

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF ADMINISTRATIVE LAW JUDGES

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In the matter of: *
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METROLINK TRAIN NO. 111 *
COLLISION WITH UNION PACIFIC *
RAILROAD LEESDALE LOCAL, * Docket No.: DCA-08-MR-009
September 12, 2008, *
Los Angeles, California *
* * * * *

Interview of: RICHARD DAHL

National Transportation Safety Board
1515 West 190th Street, Suite 555
Gardena, California

Wednesday,
January 21, 2009

The above-entitled matter came on for interview
pursuant to notice.

BEFORE: C. WAYNE WORKMAN

APPEARANCES:

C. WAYNE WORKMAN, Investigator in Charge
National Transportation Safety Board

JIM REMINES, Operations Group Chairman
National Transportation Safety Board

JAY J. ELLIS, Operating Practices Inspector,
Public Utilities Commission

TED FRITZ, Transportation Manager,
Metrolink Commuter Operation

JOHN R. ENGLAND, General Chairman BNSF -
LAJ United Transportation Union

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I N T E R V I E W

1
2 MR. WORKMAN: Hi, I'm Wayne Workman. I'm the
3 investigator in charge. We are going to conduct the interview,
4 and NTSB has what's referred to as a party system. Anytime we
5 have these interviews, any party member is invited to participate,
6 you know, in the interview. And today we have representative from
7 California Public Utilities, a representative from Connex, and a
8 representative from United Transportation Union that would like to
9 participate.

10 MR. DAHL: All right.

11 MR. WORKMAN: Jim Remines will conduct the interview.
12 He will then pass, you know, to us if there's any follow-up
13 questions that we may, you know, want to ask.

14 So this is NTSB policy, whether it be rail, aviation,
15 marine, or transportation; so this is consistent within the
16 organization. So with that, I'll pass this back to Mr. Remines.

17 MR. REMINES: Before we get started here, I'll tell you
18 why we're here. You were mentioned in a couple of different
19 interviews. You've been interviewed a couple of times yourself.
20 New information seems to be surfacing in the press out here. And
21 we're trying to do follow-up to make sure that we've covered just
22 as much as we could possibly learn from this.

23 Gentlemen, have you introduced yourselves from the
24 standpoint -- so we'll go on the record.

25 INTERVIEW OF RICHARD DAHL

1 BY MR. REMINES:

2 Q. I'll be asking you first your duties, and what you do?
3 Where do you work? How long you've been doing it, and I'll try to
4 get it all out of the way. You've already started?

5 Rick could you introduce yourself and tell us where you
6 work or what you do and all about your job?

7 A. Okay. My name is Richard Dahl. I'm a Transportation
8 manager for Connex, contracted to Metrolink Commuter Operations
9 here in Southern California.

10 My duties have changed since -- in the last two months.
11 Prior to the change, I was a transportation manager in charge of
12 the Ventura County line, direct overseer of the Moorpark and
13 Montalvo crew base.

14 In the last two months, my duties have changed to an
15 operation and rules compliance officer and safety. Where they've
16 asked me to go out with members of other railroads -- the UP, the
17 BNSF federal inspectors, the PUC and the FRA, and we conduct joint
18 efficiency tests on crews, trains' performance, understanding of
19 the rules, stop the trains, inspect them. We do efficiency tests
20 using different scenarios -- different setups -- operations.

21 We enter the test into an efficiency test system, and
22 then, also I'm in charge of the safety committee. We meet once a
23 month along with members of the BLE and the UTU and discuss safety
24 issues in and around the railroad.

25 Q. How do these duties differ from what you were doing at

1 the time of the accident? Maybe I should ask you what was
2 different, then?

3 A. At the time of the accident, I was in direct supervision
4 of the crews that operate out of Moorpark and Montalvo. I would
5 handle the day-to-day administrative stuff -- vacations, arranging,
6 scheduling, job briefings, ensure that trains move correctly. We
7 have some rules' compliance. We have some issues involving
8 customer service. And, you know, the basic day-to-day crew base
9 manager duties.

10 Q. Right.

11 A. And I no longer have the basic crew base manager duties.

12 Q. So you were doing -- before, you were also doing the
13 rules compliance efficiency testing also in addition to the
14 customer service? I mean, is that how your job has changed?
15 You're more focused now on one side than the other?

16 A. Yes. I was doing the efficiency testing and rules
17 compliance before.

18 Q. Okay.

19 A. But now it's full time.

20 Q. Is this a new department or just a new job, or is it
21 just designed to give additional duties to make you more focused?

22 A. They've added a new position.

23 Q. Okay.

24 A. And it's none of the -- it's everything we've all done
25 before, but it's focused into one position as far as a coordinator

1 and overseer of the operation.

2 Q. Did you have such a position before the accident?

3 A. I performed the duties before the accident, but there
4 was not a position before the accident.

5 Q. How were your duties evaluated then? Was there another
6 manager above you that said you weren't doing enough efficiency
7 tests or right type, or -- how is it -- that's -- that's what I
8 picture you doing today is overseeing proficiency tests today for
9 the CMF -- the levels, the types, and all that.

10 At that time of the accident, were you doing the same
11 thing? Were you doing self-evaluation or was your management
12 telling you how many percentages? Did you have a program?

13 A. Our management laid out the efficiency testing
14 guidelines before --

15 Q. Okay.

16 A. -- and we would comply with them.

17 Q. Okay.

18 A. We would meet. We have -- underneath our efficiency
19 testing guide, we have quotas of number types of tests. All the
20 managers perform these tests throughout the operation -- the
21 Metrolink operations.

22 The difference is now that's all I'm concentrating on,
23 and when I go out and I perform these efficiency tests, we bring
24 the managers from all the other crew basis out as part of our
25 joint test to do -- have some continuity, so we're all testing on

1 the same type of format.

2 Q. Okay.

3 A. We -- every manager has the opportunity to be the lead
4 of the group. I will be there, but they will be the lead. So
5 they'll be in charge of it, and then I kind of oversee how they
6 perform, give them advice -- job briefing. How we're going to set
7 up tests -- communication so that all the managers are basically
8 trained and doing the same type of test.

9 Q. You mentioned a guide. Do I have such a document?

10 MR. REMINES: Do you know, Ted? The guide you're
11 talking about which mentioned the number of tests to do, can I get
12 it?

13 MR. FRITZ: Sure.

14 BY MR. REMINES:

15 Q. Okay. I'd just like a copy of that just for the record.
16 That was the one that existed prior to the accident, if it's been
17 changed. I'd like to see it too to tell what's happened since the
18 accident.

19 Let's go to my favorite subject, cell phones -- the rule.
20 What was the rule prior to September the 12th; what was the rule
21 on cell phones?

22 A. I'd have to read it verbatim --

23 Q. Right.

24 A. -- but no cell phones in the operating cab of the
25 locomotive or the cab car.

1 Q. In the cab -- is that the way I was led -- this morning
2 I was told it could be turned off and in a grip, but it could be
3 in the cab?

4 A. It could be -- yeah. It could be turned off. If you're
5 going to be in the operating control compartment of the cab car,
6 and we've defined the cab car as -- we have a red strap in front
7 of -- in the front of the mezzanine area of the cab car.

8 Q. Okay.

9 A. In front of the red straps are two tables. In front of
10 the two tables is a cabinet, and we've defined the operating
11 control compartment of the cab car from the cabinet forward. So
12 anybody that goes beyond the cabinet forward -- an imaginary line
13 -- is not allowed to have the cell phone on or on their body.

14 Now, it can be turned off and in a grip, must be stowed
15 away. The conductor that goes up there must remove their cell
16 phone or turn it off and not be on him.

17 Q. Um-hum.

18 A. Leave it back at the table. We tell them to actually
19 drop the cell phone off at the table in front of the red strap.
20 And, of course, in a locomotive you can't have it on and on your
21 person on the locomotive, and it must be stowed away in a grip.
22 So it can be on the equipment. It can't be on and on the person.

23 Q. And that was prior to the accident?

24 A. Correct. Yes.

25 Q. Okay. None of the new FRA rules -- is it changed now?

1 Has it changed? The new FRA emergency order specified new
2 guidelines for cell phones. Has it changed from the standpoint of
3 your rule before the accident?

4 A. No. I don't think it changed at all. It just became,
5 you know, a little clearer. It became federal law.

6 Q. Um-hum.

7 A. It, you know -- we went out and done blitzes on it to
8 make sure we understood it. Our policy was no cell phones prior
9 to the accident. There was also -- prior to the cell phone policy
10 was General Code Rule 1.10, which is the electronic device policy,
11 which has always been in effect.

12 Q. And how did you -- were you -- was the policy of
13 Metrolink at that time, not necessarily a policy, but was it
14 strictly enforced at that time? If you saw an engineer who had a
15 cell phone or had reports, would it be followed up on during the
16 time prior to the accident?

17 A. Yes.

18 Q. Okay.

19 A. Yes. And the policy went into effect somewhere in the
20 fall of 2006.

21 Q. Okay.

22 A. And in fact, we were tasked with doing efficiency tests,
23 inspecting trains and locomotive engineers, and the conductors for
24 compliance of that policy.

25 Q. Was there discipline history? Had you personally

1 disciplined a locomotive engineer for noncompliance for violation
2 of that policy?

3 A. Yes.

4 Q. Okay. What was the severity of the discipline at that
5 time? Do you remember -- what was the most severe punishment?

6 A. A verbal counseling.

7 Q. A verbal counseling?

8 A. Verbal counseling, notification to my manager
9 Greg Konstanzer, and a failure in efficiency test system.

10 Q. Okay. So there was a record kept. Was there a record
11 put into any kind of personnel record on an employee as far as
12 tracking it?

13 A. I don't believe so.

14 Q. Okay. How do you enforce the cell phone rule on a
15 locomotive when it's in pull mode?

16 A. It's almost impossible. You have to get up and be on it.
17 You know there's -- it's extremely tough, and the engineer, first
18 of all, is going to have the door locked. You've got to unlock
19 the door to get up on it. He's probably going to hear you coming
20 -- he or she, and, you know, it would be almost impossible to
21 surprise somebody, you know, to inspect it.

22 And I've never -- of all the time I've gone up on a
23 locomotive, I've never seen anybody with a cell phone or talking
24 on a cell phone.

25 Q. That would almost have to be when he's stopped.

1 A. It would have to be stopped for me to get up and board
2 the locomotive, correct.

3 Q. Is it possible to see inside the locomotive from the way
4 he saw it?

5 A. You can see inside if you can see them with a phone up
6 to their ear.

7 Q. Yes.

8 A. You would be able to see them. I would, you know,
9 depending on where you are and how they were positioned.

10 Q. The conductor mentioned that if he had his shade pulled.
11 What was the shade he was referring to?

12 A. That is in the cab car, not the locomotive.

13 Q. Okay. The cab car -- so he could -- not the locomotive
14 -- we had a discussion with Mr. Hildebrand this morning, and we
15 talked about him reporting a problem with Mr. Sanchez that he
16 found him using the cell phone. Could you relate what, in your
17 mind, happened? How you got that report? When?

18 A. Okay. It was -- I received a report, a verbal report
19 from Mr. Hildebrand somewhere around the beginning of August. He
20 had -- as I was outside of the trailer, which is a sign on
21 location in Montalvo -- and he was walking toward his train.

22 He had told me that he had caught Mr. Sanchez either
23 making a call or about to make a call at a station stop while he
24 was -- Mr. Sanchez was seated in the cab car.

25 And I asked Mr. Hildebrand if -- what his actions were.

1 And he said -- he told me that he had told Mr. Sanchez that he
2 can't do that. That's against the policy. And, according to
3 Mr. Hildebrand, Mr. Sanchez acknowledged that and put his cell
4 phone away.

5 Q. Did you do any follow-up with Mr. Sanchez?

6 A. Yes. It was either that morning or the following
7 morning. I don't exactly remember. As they pulled Train 106 from
8 the yard to the depot at Montalvo and the engineer is positioned
9 in the cab car for the shove out at Montalvo Station, I walked
10 over to Mr. Sanchez, who was sitting at the table behind the
11 cabinet and filling out a time ticket, and had asked him. I asked
12 him where his cell phone was.

13 The cell phone he said was in his grip. He pointed to
14 his grip, which was on the seat next to the control compartment
15 booth and in the cab car, and I asked him if it was off, and he
16 said yes, it was. I said, "Do you understand our cell phone
17 policy and that you're not allowed to have it while you're in the
18 control compartment of the cab car and locomotive?" Sanchez
19 acknowledged it, nodded his head.

20 We had a brief discussion about cell phones and policies,
21 and we just discussed the operation of the day -- safe movement.
22 I was confident that he understood the policy. He didn't have a
23 cell phone with him at that time.

24 Q. Did he understand that Mr. Hildebrand had reported him
25 as a conductor?

1 A. I did not tell Mr. Sanchez that.

2 Q. Mr. Hildebrand's conversation with you, was it varied to
3 one specific incident, or how did he sound? Was he alarmed? Was
4 it a routine report? How did you take his conversation with you
5 on his -- um -- report that Mr. Sanchez and the cell phone?

6 A. It was in passing. It was more of an awareness-type
7 issue. He had caught him. At first I thought Mr. Hildebrand was
8 also letting me know that he took action which I, you know,
9 appreciate.

10 And I told him he is jointly responsible for that train,
11 and he did the correct thing, and the correct thing to let me know.
12 But it wasn't a high-priority jump-up-and-down-type issue, you
13 know.

14 I was outside the trailer, and he had -- on his way
15 heading to his train, passed me and told me that, you know, he had
16 saw this and found this and he also mentioned that Mr. Sanchez was
17 involved with some union issues -- new union, you know, and that
18 he may be busy, you know, thinking about union stuff and then off
19 he went to the train.

20 Q. Did you mention anything about other activities when you
21 talked to Sanchez about the -- Mr. Hildebrand when he talked to us
22 talked to us about it could have been a distraction -- his
23 discussions or activity with the other union local, and did he
24 mention anything like that, or did you mention anything to Sanchez
25 like that? That apparently came into the conversation with you.

1 A. Only that he needed to stay focused on the job that he's
2 doing. He's there to move the equipment -- move the trains. So
3 it's about paying attention, remaining focused.

4 We talked about upcoming restrictions. We talked about
5 several different things that would keep him focused on what he's
6 doing. I did not say anything about union issues, you know,
7 interfering with, you know, his operation.

8 Q. Did anyone else come to you with any concerns about
9 Mr. Sanchez?

10 A. For cell phone use?

11 Q. Cell phone, rules compliance, focusing on his job?

12 A. No. I had no issues with Mr. Sanchez on rules
13 compliance. I did have a few administrative issues with
14 Mr. Sanchez. In the past, he was counseled for a few minutes late
15 to work, either in the morning or in the -- as he returned from
16 his interim release.

17 As far as operational issues, I had none with
18 Mr. Sanchez. In fact his job was desirable for us to put
19 engineers that would come to the territory with, and I was very
20 confident that an engineer could be with him. Mr. Sanchez was
21 proud of the fact that he was an engineer, and he did a very good
22 job of explaining the territories.

23 We have several different territories that run over on
24 that line -- three different railroads or three different
25 territories, two different railroad, and Mr. Sanchez was very good

1 about verbalizing information to the engineers.

2 Q. Any conflicts that you could tell between fellow
3 employees between them?

4 A. No.

5 Q. He was counseled. Sanchez was counseled -- I think you
6 mentioned it earlier in your interview -- about a delay to a train,
7 about markers?

8 A. Yes.

9 Q. And what were the circumstances there? I know you
10 counseled him. Do you understand what had happened the day of the
11 delay or?

12 A. Yeah. What happened was -- I received an e-mail from
13 Greg Konstanzer saying that Train 119 toward the end of August --
14 I don't remember the exact date -- took a delay at Moorpark for --
15 took a four-minute delay at Moorpark for failure to have their
16 markers displayed.

17 Q. Okay.

18 A. So I interviewed both Sanchez and Hildebrand and asked
19 them what type -- what happened with this situation? Why did we
20 cause a delay? I reviewed the delay report, which did say four
21 minutes at Moorpark for markers is all it said; so I asked them
22 both what had transpired.

23 Hildebrand told me that train Number -- AMTRAK Train 14,
24 I think it was -- it was a Coast Starlight -- had given the Train
25 119 a roll-by at track in sightings and told them to check their

1 markers. Mr. Hildebrand told me he walked back and flipped the
2 breaker for the markers, which is a breaker in the cab car control
3 compartment. And the next station stop is Moorpark.

4 They -- Mr. Hildebrand unloaded his passengers, and as
5 he was unloading his passengers, he saw the engineer, Rob Sanchez
6 walking back to the back of the train.

7 Mr. Sanchez looked at the markers, walked back up to the
8 locomotive. I don't remember if they had a conversation at that
9 point as he walked back, but I asked Bob Hildebrand, "Why would he
10 walk back and why not call you," and Bob said, "I don't know."

11 I interviewed Mr. Sanchez, and I said, "Why would you do
12 this? It's part of -- you're a team. You have a conductor. He
13 has a radio. Why wouldn't you communicate to each other if that
14 marker was turned on or not?"

15 And Mr. Sanchez said -- told me, "I wanted to see for
16 myself." So I reported back the information to Mr. Konstanzer,
17 and then Mr. Konstanzer sent me an e-mail to draft a counseling
18 letter and to counsel both Rob Sanchez and Bob Hildebrand for
19 their delay of Train 119.

20 Sanchez was delayed -- was counseled for delay of Train
21 119 not working as a team member and unnecessary delay.
22 Mr. Hildebrand was also counseled for unnecessary delay, but also
23 he was counseled for failure to turn the marker lights on at LA
24 Union Station under rule 5.10, which he acknowledged and that, you
25 know, he forgot to turn the marker lights on.

1 Q. And are those records -- are they public documents or
2 private documents? Are they available now, those counseling
3 letters?

4 A. Yes, they are.

5 Q. Was that before or after the cell phone incident?

6 A. That was after the cell phone incident?

7 Q. So you had counseled Sanchez before this
8 marker incident of counseling?

9 A. I counseled when I talked to Mr. Sanchez about the cell
10 phone, it was more of a verbal briefing.

11 Q. Right.

12 A. It wasn't a counseling. There were no documentation on
13 that because it was Mr. Hildebrand telling me of a -- what he
14 witnessed and then a follow-up on my part to make sure that
15 Mr. Sanchez understood the cell phone policy.

16 Q. Why I'm asking this is Mr. Hildebrand said this took
17 place the week before -- this cell phone issue, and that's the
18 week before the accident, and you say it was around the first of
19 August; and what I'm trying to do is place -- try to figure out
20 when that took place, and you're saying the first week of August.
21 Are you pretty certain on that?

22 A. Mr. Hildebrand came to me the first week of August,
23 somewhere around the beginning of August. It was around the
24 Ventura County fair time, which is the first two weekends of
25 August.

1 Q. Okay.

2 A. That's when he told me about the cell phone incident
3 with Mr. Sanchez.

4 Q. Uh-huh.

5 A. Toward the end of August, they delayed Train Number 119
6 -- toward the end. The counseling was done -- I counseled
7 Mr. Sanchez on the 9th of September at LA Union -- excuse me -- at
8 CMF Taylor Yard, which was a Tuesday, and I counseled
9 Mr. Hildebrand on the 11th of September, which is a Thursday. And
10 the incident, of course, happened on the 12th.

11 Q. And this counseling was over the marker?

12 A. Over the marker; correct.

13 Q. Not the cell phone?

14 A. Correct. Yes.

15 Q. Would -- Mr. Hildebrand said that he had told Sanchez
16 that the markers were turned on. Did he tell you that in your
17 counseling session? That he had informed Sanchez by radio that
18 the markers were turned on before he walked to the rear of the
19 train?

20 A. I think he told me that he said something on the radio,
21 and I don't remember if Bob then told me that Sanchez may have
22 been out of the locomotive by that time and may have not heard him.
23 I can't -- I don't remember those exact details.

24 Q. I just -- I'm trying to see this and analyze it, and I
25 thought there was a conflict between the employees. Did you hear

1 anything like that in your counseling?

2 A. Well, during my counseling sessions with both of them --
3 Sanchez was a pretty in-depth counseling session because I did not
4 understand how he would get out of the seat and cause a delay --
5 passengers, bring criticism from Metrolink, the agency we work for,
6 over an issue that could be handled by a radio.

7 So when I brought Mr. Sanchez in, I was actually at
8 Taylor Yard. I had another manager in there. We were discussing
9 a Long Beach special move. Mr. Sanchez came in. I brought him in.
10 I performed the counseling session with another manager there. I
11 was very thorough on describing the rules that apply about working
12 as a team.

13 I handed him an operation notice that specifies several
14 things, you know, our cell phone policy is in there along with a
15 lot of administrative stuff. Said the rules are here. They're in
16 writing. If you have any questions, you need to let me know. I
17 can clarify anything for you. We're not trying to trick you or
18 anything else.

19 I was very thorough with the briefing -- or counseling.
20 I also had a general code book on -- I was doing some research. I
21 had that. I had referred to that. We talked about there was no
22 reason for him to go back.

23 The other manager, Luis Pescevic, came up and had some
24 words of, you know -- some questions as far as why would you go
25 back also. Again, Mr. Sanchez -- his only response was "I wanted

1 to see for myself."

2 At that point, after the counseling session was over, I
3 asked Mr. Sanchez point blank. I said, "Is there an issue with
4 you and Mr. Hildebrand that I need to know about? It was very odd
5 that you would walk back instead of communicate." He told me no.

6 I said, "Are you sure? Is there something that we need
7 to discuss?" And Mr. Sanchez said, "No." Everything was fine.
8 With that, he signed his counseling letter. I made him a copy,
9 and he went about his business for the afternoon. That was on the
10 9th. On the 11th I had a counseling session with Mr. Hildebrand.

11 Q. Okay. Same conversation? Did you ask if there was any
12 conflict why he would walk back there?

13 A. Yeah, the same conversation. I was in my office when
14 Mr. Hildebrand showed up for work. I brought him into my office.
15 I said, "I need to talk to you." I had the delay report that
16 showed the four- minute delay. I had the counseling letter. I
17 went through the same process, not quite as detailed as with
18 Mr. Sanchez but the same process.

19 I asked him, "Why would there be a delay?" Why couldn't
20 they communicate? Why would he walk back? Bob told me he didn't
21 know. Again, I asked him the same thing. "Is there an issue with
22 Mr. Sanchez in your working together that you need to let me
23 know?"

24 I told him that I had addressed -- I didn't tell him
25 that I counseled Mr. Sanchez because I -- the discipline of the

1 other employee is really not their business, but I told him I had
2 addressed this along with several other issues with Mr. Sanchez a
3 few days before.

4 Mr. Hildebrand responded to me that there were no issues
5 going on with him and Mr. Sanchez and that everything basically
6 was fine. I just -- I said thank you -- dismissed him. He went
7 out to the other room which is just beyond the other door, and he
8 and Mr. Sanchez prepared to do a job briefing for the morning.

9 Q. Did you say several other issues were there, some that
10 you hadn't mentioned before?

11 A. No. No. But I told Mr. Hildebrand other issues. Not
12 that -- there were other issues. I had an issue with Mr. Sanchez
13 of allegedly had lost some switch keys, which turned up during my
14 counseling with Mr. Sanchez so -- but I wasn't going to discuss
15 all the issues with Mr. Hildebrand that I was discussing with
16 Mr. Sanchez.

17 Q. Was there anything that had prompted Sanchez to be
18 looking for another union? Was it related to your management or
19 problems with the company? Was he having any problems that would
20 have caused him --

21 A. Mr. Sanchez wasn't a real happy employee, and I think --
22 and he was thinking -- he could arrange or be involved in a union
23 that he would be more productive for himself or for the other BLE
24 managers.

25 Q. You say "happy." What does that mean? Does that mean

1 he was disgruntled?

2 A. He may -- he's not a very sociable guy. I mean, he
3 would come to work. He would do his job. He's not like you sit
4 and have a conversation about a barbecue on the weekend or the
5 ball game. He just really didn't have time for that.

6 Q. But not anything that would cause him, as a rules'
7 compliance problems -- I mean, I have no mention of that anywhere?

8 A. No. I don't have -- I didn't have any issues with him
9 as far as following the rules the operating rules. And of course,
10 the delay of a train is an operating rule, but it's also an
11 administrative rule.

12 Q. Have you -- prior to the accident had you issued any
13 counseling for cell phones that was formal?

14 A. No.

15 Q. No. Have you since then?

16 A. Yes.

17 MR. REMINES: I have no further questions. I'm going
18 to open it up to Mr. Workman.

19 BY MR. WORKMAN:

20 Q. Earlier I asked Mr. Hildebrand, specifically, when he
21 had discussed, you know, the issue with you regarding
22 Mr. Sanchez's cell phone use.

23 A. Um-hum.

24 Q. And he replied to me that -- uh -- on Wednesday, the
25 week before, he had discussed it with you and that he waited seven

1 days to, you know -- before he -- well, he observed -- let me
2 rephrase this.

3 He observed it a week before. He waited seven days
4 before he discussed it with you, and that -- and that you, when he
5 discussed it with you, you went one way and he went the other. In
6 your -- in the interview at this point, I understand that -- that
7 he discussed the cell phone issue in August?

8 A. Correct. Yes.

9 Q. Okay. And -- and that -- how long -- how long a time
10 had passed from when it was discussed with you about the cell
11 phone that you spoke with Mr. Sanchez?

12 A. It was either that day or the next morning.

13 Q. Okay. So this was in August?

14 A. Correct. Yes.

15 Q. Okay. And when you discussed with Mr. Sanchez the cell
16 phone, why didn't you consider this counseling or make this formal?

17 A. Well, I -- personally I didn't catch him, and it was
18 Mr. Hildebrand's basic word that he had caught him going to make
19 the call at a station stop. So at that point, I made the decision
20 that it was a verbal counseling, and I wanted to reinforce the
21 fact that our cell phone policy is in place and also make sure he
22 understood the cell phone policy.

23 Q. Okay. I'd like to request from Connex a copy of all
24 employees that have been counseled on cell phone records. All --
25 all efficiency tests on cell phones for the past 24 months.

1 MR. FRITZ: Okay. You want all counseling letters.

2 MR. WORKMAN: All counseling letters, all operational
3 tests.

4 MR. FRITZ: Failures or tests?

5 MR. WORKMAN: Total test. And I'd like a summary sheet
6 that would indicate total test number passed, number fails, and
7 with that, the counseling letters.

8 MR. FRITZ: Twenty-four months prior to September 12th.

9 MR. WORKMAN: Yes. And I'd like for all of them since
10 the accident. I want to -- I want to understand what was taking
11 place prior to the accident. What's been taking place after the
12 accident?

13 MR. FRITZ: Okay. Jim, you want the testing guide?

14 MR. REMINES: Yes.

15 MR. FRITZ: You realize, of course, this will take
16 about three months.

17 MR. WORKMAN: Like to have that in 48 hours.

18 MR. FRITZ: Four months, yeah.

19 MR. WORKMAN: And I have a document that can help you
20 do that, if I need to. We need to put more resources on there.

21 Now, okay. I just wanted to be perfectly clear with
22 what you have -- what you have said in your interview and what I
23 had heard earlier.

24 MR. REMINES: I'd like a copy of those counseling
25 sessions to see that it was done because the references I'm

1 getting from Mr. Hildebrand is that this all took place the week
2 before. And --

3 MR. WORKMAN: A week before the accident. So there's
4 some things we want to understand.

5 MR. REMINES: And I'm just trying to put a time line
6 together.

7 BY MR. WORKMAN:

8 Q. And I guess a follow-up question would be on -- on the
9 11th of September was the day you had the counseling with
10 Mr. Hildebrand?

11 A. Correct.

12 Q. And you provided him a letter of the counseling?

13 A. Correct.

14 Q. And he signed that letter on the eleventh?

15 A. Yes.

16 MR. REMINES: Yes.

17 MR. WORKMAN: Okay. That's -- pass this on.

18 MR. ELLIS: I'm good.

19 MR. WORKMAN: Questions? Make sure you introduce
20 yourself.

21 MR. FRITZ: Ted Fritz, with Connex.

22 BY MR. FRITZ:

23 Q. Rick, Bob Hildebrand told us today that he met with you
24 on Wednesday the 10th. And your earlier testimony, I believe, you
25 said that you had counseled Rob on Tuesday, but you didn't do Bob

1 until Thursday. Was there a reason you didn't do them both the
2 same day?

3 A. Mr. Hildebrand marked off sick Tuesdays, the 9th, and
4 Wednesday, the 10th. He didn't return back to work until Thursday
5 the 11th.

6 Q. You also mentioned that Bob had come in August and his
7 -- part of his conversation he mentioned seeing Rob with a cell
8 phone. Was it usual for Bob to come in and talk to you about
9 various operating issues from time to time?

10 A. Yes. Bob was -- he was very, pretty verbal about issues.
11 One of his -- um -- one of his pet peeves was fair enforcement.
12 The conductors are required to check 25 percent of the train, and
13 they are authorized by the LA County Sheriff's Department to write
14 a citation to be held up in court. Bob's confrontation with
15 passengers would raise his level of -- conversations with me from
16 time to time.

17 Q. Earlier today Chris Leo was in here. And in his
18 testimony, he said that he felt that the cell phone rule wasn't
19 being enforced, and he specifically said -- he specifically
20 mentioned conductors that wore two or more cell phones on their
21 belts, and that it was rather obvious that managers weren't taking
22 any action. Did Chris ever complain to you about that?

23 A. No. I never talked to Chris about cell phone use or any
24 concern he's ever had.

25 Q. Has any other managers that you worked for mention Chris

1 complain about other conductors having more than one cell phone on
2 their belt?

3 A. No.

4 Q. Had you noticed the propensity for conductors to carry
5 more than one cell phone?

6 A. I don't remember seeing more than one cell phone on a
7 conductor's belt. I -- we have had in the past problems with the
8 conductors using a company cell phone for personal phone calls.
9 We receive a copy of the phone Bill, and if they use -- use the
10 cell phone for personal use, they were obligated to pay for the
11 calls that they were making and also to -- it could provide a
12 progressive discipline situation.

13 MR. FRITZ: I don't have nothing [sic] further.

14 MR. ENGLAND: John England, UTU -- just one.

15 BY MR. ENGLAND:

16 Q. In checking for compliance with the cell phone policy,
17 can you run me through that? How do you check? Is it all visual?
18 Or how does that work?

19 A. Yeah. It's -- it's extremely difficult to check for a
20 cell phone, like, you have mentioned, to crawl up on a locomotive
21 -- because the engineer is going to see you coming.

22 You can watch them from the side. You can watch them
23 from the station. You can observe them. We do that regularly
24 with our efficiency tests. Rate our checks. Delayed and block
25 checks. Cab car, you could probably be a little -- a little

1 easier to check for cell phone compliance because you can walk up
2 on the cab car, and if they don't see you coming, which there is a
3 good chance they won't when the shade is up, you may be able to
4 catch them, but that's the only way.

5 Q. You never would call their cell phone to see?

6 A. In the very beginning, we did call. And that was
7 actually the failure that we got on Rob Sanchez, is that we were
8 told to go out and do some inspections on cell phones to ensure
9 compliance.

10 Some managers made some phone calls. Engineers would
11 either have their phone on -- there wasn't an engineer that
12 answered the phone. But we did hear two occasions that cell
13 phones rang. One was with Mr. Sanchez, and the other one was by
14 an engineer, by the name of Mr. King.

15 Q. Okay. Did those result in anything?

16 A. They resulted in verbals and failures and notifications
17 to my boss, Greg Konstanzer.

18 Q. No letters?

19 A. None that I'm aware of.

20 MR. ENGLAND: That's all I have.

21 BY MR. REMINES:

22 Q. Couple of follow-up questions. Did you give feedback to
23 Mr. Hildebrand about your counseling of Mr. Sanchez of the cell
24 phone?

25 A. No. Not until -- I did talk to Mr. Hildebrand after the

1 incident, but prior to the incident, I didn't give feedback to
2 Mr. Hildebrand.

3 Q. After the incident?

4 A. After the Chatsworth accident.

5 Q. So Hildebrand wasn't aware that you had talked to
6 Sanchez about the cell phone report that he had made?

7 A. Mr. Hildebrand and I didn't have another conversation
8 about cell phone or follow-up from that initial incident.

9 Q. There was a statement by Mr. Hildebrand and Mr. Leo that
10 management was not concerned about the use of the cell phone and
11 was not following up on his concern. Was that a fair assessment?

12 A. I don't know. I -- he had told me about the cell phone
13 incident. I followed up with it. I performed deliberate checks
14 on Mr. Sanchez, you know, in the month of August. And, as far as
15 I know, it was a dead issue. I never heard another word about it.

16 Q. You said something about if the conductor took issue
17 with an employee that was not ground for discipline. Is that what
18 I heard you to say? Since the incident was recorded by the
19 conductor, it was not grounds for disciplining Mr. Sanchez or give
20 him a letter or anything -- counseling?

21 A. Well, that decision would be made by Greg Konstanzer,
22 the level of discipline.

23 Q. Have they taken action against an engineer or vice versa
24 against the conductor based on a report? I guess the conductor to
25 me is in charge of the train. Is that the way I understand it?

1 A. Yes.

2 Q. So if he takes issue with an engineer that could result
3 in discipline, or is it something you have to see yourself?

4 A. No. No. It could result in discipline, but there's a
5 process involved where the conductor would have to supply the
6 corporation with information, and we'd be able to follow-up with
7 it. But at that level, unless it was a direct report of mine, I
8 wouldn't be involved with it.

9 Q. Had you gotten any other complaints about cell phone
10 usage by engineers or conductors that you can remember?

11 A. Not prior to the Chatsworth incident.

12 Q. And you say "Not prior to" so you kind of -- what
13 happened after that that's different. Do you say not prior to
14 [sic]. What about afterwards?

15 A. We've become very aggressive with not only Moratorium 26.
16 We have done spot checks. We've done inspections of trains when
17 we stop them during our efficiency tests. That's a regular
18 inspection we do.

19 Not only do we get on and inspect the cab but we ask
20 them where their cell phone is. We ask them to show it to us,
21 ensure that it is off. So we have become very aggressive since
22 then.

23 Q. Did you feel that the dispatch office, which is under a
24 different contract, would they comply with your request to do
25 efficiency tests such as delaying of trains, stopping of trains?

1 Is that a cooperative joint effort? Did you feel that you had
2 full compliance out of the dispatch office?

3 A. They -- they're better now. I mean, everybody is
4 basically giving us, you know, the ability to delay whatever
5 trains possible. In the past, prior, a year ago, you know, you
6 may get a call from a chief saying how long you're going to delay
7 him? It's going to mess up the meets down there. It didn't
8 change the fact that we were going to stop them or inspect them.
9 It just, you know, it's something we had to listen to.

10 The way it was explained to us is that we get relief for
11 efficiency testing for on-time performance, so my marching orders
12 was to do what you needed to do.

13 Q. How were the employees trained? Were there operating
14 rules classes that would have taught them about the prohibition of
15 cell phones?

16 A. Yes. Operating rules is standard in our general code?

17 Q. Um-hum.

18 A. We will also have a module of Connex Operation Notices
19 that covers cell phone usage, and the engineer research class,
20 it's covered in great detail.

21 Q. I had a rule-of-the-day chart. Was this rule one of the
22 rules of the day?

23 A. I'd have to look at the rule of day.

24 Q. I'll check that.

25 MR. REMINES: I have no further questions here.

1 MR. WORKMAN: Follow-up.

2 BY MR. WORKMAN:

3 Q. To go back, you said after you had spoken with
4 Mr. Sanchez regarding the cell phone that Mr. Hildebrand had
5 brought to your attention, you said you made follow-up checks on
6 Mr. Sanchez in August?

7 A. Correct. Yes.

8 Q. Did you record those checks?

9 A. No, I did not. They were observation checks, and they
10 were compliance; so I didn't record any exceptions.

11 Q. Why wouldn't you record those and use those as an
12 operational test?

13 A. Well, um -- operational tests, we're kind of careful on
14 how we enter operational test. In fact last week we received an
15 audit by FRA NTSB, who thought that some of our operational tests
16 were fluffy numbers; so when we perform a test, we've tried to be
17 very specific on what we're going to test.

18 If we're testing a stop test, federal restricted speed
19 test, flag and a signal. And by getting on a train I would --
20 when I get on a train, I may make several observations, you know,
21 check their track warrants. I'll look at them and make sure that
22 they have correct shoes, uniform. I'll look at the engineer's
23 certification. I'll check for newspaper laying around the
24 locomotive or in the cab car, and one of the things I look for is
25 a cell phone, but I wouldn't enter those tests if they were

1 noncompliance because that would just be entering extra numbers
2 that somebody may take exception to, but if there was a failure or
3 something that I took exception to, I would enter that.

4 Q. So -- so I understand. If they complied, you didn't
5 record it. If they didn't comply, you would record it?

6 A. Depends on the test. If they complied with a stop test
7 or restricted speed test, I would enter that. That's a safety-
8 sensitive test in a movement of train. Where, if they complied
9 with not having a newspaper in the cab, I wouldn't enter that
10 because there would -- they've complied with what they're supposed
11 to do.

12 Q. So you -- you're looking at it -- if you saw a train
13 coming, and it had its headlights on, you could write that as a
14 test?

15 A. And I may, and I will do those from time to time.

16 Q. But you -- not necessarily?

17 A. Not every time. If I was in the field and entered those
18 tests all the time, they would want to know where my safety-
19 sensitive tests were.

20 Q. You also mentioned -- new subject -- cell phone is on
21 your notices, Connex notices?

22 A. Correct. Yes.

23 Q. Could you explain what the Connex notice is?

24 A. Connex notices are put out by the assistant general
25 manager, which is Greg Konstanzer, and they're put out -- they're

1 put out in progression. They start with calendar year, and they
2 have several issues, several, several issues on it anywhere from
3 administrative, time tickets, marking up, types of equipment we're
4 using, look out for.

5 We have a dash eight that requires some different types
6 of observation when you're operating it. We have a F40 that takes
7 different things. We have an alerter notice. So these notices
8 are not just administrative, operation, time ticket, housekeeping
9 -- that type of thing.

10 Q. Informational?

11 A. Information, yes.

12 Q. Does Connex have bulletins?

13 A. You mean --

14 Q. Let me ask it this way. When Connex is going to make a
15 rules change from the general code of operating rules GCOR often
16 referred to and you're going to either have a different approach
17 to the rule or you're going to make the rule more restrictive
18 to be -- to meet the needs of Connex or Metrolink on the territory,
19 how would you go about putting that in the timetable?

20 A. Well, first of all an operating rule change would come
21 from Metrolink, not from Connex, because we're the contractor.
22 Where the operation -- the Connex operation notices are Connex,
23 they're company. They're administrative and not part of the rules
24 department -- the general code.

25 But if we were going to issue a new rule, which we do

1 issue -- we do give new rules -- the first, it would come out in a
2 track warrant, or bulletin.

3 After the track, warrant, or bulletin, was in place, if
4 it was going to go into as a permanent, not a temporary-type rule,
5 it would then go into the general order, which would be posted,
6 and it comes out -- they come out progressively as long as the
7 timetable is in effect. As soon as the new timetable is issued,
8 if that rule was going to continue, it would be issued into the
9 timetable system special instruction.

10 Q. And then -- and then all of the track, warrants, or
11 bulletins, general notices that would have several would go to
12 zero, and you would start again because everything is covered in
13 your timetable?

14 A. Yes. Correct.

15 Q. Now, did Metrolink have a cell phone rule in their
16 timetable that was different from the general code?

17 A. I don't think so. I have to -- I'd have to check.

18 Q. You have to check.

19 MR. WORKMAN: Do you have a copy of their timetable?

20 MR. REMINES: Um-hum.

21 MR. DAHL: The timetable didn't change Rule 1.10; so
22 that means it would refer back to general Code Rule 1.10 then.

23 BY MR. WORKMAN:

24 Q. You said it did not change?

25 A. Yes. If they put out a change in their supplemental

1 instructions in their timetable, then that would modify the
2 general code rule, and I don't believe that they did, so that
3 would refer back to general code.

4 Q. See -- the reasons for the question are simply to get
5 the progression as to who is responsible for the rule changes?
6 And what's the difference between a notice and a bulletin?

7 A. Okay.

8 Q. And how does that, then, get into a timetable. So who
9 -- how is the accountability referenced there and how does that
10 physically take place. So your general orders and bulletins, how
11 often -- um -- are they updated?

12 A. General -- the bulletins are updated twice a day, if the
13 crew takes an interim release. If they don't and they work one
14 job, then they're -- they get new bulletins each day. If they
15 come back in the afternoon, they get a second set of bulletins; so
16 bulletins are updated and reissued prior to every tour of duty.

17 General orders are issued periodically, I would say, one
18 to four or five months, depending on if there's some rule changes
19 and the timetable comes out every year or two.

20 Q. Okay. So you don't see a consolidation of general
21 orders quarterly, or there's no specific time line on the updating
22 of general orders?

23 A. Not that I'm aware of. It's when -- when the bulletins
24 have enough information to update a general order and when the
25 general order has enough information to update the timetable.

1 Q. Okay. Do you know how many bulletins that on the day of
2 the accident that the crew of Metrolink Train 111 may have been
3 carrying?

4 A. No. I would have to look at the bulletins.

5 Q. Okay.

6 MR. WORKMAN: Do we have a copy of the bulletins, Jim,
7 of the day of the accident?

8 MR. REMINES: Yep.

9 BY MR. WORKMAN:

10 Q. And are -- are the crews required to carry with them the
11 general orders?

12 A. Yes.

13 Q. And are the crews required then to be conversant with
14 the general orders?

15 A. Yes.

16 Q. Do you know how many general orders were in place the
17 day of the accident?

18 A. One.

19 Q. What general order?

20 A. Metrolink General Order -- again, I don't know the
21 number, but it would be one.

22 Q. How many pages would that one be?

23 A. I'd have to look.

24 MR. WORKMAN: Do you have a copy of general order
25 Number 1?

1 MR. DAHL: Ten to 15 pages.

2 BY MR. WORKMAN:

3 Q. All different rules and --

4 A. Different subdivisions.

5 Q. All different subdivisions?

6 MR. REMINES: I'll check.

7 MR. WORKMAN: Okay. Okay. I'm good.

8 MR. ELLIS: I'm good. I think I'm good.

9 MR. FRITZ: I want to clarify a couple of things.

10 BY MR. FRITZ:

11 Q. You made the statement that, when we change the rules,
12 and it's -- "we" meaning Connex. Connex does not change rules, is
13 that correct?

14 A. Correct.

15 Q. It's Metrolink that changes the rules?

16 A. Correct.

17 Q. Um -- you made the statement that, when you're asked
18 about the cell phones, that it was on a bulletin. The bulletins
19 that Mr. Konstanzer puts out starts with No. 109 or 108 --
20 whatever the -- the year is, didn't necessarily cover the cell
21 phone policy; is that correct?

22 A. (Nod of the head.)

23 Q. Did not Connex have its own standalone cell phone
24 policy?

25 A. Yes.

1 Q. And that was the policy that we were enforcing prior to
2 the accident?

3 A. Yes.

4 Q. Is that correct?

5 A. And it also is listed in the Connex notices.

6 MR. FRITZ: Okay. Thank you. I'm finished.

7 MR. ENGLAND: I don't have anything.

8 BY MR. REMINES:

9 Q. I have one curiosity that's beyond that. Any reports
10 come into you about signals out there as far as confidence in the
11 signals, false proceeds?

12 A. There's been nothing in my area. Nothing reported to me,
13 directly. I have heard that there was a problem on the valley sub,
14 and I don't know who the crew was. It wasn't reported to me, but,
15 now, now, we're getting word of mouth and -- and I would --
16 wouldn't be appropriate for me to discuss that. I'm not aware of
17 the situation or who was involved.

18 Q. But it was not on your subdivision?

19 A. It wasn't on my subdivision, no.

20 Q. Your crews never voiced any complaints about the
21 confidence in the signals?

22 A. Um -- no.

23 Q. Okay. And to clarify one thing, you never gave any
24 feedback to Mr. Hildebrand on your -- on your counseling of
25 Mr. Sanchez about the cell phone?

1 A. No, not prior to the incident.

2 Q. Because he had characterized that as an indifference by
3 management to Mr. Leo, and that's why I'm asking that. Because
4 that might explain why he characterized that conversation that
5 management didn't care?

6 A. Well, I'm very careful -- if I have a counseling or a
7 briefing with an employee -- that that is between myself, the
8 Corporation, and that employee, and I don't, as a rule, I do not
9 share counseling or discipline on one employee with another
10 employee.

11 So the fact -- if Mr. Hildebrand had any curiosity about
12 whether it was addressed, he could ask me, and I would say, "Yes
13 it was addressed," but I would not get into the specifics about
14 what was discussed because that wouldn't be appropriate if there
15 was especially something with Mr. Sanchez That may have been a
16 little more aggressive; so that's kind of -- and I can understand
17 Mr. Hildebrand's thought that maybe it wasn't addressed although
18 it was addressed. It was addressed on more than one occasion, but
19 I'm -- yeah, I didn't go back to Bob and tell Mr. Hildebrand that
20 I had handled it.

21 Q. Okay. Why -- that seems odd to me that the efficiency
22 tests or at least the observations or checkups that you did on
23 Mr. Sanchez, you didn't record those, which to me -- if you've
24 gotten a complaint from a conductor, it would have been enough to
25 justify this as being a focused inspection, efficiency test, an

1 observation, and by not recording those, there is no physical
2 proof that you did a follow-up on Mr. Hildebrand's complaints or
3 observation.

4 And that's why I've asked you that over and over again
5 because I would think that, if you were out there because of
6 complaints by the conductor that would be justification to fill
7 out some kind of form to say I made a check on Mr. Sanchez?

8 MR. REMINES: That's all.

9 MR. WORKMAN: I'm good. None for me.

10 MR. ELLIS: None for me.

11 MR. FRITZ: No.

12 MR. ENGLAND: No.

13 (Whereupon, at 1:31 p.m., the interview in the above-
14 entitled matter was concluded.)

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CERTIFICATE

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

IN THE MATTER OF: METROLINK TRAIN NO. 111
COLLISION WITH UNION PACIFIC
RAILROAD LEESDALE LOCAL,
September 12, 2008,
Los Angeles, California
Interview of Richard Dahl

DOCKET NUMBER: DCA-08-MR-009

PLACE: Gardena, California

DATE: January 21, 2009

was held in accordance with the record, and that this is the
original, true and accurate transcript which has been compared
to the recording accomplished at the interviews.

Willie Anderson, Jr.
Court Reporter