p>1 correct? 2 A. Stabilized, yes. 3 Q. And do you have any evidence 4 whatsoever, as a representative of Norfolk 5 Southern, that the vinyl chloride was not 6 properly stabilized? 7 MS. PUJARI: Objection. Vague 8 as to time. 9 THE WITNESS: What I don't have 10 any concrete information on is whether 11 the vinyl chloride was stabilized 12 following the derailment. 13 QUESTIONS BY MS. BROZ: 14 Q. But as of the time of loading 15 it into the cars, it was stabilized properly. 16 Correct? 17 A. I assume it -- that's -- that 18 is something that I can't speak on behalf of 19 NS because I'm not sure when it was loaded, 20 at what point it was loaded. I know we 21 received it at TRRA in St. Louis. 22 Q. When you received it in TRRA in 23 St. Louis, it was properly stabilized, 24 correct? 25 A. Again, we were given shipping</p>	<p style="text-align: right;">Page 189</p> <p>1 pronouncing it correctly. 2 A. Sittig's Handbook, yes. 3 Q. Oxy Vinyls vinyl chloride SDS? 4 A. Yes. 5 Q. Norfolk Southern emergency 6 safety guide for vinyl chloride? 7 A. Yes. 8 Q. US Department of 9 Transportation's emergency response 10 guidebook? 11 A. Yes. 12 Q. Of those five manuals -- we'll 13 call them manuals just for the sake of 14 reference. Of those five manuals we just 15 discussed, which of those did Norfolk 16 Southern rely upon in East Palestine after 17 the train derailment on April -- on 18 February 3, 2023? 19 A. I think Norfolk Southern 20 representatives there on the ground in East 21 Palestine relied on their knowledge of all of 22 those documents. Primarily, again, at the 23 initial incident, probably the safety data 24 sheet and the emergency response guide. 25 Q. Did Norfolk Southern rely upon</p>

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1 or review Pamphlet 171 when making the
2 decision to vent and burn the railcars on
3 February 6, 2023?
4 A. I can't speak to that, having
5 not been part of that team.
6 Q. And you are Norfolk Southern's
7 representative today, correct?
8 A. Yes.
9 Q. And that is an allegation that
10 is made in paragraph 60 of the third amended
11 complaint that you were asked to testify
12 about, correct?
13 MS. PUJARI: Objection.
14 Misstates the complaint.
15 THE WITNESS: Yeah, we're --
16 we're -- the reference here to The
17 Chlorine Institute and Vinyl Institute
18 Pamphlet 171 is in combination to,
19 again, paragraph 60, which is
20 referencing the possibility of
21 polymerization.
22 QUESTIONS BY MS. BROZ:
23 Q. Did Norfolk Southern rely upon
24 the information in Pamphlet 161 -- 171
25 between February 3rd and February 6, 2023,

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1 when it made the decision to vent and burn
2 the five railcars?
3 MS. PUJARI: Objection. Asked
4 and answered.
5 THE WITNESS: Yeah, I don't
6 think, number one, the decision was
7 Norfolk Southern's to make, the
8 decision to vent and burn.
9 I think the incident commander
10 and the incident team made the
11 decision based on guidance from all
12 team members.
13 QUESTIONS BY MS. BROZ:
14 Q. Did the incident commander and
15 the incident team rely upon Pamphlet 171 when
16 it made the decision to vent and burn the
17 five railcars?
18 A. I think the incident team
19 utilized their knowledge, at least the
20 individuals familiar with HAZMAT utilized
21 their -- which is the team, used their
22 knowledge contained in both the Chlorine
23 Institute and Vinyl Institute, the ERG, the
24 safety data sheet as well as Norfolk
25 Southern's sheets with respect to chemicals.

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1 Q. Did the incident team refer
2 or -- refer or rely on Pamphlet 161 {sic}
3 when it made its decision to vent and burn
4 the five railcars? It's a simple question.
5 MS. PUJARI: Objection. Asked
6 and answered.
7 THE WITNESS: It may be a
8 simple question, but, again, it's
9 information as a whole. That's why we
10 have specialists that go in and work
11 locally with local responders. That's
12 why there's training on hazardous
13 material, to get as much information
14 as they can through their experience
15 and their knowledge.
16 So did -- was the vinyl
17 chloride -- or The Chloride Institute
18 and Vinyl Institute's Pamphlet 171 the
19 only thing that was utilized to make a
20 determination? Then I would say it
21 was not the only document.
22 QUESTIONS BY MS. BROZ:
23 Q. Are you saying that they did
24 utilize it, though, in making the
25 determination?

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1 A. I'm telling you that I -- we
2 believe the information and the knowledge
3 presented within The Chlorine Institute and
4 Vinyl Institute Pamphlet 171 was information
5 that was known to responders and participants
6 on the team.
7 Q. Which responders was it known
8 to?
9 A. It would have been known to any
10 of our -- a number of our hazardous materials
11 specialists, the SPSI, the two contractors.
12 Norfolk Southern was more than likely
13 familiar with that. Again, our own Norfolk
14 Southern HAZMAT employees would be familiar
15 with the document.
16 Q. I understand they are familiar
17 with it, they may have read it at some point,
18 but did they rely on the information in the
19 document when they made the decision to vent
20 and burn the five railcars on February 6,
21 2023?
22 MS. PUJARI: Objection. Asked
23 and answered.
24 THE WITNESS: Again --
25 MS. PUJARI: Several times now.

<p style="text-align: right;">Page 194</p> <p>1 THE WITNESS: Again, I do not 2 believe that any one of these 3 documents was the -- was a thing that 4 was solely relied upon. 5 QUESTIONS BY MS. BROZ: 6 Q. I'm not asking if it was any 7 one. 8 I'm asking if it is one of the 9 documents they relied upon. 10 MS. PUJARI: Objection. Asked 11 and answered. 12 THE WITNESS: And again, I 13 think the knowledge in those documents 14 was utilized in making a 15 determination, assessing the situation 16 and looking at all the possibilities. 17 QUESTIONS BY MS. BROZ: 18 Q. How about for Sittig's 19 Handbook? Same answer? 20 A. Yes. 21 Q. Let's turn to paragraph 161 of 22 the third amended complaint. 23 MS. PUJARI: Third complaint. 24 MS. BROZ: What's that? 25 MS. PUJARI: Third-party</p>	<p style="text-align: right;">Page 196</p> <p>1 other basis to claim that polymerization can 2 accelerate the risk of BLEVE by blocking 3 pressure relief devices other than the NTSB 4 Hazardous Materials Group Chair Factual 5 Report? 6 A. I'm not aware of any other 7 documents with respect to polymerization and 8 blocking pressure release surface devices 9 outside of the NTSB docket report and perhaps 10 the testimony in the hearings, the NTSB 11 hearings. 12 Q. Let's go to paragraph 62. It 13 says, "Though Oxy Vinyls is now discounting 14 the risk that stabilized vinyl chloride can 15 polymerize due to heating alone, the chemical 16 data sheet that Oxy Vinyls provided to 17 Norfolk Southern warns of the polymerization 18 and explosion risk of vinyl chloride due to 19 excess heating." 20 Did I read that correctly? 21 A. Yes, that's what's written. 22 Q. Okay. What chemical data sheet 23 are you referring to in paragraph 62? 24 A. Oxy Vinyls' safety data sheet 25 that was provided.</p>
<p style="text-align: right;">Page 195</p> <p>1 complaint, right? 2 MS. BROZ: Yep. 3 MS. PUJARI: Okay. 4 QUESTIONS BY MS. BROZ: 5 Q. Let me try that again. Let's 6 turn to paragraph 61 of the third-party 7 complaint. 8 MR. DENTON: 61? 9 MS. BROZ: 61. 10 MS. PUJARI: Okay. You got it? 11 THE WITNESS: Uh-huh. 12 MS. PUJARI: 61. 13 THE WITNESS: Yeah, this is... 14 QUESTIONS BY MS. BROZ: 15 Q. What is the basis for the 16 statement in paragraph 61 that polymerization 17 can accelerate the risks BLEVE by blocking 18 pressure release devices? 19 A. I think I would need to review 20 the NTSB docket B, Exhibit 10, Hazardous 21 Materials Group Chair's Factual Report. 22 MS. PUJARI: I believe that's 23 been marked. 24 QUESTIONS BY MS. BROZ: 25 Q. Does Norfolk Southern have any</p>	<p style="text-align: right;">Page 197</p> <p>1 Q. Who from Norfolk Southern 2 reviewed Oxy Vinyls' safety data sheet? 3 A. I don't know who, or everyone 4 at Norfolk Southern, that's reviewed Oxy 5 Vinyls' safety data sheet with respect to 6 vinyl chloride. 7 Q. Do you know who was on the 8 ground on February 3, 2023, that reviewed Oxy 9 Vinyls' safety data sheet? 10 A. No, I cannot attest to everyone 11 that had read the safety data sheet. 12 However, in any incident, that 13 is one of the very first things the 14 responders would pull, is the safety data 15 sheet. And corresponding to the lading of 16 the shipment. 17 Q. Can you attest to who from 18 Norfolk Southern reviewed the safety data 19 sheet? 20 MS. PUJARI: Objection. Asked 21 and answered. 22 THE WITNESS: Again, I can't 23 attest who all at Norfolk Southern had 24 read the safety data sheet. 25</p>

<p style="text-align: right;">Page 198</p> <p>1 QUESTIONS BY MS. BROZ:</p> <p>2 Q. What is the basis for your</p> <p>3 allegation that Oxy Vinyls is now discounting</p> <p>4 the risk that stabilized vinyl chloride can</p> <p>5 polymerize?</p> <p>6 A. I think if you look at the</p> <p>7 Hazardous Materials Group Chair Factual</p> <p>8 Report and the NTSB investigative hearing</p> <p>9 transcript, day 2 and day 1, there's --</p> <p>10 there's mention -- mention of Oxy Vinyls</p> <p>11 discounting the risk that stabilized vinyl</p> <p>12 chloride can polymerize due to heating alone.</p> <p>13 Q. Any other basis for that</p> <p>14 statement?</p> <p>15 A. No. I think it's, again, a</p> <p>16 combination of looking at the -- Oxy's vinyl</p> <p>17 chloride safety data sheet and, again, along</p> <p>18 with the Hazardous Materials Group Chair</p> <p>19 Factual Report and the investigative hearing</p> <p>20 transcripts, day 1, day 2.</p> <p>21 Q. Before February -- between</p> <p>22 February 3rd and February 6, 2023, did any</p> <p>23 Oxy Vinyls representative tell Norfolk</p> <p>24 Southern that stabilized vinyl chloride</p> <p>25 cannot polymerize by heating it alone?</p>	<p style="text-align: right;">Page 200</p> <p>1 Correct?</p> <p>2 MS. PUJARI: Objection.</p> <p>3 Mischaracterizes the evidence, and</p> <p>4 vague as to time.</p> <p>5 THE WITNESS: There was a</p> <p>6 statement from Oxy Vinyl, again, not</p> <p>7 being able to determine or rule out</p> <p>8 the possibility of polymerization.</p> <p>9 There were statements also from other</p> <p>10 representatives at Oxy Vinyl stating</p> <p>11 that there was not a possibility.</p> <p>12 But the safety data sheet that</p> <p>13 Oxy Vinyl provided actually gave</p> <p>14 concern that regardless of people not</p> <p>15 on the ground -- if looking at the</p> <p>16 safety data sheet alone, there's still</p> <p>17 a possibility, regardless of what's</p> <p>18 being relayed by different individuals</p> <p>19 at Oxy, that polymerization could</p> <p>20 occur.</p> <p>21 QUESTIONS BY MS. BROZ:</p> <p>22 Q. Why did you discount the</p> <p>23 realtime advice provided by Oxy and instead</p> <p>24 rely upon the safety data sheet?</p> <p>25 MS. PUJARI: Objection.</p>
<p style="text-align: right;">Page 199</p> <p>1 A. I believe there was a</p> <p>2 representative from vinyl oxy -- vinyl -- or,</p> <p>3 I'm sorry, for Oxy Vinyls that had made that</p> <p>4 statement.</p> <p>5 Q. Between February 3rd and</p> <p>6 February 6, 2023, did anyone from Oxy Vinyls</p> <p>7 tell Norfolk Southern that stabilized vinyl</p> <p>8 chloride can polymerize due to heating alone?</p> <p>9 A. No, I don't believe that</p> <p>10 anybody made that statement. However, there</p> <p>11 was a possibility by the Oxy rep, the field</p> <p>12 representative on the ground, that -- where</p> <p>13 he stated that he couldn't discount the</p> <p>14 possibility of polymerization.</p> <p>15 Q. And what date was that</p> <p>16 statement made?</p> <p>17 A. It was early in the response,</p> <p>18 and I'd have to go back and look at the</p> <p>19 transcripts.</p> <p>20 Q. And as time passed, was that</p> <p>21 statement ever made again?</p> <p>22 A. I'm not aware of that statement</p> <p>23 being made again.</p> <p>24 Q. In fact, the opposite was said</p> <p>25 after the initial statement was made.</p>	<p style="text-align: right;">Page 201</p> <p>1 Mischaracterizes prior testimony.</p> <p>2 THE WITNESS: I can't attest to</p> <p>3 why or what -- somebody ruled</p> <p>4 something completely out.</p> <p>5 I can tell you that individuals</p> <p>6 looking at the safety data sheets,</p> <p>7 looking at the situation on the</p> <p>8 ground, again, looking at the -- you</p> <p>9 know, their knowledge of vinyl</p> <p>10 chloride, that there were other things</p> <p>11 on the ground outside of</p> <p>12 polymerization that they were looking</p> <p>13 at.</p> <p>14 With respect to polymerization,</p> <p>15 again, the safety data sheet says</p> <p>16 vinyl chloride stabilized. However,</p> <p>17 throughout the safety data sheet,</p> <p>18 there are sections in there</p> <p>19 corresponding to firefighting,</p> <p>20 which -- corresponding to dangers and</p> <p>21 hazards throughout -- storage, for</p> <p>22 example. Throughout the entire safety</p> <p>23 data sheet, it states, do not expose</p> <p>24 to heat, extremely flammable, can</p> <p>25 violently pol -- I don't want to get</p>

<p style="text-align: right;">Page 202</p> <p>1 the name messed up. Polymerization 2 can occur. 3 That is why, when somebody is 4 looking at that safety data sheet, 5 they're assuming this is something 6 we've got to be concerned with. These 7 cars are in pool fires. They're being 8 heated. 9 If Oxy Vinyls is saying that 10 you can't -- there can't be any 11 potential for polymerization, then the 12 safety data sheet, again, as far as 13 storage, it says for vinyl chloride 14 store in a cool, dry place. 15 And underneath it it says 16 within -- on the safety data sheet 17 that if it's not stored correctly, it 18 can polymerize. 19 And that follows right after, 20 if not stabilized and/or stored 21 correctly. 22 QUESTIONS BY MS. BROZ: 23 Q. Now, could you answer my 24 question? 25 Why did Norfolk Southern</p>	<p style="text-align: right;">Page 204</p> <p>1 include the SDS, which is the very 2 first thing all the responders, I 3 think, look towards, that and the 4 emergency response guide, to make 5 their decisions. 6 QUESTIONS BY MS. BROZ: 7 Q. Let's turn to paragraph 64, 8 which discusses the SDS. 9 Did anyone from Norfolk 10 Southern ask vinyl -- Oxy -- let me try it 11 again. 12 Did anyone from Norfolk 13 Southern ask anyone from Oxy Vinyls about the 14 information contained in the SDS? 15 A. I'm not -- I'm not aware of any 16 conversations, again, outside of the -- 17 again, if we're talking about a time frame of 18 between the derailment -- that occurred 19 following the derailment -- 20 Q. Between February -- we can 21 clarify the time frame, if you'd like. 22 Between February 3rd and 23 February 6, 2023, did anyone from Norfolk 24 Southern ask Oxy Vinyls about the information 25 that was contained in the vinyl chloride SDS?</p>
<p style="text-align: right;">Page 203</p> <p>1 discount the real-time advice provided by Oxy 2 Vinyls and instead rely upon the SDS? 3 MS. PUJARI: Objection. 4 Misstates prior testimony, facts in 5 evidence. Asked and answered. 6 THE WITNESS: Yeah, it's the 7 same -- the same response I just got. 8 QUESTIONS BY MS. BROZ: 9 Q. Would you please answer my 10 question? 11 MS. PUJARI: Objection. Asked 12 and answered. 13 THE WITNESS: Repeat the 14 question. 15 QUESTIONS BY MS. BROZ: 16 Q. Why did Norfolk Southern 17 discount the real-time advice provided by Oxy 18 Vinyls and instead rely upon the SDS? 19 MS. PUJARI: Objection. 20 Misstates prior testimony. Asked and 21 answered. 22 THE WITNESS: Again, I don't 23 think anything was discounted. I 24 think they were looking at all the 25 information they had at hand to</p>	<p style="text-align: right;">Page 205</p> <p>1 A. I can't attest to any 2 communications on the ground, but, again, Oxy 3 Vinyl had a representative there on the 4 ground in East Palestine communicating with 5 the incident response team. 6 MS. BROZ: Can we go off the 7 record a second? 8 VIDEOGRAPHER: Stand by. 2:13, 9 we are off the video record. 10 (Off the record at 2:13 p.m.) 11 VIDEOGRAPHER: 2:13, we are on 12 the video record. 13 (Dixon 30(b)(6) Exhibit 20 14 marked for identification.) 15 QUESTIONS BY MS. BROZ: 16 Q. Mr. Dixon, we have just handed 17 you what's been marked as Deposition 18 Exhibit 20. 19 Can you identify this document 20 for me? 21 A. This is Oxy Vinyls' safety data 22 sheet for vinyl chloride monomer. 23 Q. Can you turn to Section 10 of 24 this, please? 25 A. Yes.</p>

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1 Q. Are you at Section 10?
 2 A. I am.
 3 Q. Where it says "Stability and
 4 Reactivity"?
 5 A. Yes.
 6 Q. Do you see where it says
 7 "Chemical Stability"?
 8 A. I do.
 9 Q. And it says, "Generally stable
 10 at normal temperatures and pressures;
 11 however, may violently polymerize or generate
 12 other hazardous conditions when not
 13 stabilized and/or stored correctly."
 14 Do you see that?
 15 A. I do.
 16 Q. Did Norfolk Southern take this
 17 statement into account when it was
 18 determining whether or not the vinyl chloride
 19 was polymerizing?
 20 A. I believe they did.
 21 Q. And it says, "Will not
 22 polymerize when it's stabilized."
 23 Correct?
 24 A. It says, "When not stabilized
 25 and/or stored correctly."

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1 Q. And I believe you testified
 2 earlier today that the tank cars were not
 3 breached upon the derailment.
 4 Correct?
 5 A. I believe that -- that's what
 6 I stated earlier, yes.
 7 Q. Let's turn to -- again,
 8 apologize for jumping around here --
 9 paragraph 69 of the complaint.
 10 You see in paragraph 69 it
 11 references the emergency safety guide?
 12 A. Yes.
 13 Q. What is the source of the
 14 information that is contained in Norfolk
 15 Southern's emergency safety guide?
 16 A. It is a -- information similar
 17 to what's captured in both the vinyl chloride
 18 pamphlet that we had referenced before. A
 19 lot of the similar information from the
 20 safety data sheet, similar to information
 21 captured on the emergency response guide from
 22 the DOT and PHMSA.
 23 Q. And Norfolk Southern's
 24 emergency safety guide was published in
 25 September of 2006, correct?

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1 A. I believe that's the date, yes.
 2 Q. And all of the documents that
 3 you just referenced as being the source for
 4 this emergency safety guide were published
 5 after 2006.
 6 Correct?
 7 A. I don't know the response to
 8 that off the hand. I'd have to look at each
 9 one independently.
 10 I can tell you the emergency
 11 response guide was definitely last updated in
 12 2020. I can't speak to the others as far as
 13 the dates.
 14 Q. So at the time of the East
 15 Palestine derailment, were you relying upon
 16 the 2006 guide or the 2020 guide when making
 17 the decisions of whether to vent and burn the
 18 vinyl chloride cars?
 19 A. Again, the guides themselves
 20 are not just taken once -- one over another.
 21 They're looking at all of the information at
 22 hand to make a determination.
 23 So Norfolk Southern's emergency
 24 safety guide would not have been the
 25 driving -- let's say, driving force of all

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1 the documents to make a decision as far as
 2 the handling.
 3 Q. I understand you're
 4 anticipating my questions, but I want you to
 5 answer the question I asked.
 6 Did you rely upon the 2006
 7 guide or the 2020 guide when making the
 8 decision to vent and burn the vinyl chloride
 9 cars?
 10 MS. PUJARI: Objection. Asked
 11 and answered.
 12 THE WITNESS: Again, I'm not
 13 claiming that we relied solely on this
 14 guide to make a decision, whether it's
 15 the 2020 or not.
 16 QUESTIONS BY MS. BROZ:
 17 Q. I'm not saying solely. Which
 18 one did you rely upon, the 2006 guide or the
 19 2020 guide?
 20 MS. PUJARI: Objection. Asked
 21 and answered.
 22 THE WITNESS: Incident command
 23 and the incident responders would have
 24 been looking at the 2020 emergency
 25 response guide. They would have been

<p style="text-align: right;">Page 210</p> <p>1 looking at the safety data sheet. 2 They would have been looking at any 3 other information that was provided at 4 that time on vinyl chloride. 5 QUESTIONS BY MS. BROZ: 6 Q. You just testified that Norfolk 7 Southern would have been looking at other 8 information that was provided at the time 9 about vinyl chloride. 10 Correct? 11 A. They would have been looking at 12 all the information they had at hand to 13 determine what's the best actions to take 14 here. What are we dealing with to determine 15 what are the risks and the exposures 16 associated with vinyl chloride. 17 Q. But that did not include the 18 directives from Oxy Vinyls about whether the 19 vinyl chloride was polymerizing. 20 Correct? 21 MS. PUJARI: Objection. 22 Mischaracterizes prior testimony. 23 THE WITNESS: As I had stated 24 before, I don't think any of the 25 guidance that was provided or any of</p>	<p style="text-align: right;">Page 212</p> <p>1 within the railcars that were unknown. Those 2 were a few. 3 Q. What were the others? 4 A. Again, I wasn't a part of the 5 incident command, and I don't have all the 6 information pertaining to what was 7 considered. But those were two. 8 Q. The potential of polymerization 9 and the pressure within the railcars, 10 correct? 11 A. And again, the fires 12 associated -- associated with them, the heat. 13 The fact that I don't believe anybody would 14 argue that these cars were not stored 15 properly. 16 Q. So we have polymerization, 17 pressure, fires and heat. 18 What were the other risks? 19 A. Chemicals that had been 20 released. I mean, if you're talking about 21 what are the other risks, can you clarify? 22 Are you referring to risks 23 associated to... 24 Q. What factors did Norfolk 25 Southern take into account when deciding to</p>
<p style="text-align: right;">Page 211</p> <p>1 the information that was provided was 2 just discounted. 3 QUESTIONS BY MS. BROZ: 4 Q. But you did vent and burn the 5 five railcars containing vinyl chloride, 6 despite Oxy Vinyls' recommendation. 7 Correct? 8 MS. PUJARI: Objection. 9 Misstates the evidence. 10 THE WITNESS: The decision -- 11 the decision was not based solely, to 12 start with, on polymerization. The 13 decision took -- 14 QUESTIONS BY MS. BROZ: 15 Q. What was it based on? 16 MS. PUJARI: Could you let the 17 witness finish? 18 THE WITNESS: The consideration 19 was taking into account all risks 20 associated at the derailment site at 21 that time, polymerization being one, 22 potential polymerization being one. 23 QUESTIONS BY MS. BROZ: 24 Q. What were the other risks? 25 A. The pressure -- the pressures</p>	<p style="text-align: right;">Page 213</p> <p>1 vent and burn the five cars containing vinyl 2 chloride? 3 A. They were looking, again, at 4 what is the safest course of action here; 5 looking at the possibility that we had cars 6 with unknown pressures; didn't have a lot of 7 comfort in temperatures at those -- at that 8 point; knowing that we have, again, 9 conflicting statements throughout the time on 10 polymerization; knowing the safety data sheet 11 says, look, stabilized vinyl chloride will 12 not pol -- there's not a risk there with 13 polymerization; however, it also states if 14 not properly stored, it can polymerize. 15 There was a lot of factors that 16 everyone as part of that response team was 17 looking at to make a determination as to what 18 do we do in order to mitigate the risks. 19 What's the best course of action. 20 Q. And you said the pressures were 21 not known in the railcars. 22 Is that correct? 23 A. My understanding, there was a 24 point where they were trying to get 25 measurements of the pressures of the</p>

<p style="text-align: right;">Page 214</p> <p>1 railcars. And due to the fact that a lot of 2 the pressure relief valve -- valves -- I 3 mean, pressure release devices and valves 4 were damaged and the pressure relief 5 valves -- or pressure relief devices were no 6 longer activating, that there really wasn't 7 an easy way at that point in time to gauge 8 the pressure within the tanks. 9 Q. Can you turn back to what we 10 previously marked as Exhibit 13? 11 MS. BROZ: Can we go off the 12 record a second? 13 MR. DENTON: Sure. 14 VIDEOGRAPHER: Stand by. 2:24, 15 we are off the video record. 16 (Off the record at 2:24 p.m.) 17 VIDEOGRAPHER: 2:33, we are on 18 the video record. 19 QUESTIONS BY MS. BROZ: 20 Q. Mr. Dixon, could you please 21 turn to page 80 of 158 of Deposition 22 Exhibit 13? 23 A. Okay. 24 Q. Let's go to the fifth 25 paragraph. It starts with "At that point."</p>	<p style="text-align: right;">Page 216</p> <p>1 (Dixon 30(b)(6) Exhibits 21 and 2 22 marked for identification.) 3 QUESTIONS BY MS. BROZ: 4 Q. Do you have in front of you 5 what we marked as Deposition Exhibit 21? 6 A. Yes, I do. 7 Q. For the record, it's 8 NS-CA-001620211. 9 Because we're short on time, 10 will you agree with me that these are the 11 temperature readings for the five vinyl 12 chloride tank cars that were taken by Norfolk 13 Southern or its contractors between 14 February 3rd and February 6, 2023? 15 MS. PUJARI: Objection. Lack 16 of foundation. 17 THE WITNESS: Yeah, I know I've 18 seen temperature readings. They don't 19 appear that off from what I'm seeing 20 here, but, again, I can't attest that 21 these are the exact measurements 22 without looking at other documents 23 that were submitted. 24 QUESTIONS BY MS. BROZ: 25 Q. What was the highest</p>
<p style="text-align: right;">Page 215</p> <p>1 A. Okay. 2 Q. Do you see that? 3 A. Yes. 4 Q. It says that, "SPSI responders 5 made first entry with pressure gauges to 6 check the condition of the VCM tank cars." 7 Correct? 8 A. Yes. 9 Q. And "Crews were able to access 10 one of the angle valves on the eastern-most 11 VCM tank car, 28, TILX402025, to test tank 12 pressures - the SPI president recalled that 13 it was not remarkable." 14 Correct? 15 A. Correct. 16 Q. So at least in one of the tank 17 cars, pressure was not an issue; is that 18 correct? 19 A. At that point in time, I would 20 say that's correct. 21 Q. And you also said that one of 22 the other factors that led to the decision to 23 vent and burn was the temperatures. 24 Correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 217</p> <p>1 temperature reading on any of the five tank 2 cars according to Deposition Exhibit 21? 3 MS. PUJARI: Objection. Vague 4 as to time. 5 THE WITNESS: I think I saw 127 6 from this list in these pictures. 7 QUESTIONS BY MS. BROZ: 8 Q. And for tank cars 26, 27, 28 9 and 29, which would be tank cars 1, 2, 3 and 10 4 on Deposition Exhibit 21? 11 MS. PUJARI: Objection. Lack 12 of foundation. Vague as to time. 13 QUESTIONS BY MS. BROZ: 14 Q. What was the highest 15 temperature reading ever taken? 16 A. From these pictures, it appears 17 65. 18 Q. Did any of the temperature 19 readings for any of the tank cars go up 20 during the course of the temperature readings 21 between February 3rd and February 6, 2023? 22 A. I believe the answer is -- to 23 my recollection is, yes, there was a 24 temperature that went up. 25 Q. Okay. Which one?</p>

<p style="text-align: right;">Page 218</p> <p>1 A. I'm going to have to look at -- 2 I think it was provided in the documents 3 showing all the temperatures gauges in the 4 graph associated with -- 5 Q. Okay. Why don't we go ahead 6 and mark that. 7 MS. PUJARI: Wasn't it marked 8 already 22? 9 MS. BROZ: Yes, Exhibit 22. 10 QUESTIONS BY MS. BROZ: 11 Q. Can you look at Exhibit 22 and 12 let me know if that's what you're thinking 13 of? 14 A. Yes, this is what I was 15 thinking of. 16 Q. Okay. So this is from tank car 17 OCPX80370. 18 Correct? 19 A. Yes. Correct. 20 Q. And you're referring to the 21 spike where the temperature went up to 22 138 degrees. 23 Correct? 24 A. Yeah. Not only that spike, but 25 the rise to 130, the increase. I mean, there</p>	<p style="text-align: right;">Page 220</p> <p>1 based off this graph that -- and the answer 2 is, yes, that it decreased by that amount. 3 Q. And does the NAB temperature 4 readings in Deposition Exhibit 21 contradict 5 the graph? 6 A. I'm not quite sure what car -- 7 this is car OCPX80370, which is Car 53. 8 Q. It appears to be car -- 9 MS. PUJARI: Objection. Lack 10 of foundation. 11 THE WITNESS: If that's Car 53, 12 then it appears to match what's on the 13 chart provided. 14 QUESTIONS BY MS. BROZ: 15 Q. I have five minutes left, so 16 let's quickly turn back to Deposition 17 Exhibit 13. 18 Let's go to page 28 of 158. 19 Paragraph begins with "On 20 March 20, 2023." 21 A. I'm sorry, I don't see that. 22 Q. Page 28 of 158. 23 A. 28. I'm sorry. 24 Okay. 25 Q. The paragraph that starts with</p>
<p style="text-align: right;">Page 219</p> <p>1 was -- there were changes, I guess, 2 throughout in the temperature. 3 Q. After that spike at 4 138 degrees, the temperature in OCPX80370 5 went down, correct? 6 MS. PUJARI: Objection. 7 Misstates the evidence. 8 THE WITNESS: It looks like 9 there was a change in temperature 10 between 1 a.m. and around 9 a.m., a 11 drop, not as significantly -- not as 12 significant as the drop between -- in 13 the evening between 6 and 8, I guess. 14 QUESTIONS BY MS. BROZ: 15 Q. And from the peak of 16 138 degrees till the temperature -- wait, 17 just start that again. 18 From the peak of 138 degrees 19 till the time of the vent and burn, the 20 temperature decreased by 12 degrees 21 Fahrenheit. 22 Correct? 23 A. That's correct. 24 Based on this -- I do want to 25 qualify that statement, though. It's just</p>	<p style="text-align: right;">Page 221</p> <p>1 "On March 20th"? 2 A. I see that. 3 Q. Do you see the second sentence 4 says, "The Oxy Vinyls technical manager at 5 its La Porte, Texas facility told NTSB 6 investigators that based upon the analyses, 7 it concluded that no PVC was present in any 8 of the railcar samples"? 9 A. I see that that's written here, 10 yes. 11 Q. Let's now go to page 63 of 158. 12 You see this refers to Car 29, 13 OCPX80235? 14 A. Yes, I see that. 15 Q. You see the last sentence on 16 the page is, "There is no evidence of polymer 17 or other contaminants within the spring guide 18 tube or other components"? 19 A. I see where that's written, 20 yes. 21 Q. Okay. Let's go to page 65 of 22 158. And we'll go to the last para -- 23 paragraph on the page, Car 30, OCPX80179. 24 Second to last sentence on the 25 page, "Other than a thick layer of the</p>

<p style="text-align: right;">Page 222</p> <p>1 soot/carbon coating, the PRD teardown found 2 no evidence of polymer or other contaminants 3 within the spring guide tube or other 4 components." 5 Did I read that correctly? 6 A. That's what is written here. 7 Q. Let's go to page 68 of 158. 8 You see this refers to Car 31, 9 GATX95098? 10 And the sentence above the 11 picture says, "Other than the soot/carbon 12 coating, the PRD teardown found no evidence 13 of polymer or other contaminants within the 14 spring guide tube or other components." 15 Correct? 16 A. That's what's written here. 17 Q. Let's go to page 71 of 158. 18 And this refers to Car 55, OCPX80370. 19 And the first sentence on that 20 page says, "Other than a thick layer of 21 soot/carbon within the PRD spring guide tube, 22 the PRD teardown found no evidence of polymer 23 or other contaminants within the components." 24 Do you see that? 25 A. I see that's written here, yes.</p>	<p style="text-align: right;">Page 224</p> <p>1 MS. PUJARI: Objection. Asked 2 and answered. Calls for expert 3 testimony. 4 THE WITNESS: Yeah, again, I'm 5 not an expert on the material; 6 however, again, I haven't seen any 7 information at this point. 8 MS. BROZ: I'll stop there. 9 I have one minute? 10 VIDEOGRAPHER: One minute. 11 2:47, we are off the video 12 record. 13 (Off the record at 2:47 p.m.) 14 VIDEOGRAPHER: 2:50, we are on 15 the video record. 16 CROSS-EXAMINATION 17 QUESTIONS BY MS. KARIS: 18 Q. Good afternoon, Mr. Dixon. My 19 name is Carrie Karis, and I represent GATX 20 and General American Marks Company. 21 You've been appearing here 22 today as a representative of Norfolk 23 Southern. 24 You understand that, correct? 25 A. I do understand that.</p>
<p style="text-align: right;">Page 223</p> <p>1 Q. Does Norfolk Southern have any 2 evidence that polymer was found on any of the 3 vinyl chloride railcars? 4 MS. PUJARI: Objection. Calls 5 for -- 6 QUESTIONS BY MS. BROZ: 7 Q. That were involved in the 8 derailment? Sorry. 9 MS. PUJARI: Sorry. 10 Objection. Calls for expert 11 testimony. 12 THE WITNESS: I have not seen 13 any detailed information pertaining to 14 any polymer, with the exception of 15 during the vent and burn, there was 16 some release, I guess, with the gases 17 that appeared to be white. But again, 18 I think -- I don't believe that 19 everything's been finalized with 20 respect to the investigation. 21 QUESTIONS BY MS. BROZ: 22 Q. So Norfolk Southern has no 23 evidence that polymer was found on any of the 24 vinyl chloride railcars at this time, 25 correct?</p>	<p style="text-align: right;">Page 225</p> <p>1 Q. And you understand that you're 2 not speaking on behalf of yourself; you're 3 speaking on behalf of the company. 4 Correct? 5 A. I understand that. 6 Q. Okay. Now, today when I talk 7 about GATX and General American Marks 8 Company, is it okay if I refer to them 9 collectively as GATX? 10 A. Yes. 11 Q. Okay. So when I ask you 12 questions and I say "GATX," just keep in mind 13 I'm talking about both of them. 14 Okay? Fair enough? 15 A. Okay. 16 Q. All right. Now, you've been 17 talking this afternoon and the latter part of 18 this morning about the decision to vent and 19 burn. 20 Correct? 21 A. I've been asked about questions 22 concerning vent and burn. 23 Q. Right. 24 And you've been answering 25 questions about vent and burn.</p>

1 Correct?
 2 A. Correct.
 3 Q. And Norfolk Southern agrees
 4 that my clients, GATX, had nothing to do with
 5 the decision to vent and burn.
 6 Is that correct?
 7 A. That's correct.
 8 Q. GATX provided no input into
 9 whether polymerization was occurring.
 10 Correct?
 11 A. That's correct.
 12 Q. And GATX did not provide
 13 Norfolk Southern or anybody in unified
 14 command any material safety data sheets.
 15 Correct?
 16 MS. PUJARI: Objection.
 17 Assumes facts not in evidence.
 18 QUESTIONS BY MS. KARIS:
 19 Q. You can answer.
 20 A. Can you repeat the question,
 21 please?
 22 Q. Sure.
 23 GATX did not provide anybody at
 24 Norfolk Southern with any information
 25 concerning material safety data sheets.

1 Correct?
 2 A. I understand that to be
 3 correct.
 4 Q. Okay. And as far as you know,
 5 GATX didn't provide any input to unified
 6 command as to how to handle any aspect of the
 7 derailment.
 8 Correct?
 9 A. I believe that's correct.
 10 Q. Okay. Now, I want to focus on
 11 things that Norfolk Southern claims my client
 12 did have involvement in.
 13 Fair enough?
 14 A. That's fine.
 15 Q. Okay. Now, you started today
 16 by telling us what information you had
 17 reviewed in order to prepare to testify here
 18 concerning the allegations that Norfolk
 19 Southern has made concerning my client,
 20 concerning Oxy Vinyls and concerning Trinity
 21 in the third-party action that Norfolk
 22 Southern filed.
 23 Correct?
 24 A. Correct.
 25 Q. And I want to make sure I

1 understand.
 2 Exhibit 1, which was marked
 3 this morning, has the topics, and then there
 4 are a number of documents that you claim you
 5 reviewed in order to prepare to testify about
 6 each of those documents.
 7 Correct?
 8 A. That's correct.
 9 Q. And I've gone through this, and
 10 I want you to correct me if I'm wrong, but I
 11 think in all of these documents that are on
 12 here, there's only a single Norfolk Southern
 13 document that you reviewed in order to
 14 testify here today.
 15 Is that accurate?
 16 A. No, that's not accurate. As I
 17 stated earlier, I did look at Norfolk
 18 Southern's operating rules, and I did look at
 19 Norfolk Southern's NS-1 rules with respect to
 20 equipment handling.
 21 Q. Okay. Fair enough.
 22 With the exception of those
 23 three documents or groups of documents, the
 24 annual report, the Norfolk Southern operating
 25 rules and Norfolk Southern NS-1 rules, you

1 did not review any other NS documents.
 2 Is that correct?
 3 A. I believe there was also an NS
 4 safety data sheet concerning -- and I refer
 5 to it as a safety data sheet. It's not.
 6 It's a sheet concerning vinyl chloride --
 7 Q. Okay.
 8 A. -- for our HAZMAT team.
 9 Q. Any other NS documents that
 10 you've reviewed in order to testify here
 11 today?
 12 A. No.
 13 Q. Okay. So if what's been told
 14 to us is accurate, NS has reviewed over
 15 1.8 million pieces of paper, pages, in
 16 connection with this litigation, and the sum
 17 and substance of everything you've looked at
 18 is what you just identified.
 19 Is that correct?
 20 From NS's documents, to be
 21 accurate.
 22 MS. PUJARI: Objection. Vague
 23 as to time, and assumes facts not in
 24 evidence. Beyond the scope of the
 25 30(b)(6) topics.

<p style="text-align: right;">Page 230</p> <p>1 QUESTIONS BY MS. KARIS:</p> <p>2 Q. You can answer.</p> <p>3 A. The only thing that I would</p> <p>4 state is I can't speak to the million pages</p> <p>5 you referenced. I can't tell you other than</p> <p>6 certain documents that I stated I had</p> <p>7 reviewed.</p> <p>8 I did not review everything in</p> <p>9 its entirety, front to back cover, front</p> <p>10 cover to back cover. So I can't speak to and</p> <p>11 tell you that I agree with the statement that</p> <p>12 I reviewed, you know, a million pages of</p> <p>13 information.</p> <p>14 Q. I'm not -- sorry.</p> <p>15 A. But I did -- I did review the</p> <p>16 documents that I stated I reviewed. Again,</p> <p>17 parts of those documents as pointed out here</p> <p>18 on this Exhibit 1.</p> <p>19 Q. Okay. Perhaps I wasn't clear.</p> <p>20 I certainly didn't suggest that</p> <p>21 you reviewed a million pages of information,</p> <p>22 whatever the volume is of materials that NS</p> <p>23 has produced from NS's documents. Not the</p> <p>24 NTSB's documents.</p> <p>25 Are you with me?</p>	<p style="text-align: right;">Page 232</p> <p>1 me, at least, the sum and substance of what</p> <p>2 your client -- NS has claimed about GATX.</p> <p>3 For example, failure to properly maintain</p> <p>4 Car 23, that's a serious allegation.</p> <p>5 Correct?</p> <p>6 MS. PUJARI: Objection. Asked</p> <p>7 and answered. Calls for a legal</p> <p>8 conclusion.</p> <p>9 QUESTIONS BY MS. KARIS:</p> <p>10 Q. You can answer.</p> <p>11 A. Please repeat the question.</p> <p>12 Q. Would you agree with me that</p> <p>13 it's serious to assert that GATX did not</p> <p>14 properly maintain Car 23?</p> <p>15 MS. PUJARI: Objection. Asked</p> <p>16 and answered. Calls for a legal</p> <p>17 conclusion.</p> <p>18 THE WITNESS: Again, I -- I'm</p> <p>19 not -- I'm not in a position to,</p> <p>20 again, categorize. Again, I'm not a</p> <p>21 lawyer. I'm not in the legal</p> <p>22 profession. I don't know. Again, is</p> <p>23 there -- is there something above</p> <p>24 serious? Is there something below</p> <p>25 serious?</p>
<p style="text-align: right;">Page 231</p> <p>1 A. I'm with you.</p> <p>2 Q. From all of NS's documents.</p> <p>3 In order to prepare to testify</p> <p>4 here today as to the bases of the claims that</p> <p>5 are asserted in the third-party complaint for</p> <p>6 these particular paragraphs, you have told us</p> <p>7 everything you've reviewed from NS.</p> <p>8 Is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay. Now, you understand that</p> <p>11 NS has made some very serious allegations</p> <p>12 concerning my client, GATX.</p> <p>13 Correct?</p> <p>14 A. I understand the allegations in</p> <p>15 the complaint, correct.</p> <p>16 Q. And you agree with me that</p> <p>17 those are serious allegations arising from a</p> <p>18 very serious incident.</p> <p>19 Correct?</p> <p>20 A. I would assume any allegations</p> <p>21 in a complaint would be considered -- I mean,</p> <p>22 I don't know how you categorize them, what --</p> <p>23 is there anything in here that's not serious?</p> <p>24 I'm not quite sure.</p> <p>25 Q. Okay. But you would agree with</p>	<p style="text-align: right;">Page 233</p> <p>1 I would say that it's been</p> <p>2 asserted, and --</p> <p>3 QUESTIONS BY MS. KARIS:</p> <p>4 Q. Okay.</p> <p>5 A. -- that's what I would say.</p> <p>6 Q. All right. So you can't tell</p> <p>7 me if it's serious.</p> <p>8 Can you tell me, though,</p> <p>9 whether it's important to be accurate in</p> <p>10 terms of what has been alleged against GATX?</p> <p>11 You understand what "accurate"</p> <p>12 means, correct?</p> <p>13 A. Yes, I understand what</p> <p>14 "accurate" means, and I would say that, yes,</p> <p>15 it's important to be accurate.</p> <p>16 Q. And you agree with me that if</p> <p>17 you're going to rely on the NTSB, you</p> <p>18 shouldn't cherry-pick some statements that</p> <p>19 the NTSB said and ignore other relevant</p> <p>20 statements of the NTSB on that particular</p> <p>21 subject.</p> <p>22 Correct?</p> <p>23 A. I would say that you -- your</p> <p>24 question, if I understood it correctly, was</p> <p>25 you shouldn't ignore, nor anything in the</p>

<p style="text-align: right;">Page 234</p> <p>1 NTSB hearings?</p> <p>2 Q. Well, you relied on the NTSB</p> <p>3 pretty extensively, as reflected in</p> <p>4 Exhibit 1.</p> <p>5 Correct?</p> <p>6 A. Correct.</p> <p>7 Q. And you relied on the hearings</p> <p>8 that the NTSB held on June 22nd and June 23rd</p> <p>9 of 2023.</p> <p>10 Correct?</p> <p>11 A. Yeah, we relied on the</p> <p>12 investigation --</p> <p>13 Q. Right.</p> <p>14 A. -- of the incident --</p> <p>15 Q. And you relied on --</p> <p>16 A. -- to some degree.</p> <p>17 Q. Sorry.</p> <p>18 You relied on some reports that</p> <p>19 the NTSB prepared, like the Mechanical Group</p> <p>20 Factual Report.</p> <p>21 Correct?</p> <p>22 A. That's correct.</p> <p>23 Q. And it's important to not</p> <p>24 cherry-pick just favorable statements from</p> <p>25 those hearings or that report if you're</p>	<p style="text-align: right;">Page 236</p> <p>1 yes.</p> <p>2 Q. And the "a qualified mechanical</p> <p>3 inspector" does not identify who that</p> <p>4 qualified mechanical inspector works for,</p> <p>5 does it?</p> <p>6 A. No, it doesn't.</p> <p>7 Q. But it does say that such a</p> <p>8 qualified mechanical inspection was, in fact,</p> <p>9 conducted on February 1st in Madison,</p> <p>10 Illinois.</p> <p>11 Correct?</p> <p>12 A. Correct.</p> <p>13 Q. And so you would expect that</p> <p>14 there would be some evidence that that</p> <p>15 mechanical inspection took place.</p> <p>16 Correct?</p> <p>17 A. Yes. As stated here, a</p> <p>18 qualified mechanical inspector conducted a</p> <p>19 mechanical inspection and air brake test.</p> <p>20 Q. All right. And if I heard you</p> <p>21 correctly this morning, what you were telling</p> <p>22 Mr. Denton was, it's your understanding,</p> <p>23 based on the NTSB hearings, that that</p> <p>24 qualified mechanical inspection -- inspector</p> <p>25 was a TRRA employee.</p>
<p style="text-align: right;">Page 235</p> <p>1 trying to depict a truthful statement.</p> <p>2 Correct?</p> <p>3 A. I believe that's correct --</p> <p>4 Q. Okay.</p> <p>5 A. -- you shouldn't.</p> <p>6 Q. You shouldn't.</p> <p>7 You should be truthful, and you</p> <p>8 should be accurate, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. All right. So let's go then to</p> <p>11 paragraph 29 of the complaint. And I promise</p> <p>12 I'm going to try to not repeat what was</p> <p>13 covered already this morning, but we need to</p> <p>14 sort of set the stage, if you will.</p> <p>15 Paragraph 29 was the one</p> <p>16 Mr. Denton spent quite a bit of time with you</p> <p>17 on this morning, and that is the paragraph</p> <p>18 that says that "The train was assembled in</p> <p>19 Madison, Illinois, and was destined for</p> <p>20 Conway, Pennsylvania. That on February 1,</p> <p>21 2023, a qualified mechanical inspector</p> <p>22 conducted a mechanical inspection and air</p> <p>23 brake test."</p> <p>24 That's what's alleged, correct?</p> <p>25 A. That's what's written here,</p>	<p style="text-align: right;">Page 237</p> <p>1 Is that correct?</p> <p>2 A. That was my understanding,</p> <p>3 correct.</p> <p>4 Q. Okay. So you would agree with</p> <p>5 me that in paragraph 29, you were not talking</p> <p>6 about an NS, Norfolk Southern, qualified</p> <p>7 mechanical inspector having conducted such an</p> <p>8 inspection on February 1st of 2023.</p> <p>9 Correct?</p> <p>10 A. I think what's stated here is</p> <p>11 that a qualified mechanical inspector</p> <p>12 conducted a mechanical inspection and air</p> <p>13 test.</p> <p>14 When I questioned earlier about</p> <p>15 who, I believe, had performed that test, my</p> <p>16 reply was, an employee working for the TRRA.</p> <p>17 Q. So it should be pretty easy to</p> <p>18 answer my question, that you were not talking</p> <p>19 about an NS-qualified mechanical inspector,</p> <p>20 correct? In paragraph 29.</p> <p>21 A. In paragraph 29, it's not</p> <p>22 distinguishing whether it was a TRRA or a</p> <p>23 Norfolk Southern employee.</p> <p>24 Q. Right.</p> <p>25 A. It reads verbatim, "A qualified</p>

<p style="text-align: right;">Page 238</p> <p>1 mechanical inspector conducted a mechanical 2 inspection and air brake test." 3 Q. Right. 4 Which is why you, Norfolk 5 Southern, I'm asking you, in paragraph 29, 6 since it doesn't distinguish, is it referring 7 to an NS-qualified mechanical inspector; yes 8 or no? 9 A. I believe the answer is no. 10 Q. Thank you. 11 Now, will you agree with me 12 that if NS performed an inspection pursuant 13 to the CFR that you talked about this morning 14 with Mr. Denton, that you would expect, 15 pursuant to NS's policies, that there would 16 be some record of NS having -- thank you -- 17 having conducted such an inspection? 18 Correct? 19 A. If Norfolk Southern was 20 inspecting a railcar at a Norfolk Southern 21 yard, whether inbound inspection or outbound 22 inspection, we would have a record of the 23 inspection taking place. 24 Q. It's a good business practice 25 to have a written record if you're going to</p>	<p style="text-align: right;">Page 240</p> <p>1 to the NS crew that, again, the brakes are in 2 good -- good shape, no issues found. 3 TRRA would be, again, 4 responsible for the inbound inspection, 5 outbound inspection, of those railcars. 6 That is something, again, if when we provide 7 an interchange, the inbound or the outbound 8 crew is not going through and looking at 9 individual inspections on every car. 10 Q. Okay. So let me understand. 11 If TRRA performed that 12 inspection, if TRRA performed that 13 inspection, NS would not expect to see any 14 written documentation of such an inspection. 15 Is that correct? 16 A. The train crew receiving that 17 train, or getting on the train, would not be 18 looking for any documentation of every single 19 mechanical inspection. 20 Q. Okay. Would the train crew be 21 looking for any documentation that anything 22 beyond a brake test had been performed as 23 part of this qualified mechanical inspection 24 that is to be done pursuant to Part 215, 25 railroad freedom -- I'm sorry, Railroad</p>
<p style="text-align: right;">Page 239</p> <p>1 conduct a qualified mechanical inspection. 2 Correct? 3 MS. PUJARI: Objection. Beyond 4 the scope of the 30(b)(6) topics. 5 QUESTIONS BY MS. KARIS: 6 Q. You can answer. 7 A. I think Norfolk Southern feels 8 it is a good practice. 9 Q. Thank you. 10 Now, if Norfolk Southern is 11 going to rely on a mechanical inspection 12 performed by TRRA, would you agree with me 13 it's a good business practice for Norfolk 14 Southern to get some written proof that that 15 has been done by TRRA? Correct? 16 MS. PUJARI: Objection. Beyond 17 the scope of the 30(b)(6). 18 QUESTIONS BY MS. KARIS: 19 Q. You can answer. 20 A. No, not in an interchange. 21 That's not something that you would typically 22 see. You would have a brake slip, a Class I 23 brake slip, on that car, or on that train, as 24 the crew took it from Madison en route to 25 Decatur. And that brake slip would certify</p>	<p style="text-align: right;">Page 241</p> <p>1 Freight Car and Safety Standards? 2 MS. PUJARI: Objection. 3 Compound question and combines two 4 different concepts. So, compound. 5 QUESTIONS BY MS. KARIS: 6 Q. You can answer. 7 A. The outbound train crew would 8 require to get the Class I brake test. 9 They're not going to, like I said before, ask 10 and review mechanical inspection criteria on 11 every car. 12 Q. So is it your testimony on 13 behalf of NS that in order to satisfy 14 Part 215, Railroad Freight Car Safety 15 Standards, and specifically Section 215.13 -- 16 A. Can you tell me what exhibit -- 17 Q. Sure, I'm sorry. That was 18 Exhibit 4 this morning. 19 It's right there, on top of 20 your hand. 21 A. Okay. This is Exhibit 5. 22 Q. Okay. Exhibit 5. Sorry, there 23 seems to have been a misnumbering. 24 But is that stan -- Part 215? 25 A. Yes, this is Part 215.</p>

<p style="text-align: right;">Page 242</p> <p>1 Q. Okay. And recall you discussed 2 this with Mr. Denton at length this morning? 3 A. I had some questions that were 4 presented on 215, yes. 5 Q. Excellent. 6 And can you turn then to 7 215.13, titled "Predeparture Inspection"? 8 A. 2.13? 9 Q. 215.13. 10 A. Okay. 11 Q. Are you there? 12 A. I'm there now. 13 Q. Okay. And what it says there 14 is that each -- "At each location where a 15 freight car is placed on a train, the freight 16 car shall be inspected before the train 17 departs." 18 Do you see that? 19 A. I do. 20 Q. Okay. And the inspection may 21 be made before or after the car is placed on 22 the train. 23 Correct? 24 A. Correct. 25 Q. Is it your testimony in order</p>	<p style="text-align: right;">Page 244</p> <p>1 Does 215 apply to NS in 2 connection with the East Palestine 3 February 3, 2023 derailment; yes or no? 4 MS. PUJARI: Objection. Vague 5 as to which part of 215. 6 QUESTIONS BY MS. KARIS: 7 Q. 215.13, to be accurate. 8 A. 215.13 at Madison would not 9 pertain to Norfolk Southern mechanical car 10 inspectors doing a predeparture inspection. 11 Q. Okay. Now, let's look at 12 exhibit -- I think it was -- I'm not sure 13 what number it was, actually. It's from the 14 NTSB. It's titled "Safety Systems Human 15 Performance Group Chair's Factual Report." 16 A. What document? 17 Q. 8. 18 You with me? 19 A. I have the document. 20 Q. It's Exhibit 8. And again, 21 this is one of the documents you looked at 22 this morning with Mr. Denton. 23 Correct? 24 A. It is. 25 Q. This is not one of the</p>
<p style="text-align: right;">Page 243</p> <p>1 to satisfy 215.13, that NS can rely on TRRA 2 and rely on no written documentation of any 3 such inspection having been conducted? 4 MS. PUJARI: Objection to the 5 extent it calls for a legal conclusion 6 and goes beyond 215.13, sub A. 7 THE WITNESS: Yeah. Please 8 re -- please repeat the question. 9 QUESTIONS BY MS. KARIS: 10 Q. Sure. 11 You understand that Section 215 12 applies to railroads, correct? 13 A. Yes. 14 Q. It applies to NS, correct? 15 A. It applies to all railways -- 16 Q. But here we're talking about NS 17 in this incident, so I'm asking you about NS. 18 Does 215 apply to NS in 19 connection with the East Palestine derailment 20 that occurred on February 3rd of 2023? 21 A. Predeparture inspection, again, 22 as it reads in the first bullet, at each 23 location -- 24 Q. No, Mr. Dixon, respectfully, I 25 have limited time. Very simple question.</p>	<p style="text-align: right;">Page 245</p> <p>1 documents that you relied on, though, in 2 connection with preparing to testify here 3 today. 4 Correct? 5 A. It is not something I reviewed. 6 Q. Okay. So I would like to turn 7 your attention, first of all, to page 5, 8 which you already looked at. 9 Under February 1st, the 10 Madison, Illinois, TRRA yard. And we saw 11 where it says that the train crew conducted 12 predeparture and mechanical inspection of 13 Train 32N. 14 Do you understand what a train 15 crew is in connection with this incident? 16 A. No, I'm not -- I'm not familiar 17 there in Madison, the TRRA yard, what exactly 18 they're stating by train crew conductor. 19 Q. Do you understand the terminal 20 exchange to have a train crew? 21 A. I'm sorry. The question is, do 22 I understand a terminal exchange -- 23 Q. Right. 24 A. -- to have a train crew? 25 Q. Do you think that TRRA train</p>

<p style="text-align: right;">Page 246</p> <p>1 crew there -- do you see where it says, 2 "Engineer and conductor on duty"? Do you see 3 two bullets up? 4 It's right there, in the 5 interest of time. 6 A. Yeah, I see that. 7 Q. Okay. So first it says they're 8 a train crew. It defines them. Engineer and 9 conductor on duty. 10 Do you see that? 11 A. I see that. 12 Q. And then just two bullets on -- 13 then it says, "TRRA employees completed a 14 232.205 Class I air brake test." 15 Correct? 16 A. Correct. 17 Q. And then it goes back to "Train 18 crew conducted predeparture/mechanical 19 inspection of Train 32N." 20 Do you see that? 21 A. I see what's written there. 22 Q. But you don't know whether that 23 train crew is the engineer and conductor of 24 Norfolk Southern, correct? 25 A. I don't know.</p>	<p style="text-align: right;">Page 248</p> <p>1 railcars, to maintain railcars, and to do 2 certain repairs of railcars. 3 Q. Are they Norfolk Southern 4 employees? 5 A. Norfolk Southern has carmen, 6 but these employees -- I'm not sure what this 7 is a reference to. Again, I didn't see this 8 document, but carmen in general, as I stated, 9 they repair, they maintain, and they inspect 10 railcars for repair. 11 Q. That's what they should do, 12 correct? 13 They should repair -- 14 A. That's what -- 15 Q. -- they should maintain, and 16 they should inspect railcars for repair. 17 Correct? 18 A. That's what they're -- 19 Q. Right. 20 A. That's what their job is. 21 Q. Okay. So the NTSB here in its 22 report, referring to section CFR part 215.13, 23 the one I asked you about, says, "At each 24 location where freight railcar is placed on a 25 train, the freight car shall be inspected</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. Okay. 2 A. Again, a train crew would do 3 a -- their own inspection. The engineer 4 would inspect the locomotives that they're 5 taking -- they're getting on. They would do 6 a quick inspection. 7 But again, the train crew here 8 that -- 9 Q. So it's -- 10 A. I know it's written there. 11 Q. Okay. Let's turn to page 12. 12 See if we can help out with figuring out who 13 the train crew is and who purportedly did the 14 predeparture inspection. 15 3.2. Do you see where it says 16 "Carmen Duties"? Do you see that? 17 A. Yes. 18 Q. Do you have an understanding of 19 who carmen are in connection with a 20 predeparture inspection? 21 A. Yes, I do. 22 Q. Who are they? 23 A. Carmen is just that, the car -- 24 railroad carmen. They're employees that are 25 qualified to -- excuse me, to inspect</p>	<p style="text-align: right;">Page 249</p> <p>1 before the train departs. The inspection can 2 be made before or after the car is placed on 3 the train." 4 And then it goes on to say that 5 there are at least 90 points of inspection in 6 a railcar. 7 Does NS agree with that? 8 A. I would agree. 9 Q. It goes on then to say that the 10 carman must thoroughly inspect, maintain and 11 repair railcar parts such as gaskets, air 12 hoses, loading restraining equipments and 13 tie-down devices. 14 Do you agree with that? 15 A. Yes. 16 Q. Okay. 17 A. That's a short list of repair 18 car parts, but -- 19 Q. Okay. Let's go to the next 20 page. 21 MS. PUJARI: I'm sorry, can 22 Mr. Dixon finish his answers? 23 THE WITNESS: Yeah. It looks 24 like, again, there -- "carman must 25 thoroughly inspect, maintain rail" --</p>

<p style="text-align: right;">Page 250</p> <p>1 or "repair railcar parts such as..."</p> <p>2 And again, I just wanted to</p> <p>3 point out in reading that, it's a very</p> <p>4 short list --</p> <p>5 QUESTIONS BY MS. KARIS:</p> <p>6 Q. Right. But let's go to the</p> <p>7 next page and see what else is on there.</p> <p>8 It then goes on to say, "The</p> <p>9 car inspectors also conduct visual</p> <p>10 inspections for leaky bearings or damaged</p> <p>11 components."</p> <p>12 Does NS agree with that?</p> <p>13 A. Yes.</p> <p>14 Q. "If they see grease around the</p> <p>15 bearing seals, they'll get their gauge and</p> <p>16 slightly pry it to see if it's loose."</p> <p>17 Does NS agree with that?</p> <p>18 A. I can't speak to our carman's</p> <p>19 work with respect to when -- when they're</p> <p>20 inspecting a car, I know they're looking. I</p> <p>21 don't discount what was -- what was said, or</p> <p>22 I don't have any issue with what was noted on</p> <p>23 the previous page, 3.2, but I can't speak to</p> <p>24 what their steps would be if they identified,</p> <p>25 let's say, excessive leaks.</p>	<p style="text-align: right;">Page 252</p> <p>1 A. I'm not, again, aware of TRRA's</p> <p>2 work. I would assume that, again, they were</p> <p>3 performing either an inbound inspection or an</p> <p>4 outbound inspection of all railcars that come</p> <p>5 in and out of TRRA.</p> <p>6 Q. So the basis for saying that a</p> <p>7 mechanical inspection was done, predeparture</p> <p>8 inspection, with respect to GPLX76545, was it</p> <p>9 based on anything more than an assumption</p> <p>10 that that work had been done?</p> <p>11 MS. PUJARI: Objection.</p> <p>12 Misstates --</p> <p>13 THE WITNESS: No.</p> <p>14 MS. PUJARI: -- prior</p> <p>15 testimony.</p> <p>16 QUESTIONS BY MS. KARIS:</p> <p>17 Q. Go ahead.</p> <p>18 A. No. The chief inspector for</p> <p>19 the NTSB stated in testimony that all of the</p> <p>20 railcars in 32N that departed the TRRA there</p> <p>21 at Madison had both a mechanical inspection</p> <p>22 and Class I brake test performed.</p> <p>23 Q. And that is the sole basis for</p> <p>24 your belief that such an inspection had been</p> <p>25 done on GPLX76545.</p>
<p style="text-align: right;">Page 251</p> <p>1 Q. Are you aware of anyone from</p> <p>2 TRRA or Norfolk Southern looking to see</p> <p>3 whether there was grease around the bearing</p> <p>4 seals?</p> <p>5 MS. PUJARI: Objection. Vague</p> <p>6 as to --</p> <p>7 QUESTIONS BY MS. KARIS:</p> <p>8 Q. For --</p> <p>9 MS. PUJARI: Sorry, were --</p> <p>10 QUESTIONS BY MS. KARIS:</p> <p>11 Q. -- GPLX75465.</p> <p>12 MS. PUJARI: Objection. Vague</p> <p>13 as to time.</p> <p>14 QUESTIONS BY MS. KARIS:</p> <p>15 Q. I'm sorry, February 1st to</p> <p>16 February 3rd -- let me ask a different</p> <p>17 question.</p> <p>18 Anytime between February 1st</p> <p>19 until the time of the derailment in 2023, are</p> <p>20 you aware of anybody from TRRA or Norfolk</p> <p>21 Southern looking to see whether there was</p> <p>22 grease around the bearing seals?</p> <p>23 MS. PUJARI: On which car?</p> <p>24 QUESTIONS BY MS. KARIS:</p> <p>25 Q. In connection with GPLX75465.</p>	<p style="text-align: right;">Page 253</p> <p>1 Is that correct?</p> <p>2 A. In reading the materials in</p> <p>3 preparation for this, yes, that is why I</p> <p>4 believe that a mechanical inspection was</p> <p>5 conducted --</p> <p>6 Q. Okay.</p> <p>7 A. -- on those railcars.</p> <p>8 Q. Now, if you go on in this same</p> <p>9 document, it says that the bearings could</p> <p>10 eventually fail and result -- I'm sorry.</p> <p>11 It says, "A loose bearing seal</p> <p>12 could allow water and foreign particles into</p> <p>13 the bearing while allowing lubricants to</p> <p>14 escape. The bearing could eventually fail</p> <p>15 and result in the car and train derailling."</p> <p>16 Do you agree with that?</p> <p>17 A. I think I would agree with</p> <p>18 what's written here.</p> <p>19 Q. Okay. And therefore, because a</p> <p>20 loose bearing seal could allow water and</p> <p>21 foreign particles into the bearing while</p> <p>22 allowing lubricants to escape, which could</p> <p>23 result in the car and train derailling, it's</p> <p>24 important to conduct a proper mechanical</p> <p>25 inspection.</p>

<p style="text-align: right;">Page 254</p> <p>1 Correct?</p> <p>2 A. I agree that it is important to</p> <p>3 comply with all rules, particularly 2.15.</p> <p>4 Q. Okay. And if one wanted to</p> <p>5 know whether, in fact, there was any leaky</p> <p>6 bearing or damaged component, they should at</p> <p>7 least comply with the requirements of 215.13.</p> <p>8 Correct?</p> <p>9 A. Yeah. I think, again, 215.13</p> <p>10 should be complied with, yes.</p> <p>11 Q. Okay. Now, it goes on here in</p> <p>12 this NTSB report to say, "Time provided to</p> <p>13 inspect the train car. During their</p> <p>14 interviews with the NTSB, the TCU</p> <p>15 discussed" -- being the Transportation</p> <p>16 Communications Union -- "discussed the</p> <p>17 reduction in amount of time carmen have</p> <p>18 available to inspect cars."</p> <p>19 Do you know who the</p> <p>20 Transportation Communications Union is?</p> <p>21 A. It's a -- yes, I know the</p> <p>22 Transportation Communications Union.</p> <p>23 Q. Who are they? Tell the jury</p> <p>24 who that group is that the NTSB is referring</p> <p>25 to here.</p>	<p style="text-align: right;">Page 256</p> <p>1 Do you see that?</p> <p>2 MS. PUJARI: Objection. Beyond</p> <p>3 the scope of the 30(b)(6) topics.</p> <p>4 QUESTIONS BY MS. KARIS:</p> <p>5 Q. Do you see that?</p> <p>6 A. I see that's written.</p> <p>7 Q. Okay. And then further on it</p> <p>8 says, "The TCU indicated in the last few</p> <p>9 years, following the implementation of new</p> <p>10 train scheduling strategies, that Norfolk</p> <p>11 Southern reduced the average amount of time</p> <p>12 for car inspections to about one minute per</p> <p>13 car."</p> <p>14 Is that an accurate statement?</p> <p>15 MS. PUJARI: Objection. Beyond</p> <p>16 the scope of the 30(b)(6) topics.</p> <p>17 THE WITNESS: That's what's</p> <p>18 written here. I don't know if that's</p> <p>19 an accurate statement.</p> <p>20 QUESTIONS BY MS. KARIS:</p> <p>21 Q. Okay. You agree with me,</p> <p>22 though, that good business practice is to</p> <p>23 allow appropriate time, adequate time, to</p> <p>24 conduct a thorough inspection.</p> <p>25 Correct?</p>
<p style="text-align: right;">Page 255</p> <p>1 A. The TCU is a union that</p> <p>2 represents clerical employees.</p> <p>3 Q. I'm sorry?</p> <p>4 A. TCU is called the</p> <p>5 Transportation Communications Union, who</p> <p>6 represents clerical employees.</p> <p>7 Q. Clerical employees only?</p> <p>8 A. To my knowledge at Norfolk</p> <p>9 Southern --</p> <p>10 Q. Okay.</p> <p>11 A. -- they represent clerical</p> <p>12 employees.</p> <p>13 Q. This goes on to say that</p> <p>14 "During their interview with the NTSB, the</p> <p>15 TCU discussed the reduction in the amount of</p> <p>16 time carmen have available to inspect cars.</p> <p>17 They stated that about 20 years ago, carmen</p> <p>18 were provided sufficient time, several</p> <p>19 minutes, to inspect the cars, but that years</p> <p>20 later, and before new car train scheduling</p> <p>21 strategies were implemented in Norfolk</p> <p>22 Southern and some other Class I railroads,</p> <p>23 that time was reduced, on average, to</p> <p>24 3 minutes to 3 minutes and 45 minutes {sic}</p> <p>25 per car."</p>	<p style="text-align: right;">Page 257</p> <p>1 MS. PUJARI: Objection to the</p> <p>2 term of art, "good business practice,"</p> <p>3 to the extent it calls for a legal</p> <p>4 conclusion, and beyond the scope of</p> <p>5 the 30(b)(6).</p> <p>6 QUESTIONS BY MS. KARIS:</p> <p>7 Q. You can answer.</p> <p>8 A. I believe it is good business</p> <p>9 practice to comply with federal regulations.</p> <p>10 So whatever time is needed to -- for</p> <p>11 compliance for, again --</p> <p>12 Q. Mr. --</p> <p>13 A. -- car inspections is -- I</p> <p>14 support.</p> <p>15 Q. Okay. Mr. Dixon, on behalf of</p> <p>16 Norfolk Southern, can you tell me whether</p> <p>17 it's a good business practice to allow</p> <p>18 appropriate and adequate time to conduct a</p> <p>19 thorough inspection?</p> <p>20 MS. PUJARI: Same objection to</p> <p>21 the term of art, legal conclusion, and</p> <p>22 beyond the scope.</p> <p>23 QUESTIONS BY MS. KARIS:</p> <p>24 Q. If you can't answer the</p> <p>25 question, just tell me you can't answer it.</p>

<p style="text-align: right;">Page 258</p> <p>1 A. Again, we comply and work to --</p> <p>2 Q. That's not what I asked.</p> <p>3 A. We work to comply with all</p> <p>4 federal regulations. And in -- to comply</p> <p>5 with that, you have to afford appropriate</p> <p>6 time.</p> <p>7 Q. Okay. So to comply with legal</p> <p>8 regulations, you have to afford the folks</p> <p>9 conducting the inspection adequate time to do</p> <p>10 a thorough inspection.</p> <p>11 Correct?</p> <p>12 A. That's why you have federal</p> <p>13 regulations in place, so these inspections</p> <p>14 and repairs can be conducted.</p> <p>15 Q. All right. Now, part of</p> <p>16 federal regulations, of course, deal with the</p> <p>17 responsibility to ensure that you are putting</p> <p>18 a safe car on your railway.</p> <p>19 Correct?</p> <p>20 A. Repeat that statement, please.</p> <p>21 Q. Sure.</p> <p>22 Is there an obligation on</p> <p>23 behalf of the railroad to comply with safety</p> <p>24 standards?</p> <p>25 A. It's an obligation for the</p>	<p style="text-align: right;">Page 260</p> <p>1 filed against my clients.</p> <p>2 Correct?</p> <p>3 A. Yes, that Car 23 was improperly</p> <p>4 maintained.</p> <p>5 Q. All right. Now, let's talk</p> <p>6 about what the basis for that was.</p> <p>7 It says under paragraph 111</p> <p>8 that "Upon information and belief, Car 23 was</p> <p>9 twice stationary for longer than six months -</p> <p>10 first for 565 days ending in August of 2018,</p> <p>11 and then again for 206 days ending in May</p> <p>12 of 2019."</p> <p>13 Correct?</p> <p>14 A. That's what it states, yes.</p> <p>15 Q. Could you tell me everything</p> <p>16 that you have -- you, Norfolk Southern, have</p> <p>17 reviewed in order to make that allegation?</p> <p>18 A. I think I'd reference the --</p> <p>19 well, I know I'd reference the Norfolk -- or</p> <p>20 the National Transportation Safety Board</p> <p>21 docket Group B, Exhibit 5, the Mechanical</p> <p>22 Group Factual Report.</p> <p>23 Q. So let's look at that.</p> <p>24 And you agree with me at the</p> <p>25 beginning that it's important to not</p>
<p style="text-align: right;">Page 259</p> <p>1 railroads to comply with federal regulations</p> <p>2 regarding railroad responsibilities.</p> <p>3 Q. Okay. Let's move on in the</p> <p>4 interest of time.</p> <p>5 Part of what was alleged was</p> <p>6 that GATX did not maintain GPLX75365.</p> <p>7 Correct?</p> <p>8 A. Can you --</p> <p>9 Q. Yeah.</p> <p>10 A. Can you point that out here?</p> <p>11 Q. Sure.</p> <p>12 If you look at the complaint</p> <p>13 and you go specifically to paragraphs -- let</p> <p>14 me look real quick -- 106 to 114, the Car 23</p> <p>15 was improperly maintained. That's what</p> <p>16 Norfolk Southern alleges.</p> <p>17 Correct?</p> <p>18 A. 106?</p> <p>19 Q. Right there on top in bold</p> <p>20 letters, "Car 23 was improperly maintained."</p> <p>21 Correct?</p> <p>22 A. Yes.</p> <p>23 Q. All right. And that's the</p> <p>24 basis, at least in part, for the complaint,</p> <p>25 third-party complaint, that Norfolk Southern</p>	<p style="text-align: right;">Page 261</p> <p>1 selectively pick statements out of reports</p> <p>2 and cherry-pick statements.</p> <p>3 Correct?</p> <p>4 A. Yes, I believe I already</p> <p>5 responded to that question --</p> <p>6 Q. Okay.</p> <p>7 A. -- and that was that I agree</p> <p>8 with you.</p> <p>9 (Dixon 30(b)(6) Exhibit 23</p> <p>10 marked for identification.)</p> <p>11 QUESTIONS BY MS. KARIS:</p> <p>12 Q. So let's mark the Mechanical</p> <p>13 Group Factual Report as the next exhibit.</p> <p>14 It's Group B, Exhibit 5.</p> <p>15 Mr. Dixon, this is the</p> <p>16 document --</p> <p>17 MS. KARIS: I'm sorry, what</p> <p>18 number are we? My apologies.</p> <p>19 COURT REPORTER: 23.</p> <p>20 QUESTIONS BY MS. KARIS:</p> <p>21 Q. Okay. And we've marked it as</p> <p>22 Exhibit 23 now.</p> <p>23 This is the report that you're</p> <p>24 relying on in connection with making the</p> <p>25 allegations in paragraph 111 that we just</p>

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1 looked at.
 2 Correct?
 3 A. That's correct.
 4 Q. Now, if we look at this report,
 5 if you go to page 17 of 18 -- and you have
 6 the complaint in front of you as well?
 7 A. Yes.
 8 Q. You have it? Great. Thank
 9 you.
 10 If we look at the complaint
 11 first at paragraph 111, what it says there is
 12 that "Upon information and belief that this
 13 Car 23 was twice stationary for longer than
 14 six months."
 15 Right?
 16 A. Yes.
 17 Q. And then it identifies those
 18 time periods, 565 days in August of '18 and
 19 206 days ending in May of 2019.
 20 Correct?
 21 A. That's correct.
 22 Q. All right. Now, if we look at
 23 the mechanical report at page 17 -- I don't
 24 know if we can bring it up. No, we don't
 25 have the Bates numbers. Okay.

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1 I don't know if this will work.
 2 RRD23MR two zeros -- I'm sorry, 005.
 3 Let's keep moving, in the
 4 interest of time.
 5 See at the top of page 17 of --
 6 and for the record, just to make everybody
 7 clear, this Mechanical Group Factual Report
 8 comes from the NTSB's docket, and it's
 9 Exhibit 5 to that docket.
 10 And that's what you've
 11 identified as the single and sole basis for
 12 paragraph 111 in Exhibit 1 where you list
 13 what you relied on.
 14 Correct?
 15 A. It is listed here as being
 16 reviewed in support of the claim.
 17 Q. And you specifically identify
 18 page 17.
 19 Correct?
 20 A. Yes.
 21 Q. All right. And so if we look
 22 at page 17, what it says there is that "there
 23 was a review of the last ten years of
 24 movement history of car" -- excellent. Thank
 25 you so much -- "of car GPLX75465, indicates

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1 that it was stationary twice over six
 2 months."
 3 Right?
 4 A. That's what it states.
 5 Q. And it goes on to say, "Ending
 6 in August of 2018, it shows no movement for
 7 565 days, and ending in May of 2019, it shows
 8 no movement for 206 days."
 9 Do you see that?
 10 A. I see that.
 11 Q. Okay. The "upon information
 12 and belief" that is in Norfolk Southern's
 13 complaint, is it based on a review of any
 14 evidence, any record, anything beyond those
 15 statement -- two lines that we just read from
 16 the mechanical factual report?
 17 MS. PUJARI: Objection to the
 18 extent it calls for a legal
 19 conclusion.
 20 THE WITNESS: Yeah. I would
 21 say the claim itself obviously is
 22 taking a lot of the information from
 23 the mechanical report with respect to
 24 the car not moving, again, for the
 25 designated periods of time.

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1 To say that that's, again, what
 2 I reviewed and what I'm looking at
 3 here would be from the mechanical
 4 factual report, I can't speak to if
 5 there's any other movement record data
 6 of that car during that ten-year
 7 period that was reviewed or that we
 8 have access to outside of these point
 9 in times where, again, the ST -- or
 10 the NTSB's factual report is stating
 11 no movement for 565 days ending August
 12 of 2018, and 206 days ending May
 13 of 2019.
 14 QUESTIONS BY MS. KARIS:
 15 Q. So I appreciate that nice, long
 16 answer. Let me go back.
 17 Beyond those two statements, as
 18 NS's corporate representative, are you aware
 19 of any other evidence concerning the
 20 allegations in paragraph 111 of the
 21 third-party complaint filed against my
 22 client?
 23 MS. PUJARI: Objection to the
 24 extent it calls for a legal
 25 conclusion.

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1 QUESTIONS BY MS. KARIS:

2 Q. Yes or no?

3 A. I'm not aware of any additional
4 information.

5 Q. Now, what the NTSB went on to
6 say was that "Although movement is only
7 recorded when equipment moves past a reader
8 on the mainline, cars can be moved within
9 facilities or yards without being recorded."

10 Do you see that?

11 A. Yes.

12 Q. That is not in NS's complaint.

13 Correct?

14 A. No.

15 Q. You agree that the only
16 movement that -- are you familiar with what a
17 CLM is? A CLM report?

18 A. No.

19 Q. Do you know how movement of
20 railcars is recorded on these readers that
21 are referenced in the NTSB's factual report?

22 A. The -- on the mainlines?

23 Q. Yes.

24 A. I'm vaguely familiar with
25 readers.

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1 Q. But you're not familiar with
2 what a CLM report is.

3 Is that correct?

4 A. I'm not aware of the term
5 "CLM."

6 Q. Did you do anything before
7 filing this complaint to look at the reader
8 history for GPLX75465 over that ten-year
9 period?

10 A. Again --

11 MS. PUJARI: Objection to the
12 extent it calls for a legal conclusion
13 or privileged information.

14 QUESTIONS BY MS. KARIS:

15 Q. You can answer.

16 A. I have not personally seen any
17 information.

18 Q. Not personally. Norfolk
19 Southern. That's why I asked you in the
20 beginning.

21 A. Again, I don't know the answer
22 to that question.

23 Q. Did Norfolk Southern do
24 anything to determine whether there had been
25 any movement while GPLX75465 was in a

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1 facility or yard during that 565-day period
2 in August -- that ended in August of 2018?

3 MS. PUJARI: Objection. Calls
4 for a legal analysis and conclusion.

5 QUESTIONS BY MS. KARIS:

6 Q. You can answer.

7 A. I don't have any information on
8 that question.

9 Q. Are you aware of anything that
10 Norfolk Southern did to verify whether
11 GPLX75465 had moved within the shipyard --
12 I'm sorry, within the rail yard or facility
13 in those 206 days that ended in May of 2019?

14 MS. PUJARI: Objection. Calls
15 for a legal analysis and conclusion.

16 THE WITNESS: Again, I can't
17 answer that question. I don't know if
18 anyone at Norfolk Southern has any
19 information about the movement of that
20 railcar outside of what we had stated
21 or what's been stated here on the
22 complaint.

23 QUESTIONS BY MS. KARIS:

24 Q. So when you state in the
25 complaint that the car was twice stationary

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1 for longer than six months, would you agree
2 with me that you don't know whether, in fact,
3 the car moved within the rail yard that it
4 was sitting in during those time periods?

5 Correct?

6 A. I can't say that I've seen any
7 information about movement within those rail
8 yards.

9 Q. You haven't seen information
10 one way or the other, correct?

11 A. I haven't seen information one
12 way or the other with respect to what?

13 Q. As to whether GPLX76545 {sic}
14 moved while it was in the rail yard for those
15 565 days ending in August of 2018 or 260 --
16 or 206 days ending in May of 2019.

17 Correct?

18 MS. PUJARI: Objection. Vague
19 as to the rail yard.

20 THE WITNESS: I have not seen
21 any movement data for those periods
22 and those points, between those dates,
23 for GPLX75465.

24 QUESTIONS BY MS. KARIS:

25 Q. Where was that car for those

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1 565 days ending in August of 2018 that it was
 2 allegedly stationary?
 3 A. I don't know the answer to that
 4 question.
 5 Q. Where was that car for those
 6 206 days that ended in May of 2019?
 7 A. I don't know the answer to that
 8 question.
 9 Q. So when you said it was
 10 stationary, you didn't even know where it was
 11 sitting.
 12 Is that correct?
 13 A. I'm not -- I'm not aware of
 14 exactly where that car was sitting.
 15 Q. How about generally where it
 16 was sitting since you don't know exactly
 17 where it was sitting? Do you know where it
 18 was generally sitting? Do you know what
 19 state it was in?
 20 MS. PUJARI: Objection.
 21 Compound.
 22 THE WITNESS: No, as I
 23 previously stated, I don't have any
 24 data as to where that car...
 25

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1 QUESTIONS BY MS. KARIS:
 2 Q. And you -- did you know who was
 3 leasing that car during that time period?
 4 A. No, I do not know who was
 5 leasing --
 6 Q. Sitting here now as Norfolk
 7 Southern's corporate representative for the
 8 allegations alleged in the third-party
 9 complaint, do you know which company had
 10 possession of that car from 2016, 2017, 2018,
 11 all the way to the time of the incident?
 12 A. No, I do not know who was
 13 leasing that car.
 14 Q. You certainly didn't do
 15 anything on behalf of Norfolk Southern to
 16 figure out where was this car during that
 17 time period that we're going to put this in
 18 this complaint.
 19 Correct?
 20 MS. PUJARI: Objection.
 21 Argumentative. Asked and answered.
 22 THE WITNESS: As I stated
 23 previously, I don't have any
 24 information on the movement of that
 25 car --

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1 QUESTIONS BY MS. KARIS:
 2 Q. Are you familiar -- sorry.
 3 A. -- outside -- go ahead.
 4 Q. Are you familiar with the
 5 service called Railinc?
 6 A. Vaguely.
 7 Q. Tell us what your understanding
 8 of Railinc is.
 9 A. My personal knowledge of
 10 Railinc is not extensive enough to be
 11 discussed in this -- in this setting.
 12 Q. Do you know whether Norfolk
 13 Southern has access to Railinc?
 14 A. I believe Norfolk Southern
 15 employees do have access to Railinc.
 16 Q. Did Norfolk Southern do
 17 anything to determine, can I get the
 18 information from Railinc on where this car
 19 was sitting before I make these allegations
 20 that this car was sitting stationary?
 21 A. Again, I do not know who at
 22 Norfolk Southern has information pertaining
 23 to the movement of that railcar outside of
 24 what --
 25 Q. And you -- sorry.

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1 A. -- is presented here.
 2 Q. You agree with me you shouldn't
 3 be making allegations against my client if
 4 you don't have a basis for those allegations.
 5 Correct?
 6 MS. PUJARI: Objection. Calls
 7 for a legal conclusion and
 8 argumentative.
 9 QUESTIONS BY MS. KARIS:
 10 Q. Okay. Would you agree with
 11 that statement?
 12 MS. PUJARI: Objection. Calls
 13 for a legal conclusion and
 14 argumentative.
 15 MS. KARIS: You've made your
 16 objections.
 17 QUESTIONS BY MS. KARIS:
 18 Q. Sir, can you answer?
 19 A. No. I believe that there --
 20 the allegation stands based off what we're
 21 pointing to as far as the Mechanical Group
 22 Factual Report.
 23 Q. Okay. The mechanical factual
 24 report which says that "although movement is
 25 only recorded when equipment moves past a

<p style="text-align: right;">Page 274</p> <p>1 reader on the mainline, cars can be moved 2 within facilities or yards without being 3 recorded." 4 That mechanical report, 5 correct? 6 A. That's correct. 7 Q. Okay. Let's talk briefly about 8 the allegations that have been made 9 concerning car -- Railcar 29. 10 You understand that Railcar 29 11 was a car that was owned by GATX but had been 12 leased at the time of the incident. 13 Correct? 14 A. No. I was aware that GTX was 15 the owner of GATX95098. 16 Q. Did you know who was operating 17 GATX95098 at the time of the incident? 18 A. I don't know what you're 19 referring to when you say "operating." 20 Q. Who had control of the car, and 21 whose commodity was in the car? 22 MS. BROZ: Objection. Form. 23 THE WITNESS: Again, I know who 24 the shipper was. I know who the owner 25 was.</p>	<p style="text-align: right;">Page 276</p> <p>1 of construction for tank car GATX95098? 2 A. Yes. 3 (Dixon 30(b)(6) Exhibit 24 4 marked for identification.) 5 QUESTIONS BY MS. KARIS: 6 Q. In the interest of time, we'll 7 move quickly through it. 8 MS. PUJARI: Would you like 9 this marked? 10 MS. KARIS: Yes, please. 11 Sorry. You got to hand it to the 12 court reporter. 13 QUESTIONS BY MS. KARIS: 14 Q. Mr. Dixon, do you recognize 15 that? 16 What is that that you're 17 looking at as Exhibit 24? 18 A. It's an AAR form. 19 Q. I'm sorry? 20 A. AAR Form 4-2. 21 Q. Okay. And have you seen this 22 document before? 23 A. I have. 24 Q. I'm sorry? 25 A. I have seen this document.</p>
<p style="text-align: right;">Page 275</p> <p>1 Are you referring to -- 2 QUESTIONS BY MS. KARIS: 3 Q. Who was the shipper? 4 A. Okay. The shipper was Oxy 5 Vinyls. 6 Q. And are you aware that they had 7 leased that railcar, that tank car, I should 8 say, at the time of the incident? 9 A. Since they're not the owner of 10 the railcar, I'm assuming that the shipper 11 had leased. 12 Q. All right. Now, there's a 13 reference in paragraph 122 of your complaint 14 that the owner of tank cars carrying 15 hazardous materials are required to continue 16 the certification process, and it's talking 17 about the certification process that goes to 18 tank cars. 19 Correct? 20 A. That's correct. 21 Q. Are you familiar with what a 22 certificate of construction is for a tank 23 car? 24 A. Yes. 25 Q. Have you seen the certificate</p>	<p style="text-align: right;">Page 277</p> <p>1 Q. All right. So I would like to 2 direct your attention then to the part at the 3 bottom where it says "Notes." 4 First of all, just to orient 5 ourselves, this is the application for 6 approval and certificate of construction for 7 the car that we've been talking about here, 8 correct, GATX95051 through 95100. 9 You with me? 10 A. Uh-huh. 11 Q. And do you see the date on it? 12 It's 1991. 13 A. Yes. 14 Q. Okay. And do you understand 15 when 95098 was constructed and the 16 certificate of construction application for 17 approval having been submitted? 18 A. I'm sorry, please repeat the 19 question? 20 Q. Sure. 21 Do you know when the car at 22 issue, GATX95098, when that car was approved 23 and a certificate of construction issued? 24 MS. PUJARI: Objection. The 25 document speaks for itself.</p>

<p style="text-align: right;">Page 278</p> <p>1 THE WITNESS: So you're asking 2 for the date of the approval from -- 3 QUESTIONS BY MS. KARIS: 4 Q. I'm asking you if you know 5 whether GATX95098, whether that car has been 6 approved for use and a construction 7 certificate issued since 1991. 8 MS. PUJARI: Objection. The 9 document speaks for itself. 10 THE WITNESS: Yeah, I'm not 11 sure where exactly on this Form 4-2 12 does it relate to GATX95098. 13 QUESTIONS BY MS. KARIS: 14 Q. Okay. Fair point. 15 Do you know -- I mean, you said 16 you've seen the certificate of construction. 17 A. I've seen certificates of 18 constructions. I'm assuming this was -- what 19 you handed to me was for 95098. 20 Q. Okay. 21 A. I don't have anything that I'm 22 looking at this document that tells me that 23 it's for GATX95098. 24 Q. So do you see the range at the 25 top? It's for 95051 --</p>	<p style="text-align: right;">Page 280</p> <p>1 MS. KARIS: Yes, that's 2 correct. 3 MS. PUJARI: Sorry, can you 4 rephrase? 5 MS. KARIS: The witness didn't 6 say he didn't understand. I don't 7 know why I need to rephrase. 8 QUESTIONS BY MS. KARIS: 9 Q. Whether this car was authorized 10 for products that are authorized in DOT 173 11 for which there are no special commodity 12 requirements? 13 MS. PUJARI: Objection. The 14 document speaks for itself. 15 QUESTIONS BY MS. KARIS: 16 Q. You can answer. 17 A. I don't take issue with what's 18 written on the document, which is, again, 19 what was stated. So authorized in DOT 173 20 for which there are no special commodity 21 requirements. 22 Q. Norfolk Southern has alleged 23 that this car was not authorized to carry VCM 24 as of February 3rd of 2023. 25 Correct?</p>
<p style="text-align: right;">Page 279</p> <p>1 A. Okay. 2 Q. -- through 95100. 3 A. Okay. All right. 4 Q. Okay? So it would fall within 5 that range, correct? 6 A. That's right. 7 Q. Okay. And you see there under 8 Notes, can you read into the record what it 9 says there? 10 A. Notes under number 11? 11 Q. Yes. 12 A. "Propylene oxide and products 13 authorized in DOT 173 for which there are no 14 special commodity requirements and 15 nonregulated commodities compatible with this 16 class of car." 17 Q. So do you understand this to 18 mean that this car is authorized for 19 propylene oxide? Correct? 20 A. Yes. 21 Q. And for products that are 22 authorized in DOT 173 for which there are no 23 special commodity requirements? 24 MS. PUJARI: What is the 25 question? Is it authorized?</p>	<p style="text-align: right;">Page 281</p> <p>1 A. I would have to look at 2 additional documentations that were supplied, 3 particularly the NTSB testimony where we have 4 information based off the investigation 5 comparing these railcars to include GATX95098 6 at the point in time of how they were found 7 in the field, at the point in time they were 8 involved in the derailment, and then 9 comparing them back to the certificates of 10 construction. 11 Q. Has NS done any independent 12 investigation from the NTSB to determine 13 whether GATX95098 was authorized to carry VCM 14 on February 3rd of 2023? 15 MS. PUJARI: Objection to the 16 extent it calls for a legal conclusion 17 and analysis. 18 THE WITNESS: I'm not aware of 19 activity going into the investigation 20 on that. I know that there was 21 investigation that was conducted, that 22 I read, basically stating that the 23 authorization here for this car was, 24 as you had stated under the notes, 25 propylene oxide, and with no special</p>

<p style="text-align: right;">Page 282</p> <p>1 commodity requirements.</p> <p>2 That is not what I read in the</p> <p>3 NT -- NTSB hearings where the FRA</p> <p>4 looked and compared --</p> <p>5 QUESTIONS BY MS. KARIS:</p> <p>6 Q. Mr. Dixon, I'm actually going</p> <p>7 to stop you there, and I'm going to move to</p> <p>8 strike.</p> <p>9 My question is not about the</p> <p>10 NTSB. My question specifically excluded the</p> <p>11 NTSB. So let me try again.</p> <p>12 Has Norfolk Southern done any</p> <p>13 investigation independent of the NTSB to</p> <p>14 determine whether GATX95098 was authorized to</p> <p>15 carry vinyl chloride on February 3rd of 2023?</p> <p>16 MS. PUJARI: Objection. Calls</p> <p>17 for a legal conclusion and analysis.</p> <p>18 THE WITNESS: I'm not aware of</p> <p>19 any activity.</p> <p>20 QUESTIONS BY MS. KARIS:</p> <p>21 Q. When --</p> <p>22 MS. PUJARI: We've been --</p> <p>23 QUESTIONS BY MS. KARIS:</p> <p>24 Q. -- Norfolk Southern --</p> <p>25 MS. PUJARI: We've been going</p>	<p style="text-align: right;">Page 284</p> <p>1 QUESTIONS BY MS. KARIS:</p> <p>2 Q. Mr. Dixon, I want to now talk</p> <p>3 to you about another allegation in the</p> <p>4 complaint, and that is that GATX Car</p> <p>5 Number 29, 95098, had tank car valves that</p> <p>6 were replaced with a Midland 720 valve</p> <p>7 without approval, at least as alleged by</p> <p>8 Norfolk Southern.</p> <p>9 Correct?</p> <p>10 A. Can you point me to where</p> <p>11 you're at?</p> <p>12 Q. Sure.</p> <p>13 In the complaint,</p> <p>14 paragraph 120(b).</p> <p>15 You with me?</p> <p>16 A. I'm with you.</p> <p>17 Q. Okay. Now, do you have any</p> <p>18 evidence that Railcar 29 experienced any</p> <p>19 polymerization of its vinyl chloride?</p> <p>20 A. I haven't seen anything that</p> <p>21 indicates there was polymerization in Car 29.</p> <p>22 Q. Okay.</p> <p>23 A. And other than what I</p> <p>24 previously stated earlier today, there was</p> <p>25 some white discharge at the vent and burn</p>
<p style="text-align: right;">Page 283</p> <p>1 for over an hour.</p> <p>2 MS. KARIS: I think Mr. Denton</p> <p>3 said I could use a few of his minutes</p> <p>4 there.</p> <p>5 MR. DENTON: Is Carrie out of</p> <p>6 time?</p> <p>7 MS. PUJARI: Yes.</p> <p>8 MR. DENTON: How about another</p> <p>9 15, Carrie? It's okay with me.</p> <p>10 MS. KARIS: Thank you. Thank</p> <p>11 you.</p> <p>12 MS. PUJARI: Would you like a</p> <p>13 break?</p> <p>14 MS. KARIS: We can take a</p> <p>15 break.</p> <p>16 THE WITNESS: Sure.</p> <p>17 MR. DENTON: We can take a</p> <p>18 break.</p> <p>19 VIDEOGRAPHER: 3:54, we are off</p> <p>20 the video record.</p> <p>21 (Off the record at 3:54 p.m.)</p> <p>22 VIDEOGRAPHER: 4:11, we are on</p> <p>23 the video record.</p> <p>24 (Dixon 30(b)(6) Exhibits 25 and</p> <p>25 26 marked for identification.)</p>	<p style="text-align: right;">Page 285</p> <p>1 that potentially could indicate something,</p> <p>2 but there's no -- in my understanding,</p> <p>3 there's no definitive, final conclusion on</p> <p>4 that.</p> <p>5 Q. Okay. Now, you have seen the</p> <p>6 tank pressures readings that were taken of</p> <p>7 GATX95098.</p> <p>8 Correct?</p> <p>9 A. What tank pressures are you</p> <p>10 referring to?</p> <p>11 Q. The tank pressures for car</p> <p>12 GATX95098.</p> <p>13 A. And can you tell me exactly</p> <p>14 where --</p> <p>15 Q. Well, have you seen them,</p> <p>16 first?</p> <p>17 A. I believe I have seen --</p> <p>18 temperatures?</p> <p>19 Q. Yes. Tank pressures,</p> <p>20 temperatures.</p> <p>21 A. I believe we had reviewed a</p> <p>22 document earlier showing temperatures, but,</p> <p>23 again, is it for the GATX? I'm not quite</p> <p>24 sure at this time.</p> <p>25 Q. Okay. We've marked --</p>

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1 A. Can you point out the
2 temperatures --
3 Q. Sure. Right in front we've
4 just -- right in front of you is Exhibit 25.
5 Let's see if that'll help you.
6 And that comes from the NTSB's
7 docket. It's group D, Exhibit 7, Vinyl
8 Chloride Tank Car Temperature Measurement
9 Spreadsheet.
10 Do you see that?
11 MS. PUJARI: May I have a copy
12 for counsel?
13 MR. EMMANUEL: Yeah, I
14 apologize.
15 THE WITNESS: I see that.
16 QUESTIONS BY MS. KARIS:
17 Q. Have you seen this document
18 previously?
19 A. I have.
20 Q. Tell us what this document
21 represents with respect to GATX95098.
22 A. It shows reading temperatures
23 for GATX95098.
24 Q. Okay. And you see where it
25 says they are "tank car pressures by the

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1 hour." And it's got time, and it goes from
2 16:00 down to 2 a.m.
3 Correct?
4 A. Yes. So it says, "tank car
5 pressures by the hour." And then the
6 Group B, Exhibit 7, the title is "Vinyl
7 Chloride Tank Car Temperature Measurements."
8 Q. So do you have any
9 understanding as to whether the tank car
10 pressure remained the same during the time
11 period here that was measured and reported by
12 the NTSB?
13 And that pressure being a
14 consistent 67 at the times that it was
15 measured.
16 MS. PUJARI: Objection. Vague
17 as to date and so as to time and
18 assumes facts not in evidence.
19 QUESTIONS BY MS. KARIS:
20 Q. Do you see who the agency
21 organization is that provided this document?
22 A. I see.
23 Q. Who is it?
24 A. Norfolk Southern Railway.
25 Q. So what was Norfolk Southern

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1 Railway reporting with respect to 95098? Are
2 those pressures? Are they temperatures?
3 What's the date? What --
4 A. I believe --
5 Q. -- are they recording?
6 A. I believe earlier we saw a
7 document that showed the graph of the
8 temperatures, and I was asked to review this
9 to see if the temperatures matched. So I
10 would say these are measuring temperatures.
11 Q. And does it accurately reflect
12 the pressure of GATX95098 as reported by
13 Norfolk Southern?
14 A. Again, I think this document is
15 just simply mislabeled.
16 Q. Okay. Mislabeled by whom?
17 MS. PUJARI: Objection. Calls
18 for speculation.
19 QUESTIONS BY MS. KARIS:
20 Q. You can answer.
21 A. I don't know -- I don't know
22 who mislabeled it. I don't know who created
23 the document.
24 Q. What does the cover of the
25 document say?

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1 Who provided it to the NTSB?
2 A. Norfolk Southern Railway.
3 Q. Thank you.
4 Okay. Let's move on. I've
5 marked there Exhibit 26, which is a Timken
6 manual.
7 Are you familiar with that
8 document titled "Installing and Maintaining
9 Timken AP and AP-2 Bearings"?
10 A. I've seen some information in
11 this.
12 Q. Okay. Do you have any evidence
13 that my client, GATX, ever received this
14 manual?
15 A. No.
16 Q. Do you have any evidence of
17 GATX ever performing reconditioning of wheel
18 bearings?
19 MS. PUJARI: Counsel, could I
20 please get a copy of this exhibit?
21 MS. KARIS: Oh, sure.
22 MR. EMMANUEL: Yes.
23 MS. KARIS: It's on its way.
24 QUESTIONS BY MS. KARIS:
25 Q. Go ahead, Mr. Dixon.

<p style="text-align: right;">Page 290</p> <p>1 A. Can you please repeat the 2 question? 3 Q. Do you have any evidence of 4 GATX ever performing reconditioning of the 5 wheel bearings? 6 A. No. 7 Q. Do you have any evidence of 8 GATX ever performing installation of wheel 9 bearings? 10 A. I don't believe we have any. 11 Q. Do you have any evidence of 12 Timken ever communicating with my client, 13 GATX, in connection with any aspect of 14 Exhibit 26? 15 A. No. 16 Q. Thank you. 17 Let's talk last topic then, 18 about the temperature readings on the hot box 19 detectors that Norfolk Southern's train was 20 experiencing on the night of February 3, 21 2023, before the derailment took place. 22 You have definitely looked at 23 records of those readings. 24 Correct? 25 A. I have looked at the readings</p>	<p style="text-align: right;">Page 292</p> <p>1 have not seen every single hot box detector 2 reading. 3 Q. Let's see if we can break it 4 down a little simpler. 5 Have you looked at any NS 6 documents to see what NS's internal documents 7 were saying about the readings of the hot box 8 detectors from Salem through East Palestine? 9 A. Yes, I've seen some Norfolk 10 Southern information. 11 Q. And have you seen internal 12 Norfolk Southern documents in connection with 13 filing the allegations that you filed in the 14 third-party complaint? 15 That's what I'm trying to get 16 at. Because all the documents on your list, 17 they are the NTSB's documents. 18 So I'm wondering, did you look 19 at any of your own records? 20 A. Well, you're -- 21 MS. PUJARI: Objection. 22 Mischaracterizes former testimony and 23 the documents that have been 24 submitted. 25</p>
<p style="text-align: right;">Page 291</p> <p>1 there at -- that were provided in the -- in 2 the mechanical -- 3 Q. Right. 4 But Norfolk Southern has its 5 own records of those readings. 6 Correct? 7 A. Yes, we have records of hot box 8 detector readings. 9 Q. Did you look at Norfolk 10 Southern's documents concerning the hot box 11 detector readings for NS 32, which derailed 12 the evening February 3rd of 2023? 13 A. Just give me a second here. 14 So we're still -- you're 15 referring to NS 32. You're talking about the 16 32N still, the -- 17 Q. I'm sorry, yes, the train that 18 derailed on February 3rd of 2023, in East 19 Palestine. 20 The hot box detector readings 21 that came from that train the night that it 22 derailed, have you looked at those from NS's 23 documents? 24 A. Have I looked at all the 25 readings for the 32N? The answer is, no, I</p>	<p style="text-align: right;">Page 293</p> <p>1 QUESTIONS BY MS. KARIS: 2 Q. Mr. Dixon, let me see if I can 3 break this down. 4 A. No, I understood the question. 5 Let me answer this question first, and then 6 we'll go on. 7 We referenced the NTSB 8 Mechanical Group Factual Report, which is -- 9 contains information supplied to them by 10 Norfolk Southern, so it's Norfolk Southern 11 information. 12 (Dixon 30(b)(6) Exhibit 27 13 marked for identification.) 14 QUESTIONS BY MS. KARIS: 15 Q. All right. Let's see if we can 16 make this simpler. 17 Let me give you this document, 18 Exhibit 26 {sic}, Bates numbers 19 NS-CA-000249678 through 81. 20 Can you please mark this as the 21 next exhibit, 27? 22 Yes or no: Have you looked at 23 this document in connection -- 24 A. I don't have the document. 25 Q. I'm sorry. Apologies.</p>

<p style="text-align: right;">Page 294</p> <p>1 Unfortunately, with the 2 one-hour time limit, I'm trying to -- 3 MR. DENTON: Plus 15. 4 MS. KARIS: Plus 15, which I 5 totally appreciate. I'm trying to 6 move as quickly as I can. 7 MS. PUJARI: Regardless, let 8 the witness read the document and 9 finish his answers, time pressure or 10 no time pressure, please, Counsel. 11 QUESTIONS BY MS. KARIS: 12 Q. Mr. Dixon, have you seen this 13 document before? 14 A. No, I have not reviewed this 15 document. 16 Q. Okay. Can you just tell us, 17 who is Thomas Fox? 18 A. Thomas Fox is a -- is a manager 19 within our wayside help desk. 20 Q. And Mr. Fox here writes to 21 Jamie Williams on February 7, 2023, and he 22 says he's "accumulated the ABD," the acoustic 23 bearing detector, "and other wayside detector 24 metrics for GPLX 75465 as shown below. Let 25 me know if you have any questions." And he</p>	<p style="text-align: right;">Page 296</p> <p>1 as to which reports. 2 QUESTIONS BY MS. KARIS: 3 Q. Have you -- I'm sorry. You 4 looked at the mechanical report. 5 Correct? 6 A. The NT -- 7 Q. Yeah. 8 A. The mechanical factual report. 9 Q. Can you also pull in front of 10 you the safety system -- safety -- I'm sorry, 11 System Safety and Human Performance Group 12 Chair's Factual Report which we marked as 13 Exhibit 8 to your deposition? 14 A. (Witness complies.) 15 Q. Go, if you will, in Exhibit 8 16 to page -- sorry. Haste makes waste, for 17 sure. Just lost it. 18 Here we go, page 16. Safety 19 System and Human Performance. Page 16. 20 You with me? 21 A. Yes. 22 Q. Does that table at the top of 23 page 16 accurately reflect the hot box 24 detector readings from Sebring to Salem and 25 then Salem to East Palestine immediately</p>
<p style="text-align: right;">Page 295</p> <p>1 lists the information for GPLX75465 from 2016 2 until 2022. 3 Do you see that? 4 MS. PUJARI: Objection. Way 5 beyond the scope of the 30(b)(6) 6 topics. No indication that this 7 e-mail relates to Train 32N. It's 8 beyond the scope, far beyond the 9 scope. 10 MS. KARIS: It's an interesting 11 position given the subject matter, but 12 okay. 13 QUESTIONS BY MS. KARIS: 14 Q. Have you seen this before? 15 A. As I stated earlier, I have not 16 seen this. 17 Q. Oh, let's move on then. 18 Let's do this. We're going to 19 cut to the chase because we're running short 20 on time here. 21 You said you've looked at the 22 reports, the NTSB's reports, that speak to 23 the hot box detectors. 24 Is that safe and fair to say? 25 MS. PUJARI: Objection. Vague</p>	<p style="text-align: right;">Page 297</p> <p>1 prior to the derailment on February 3rd of 2 2023? 3 A. The -- they actually reflect 4 the reading at the hot box detector located 5 at Sebring, located at Salem, located at East 6 Palestine. 7 Q. Okay. And so at Sebring, at 8 Mile Post 79.8, the L1 axle bearing had a 9 reading of 38 degrees Fahrenheit. 10 Correct? 11 MS. PUJARI: Objection. 12 Misstates the document. 13 QUESTIONS BY MS. KARIS: 14 Q. Above ambient temperature. 15 Correct? 16 A. Correct. 17 Q. And the R1, the right axle, had 18 a reading of 20 degrees. 19 Correct? 20 MS. PUJARI: Objection. 21 Misstates the document. 22 THE WITNESS: According to the 23 chart here, it's 20 degrees above 24 ambient temperature. 25</p>

<p style="text-align: right;">Page 298</p> <p>1 QUESTIONS BY MS. KARIS:</p> <p>2 Q. Right.</p> <p>3 So at that point, no alert was</p> <p>4 triggered at Sebring.</p> <p>5 Correct?</p> <p>6 A. That's correct.</p> <p>7 Q. The train then goes on, and</p> <p>8 there's another detector at Salem.</p> <p>9 Correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And that is at Mile Post 69.01.</p> <p>12 Correct?</p> <p>13 A. Yes.</p> <p>14 Q. Is that roughly a ten-mile</p> <p>15 distance?</p> <p>16 A. Roughly.</p> <p>17 Q. From the last detector?</p> <p>18 A. Yes.</p> <p>19 Q. And there, at 8:13 p.m., the L1</p> <p>20 axle bearing above ambient temperature</p> <p>21 reading has gone up to 103.</p> <p>22 Correct?</p> <p>23 A. The reading was 103 at Salem.</p> <p>24 Q. So that's a 65-degree increase</p> <p>25 over a ten-mile distance.</p>	<p style="text-align: right;">Page 300</p> <p>1 Q. Sure.</p> <p>2 Is there any notification sent</p> <p>3 anywhere, alert, alarm, anywhere, when there</p> <p>4 is this 83-degree difference between the left</p> <p>5 and the right axle at 8:13 p.m. at Mile</p> <p>6 Post 69.01?</p> <p>7 A. Yes. At Salem there was an</p> <p>8 alert that was transmitted after the train</p> <p>9 had crossed the Salem hot box detector.</p> <p>10 Q. And that alert goes where? Who</p> <p>11 gets it?</p> <p>12 A. It goes to the wayside desk,</p> <p>13 which is -- we have individuals working in</p> <p>14 Atlanta, so -- and it's located in Atlanta,</p> <p>15 Georgia. The wayside help desk system, or</p> <p>16 the wayside desk system, receives the alerts,</p> <p>17 and they're accessed from that system.</p> <p>18 Q. How many people are manning</p> <p>19 that desk --</p> <p>20 MS. PUJARI: Objection.</p> <p>21 Vague --</p> <p>22 QUESTIONS BY MS. KARIS:</p> <p>23 Q. -- on the night of February 3rd</p> <p>24 of 2023, when that alert is sent?</p> <p>25 A. We had one person working the</p>
<p style="text-align: right;">Page 299</p> <p>1 Correct?</p> <p>2 A. That's correct.</p> <p>3 Q. No alarm was triggered.</p> <p>4 Is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. The right axle, when the left</p> <p>7 axle is showing 103, is showing a reading of</p> <p>8 20 degrees above ambient temperature.</p> <p>9 Is that correct?</p> <p>10 A. That's correct.</p> <p>11 Q. Now, for that 103 reading, was</p> <p>12 there any alarm that was sent to the</p> <p>13 wayside -- any off-site location? Let's</p> <p>14 start with that.</p> <p>15 A. No.</p> <p>16 Q. So there's a 70-degree -- I'm</p> <p>17 sorry, 83-degree difference between the left</p> <p>18 and the right axle, but that doesn't activate</p> <p>19 an alarm.</p> <p>20 Correct?</p> <p>21 MS. PUJARI: Objection. Vague</p> <p>22 as to "alarm."</p> <p>23 QUESTIONS BY MS. KARIS:</p> <p>24 Q. Is that correct?</p> <p>25 A. Repeat the question, please.</p>	<p style="text-align: right;">Page 301</p> <p>1 queue at that point, at that time.</p> <p>2 Q. And how many different trains</p> <p>3 does NS have out that that one person is</p> <p>4 expected to man?</p> <p>5 MS. PUJARI: Objection. Vague</p> <p>6 as to time.</p> <p>7 QUESTIONS BY MS. KARIS:</p> <p>8 Q. On the night of February 3rd of</p> <p>9 2023.</p> <p>10 A. The -- again, the help desk</p> <p>11 gets these alerts, so I would say -- I don't</p> <p>12 know how many alerts they received that day,</p> <p>13 but ones that would require them to queue up</p> <p>14 and start looking at things, maybe two or</p> <p>15 three a shift.</p> <p>16 Q. Do you recall the video that we</p> <p>17 watched earlier with the compilation of the</p> <p>18 train moving from Sebring to Salem to East</p> <p>19 Palestine -- actually, I think we started</p> <p>20 just before it got to Salem over to East</p> <p>21 Palestine -- where the -- there was fire that</p> <p>22 could visibly be seen in the video?</p> <p>23 Do you recall that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you recall that by the time</p>

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1 the train got to Salem, there was visible
 2 fire under the train?
 3 A. Yes. I can't remember exactly
 4 where we saw the location on the video, but,
 5 yes, I recall watching the video.
 6 Q. So Norfolk Southern's hot box
 7 system doesn't trigger an alert to the folks
 8 on the train, even though there's a fire that
 9 is visible under the train.
 10 Is that correct?
 11 A. In this case, again, the hot
 12 box detector systems that are set up, the hot
 13 box detectors themselves, are looking at
 14 these temperature -- ambient temperatures,
 15 making comparisons. Again, if they don't --
 16 there's a certain threshold met, they would
 17 send an alarm to the crew. It would be an
 18 auto -- audio -- you know, audible, talking
 19 alarm to provide direction to the train
 20 crews.
 21 Q. On the night of February 3rd,
 22 even though when the train got to Salem, Mile
 23 Post 69.01, there was fire under the train,
 24 there was no alert or alarm sent to the crew
 25 on the train.

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1 Correct?
 2 MS. PUJARI: Objection. Asked
 3 and answered.
 4 QUESTIONS BY MS. KARIS:
 5 Q. Is that accurate?
 6 A. At Salem, there was an alert
 7 sent to the wayside help desk.
 8 Q. Mr. Dixon, you heard my
 9 question. It was about to the crew on the
 10 train.
 11 Was there an alert or an alarm
 12 of any sort sent to the folks that were on
 13 the train when the train got to Salem and
 14 there was fire under the train? Yes or no.
 15 MS. PUJARI: Objection.
 16 Assumes facts not in evidence, and
 17 asked and answered.
 18 THE WITNESS: Again --
 19 MS. PUJARI: Let me finish the
 20 objection first before you answer,
 21 Mr. Dixon.
 22 Go ahead.
 23 THE WITNESS: Again, the alert
 24 was sent to the wayside help desk.
 25 I've stated that in the past.

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1 You keep asking me did the crew
 2 receive an alarm. The answer is no.
 3 QUESTIONS BY MS. KARIS:
 4 Q. Did the wayside desk notify
 5 anybody on the train when the train passed
 6 Salem that they got an alert of some sort
 7 showing a 70-plus-degree temperature increase
 8 from the last mile post that there was a
 9 registered reading?
 10 A. Again, the alert was generated
 11 because of the fact that it was -- the
 12 bearing was not -- over 90 degrees, and what
 13 we call the K value, the comparison on the
 14 train, that bearing to others, had a value of
 15 over 4. That's what set the alert and the
 16 queue to be monitored.
 17 Q. Mr. Dixon, my question again
 18 is, did the wayside desk notify anybody on
 19 the train when they got an alert that the
 20 reading from Sebring had gone from 38 degrees
 21 above ambient temperature, to Salem,
 22 103 degrees above ambient temperature, for
 23 the L1 axle bearing; yes or no?
 24 A. At that time when it went over
 25 the Salem hot box detector, there was an

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1 alert generated. The wayside help desk did
 2 not contact the crew at that point in time in
 3 which they received that alert.
 4 Q. The train then travels another
 5 20 miles.
 6 Correct?
 7 A. Yes, approximately.
 8 Q. Travels 20 miles, fire under
 9 the train.
 10 Correct?
 11 MS. PUJARI: Objection.
 12 Assumes facts not in evidence.
 13 QUESTIONS BY MS. KARIS:
 14 Q. The evidence will speak for
 15 itself and the video will speak for itself.
 16 Do you have any reason to
 17 contest, sitting here, that for the next
 18 20 miles that train traveled with visible
 19 fire under the train from Salem to East
 20 Palestine?
 21 MS. PUJARI: Objection.
 22 Assumes facts not in evidence.
 23 THE WITNESS: I think I would
 24 agree that from a video, that at those
 25 points in times those videos were

<p style="text-align: right;">Page 306</p> <p>1 captured, there was obviously 2 something burning. 3 QUESTIONS BY MS. KARIS: 4 Q. Something was burning, and it 5 was emitting flames. 6 Correct? 7 A. Correct. 8 Q. Was there any notification from 9 anybody at the desk to anybody on the train, 10 the conductor, the engineer, the conductor 11 trainee or anyone else, of any problems 12 associated with the train that had flames 13 going under it? 14 MS. PUJARI: Objection. 15 Assumes facts not in evidence. 16 THE WITNESS: As I stated 17 before, there was no communication 18 with the wayside help desk to the 19 train crew following their movement 20 over the hot box detector -- or hot 21 box detector at Salem. 22 QUESTIONS BY MS. KARIS: 23 Q. Does Norfolk Southern stand by 24 its position that -- strike that. 25 Does Norfolk Southern stand by</p>	<p style="text-align: right;">Page 308</p> <p>1 readings, to make sure that, you know, 2 what we're seeing, is there something 3 trending. 4 QUESTIONS BY MS. KARIS: 5 Q. Did anybody make that 6 comparison, to look to see what's trending, 7 should we contact the train, the crew on the 8 train, to notify them of what we're seeing? 9 Did anybody make that comparison and look for 10 any trending? 11 MS. PUJARI: Objection. 12 Beyond -- 13 QUESTIONS BY MS. KARIS: 14 Q. Between Salem and East 15 Palestine. 16 MS. PUJARI: Objection. Beyond 17 the scope of the 30(b)(6). Not a 18 topic on which this witness is 19 designated. 20 QUESTIONS BY MS. KARIS: 21 Q. You can answer, sir. 22 A. My understanding is that that 23 alert was sent to the wayside help desk, and 24 it was queued for review. 25 Q. It was queued for the review.</p>
<p style="text-align: right;">Page 307</p> <p>1 the position that even though there is a 2 almost 70-degree increase in temperature over 3 a ten-mile distance, that no alert should be 4 sent to the crew on the train? 5 MS. PUJARI: Objection. Beyond 6 the scope of the 30(b)(6). 7 To the extent Mr. Dixon is 8 answering, he's answering on his own 9 behalf. 10 MS. KARIS: We can disagree 11 about that, but go ahead. 12 THE WITNESS: I would say that 13 again, our system is set up, the hot 14 box detector system is set up, first 15 of all. If it was set to a level to 16 where you would have an audible alarm 17 to the crew, that was the only -- 18 would be the only way you would 19 communicate directly to the crew. 20 The question was, should an 21 alert be set. 22 The alert that would be 23 generated, again, would be an alert 24 that something that needs to be 25 reviewed, compared with other</p>	<p style="text-align: right;">Page 309</p> <p>1 Did anybody actually review the 2 data on the night of February 3rd to see how 3 that train's readings were trending between 4 Salem and East Palestine while the train was 5 on fire? 6 A. I'm not -- I'm not aware of 7 anybody reviewing all the data, but you said 8 on that night. Obviously the train, as it 9 passed Salem, when it gets to East Palestine, 10 then obviously the data at some point in time 11 has been reviewed. If that was your 12 question. 13 Q. At that point, the reading is 14 at 253 for the L1 axle bearing above ambient. 15 Correct? 16 MS. PUJARI: At what point -- 17 objection. Vague. 18 QUESTIONS BY MS. KARIS: 19 Q. When the train gets to East 20 Palestine, following up on Mr. Dixon's 21 comment, that obviously the data at some 22 point was reviewed. 23 So my question is, by the time 24 it gets to East Palestine, now it triggers a 25 locomotive alert.</p>

<p style="text-align: right;">Page 310</p> <p>1 Correct?</p> <p>2 It doesn't just go to the desk.</p> <p>3 There's an alert that actually goes off, an</p> <p>4 alarm that goes off on the train.</p> <p>5 Correct?</p> <p>6 A. There's an audible alarm that</p> <p>7 goes off informing the crew.</p> <p>8 Q. Right.</p> <p>9 So my question is, anybody at</p> <p>10 all from the wayside help desk, at any time</p> <p>11 before that audible alert goes off on the</p> <p>12 train, anybody from the wayside desk reach</p> <p>13 out to anyone on the train and say, hey, I'm</p> <p>14 looking at the data?</p> <p>15 No, correct?</p> <p>16 A. No.</p> <p>17 Q. Are you aware of anybody even</p> <p>18 looking at the data before the folks on the</p> <p>19 train get the audible alert?</p> <p>20 A. I'm not aware of anybody</p> <p>21 reviewing the hot box detector data at Salem</p> <p>22 prior to the train arriving in East</p> <p>23 Palestine.</p> <p>24 Q. Would you agree with me it</p> <p>25 would be a good practice if you're going to</p>	<p style="text-align: right;">Page 312</p> <p>1 expert testimony.</p> <p>2 THE WITNESS: I don't believe</p> <p>3 that that would be a case where you</p> <p>4 would be wanting to notify the crew</p> <p>5 every time you had a jump in a bearing</p> <p>6 temperature off one hot box detector.</p> <p>7 The crews have a lot that</p> <p>8 they're responsible to do while</p> <p>9 they're operating that train, and so</p> <p>10 that's why you have a trending alert</p> <p>11 and different types of alerts.</p> <p>12 What the temperature -- I'm not</p> <p>13 an expert as to what you set those to,</p> <p>14 as far as what the variance should be,</p> <p>15 but to take any type of variance and</p> <p>16 communicate that directly to the train</p> <p>17 crew, you would have to -- if you were</p> <p>18 going to direct them or provide them</p> <p>19 with information, you're going to be</p> <p>20 asking them to take some sort of</p> <p>21 action.</p> <p>22 So until you -- until you get</p> <p>23 the data that requires you to alert</p> <p>24 them -- and again, I'm not the expert</p> <p>25 as to set -- when you say 80 degrees,</p>
<p style="text-align: right;">Page 311</p> <p>1 see a temperature differential of 80 degrees</p> <p>2 between your left and your right bearing?</p> <p>3 MS. PUJARI: Objection. Beyond</p> <p>4 the scope of the 30(b)(6). Calls for</p> <p>5 expert testimony.</p> <p>6 MS. KARIS: Counsel, we're</p> <p>7 not -- we can debate that later</p> <p>8 whether it's beyond the scope.</p> <p>9 But go ahead.</p> <p>10 MS. PUJARI: Not designated --</p> <p>11 not -- this witness is not designated</p> <p>12 for this topic.</p> <p>13 MS. KARIS: Okay. Let me</p> <p>14 finish the question. Let me reread</p> <p>15 the question.</p> <p>16 QUESTIONS BY MS. KARIS:</p> <p>17 Q. Would you agree with me it</p> <p>18 would be a good practice, if you're going to</p> <p>19 see a temperature differential of</p> <p>20 approximately 70 degrees over a ten-mile</p> <p>21 distance and an 83-degree temperature</p> <p>22 differential between your left and your right</p> <p>23 axle, to notify the crew on the train?</p> <p>24 MS. PUJARI: Objection. Beyond</p> <p>25 the scope of the 30(b)(6). Calls for</p>	<p style="text-align: right;">Page 313</p> <p>1 I don't know if that's something that</p> <p>2 should be communicated or not.</p> <p>3 QUESTIONS BY MS. KARIS:</p> <p>4 Q. You have three people on the</p> <p>5 train that you would be communicating to,</p> <p>6 correct?</p> <p>7 MS. PUJARI: Objection. Beyond</p> <p>8 the scope. Calls for expert testimony</p> <p>9 and goes way beyond the scope of the</p> <p>10 30(b)(6).</p> <p>11 QUESTIONS BY MS. KARIS:</p> <p>12 Q. How many people were on the</p> <p>13 train to which you would communicate that</p> <p>14 night?</p> <p>15 MS. KARIS: Counsel, I'm going</p> <p>16 to address the beyond the scope in a</p> <p>17 second.</p> <p>18 But go ahead.</p> <p>19 THE WITNESS: There were three</p> <p>20 employees, to my understanding.</p> <p>21 QUESTIONS BY MS. KARIS:</p> <p>22 Q. All right. Is it your</p> <p>23 testimony, Mr. Dixon, as the corporate</p> <p>24 representative that the hot box detector</p> <p>25 system worked as intended the night of</p>

<p style="text-align: right;">Page 314</p> <p>1 February 3rd of 2023?</p> <p>2 A. Yes.</p> <p>3 MS. KARIS: Thank you.</p> <p>4 VIDEOGRAPHER: Off the record?</p> <p>5 4:44, we are off the video</p> <p>6 record.</p> <p>7 (Off the record at 4:44 p.m.)</p> <p>8 VIDEOGRAPHER: 5 p.m. We are</p> <p>9 on the video record.</p> <p>10 (Dixon 30(b)(6) Exhibit 28</p> <p>11 marked for identification.)</p> <p>12 CROSS-EXAMINATION</p> <p>13 QUESTIONS BY MR. SWANSON:</p> <p>14 Q. Mr. Dixon, good afternoon. My</p> <p>15 name is Brian Swanson. I represent Trinity,</p> <p>16 and I have a few questions for you this</p> <p>17 afternoon.</p> <p>18 Okay?</p> <p>19 A. Okay.</p> <p>20 Q. All right. So to start with, I</p> <p>21 have put before you what's been marked as</p> <p>22 Exhibit 28. This is Trinity's cross-notice</p> <p>23 of Rule 30(b)(6) videotaped deposition of</p> <p>24 Norfolk Southern.</p> <p>25 Take a quick look. I'm not</p>	<p style="text-align: right;">Page 316</p> <p>1 Q. Terrific.</p> <p>2 And those additional</p> <p>3 paragraphs, just for the record, are</p> <p>4 paragraphs 153, 154 and 190 of the</p> <p>5 third-party complaint.</p> <p>6 Correct?</p> <p>7 That's on page 2. Oh, you just</p> <p>8 passed it. Here you go.</p> <p>9 A. Okay.</p> <p>10 Q. See those?</p> <p>11 A. Yes.</p> <p>12 Q. Are you ready to talk about</p> <p>13 those?</p> <p>14 A. Yes.</p> <p>15 Q. Terrific.</p> <p>16 Okay. Before we dive into the</p> <p>17 complaint and the allegations, just to sort</p> <p>18 of set things up from Trinity's perspective,</p> <p>19 Norfolk Southern's claims against Trinity</p> <p>20 relate to a single VCM car that Trinity</p> <p>21 leased to Oxy Vinyls.</p> <p>22 Correct?</p> <p>23 A. What car are you referring to?</p> <p>24 Q. I'm referring to -- it's -- you</p> <p>25 call it Car 26, or TILX402025.</p>
<p style="text-align: right;">Page 315</p> <p>1 going to spend a lot of time, but have you</p> <p>2 seen this before?</p> <p>3 A. I've seen the topic here,</p> <p>4 but --</p> <p>5 Q. Well, maybe I can speed it up.</p> <p>6 If you look at page 2. So this</p> <p>7 morning you were provided by the -- by</p> <p>8 plaintiff's counsel a 30(b)(6) deposition</p> <p>9 notice, and we've been through that, and</p> <p>10 you've talked about some of the allegations</p> <p>11 in that notice.</p> <p>12 Correct?</p> <p>13 A. Correct.</p> <p>14 Q. What Trinity did is we sent out</p> <p>15 a notice that incorporated that -- the</p> <p>16 previous notice that you've seen and then</p> <p>17 added three paragraphs from the amended</p> <p>18 complaint that we'd like to discuss with you.</p> <p>19 Do you understand that?</p> <p>20 A. I understand.</p> <p>21 Q. And you're prepared to talk</p> <p>22 about those additional paragraphs as the</p> <p>23 corporate representative of Norfolk Southern.</p> <p>24 True?</p> <p>25 A. That's true.</p>	<p style="text-align: right;">Page 317</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And Trinity's claim -- or</p> <p>4 excuse me. Norfolk Southern's claims against</p> <p>5 Trinity relate solely to that car.</p> <p>6 Correct?</p> <p>7 A. My understanding is that is</p> <p>8 correct.</p> <p>9 Q. And that was one of the five</p> <p>10 VCM cars that derailed on February 3rd in</p> <p>11 East Palestine.</p> <p>12 Right?</p> <p>13 A. That's one of the five vinyl</p> <p>14 chloride cars, correct.</p> <p>15 Q. Norfolk Southern does not claim</p> <p>16 that Car 26, or TILX402025, was in any way</p> <p>17 responsible for causing the derailment of</p> <p>18 Train 32N.</p> <p>19 Right?</p> <p>20 A. Again, I wouldn't -- the</p> <p>21 cause -- the derailment cause, I think, is</p> <p>22 still under investigation, but I don't</p> <p>23 believe, again, there's any -- there's any</p> <p>24 root cause for the actual derailment assigned</p> <p>25 at this point in time to TILX402025.</p>

<p style="text-align: right;">Page 318</p> <p>1 Q. Right.</p> <p>2 I mean, Norfolk Southern has</p> <p>3 sued Trinity, right? Right, sir?</p> <p>4 A. That's correct.</p> <p>5 Q. And in that lawsuit, you do not</p> <p>6 claim that Car 26, or 402025, was in any way</p> <p>7 responsible for causing the derailment of</p> <p>8 32N.</p> <p>9 Right?</p> <p>10 A. I don't have any indication</p> <p>11 that we are making that claim.</p> <p>12 Q. And you testified to that as</p> <p>13 the representative of Norfolk Southern.</p> <p>14 Right?</p> <p>15 A. What I would -- what I would</p> <p>16 claim is, again, what we've stated in the</p> <p>17 claims on certain paragraphs, such as, you</p> <p>18 know, providing ordinary care, failing to</p> <p>19 properly certify the design, build and</p> <p>20 conversion testing, modifications to tank</p> <p>21 cars and their components with both Trinity</p> <p>22 and Oxy Vinyls and GATX.</p> <p>23 Q. Sir, we're going to get into</p> <p>24 the allegations you have made against</p> <p>25 Trinity. I thought my question was pretty</p>	<p style="text-align: right;">Page 320</p> <p>1 of Norfolk Southern's complaint labeled the</p> <p>2 Derailment Response.</p> <p>3 Right?</p> <p>4 A. Correct.</p> <p>5 Q. Paragraph 74 begins, "By</p> <p>6 midnight, a unified command team was formed,</p> <p>7 comprised of," and then it lists a number of</p> <p>8 entities comprising that unified command</p> <p>9 team.</p> <p>10 Right?</p> <p>11 A. Correct.</p> <p>12 Q. One of the entities that's</p> <p>13 listed is the Norfolk Southern HAZMAT team.</p> <p>14 Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. Who were the members of the</p> <p>17 Norfolk Southern HAZMAT team?</p> <p>18 A. I would have to look at every</p> <p>19 one represented there. I don't -- I couldn't</p> <p>20 tell you.</p> <p>21 Q. Can you tell me anyone?</p> <p>22 A. I would say -- I could probably</p> <p>23 name one.</p> <p>24 Q. Who is that?</p> <p>25 A. Robert Wood.</p>
<p style="text-align: right;">Page 319</p> <p>1 simple.</p> <p>2 You do not allege in your</p> <p>3 complaint that Trinity's Car 402025 had</p> <p>4 anything to do with causing the derailment.</p> <p>5 Correct?</p> <p>6 A. Again, as I stated before, I</p> <p>7 don't believe that we have any information</p> <p>8 right now that definitively states what</p> <p>9 caused the derailment. There is -- there is</p> <p>10 right now nothing I can point to that says,</p> <p>11 again, Car 26, TILX402025, caused the 32N</p> <p>12 derailment.</p> <p>13 Q. Let's, if you could, please,</p> <p>14 open or take out Exhibit 4. That's the</p> <p>15 third-party complaint that you've been</p> <p>16 testifying about so far today.</p> <p>17 And I'm going to try to go</p> <p>18 through it in some order, and I'll start, if</p> <p>19 you can please turn to paragraph 74, which is</p> <p>20 on page 16.</p> <p>21 Are you there?</p> <p>22 A. Page 70 -- I mean, 74?</p> <p>23 Q. Yeah, page 16.</p> <p>24 A. Yes, I'm there.</p> <p>25 Q. Okay. And this is in a section</p>	<p style="text-align: right;">Page 321</p> <p>1 Q. And you testified about him</p> <p>2 earlier today.</p> <p>3 Right?</p> <p>4 A. Correct.</p> <p>5 Q. Can't name anyone else as you</p> <p>6 sit here today?</p> <p>7 A. No, not off memory.</p> <p>8 Q. All right. Let me see if I can</p> <p>9 jog your memory.</p> <p>10 Do you know Drew McCarty from</p> <p>11 SPSI, or Specialized Professional Services,</p> <p>12 Inc.?</p> <p>13 A. No, I don't know Drew McCarty.</p> <p>14 Q. Do you know that entity, SPSI?</p> <p>15 A. Yes.</p> <p>16 Q. Is SPSI a contractor for</p> <p>17 Norfolk Southern?</p> <p>18 A. Yes, they are.</p> <p>19 Q. Do you work with them</p> <p>20 occasionally on train derailments like this</p> <p>21 one?</p> <p>22 A. Yes.</p> <p>23 Q. Did SPSI have folks on the</p> <p>24 ground at East Palestine after the derailment</p> <p>25 advising on derailment response?</p>

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1 A. SPSI had representatives at
2 East Palestine.

3 Q. And as part of preparing for
4 this deposition, did you read any interviews
5 or testimony from folks at SPSI?

6 A. There was some information, or
7 SPSI was mentioned in several locations
8 throughout the documents.

9 Q. Do you recall reading anything
10 from SPSI that you thought was untrue or
11 incorrect?

12 A. Nothing struck me as being
13 untrue.

14 Q. Do you know a Charles Day or
15 Chip Day from Specialized Response Solutions,
16 or SRS?

17 A. I don't know that individual
18 personally.

19 Q. I apologize if I didn't ask
20 you.

21 Were individuals from SPSI part
22 of the Norfolk Southern HAZMAT team?

23 A. They were working as
24 contractors for Norfolk Southern. I
25 wouldn't -- I mean, as they -- were they part

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1 of the unified command team? They probably
2 were, again, assisting.

3 Q. They were at least assisting
4 Norfolk Southern in its role as a member of
5 the unified command team?

6 A. I would say that they were
7 assisting the unified command team.

8 Q. Okay. And is that the same for
9 Specialized Response Solutions, or SRS?

10 A. Yes.

11 Q. Are they another Norfolk
12 Southern contractor?

13 A. They were another group that
14 Norfolk Southern brought in to assist.

15 Q. Another --

16 A. Contractor.

17 Q. Another contractor that Norfolk
18 Southern works with from time to time on
19 train derailments?

20 A. Occasionally, again, depending
21 on the situation, as well as pretty much
22 everybody else on that unified command team,
23 if needed.

24 Q. I didn't mean to interrupt you,
25 I'm sorry.

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1 A. No, I was just going to say,
2 not only just Norfolk Southern, but pretty
3 much everybody on this unified command team if
4 they had the need for other instances.

5 In other words, there's not a
6 large number of these specialized groups out
7 there to deal with the types of situations.

8 Q. What was the specific role of
9 the Norfolk Southern HAZMAT team in the
10 unified command structure?

11 A. I'm not privy to the role the
12 NS team played as opposed to the other team
13 members.

14 Q. Well, did the NS team -- you've
15 testified about this a bit this morning, this
16 afternoon.

17 But did the NS HAZMAT team
18 advise on how to handle the derailed VCM
19 cars?

20 A. They -- I think everybody in
21 the command team had some input, and
22 obviously Norfolk Southern's HAZMAT team
23 would have input and provide guidance.

24 Q. So the Norfolk Southern HAZMAT
25 team, they had input at the unified command

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1 on whether to conduct a vent and burn, for
2 example.

3 True?

4 A. I believe, again, I believe
5 everybody on the command team had the
6 opportunity to provide input.

7 Q. Okay. I'm asking about Norfolk
8 Southern HAZMAT team.

9 A. Which I would agree.

10 Q. Okay.

11 A. Norfolk Southern as well.

12 Q. And that Norfolk Southern
13 HAZMAT team, they had input at the unified
14 command on whether polymerization was
15 occurring in any of the derailed VCM cars.

16 True?

17 A. I think, as we've heard from a
18 number of people today, a lot of people were
19 providing input as to whether or not
20 polymerization or --

21 Q. Again, I'm focused on Norfolk
22 Southern at the unified command.

23 The Norfolk Southern HAZMAT
24 team had input at the unified command on
25 whether polymerization was occurring within

<p style="text-align: right;">Page 326</p> <p>1 any of the derailed VCM cars. 2 Right? 3 A. They had input with their 4 thoughts with respect to polymerization. 5 Q. Now, no one from Trinity 6 provided any input or advised on whether a 7 vent and burn operation should be performed 8 on the derailed VCM cars. 9 Right? 10 A. I don't have any information 11 that says that Trinity provided any input. 12 Q. So based on your knowledge as a 13 corporate representative of Norfolk Southern, 14 Trinity had no input on whether to perform 15 the vent and burn operation. 16 True? 17 A. Again, I don't have any 18 information that claims Trinity had any input 19 on any of the rail cleanup. 20 Q. Okay. So the answer to my 21 question is, correct, true. 22 Right? 23 MS. PUJARI: Objection. Asked 24 and answered. 25 THE WITNESS: Could you repeat</p>	<p style="text-align: right;">Page 328</p> <p>1 that anyone from Trinity advised on whether 2 polymerization was or was not occurring in 3 any of the derailed VCM cars. 4 True? 5 A. I haven't seen any, again, 6 information that Trinity provided. 7 Q. Flip a page, please, to 8 page 17. I want to look at paragraph 81. 9 Are you there? 10 A. I'm there. 11 Q. Paragraph 81 reads, "Following 12 a tank car derailment and fire, responders 13 typically have four options." 14 Do you see that? 15 A. I see that. 16 Q. So focusing to begin on the 17 first option, it says, "First, responders can 18 re-rail the tank car and move it to the next 19 destination if they determine there is no 20 tank damage." 21 Do you see that? 22 A. I do see that. 23 Q. And at some point in time, 24 re-railing one or more of the vinyl chloride 25 cars was something that unified command</p>
<p style="text-align: right;">Page 327</p> <p>1 your question -- 2 QUESTIONS BY MR. SWANSON: 3 Q. Sure can. 4 A. -- because I'm just trying -- 5 Q. Yeah, yeah, you bet. 6 A. -- to provide with you an 7 appropriate response. 8 But go ahead and ask your 9 question again. 10 Q. No one from Trinity advised the 11 unified command whether or not it should 12 perform a vent and burn operation on the 13 derailed VCM cars. 14 Correct? 15 A. And again, it's not correct or 16 not correct, because I don't know, other 17 than -- I don't have any information that 18 leads me to believe Trinity provided any 19 information to that command team, to that 20 incident command group. Again, I don't know. 21 Did somebody at Trinity call 22 somebody? I don't know. I have seen no 23 information at all that any information was 24 provided to that -- to that team. 25 Q. You've also seen no information</p>	<p style="text-align: right;">Page 329</p> <p>1 considered. 2 Right? 3 A. Yes. I would say that they did 4 consider that. 5 Q. Yeah. 6 And the folks at Norfolk 7 Southern and at SPSI and at SRS, they helped 8 advise on that, didn't they? 9 A. I would assume, again, 10 everybody on that team was looking through 11 each one of these options. 12 Q. Okay. Now, focused on Norfolk 13 Southern and its contractors that it hired, 14 would Norfolk Southern consider re-railing a 15 tank car that it determined was not stable? 16 A. No. 17 MS. PUJARI: Objection. 18 QUESTIONS BY MR. SWANSON: 19 Q. Why not? 20 A. For safety reasons. 21 Q. Would Norfolk Southern or its 22 contractors consider re-railing a car if that 23 tank car's pressure release device was not 24 functioning properly? 25 A. Again, if you're having a</p>

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1 release, then you're not going to put --
 2 you're not going to re-rail a car that is
 3 having a pressure release --
 4 Q. Okay.
 5 A. -- the valve release product.
 6 Q. So if you don't think the
 7 pressure release device is working properly,
 8 you're not going to put that car back on the
 9 rails.
 10 Right?
 11 A. Again, it's one of those, is
 12 there a -- is there -- there has to be an
 13 assessment of the risk associated with the
 14 damage that could potentially occur.
 15 If you're asking me if you have
 16 a tank car where the PRDs are not working,
 17 would you put that back on the rail, well, if
 18 you've had -- if you have no product in a car
 19 and there's -- it's just literally an empty
 20 tank, and the PRDs are no longer functional
 21 and there's no risk, then the answer would
 22 be, yes, I don't believe there would be any
 23 issue with re-railing the tank and moving it.
 24 Q. Okay. But if a car still has
 25 VCM in it, would you re-rail that car if the

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1 PRD, or pressure release device, was not
 2 functioning properly?
 3 A. I'm not, again, the technical
 4 expert on that, so, again, I would leave that
 5 up to our HAZMAT specialists and safety
 6 group.
 7 Q. Would Norfolk Southern consider
 8 re-railing a tank car if they believed that
 9 vinyl chloride in that tank car was actively
 10 polymerizing?
 11 MS. PUJARI: Objection. Calls
 12 for expert testimony.
 13 THE WITNESS: Again, I'm not an
 14 expert in that field, but I would not
 15 believe that anybody would re-rail a
 16 car that was actively --
 17 polymerization was occurring.
 18 QUESTIONS BY MR. SWANSON:
 19 Q. Or at risk for --
 20 A. Or at risk. They felt there
 21 was a risk for that.
 22 Q. Okay. Same thing. That
 23 wouldn't be safe to do that.
 24 Right?
 25 A. Correct.

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1 Q. Okay. Now, if I look at
 2 paragraph 81, it says that the second option
 3 in responding to a derailment is, "If the
 4 tank car is damaged and cannot be safely
 5 re-railed and moved, responders can transfer
 6 the product from the tank car using the
 7 transfer valves."
 8 Right?
 9 A. Yes, I see that.
 10 Q. And then number 3 talks about
 11 hot tapping.
 12 Right?
 13 A. Yes.
 14 Q. And then the fourth option, it
 15 talks about -- you say the last resort is the
 16 vent and burn.
 17 Right?
 18 A. Within paragraph 81, it does
 19 mention vent and burn is the fourth option.
 20 Q. Right.
 21 And they say vent and burn is
 22 the last resort, right?
 23 A. Yeah, that's what it says here.
 24 Q. And it's a last resort because
 25 when you vent and burn, you send all sorts of

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1 chemicals up into the environment and onto
 2 the ground.
 3 Right?
 4 A. Well, there's -- yes, I mean,
 5 that's one of those things where you're
 6 thinking, okay, here's my options. This is
 7 what we want to do first, second, third, and
 8 you work through.
 9 I'm not -- again, I'm not an
 10 expert in HAZMAT, so I can't tell you exactly
 11 why that fourth option, they refer to it as
 12 the last resort, other than they've come to a
 13 conclusion that there's no other steps to
 14 take in order to control whatever hazard is
 15 still being presented, right?
 16 So if there is believed,
 17 perceived risk, they're trying to work
 18 through, how do we elevate the perceived risk
 19 and the hazard that's being presented.
 20 So if they're saying, look,
 21 this is our last resort because we've got a
 22 risk here that we can't ignore, and I'm
 23 looking down through my choices, then, yes,
 24 they're going to try to mitigate the risk,
 25 the safety risk, that's being presented to

<p style="text-align: right;">Page 334</p> <p>1 them. And if that's their last resort, then, 2 yes, that's why I guess they're saying that's 3 their last resort. 4 Q. What about -- what about just 5 moving a tank car? I mean, you can move it 6 back onto the rails, but you can also move it 7 away from a fire. 8 Right? Is that an option? 9 A. The same concerns with 10 re-railing that you spoke to earlier would 11 apply to moving it. Whether it's re-railing 12 it, moving it by train or putting it on a 13 truck or whatever the case, I think the same 14 type of decisions are being assessed, or 15 risks are being assessed. 16 Q. Got it. 17 But if a car, if a derailed 18 car, was deemed to be stable, one option you 19 would have, rather than re-railing it, is 20 just to move it out of the way of fires and 21 other perceived dangers. 22 Right? 23 MS. PUJARI: Objection. Vague 24 as to "stable." 25 THE WITNESS: Yeah. What --</p>	<p style="text-align: right;">Page 336</p> <p>1 know better than anybody here about the 2 structure of the tank car. Anytime one of 3 those cars hits the ground off the rail, 4 there's potential for structural integrity 5 issues. 6 You know, if you're only 7 looking at the jacket and then the thermal 8 protection system, there's -- again, an 9 assessment is going to be made about moving 10 that car because, again, you have to make an 11 assessment as to what the risk is. And quite 12 honestly, with all of the safety data sheets 13 that I've seen with respect to vinyl 14 chloride, I don't think anybody that looked 15 at that safety data sheet could tell you that 16 a single one of those vinyl chloride cars 17 that had sat in those pool fires for the 18 amount of time that it did, that that would 19 be considered stored -- stored appropriately. 20 Q. Let me ask you a different 21 question. Let me ask you a different 22 question. 23 If a car -- if a tank car, a 24 VCM tank car, was in -- in a position where 25 it was deemed it could be re-railed, okay?</p>
<p style="text-align: right;">Page 335</p> <p>1 when you say "stable," what are you 2 referring to? 3 QUESTIONS BY MR. SWANSON: 4 Q. Well -- 5 A. When a car is stable, so 6 what -- 7 Q. Okay. 8 A. I want to answer your question. 9 Q. Yeah, I know you do. I know 10 you do. 11 So if a car is exhibiting the 12 characteristics that it was exhibiting when 13 it was on the rail before it had derailed, 14 okay, in terms of pressure and temperature, 15 it's stable. 16 Okay? Right? Are you with me? 17 That's what I'm talking about as stable? 18 A. According to -- you stated 19 pressure and temperature. 20 Q. Temperature. Use those two. 21 A. In a derailment -- and you're 22 referring to tank cars? 23 Q. I am, sir. 24 A. Okay. Anytime a tank car is 25 derailed, there is potentially -- and you</p>	<p style="text-align: right;">Page 337</p> <p>1 You with me? 2 A. I'm with you. 3 Q. So the folks at Norfolk 4 Southern say, we can re-rail this car. It's 5 possible to re-rail. It's safe enough to 6 re-rail it. 7 Okay? 8 Another option, if you couldn't 9 re-rail it, would just be to move it out of 10 the way of danger. 11 Right? 12 A. If you made the risk of 13 allowing that tank just to sit there, yes, 14 could you potentially move it? 15 Again, you take -- you would 16 literally make an assessment -- 17 Q. Yeah. 18 A. -- as to what is in the best 19 interests at that point in time for the 20 safety of everybody, to include the personnel 21 and all of the individuals in the community. 22 Q. Yep. Got it. Okay. Thanks. 23 Let's move along, if we can, to 24 paragraph 94. This is again a paragraph 25 that's dealing with the response to the</p>

<p style="text-align: right;">Page 338</p> <p>1 derailment. 2 Okay? 3 Paragraph 94 begins, 4 "Responders attempted to collect further tank 5 car measurements while they continued 6 collecting potential readings through the 7 small holes in the jackets." 8 And you know that refers to 9 temperature readings. 10 Right? 11 A. Right. 12 Q. Yeah. 13 "Responders were unable to 14 collect internal tank pressure measurements 15 due to the comprised valve assemblies and 16 risk of placing personnel alongside 17 dangerously unstable cars." 18 Did I read that correctly? 19 A. You did. 20 And could you repeat your last 21 question for me? You wanted me to confirm 22 what these tank pressure measurements were or 23 are? 24 Q. Yeah. It refers to readings 25 through the small holes in the jackets, and</p>	<p style="text-align: right;">Page 340</p> <p>1 Q. Yeah, you bet I can, but I'm 2 first asking you if you know that's true or 3 not. 4 A. Again, I'm going to have to 5 look at the documentation. 6 Q. Okay. So you don't know that 7 Norfolk Southern's own contractors were able 8 to hook up a gauge to TILX402025 and get its 9 pressure readings? You didn't know that? 10 A. I believe there was one tank 11 car whose valves were not damaged to the 12 extent that, yes, they could get a reading. 13 Q. Okay. So let's look at the 14 exhibit previously marked as Exhibit 13. 15 Do you have that in front of 16 you? 17 A. I'm trying to find it here. I 18 don't have it in front of me. It's a 19 hazardous -- okay. 20 Q. Do you have that in front of 21 you, sir? 22 A. I do. 23 Q. And I'm going to ask you to 24 turn, if you can, please, to page 82 of 158. 25 Are you there?</p>
<p style="text-align: right;">Page 339</p> <p>1 that refers to temperature readings. 2 Correct? 3 A. I would say that if you're 4 trying to access the tank, that would 5 probably be a temperature reading. 6 Q. Okay. And now I want to focus 7 on this allegation that Norfolk Southern made 8 that responders were unable to collect 9 internal tank pressure measurements. 10 Okay? 11 All right, sir? 12 A. Okay. 13 Q. And you know now that that 14 allegation is untrue. 15 Right? 16 A. What allegation are you saying 17 is not untrue? I'm sorry, is untrue? 18 Q. That responders were unable to 19 collect internal tank pressure measurements 20 from any tank cars. 21 That's not true, is it, sir? 22 A. Can you show me any of the 23 documentation that says that they were able 24 to collect internal tank pressure 25 measurements?</p>	<p style="text-align: right;">Page 341</p> <p>1 A. I'm on page 82, yes. 2 Q. Okay. And if you look at the 3 very last paragraph on page 82, you see 4 there, "The SRS damage assessment of the VCM 5 tank cars on the morning of February 5th." 6 Do you see that? 7 A. Yes. 8 Q. Okay. So that's just to 9 situate us on the date there, February 5. 10 The very last word on that 11 page, and then we're going to continue to 12 page 83. 13 Okay? 14 So it says, it reads, "Crews 15 attached a pressure gauge to 28 TILX402025 16 and found a tank pressure of 60 PSIG." 17 Do you see that? 18 A. I do. 19 Q. You understand, sir, that 20 60 PSIG is a normal pressure reading from a 21 tank containing stabilized vinyl chloride 22 monomer? 23 A. Again, I believe I've seen that 24 as a -- as a tank pressure for vinyl 25 chloride, but, again, I'm not an expert, so</p>

<p style="text-align: right;">Page 342</p> <p>1 I'm not -- I don't know if I would just come 2 out and say I agree with that, but I believe 3 I've seen that as the normal temperature -- 4 Q. Sure. And -- 5 A. Tank pressure. 6 Q. -- you certainly don't claim 7 that 60 PSIG is an abnormally high pressure 8 reading for a VCM tank, right? 9 A. I would agree with that. 10 Q. And you know now that the 11 Norfolk Southern contractors continued to 12 monitor the pressure of TILX402025 from that 13 point forward. 14 True? 15 A. It's true. 16 Q. You know also that the pressure 17 readings on TILX402025 never exceeded 18 65 PSIG. 19 Right? 20 A. I'm not familiar with that, so 21 can you point me to a document that shows the 22 pressure readings were -- of 65 -- 23 Q. If you don't know, I'm not 24 going to -- I'm not going to ask you more. 25 You don't know?</p>	<p style="text-align: right;">Page 344</p> <p>1 temperature is a potential concern. 2 And I believe it was less than 3 10 degrees or so at East Palestine 4 during the point in time of 5 derailment. 6 QUESTIONS BY MR. SWANSON: 7 Q. Okay. 8 A. So I don't -- I wouldn't -- I 9 wouldn't agree with your statement, sir. 10 Q. You don't consider yourself an 11 expert on that, do you? 12 A. I don't. 13 Q. And the folks at SPSI who are 14 on the ground at the time, they would have 15 more expertise in that area? 16 Is that fair? 17 A. I believe all the HAZMAT 18 representatives that were on the ground from 19 Norfolk Southern and their contractors would 20 have more expertise than myself, yes. 21 Q. That's why they're there, 22 right? 23 A. That's right. 24 Q. Okay. Let's look -- let's look 25 at paragraph 96, if we can flip back and</p>
<p style="text-align: right;">Page 343</p> <p>1 A. Again, I'm not following where 2 you got the 65 -- never exceeded 65. 3 Q. Do you know one way or the 4 other? That's my question. 5 A. At this point, I'm not sure. 6 Q. Okay. And we've seen the 7 temperature readings that were obtained from 8 TILX402025. 9 Right? 10 A. Yes, I believe we've seen some 11 temperature readings. 12 Q. And those temperature readings 13 were normal. 14 True? 15 MS. PUJARI: Objection. Vague. 16 THE WITNESS: No, I don't -- I 17 wouldn't say that those temperature 18 readings were normal. 19 Again, I believe if you look at 20 some of the material that was 21 provided, such as the Vinyl Chloride 22 Institute's data and other material 23 concerning vinyl chloride, that any 24 type of temperature on a vinyl 25 chloride tank car that's above ambient</p>	<p style="text-align: right;">Page 345</p> <p>1 forth. 2 But I'm going to come back to 3 Exhibit 13, so don't put it too far from you. 4 A. All right. 5 Q. Okay. So I'm going to look at, 6 again, paragraph 96. 7 And we've talked a lot about 8 the vent and burn decision. I'm not going to 9 go over everything again. 10 But I just want to look at 11 that -- on 96, at paragraph 96, midway 12 through, it says, "By approximately noon, 13 unified command agreed that a vent and burn 14 of all five vinyl chloride tank cars, cars 15 26, 27, 28, 29 and 53, should occur." 16 Right? 17 A. That's what -- yes. 18 Q. And that was a recommendation, 19 you've testified about, that was made to the 20 unified command by the -- by the folks at 21 Norfolk Southern who were on the ground. 22 Right? 23 MS. PUJARI: Objection. 24 Mischaracterizes prior testimony. 25 THE WITNESS: Yeah, I think</p>

<p style="text-align: right;">Page 346</p> <p>1 the -- I think what was -- the</p> <p>2 recommendation, again, was coming from</p> <p>3 a number of sources over a period of</p> <p>4 time from a number of people on the --</p> <p>5 within the incident command group.</p> <p>6 QUESTIONS BY MR. SWANSON:</p> <p>7 Q. Didn't say Norfolk Southern was</p> <p>8 alone. I just want your testimony.</p> <p>9 Norfolk Southern was</p> <p>10 recommending that all five vinyl chloride</p> <p>11 cars being vented and burned.</p> <p>12 Correct?</p> <p>13 MS. PUJARI: Objection.</p> <p>14 Mischaracterizes prior testimony.</p> <p>15 THE WITNESS: I believe Norfolk</p> <p>16 Southern, again, came to that</p> <p>17 conclusion with the team of -- looking</p> <p>18 at all the data, again, over a period</p> <p>19 of time.</p> <p>20 QUESTIONS BY MR. SWANSON:</p> <p>21 Q. Now, when Norfolk Southern, you</p> <p>22 said, came to that conclusion to vent and</p> <p>23 burn Trinity's car 402025, that car was</p> <p>24 stable, wasn't it?</p> <p>25 MS. PUJARI: Objection. Vague</p>	<p style="text-align: right;">Page 348</p> <p>1 to...</p> <p>2 Q. To sit there, do nothing?</p> <p>3 A. To sit there and do nothing --</p> <p>4 Q. Right.</p> <p>5 A. -- with the concern that you</p> <p>6 were looking at a potential explosion.</p> <p>7 Q. Let me ask you. Let's see what</p> <p>8 the folks on the ground thought about 402025.</p> <p>9 If you can turn again, please,</p> <p>10 to Exhibit 13.</p> <p>11 And when I say "folks on the</p> <p>12 ground," I mean Norfolk Southern and its</p> <p>13 contractors.</p> <p>14 Okay?</p> <p>15 Do you have Exhibit 13 up? Or,</p> <p>16 excuse me, in front of you?</p> <p>17 A. I have 13 in front of me.</p> <p>18 Q. Okay. And if you could please</p> <p>19 turn to page 85.</p> <p>20 You see the middle paragraph</p> <p>21 there begins "Following that"?</p> <p>22 See that?</p> <p>23 It says, "Following that, SRS</p> <p>24 crews."</p> <p>25 And those are the contractors</p>
<p style="text-align: right;">Page 347</p> <p>1 as to "stable."</p> <p>2 THE WITNESS: Yeah. Again, I</p> <p>3 don't think anybody, having read the</p> <p>4 safety data sheets that accompanied</p> <p>5 these tank cars with vinyl chloride,</p> <p>6 could have come to the conclusion that</p> <p>7 the vinyl chloride was still stable</p> <p>8 after going through what it went</p> <p>9 through for those days.</p> <p>10 QUESTIONS BY MR. SWANSON:</p> <p>11 Q. You think that's right?</p> <p>12 A. I believe anybody, again,</p> <p>13 looking at the safety data sheet, looking at</p> <p>14 these emergency response guide, looking at</p> <p>15 the information from the vinyl chloride,</p> <p>16 would come to the conclusion that, okay, we</p> <p>17 can move -- we can move that car. We can --</p> <p>18 we want to do something else with this car.</p> <p>19 I think they looked at the</p> <p>20 risks associated with what they were being</p> <p>21 addressed to at that point in time and came</p> <p>22 to the conclusion, this is the safest action</p> <p>23 that we can take instead of just letting</p> <p>24 those cars -- again, if they didn't vent and</p> <p>25 burn, the op -- the alternative is, what,</p>	<p style="text-align: right;">Page 349</p> <p>1 that Norfolk Southern hired to come and help</p> <p>2 out, right?</p> <p>3 A. They were a contractor, yes.</p> <p>4 Q. Right.</p> <p>5 They're the professionals in</p> <p>6 dealing with derailments, right?</p> <p>7 A. They are some of the</p> <p>8 professionals that were brought in.</p> <p>9 Q. Okay. "The SRS crews assisted</p> <p>10 with moving burning hopper cars away from the</p> <p>11 east end so that the crews could attempt to</p> <p>12 re-rail VCM Car TILX402025 because the car</p> <p>13 was determined to be stable with a pressure</p> <p>14 of 60 PSIG."</p> <p>15 Did I read that correctly?</p> <p>16 A. That's what's written here.</p> <p>17 Q. Okay. So the pros at SRS</p> <p>18 looked at 402025 and said, that car is</p> <p>19 stable, we can put it back on the rail and</p> <p>20 send it on its way.</p> <p>21 Right?</p> <p>22 MS. PUJARI: Objection.</p> <p>23 Mischaracterizes the document.</p> <p>24 QUESTIONS BY MR. SWANSON:</p> <p>25 Q. Correct, sir?</p>

<p style="text-align: right;">Page 350</p> <p>1 A. No, I don't think they were 2 saying we could put this car back on the 3 rail. Again, there was damage to the bolster 4 assemblies on both sides of the car, as it 5 says here. 6 Q. Okay. How about this. But for 7 the damage to the bolster, the professionals 8 at SRS were recommending that you take 9 402025, put it back on the rails and send it 10 on its way. 11 Right? 12 A. I don't take that from reading 13 this paragraph. 14 Q. Oh, you -- how do you take it 15 then? How do you take that paragraph? 16 A. I take it -- I take it that the 17 pressure appeared to be stable pressure of 18 60 PSI. 19 Q. How do you take the attempt to 20 re-rail the car? What does that mean to you? 21 MS. PUJARI: Objection. 22 Mischaracterizes the document. 23 THE WITNESS: When you see 24 "attempt to re-rail the car," where do 25 you see that? I'm looking at the</p>	<p style="text-align: right;">Page 352</p> <p>1 to re-rail the VCM car. 2 It was determined to have a 3 stable pressure of 60 PSI. 4 Again, looking at the context, 5 other than reading that sentence, 6 that's what I take away from that 7 sentence. 8 QUESTIONS BY MR. SWANSON: 9 Q. You take away that -- from that 10 sentence that TILX402025 had the potential to 11 be re-railed? 12 MS. PUJARI: Objection. 13 QUESTIONS BY MR. SWANSON: 14 Q. Given its -- given its pressure 15 readings? 16 MS. PUJARI: Objection. 17 Misstates the document. 18 THE WITNESS: Yeah. From 19 that -- from that sentence, I would 20 say that there was a potential for 21 them to assess whether or not they can 22 re-rail the TILX402025. 23 QUESTIONS BY MR. SWANSON: 24 Q. Right. 25 What happened is that</p>
<p style="text-align: right;">Page 351</p> <p>1 document you referenced and the 2 paragraph -- 3 QUESTIONS BY MR. SWANSON: 4 Q. Can we highlight that or 5 underline it there? I thought it was clear. 6 A. Okay. "Attempt to re-rail the 7 cars." 8 Q. Yeah. Now, I think you 9 testified earlier that the folks at Norfolk 10 Southern and its contractors wouldn't attempt 11 to re-rail a VCM car if it was unsafe. 12 Do you remember that testimony? 13 A. Yes, if it was deemed to be 14 unsafe. 15 Q. Okay. So the folks at SRS, the 16 contractors for Norfolk Southern, had 17 determined that VCM Car TILX402025 was not 18 unsafe and could be re-railed, if possible. 19 True? 20 MS. PUJARI: Objection. 21 Misstates the document. 22 THE WITNESS: I think the 23 statement, the way I read the 24 statement, is that they were sent in 25 from the east to look at the potential</p>	<p style="text-align: right;">Page 353</p> <p>1 unfortunately they determined, when they went 2 out to try to re-rail this thing, that the 3 bolster was in such a condition that they 4 couldn't drag it back onto the rails. 5 Right? 6 A. Well, the bolster assemblies, 7 again, I don't think, is the only reason you 8 would not re-rail. Anytime a railway -- a 9 railcar derails, there would be nothing 10 preventing somebody from bringing in 11 additional wheel sets if that was considered 12 to be, again, the safest opportunity at that 13 time. 14 But again, re-railing at that 15 point in time, I guess the context here is 16 what period of time. 17 Q. Well, the context right here is 18 Norfolk Southern wants its rail to get open 19 again. 20 Right? 21 MS. PUJARI: Objection. 22 Misstates the evidence. 23 QUESTIONS BY MR. SWANSON: 24 Q. And if you bring in an extra 25 set of wheels and put those on, that's going</p>

<p style="text-align: right;">Page 354</p> <p>1 to take time, right?</p> <p>2 MS. PUJARI: Objection. Form.</p> <p>3 THE WITNESS: Norfolk Southern</p> <p>4 was wanting to make sure that the</p> <p>5 issues that were presented and the</p> <p>6 safety risks that were prevented were</p> <p>7 addressed, number one.</p> <p>8 Obviously, if we re-railed all</p> <p>9 the cars and had the possibility to</p> <p>10 re-rail everything and just haul it</p> <p>11 out, that would be the fastest thing</p> <p>12 for the cleanup, but that's not the</p> <p>13 safest course of action.</p> <p>14 If we could have transferred</p> <p>15 the product, that would have been the</p> <p>16 fastest thing. But, again, it wasn't</p> <p>17 the safest action, and we couldn't</p> <p>18 take that action.</p> <p>19 Every time they went through</p> <p>20 their decision matrix as to figure</p> <p>21 out, what do we do, they're looking at</p> <p>22 it from the standpoint of safety.</p> <p>23 QUESTIONS BY MR. SWANSON:</p> <p>24 Q. Okay. Well, let me challenge</p> <p>25 you on that.</p>	<p style="text-align: right;">Page 356</p> <p>1 don't -- I don't take that away from</p> <p>2 this, I guess, quote from the SRS</p> <p>3 senior project manager.</p> <p>4 QUESTIONS BY MR. SWANSON:</p> <p>5 Q. Okay. Let's look then back at</p> <p>6 the Exhibit 4, the complaint.</p> <p>7 I want to focus on</p> <p>8 paragraph 120.</p> <p>9 MS. PUJARI: Counsel, 120?</p> <p>10 MR. SWANSON: Paragraph 120.</p> <p>11 MS. PUJARI: Thank you.</p> <p>12 QUESTIONS BY MR. SWANSON:</p> <p>13 Q. It's on page 24.</p> <p>14 Are you there?</p> <p>15 A. I'm there.</p> <p>16 Q. Okay. Paragraph 20 reads,</p> <p>17 "Here, there were multiple discrepancies</p> <p>18 identified by the Federal Railroad</p> <p>19 Administration between the approved documents</p> <p>20 and the actual physical characteristics of</p> <p>21 the vinyl fluoride" -- "vinyl chloride tank</p> <p>22 cars on Train 32N."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And just as a housekeeping</p>
<p style="text-align: right;">Page 355</p> <p>1 If you look at the testimony of</p> <p>2 the SRS senior project manager, do you see</p> <p>3 that right below what we've been reading?</p> <p>4 Do you see that?</p> <p>5 He says, "Based on the damage,</p> <p>6 we're not going to be able to ship this stuff</p> <p>7 down the road, so we might as well just -- we</p> <p>8 might as well, based on the risk management</p> <p>9 scenario, vent and burn all five cars."</p> <p>10 "Might as well vent and burn."</p> <p>11 That was the decision, right?</p> <p>12 A. I'm still reading the quote --</p> <p>13 Q. Go ahead.</p> <p>14 A. -- if you don't mind.</p> <p>15 So can you repeat the question?</p> <p>16 I've read the paragraph.</p> <p>17 Q. The decision to vent and burn</p> <p>18 TILX402025 wasn't made because that car posed</p> <p>19 any danger; it was made because they couldn't</p> <p>20 decide what else to do with it.</p> <p>21 Right?</p> <p>22 MS. PUJARI: Objection.</p> <p>23 Mischaracterizes prior testimony and</p> <p>24 the document.</p> <p>25 THE WITNESS: Yeah. Again, I</p>	<p style="text-align: right;">Page 357</p> <p>1 matter, Norfolk Southern makes the same</p> <p>2 allegation in -- or similar allegation in</p> <p>3 paragraph 152.</p> <p>4 Correct?</p> <p>5 A. Similar.</p> <p>6 Q. Okay. So looking at</p> <p>7 paragraph 120, it says that these so-called</p> <p>8 discrepancies were identified by the Federal</p> <p>9 Railroad Administration.</p> <p>10 Right?</p> <p>11 A. Yes.</p> <p>12 Q. When did the Federal Railroad</p> <p>13 Administration identify these so-called</p> <p>14 discrepancies?</p> <p>15 A. I couldn't -- I couldn't</p> <p>16 testify here today about when they first</p> <p>17 identified these discrepancies. I can tell</p> <p>18 you that I reviewed information during the</p> <p>19 investigative hearing where the FRA</p> <p>20 representative, Mr. Kertz {sic}, I guess,</p> <p>21 testified on his findings comparing the</p> <p>22 railcars at the derailment to the actual</p> <p>23 AAR -- AAR Form 4-2, the certificate of</p> <p>24 construction.</p> <p>25 Q. Okay. And we'll get to -- it's</p>

<p style="text-align: right;">Page 358</p> <p>1 Mr. Keltz, I believe, right?</p> <p>2 A. I believe that was the FRA</p> <p>3 representative.</p> <p>4 Q. Okay. Other than that analysis</p> <p>5 by the FRA or Mr. Keltz and any documents</p> <p>6 they might have created or testimony they</p> <p>7 gave, did Norfolk Southern do any independent</p> <p>8 analysis into any discrepancies between the</p> <p>9 AAR form and the actual car?</p> <p>10 A. I'm not aware of any Norfolk</p> <p>11 Southern employees looking at -- looking at</p> <p>12 the actual characteristics versus the</p> <p>13 certificates of construction.</p> <p>14 Q. At any time, right?</p> <p>15 A. I'm not aware -- again, I'm not</p> <p>16 aware if it occurred, so it would be anytime,</p> <p>17 because, again, I'm not aware that it</p> <p>18 occurred.</p> <p>19 Q. Right.</p> <p>20 And but more focused, certainly</p> <p>21 between February 3rd, when the train</p> <p>22 derailed, and February 6th, when the vent and</p> <p>23 burn was executed, nobody at Norfolk Southern</p> <p>24 had any information regarding any so-called</p> <p>25 discrepancies between the AAR Form 4-2 and</p>	<p style="text-align: right;">Page 360</p> <p>1 Q. Okay. And before Norfolk</p> <p>2 Southern saw that document or saw that</p> <p>3 testimony, was anyone at Norfolk Southern</p> <p>4 aware of the so-called discrepancies between</p> <p>5 the certificate of construction and Car 26's</p> <p>6 actual characteristics?</p> <p>7 A. I'm not aware of anybody being</p> <p>8 aware of it.</p> <p>9 Q. What were the specific</p> <p>10 discrepancies that you refer to in</p> <p>11 subparagraph A?</p> <p>12 A. I don't have those down to</p> <p>13 memory, so if we want to take a look at the</p> <p>14 investigative hearing transcript --</p> <p>15 Q. Sure.</p> <p>16 A. -- we can go through -- go</p> <p>17 through that and...</p> <p>18 Q. What do you want to look at?</p> <p>19 You tell me.</p> <p>20 A. Okay. Let's go to the</p> <p>21 investigative hearing transcript, Day 2,</p> <p>22 pages 630 through 636.</p> <p>23 (Dixon 30(b)(6) Exhibit 29</p> <p>24 marked for identification.)</p> <p>25</p>
<p style="text-align: right;">Page 359</p> <p>1 the tank car's actual characteristics.</p> <p>2 Correct?</p> <p>3 A. Again, I'm not aware of any --</p> <p>4 any information that was supplied to NS</p> <p>5 showing the discrepancies between the actual</p> <p>6 car characteristics and the certificate of</p> <p>7 construction during that time.</p> <p>8 Q. If you look at the</p> <p>9 subparagraph A in paragraph 120, it says,</p> <p>10 "Trinity Industries Leasing Company's Car 26</p> <p>11 has discrepancies between its AAR 4-2</p> <p>12 certificate of construction and the tank</p> <p>13 car's actual characteristics."</p> <p>14 Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. When did anyone from Norfolk</p> <p>17 Southern -- well, let me ask it -- let me</p> <p>18 withdraw that.</p> <p>19 What evidence do you rely on in</p> <p>20 making that allegation?</p> <p>21 A. Looking at information from the</p> <p>22 NTSB, both the Hazardous Materials Group</p> <p>23 Chair Factual reports and again the FRA's</p> <p>24 testimony concerning the investigative</p> <p>25 hearing.</p>	<p style="text-align: right;">Page 361</p> <p>1 QUESTIONS BY MR. SWANSON:</p> <p>2 Q. Okay. Which page do you want</p> <p>3 to go to?</p> <p>4 MS. PUJARI: If he could wait,</p> <p>5 please.</p> <p>6 QUESTIONS BY MR. SWANSON:</p> <p>7 Q. Which page, sir?</p> <p>8 A. I think it would start at</p> <p>9 630 --</p> <p>10 Q. Sure.</p> <p>11 A. -- with Mr. Keltz.</p> <p>12 Q. Okay. Okay. And I just</p> <p>13 want -- I just want testimony about the</p> <p>14 Trinity car.</p> <p>15 Okay?</p> <p>16 A. Okay.</p> <p>17 Q. So tell me, what are the</p> <p>18 specific discrepancies that Norfolk Southern</p> <p>19 refers to in paragraph 120, subpart A.</p> <p>20 A. Okay. As you can see, where</p> <p>21 Mr. Keltz starts there on 630 and he says,</p> <p>22 down at line 19 there on page 630, starting</p> <p>23 with "the TILX car."</p> <p>24 If he said -- if you look at</p> <p>25 this -- if you look at this document for</p>

<p style="text-align: right;">Page 362</p> <p>1 TILX402025, you can look down through here 2 and see some discrepancies where when the 3 cars have approvals. These are documented on 4 what's called a certificate of construction. 5 It's an AAR form, industry-recognized AAR 6 4-2. 7 He goes on to note, "We looked 8 at the drawings that were provided along with 9 the certificate of construction. We noticed 10 there was issues with the different revision 11 levels that were not captured on the 12 certificates of construction." 13 And then he goes on to state, 14 "So what happened, what happened is, there 15 you have -- you know, it's on this 16 certificate of construction. If it's an 17 original, it is listing an original drawing, 18 and the car is altered subsequently to the 19 approval. And now -- and now it's, as you 20 know -- or as you know, now the information 21 is being provided with a different revision 22 level of drawings. There can be potential 23 changes to the cars that may make them unsafe 24 due to design criteria." 25 So he says, "That's what we</p>	<p style="text-align: right;">Page 364</p> <p>1 part of the car? 2 A. From here, I'm not sure. From 3 Mr. Keltz's testimony, he doesn't state the 4 exact changes. 5 Q. Did they relate to valves, 6 wheels, lining, pins, screws? Do you have 7 any idea? 8 A. Again, just from Mr. Keltz's 9 testimony, I couldn't tell you. But let me 10 take a look and see if we've got anything 11 from the Hazardous Materials Group Chair. 12 MS. PUJARI: I believe it's 13 Exhibit 13. 14 MR. SWANSON: It's Exhibit 13. 15 MS. PUJARI: Do you have the 16 whole -- do you have the entire 17 Exhibit 13, Mr. Dixon? 18 THE WITNESS: Yes. 19 QUESTIONS BY MR. SWANSON: 20 Q. Can you even tell me what part 21 of the tank car these drawings or revisions 22 related to, sir? 23 MS. PUJARI: Objection. 24 Argumentative. 25 THE WITNESS: Again, looking at</p>
<p style="text-align: right;">Page 363</p> <p>1 observed for this particular car. It was the 2 different revisions not captured on the 3 original 4-2 at the time of construction." 4 Q. Got it. 5 As the representative on behalf 6 of Norfolk Southern, is that the sum total of 7 Norfolk Southern's knowledge regarding the 8 so-called discrepancies between Car 26's 4-2 9 certificate and the tank car's actual 10 characteristics? 11 A. I would have to look again at 12 another one of the exhibits, Exhibit 10, the 13 Hazardous Materials Group, pages 33 14 through 38. 15 Q. Okay. You have that one in 16 front of you. 17 So what are the discrepancies 18 that you can tell me about based on this 19 exhibit? 20 A. As the FRA stated, there were 21 different revisions not captured on the 22 original 4-2. That was his summary, from 23 what I read of his testimony. 24 Q. Okay. What did the -- what did 25 the revisions or drawings relate to? What</p>	<p style="text-align: right;">Page 365</p> <p>1 the Hazardous Material Group's report, 2 the -- the only other exhibit that I 3 would need to be able to see is to 4 check, again, the revisions that were 5 made. Because I'm assuming here in 6 its application to the AAR for renewal 7 of approval for valves and fittings 8 that were approved on 2019, they 9 referenced pressure relief valves A 10 37,000. And in -- it goes on to 11 describe the parts within the pressure 12 release valve. 13 So I'd have to look at the 14 original 4-2 to see what Mr. Keltz was 15 referring to, but I would assume that 16 some of the revisions that weren't 17 captured, adequately captured. 18 QUESTIONS BY MR. SWANSON: 19 Q. Sir, I don't want your 20 assumption. Okay? Assumption doesn't do 21 anyone any good. I want to know Norfolk 22 Southern's knowledge. 23 You've made an allegation that 24 there were discrepancies between the 4-2 form 25 and the cars that existed. I want you to</p>

<p style="text-align: right;">Page 366</p> <p>1 tell me, if you can, what those discrepancies 2 were. If you can't tell me, you can say, I 3 don't know. 4 Okay? 5 A. I'll leave those -- that to the 6 experts to review the 4-2. 7 Again, the FRA noted the 8 differences, or the discrepancies, between 9 the revisions and the original certificate of 10 construction. 11 Q. Okay. That's one you have to 12 leave to the experts? 13 A. To look through the 14 construction and the parts on the -- on the 15 tank car, the pressure relief valves, the 16 angle cock valves. I'm not an expert to 17 quickly look at a AAR 4-2 and look at what 18 they stated was in the construction materials 19 and tell you if there is any differences in 20 drawings or anything -- 21 Q. We told you two weeks ago we 22 were going to ask you about that. We sent 23 out a notice that said, make sure you can 24 testify about the discrepancies. And now 25 you're saying you got to leave that to the</p>	<p style="text-align: right;">Page 368</p> <p>1 third-party defendants' failure to follow 2 federal regulations and industry rules on the 3 design, build, testing, modification and 4 qualification of hazardous materials tank 5 cars and their components." 6 Did I read that correctly? 7 A. That's what's written there at 8 153. 9 Q. Okay. And that's an allegation 10 that you've made, right? 11 A. That's an allegation that 12 Norfolk Southern has made, but that is a 13 legal allegation with respect to that 14 paragraph. 15 Q. Well, let's see. 16 When you say "failure to follow 17 federal regulations and industry rules," 18 you're referring back to the so-called 19 discrepancies you can't identify. 20 Right? 21 MS. PUJARI: Objection. 22 Misstates prior testimony and calls 23 for a legal conclusion. 24 QUESTIONS BY MR. SWANSON: 25 Q. Correct, sir?</p>
<p style="text-align: right;">Page 367</p> <p>1 experts. You haven't seen the analysis. 2 Is that fair? 3 A. No. What I'm saying is, is I 4 can testify to the fact that I know from what 5 I've read, the FRA has taken exception to the 6 AAR Form 4-2 and what the actual 7 characteristics were on that railcar. 8 Q. Okay. I'm running out of time, 9 so let's turn to paragraph 153, please. 10 "Norfolk Southern alleges the 11 damage and release of hazardous materials 12 from Car 26 was in part the result of 13 Trinity's failure to follow federal 14 regulations and industry rules on the design, 15 build, testing, modification and 16 qualification of hazardous material tank cars 17 and their components." 18 Did I read that right? 19 A. Can you tell me again what 20 paragraph you're on? 21 Q. I'm sorry, I thought you were 22 there. It's paragraph 153. 23 Try it again. "The damage and 24 release of hazardous materials from Cars 26, 25 27, 28, 29 and 53 were in part the result of</p>	<p style="text-align: right;">Page 369</p> <p>1 A. I'm saying that's a -- again, 2 part of the federal regulations that are set 3 for the design, building, testing, 4 modification. Those regulations are there, 5 and I would say, again, based off what we saw 6 from the FRA testimony, that there were 7 discrepancies between the actual physical 8 characteristics of the railcars at the time 9 of derailment and the original 4-2 10 certificate of construction. 11 Q. How do you claim that any of 12 those so-called discrepancies caused damage 13 and release of hazardous materials from 14 Car 26? 15 MS. PUJARI: Objection. Calls 16 for a legal conclusion. 17 THE WITNESS: Again, all I'm 18 looking at here from 153 is that it's 19 a -- as it reads -- 20 QUESTIONS BY MR. SWANSON: 21 Q. I can read it. 22 A. Okay. 23 Q. I want to know, how did any 24 discrepancy that you claim existed cause the 25 damage and release of hazardous materials</p>

<p style="text-align: right;">Page 370</p> <p>1 from Car 26?</p> <p>2 MS. PUJARI: Objection. Calls</p> <p>3 for a legal conclusion.</p> <p>4 THE WITNESS: Every -- again,</p> <p>5 everybody that is part of the supply</p> <p>6 chain, whether it's builders,</p> <p>7 shippers, transportation companies,</p> <p>8 they all have a responsibility to</p> <p>9 follow the federal guidelines that are</p> <p>10 put in place to ensure the safe</p> <p>11 transportation of goods.</p> <p>12 If that is not followed,</p> <p>13 then -- again, the whole purpose of</p> <p>14 having that in place is to make sure</p> <p>15 that safety is paramount.</p> <p>16 The materials, or the damage</p> <p>17 and releases of hazardous materials</p> <p>18 from those cars, if responders at this</p> <p>19 situation at that time, if they're</p> <p>20 looking at information pertaining to</p> <p>21 those railcars and making decisions</p> <p>22 based off those railcars, then, again,</p> <p>23 they're looking for everybody within</p> <p>24 the supply chain to have made sure</p> <p>25 that they're following all federal</p>	<p style="text-align: right;">Page 372</p> <p>1 Correct?</p> <p>2 MS. PUJARI: Objection.</p> <p>3 Misstates prior testimony.</p> <p>4 QUESTIONS BY MR. SWANSON:</p> <p>5 Q. Correct, sir?</p> <p>6 What else was it? It was the</p> <p>7 vent and burn, right?</p> <p>8 A. The --</p> <p>9 MS. PUJARI: Objection. Asked</p> <p>10 and answered. Misstates prior</p> <p>11 testimony.</p> <p>12 THE WITNESS: So the release --</p> <p>13 the damage that occurred during the</p> <p>14 time of the derailment to these cars.</p> <p>15 Obviously they were all damaged to</p> <p>16 some extent during the derailment.</p> <p>17 As far as the release of</p> <p>18 hazardous materials, all of the</p> <p>19 chlorine cars, as they were venting,</p> <p>20 the PRDs were releasing pressure --</p> <p>21 releasing pressure, were releasing</p> <p>22 hazardous materials.</p> <p>23 So I wouldn't agree with your</p> <p>24 statement that the only reason you</p> <p>25 have release of hazardous materials</p>
<p style="text-align: right;">Page 371</p> <p>1 regulations and industry rules.</p> <p>2 QUESTIONS BY MR. SWANSON:</p> <p>3 Q. Let me ask it a different way.</p> <p>4 The release of hazardous</p> <p>5 materials from Car 26, that was due solely to</p> <p>6 the vent and burn decision.</p> <p>7 Right?</p> <p>8 MS. PUJARI: Objection. Calls</p> <p>9 for a legal conclusion and misstates</p> <p>10 prior testimony.</p> <p>11 You can answer, and then I</p> <p>12 would ask that we take a break. We've</p> <p>13 been going for about an hour.</p> <p>14 MR. SWANSON: All right. I'll</p> <p>15 finish this line, and then we can take</p> <p>16 a break.</p> <p>17 QUESTIONS BY MR. SWANSON:</p> <p>18 Q. Correct, sir?</p> <p>19 A. The vent and burn, again, was a</p> <p>20 decision for all five of these railcars to</p> <p>21 mitigate the known risks at that time.</p> <p>22 Q. Right.</p> <p>23 But when you refer to the</p> <p>24 release of hazardous materials from Car 26,</p> <p>25 that was the result of the vent and burn.</p>	<p style="text-align: right;">Page 373</p> <p>1 from all these cars is simply the vent</p> <p>2 and burn.</p> <p>3 QUESTIONS BY MR. SWANSON:</p> <p>4 Q. But when the vent and burn</p> <p>5 decision was made, February 5, 2023, no one</p> <p>6 at Norfolk Southern was even aware that there</p> <p>7 were any discrepancies between the AAR</p> <p>8 Form 4-2 and the Car 26 as it existed at the</p> <p>9 time.</p> <p>10 Correct?</p> <p>11 A. Again, as I testified before,</p> <p>12 I'm not aware of anybody at Norfolk Southern</p> <p>13 knowing there was discrepancies between the</p> <p>14 actual characteristics and the certificate of</p> <p>15 construction.</p> <p>16 MR. SWANSON: Okay. We can</p> <p>17 take a break now.</p> <p>18 MS. PUJARI: Mr. Swanson,</p> <p>19 you've been going for an hour.</p> <p>20 Are you receiving time from</p> <p>21 someone else? Otherwise, I think your</p> <p>22 time is up.</p> <p>23 MR. SWANSON: You can think</p> <p>24 what you want. We'll take a break, if</p> <p>25 you want a break, and then we can</p>

<p style="text-align: right;">Page 374</p> <p>1 discuss how we're going to allocate 2 our time. 3 MS. PUJARI: I believe there's 4 only, what, how many minutes left? 5 MR. SWANSON: There's at least 6 15. 7 MS. PUJARI: Can we get -- 8 MR. DENTON: 21 or more. 9 VIDEOGRAPHER: 5:03 {sic}, we 10 are off the video record. 11 (Off the record at 6:03 p.m.) 12 VIDEOGRAPHER: 6:19, we are on 13 the video record. 14 QUESTIONS BY MR. SWANSON: 15 Q. Okay. Mr. Dixon, just a few 16 remaining questions on this issue of these 17 so-called discrepancies in the AAR 4-2 forms 18 and how, if at all, they could have caused an 19 injury to Norfolk Southern. 20 You mentioned that these 21 discrepancies were identified by the FRA. 22 Right? 23 A. Yes, I did. 24 Q. Okay. And that's the Federal 25 Railroad Administration?</p>	<p style="text-align: right;">Page 376</p> <p>1 Q. And if you turn in that 2 exhibit, it's -- they're little tiny pages 3 called minu-script pages. I want to turn to 4 page 636, which is in the Bates number that 5 ends 344. 6 Are you there on 636? 7 A. I am there. 8 Q. Okay. And as you said, 9 Mr. Keltz had testified about these equipment 10 approval deficiencies that we've been talking 11 about. 12 Right? 13 A. Yes. 14 Q. And that's a testimony of his 15 that you read. 16 True? 17 A. That's true. 18 Q. Now, Mr. Lynam, one of the 19 folks with NTSB who was asking questions, 20 picked up on this testimony from Mr. Keltz, 21 and he asked him about it. And I want to 22 read from that testimony at 636. 23 Okay? 24 Do you see on line 9 where 25 Mr. Lynam asks Mr. Keltz:</p>
<p style="text-align: right;">Page 375</p> <p>1 A. That's correct. 2 Q. And you referenced some 3 testimony from a Mr. Keltz, who's a 4 representative of the FRA. 5 Right? 6 A. Yes, I did. 7 Q. And you've read his testimony? 8 A. I read a piece of his 9 testimony. 10 Q. Okay. 11 A. Yes, sir. 12 Q. But he's somebody who looked 13 into these discrepancies, and you relied on 14 his testimony in giving your answers. 15 Right? In part? 16 A. In part. And again, reading 17 his testimony was -- yes, that's what 18 occurred. 19 Q. Okay. I want to look at 20 another piece of Mr. Keltz's testimony. This 21 is from Exhibit 29, which is the transcript 22 of investigative hearing, day 2, June 23rd of 23 2023. 24 Okay? 25 A. Okay.</p>	<p style="text-align: right;">Page 377</p> <p>1 "Would any of the equipment 2 approval deficiencies you noted lead to 3 tank car safety or performance 4 problems?" 5 Do you see that? 6 A. I see that. 7 Q. And Mr. Keltz testifies: 8 "That, we don't know because, 9 you know, we're not the group that does 10 the approvals. That's -- you know, the 11 approvals are done through the AAR and 12 the tank car committee approval 13 process, and where they use a third 14 party, you know, subject matter expert 15 to do an engineering analysis on those. 16 "So we at FRA, we don't have no 17 way of knowing if there was anything 18 there that would potentially negatively 19 impact these cars as they were in 20 transportation." 21 Did I read that correctly, sir? 22 A. That is what's in the 23 transcript. You read it correctly. 24 Q. So is it your understanding 25 that when the representative of FRA was asked</p>

<p style="text-align: right;">Page 378</p> <p>1 whether these so-called deficiencies or 2 discrepancies could have affected the safety 3 or performance of the trains, train cars, his 4 response was, we at FRA, we don't know. 5 Right? 6 A. That was Mr. Keltz's testimony. 7 Q. What is it that Norfolk 8 Southern knows that the FRA doesn't know when 9 it makes the allegation that these 10 deficiencies or discrepancies somehow caused 11 injury to Norfolk Southern? 12 MS. PUJARI: Objection. 13 Mischaracterizes Mr. Keltz's entire 14 testimony and the complaint. 15 THE WITNESS: Yeah, the -- what 16 I had read was, again, Mr. Keltz -- 17 Mr. Keltz, FR -- from the FRA, his 18 testimony on the discrepancies noted 19 between the actual characteristics of 20 the tank car and that of on the form 21 AAR 4-2. 22 What you just pointed out here 23 is someone questioning Mr. Keltz on 24 how does that impact the -- what did 25 you say here --</p>	<p style="text-align: right;">Page 380</p> <p>1 My question was pretty simple. 2 Mr. Keltz at the FRA, the guy whose testimony 3 you relied on for your allegation -- for 4 Norfolk Southern's allegation that there were 5 discrepancies between the AAR form and the 6 Car 26, right, Mr. Keltz -- 7 A. Yes. 8 Q. -- he was asked whether any of 9 those discrepancies affected car safety or 10 performance. 11 And his response was, "That, we 12 don't know." 13 Correct? 14 MS. PUJARI: Objection. 15 Mischaracterizes Mr. Keltz's entire 16 testimony. 17 THE WITNESS: Mr. Keltz 18 responds that he doesn't know because, 19 again, he's not the one who is the 20 expert on the actual approvals. 21 What I quoted, again, from the 22 test -- the hearing testimony was 23 Mr. Keltz's review of the actual 24 characteristics of the tank car, 25 comparing it to the certificate of</p>
<p style="text-align: right;">Page 379</p> <p>1 QUESTIONS BY MR. SWANSON: 2 Q. Safety or performance. 3 A. Safety or performance. Tank 4 car safety or performance problems. Lead to. 5 And Mr. Keltz's testimony is, I 6 don't know. 7 Again, the FRA is not 8 responsible for approving the AAR Form 4-2. 9 What they are responsible for is ensuring 10 people are following federal guidelines with 11 respect to -- with respect to all the 12 regulations that go into car construction, 13 maintenance, inspection, the whole nine 14 yards. 15 The FRA, as you probably are 16 well aware, has different -- different areas. 17 They're broken down into operational issues. 18 And obviously Mr. Keltz, on his 19 FRA team, is one of those individuals looking 20 into compliance with respect to, again, 21 making sure that all appropriate changes or 22 revisions in the initial constructions are 23 documented and therefore match the actual 24 characteristics of the railcars. 25 Q. Right.</p>	<p style="text-align: right;">Page 381</p> <p>1 construction, or, if there's a 2 revision that's been done, comparing 3 it to the revision to make sure, 4 again, everybody's in compliance with 5 federal regulations. 6 That's -- that was my statement 7 concerning why we noted the NTSB 8 investigative hearing transcripts, not 9 for whether or not the FRA is the 10 individual to make a determination on 11 the impact on safety. 12 QUESTIONS BY MR. SWANSON: 13 Q. If you can turn, please -- 14 thank you, I'm done with -- I'm done with 15 that topic. Just a couple of further topics 16 I want to hit on briefly. 17 Look at Exhibit 4, please. 18 Looking at paragraph 99 -- 19 A. Give me a second. I'm trying 20 to -- 21 Q. I know. You've got a lot of 22 materials. 23 Are you at paragraph 99? 24 A. No, I'm not. 25 Q. No. Page 21.</p>

<p style="text-align: right;">Page 382</p> <p>1 MS. PUJARI: Counsel -- hold on</p> <p>2 a sec.</p> <p>3 MR. SWANSON: What?</p> <p>4 MS. PUJARI: Withdrawn.</p> <p>5 QUESTIONS BY MR. SWANSON:</p> <p>6 Q. Are you there?</p> <p>7 A. I'm on page 21, and then can</p> <p>8 you remind me again of the paragraph?</p> <p>9 Q. Yeah, it's the last paragraph</p> <p>10 there, paragraph 99.</p> <p>11 A. Yes, I'm there.</p> <p>12 Q. It says, "During the vent and</p> <p>13 burn, video footage reportedly identified</p> <p>14 pure polymer, indicating a polymerization</p> <p>15 reaction releasing from two of the vinyl</p> <p>16 chloride tank cars."</p> <p>17 What video is that?</p> <p>18 A. I don't know. I'd have to</p> <p>19 refresh myself on the NTSB investigative</p> <p>20 hearing, day 1.</p> <p>21 Q. Well, have you ever seen the</p> <p>22 video?</p> <p>23 A. Actually, I'm not sure.</p> <p>24 Q. Do you know if a video even</p> <p>25 exists?</p>	<p style="text-align: right;">Page 384</p> <p>1 QUESTIONS BY MR. SWANSON:</p> <p>2 Q. Are you saying if we look at</p> <p>3 those exhibits we'll see the video, or we'll</p> <p>4 see somebody saying, I saw a video?</p> <p>5 A. You'll see the video of it.</p> <p>6 And again, if you go back to the</p> <p>7 investigative transcripts {sic} hearing,</p> <p>8 that's where I think we'll get the statements</p> <p>9 that it was viewed.</p> <p>10 Q. I don't want the statements. I</p> <p>11 want the video. My only question is whether</p> <p>12 you know if there's a video or not. If you</p> <p>13 don't, you don't know. That's okay.</p> <p>14 MS. PUJARI: Objection. Asked</p> <p>15 and answered.</p> <p>16 THE WITNESS: As I've stated</p> <p>17 before, I believe there's a video.</p> <p>18 It's referenced.</p> <p>19 QUESTIONS BY MR. SWANSON:</p> <p>20 Q. Okay. All right.</p> <p>21 Paragraph 135. I think this is the last</p> <p>22 question I'll have. The last topic. It's on</p> <p>23 page 27.</p> <p>24 You see there it begins, "Upon</p> <p>25 information and belief"?</p>
<p style="text-align: right;">Page 383</p> <p>1 A. I would say the video exists,</p> <p>2 because it's noted.</p> <p>3 Q. Well, but that -- see, I was a</p> <p>4 little confused by the way that Norfolk</p> <p>5 Southern phrased this.</p> <p>6 It says, "Video footage</p> <p>7 reportedly identified pure polymer." And I</p> <p>8 would think if someone had watched that</p> <p>9 video, you would say, video footage</p> <p>10 identified pure polymer.</p> <p>11 That's the reason for my</p> <p>12 question.</p> <p>13 Do you know if a video even</p> <p>14 exists?</p> <p>15 MS. PUJARI: Objection. Asked</p> <p>16 and answered.</p> <p>17 THE WITNESS: Like I said</p> <p>18 before, if it's noted here, it exists.</p> <p>19 And if we could take a look at</p> <p>20 Group B, Exhibit 10, in the NTSB</p> <p>21 investigative hearing transcripts, I'm</p> <p>22 sure it'll state just that, that a</p> <p>23 video was reviewed and reportedly</p> <p>24 identified pure polymer, indicating a</p> <p>25 polymerization reaction.</p>	<p style="text-align: right;">Page 385</p> <p>1 A. Yes, I see that.</p> <p>2 Q. Okay. "Upon information and</p> <p>3 belief, in the aftermath of the derailment</p> <p>4 and vent and burn, aluminum and copper were</p> <p>5 found in the vinyl chloride tank cars."</p> <p>6 Subparagraph A says,</p> <p>7 "Car 26" -- and that's the Trinity car,</p> <p>8 right? -- "had aluminum found in samples of</p> <p>9 the interior surface of the manway nozzle and</p> <p>10 aluminum coating on the PRD springs."</p> <p>11 Did I read that right?</p> <p>12 A. You read that right.</p> <p>13 Q. Okay. What is -- what</p> <p>14 documents or evidence do you rely on in</p> <p>15 making that statement?</p> <p>16 A. For that I relied on -- or we</p> <p>17 relied on the Hazardous Materials Group Chair</p> <p>18 Factual Report.</p> <p>19 Q. Okay. And is that at pages 28</p> <p>20 and 62?</p> <p>21 A. I'd have to look at those pages</p> <p>22 to see if this is in reference to the Car 26,</p> <p>23 but...</p> <p>24 Q. So I'm looking at page 28 of</p> <p>25 Exhibit 13, the bottom paragraph that you're</p>

<p style="text-align: right;">Page 386</p> <p>1 referring to?</p> <p>2 A. Yes. That's one of the</p> <p>3 aluminum, 1 to 2.8 percent, was found in four</p> <p>4 samples collected from TILX402025 interior</p> <p>5 surface and manway nozzle.</p> <p>6 Q. Before this post-derailment</p> <p>7 tank car sampling analysis was done, did</p> <p>8 Norfolk Southern know that the PRD spring in</p> <p>9 Car 402025 had an aluminum -- used an</p> <p>10 aluminum spring?</p> <p>11 A. I would have no way of knowing.</p> <p>12 MR. SWANSON: Okay. Those are</p> <p>13 the questions that I have. Thank you,</p> <p>14 sir. I don't know if anyone else is</p> <p>15 going to pick up or not.</p> <p>16 MS. BROZ: How much time is</p> <p>17 there? Can we go off the record?</p> <p>18 VIDEOGRAPHER: 6:33, we are off</p> <p>19 the video record.</p> <p>20 (Off the record at 6:33 p.m.)</p> <p>21 VIDEOGRAPHER: 6:38, we are on</p> <p>22 the video record.</p> <p>23 RECROSS-EXAMINATION</p> <p>24 QUESTIONS BY MS. BROZ:</p> <p>25 Q. Mr. Dixon, just one more</p>	<p style="text-align: right;">Page 388</p> <p>1 Q. Okay. So between February 3rd</p> <p>2 and February 6th, the day that you vent and</p> <p>3 burn the cars, was a total three days.</p> <p>4 Correct?</p> <p>5 A. That equates to three days.</p> <p>6 Q. So generously, the vent and</p> <p>7 burn process took a total of three days.</p> <p>8 Isn't that right?</p> <p>9 A. The vent and burn product --</p> <p>10 the vent and burn did not take three days</p> <p>11 from -- to actually vent and burn.</p> <p>12 I guess I'm questioning what --</p> <p>13 could you repeat that question with respect</p> <p>14 to the time you're referring to?</p> <p>15 When you say "the time it took</p> <p>16 to vent and burn" --</p> <p>17 Q. Okay. Let's just cut this</p> <p>18 short.</p> <p>19 Is it your testimony that it</p> <p>20 would have been quicker to transfer the</p> <p>21 product than to vent and burn the cars?</p> <p>22 MS. PUJARI: Objection. Asked</p> <p>23 and answered.</p> <p>24 QUESTIONS BY MS. BROZ:</p> <p>25 Q. Yes or no?</p>
<p style="text-align: right;">Page 387</p> <p>1 question.</p> <p>2 I believe you testified earlier</p> <p>3 that transferring the vinyl chloride product</p> <p>4 would have been faster than the vent and</p> <p>5 burn?</p> <p>6 A. The question --</p> <p>7 Q. Is that correct? Did you</p> <p>8 testify to that earlier?</p> <p>9 A. I testified that if we were</p> <p>10 looking for just speed to fix the situation,</p> <p>11 yes, a transfer of product would have been</p> <p>12 more efficient and sped up everything, rather</p> <p>13 than a vent and burn.</p> <p>14 Q. Would it have taken less time?</p> <p>15 A. It should have, yes. If</p> <p>16 everything was in good condition, I think</p> <p>17 that it would have taken less time overall.</p> <p>18 The actual vent and burn</p> <p>19 process itself is -- obviously doesn't take a</p> <p>20 whole a lot of time with respect to comparing</p> <p>21 that to transferring product.</p> <p>22 But everything associated with</p> <p>23 the vent and burn, yeah, the most -- the most</p> <p>24 efficient piece would have been to transfer</p> <p>25 the product.</p>	<p style="text-align: right;">Page 389</p> <p>1 A. Yes, if you could -- if we</p> <p>2 could have transferred the product, that</p> <p>3 means we could have moved and gotten close to</p> <p>4 those railcars. All of those components</p> <p>5 would have been in good shape. We would have</p> <p>6 moved those cars out to an area where we</p> <p>7 could have just transferred the product to</p> <p>8 another -- whether it's a truck, a vehicle,</p> <p>9 whatever it was. But that would have been</p> <p>10 the fastest thing if we wanted to just get</p> <p>11 that material that was there out.</p> <p>12 But that's not --</p> <p>13 Q. Can we pull up --</p> <p>14 A. -- the case.</p> <p>15 Q. -- the transcript from day 1?</p> <p>16 This is from day 1 of the NTSB</p> <p>17 hearing? If we can go to the bottom of that</p> <p>18 page.</p> <p>19 Let's go off. That's not the</p> <p>20 right page, I think. It's the wrong page</p> <p>21 number.</p> <p>22 Can you go to the bottom of</p> <p>23 that page?</p> <p>24 A. I don't have a copy of day 1</p> <p>25 transcript of investigative hearing.</p>

<p style="text-align: right;">Page 390</p> <p>1 Q. All right. Since we're short 2 on time, Mr. McCarty testified at day 1 of 3 the -- 4 MS. PUJARI: I'm sorry, what 5 exhibit is this? 6 MS. BROZ: We haven't marked an 7 exhibit. I'm reading it from the 8 transcript. 9 MS. PUJARI: Okay. We're going 10 to need more context than this. We 11 have this tiny little snippet. 12 MS. BROZ: I'm reading you the 13 context, if you let me continue with 14 my question. 15 MS. PUJARI: Well, we'd like 16 the entire document, please. 17 MS. BROZ: It's day 1 from the 18 NTSB transcript -- 19 MS. PUJARI: Which we do not 20 have. We do not have that in front of 21 us. 22 So I'm going to object to this 23 because we cannot see what comes 24 before -- 25 MS. BROZ: That's fine.</p>	<p style="text-align: right;">Page 392</p> <p>1 initiation, it should be done anywhere 2 from approximately four to six hours." 3 Mr. Cassity: Okay. Thank 4 you." 5 Did Norfolk Southern vent and 6 burn these railcars because it was a quicker 7 way and an easier way to get their rails back 8 up in operation instead of actually removing 9 the liquid from the cars, which would have 10 taken an additional five days? 11 MS. PUJARI: Objection. Asked 12 and answered. 13 THE WITNESS: No. 14 QUESTIONS BY MS. BROZ: 15 Q. Why not? 16 That's all. I'm done. 17 MS. PUJARI: Yeah. 18 VIDEOGRAPHER: 6:43, we are off 19 the video record. 20 (Off the record at 6:43 p.m.) 21 VIDEOGRAPHER: 6:45 we are off 22 the video record. This concludes the 23 video deposition of David Dixon. 24 (Deposition concluded at 6:45 p.m.) 25 -----</p>
<p style="text-align: right;">Page 391</p> <p>1 MS. PUJARI: -- and what comes 2 after. And it's not appropriate to 3 ask him about one tiny segment. 4 QUESTIONS BY MS. BROZ: 5 Q. So Mr. McCarty testified: 6 "So extraction, assuming it was 7 still liquid and not polymerizing, it 8 would have taken a long time to do, to 9 inventory five cars, like, days." 10 Mr. Cassity asked: 11 "So for the hot tap, you're 12 saying it would have taken a very long 13 time, correct?" 14 Mr. McCarty says: "Correct." 15 Mr. Cassity said: 16 "So in comparison to the vent 17 and burn, the vent and burn, is it fair 18 to say it was a much quicker process?" 19 Mr. Day responded: 20 "So the vent and burn 21 operation, it takes about three and a 22 half hours to set up once the crew is 23 on screen {sic}. The vent and 24 burn-down, depending on how much 25 product was left in the cars before</p>	<p style="text-align: right;">Page 393</p> <p>1 CERTIFICATE 2 I, CARRIE A. CAMPBELL, Registered 3 Diplomate Reporter, Certified Realtime 4 Reporter and Certified Shorthand Reporter, do 5 hereby certify that prior to the commencement 6 of the examination, David Dixon, was duly 7 sworn by me to testify to the truth, the 8 whole truth and nothing but the truth. 9 I DO FURTHER CERTIFY that the 10 foregoing is a verbatim transcript of the 11 testimony as taken stenographically by and 12 before me at the time, place and on the date 13 hereinbefore set forth, to the best of my 14 ability. 15 16 I DO FURTHER CERTIFY that I am 17 neither a relative nor employee nor attorney 18 nor counsel of any of the parties to this 19 action, and that I am neither a relative nor 20 employee of such attorney or counsel, and 21 that I am not financially interested in the 22 action. 23 24 25 CARRIE A. CAMPBELL, NCRA Registered Diplomate Reporter Certified Realtime Reporter Notary Public Dated: November 6, 2023</p>

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

David Dixon Date

Subscribed and sworn to before me this _____ day of _____, 20 _____.
My commission expires: _____

Notary Public

ERRATA

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LAWYER'S NOTES

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