



I, Philip Garber, have read the foregoing pages of a copy of my interview with NTSB that was held on July 17, 2022, regarding accident RRD22FR011. These pages constitute a true and accurate transcription of same except for the following amendments, additions, deletions or corrections:

<u>PAGE NO:</u>	<u>LINE NO:</u>	<u>CHANGE AND REASON FOR CHANGE</u>
<u>6</u>	<u>8</u>	<u>Name to Salvador Manzo-Ruiz: incorrect name</u>
<u>6</u>	<u>11</u>	<u>Name to Salvador Manzo-Ruiz: incorrect name</u>
<u>6</u>	<u>21</u>	<u>NILES SUB RV001: incorrect subdivision name and CP</u>
<u>6</u>	<u>22</u>	<u>Name to Ruiz and Manzo-Ruiz: incorrect name</u>
<u>7</u>	<u>03</u>	<u>Remove "vehicles," redundant wording</u>
<u>9</u>	<u>01</u>	<u>Subdivision name to Niles: incorrect subdivision name</u>
<u>9</u>	<u>09</u>	<u>Fouling; filing is an incorrect word</u>
<u>9</u>	<u>10</u>	<u>RV001: incorrect CP</u>
<u>9</u>	<u>15</u>	<u>Remove "It's": unnecessary verbiage</u>
<u>9</u>	<u>16</u>	<u>Foul: incorrect work it is not "file"</u>
<u>10</u>	<u>02</u>	<u>Remove duplicate "similar" and replace "for" to "to"</u>
<u>11</u>	<u>05</u>	<u>Remove "they were": redundant</u>
<u>11</u>	<u>06</u>	<u>Replace "file" with "foul": incorrect word</u>
<u>11</u>	<u>07</u>	<u>Replace "there" with "their": wrong word</u>
<u>11</u>	<u>10</u>	<u>Replace "adding" with "acting": wrong word</u>
<u>11</u>	<u>17</u>	<u>Replace "2:50<sup>th</sup>" with too 50<sup>th</sup>: wrong word</u>

I declare that I have read my statements and that it is true and correct subject to any changes in the form or substance entered here.

Date: 09-06-2022

Witness: [REDACTED]

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

\* \* \* \* \*

Investigation of: \*

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AMTRAK TRAIN COLLIDES WITH \*

EXCAVATOR IN EAST OAKLAND, \*

Accident No.: RRD22FR011

CALIFORNIA ON JULY 15, 2022 \*

\*

\* \* \* \* \*

Interview of: PHILIP GARBER, Manager of Track Maintenance  
Union Pacific Railroad

Oakland, California

Sunday,  
July 17, 2022

APPEARANCES:

JOE GORDON, Investigator in Charge  
Roadway Worker Protection Group Chairman  
National Transportation Safety Board

FELIPE AYALA, Track Inspector  
Federal Railroad Administration

JAMES RIDGWAY, Track  
California Public Utilities Commission

ROBERT NAGEL, Deputy Division Engineer  
Amtrak

JEREMY RITCH,  
Union Pacific Railroad  
(On behalf of Mr. Garber)

I N D E X

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I N T E R V I E W

1  
2 MR. GORDON: All right. Good morning, my name is Joe Gordon;  
3 I'm the Roadway Work Group Safety Chairman for this accident. We  
4 are here on July 17th, 2022, in Oakland, California, to conduct an  
5 interview with Mr. Philip Garber, who works for the Union Pacific  
6 Railroad.

7 This interview is in support of the NTSB investigation  
8 RRD22FR011. In this accident a roadway maintenance machine was  
9 struck by an Amtrak passenger train on July 15th, 2022.

10 Before we begin the questions we'll go around and introduce  
11 ourselves for the record. Again, I'm Joe Gordon, G-O-R-D-O-N,  
12 with the NTSB.

13 MR. AYALA: Felipe Ayala, A-Y-A-L-A, FRA Track.

14 MR. RIDGWAY: James Ridgway, R-I-D-G-W-A-Y, CPUC Track.

15 MR. NAGEL: Robert Nagel, N-A-G-E-L, Amtrak Deputy Division  
16 Engineer.

17 MR. RITCH: Jeremy Ritch, R-I-T-C-H, Union Pacific.

18 MR. GARBER: Philip Garber, G-A-R-B-E-R, Union Pacific.

19 MR. GORDON: All right. Okay to go by first name today?

20 MR. GARBER: That's okay.

21 MR. GORDON: All right, thank you, Philip and permission to  
22 record the interview?

23 MR. GARBER: Permission.

24 MR. GORDON: Okay. And you understand that we record the  
25 interview, it will be transcribed, eventually become a part of the

1 public docket so we can't guarantee any confidentiality?

2 MR. GARBER: Understood.

3 MR. GORDON: And you do have -- Mr. Ritch is also going to be  
4 here as your representative today?

5 MR. GARBER: That's correct.

6 MR. GORDON: Okay. All right, thanks.

7 INTERVIEW OF PHILIP GARBER

8 BY MR. GORDON:

9 Q. If you could just start out by giving us an overview of your  
10 railroad experience from the time you came to UP and if you've had  
11 some work that was -- you know, that kind of brought you into the  
12 railroad industry, just kind of give us an overview of how you got  
13 to the position that you've in today and then the work that you've  
14 done since you came to UP?

15 A. I've got a background in residential, commercial and  
16 industrial construction, received a bachelor of science from  
17 Oregon State in 2015 in construction engineering management.  
18 Started with Union Pacific on April 1st, 2015, as an engineering  
19 associate, worked under the guidance of Joe Johnson and then took  
20 a position as a manager of track welding in 2017.

21 Took the position here on the Martinez district in Oakland,  
22 California on February 1st, 2018, as a manager of track  
23 maintenance and in October of 2019 took the senior manager of  
24 track maintenance position and have held that through today's  
25 date.

1 Q. All right. Thank you for that. So we'll concentrate on the,  
2 on the workers that were involved in the work that was going on  
3 there the day of the accident. Did all of those guys report to  
4 you daily, I mean, were they assigned to you as far as their  
5 reporting location and like would you have been their immediate  
6 supervisor?

7 A. Yes, I'm the immediate manager for Jose Tovar, Sergio Torres,  
8 and Salvador Menzel Reese (ph.).

9 Q. Okay. All right. And what are their bid in positions as far  
10 as, you know, what their job assignments are?

11 A. Salvador Menzel Reese currently holds the position of track  
12 supervisor, also known as track inspector. Jose Tovar holds the  
13 position of track supervisor, also known as track inspector.  
14 Sergio Torres holds the position of machine operator, backhoe  
15 operator.

16 Q. Okay. Okay. And so as far as the selection of that group to  
17 work with the auto cleanup task force, the stolen vehicle task  
18 force, whatever it was, can you tell us, you know, just kind of  
19 how those people were selected to do that work?

20 A. Jose Tovar was selected because it's his territory on the  
21 Nile (ph.) sub from RB001 to NI014. He is the most familiar with  
22 the territory. Sal Reese or Sal Menzel Reese is selected because  
23 he is our qualified speed swing operator and that piece of  
24 equipment is utilized to remove the stolen vehicles from our  
25 property and right-of-way.

1 And Sergio Torres is the qualified backhoe operator for that  
2 portion of our district and the backhoe is also crucial and  
3 utilized to move vehicles, stolen vehicles from our property and  
4 get them towed off with the Alameda County Task Force.

5 A. Okay.

6 Q. And so, you know, we spoke with Jose and Sergio and they said  
7 that, you know, they -- there was some planning that was involved  
8 in this, so about how much lead time did you have planning with  
9 the task force to -- you know, to set this up?

10 A. Approximately a week to two weeks.

11 Q. Okay. Okay. And so if Sal and Jose or -- yeah, Sal and  
12 Jose, they're track supervisors, track inspectors, are they doing  
13 your regular FRA required frequency inspections over the  
14 territory?

15 A. That is correct.

16 Q. Okay. So what's their normal -- this incident occurred on  
17 a --

18 A. Friday.

19 Q. -- Friday, okay. So what's their normal Friday, is that, is  
20 that an extra day from inspection or do they normally have  
21 frequency?

22 A. Friday's a yard day --

23 Q. Okay.

24 A. -- or industry day.

25 MR. GORDON: All right. Okay, that's what I've got for right



1 now. I'm going to pass it to my right there.

2 MR. AYALA: That's me.

3 BY MR. AYALA:

4 Q. So is it normal to take a track inspector up to run the speed  
5 swing, I mean, do you have somebody who has bid that machine?

6 A. At this time, no, there's no one that has bid that position.  
7 It is customary to take a qualified operator and utilize his or  
8 her services to operate a piece of equipment when it doesn't  
9 interfere with their mandatory FRA or UP duties.

10 Q. Any maintenance history that you are aware of with the speed  
11 swing, the 0007?

12 A. Not to my knowledge, no.

13 Q. How long have you had this speed swing open?

14 A. The speed swing has been on my district since I came here in  
15 2018.

16 Q. We heard from the other men that they've done this task  
17 before and they did it without the speed swing, they were doing it  
18 with just the backhoes. What was the reasoning to switch over?

19 A. Due to the amount of vehicles as well as to be as expeditious  
20 as possible, we brought in two operators, two pieces of equipment.

21 Q. Is there any specific instructions that you might have as on  
22 account of your or even as the manager of this district as far as  
23 piloting that machine?

24 A. No. We have rules for those that are inexperienced or  
25 unfamiliar with the territory; however, all three individuals are

1 extremely familiar with the Nile subdivision from 4.25 to 13.7.

2 MR. AYALA: That's all I have for now.

3 MR. GORDON: Thank you. Amtrak?

4 BY MR. NAGEL:

5 Q. Is there any procedure -- Robert Nagel, Amtrak. Is there any  
6 procedure setup for if they're setting off to clear to give  
7 positive protection on the adjacent track with the Union Pacific  
8 at this time?

9 A. They're to follow UP and FRA guidelines when filing a track  
10 and see how they track in time from the three pieces, from RB001  
11 to NI011, when you drop or raise, I should say, your high rail  
12 wheels and jump yourself down on your rubbers, you become like a  
13 standard vehicle and you observe and operate the equipment the  
14 same as a truck, car, et cetera, when in a crossing quadrant.

15 It's you acknowledge that the gates are down and you verify  
16 visually that if you're going to file adjacent track that it is  
17 cleared for your movement.

18 MR. NAGEL: That's all I have. Thank you.

19 MR. RITCH: I don't have any questions.

20 MR. GORDON: Okay. I've just got a couple more here.

21 BY MR. GORDON:

22 Q. Are you very familiar with the speed swing is it, is it  
23 anything you've operated in the past or anything like that?

24 A. I have not.

25 Q. Okay.

1 A. You need to be airbrake qualified to operate that piece of  
2 equipment. It's similar, similar for a loader.

3 Q. Okay.

4 A. So, no, I have not operated that.

5 Q. Okay. And have you ever been out and done any like  
6 efficiency testing or operational rules testing when they've been  
7 working with this task force cleaning these cars up, have you ever  
8 been out and observed them?

9 A. I've observed the operations, especially with the backhoe.  
10 We had -- they brought in a large forklift as well to work with us  
11 one of the times when we didn't have the swing, it was just the  
12 backhoe and that, so I observed that. I've also observed the  
13 operations of the speed swing when installing track components.

14 Q. Okay.

15 A. Yeah, observing safety around it as well as documentation of  
16 the daily equipment inspection.

17 Q. Okay. And I think, I think Robert touched on this but  
18 there's nothing -- so you've got -- of course, UP has adjacent  
19 track, on track safety rules that are in place but there's nothing  
20 specific for highway rail grade crossings, either occupying or  
21 removing a vehicle, so can you talk a little bit more about that?

22 A. If you're working within eight feet of the track with a piece  
23 of equipment you need to have adjacent track or on track  
24 protection.

25 Q. Okay.

1 A. If you're working off the right-of-way hence the reason. You  
2 spoke with the prior two, I'm sure they talked about their job  
3 briefing to obtain track and time on Main Track 2 when they're  
4 working off that main.

5 They weren't set on that main but they were -- their plan was  
6 to work adjacent to it and they would hence file it and that was  
7 why there plan was to obtain time on the, on Main Track 2.

8 Q. Okay.

9 A. Now if we're setting off at a crossing he's not setting on  
10 Main Track 2, he's adding like a vehicle, raises his high rail  
11 wheels and sets himself down on the rubbers and exits the crossing  
12 quadrant as a vehicle and that's standard.

13 Following DOT, as operating as a vehicle you -- when the  
14 gates are down you look both ways. That's, if you're in a vehicle  
15 you don't enter the crossing quadrant when the gates are down.

16 Q. So we heard from Jose that he -- you know, his intention was  
17 when he got there 2:50th he was going to secure track and time on  
18 Track No. 2 before the speed swing cleared Track 1. So, you know,  
19 he had maintained his time on Main Track 1 and his intention was  
20 to secure time on 2 because once they came off of No. 1 Track and  
21 across 2 that would provide them --

22 A. Protection.

23 Q. -- the protection on 2 even though they were working field  
24 side. So under the rules would he have been required to get time  
25 on Track 2 to remove the speed swing, I think that was in the last

1 part of your answer, he wouldn't have been -- that wouldn't have  
2 been a requirement, right?

3 A. Not a requirement.

4 MR. GORDON: Okay. All right. That's what I've got. I'm  
5 going to look around the room for follow-up questions.

6 (No audible response.)

7 Seeing none, we're going to go off the record there.

8 (Whereupon, the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

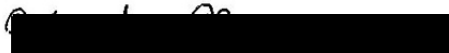
IN THE MATTER OF:           AMTRAK TRAIN COLLIDES WITH  
                                  EXCAVATOR IN EAST OAKLAND,  
                                  CALIFORNIA ON JULY 15, 2022  
                                  Interview of Philip Garber

ACCIDENT NO.:               RRD22FR011

PLACE:                       Oakland, California

DATE:                        July 17, 2022

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.

  
\_\_\_\_\_  
Wade Donovan  
Transcriber