



**HUMAN PERFORMANCE FACTORS GROUP CHAIRMAN'S  
FACTUAL REPORT**

**Fatal Grade Crossing Accident  
Midland, Texas: 11/15/2012**

**HWY-13-MH-003**

Attachment 1  
Narratives/Transcripts of Investigative Interviews

(97 pages)

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

\* \* \* \* \*

Investigation of:

\*

\*

GRADE CROSSING ACCIDENT

\*

NOVEMBER 15, 2012

\* Docket No.: HWY-13-MH-003

MIDLAND, TEXAS

\*

\*

\* \* \* \* \*

Interview of: SIMON F. "TREY" TERRAZAS, JR.

Hilton Garden Inn  
Odessa, Texas

Saturday,  
November 17, 2012

The above-captioned matter convened, pursuant to notice.

BEFORE: DAVID S. BUCHER  
Accident Investigator

## APPEARANCES:

DAVID S. BUCHER, Accident Investigator  
Railroad Operations Group Chairman  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
202-314-6000

DENNIS COLLINS  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594

DEBBIE HALL  
Office of Transportation Disaster Assistance  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594

KELLY SEACHORD, General Director  
Regional Operations  
Union Pacific Railroad

JOHN DUNN  
Safety Team  
United Transportation Union (UTU)

JERRY BULLARD  
Safety Task Force  
Brotherhood of Locomotive Engineers and Trainmen (BLET)

WILLIAM SMITH  
Operating Practices  
Region 5  
Federal Railroad Administration

<u>ITEM</u>	<u>I N D E X</u>	<u>PAGE</u>
Interview of Simon F. "Trey" Terrazas, Jr.:		
By Mr. Bucher		4
By Mr. Bullard		9
By Mr. Smith		9
By Mr. Bucher		10
By Mr. Collins		11
By Mr. Smith		20
By Mr. Collins		21

I N T E R V I E W

1  
2 MR. BUCHER: Okay, this is November 17th. We're in  
3 Odessa, Texas at the Hilton Garden Inn and this is the interview  
4 of Nathan --

5 MR. TERRAZAS: Simon F. Terrazas, Jr. I go by Trey.

6 MR. BUCHER: And he's being interviewed in relation to  
7 the accident at Midland, Texas.

8 INTERVIEW OF SIMON F. "TREY" TERRAZAS, JR.

9 BY MR. BUCHER:

10 Q. Nathan, can you go ahead and state your name, your  
11 address, your phone number and your seniority date?

12 A. Simon F. Terrazas, Jr. I go by Trey. [REDACTED]

13 [REDACTED] September 2003 hire-on date.

14 Q. Okay. And if you could, you know, give us -- relate to  
15 us how your day started on the day of the incident, you know,  
16 start what time, what you did?

17 A. Okay. As well as I can remember, I woke up shortly  
18 after 9 a.m., watched TV, called a couple of friends, went to eat  
19 lunch at the Old Mill roughly 11, 11:30. I actually got called at  
20 11:40 for 1340 on-duty time. Ate the meal, came back, watched TV  
21 at the Oak Tree.

22 We stay at the motel and go on duty at the crew room, in  
23 the first floor crew room. So there's no transportation from the  
24 motel to the on-duty crew room. So I just watched TV, got all my  
25 stuff together, was in the crew room by 1325, 1330. Got all the

1 necessary paperwork, talked with my conductor. The train called  
2 us on the radio, let us know that -- it was an inbound train, let  
3 us know that they were close and they didn't need any supplies.  
4 And we got the driver from the motel and bagged up all of our  
5 stuff and went to the crew change and boarded the train.

6 As best as I can remember, the departure time was 1415.  
7 That's as best as I can remember; it's close to. Nothing out of  
8 the ordinary, and if I'm not mistaken, it was a ZLCAI on the 14th,  
9 was the train symbol. Fuel conservation speed was not lifted, so  
10 for whatever that's worth. Just a really ordinary departure from  
11 Pecos.

12 We did -- I remember getting a radio speed restriction  
13 -- I believe it was at Pyote or something like that, for crossing  
14 gates that were well, well, well west of the accident, and there  
15 was a signal maintainer that cleared us through that. And then we  
16 had signal -- we had advanced approach and approach and were  
17 tested. MTO Dan Blank and MYO Danny Jacques gave us a stop test  
18 at the bottom of the hill going into Metts (ph.). We performed  
19 that test well.

20 Got debriefed, had a job briefing with conductor Nathan  
21 and got our head back on, you know, made sure what we were doing  
22 and proceeded on. Like I said, just normal operating through  
23 Odessa and through the west end of Midland. Came upon the first  
24 crossing where the -- I'm at a loss for words -- quiet zone, where  
25 the quiet zone started, and operating at 62, 63 miles an hour

1 right then in throttle 5. You know, I'm just doing what I do.

2           And I noticed up ahead -- you know, I couldn't tell what  
3 crossing it was right then. I did notice -- I don't know how  
4 close it was -- I did notice a tractor trailer go across the  
5 crossing fairly slow and carrying a flatbed trailer. Out here in  
6 west Texas, you know, we got all kinds of flatbed trailers  
7 carrying -- you name it, they're carrying it. And I just  
8 remember, you know, thinking that that's the oddest looking  
9 flatbed. I do not understand what -- well, what's the cargo; what  
10 is that?

11           And as we approached and got closer, I saw a -- actually  
12 saw an individual. And when he moved, he turned, I saw the  
13 movement and noticed his eyes, was what I noticed. And I  
14 recognized right then, oh, my gosh, these are people. You know, I  
15 obviously didn't expect to see that. I've never seen anything  
16 like that in my life and my intention was immediately focused on  
17 tractor-trailer number two.

18           As soon as I saw it -- it was moving very slow. My  
19 natural inclination is, okay, he's about to stop; he's moving slow  
20 enough to be stopping. And, of course, you know, I start blowing  
21 my horn and he just never stopped; he just kept going. And as  
22 soon as I realized that this individual was either not going to  
23 stop or I just -- I didn't know, I placed the train in emergency.

24           If it makes sense that everything was going fast while  
25 it was in -- we were moving so fast, but as they were going across

1 everything was so slow; I could see everything. I don't know if  
2 that makes sense, but -- I couldn't tell how many people there  
3 were. I just knew that they were jumping everywhere. And I did  
4 see the two that were -- would have been positioned right above  
5 the railroad tracks and I assumed it was man and wife. They  
6 briefly held hands and jumped and -- the tractor-trailer never  
7 sped up or never slowed down. It didn't stop. It just -- it was  
8 a consistent -- it was just a very slow, you know. And when they  
9 hit, both of their feet kicked out from under them and, you know,  
10 and we impacted the flatbed.

11 I don't know how far it took for the train to stop after  
12 all that happened, but it had been in emergency, what, now -- and  
13 I don't have a quantitative number to tell you. I don't remember.  
14 But I, you know, I dialed 911 while we were still rolling and told  
15 them to get emergency vehicles there, as many as they could  
16 immediately.

17 Q. Okay. The emergency response afterwards, were you  
18 approached by anybody, the police department or anything?

19 A. Yes. The emergency response was a -- from what I could  
20 tell -- I mean, we -- there's a police station just back to the  
21 west of us. There were actually, I believe, two cruisers that  
22 went by us before we stopped, with lights on. I was approached by  
23 -- and I don't remember the officer's name, came in and asked if  
24 we were all right. Very nice person, asked if we were all right  
25 and asked if he could get us anything. And then it was just kind



1 of up and down, chaotic, people in and out.

2 Q. Okay. And then UP -- your supervisor showed up shortly  
3 thereafter?

4 A. Yes, sir, he was en route. He was at Pegasus. That's  
5 going to be approximately, maybe 15, maybe 18 minutes later, is  
6 when Dan Blank, MTO Dan Blank showed up. I spoke with him on the  
7 phone, spoke with MOP Don Deville. He's on light duty. Pretty  
8 much referred me to Scott Lee, MOP, as well. I talked to Scott on  
9 the phone.

10 Ms. McCulloch from Midland, a Union Pacific lawyer out  
11 of Midland, and her partner showed up fairly shortly thereafter.  
12 I'm not positive on the exact time.

13 MR. BUCHER: Okay. All right, what I'd like to do then  
14 -- this is Dave Bucher -- I'm going to go around the room. If  
15 everybody could introduce themselves and we'll let everybody ask  
16 you a question or two, simple questions, follow-up questions.  
17 They may or may not have any, okay, but I just want to give  
18 everybody an opportunity to ask and then we just have a couple of  
19 fatigue questions, fatigue-related questions after that, and that  
20 should be fairly simple.

21 MR. TERRAZAS: Okay.

22 MR. BUCHER: So can we go around the room. We have --

23 MR. DUNN: This is John Dunn, D-U-N-N. I'm with the  
24 UTU. I'm on the Safety Team. And thank you for your story. I  
25 don't have any questions. Thank you.

1           MR. COLLINS: Dennis Collins, C-O-L-L-I-N-S. I'm with  
2 the National Transportation Safety Board, and I don't have any  
3 follow-up questions at this time.

4           MR. SEACHORD: Kelly Seachord, General Director of  
5 Regional Operations for the Union Pacific Railroad. I do not have  
6 any follow-up questions.

7           MR. BULLARD: Jerry Bullard, BLET STF and I have one  
8 question.

9           BY MR. BULLARD:

10          Q. Could you recall what speed you were at when you put the  
11 train in emergency?

12          A. Not a definitive. I do know that it was at or around --  
13 it was 63 or 62 miles an hour. Yeah.

14          Q. 62 or 63. Thank you.

15           MR. SMITH: William Smith, Federal Railroad  
16 Administration, Region 5, Operating Practices. I've only got a  
17 couple of questions to add on to what he said.

18           BY MR. SMITH:

19          Q. I know everything's moving in a blur. Do you remember  
20 any landmark when -- or anywhere where you first saw the first  
21 tractor-trailer and then it dawned on you that somebody else was  
22 not right? I mean --

23          A. No, I don't have a -- I mean, I can't give you a  
24 quantitative answer as to, you know, footage from the -- it was  
25 just as soon as I -- I was not close enough to realize there were

1 people on the first float. I just knew it was an odd -- it just  
2 looked wrong.

3 Q. Okay. How about a distance or a landmark when you  
4 placed the train in emergency?

5 A. I would just be guessing. I know we have the event  
6 recorder and the TI audit will probably give you a real, real  
7 solid answer. I just -- I'd be guessing; I don't know.

8 Q. And last question, and I got to ask, and it's not  
9 pointing any blame; it's just to clarify. Did you have your phone  
10 off and stored?

11 A. Yes, sir. It was off and stored the entire trip.

12 Q. Thank you. I don't have any other questions.

13 MS. HALL: I'm Debbie Hall from the NTSB, H-A-L-L, and  
14 I'm just very sorry you experienced this. I don't have any  
15 questions.

16 MR. TERRAZAS: Thank you, I appreciate that.

17 BY MR. BUCHER:

18 Q. This is Dave Bucher again. I only have one follow-up  
19 question. When you left Pecos, just how did the train handle?  
20 Was everything -- did it handle -- did it accelerate well; did it  
21 brake well?

22 A. It was a -- I would say that it is a -- it was a typical  
23 Z-Train, which means they typically handle well. It's got a lot  
24 of UPS high priority things on it cargo-wise, and they try to put  
25 good power on it, and I didn't notice anything. When I stopped

1 for the stop test for Dan Blank and MYO Jacques, everything  
2 operated perfectly.

3 MR. BUCHER: Okay. Any follow-up questions here at all  
4 before we go to the fatigue questions?

5 UNIDENTIFIED SPEAKER: I don't think so, but no.

6 MR. BUCHER: Okay, go ahead.

7 BY MR. COLLINS:

8 Q. This is Dennis Collins again. Like Dave said, my job is  
9 to ask you all those questions so we eliminate all of the things  
10 that could go wrong for any operator, so distraction, fatigue,  
11 medical conditions. Some of them are really out there. For  
12 example, I'm going to ask you do you take any illegal drugs?

13 A. No, sir.

14 Q. And I'm not meaning to imply anything by any questions I  
15 ask, it's just a case of we get rid of the things that aren't a  
16 factor so we can focus on the important stuff.

17 A. Sure.

18 Q. So do you know the make and model of your cell phone?

19 A. I know it's a Samsung. That's about it.

20 Q. Okay. If mine wasn't government issued, I probably  
21 couldn't tell you what kind it was either.

22 And could you tell me your phone number on that cell  
23 phone?

24 A. It's [REDACTED].

25 Q. And your service provider is?

1 A. Verizon.

2 Q. Verizon. And you did say it was stowed during operation  
3 of the train?

4 A. Yes, sir.

5 Q. Okay. Did you bring any other personal items or  
6 portable electronic devices into the train cab with you?

7 A. No, sir.

8 Q. Okay. How would you describe your health in general?

9 A. Extremely fit.

10 Q. Do you have a family doctor?

11 A. I've got a nurse practitioner.

12 Q. Could you tell me who that is, please? Or where the  
13 practice is?

14 A. It's right there in Big Spring, Texas. Kim Shafer.

15 Q. Kim Shafer, okay. Is that the only physician you see on  
16 a regular basis?

17 A. Um-hum.

18 Q. Okay. Do you take any prescription medication?

19 A. No.

20 Q. Do you take anything over the counter like a vitamin or  
21 anything like that?

22 A. No.

23 Q. And --

24 A. Well, let me clarify that. I take a -- when I think  
25 about it, I'll take a mega multivitamin.

1 Q. Okay.

2 A. I don't take it enough.

3 Q. Any herbal supplements or, again, the illegal drug  
4 question, anything that isn't legal?

5 A. No.

6 Q. Okay. Do you drink alcohol?

7 A. Occasionally.

8 Q. Occasionally. Did you drink anything on the day of the  
9 incident?

10 A. No, sir.

11 Q. How would you describe your vision?

12 A. I've got good vision. I don't -- I can't give you a  
13 20/40 or 20/20 good vision.

14 Q. Is there somebody you see on a regular basis to have  
15 your eyes checked?

16 A. I don't know if I can define -- I don't -- it's every  
17 year, every 3 years?

18 UNIDENTIFIED SPEAKER: Three-year certification.

19 MR. TERRAZAS: Certification -- every 3 years, we go  
20 through a battery of eye tests and hearing tests.

21 UNIDENTIFIED SPEAKER: Color blindness.

22 MR. TERRAZAS: Color blindness.

23 BY MR. COLLINS:

24 Q. Through the employment, through the railroad?

25 A. Yes, sir.

1 Q. Okay. When was the last time you had that done?

2 A. My birthday is going to be [REDACTED] [REDACTED] and I'm going to  
3 have to have it done by [REDACTED] [REDACTED], so it will have been  
4 2½ years.

5 Q. Okay. And you don't see anybody else on a regular basis  
6 for your visit, you just go through that screening?

7 A. Correct.

8 Q. Okay. And I would therefore assume, both looking at you  
9 and your answer, no glasses, no contacts?

10 A. Correct.

11 Q. Any -- how would you describe your hearing?

12 A. I would -- good.

13 Q. Okay. And you said that the screening through the  
14 railroad was both vision and hearing?

15 A. Yes, sir.

16 Q. So that's done on the same time schedule?

17 A. It is.

18 Q. Great. Could you state your approximate height and  
19 weight for me?

20 A. 6'2", 210 pounds.

21 Q. I wish I had both of those numbers.

22 A. One's shorter and one's bigger. I'll let you figure out  
23 which is which.

24 Q. This is kind of a strange question, but follow along  
25 with me. In general, how would you describe your life? Like, are

1 there any major stressors in it? For example, getting married  
2 stresses a man; getting divorced stresses a man. It could stress  
3 women, but -- nah, I don't know -- having a child. Any big life  
4 changes like that recently?

5 A. No. You could say that 8- and 11-year-old daughters  
6 would be the biggest stressors.

7 Q. I have a 12-year-old daughter and four other kids and  
8 there's something about that age and being a daughter that -- and  
9 I'm luckier than my wife is. My daughter and my wife are --

10 A. Well, I'm blessed with an amazing wife and two beautiful  
11 girls so, no, that's no more than any normal person.

12 Q. I agree with you there. I think I married up too. I'm  
13 not sure what she did wrong to deserve me, but there you go.

14 In general, how do you sleep?

15 A. I sleep a little -- I would say that if I'm still, I can  
16 sleep. You know, if you give me a few seconds and I -- I could go  
17 to sleep. I've never had a hard time. It doesn't -- you know, we  
18 don't have to have the blinds pulled real close. I'm just -- I  
19 can generally fall asleep pretty well; not the past two nights,  
20 but generally before that, yes.

21 Q. That's understandable.

22 Has your wife ever told you you snore?

23 A. No.

24 Q. Do you wake up during the middle of the night, you know,  
25 on a regular basis?



1           A.    No.  I'm a sound sleeper.

2           Q.    And when it's time to get up and start the next day, are  
3 you -- can you wake yourself up on that or are you relying on an  
4 alarm?

5           A.    I'm a -- when I'm up, I'm up and I'm an easy riser too.  
6 It drives my girls crazy.

7           Q.    I asked about portable electronic devices in the cab.  
8 If you can just think back to while you were operating the train  
9 on that trip, was it the -- would you describe it as a normal  
10 operating environment or was there anything unusual, odd, a little  
11 off?  How would you describe that operating environment?

12          A.    From the start there at Pecos on, or --

13          Q.    Well, as you approached the crossing where the incident  
14 occurred more than anything else, just how was the train  
15 operating?  How was that environment inside the cab?

16          A.    The environment was just like any other trip.  You know,  
17 the gate's going down and my bell ringing.  You know, I can  
18 remember all of that stuff.  And as an engineer, you know, you're  
19 always double, triple checking what you're, you know, what you're  
20 supposed to be doing.  And it was no different than any other Z-  
21 Train trip, so to speak.

22                    You know, with the SES 50 limitation, if I had not had  
23 -- I just remember this, for whatever it's worth, I remember  
24 thinking if the SES 50 was lifted, I could be going 70 miles an  
25 hour, and I'm in 5 throttle and going 62 or 63.  So I'm just kind

1 of floating through Midland, you know, at that speed.

2 Q. And now flip it a little bit. Talked about inside the  
3 cab. Along that same stretch as you're approaching that same  
4 crossing, anything unusual going on, short of watching the first  
5 flatbed, but prior to that, anything unusual going on outside the  
6 cabin?

7 A. No, sir, nothing, nothing unusual.

8 Q. Okay. The only other thing that we like to do is, in  
9 order to help us rule out fatigue, we go back in a little bit of  
10 detail just a couple of extra days. So now we've been talking  
11 about Thursday and do you remember when -- we go back about 3  
12 days. So the Monday, do you remember when you got up on Monday?

13 A. I don't.

14 Q. Okay.

15 A. Oh, no, no, no, no. No, let me take that back. Yeah.  
16 Yeah, I had -- I got up at 6 a.m. Monday morning. Mr. Bullard and  
17 myself attended Rules Class in Sweetwater Monday and Tuesday.

18 Q. Okay.

19 A. Both -- Monday morning was 6 a.m., left Coahoma at 7:10,  
20 arrived in Sweetwater right at 8. The Rules Class went until 1600  
21 that day, maybe. Came home, knew I had an early morning to get up  
22 and go to Rules Class again; went to bed, probably asleep by 2300,  
23 11:00. Up by 6 a.m. again. I took my own truck that morning  
24 because my dad has got a ranch northeast of Sweetwater about 20  
25 miles, in Sylvester. That way, if we finished early enough, I

1 could go deer hunting that evening.

2 As it happened, we finished with all of the tests right  
3 at 1500, and I know this because I was wondering when my feeder  
4 might go off. Went to the ranch, hunted that night. I actually  
5 went back to the ranch house and put I together a corn -- a deer  
6 feeder from -- took it out of the box and put it together. I was  
7 asleep by -- around 2300 that night.

8 That morning, I got up also deer hunting. I woke up at  
9 5:30, 0530, was in a deer blind by 5:50, 6 a.m. Hunted till I got  
10 my call to go to work. I was actually looking at a deer through a  
11 scope when my phone rang, which was --

12 Q. I imagine that's not good -- it's good for the deer but  
13 not so good for you.

14 A. Well, it was good for the deer. He wasn't a shooter,  
15 but I actually -- I took my call, went back, got my stuff at the  
16 ranch house and went from Sylvester back to Sweetwater. So --

17 Q. Do you know what time you left the ranch and what time  
18 you got to Sweetwater?

19 A. Let me think if I can, if I can remember my on-duty time  
20 Thursday. I want to say I got called at 0840 for 1040. That may  
21 not be correct, but I think that's right. So I would have left  
22 the ranch at 10-ish. I went to Whataburger. And Fireman-in-  
23 Training Joseph Newcase (ph.) -- he's actually my nephew by  
24 marriage -- called and said, "I'm having my trip with you, my  
25 qualification trip with you today," which was, you know, exciting.

1 You know, he's my nephew. I said, "Okay, I'll stop by Whataburger  
2 and I'll get you something to eat anyway." So I did, went by  
3 Whataburger, got breakfast. Got there, went through the  
4 paperwork.

5 MOP Scott Lee rode with us on that particular train from  
6 Sweetwater with Joseph Newcase, the fireman-in-training, to Big  
7 Spring where they got off. I took over handling the train there  
8 at Big Spring and went to Pecos. It was not, not a great trip to  
9 Pecos but it wasn't a bad one, you know, as far as train leads and  
10 all that.

11 I don't remember, I don't remember when I tied up. It  
12 was around dinnertime because as soon as I did tie up, we went to  
13 eat Mexican food at La Fiesta. Went from La Fiesta back to the  
14 room where -- actually, I had to change rooms. I didn't have hot  
15 water.

16 Q. Okay.

17 A. Went to a room that had hot water and I was in bed and I  
18 believe I texted my wife right around 2300: "Bye-bye, baby, I'm  
19 tired; I'm going to sleep, love you." And I woke up, I want to  
20 say, at 9:15. So I had about 10 hours of rest.

21 Q. Okay. Do you remember -- you said you take a  
22 multivitamin when you remember. Did you take one Thursday  
23 morning?

24 A. No. I haven't had one in several days.

25 Q. And I think my last question would be, you said in

1 general your health is very good. Any acute problems, meaning,  
2 cold, nauseous, anything Wednesday into Thursday?

3 A. No.

4 Q. Nothing new?

5 A. No, sir.

6 Q. Okay. And then I think that's everything I have.

7 MR. BUCHER: Okay, I think -- I don't think there's  
8 anything else.

9 BY MR. SMITH:

10 Q. Our fatigue analysis one is a little bit longer on the  
11 FRA side. What's your average trip between Sweetwater into Pecos,  
12 just a guess?

13 A. I'd say 9 hours.

14 Q. Nine hours?

15 A. Yeah.

16 Q. And on this last trip, you had held away -- you know,  
17 are you all catching held away at Pecos a lot?

18 A. Yes. You know, if you get in that certain slot, you  
19 might. It just -- it's a crapshoot. I got 3 hours this trip, so  
20 I was actually off a total of -- well, between tie-up and on duty,  
21 19 hours.

22 Q. And your cycle was broke up even more because you had  
23 the Rules Class so you had two regular real people days --

24 A. Yes, sir.

25 Q. -- instead of railroading days.

1           A.    Right.

2           Q.    That's all the questions that I had.

3                   MR. COLLINS:  If anybody else does -- this is Dennis  
4 Collins again.  If anybody else doesn't have one, I did think of  
5 one more.

6                   BY MR. COLLINS:

7           Q.    The class, it was a classroom setting and you were  
8 sitting down most of the day.  You didn't -- you weren't picking  
9 up big, heavy things or doing anything odd; it was just a normal  
10 classroom setting for the class on those first 2 days?

11          A.    Oh, yeah, real good Rules Class.

12          Q.    Okay.  Thank you.

13                   MR. BUCHER:  Okay.  Well, this concludes the interview  
14 of Tray.

15                   (Whereupon, the interview was concluded.)

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:           GRADE CROSSING ACCIDENT  
                                  NOVEMBER 15, 2012  
                                  MIDLAND, TEXAS

DOCKET NUMBER:            HWY-13-MH-003

PLACE:                      Odessa, Texas

DATE:                        November 17, 2012

was held according to the record, and that this is the original,  
complete, true and accurate transcript which has been transcribed  
to the best of my skill and ability.

---

Vanita Tildon  
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

\* \* \* \* \*

Investigation of:

\*  
\*  
\*  
\*  
\*  
\*

GRADE CROSSING ACCIDENT  
NOVEMBER 15, 2012  
MIDLAND, TEXAS

Docket No.: HWY-13-MH-003

\* \* \* \* \*

Interview of: NATHAN SCOTT

Midland, Texas

Thursday,  
November 17, 2012

The above-captioned matter convened, pursuant to notice.

BEFORE: DAVID S. BUCHER  
Accident Investigator



## APPEARANCES:

DAVID S. BUCHER, Accident Investigator  
Railroad Operations Group Chairman  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
202-314-6000

DENNIS COLLINS  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594

DEBBIE HALL  
Office of Transportation Disaster Assistance  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594

KELLY SEACHORD, General Director  
Regional Operations  
Union Pacific Railroad

JOHN DUNN  
Safety Team  
United Transportation Union (UTU)

JERRY BULLARD  
Safety Task Force  
Brotherhood of Locomotive Engineers and Trainmen (BLET)

WILLIAM SMITH  
Operating Practices  
Region 5  
Federal Railroad Administration

KATHLEEN MCCULLOCH  
(Counsel on behalf of Union Pacific Railroad)

<u>ITEM</u>	<u>I N D E X</u>	<u>PAGE</u>
Interview of Nathan Scott:		
By Mr. Bucher		4
By Mr. Smith		7
By Mr. Collins		8
By Mr. Bullard		20
By Mr. Smith		21
By Mr. Collins		22

I N T E R V I E W

1  
2 MR. BUCHER: Okay. This is the interview of Nathan  
3 Scott, Conductor, Union Pacific Railroad, Accident HWY-13-MH-003.  
4 It's November 17 and his story leading up to the accident in  
5 Midland, Texas.

6 My name is David Bucher, Operations Group Chairman, and  
7 we're going to go around the room for the people at the interview.

8 MR. COLLINS: Dennis Collins, C-o-l-l-i-n-s, NTSB Office  
9 of Highway Safety.

10 MR. DUNN: John Dunn, D-u-n-n, United Transportation  
11 Union Safety Team.

12 MR. BULLARD: Jerry Bullard, B-u-l-l-a-r-d, BLET Safety  
13 Task Force.

14 MS. HALL: Debbie Hall, NTSB's Office of Transportation  
15 Disaster Assistance. I'm sorry that you had to experience this.

16 MS. McCULLOCH: Kathleen McCulloch. I'm outside counsel  
17 for Union Pacific Railroad.

18 MR. SEACHORD: Kelly Seachord, S-e-a-c-h-o-r-d, General  
19 Director of Regional Operations, Union Pacific Railroad.

20 MR. SMITH: William Smith, Federal Railroad  
21 Administration, Operating Practices.

INTERVIEW OF NATHAN SCOTT

22 BY MR. BUCHER:

23 Q. Okay, Nathan, if you could just go back to the start of  
24 your day on the day of the accident and tell us what happened,  
25

1 appreciate it.

2 A. All right, let's see. I woke up 9 in the morning at  
3 Pecos, Texas. We got our 10 hours of undisturbed rest. We didn't  
4 go on duty until 1340 that afternoon. Boarded a train and  
5 departed Pecos 1415, I believe. Run around clearance the whole  
6 way until we got east of Metts (ph.). Started coming in on  
7 signals. Dan Blank, our MOP, and MYO Danny Jacques were there to  
8 do a stop test on us.

9 So we put out our red board, we stopped there, got a  
10 clear signal after that. After we were done talking with them, to  
11 narrow down the way, Mediterranean and Pegasus, had an approach  
12 signal going in, had it clear out the other end, hit that detector  
13 at 560.7. That's when we were getting closer to Garfield Crossing  
14 there and we saw the first truck go by.

15 And we were focusing on that first trapped train and by  
16 the time we turned and looked, we saw that second truck pull up  
17 onto the rail, realized, well, we're hitting this one. Couldn't  
18 quite make out what was on the back of the trailer at the time due  
19 to the distance we were at. But once we realized there were  
20 people there when they stood up, that's when Trey put the train  
21 into emergency.

22 By then, it was too late. We cooked the back of the  
23 trailer. I knew we killed two almost instantly. We saw them jump  
24 off the train right in front of us. I just saw them fall in front  
25 of us and it was -- they disappeared. I knew it was over for

1 them. We came to a stop and -- excuse me.

2 MR. BUCHER: Do you want to take a break?

3 UNIDENTIFIED SPEAKER: Want to take a break?

4 MR. SCOTT: I'm about right here. As the train was  
5 coming to a stop, we tried toning up the dispatcher. He beat us  
6 to it. He was already on the radio and knew that there was an  
7 emergency situation. Trey grabbed the radio and was telling him  
8 what was going on. Told him we needed multiples, didn't know how  
9 many people were on the back of the trailer.

10 Before we could even get done talking, he was -- EMS was  
11 already there and there was no reason for us to do anything else  
12 other than just wait. The dispatcher told us he got a hold of Dan  
13 Blank and Blank was on the way, and that's it.

14 Q. Did the responders -- you have any other contact with  
15 the responders after you went past the accident site?

16 A. Well, a police officer boarded the train just to talk  
17 with us and ask kind of just to see if we were all right and  
18 everything. He wasn't up there to get a statement quite yet  
19 because he was still trying to figure out what was going on  
20 because he didn't -- he wasn't even back at the -- back at the  
21 scene.

22 Then we asked him, we said, well, how bad is it right  
23 now? And he told us, he said, two DOS as of right now. And then  
24 he said everybody else has multiple injuries.

25 Q. Okay. What we'll do is, I'd like to go around the room

1 and have people ask a few questions. But, you know, what I'm  
2 sensing here is -- if you want to take a break, we stop, you know.  
3 I mean, this is not -- we're not trying to make this hard on you.  
4 Do you know what I mean? Okay?

5 A. Okay. All right.

6 Q. We'll start with Bill.

7 BY MR. SMITH:

8 Q. William Smith, Federal Railroad Administration. As you  
9 know, we're not here trying to point or anything, we're just  
10 trying to eliminate things off the list. Did you have your phone  
11 off and stored?

12 A. Yes, sir.

13 Q. Okay. I know it was a blur, everything's moving fast,  
14 and then in slow motion. Do you kind of remember when Trey put  
15 the locomotive into emergency?

16 A. Well, everything happened so fast, it's hard to tell how  
17 far we were -- we actually were from the crossing --

18 Q. Crossing.

19 A. -- when we plugged the train. We had -- it was at the  
20 point that we realized that there were people on it.

21 Q. Okay. I don't have any more questions.

22 MR. SEACHORD: Kelly Seachord. I don't have any  
23 questions at this time.

24 MS. McCULLOCH: Kathleen McCulloch, no questions.

25 MS. HALL: Debbie Hall, no questions.

1 MR. BULLARD: Jerry Bullard, no questions.

2 MR. DUNN: John Dunn, no questions.

3 MR. COLLINS: Dennis Collins, no questions.

4 MR. BUCHER: Okay, Dennis has a few questions related to  
5 fatigue and preparations for the trip. And then, you know, we  
6 might go around the room one more time if anybody has any follow-  
7 up. So if we -- we'll do that and we may get you out of here  
8 pretty good. So, okay.

9 BY MR. COLLINS:

10 Q. And I'll tell you, in all honesty, that was the hard  
11 part. This is the easy part. These are much easier questions to  
12 answer and some of them are weird. I'm going to ask you some  
13 weird things. That's not because I'm implying anything about you;  
14 it's stuff we take off the list. For example, a big one is do you  
15 take any illegal drugs?

16 A. No.

17 Q. All right. All I need to that is the honest answer,  
18 whatever it may be, and I'm not implying anything. It's just  
19 something that has to be asked.

20 So you said you had a cell phone. Could you tell me  
21 your number?

22 MR. SCOTT: Am I okay to give that to him?

23 MS. McCULLOCH: Yes.

24 MR. SCOTT: Yes, [REDACTED] [REDACTED]

25 BY MR. COLLINS:

1 Q. Um-hum.

2 A. [REDACTED]

3 Q. And your service provider is?

4 A. AT&T.

5 Q. AT&T. Okay, and you said it was secured and stowed?

6 A. Yes, sir.

7 Q. Okay. By any chance, do you know the make, model, or is  
8 it a smartphone, a flip phone?

9 A. It's a -- yeah, it's the smartphone where the -- now,  
10 I'm drawing a blank -- the iPhone 5; iPhone -- no, 4 -- 4S, sorry.

11 Q. Okay.

12 A. One of the two.

13 Q. iPhone works for me. In general, how would you describe  
14 your health?

15 A. Good. I rarely get sick.

16 Q. Okay, do you have a general practitioner or a family  
17 doctor you see?

18 A. Not at the time. I'm actually new out into this area.

19 Q. Okay. And how long have you been in the area?

20 A. I transferred out to Ft. Worth January of this year. I  
21 came out working Sweetwater to Pecos June 1st this year.

22 Q. Okay. Do you see any doctors at all?

23 A. No.

24 Q. Okay. I notice you and I have something in common. Is  
25 there a particular place you get your glasses done or somebody who



1 checks your eyes?

2 A. Yeah. I get my yearly exam done. I haven't had it done  
3 this year, but yeah.

4 Q. Where was the last time -- when was the last time you  
5 had an exam done and where was that?

6 A. It was Arizona just before I left. So it would have  
7 been December of last year.

8 Q. Do you remember the place or the doctor who performed  
9 the exam?

10 A. Mojave Eye Center --

11 Q. And --

12 A. -- Bullhead City, Arizona.

13 Q. I'm sorry, I spoke over you. I want to make sure it's  
14 okay. Bullet City?

15 A. Bullhead.

16 Q. Bullhead.

17 A. B-u-l-l-h-e-a-d.

18 Q. Perfect. Do you take any prescription medications?

19 A. No, sir.

20 Q. Any over-the-counter stuff like Aleve or a vitamin?

21 A. Yeah, I do -- I have allergy pills. I'll switch out  
22 between Zyrtec and Allegra from time to time.

23 Q. Okay. Do you take any herbal supplements?

24 A. No.

25 Q. And here's that illegal drugs question.

1 A. No.

2 Q. No. Okay. Why is it that you wear glasses?

3 A. I'm -- I can't see far away without them. What is that,  
4 near-sighted?

5 MS. HALL: Yes.

6 MR. SCOTT: Yeah.

7 MR. COLLINS: Yes.

8 BY MR. COLLINS:

9 Q. And your glasses correct that problem? When wearing  
10 your glasses, do you have any problem with your vision?

11 A. No, sir.

12 Q. All right. And you don't experience any headaches or  
13 blurred vision or side effects; you're comfortable with your  
14 glasses and used to wearing them?

15 A. Yeah, no headaches, no blurred vision, comfortable  
16 wearing them.

17 Q. Okay. How would you describe your hearing?

18 A. Pretty well.

19 Q. Okay. Do you have that regularly checked?

20 A. We have it -- with the railroad, I -- we have it checked  
21 yearly.

22 Q. Okay. And does the railroad check anything else at the  
23 same time they're checking your hearing?

24 A. We do our vision test too.

25 Q. Okay. And do you remember the last time the railroad

1 checked with your vision and hearing?

2 A. It was when I was hired on, which was June of last year,  
3 June 6, 2011.

4 Q. Okay. Okay. Do you drink any alcohol?

5 A. No, sir.

6 Q. Could you tell me your height and -- approximate height,  
7 approximate weight?

8 A. About 5'5", 190 pounds.

9 Q. Things happen in people's lives that can be stressors.  
10 A good example is getting married. To me, that introduces a lot  
11 of stress -- or having a child. And I won't comment on whether  
12 or not I have any stress, but the question is has anything like  
13 that changed in your life recently, any big stressors? You said  
14 you moved to the Fort Worth area in?

15 A. January of this year. I have family out there.

16 Q. And then you moved in June.

17 A. I moved -- I just moved a couple of days ago,  
18 November 9th.

19 Q. Okay.

20 A. To Abilene. I've been out here -- the hotel's been kind  
21 enough or UP's been kind enough paying for hotels for -- from June  
22 to, let's see, end of September. Then, I was staying with one of  
23 my railroad buddies the month of October until our apartment was  
24 available.

25 Q. Okay. And no problems moving in; the apartment's

1 working out well?

2 A. Yeah. Yeah, everything's good.

3 Q. And you said "our apartment"?

4 A. Yeah, my wife's -- my wife and I.

5 Q. Okay. In general, how do you sleep?

6 A. A lot.

7 Q. A lot. Do you find it difficult to fall asleep?

8 A. No.

9 Q. Do you find it difficult to get up in the morning?

10 A. Sometimes.

11 Q. Sometimes. During the course of the night, do you wake  
12 up a lot during the course of a night or once you go to sleep,  
13 you're pretty much good until it's time to get up?

14 A. Not every night. Not every night I'll wake up in the  
15 middle -- most of the time, I'll sleep straight through.

16 Q. Okay. Okay. Would you say, in general, when you get up  
17 in the morning, you feel like you had a good night's sleep, you  
18 feel refreshed?

19 A. Most cases.

20 Q. Okay. Has your wife ever told you, you snore?

21 A. Oh, yeah.

22 Q. Okay. When it's time to get up and you're in your  
23 regular routine, does the alarm -- does an alarm have to wake you  
24 up or somebody have to wake you up or do you find yourself waking  
25 up about the right time on your own?

1 A. Well, with our job, we don't have a set schedule.

2 Q. Okay.

3 A. So I wake up with an alarm.

4 Q. Okay.

5 A. Unless I'm out of town, I just -- I'll wake up when I  
6 wake up.

7 Q. Have you ever been diagnosed with any sleep-related  
8 problems like sleep apnea?

9 A. No, sir.

10 Q. Or restless leg syndrome or have you ever undergone a  
11 sleep study?

12 A. No, sir.

13 Q. Okay. I'd like you to think about inside the train cab  
14 on the day of the incident and just, in general terms, how would  
15 you describe that environment inside the cab? If I said, how was  
16 it inside the cabin today, what would you tell me?

17 A. It was comfortable. Terry and I were carrying on a  
18 conversation, of course paying attention to all our signals and  
19 making sure we were doing everything right, but we always talk up  
20 there; everyone does. But we were just enjoying the trip. And  
21 yeah, I don't know what else to say.

22 Q. Comfortable is a great description. If that's how you  
23 felt, that's what I want to know. Not too hot, not too cold, not  
24 too loud, not too quiet? Would you -- would -- comparing that  
25 trip to any other trip you've made along that same stretch, or

1 other trips you've made, how would you compare them? Would you  
2 say this one was different in any way?

3 A. And to me, they're all the same. It's -- we all get  
4 along.

5 Q. Okay. And now, we step outside of the cab. Same  
6 thinking back to Thursday, same sort of question. As you're  
7 approaching the crossing, that external environment, is there  
8 anything out of the ordinary going on outside the train short of  
9 you see -- you do see the one flatbed crossing. But immediately  
10 before that, anything out of the ordinary you remember?

11 A. Not that I recall.

12 Q. Okay. One of the things that the Board does is look a  
13 little further at fatigue and your patterns for a few days before  
14 the accident. So, if we could, I'd like to kind of mentally go  
15 back in time to Monday morning. Monday was -- and I wrote it down  
16 -- the 12th. If I don't write it down, it never happened. So, if  
17 we could think about Monday the 12th, do you remember what time  
18 you got up on Monday?

19 A. No, I couldn't tell you.

20 Q. Okay.

21 A. I was -- I think I got off work the night of the 11th so  
22 I probably -- I got up probably between 10 a.m. and noon --

23 Q. Okay.

24 A. -- probably the best guess I could give you.

25 Q. Okay. And do you remember what you did then after you

1 got up?

2 A. No, my wife and I -- well, my wife and I were busy  
3 unpacking still because we had just gotten stuff in on the 9th.

4 Q. Okay.

5 A. And, yeah, we were still unpacking the apartment.

6 Q. Do you remember anything out of the ordinary or unusual  
7 happening on Monday?

8 A. No, sir.

9 Q. Okay. Do you remember what time you had dinner?

10 A. 7:30, 8:00.

11 Q. Okay. Do you remember what you did after that?

12 A. No.

13 Q. Okay. I'll say -- if we didn't say it before or if we  
14 did, I'll say it again. There aren't any right or wrong answers.  
15 It's what do you remember and what happened, and that's it. If  
16 you don't remember, "don't remember" is a perfectly good answer,  
17 so don't think there -- you know, it's not a test. There's  
18 nothing that's going to be wrong.

19 Do you remember what time you went to bed Monday night?

20 A. Probably 11:30, 12:00.

21 Q. Okay. Do you remember what time you got up Tuesday  
22 morning?

23 A. Probably between 10 and 12.

24 Q. Okay.

25 A. I'm not sure.

1 Q. And the same sort of question. Do you remember what you  
2 did during the day on Tuesday?

3 A. Yeah, I was off all day. Tuesday would have been the  
4 13th?

5 Q. Yes.

6 A. I was off all day because we watched -- I don't -- I  
7 can't remember what we did during the day. I know we watched SOA  
8 at night and then I went to bed after because I was going to work  
9 the following day. So I went to bed at 10:00 on the 13th and --

10 Q. Okay.

11 A. We got called 8:30 in the morning, I think. Went to  
12 work 10:40 on the 14th.

13 Q. Did the call wake you up on the 14th?

14 A. No, I woke up at -- I set my alarm for 6 a.m. and looked  
15 at -- got up and checked the board to see where I was at. Saw  
16 that I was getting called at around that time so I was up from  
17 that point. I already showered, dressed, breakfast, you know,  
18 just waiting to go.

19 Q. And before I forget, to back up, you watched SOA?

20 A. Uh-huh, Sons of Anarchy.

21 Q. Sons of Anarchy. I knew I knew what that was but it was  
22 nagging at me, and I will assume the court reporter who's going to  
23 transcribe it doesn't know what it was so I asked for her.

24 A. All right.

25 Q. Or him. Okay, so you got up and you said you were going



1 to be called at -- and, I'm sorry, I've forgotten the time  
2 already, 10?

3 A. Yeah, we're called -- we get a 2-hour call  
4 (indiscernible) --

5 Q. Got called at 8:30.

6 A. -- Sweetwater. So we got called -- they actually called  
7 us at 8:30 for 10:40.

8 Q. Okay.

9 A. So we went on duty at 10:40 that morning and --

10 Q. And, I'm sorry, when you were called at 8:30, you were  
11 at your new apartment --

12 A. Um-hum.

13 Q. -- which is in?

14 A. Abilene, Texas.

15 Q. Okay, and where did you have to report to?

16 A. Sweetwater.

17 Q. Sweetwater. And how did you get from Abilene to  
18 Sweetwater?

19 A. Drove the truck.

20 Q. Okay. Your personal vehicle?

21 A. Um-hum.

22 Q. Okay. So you got to Sweetwater at 10:40, and then what  
23 happens?

24 A. We depart -- well, we departed -- the train was already  
25 there on our on-duty time, so we departed, it was about, I think,

1 10:55 that morning. Pretty much knew we were going to have a  
2 crummy trip because we had about four Z-Trains coming at us, and I  
3 think we got tied up around 1830, so 6:30 that night. And then --  
4 so we were off from 6:30 that night until we went on duty the  
5 following day at 1:40.

6 Q. Okay. What was it that made it a crummy trip?  
7 Understanding, I'm not rail; I'm actually in the highway office so  
8 I -- the nuances sometimes escape me. I'm just trying to  
9 understand.

10 A. Well, we're on 70-mile-an-hour track so we can -- we run  
11 70 miles an hour. And most cases you can make a trip, if you're  
12 on clear signals the whole way, in 4½, 5 hours. So when you're on  
13 a train more than 8 hours -- we don't get any overtime on this  
14 subdivision because it's 199 miles. So anytime we're on a train  
15 over 8 hours, it's a crummy trip for us.

16 Q. Long day. Okay. And you said you tied up at 1830?

17 A. Yeah, right around there.

18 Q. And then where did you go after you tied up?

19 A. We went to a La Fiesta and ate dinner.

20 Q. Okay.

21 A. I went with Trey Terrazas and Billy Martin.

22 Q. And then after dinner?

23 A. Went home, went to bed.

24 Q. And by home, you went back to your apartment?

25 A. Went back -- yeah, we went back to Pecos, Oak Tree Inn.

1 Q. Okay.

2 A. We went to bed.

3 Q. And do you remember what time that was you went to  
4 sleep?

5 A. Yeah, it was around 10:00 at night.

6 Q. Okay. And we've already talked about the 14th, so --  
7 the morning of the 14th, so I think we're good there.

8 Another weird question. You turn out the lights, you  
9 turn off the TV, it's time to go to bed. There's a certain amount  
10 of time where everybody -- we're laying in bed, trying to go to  
11 sleep, and we're thinking about, oh, this what happened during the  
12 day and I've got to do this tomorrow and -- how would you describe  
13 that amount of time? Would you say you go out like that or would  
14 you say, boy, I'm laying there and I'm counting sheep?

15 A. I typically fall asleep within 15 to 20 minutes of  
16 laying down.

17 Q. Okay.

18 A. Unless I'm really tired, and then when my head hits the  
19 pillow, I'm out.

20 Q. I can believe it.

21 I think that's all of my questions. See, not too bad, I  
22 hope.

23 MR. BUCHER: Okay. Dave Bucher again. We're going to  
24 go around the room for one last chance. Jerry?

25 BY MR. BULLARD:

1 Q. Jerry Bullard. That night, your sleep was undisturbed?

2 A. Yes, sir.

3 Q. So you slept throughout the night?

4 A. I put my cell phone on silent when I sleep.

5 Q. And we're talking about the night after the La Fiesta  
6 dinner --

7 A. Yes.

8 Q. -- is that correct?

9 A. Yeah, that's correct.

10 Q. The 14th.

11 MR. BUCHER: Okay. Bill's got one more.

12 BY MR. SMITH:

13 Q. Yeah, William Smith, FRA. How long -- I know you were  
14 talking about a crummy trip. You didn't catch a Z-Train and you  
15 were thinking you were glad you didn't catch a WC, but what's the  
16 average trip on you all's run?

17 A. It depends. I'd say -- we can say (indiscernible) 7½ to  
18 9 hours average if we're not on a Z. It would be something like  
19 that.

20 Q. Okay. And how many times are you all working per half?

21 A. We do -- it's normally about 5 round trips, so 10 trains  
22 a half.

23 Q. Are you all doing much deadheading down here or just --

24 A. Occasionally. It's slow on Mondays and Tuesdays; they  
25 run a lot of deadheads.

1 Q. Okay. Last question. This trip you made held away at  
2 Pecos. Are you -- what's your average time, then, away from home  
3 out there, would you say, around?

4 A. Average -- by the time we tied up there or by the time  
5 we go on duty in Sweetwater?

6 Q. Between the time you tie up and the time you go on duty  
7 at Pecos?

8 A. Average, anywhere from, I'd say, 14 to 18 hours.

9 Q. Okay, so you all aren't doing any quick turnarounds at  
10 Wavermill (ph.)?

11 A. Sometimes, but it's rare.

12 Q. Yeah. Okay. I don't have any more questions.

13 BY MR. COLLINS:

14 Q. Dennis Collins. I have a follow-up for myself because I  
15 always seem to forget this one. We talked about your health in  
16 general. On Wednesday and Thursday morning, was anything  
17 bothering you, anything from a cold to an upset stomach to a  
18 headache?

19 A. No, sir.

20 Q. And you said you take allergy medicine. Your allergies  
21 weren't bothering you excessively Wednesday and Thursday?

22 A. Yeah, I take allergy medication, but it did not bother  
23 me.

24 Q. Okay, that's it.

25 MR. BUCHER: Okay. That concludes the interview with

1 Nathan.

2 (Whereupon, the interview was concluded.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:           GRADE CROSSING ACCIDENT  
                                  NOVEMBER 15, 2012  
                                  MIDLAND, TEXAS

DOCKET NUMBER:            HWY-13-MH-003

PLACE:                      Midland, Texas

DATE:                        November 17, 2012

was held according to the record, and that this is the original,  
complete, true and accurate transcript which has been transcribed  
to the best of my skill and ability.

---

Vanita Tildon  
Transcriber

## **Driver interview Smith Industries**

Present for NTSB Gary Van Etten /Mike Fox, present for Smith Industries GM Ty Hartley and driver James Atchison (aka) Jim-Bo who drove the lead vehicle in the parade.

Q. How long have you worked for the company?

A. Since Jan or February of 1990.

Q. What kind of work did you do before that?

A. Everything.

Q. How long driving a truck?

A. Since 1990.

Q. That's when you got your CDL?

A. Yes sir.

Q. What did you do before that?

A. Odd jobs, welding, lineman, farming, I say odd jobs; I mean they were my employers. I did several different things. I did a lot of different jobs.

Q. It looks like you have found a home here, almost 22 years.

A. Yes sir, I believe so. I cooperated with several different things.

Q. Is a Class A license that you have?

A. Yes. No endorsements, just a regular class A.

Q. Where did you learn where to drive a truck?

A. I grew up on a farm, I guess on a farm.

Q. So you did not go to truck driver school...your Daddy was a truck driver and drove a tracker. I supposed you grew up on a farm, so I suppose you drove tractors...you grew up in an environment where you learned it by osmosis. You kind of grew up in an environment learning how to drive large vehicles.

A. Yes sir.

Q. When you are here, do you drive the same kind of vehicle all the time? Or do you driver other vehicles?



A. Yes I drive basically the same one...there are days I have to take a different truck, but basically each day I drove the same vehicle.

Q. Do you have the same work schedule? What do your work days look like? Do you come to work early and work Monday through Friday?

A. Yes sir, whatever needs to be done. You know, I mean...

Q. Generally speaking your employment was Monday through Friday, is that correct?

A. Yes sir, that's right, Monday through Friday.

Q/M – Can I ask a follow up question? When you say you drive the same truck is that the same one in the parade?

Answer: do you mean the one that I drove in the parade? Then yes sir, it was.

Q/G- Do you mean the blue Peterbuilt?

Answer: Yes.

Q/M- What year is that?

A. It is unit #69 and T69. It is a 2000 Peterbuilt, the unit is #69 and the trailer is T69 a 1999 Transcraft trailer.

A/Ty- Just for clarification sake, you asked if he worked for the company since 1990, he actually for the family since 1990. This particular business has been in business has only been in business for 9 years. Not to confuse you when you look at the documentation it may say something different. Rick belonged to Smith Brothers was actually Smith Brothers Pipe. The son Rick actually split off from the company.

Q- So that was 2003. So you were driving a truck for Smith Brothers Pipe?

Answer. Yes sir.

Q. Did that entail you driving the same kinds of vehicles like you drive here?

A. Yes sir.

Q. You are familiar with the area along parade route?

A. Yes sir.

Q. No surprises. I mean in terms of the environment and the roadway, you were familiar with the area?

A. Yes sir.

Q. Let me ask you about how you got involved in driving in this event.

A. What was it 4 years ago the first one started, Rick asked if I would be interested in driving in the parade and I said “yes”.

Q. So the boss came up and asked if you would be interested and wanted to see if you wanted to participate?

A. We always do a lot of charity stuff. It doesn't necessary involve driving trucks. I mean we have done high school parades and we have done home coming parades. We do a lot of charity events.

Q. Ok, well you, the company just bought the truck, it's new. So do you use one of your trucks to drive in a parade?

A/Ty – This truck is used in events, the orange one, we just bought in April.

Answer/D- I am not going to say a lot, we have had 3 parades this year. This is my 3<sup>rd</sup> parade this year.

Q. So you do about 3-4 parades a year?

A. Usually 1 or 2. This year I have had more parades this year.

Q. These other events, are you transporting folks on the back of the trucks?

A. Yes sir.

Q/M – You said you put people on the truck, do you mean the sit on the float or flat bed? How do they do that? Do they sit on bales of hay or do they sit on chairs?

Answer/Ty – As far as the other parades, sometimes they are standing. There are football boys; we may haul from the football team in a high school parade. Typically they are just standing.

Q/M. Do they have anything to hold on to?

Answer/Ty. Depends on how they decorate the float. Sometimes they will dress up the float and put rails in there, and sometimes they won't.

Answer/Driver- We don't decorate the floats, they do. I put the chairs on the floats here. I run a 2 inch strap through the chairs. Whenever we get there, the Midland PD brings the chairs and the signage. We just strap down the chairs. The PD puts on the signs on.

Q. When you say “they” provide the chairs, who is “they.”

A. The city of Midland.

A/Ty. Yesterday you asked yesterday I could not answer, if Rick came out and volunteered his trucks for this event or did Terry Johnson ask him. I asked Rick how that came about. Rick said that Terry came to him and asked if Rick if he could use the trucks and trailers. The reason being the every first year our heroes were in vans and you could not see them. So Terry came to Rick and asked if he could put them in the lime light, where these people could be seen. It's all about them.

Q. He probably did this since you guys had been doing this sort of things in prior events.

A/Ty -Could be. We had done a couple of parades.

Q/M- Also Terry Johnson and Rick Smith are buddies, friends.

Answer/Ty- yes that's right, they are friends. Terry's office used to be 2 doors down from here. Up until a year and half ago he was 2 doors down.

Q. So, when you show up on the day of the parade, how far in advance do you know you are going to do this parade?

A. Several months. I mean, since we did the first one, it was pretty much my truck, and it's pretty much a known fact that I going to do it.

Q. So you know it's going to be you in the parade?

A. Yes, it's an honor to do it, for me to volunteer my time to do it for these guys.

Q. Is there any special preparation you have to make before you begin the parade?

A. Wash the trucks, make sure the trucks are safe.

Q. Do you do a normal pre-trip before you begin the trip?

A. Oh yea, anytime our trucks leave, we do a pre-trip and a post-trip.

Q. And we have that on the log?

A. Yes.

A/Ty – he has it on the truck, I don't think it's been turned in yet. Yes sir.

Q. Do you have the log on your truck?

A. Yes it's on my truck.

Q. Can you get it? We will need a copy of it before we leave today.

A. A copy of mine?

Q. Yes sir, we need a copy of your log book.

A. Ok yes sir.

Q. What time do you show up, what time?

A. I show up here between 6:15 AM and 6:30 every day. I drink a cup of coffee and find out what we are going to do.

Q. I mean specifically on the day of the parade, what time did you get here.

A. It's the same thing. 6:15-6:30 am.

Q. Ok. Do they start the parade the same time each year?

A. Yes, 4 O'clock. I was thinking it was 5 O'clock PM last year.

Q. Well you have to be there, so you know what time you had to be there?

A. I was over there at 2:30pm. They wanted us there at 2:30 so they could put on the names of the soldiers on the trailer.

Q. That's over at the Double Tree?

A. Yes sir. So we left here and went over there.

Q. So when you say "we" you mean you and the other truck?

A. I mean me and the other truck.

Q. Now when it left here, was it decorated?

A. It's got flags on it, which are ours. And we put the chairs on before we left.

Q. You said you put the chairs on here at this office?

A. Yes sir. The city brings them here and we put them on here.

Q. I can show you how I strap them down. They are secure.

A. No it won't be necessary; we saw how you did that.

Q. So you came to work at 6:30 but you did not have anything to do until 2:30? So is that the time you are preparing the truck?

A. Well it's not like I have nothing to do, I stay busy.

Q. Ok then you are washing the truck and putting on the chairs.

A. I am getting cleaned up. Getting it ready and also doing whatever they may need in the back of the yard. As far as standing around, no sir, I am not standing around.

Q. I didn't mean to imply that. I figured you were busy.

A/Ty- you asked him if he nothing to do until 2:30

Q. I mean that he did not have a schedule for him to do or activity up until 2:30.

A. Right, I was busy.

Q. Do they tell you when to be there?

A. Yes sir, they tell me to be over there at 2:30.

Q. Is that when the city starts to decorate the float? And when you say city who do you mean, the police department or some other office?

A. Sherry Fox who works for the police department, she is the one who had all the names to put on both floats.

Q. Is there any paperwork for the parade? Is there a pre-parade meeting with all the folks?

A. No sir.

Q. So you just show up and you know what you are going to do?

A. Yes, sir. We are parked and vehicles are coming from the west side of the Double Tree. And there someone in the intersection telling them to come on and people what to do. They choose where we are at in order we are going to be in the parade route.

Q. So the Police Department directs you were to go and what position to go in the parade, what order each vehicle is going to be in the parade.

A. Yes sir.

Q. We heard there was a marching band. Is that correct?

A. Yes Sir there was.

Q. Do you know if they were a high school marching band? Where are they from?

A. It was Midland Christian I think; they have dark blue or black uniforms.

Q. Is that a high school?

A. Yes sir. It's private.

Q. Is it K through 12?

A. I couldn't tell you.

Q. They were in the lead?

A. I don't know if they were in the lead. But I know they were in front of me. There were a couple of vehicles in front of me, but I know they were a head of my truck. There were a couple of vehicles in between us.

Q/M- going back to Sherry Fox, she is a police officer, she is in uniform?

Answer-Yes sir.

Q. So at some point did Sherry Fox have a pad and start to direct people where to line up in the parade?

A. I don't believe she had a pad, but she was standing in the intersection directing people were to go. She was motioning for some to go and then for us to go. Because I am sitting there watching people coming from the side street and she tells me to come on. I remember because I remember Dale Little joking said, ok let's put down the whiskey bottle and let's roll.

Q. Ok what street is north that beside the Double Tree?

A. I am not sure.

Q. The north-south Street which runs beside the hotel is Lorene St. Is that correct?

A. I think that's correct.

Q. So there were vehicles staged on Lorene Street comes north and south, and then east/ west which is West Wall Street. Were there police directing what order you were supposed to proceed?

A. Yes.

Q. Do you have any idea of the total number of vehicles there were in the parade?

A. No sir.

Q. 15-20 maybe?

A. I don't know. Last year seemed like there was more, because I sat there and sat there waiting to go.

Q. Do you know what kinds of vehicles were in the parade?

A. I think there was a Greenwood Volunteer Fire Department they have a white enclosed fire truck it was in front of me. And the marching band the was in front of me also. I can't remember exactly what order vehicles were.

Q. Do remember how many vehicles there were in front of you?

A. No, I am not sure.

Q. Could you see the band in front of you?

A. Somewhat, yes sir.

A/Ty – It may be pertinent information, that band they peeled off at the Denis the Menus Park.

Answer driver- When we came down Wall and made the turn on Garfield, about a block, block and a half they turned off at the Denis the Menus Park and then the motorcycles came in.

Q. So after they turned on to Garfield, a block or two down, they turned into the park?

A. Yes and then the Patriot Guard Motor Cycles got in. They were probably two or three vehicles in front of me. Because I was getting closer to them. I was planning on slowing down to let the motorcycles come in because that is where they needed to be.

Q. The Patriot Guard Motorcycle, is this a club? Here in Midland?

A. Yes sir.

Q. About how many bikes are there?

A. There was probably 15-20 motorcycles.

Q. It's probably the ones we saw doing something on Sunday.

A. Probably, they are really big around here. My grandfather passed away 2-3 months ago, they gave him an Patriot Guard escort to the cemetery.

Q. So this is just a voluntary group, I am assuming a veteran group, all males?

A. No sir there are women in the group as well.

Q. And they do these kinds of events?

A. Yes sir, they are there whenever the soldiers come in at the airport. They greet them as they come off the plane on leave. They make a point to welcome our guy's home.

Q. That's really great.

A. We really love our soldiers here.

Q. Are there vehicles in front of them, the patriot guard?

A. I am not sure. I didn't see the horse patrol. Every year we have this problem that once we leave the Denis the Menus Park, they always want to pick up the pace and I am always lagging behind. Because I am not going to drive 40 mph with these guys sitting on a trailer. It's not going to happen.

A/Ty –Typically they pick up the pace after the park.

A. The mounted police, they typically, when we turn on to the horse shoe, that's when they pick up the pace. They are directly in front of me. Of course we did make it this year. They are at the Horse Shoe, that's where they are at. They are not in the parade route.

Q. We know there was this Greenwood Fire Department. Do you know who else was in there?

A. I know the Ranchers who was sponsoring, they were in front of me.

Q. Did you say "Ranchers?"

A. Yes St. Angelo's Ranchers. I believe so. There was a H2 Hummer, and there was another pickup which I could have sworn said the Ranch. I could have sworn that said the ranches.

Q. Is this a private Ranch or some association?

A. Friday morning they take them to St. Angelo, that's where they take them hunting.

Q. If there is something painted on the side of the vehicle, it makes me think it is some kind of association or independent ranchers. So are there ambulances in the parade?

A. No sir.

Q. Then what kinds of vehicles were in the parade? Were there fire trucks in the parade?

A. I don't remember. Usually if the Midland Fire Department is going to be in the parade, then they are a horse shoe, at the entrance with flags attached to their ladders with them crossed as we enter. We had Deputy Sheriffs on either side of us and we had Midland PD blocking intersections.

Q/Ty. Where were there golf carts running around?

Answer driver- I saw a mule that was in front of us. That's an ATV 4 wheeler. The main thing is that I wanted to keep a safe distance from the vehicle in front of me and prevent any passengers from being thrown off.

Q. When the band was in front of you, about how fast were you going?



A. Maybe 5 miles per hour. The marching band was in front of us. It was walking speed, keeping a safe distance. The thing is I don't want to have to slam on my brakes.

Q. Did you ever have to stop prior to the band leaving the parade?

A. I don't remember doing that.

Q. You were just a steady slow speed?

A. Yes sir.

Q. Then you make your left turn, the police are leap frogging into the intersections.

A. Yes sir.

Q. You were going through red lights?

A. Yes sir.

Q. And that's because the police are escorting you through the intersections through the city.

A. Yes sir.

Q. And you make your left hand turn now, the band peels off and then the motorcycles join in. Is that when you say they like to pick up the pace? How fast do you think you were going then?

A. Yes, we were going about 25- 30 mph

Q. Is that all the way to the RR tracks?

A. Yes sir

Q. You get to the railroad tracks, what do you see?

A. I see that the intersections are all stopped. The cops have it blocked. I am looking, I mean, I know I look down the tracks. Growing up we had a kid in the pep squad got run over by a train in Stanton. You know that really stays with you. Your classmates are dead. I mean trains scare me sir.

Q. Ok I understand. Then what?

A. We go over the track. It such a deal, we have to slow down. I am watching making sure my trailer is not bouncing too much. I never saw or hear, and I had my windows down, I did not see red lights, bells, nothing. Never.

Q. Now what kind of speed do you think you were going over the tracks?

A. I couldn't tell you. We were going real slow. We were going faster than I wanted to, we were not going 25.

Q/M- As you can recall, it's kind of bumpy. It goes up and then down. When you were there, can you describe were the police there, were the Sheriff's there? Can you walk us through that process?

Answer. We had sheriffs throughout the whole parade, on each side of us.

Q. Did just the lead vehicle have sheriff vehicles on either side of it?

A. No, both of us did, on both sides.

Q. Can you recall if there were police cars on the other side, I believe that is Industrial?

A. Yes sir, there were marked cars and unmarked police cars.

Q. Can you recall if there were officers standing on the other side of the tracks?

A. I can't recall seeing police officers standing outside of their vehicles.

Q. When you started across the tracks can you recall if there was a police officer motioning for you to come on through?

A. Like I said, I don't recall seeing any officers outside of their vehicles. I was just following the progression of the parade. Now a couple of years, we have stopped before the rail road tracks as a train goes by, and then proceed by. This year we did not.

Q. Can you remember coming up the intersection, do you remember the lighting?

A. You mean the traffic lighting?

Q. Yes.

A. No because the police had the intersection blocked and under control. And there are vehicles stopped behind them. So there is no way an on- coming vehicle could be getting into us without going through them. And there were several vehicles stacked up. I was looking forward, and in my mirrors.

Q. Were you maintaining the same distance between yourself and the vehicle in front of you?

A. No sir. They were pulling away from me.

Q. You slowed down as you crossed the tracks.

A. Yes sir. I slowed down as I got to the tracks. The rest of the parade is perhaps 2 blocks ahead of us.

Q. So there is a big gap in front of you

A. There is a big gap, I am not going the speed limit, guess I got these guys behind me.

Q. So are you going 30 mph?

A. I am not sure how fast I am going. I am saying 30 mph, I should say it, I am guessing. I am trying to maintain a safe speed. I was actually going faster than I wanted to go.

Q. Believe me, I think you were doing what you thought was the safest thing to do. It is interesting to note at the time the trucks were going over the tracks, that there was a segment of the parade that had this big gap in it as you got to the tracks.

A. Yes sir, I am not going to go as fast as they want to go. I mean, I got people sitting in chairs, not seat belted in. You know this is not a horror ride. We are not supposed to scare them.

Q. So about how far is this other group in front of you.

A. About 150-200 yards, maybe not that far.

Q. That's 600 feet. As you say, they are gradually pulling away.

A. It seems like each year once we cross over the rail road track, they get farther and farther away from me, and they realize that I am not going to go that fast. In years past they had stopped the parade once they got over the railroad tracks and let everybody catch up.

Q. That's an interesting point because we had heard initially that the parade had stopped, and that you had stopped. And the truck behind you had stopped as well.

A. No sir I had never stopped. Dale was probably 2 truck lengths behind me. But I never stopped.

Q. Do you mean just a truck length or tractor and trailer lengths?

A. I mean both tractor and trailer lengths.

A. The only time I stopped is whenever I heard screams. I looked in my mirrors and saw the trailers swinging around. I stopped, set my parking brakes, jumped out of the truck and went to help.

Q. Did you hear the train horn?

A. No sir I did not.

Q. Could you estimate how long after you cleared the tracks that you came to a stop?

A. As soon as I heard what I heard behind me, I don't know what you are asking me.

Q. When you went over the tracks, then you are still slowly going south, then you heard some screams, then you looked in your mirrors and saw things happening behind you, then you stopped?

A. Yes sir.

Q. My question to you is, by the time you cleared the tracks to the time you stopped, about how long was that?

A. I don't know. I would say I was 2 truck lengths in front of him. Whenever I stopped I was what a truck length from Front Street where 158 ends and hits Garfield. No its Florida. It was a truck length before that intersection. I heard the screams and stopped. I shut down the truck and set my brakes and jumped out.

Q. Just so I am clear, you never received any instructions on how to go or where to go?

A. No sir just that we were supposed to meet at the Hilton.

Q. So you never received a piece of paper or instructions, this is route we were going to take?

A. No sir.

Q. As I understand it, they have been using this particular route for about 3 years. Do you remember using different routes?

A. Ever since I have done it, this is the route we have been taking.

Q/Ty- Didn't you use to use Cotton Flat because that road wasn't open?

A. Yes you are right. We use to go down Garfield, and then as soon as we crossed the railroad tracks we would turn down Industrial on the south side of the tracks and go down to the first road to the left which is Cotton Flat and take it down to the service road because Garfield did not go to the Horse Shoe. That road used to be pasture and would dead end.

Q. How many years ago was that?

A. I think last year was the first year we went that way; no it was this year and the year prior that they went down Garfield.

Q. So prior to that you would go over the tracks, right on Industrial and then left?

A. Yes.

Q. Ok I get it. Is there anything else that you might want to tell me or that I did not ask? This is you time to tell me anything.

A. I want to know why it happened.

Q. We do too.

A. We love these guys, and Dale he is a soldier himself. This guy was so excited. He was honored to do it. He was in his camo fatigues. He is active duty reservist. He has been over there in country with these guys. And I don't understand it. These were his brothers.

Q. Did he know any of these guys personally?

A. Personally, no sir. But these guys they have a bond. And they are our heroes. It's honor to get to do this. Even though all I do is pull them. I look forward to it. If it were not for them we wouldn't be able to do the things that we are doing. I just don't understand it.

Q. We don't understand why things happen to us. It doesn't seem right. We can't make a lot of sense out of it. I don't know if we will have a lot of answers. However it is our job here to try to figure out, factually what happened and everything that was involved in it. So we can find out what went wrong and then try to fix it. That's our mission. We don't prosecute anybody or fine anybody, that's up to other people. We just want to fix it so it does not happen again. And get it accurate.

A. There is no reason why Midland should have trains going so fast. 20 miles down the road in Stanton, the trains slow down there. Even in the bigger towns the trains slow down.

Q. We understand, we were there yesterday. The answer to your question is you are right; they probably should, especially when an event like this is occurring. But that takes the political will to do it and to let the people know when it is happening. Maybe out of this tragedy some good these things will come out of this.

Q/Ty –why wasn't the Union-Pacific notified of this?

Answer- That's something we are trying to figure out.

Q/Ty – Isn't it the responsibility of the folks who do the permit to contact the railroad?

A/G- That is the 64 Thousand dollar question we are trying to answer. There are a lot of questions we are trying to answer, like who organized this, who was responsible for what. What did they do and what didn't they do. And that's what we are hoping to find out here in the next couple of days. The people who are most responsible for that we have not been able to talk to yet. We are scheduled to talk to them, but have not gotten there yet.

Q. During the procession, do you remember Sherry Fox out there? Do you remember her being out there, or passing you along the parade route?

A. She was helping putting the flags on and she was the one at the Double Tree and she was the one who said "go ahead". Now I did see her that night at the accident. She came up and hugged me and wanted to know if I was ok.

Q. She was the one directing folks at the intersection.

A. She told me and she waved me on in the beginning of the parade.

Q. Do you know how long Sherry has been involved with the parade?

A. It's been as long as we have been doing it with the trucks. So the past 4 years or so. She has been with it for a while.

Q. Do remember any other police officers involved with it?

A. Yes there was Bogart.

Q. Do you know his first name?

A. I have known Bogart a long time. He used to answer to alarms with my ex-girlfriend. She owned a pawn shop and we had alarms and he would respond to them. But that was some years ago. Last year I dealt with Bogart, but this year the only one I dealt with was Sherry. She is the one I got the chairs from.

Q. You said Brian was out there too?

A. Yes sir.

Q. Does he live local? Is he here in town in Midland?

A. Yes I believe so.

Q. Now last year you said Brian was involved in the parade. Was he with Sherry?

A. We have to have a seating arrangement. Some years we have wheel chairs. So obviously we have to put one chair in such a way to accommodate the wheelchair to block it. Also the City of Midland would bring a straight truck with a lift gate to bring the wheel chair person up to the height of the trailer.

Q. Did you have any wheel chairs on either trailer this year?

A. No sir, not this year. Actually this is the first year we did not have any wheel chairs.

Q. When you say the "city" was it a city truck or police vehicle.

A. When I say the city, I mean it could be either one, I consider them to be the same.

Q. And they would bring a straight truck with a lift gate or tommy gate?

A. Yes sir. But like I said, this year we didn't have any. So everybody just walked on. We have steps and they just walked on. Now one guy had a prosthesis he was on my truck. We prefer them to use the stairs we made.

Q. Did they give you a list of who was on your truck?

A. No sir. We don't know until they have the signs on the truck. They just say we have 24 soldiers and their wives. Now sometimes they tell us the speaker wants to ride the float. I might need to call Sherry and tell her we need more chairs and she would bring us more.

Q. When you say speaker, who is that. Is it someone who speaks at the Horse Shoe?

A. Yes. They speak at the event at the Horse Shoe. Now the speaker did not ride and there were empty chairs up front. The speakers would ride.

Q. Was there a camera in your truck? Whose camera was it?

A. Yes there was and I have no idea who owned it.

A/Ty- it was someone hired by Terry a professional photographer. They had cameras all along the parade route.

Q. Were there cameras in both trucks?

A. No sir. Just on my truck.

A. You have to understand that this event is not just for the soldiers, it's for the wives too. The women are getting pampered all day long. They are getting facials and pedicures and go shopping. This is a very big deal.

Q. I know we had not talked about this but for the record; I need ask if you were not tired on the day of the crash or have any unusual condition going on?

A. No sir.

Q. As Gary asked, do you have anything that is weighing heavily on your mind that you would like to ask?

A. No sir.

-----End of Interview-----

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

\* \* \* \* \*

Investigation of:

\*  
\*  
\*  
\*  
\*  
\*

GRADE CROSSING ACCIDENT  
NOVEMBER 15, 2012  
MIDLAND, TEXAS

Docket No.: HWY-13-MH-003

\* \* \* \* \*

Interview of: DALE HAYDEN

Midland, Texas

Wednesday,  
February 20, 2013

The above-captioned matter convened, pursuant to notice.

BEFORE: DENNIS COLLINS  
Accident Investigator



## APPEARANCES:

DENNIS COLLINS, Accident Investigator  
Office of Highway Safety  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
202-314-6449

ROBERT ACCETTA, Investigator-in-Charge  
National Transportation Safety Board  
624 Six Flags Drive, Suite 150  
Arlington, Texas 76011

TY HARTLEY, General Manager  
Smith Industries  
Midland, Texas

B. CALVIN HENDRICK, Esq.  
(Counsel on behalf of Smith Industries)

<u>ITEM</u>	<u>I N D E X</u>	<u>PAGE</u>
Interview of Dale Hayden:		
By Mr. Collins		5
By Mr. Accetta		32

1 I N T E R V I E W

2 MR. COLLINS: This is Dennis Collins with the Safety  
3 Board, C-o-l-l-i-n-s.

4 MR. ACCETTA: This is Robert Accetta with the Safety  
5 Board, A-c-c-e-t-t-a.

6 MR. HENDRICK: I'm Cal Hendrick. I'm the attorney for  
7 Smith Industries. And my name is C-a-l; last name, Hendrick  
8 H-e-n-d-r-i-c-k.

9 MR. HAYDEN: I'm Dale Hayden, the driver; D-a-l-e,  
10 H-a-y-d-e-n.

11 MR. HARLTEY: And I'm Ty Hartley, General Manager of  
12 Smith Industries; T-y, H-a-r-t-l-e-y.

13 MR. COLLINS: Mr. Hayden could you give me your address?

14 MR. HAYDEN: [REDACTED]  
15 [REDACTED].

16 MR. COLLINS: And your phone number?

17 MR. HAYDEN: [REDACTED].

18 MR. COLLINS: The first thing I'd like to do is start  
19 with some general questions. This is background information that  
20 we ask every operator. It's going to be a little broad, and the  
21 purpose is to just get rid of all of those potential extra factors  
22 that aren't factors.

23 Aren't any right or wrong answers; just give me the best  
24 answer you can. If you don't remember, tell me so. I'm not  
25 grading you at the end of this. They'll be no A's or B's or F's

1 and that's it.

2

INTERVIEW OF DALE HAYDEN

3

BY MR. COLLINS:

4

Q. How would you describe your general health?

5

A. My general health is good.

6

Q. Do you see any doctors on any regular basis?

7

A. No, sir.

8

Q. No. So do you have a family doctor?

9

A. No, sir.

10

Q. Okay. Do you have any medical conditions?

11

A. Other than acid reflux, that's about it.

12

Q. Do you have any kind of allergies, animal or seasonal or

13

food?

14

A. No, sir.

15

Q. No, sir. Could you tell how tall you are?

16

A. I think I'm 5'10". The Army says I'm 5'9".

17

Q. And about how much do you weigh?

18

A. About 180.

19

Q. Do you drink any alcohol?

20

A. Occasionally.

21

Q. How often would you estimate that would be?

22

A. I would -- not every weekend. I very seldom drink.

23

Q. When you do drink, what kind of alcohol do you drink?

24

A. It's beer.

25

Q. Beer. And ballpark on an average time, how much would

1 you say you drink at a time?

2 A. Three or four.

3 Q. Okay. Have you ever been arrested for DUI?

4 A. Never.

5 Q. Have you ever gotten any counseling or treatment for  
6 alcohol dependency?

7 A. Never.

8 Q. This one usually makes people laugh. Have you -- do you  
9 take any illegal drugs?

10 A. No.

11 Q. See, there was the laugh. Have you ever been arrested  
12 for possession of drugs?

13 A. Never.

14 Q. Okay. Do you take any prescription medications on a  
15 regular basis?

16 A. I'm supposed to. Omeprazole is what I was taking for my  
17 acid reflux. They just changed it to something else. I don't  
18 know what it is.

19 Q. Okay. Do you take any over-the-counter drugs like  
20 Tylenol or aspirin or Claritin on a regular basis?

21 A. Not on a regular basis. If I have a headache, I might  
22 take some ibuprofen.

23 Q. And herbal supplements, the stuff that's sold as the,  
24 you know, JointEase, do you take any of those?

25 A. Never.

1 Q. No, okay. How is your vision generally?

2 A. With my glasses, 20/20.

3 Q. What do your glasses correct?

4 A. Yes, they're corrective.

5 Q. I'm sorry, let me rephrase that. What condition do you  
6 have that you wear glasses for?

7 A. I'm nearsighted.

8 Q. Nearsighted. Is there a particular place you get your  
9 glasses, or a particular vision doctor you see?

10 A. I usually go to Walmart and go to their optometrist and  
11 actually get my glasses from there.

12 Q. And it's a Walmart by your home?

13 A. Right.

14 Q. Okay. Have you ever had any other problems with your  
15 sight other than being nearsighted?

16 A. No, sir.

17 Q. How's your hearing?

18 A. Hearing's good.

19 Q. Have you ever had any problems with your hearing?

20 A. No, sir.

21 Q. Prior to the accident, say, within the -- anywhere from  
22 a couple of months to that morning, have you had any big events in  
23 your life? And I'll give you some examples. You or anyone you're  
24 closely related to gotten married or divorced within a certain  
25 amount of time before the accident?

1 A. No.

2 Q. Birth of a child or a grandchild?

3 A. No.

4 Q. Death in the family?

5 A. No.

6 Q. New job, lost a job, got promoted, got demoted?

7 A. No.

8 Q. Did you move anytime recently prior to the accident, new  
9 house?

10 A. No, sir.

11 Q. Okay. Any major illnesses in the family?

12 A. No.

13 Q. And were you having a financial issues prior to the  
14 accident?

15 A. No.

16 Q. Okay. I'll switch gears a little bit. You know,  
17 fatigue is a concern for commercial drivers so we have some  
18 questions about that just to help us get a picture of that.

19 On your days you're off, you don't have to work, when do  
20 you normally go to sleep and when would you normally wake up?

21 A. I go to sleep pretty early most of the time, even on the  
22 weekends no later than 11:00 on the weekends. I still get up kind  
23 of early though.

24 Q. What time would that be on the weekends?

25 A. On the weekend, 7:00.

1 Q. Okay. How does that change on the days that you have to  
2 come into work?

3 A. I just go to bed earlier, get up a little earlier.

4 Q. What time would you go to bed and what time would you  
5 get up if you had to come in? Say, tonight because it's the  
6 middle of the week and you have to come to work tomorrow, what  
7 time would you go to bed tonight, what time would you get up?

8 A. I'm usually in bed by 9:30, 10:00, and I get up at 5:15.

9 Q. Okay. Do you normally take naps?

10 A. No.

11 Q. No. When you sleep, whether it's on the weekend or  
12 during the week, do you generally wake up feeling rested or  
13 refreshed?

14 A. Yes.

15 Q. Would you say -- how would you describe the quality of  
16 your sleep?

17 A. Well, I would -- I don't know what the quality of sleep  
18 is, but I will say it's good, it's average.

19 MR. ACCETTA: Do you wake up at all during the night?

20 MR. HAYDEN: I do. I'll wake up, look at the clock, and  
21 then fall right back to sleep.

22 BY MR. COLLINS:

23 Q. How many times a night does that happen on an average,  
24 on a typical night?

25 A. Once.



1 Q. Okay. Do you have any trouble falling asleep?

2 A. No.

3 Q. Do you have any trouble waking up?

4 A. Oh, no, I get right up.

5 Q. On the days you have to come in to work, is it an alarm  
6 that wakes you up or do you wake up on your own?

7 A. Alarm.

8 Q. Alarm, okay. I think that's it.

9 When did you first receive a driver's license, non-  
10 commercial or commercial?

11 A. When I was 16.

12 Q. Sixteen. Was that here in Texas?

13 A. No, sir, Las Vegas, Nevada.

14 Q. In Nevada, okay. And that was just an ordinary  
15 non-commercial driver's license when you were 16?

16 A. Yes, sir.

17 Q. In Nevada, okay. When did you first receive your  
18 Commercial Driver's License?

19 A. I believe it was 1989. Well, that was before the CDL  
20 actually came out, it was a commercial license. So I got my CDL I  
21 believe it was 1990.

22 Q. Okay. Did you have any special endorsements or  
23 restrictions with that first one?

24 A. My CDL, I believe I had tanker endorsement but the only  
25 restrictions are corrective lenses.

1 Q. Okay. And from then until now or from then until I  
2 guess really the day of the accident, what changes had there been  
3 to your license? Had you changed classes of Commercial Driver's  
4 License or gotten any different endorsements?

5 A. No, they're the same.

6 Q. The same, okay. Do you know when your current license,  
7 do you know when that was issued?

8 A. My current license, I have it in my pocket if you --

9 Q. All right. You're welcome to look. Like I said,  
10 there's no right or wrong answers and no trick questions.

11 A. This license was issued February [REDACTED], 2012.

12 Q. Okay. Is the expiration date on it by any chance?

13 A. Yes.

14 Q. What is that date?

15 A. January [REDACTED] 2017.

16 Q. Okay. Did you have any driver education classes, either  
17 for your first license as a teenager or for your commercial  
18 license?

19 A. Yes, high school.

20 Q. High school? So the driver's education courses in high  
21 school. Did you take any other sort of training or classes?

22 A. In the military.

23 Q. In the military, okay. Do you -- at this point I bet it  
24 would be a stretch to ask you if you remembered any titles or  
25 names for the courses, or it was just basic --

1 A. Defensive driving, stuff like that.

2 Q. Okay. Have you taken -- do you take any annual or  
3 recurrent training, either through Smith or anywhere else?

4 A. Oh, we take driver's training in the military all the  
5 time, but --

6 Q. Okay. When was the last time you had some of that?

7 A. I believe it was last year.

8 Q. Okay. The truck you were driving on the day of the  
9 accident, was that your first time driving this type of vehicle or  
10 this particular vehicle?

11 A. Type of vehicle, it wasn't the first time; that  
12 particular vehicle, the first time.

13 Q. It was the first time driving it, okay. How much  
14 experience would you say you have with Peterbilts or that type of  
15 vehicle in general?

16 A. Probably more than most. I've been driving those for a  
17 long time.

18 Q. Years, months, days?

19 A. Years. Years.

20 Q. Years. Okay. On a regular basis you would -- what  
21 would your regular truck be, since I know that was a show piece,  
22 what was the make and model of your regular truck?

23 A. Peterbilt.

24 Q. Was it Peterbilt?

25 A. Uh-huh.

1 Q. Okay. Were there a lot of differences between the truck  
2 on the day of the accident and your regular truck?

3 A. No, sir.

4 Q. No. Okay. That crossing, had you been over that  
5 crossing before?

6 A. The railroad crossing?

7 Q. Yes, sir.

8 A. Yes.

9 Q. You had. How many times, ballpark?

10 A. I don't know. I've crossed it quite a few times. I  
11 live here in town, so --

12 Q. Okay. And you'd been over it before in a commercial  
13 vehicle as well?

14 A. Commercial vehicle, I don't think so. Just personal  
15 vehicle.

16 Q. Okay. We'll switch to some company-related questions.

17 MR. ACCETTA: I have one.

18 MR. COLLINS: Oh, go ahead.

19 MR. ACCETTA: This is Robert.

20 MR. ACCETTA: What were the positions of the windows on  
21 the day of the accident, do you recall?

22 MR. HAYDEN: The driver window was down all the way, and  
23 the passenger window was down maybe 6 inches.

24 MR. ACCETTA: Okay.

25 BY MR. COLLINS:

1 Q. Does your company have a policy that requires pre-trip  
2 inspections?

3 A. Yes, sir.

4 Q. Okay. Did you perform one on the day of the accident?

5 A. Yes, sir.

6 Q. Okay. Were there any problems with the truck?

7 A. No, sir.

8 Q. Does the company have a policy regarding seat belt use?

9 A. Yes.

10 Q. Okay. And that policy would be?

11 A. Always --

12 Q. Wear them?

13 A. Right.

14 Q. Okay. And were you wearing your seat belt?

15 A. Yes, sir.

16 Q. Okay. Does the company have a policy regarding cell  
17 phone use?

18 A. Yes, sir.

19 Q. And could you tell me about that policy?

20 A. That policy is no cell phone use unless it's on like a  
21 Bluetooth or a hands-free device.

22 Q. Hands free, okay. Were you using your cell phone at or  
23 near the time of the accident?

24 A. Before we actually started the parade and after the  
25 accident, not during.

1 Q. Okay. Does the company have a policy on what to do when  
2 you're involved in an accident?

3 A. I believe they do, but I'm not sure what that policy is.

4 Q. Okay. Does the company have a drug and alcohol policy?

5 A. Yes, sir.

6 Q. And does the company do pre-employment and/or random  
7 screening?

8 A. Yes, sir.

9 Q. Had you completed pre-employment testing?

10 A. Yes, sir.

11 Q. Had you ever been selected for random testing?

12 A. Yes, sir.

13 Q. Okay. Are you aware of the Department of  
14 Transportation's post-accident testing policy?

15 A. Yes.

16 Q. And, well, the next question is usually did you complete  
17 post-accident testing, but I know the answer to that already --

18 A. Yes.

19 Q. -- so we'll skip that one. And you obviously have a  
20 cell phone. Was that the number you gave me at the beginning?

21 A. Yes.

22 Q. Okay. Who's your service provider?

23 A. T-Mobile.

24 Q. T-Mobile. Were there any other what my agency calls  
25 portable electronic devices in the truck cab near the time of the

1 accident? So that would be GPSs, laptop computers, anything of  
2 that nature?

3 A. No, sir, just a CB radio.

4 Q. Okay. Well, was it operating at the time of the  
5 accident?

6 A. Yes.

7 Q. Were you being communicated with using that CB during  
8 the parade? So was it --

9 A. I did use it during the parade.

10 Q. Okay. For what?

11 A. Talking to the driver in front of me.

12 Q. To Jimbo?

13 A. Jimbo.

14 Q. Jimbo. I met Jimbo. I did meet Jimbo and won't forget  
15 it. Had you communicated, say, as he was approaching or going  
16 through the crossing or as you were approaching the crossing?

17 A. No, sir.

18 Q. No, okay. A little bit about the parade. When did you  
19 first become involved in the Hunt for Heroes parade?

20 A. Well, this is my first parade. They had asked me if I'd  
21 like to drive in it, you know, a couple months before.

22 Q. Okay. You said that this was your first time in the  
23 parade. Had you been involved with the organization prior to  
24 that?

25 A. No, sir.

1 Q. No, okay. Were there any meetings about the conduct of  
2 the parade held by anyone?

3 A. No, sir.

4 Q. During the operation of the parade, were you able to  
5 communicate -- you said you communicated with Jimbo?

6 A. Uh-huh.

7 Q. Could you communicate with anybody else that was in the  
8 parade make-up?

9 A. No, sir.

10 Q. Or by any chance with the police?

11 A. No, sir.

12 Q. No. I think that's all the relevant ones through there.  
13 So that's the background stuff. That's not too painful I hope?

14 A. No, sir.

15 Q. Okay. Now, one of the things we like to do is we like  
16 to look at -- we used to call it a 72-hour history, but I get  
17 yelled at because it's not exactly 72 hours, so we'll just call it  
18 about a 3-day history, which would put us back on November 12th,  
19 which was the Monday. So it works out well, it's the start of the  
20 week.

21 I know it may be difficult to remember so if you don't  
22 remember, just tell me you don't remember; but if you do, just let  
23 me know everything you do remember.

24 Starting on Monday, November 12th, with getting up, do  
25 you remember what time you got up on Monday the 12th?



1 A. I would say 5:15, the same time I get up every day.

2 Q. Okay. What's your normal routine? If you get up at  
3 5:15 every morning, what's your normal routine after getting up?  
4 Can you describe that for me?

5 A. I wake up. First thing I do is go in the kitchen, turn  
6 on the coffee maker because it's already prepped. And then I go  
7 in and get ready.

8 Q. Okay. What does getting ready involve?

9 A. I brush my teeth, get dressed, get my lunch together.

10 Q. Okay. And then what happens, again, typical ordinary  
11 normal day?

12 A. I leave the house about 5:40, get here about 5:50.

13 Q. And to the best of your recollection is that more or  
14 less what happened on the 12th, Monday the 12th?

15 A. Yes, sir.

16 Q. Do you eat breakfast in the mornings?

17 A. Not until 00 just before I leave the yard, I might eat  
18 part of my lunch.

19 Q. Okay. Somorning of the 12th, typical morning, you get  
20 here to the yard and then what do you do?

21 A. Then when we get our load sheets, figure out what we're  
22 loading and where we're going, we load and then get ready to leave  
23 the yard, go out to location.

24 Q. About how long does it take you to get from home to the  
25 yard?

1 A. Home to the yard?

2 Q. Uh-huh.

3 A. Seven minutes.

4 Q. Seven minutes. Now, that's a commute.

5 MR. ACCETTA: How much coffee do you generally drink in  
6 the morning?

7 MR. HAYDEN: In the coffee maker, it shows four cups,  
8 but it's just one of those big cups.

9 MR. ACCETTA: Okay, so a small pot, not the full 12-cup  
10 pot?

11 MR. HAYDEN: I have the big pot, but I only make enough  
12 to fill that cup.

13 MR. ACCETTA: Okay.

14 BY MR. COLLINS:

15 Q. To make the -- your particular mug that you drink out  
16 of?

17 A. Yes, sir.

18 Q. Do you remember -- and again, I know it's a stretch, so  
19 try. Do you remember what load you had on Monday the 12th?

20 A. I can't remember.

21 Q. Fair enough. So we'll go back. Knowing that you get  
22 different loads and do different things, just on a typical day,  
23 you got a load, you're going to take it somewhere, what sort of  
24 things can you expect to do in your typical day? If you ran a  
25 typical load, say, yesterday or the day before, just walk me

1 through what you did on that just so I get a feel for your  
2 ordinary day?

3 A. Okay. Once we, we get loaded in the morning, we strap  
4 down, chain down our load. We bring it up to the front and Larry,  
5 our warehouse guy, he will -- I'll give him my load sheet. It's  
6 got serial numbers on it. And then he checks the serial numbers  
7 to make sure they match what's on the load sheet. And then he'll  
8 initial the paperwork, our invoices. We get our invoices, and  
9 once all the drivers going on that particular job are already to  
10 go and the escorts are ready to go, we'll go out the gate and  
11 we'll head out to the location.

12 Q. And how far away from the yard can you go on a typical  
13 day or on an ordinary load?

14 A. It varies. We could go 10 miles down the street or even  
15 2 miles down the street to Southeastern New Mexico or Fort  
16 Stockton.

17 Q. And you're delivering those large tank vessels?

18 A. Right.

19 Q. So you get to wherever you are going to make your  
20 delivery and then what happens?

21 A. Okay. Once we get to location, then we actually set the  
22 battery up. We set the tanks, the walkway, the heaters; we set  
23 the whole battery up.

24 Q. And how long does that take?

25 A. It depends on who the crane operator is. But on a

1 typical four-tank battery, we could be on location 2 to 3 hours.

2 Q. Okay.

3 A. Depending on the operator again.

4 Q. And let's go with that. You've got everything set up  
5 and everything's good and you're ready to leave, so what do you do  
6 next?

7 A. Then we head back.

8 Q. Head back. Do you typically run more than one load a  
9 day or --

10 A. No.

11 Q. No. So even if you only had to go 2 miles down the road  
12 and it was only a 3-hour set-up, so it's lunch time --

13 A. Right.

14 Q. -- but you're done? You're not going to get a second  
15 load and take one --

16 A. Right.

17 Q. -- you're done? Okay.

18 A. And then sometimes when we get back early enough and our  
19 load sheets are ready for the next day, we'll load that evening.

20 Q. Okay. Save you a little time on the front end tomorrow?

21 A. Right.

22 Q. Right. Okay. During the set up, what sorts of things  
23 are you responsible for?

24 A. Since -- okay, I'm not the crane operator. The crane  
25 operator is responsible for whole job. He's the guy in charge.

1 Q. Okay.

2 A. We're the haul truck drivers. We haul the stuff out  
3 there, but we actually help -- he's actually got the crane  
4 controls, but we'll help, you know, set the tanks, steady the  
5 tanks, do the measurements, and when we -- we get the walkways  
6 ready. We have to do some stuff to the walkways and then we put  
7 them up.

8 Q. Would you say the set up is strenuous, or --

9 A. Not for me.

10 Q. No.

11 A. For some people, yes.

12 Q. Some, okay. So, again, on a typical day, when will you  
13 normally be back in the yard?

14 A. That varies too.

15 Q. That varies. How much does it vary by? What's the  
16 earliest you think you can get back in the yard, and some days,  
17 what's the latest you can get back?

18 A. Oh, we can get back --

19 Q. Again, not the outliers, but on a typical day, it can  
20 vary from -- depending on how hard my boss works me, my typical  
21 day can -- I can end at 4 or I can end at 6.

22 A. Right. We can actually end at 3 if -- you know, once we  
23 get back and there's nothing else to do, we can actually leave.  
24 They would rather us leave than stay on the clock and not do  
25 anything, so -- but then other times we can get back at 8:00 at

1 night.

2 Q. Okay.

3 MR. ACCETTA: This is Robert again. How do you get  
4 paid, by the load or --

5 MR. HAYDEN: By the hour.

6 MR. ACCETTA: By the hour?

7 MR. HAYDEN: Right. That's why if we're back early --

8 MR. ACCETTA: And watching --

9 MR. HAYDEN: -- go ahead clock out.

10 MR. ACCETTA: Okay.

11 BY MR. COLLINS:

12 Q. Do you remember when you got back to the yard on Monday,  
13 November 12th?

14 A. Oh, no.

15 Q. Okay. We'll go back to a typical day. You're done here  
16 in the yard, you've clocked out, what do you typically do next?

17 A. Well, I head home and a lot of -- sometimes I'll stop at  
18 Walmart on the way back; it's right on, you know, my route. And I  
19 might go in and buy a few things, buy stuff I don't need,  
20 whatever.

21 Q. I think that's the purpose of Walmart.

22 A. Right. And I'll get home, usually get something to eat,  
23 throw on the TV. If it's 6:00, I'll get to watch M\*A\*S\*H. So  
24 I'll watch M\*A\*S\*H from 6 to 7. Then usually after M\*A\*S\*H, then  
25 I'll jump in the shower and then I'll come back out, watch some TV

1 or read my book.

2 Q. Okay. I'm going to ask because I need to, do you  
3 remember anything out of -- I mean, for instance, do you remember  
4 anything out for the ordinary on Tuesday, the 13th of November?

5 A. No, sir.

6 Q. Or Wednesday the 14th?

7 A. No, sir.

8 Q. Okay. To the best of your recollection, how would you  
9 describe those days? Were they --

10 A. Just typical normal days.

11 Q. Okay. So now we're up to the 15th. Do you remember  
12 what time you got up on the 15th?

13 A. The same time, about 5:15.

14 Q. About your regular time. And then what did you do?

15 A. Well, instead of coming in, starting my truck up like I  
16 normally do and do the pre-trip, what I did is I went ahead and  
17 helped everybody else with their loads that morning. We're always  
18 helping each other out. So, you know, I helped a few other  
19 drivers tie down -- strap down and tie down their loads.

20 And then that day, I knew I was going to get the trucks  
21 and trailers washed, so Jimbo and I got the trucks and trailers  
22 hooked up. And after we did our pre-trip, we drove them right  
23 outside this door, and the guy with the mobile wash came by to  
24 wash the trucks.

25 Q. Okay.

1           A.    And after he had done -- after he washed the trucks, I  
2 think it might have been close to lunch time, I went home and  
3 changed into my military uniform because they wanted me to drive  
4 with that on because, you know, it looked good. And then I spent  
5 a couple hours or an hour or so polishing all the aluminum on the  
6 truck and the chrome to make it, you know, look good. And then,  
7 then we went ahead and got the trailers ready with the flags,  
8 strapped all the chairs in. It was these same types of chairs.

9            It was -- 2:30 is when I clocked out, and then about  
10 2:40, we left here and went downtown, took the trucks downtown to  
11 where we were supposed to meet up for the parade. It's in front  
12 of the Hilton.

13           And so we got there, and we were there probably, oh, a  
14 good hour before we -- before the parade started. And during that  
15 time, you know, I met some people, talked to them. And then prior  
16 to the parade, the vets came out and we had the stairway so they  
17 can climb up on the trailer. They all sat down and then started  
18 the parade.

19           Q.    Okay. And if you could just walk me through from the  
20 start of the parade through the rest of it just as much detail as  
21 you can remember. I'm not going to say anything for a while while  
22 you're talking because this is your story part. So just  
23 everything you can remember from the start of the parade all the  
24 way to the end.

25           A.    Well, I know Jimbo had mentioned that we were going to



1 have maybe a couple of high school bands in front of us and I  
2 don't know who else, but I know I saw one marching band. And so  
3 when we started I asked Jimbo, hey, you know, how close -- how far  
4 apart do we have to be and how fast are we going. And he goes  
5 we're going to go slow because they're marching in front of us.  
6 And he said just try to stay, you know, a couple of truck lengths  
7 behind.

8           And so all the way down Wall Street with the marching  
9 band in front. We actually -- I was in one gear the whole way.  
10 You know, it was real slow.

11           Then we got to our left-hand turn on Garfield and made  
12 that corner. And then another block down, there's another traffic  
13 light and there's a park there. That's where the people that were  
14 marching, they veered off and left the parade. Then the Patriot  
15 Guard on motorcycles, they were waiting there and they took the  
16 lead. And that's when I noticed we started speeding up, and I  
17 said, Jimbo, how come we're going so fast? He goes, this is the  
18 same place -- I mean, it always speeds up right here because of  
19 the motorcycles.

20           I think I was doing about 20 miles an hour at one point.  
21 And that's -- I didn't want to go any faster than that. I didn't  
22 like shifting gears with people in the back.

23           And at that time we got spread out, but I wasn't really  
24 worried about it. And then we got to the railroad crossing and  
25 there's a -- it's a pretty high crossing and there's a bump at the

1 bottom there. And so once I started -- I got to the crossing and  
2 I kept looking in my left mirror, looking to see where the tire --  
3 when the tire hit that bump because it's -- it was a pretty big  
4 bump.

5           So I was going slow and then once the -- I cleared -- I  
6 saw the tires clear, then I checked on my other side. All of my  
7 truck was already crossing the railroad track. Then when I looked  
8 in the right mirror, that's when I saw the flashing lights. But  
9 at first, it didn't register. It just -- to me there was just  
10 flashing lights, more flashing lights.

11           And then I noticed, when I looked down the railroad  
12 track, I saw a train but it looked like it was just sitting there.  
13 It didn't -- I didn't see it moving or anything. To me, it was  
14 just sitting there.

15           And then when I looked back in my mirror, that's when I  
16 saw one of the arms come down behind the truck. And then when the  
17 -- I noticed the arm when it either -- it was either hitting the  
18 trailer or one of the flags we had set up, hitting the pole, but  
19 it would come back up. And from where the seats were on the  
20 trailer, I couldn't see -- looking in the mirror, I couldn't see  
21 the people there. But I thought maybe the arm was, you know,  
22 going to hit them so I was -- when every time the arm got up, went  
23 up, you know, I'd take off and it'd come back down so I'd slow it  
24 down. And then that's when I looked in the mirror and just saw  
25 everybody started to jump off and then bam.

1 Q. Do you recall hearing a train horn?

2 A. The thing is, Jimbo's truck had a train horn on it and  
3 he was blowing it the whole parade, so if I did hear, I didn't  
4 know if it was a train or Jimbo's truck, so --

5 Q. Like I said, if you need a minute --

6 A. I'm good.

7 Q. -- that's okay, just let us know.

8 As you were -- if you could think back to when you were  
9 approaching the crossing -- I'm going to lose the name of the  
10 street. One's Front and one's Industrial and I always cross them.  
11 But as you come to the first one prior to the tracks, there's a  
12 traffic light. Do you recall seeing that traffic light?

13 A. I don't recall seeing it, but I know it's there.

14 Q. Okay. So you didn't -- wouldn't be able to tell me what  
15 color it was as you came up on the intersection?

16 A. No, they had it blocked off.

17 Q. Okay. They had the intersection blocked off, who did?

18 A. Law enforcement.

19 Q. Had they been doing that the whole parade route?

20 A. Right.

21 Q. Okay. There are also bells at the crossing that when  
22 the lights activate the bells activate. Do you recall hearing the  
23 bells?

24 A. No, sir.

25 Q. And just to make sure I'm understanding you correctly,

1 it was in your rearview mirror that you did notice -- when you  
2 looked to your right, you did notice the flashing lights and also  
3 the gate arm coming down?

4 A. Yes, sir.

5 MR. HENDRICK: Just to be accurate, side view mirror.

6 MR. COLLINS: Yes, right-hand side view mirror.

7 BY MR. COLLINS:

8 Q. And you also around that same time looked down the  
9 tracks and saw the train, but to you it appeared stationery?

10 A. Right.

11 Q. Okay. As you were approaching that crossing, again, the  
12 street that I'm confused the two names on.

13 MR. HENDRICK: Front's on the door side.

14 MR. COLLINS: Front's on the door side. That's a nice  
15 way for me to remember; it's Front and then Industrial.

16 BY MR. COLLINS:

17 Q. So as you were approaching Front Street, do you remember  
18 what you were thinking about? Okay.

19 A. Only thing I thought about was that I knew I had to slow  
20 down for the bump.

21 Q. For the bump. And why did you need to slow down for the  
22 bump?

23 A. Because the people on the back were just sitting in  
24 chairs. And then those trailers get pretty bumpy.

25 Q. Okay. Earlier we asked a lot of questions about your

1 health and you said in general it was good. Were you having any  
2 health problems on the 15th?

3 A. No, sir.

4 Q. No. No cold, no runny nose, nothing like that?

5 A. No, sir.

6 Q. Okay. Had you had any alcohol on the 15th?

7 A. No, sir.

8 Q. Were you having any problems with either your vision or  
9 your hearing on the 15th?

10 A. No, sir.

11 Q. Okay.

12 MR. ACCETTA: How is your hearing generally?

13 MR. HAYDEN: It's good.

14 MR. ACCETTA: Good.

15 BY MR. COLLINS:

16 Q. You had said earlier that no one had invited you to any  
17 sort of meeting about the parade, they had asked you if you wanted  
18 to drive, you said sure. How did you find out what the route  
19 would be and when to be there?

20 A. Jimbo.

21 Q. Jimbo. So Jimbo told you what the route was --

22 A. Right.

23 Q. -- and we got to be there at -- we got to leave at 2:30  
24 to be there and --

25 A. Right. Jimbo, I think he's done that parade since they

1 started it.

2 Q. Okay. So you knew when you got there that you'd be  
3 proceeding down Wall --

4 A. Wall Street.

5 Q. -- and making the left onto --

6 A. To Garfield.

7 Q. -- Garfield? And then continue on to the horse show?

8 A. Yes, sir.

9 Q. Okay. Who was it that told you it was time to -- that  
10 the vets were going to come out, it was time to load them, and it  
11 was time to start the parade?

12 A. Nobody actually told me. We were standing out there and  
13 then, you know, the vets started coming out the hotel.

14 Q. Okay. So what did you do then?

15 A. And that's when we had the stairs set up on -- we only  
16 had one set of stairs so we loaded up one trailer first, carried  
17 the stairs over to the next trailer, and then loaded everybody up.

18 Q. Did you have anyone on your trailer who couldn't use the  
19 stairs, that was in a wheelchair or anything like that?

20 A. No.

21 Q. Okay. Was there -- so they've come out, you've loaded  
22 them up, you move the stairs away. How did you know it was time  
23 to begin -- the parade had begun; it was time to start driving?

24 A. Well, I got in the driver's seat and just pretty much  
25 waited until it was time to move.

1 Q. And so your first indication we're moving was Jimbo  
2 pulled away from you?

3 A. Pretty much, yes.

4 Q. Okay. Now, you said the police had control of the  
5 intersections, and they had control along the whole parade route?

6 A. Right, and there were two of them riding alongside the  
7 truck the whole time.

8 Q. And why did you think -- why do you think you had two  
9 police cars on either side of your truck and there were officers  
10 at the intersections?

11 A. I don't know. To keep everybody so the pass was clear,  
12 I guess.

13 MR. COLLINS: Do you have anything, Robert?

14 MR. ACCETTA: Yeah, a couple of follow-up questions.

15 BY MR. ACCETTA:

16 Q. Were you wearing your glasses that day?

17 A. Yes, sir. I wear them every -- all the time.

18 Q. Okay. Was there anything unusual about the truck and  
19 the trailer? Did you have any difficulty operating the truck and  
20 the trailer?

21 A. Oh, no, sir.

22 Q. Okay. A little off-the-wall questions. Do you live  
23 alone?

24 A. Yes, sir.

25 Q. Do you have a girlfriend?

1           A.    At the time, no.

2           Q.    No, okay.  Just looking for anything that, you know,  
3 would divert your attention from day-to-day activities, you know,  
4 just -- so that's why I asked that because we hadn't covered that.

5                   MR. ACCETTA:  We covered -- we ended up covering the  
6 hearing.  I marked that.

7                   MR. COLLINS:  Yeah.

8                   BY MR. ACCETTA:

9           Q.    Do you recall how many intersections you may have gone  
10 through during the parade route?

11           A.    There are quite a few intersections.  Most of them  
12 didn't have lights, but there is a lot of intersections.  There  
13 was -- the first intersection, main intersection was when we made  
14 our left-hand turn.  And then there was another light a block away  
15 and then the railroad crossing.

16           Q.    Do you recall what the condition of those lights were  
17 when you went through those intersections?

18           A.    I never bothered to even -- no, because they were  
19 blocked off anyways.

20           Q.    Okay.

21                   MR. ACCETTA:  I think we covered everything.

22                   MR. COLLINS:  Then I think that's it.

23                   MR. HENDRICK:  I'm good guys, thank you.

24                   (Whereupon, the interview was concluded.)

25



CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:           GRADE CROSSING ACCIDENT  
                                  NOVEMBER 15, 2012  
                                  MIDLAND, TEXAS

DOCKET NUMBER:            HWY-13-MH-003

PLACE:                      Midland, Texas

DATE:                        February 20, 2013

was held according to the record, and that this is the original,  
complete, true and accurate transcript which has been transcribed  
to the best of my skill and ability.

---

Christina H. Neilson  
Transcriber