

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

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CALTRAIN COLLISION WITH *

CONSTRUCTION EQUIPMENT NEAR *

SAN FRANCISCO, CALIFORNIA, * Accident No.: RRD22LR007

ON MARCH 10, 2022 *

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Interview of: PHILLIP MERLINO, Foreman

Balfour Beatty

Via Microsoft Teams

Thursday,
April 21, 2022

APPEARANCES:

RICHARD HIPSKIND, Railroad Accident Investigator
National Transportation Safety Board

JOHN MANUTES, Investigator-in-Charge
National Transportation Safety Board

RICK BRUCE, Supervisor of Track Safety
Federal Railroad Administration

FELIPE AYALA, Track Inspector
Federal Railroad Administration

JAMES RIDGEWAY, Track Inspector
California Public Utilities Commission

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Caltrain

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I N T E R V I E W

1
2 MR. AYALA: The recording has started. Let everyone know
3 they are being recorded and transcribed. Dick and Phil, I will
4 pass this along to you guys. Good to go.

5 MR. HIPSKIND: Good morning. My name is Richard Hipskind,
6 and I am a railroad accident investigator for NTSB, and I am the
7 Track and Engineering Group chairman for NTSB for this accident.
8 We are conducting this interview virtually on April 21st, 2022,
9 with Mr. Phillip Merlino.

10 Did I pronounce that correctly?

11 MR. MERLINO: Yes, you did.

12 MR. HIPSKIND: Okay. Who works for Balfour Beatty on
13 Caltrain's electrification project as a foreman.

14 The interview is being conducted, again, via a Teams meeting
15 with NTSB's Track and Engineering Group. This interview is part
16 of NTSB's effort, conducting follow-up interviews with the parties
17 to the investigation in which we are conducting an ongoing
18 investigation of Caltrain's train number SB506 collision and
19 derailment that occurred on March 10th, 2022, on Caltrain's
20 railroad on main track two in San Bruno, California. The NTSB
21 accident reference number is RRD22LR007.

22 Before we begin our interview and questions, let's go around
23 the table and introduce ourselves. Please spell your full name
24 and please identify who you are representing and your title. I
25 would remind everybody to speak clearly and loudly enough so we

1 can get an accurate recording. I'll lead off and then ask for the
2 other interviews to identify themselves according to the order
3 previously established.

4 Again, my name is Richard Hipkind. Spelling of my full name
5 is R-i-c-h-a-r-d, last name H-i-p-s-k-i-n-d. I am a railroad
6 accident investigator for NTSB on this accident.

7 John?

8 MR. MANUTES: Good morning. My name is J-o-h-n
9 M-a-n-u-t-e-s. For this accident, I am the investigator-in-charge
10 for NTSB.

11 MR. HIPSKIND: And Rick?

12 MR. BRUCE: Good morning. My name is Rick Bruce, R-i-c-k,
13 Bruce, B-r-u-c-e. I'm with the Federal Railroad Administration.
14 I'm the supervisor of track safety.

15 MR. HIPSKIND: And Felipe?

16 MR. AYALA: Good morning, Felipe Ayala with the FRA, track
17 inspector. Felipe, F-e-l-i-p-e, Ayala, A-y-a-l-a.

18 MR. HIPSKIND: And James?

19 MR. RIDGEWAY: Yes, James Ridgeway, J-a-m-e-s, Ridgeway,
20 R-i-d-g-e-w-a-y. I'm with the California Public Utilities
21 Commission, and I am a track inspector/investigator.

22 MR. HIPSKIND: And Derek?

23 MR. BROWN: Good morning. My name is Derek Brown, D-e-r-e-k,
24 B-r-o-w-n. I'm with Transit America, and I am the deputy general
25 manager for the engineering/maintenance of way department. Thank

1 you.

2 MR. HIPSKIND: And Robert, if we could hear from you?

3 MR. SEBEZ: Yes, hi, Robert Sebez, R-o-b-e-r-t, S-e-b-e-z.

4 I'm the acting director for safety and security for Caltrain.

5 MR. HIPSKIND: Well, to all the interviewers, thank you.

6 Prior to recording our interview, I spoke to Phil to request
7 his permission to record our discussion today and to obtain his
8 permission to record the interview and for us to use first names
9 in our discussion.

10 MR. HIPSKIND: Phil, has there been any change to your
11 affirmation of those conditions?

12 MR. MERLINO: No. No change.

13 MR. HIPSKIND: And hearing no objection, let's proceed with
14 the interviewee's introduction, after which I will ask him whether
15 he wishes to have somebody with him.

16 So, Phil, if you could put yourself on the record, please?

17 MR. MERLINO: My name is Phillip Merlino, P-h-i-l-l-i-p, last
18 name M-e-r-l-i-n-o, and I'm an employee of Balfour Beatty. And my
19 wife is here also, and she'll introduce herself.

20 MS. MERLINO: Good morning. My name is Carolina Merlino.
21 The spelling is C-a-r-o-l-i-n-a, M-e-r-l-i-n-o, and I'm the wife,
22 and I'm here just to support him during the interview.

23 MR. HIPSKIND: Okay. Thank both of you.

24 INTERVIEW OF PHILLIP MERLINO

25 BY MR. HIPSKIND:

1 Q. Phil, let me ask you a few kind of fundamental questions.
2 Could you give us a synopsis of your work history, bringing us up
3 to your current position, and how long that you've held it. And I
4 would ask you we are looking for your railroad employment
5 primarily.

6 A. Okay. Well, my classification through the IBW, the union
7 that I belong to, is journeyman lineman, and my rail experience
8 goes back to I'd say about seven years ago. I worked on new
9 construction of the Expo II light rail line from Culver City to
10 Santa Monica. And as I said, that was about six or seven years
11 ago. Job lasted about a year.

12 And then subsequent to that, I went to Dallas and worked
13 there for a little bit over six months on another light rail
14 extension that was in Lancaster, which is south of Dallas; it's a
15 smaller community outside of Dallas. That was the blue line, the
16 extension for the Dallas Area Rapid Transit, DART.

17 And between those two jobs, I also worked in downtown LA on
18 the regional connector shoofly. There was a wrecking out of an
19 existing line and the building of a temporary line around Little
20 Tokyo, which is close to downtown, and I was on that project, as
21 well.

22 Also, bringing us closer to this date, I was on the central
23 subway project in downtown San Francisco, and that was really a
24 trolley job, but it was still OSC. And I was on that project for
25 about two months just before going to the CalMod or Caltrain

1 Electrification Program, which I was -- started at -- I'd say it
2 was probably May of last year when I started on this most current
3 project.

4 Q. Okay. And in your position on the electrification project,
5 did you hold several different jobs, or how should we understand
6 that?

7 A. Yes. So on this CalMod or Caltrain Electrification Project,
8 I also have a crane certification for both fixed cab and swing cab
9 hydraulic telescopic boom. So that -- I was tasked with at times
10 to set poles using the crane and also to pull wire, install
11 cantilevers, and do regulating, which is the fine adjustment of
12 the wire positions. So almost all aspects related to OCS,
13 overhead contact system, work I have been doing on this most
14 recent project.

15 Q. Okay. And I understand all that, Phil, and that's good
16 information. On the day of the incident, I think somebody has
17 told me -- maybe you've told me -- we've thought of you in the
18 role of foreman. But there's a little bit more to explain for
19 that, so could you take us through what your job was exactly on
20 that day and what the duties and responsibilities of a foreman
21 would be?

22 A. So my responsibilities were to assign each of the crewmembers
23 specific tasks. And on that day, we had four members, including
24 myself, me being the foreman. I had another lineman with me,
25 Courtney Talley, who is also a crane operator, but he wasn't

1 operating in that capacity that day. I had an apprentice also and
2 a groundman.

3 So I had received information that we were going to meet
4 initially at about 7 a.m. at the visitation yard, which is in
5 Brisbane, a bit north of San Bruno. We're going to do our
6 equipment checkout and meet with our RWC, as well, and we would
7 get a game plan for the day's activities there. So that's how the
8 day started.

9 Q. Okay. And I think we're aware that there was a job briefing
10 to start off the day, but did you have any conversations prior to
11 the job briefing or during or after the job briefing with RWIC?

12 A. Yes. So that initial -- we call that our show-up. That's
13 where our -- at visitation in Brisbane, that's where all of our
14 equipment for the day was parked. And I met with the RWIC there.

15 It wasn't really our official briefing, where we went over
16 the -- our track and time and, you know, our permissions or
17 protection for the day. Not officially. We just -- we met there,
18 spoke with him. And then from there we went to Center Street, the
19 road crossing, after we got all of our equipment ready, and went
20 down there.

21 And we had a more official briefing there, where went over
22 our track and time and our form B, and so on, and then waited for
23 our track and time for track 2. So we had different meetings.
24 The first one at visitation yard in Brisbane. And then we had a
25 second one where we actually filled in our specific information

1 about our protection.

2 Q. Okay. Could you elaborate, Phil, a little bit more on the
3 quality and content of both the conversation with the RWIC, if
4 that took place prior to the job briefing, as well as go in depth
5 and elaborate a little bit more about exactly what was laid out in
6 the job briefing. And then we'll kind of proceed to your
7 characterization of what was discussed at Center. And then I want
8 you just to continue and describe for us the rest of the day.

9 A. Okay. Well, we'll start again back at Brisbane, where -- our
10 show-up yard. So Claude Robins (ph.), our RWIC for the day, was
11 there, and so was Tim Hidalgo, our north pilot. And Claude wanted
12 to meet with everybody. It wasn't our official briefing, because
13 we didn't talk about our specific protection at that time.

14 But it was the second day that I had worked with Claude. I
15 had worked with him -- he was our RWIC -- the previous day also.
16 And you know, me being the foreman, I was temporary foreman that
17 day, but I've been foreman for years on many other projects.

18 And so I noticed one thing about Claude. He kind of -- it
19 seemed like he wanted to establish that he was the top of the food
20 chain, because he made sure that everybody knew that Tim Hidalgo,
21 our pilot, who had been our RWIC in, you know, times prior, was --
22 how can I say it. He told Tim -- he goes, "If you can't be safe,
23 you can't be here." And it was almost in a threatening way to
24 Tim, you know?

25 And Tim himself is somewhat nervous. He's very particular

1 about protection, and he wants to make sure everything is so. He
2 errs on the side of seat. That as my impression about Tim. So to
3 take that opportunity and somewhat embarrass Tim in a public way,
4 you know, in front of our group I thought was inappropriate.
5 Those are the kinds of things that you do in private if you want
6 to talk to somebody, discipline them, counsel them. You don't do
7 it in a public way.

8 So I thought that was strange that he would take that
9 opportunity to let us know that he could dismiss Tim if he wanted
10 to. There was no reason for that. It didn't sit well with me.

11 And as I said, Tim, we had worked with him before, and there
12 were times when, you know, working under a form B, where, you
13 know, the trains that are approaching have to call and ask are all
14 men and equipment in the clear. So he would -- this is -- I'm
15 talking about days before when I worked with Tim as our RWIC. And
16 he would call me and say, "Are all men and equipment in the
17 clear?" And I'd say, "Yes."

18 So we would pretty much have to stand down until the train
19 passed, which used up a lot of our work day because the train may
20 be, you know, three miles away when it calls, and we're waiting
21 for it to leave the station, and it would pass. But it was safe.
22 We knew that there was no way that a train was going to -- that we
23 were going to foul the adjacent track. That was Tim's way, and I
24 respected that.

25 So I had this rapport with Tim, and then Claude on the second

1 day of me knowing him took the opportunity to kind of make sure
2 that we knew what the pecking order was. And I didn't like that.
3 So that was at visitation yard.

4 The day before, Claude was also -- so on March 9th, he was
5 also our RWIC, and in conversation, he let me know that he had
6 been off for about a year, that he had injured his ankle very
7 close to where we were, our show-up, at the visitation yard, that
8 he had twisted his ankle, and he was off for about a year, and
9 that was his first day back, March 9th.

10 And so okay, so, you know, welcome back, you know? That's
11 how I felt, you know? It's good to meet you. And we had an easy
12 conversation, and he let us know, you know, that he was 26 years
13 or some -- you know, many years with working the rail, so he
14 instilled some confidence in me, you know, to me, about his
15 qualifications, which is important.

16 So the first day went well, the second day, March 10th, I
17 felt a little bit uneasy about the way he had approached Tim, who
18 I had respect for, the way he ran his form B.

19 So we have this initial briefing, informal briefing at
20 visitation yard. I let them know that, well, we got to get our
21 trucks ready. We got to make sure that, you know, we do all our
22 checkouts. And we'll see you at Center Street. And we'll get on,
23 you know, after we have our official briefing with, you know, when
24 you get the track and time for track 2. And you guys, being TASI,
25 when they're ready to set on, they won't wait for adjacent track

1 and time so that we can get on -- get our equipment on, shunt and
2 get on.

3 So we all, my crew and all of our equipment moved down to
4 Center Street. They get their track and time for track 2. They
5 get their pickup truck, they being Tim Hidalgo. And I don't know
6 who his intern was. He was a young man, and he was like a trainee
7 it seemed, his assistant. So we have our briefing there. We get
8 the track and time for 2. We know that we're going to wait for
9 adjacent and track and time, you know, for track 1 so that we can
10 get on without any problems.

11 So we wait, you know? As soon as we get word -- because each
12 of us have radios. We have word that we have track and time for
13 1. We start to get our equipment on. We shunt, irons (ph.) come
14 down. We get our equipment on, and then we -- all of us, with
15 the -- with Tim Hidalgo in the lead to the north, are moving, are
16 high-railing from Center to the San Bruno yard, where we have more
17 poles waiting for us to load up.

18 That's the essence of how things went that day, the morning
19 of. You want me to just keep going on about the day's events or
20 do you have another question about that part?

21 Q. Well, let me interject just one thing. I think all of us are
22 a little bit curious as to -- just -- I want you to speak just to
23 the job briefing, and if you will detail for us two things. One,
24 who provided the job briefing, and then number two, if you can go
25 into some detail about what was -- what were you told as a group

1 about any on-track protection, authority limits, and also, were
2 any tasks talked about? In other words, you were going to do this
3 first, second, third, and like that?

4 Could you go into a little bit more detail, Phil?

5 A. Yes. So at Center Street is where we had our official
6 briefing, where everybody has their briefing books out, and we're
7 going from the top to the bottom, our location, time, and our
8 track and time. We're able to record that on our briefing book.

9 So that was conducted by Tim Hidalgo. He was our pilot. And
10 at Center Street off the to the west of track 2, there's a little
11 spot there by a signal house, where we had our briefing. And he
12 let us know that we were going to have track and time on track 2
13 between Center and Scott I believe is where the next control point
14 is to the north, and that --

15 And as was the custom, when we got adjacent track and time,
16 we just were told that on the radio. Okay. We got track and time
17 on adjacent track. Let's get on right now, because we have a six-
18 minute window, or something. There wasn't an actual sharing of
19 the limits of the track and time or the track and time authority
20 number for the adjacent track. It's just, come on, let's go, we
21 only have six minutes, or we're going to face a delay.

22 So we got our track and time for track 2, and the
23 understanding, what was discussed was, we were going to move up to
24 San Bruno and stop there, prepare our equipment to load, to load
25 poles, and then we would after that move from there, high-rail

1 from there up to about 8.6 or so, milepost 8.6 in South San
2 Francisco. And that was where -- we would be in the limits of our
3 form B then.

4 So at the time that we got on track at Center, we had
5 adjacent track on track 1 track and time. We had a track and time
6 from Center to Scott so that we could high-rail up to San Bruno.
7 And that was until call, because we would be in that CP while we
8 were loading poles. There was no reason to let that track and
9 time go while we're loading poles.

10 And then after we loaded poles, then we would -- then after
11 we moved north past Scott into our form B, then the track and time
12 would be turned in on track 2 for that -- between Center and
13 Scott.

14 So everybody knew who was at our briefing, which was Tim
15 Hidalgo, his assistant, and my four guys, that we would be moving
16 from Center to San Bruno and be there for an extended period of
17 time while we were setting up our equipment and loading additional
18 poles to either set or stage for the day.

19 Q. Well, I appreciate that detail. And I just want to clear
20 something up in my mind. I did not hear you say when you used the
21 term "everybody," I did not hear you say the RWIC or his trainee
22 that was with him, and if they were not there with you at Center,
23 two things: Was there another job briefing that took place before
24 you go to Center?

25 A. So at Center, when I said everybody, what I meant was myself

1 and the other three members of my crew, so that's the Balfour
2 Beatty employees. The TASI employees were Tim Hidalgo and his
3 assistant. So those two were there at the briefing. Claude
4 Robins was not at the briefing at Center. The last time I saw
5 Claude was up at visitation when we had all showed up and we were
6 going to get our equipment ready for driving down to Center
7 Street. So I did not see Claude Robins, and he was not there for
8 our briefing at Center.

9 Q. Okay. And I'm not trying to pester you, Phil, but was there
10 a job briefing conducted to any degree at visitation with Claude
11 and his trainee that was with him? Did they approach the group,
12 talk to the group about tasks or track and time?

13 A. The trainee was not attached to Claude. The trainee was
14 always at Tim Hidalgo's side. The trainee was, from what I could
15 see, assigned to Tim, not Claude. And there was a discussion of
16 what our tasks were and where they would be, maybe not exactly the
17 mileposts.

18 But when we were there with Claude at visitation, we all
19 knew, all of us -- I mean, that's everybody -- nobody excluded --
20 that we would be getting on at Center, that we would be high-
21 railing to San Bruno on track and time, and that after all of our
22 material, the poles, was loaded at San Bruno, that we would be
23 high-railing again to the north to approximately 8.5, 8.6
24 milepost, and continue the tasks of setting poles as we had done
25 the day before.

1 It was really just kind of a repeat of what we had done the
2 day before. So everybody was aware, including Claude, that that
3 was -- those were the tasks for the day.

4 He had also mentioned to me that his ankle or leg was not
5 quite up to where he wanted it to be -- I guess it was still
6 bothering him -- and that Tim or Tim's assistant would be setting
7 out flags, red flags, for the limits of the form B.

8 So it's not clear to me that Claude was going to do any of
9 his stuff, that he was asking for help because of the nature of
10 the kind of work that it was, you know, pounding the flags into
11 the -- you know, between the ties, or whatever, that he was going
12 to get Tim or his assistant to help with that, you know, the
13 limits of the form B.

14 Q. So Phil, we know that there may have been a change of plans
15 in terms of what track and time they might have given your group
16 that day, and it seems to me it centers around some people thought
17 that you guys would set on at Linden Avenue?

18 A. Yes, I am. And that would have been refused right away,
19 because it's too small, and then we would have to backtrack south
20 to do that. Yeah, we would get off at Linden at the end of the
21 day, but we wouldn't necessarily -- I've never -- we've never
22 gotten on track at Linden, because Linden is closer to where we
23 were doing the actual work, but Center was a lot closer to San
24 Bruno for loading poles.

25 Q. Okay. And at any time in your discussion with the RWIC at

1 visitation, any discussion about the task, or with the group at
2 Center Avenue, was anybody -- was it specifically made clear to
3 the group that part of the plan was to stop at San Bruno -- I call
4 it the supply yard -- to pick up poles. Was that made clear to
5 everybody?

6 A. Everybody. Everybody knew that. And yeah, I don't see how
7 there could have been any confusion about that. None whatsoever.

8 Q. All right. A couple of things I think you can help add some
9 value to our understanding of things is talk to us about in your
10 piece of equipment, when you guys are not gathered as a group,
11 huddled together, going over track and time, talk to us about your
12 ability to monitor communication, whether it's the dispatcher,
13 train traffic, stuff like that, and what you're able to hear and
14 not hear.

15 And then the second thing I want you to cover is give us some
16 kind of characterization about the distance traveled, the speed
17 that you can travel, and how we should understand the travel time
18 between the set on at Center going up to the San Bruno -- the
19 supply yard.

20 A. So the way communication is set up, we have two-way radios,
21 we being the Balfour Beatty employees -- pardon me -- that we
22 supply a radio to our pilot and sometimes the RWIC if he doesn't
23 have a radio. That is just for contractors, construction
24 contractors. The frequency that we have access to are two
25 different frequencies for the construction contractors.

1 We, being Balfour Beatty employees, do not have access to any
2 of the transmissions, can listen to anything on our own radios to
3 San Jose dispatch, to the RWIC, and to the pilot from the RWIC.
4 We have no exposure to that during the work day at all. We only
5 have our two-way radios that are frequencies authorized for the
6 contractors to use.

7 So we're able to communicate amongst ourselves. The pilot,
8 who has a radio, is able to communicate to us, you know, ask
9 questions, you know, "I got a train calling at South City. Are
10 all men and equipment in the clear? Can I let them come?" And
11 then I'll respond, "Yes, all men and equipment are in the clear."
12 And then he will communicate with San Jose and the train and let
13 them know that they're okay to come in, you know, when we have a
14 form B, when we're running a form B. But I do not -- I am not
15 able to listen to any of the conversations on that frequency.

16 Q. Okay. Understood. Can you talk to us about the logistics,
17 the travel time, the speed, and how is it that we should think
18 about the time, the dwell time from setting on at Center and
19 getting up to the supply yard?

20 A. So our crew is really very efficient getting -- because we're
21 all familiar with our equipment. We know where the rail gear sits
22 in relation to the tires. It's easy to set on. Maybe it takes
23 about a minute and a half or two minutes for each piece of
24 equipment to -- for us to get on. So I would say we can get two
25 pieces of equipment on comfortably within about six minutes.

1 That being said, it's probably about a five or a six-minute
2 travel time from Center Street to the San Bruno yard. We don't
3 travel very quickly. I would say probably our average speed when
4 we're high-railing is somewhere less than 10 miles an hour.

5 That varies if we're supposed to turn in -- you know, our
6 track and time has only been assigned till, like, let's say 4:00
7 in the afternoon, and we have quite a distance to go. We may pick
8 up the pace a bit, you know, to get off rail and not cause a
9 delay.

10 But generally speaking, we travel less than 10 miles an hour,
11 and that's why it takes about, I'd say six minutes or so to get
12 from Center to San Bruno yard.

13 Q. Okay. And if you can just continue from there? Tell us what
14 you did, who you talked with, when you decided to stop at San
15 Bruno. Take us through that --

16 A. Well, I could give you the order of the vehicles --

17 Q. Sure.

18 A. And who --

19 Q. Please, please.

20 A. All right. We had discussed in our briefing that Tim and his
21 assistant, they would get on track 2 first. They, being TASI
22 employees, do not have to wait for adjacent track. They don't
23 have to shunt to get on. They get on with their pickup truck.
24 They get their high rail set up, and they move north and waited
25 there, getting us sufficient room to get on once we got adjacent

1 track, you know, a track and time for track 1.

2 So the north pilot, Tim Hidalgo and his assistant, were the
3 northernmost vehicle. Well, we set on my crane, windshield north,
4 and then after that, a second crane with a windshield south. The
5 second crane was used to carry all of our tools. There were
6 storage bins on it that we would have hydraulic presses and tools
7 to tighten the nuts, and the device to lift the poles with. All
8 of that was on the second crane. Plus the rail carts were trapped
9 down, chained down, to the flatbed portion of that crane.

10 So, essentially, it was -- north was Tim Hidalgo and his
11 assistant, with their windshield north and their pickup truck, my
12 crane, windshield north, and the second crane, windshield south,
13 that had the carts on it.

14 Once we were all on, we started moving north, and that's --
15 so Tim, knowing that we were going to stop at San Bruno yard, gave
16 us about, I would say maybe 150 feet, 200 feet clearance to the
17 north. And he stopped there. And then I stopped my crane where
18 it was, and with I'd say probably 150 feet distance between the
19 back of my crane and the back of the second crane. And that area
20 there was used to set our rail carts on because we had to put
21 carts down on track and then load poles on those.

22 So the piece of equipment that was used to unload the carts
23 off of the second crane was a forklift, a telescopic boom forklift
24 that was, you know, part of the normal yard equipment. So he
25 picked off the rail carts, set them on rail, and then attached the

1 carts -- there's a draw bar that attaches to the back of the crane
2 that I was driving, and now that's all set up.

3 So we have our -- everything staged, ready to load poles on.
4 The thing that we didn't know was the order in which we should
5 load the poles, because we're not -- we are not part of the crew
6 that pre-fabs the poles. So it was already -- I had been
7 contacted by one of the engineers that she would be there and that
8 she would help us with the logistics, with the loading of the
9 poles, give us an idea of which ones are going to be first and
10 second, and so on, the heaviest ones, and where they needed to be
11 loaded.

12 So after we got all our equipment on, you know, staged at --
13 on track 2, adjacent to the San Bruno yard, we had a meeting with
14 her. And then we went -- I went with a marker, one, two, three,
15 four, and I marked the poles that were there waiting for us.

16 So the first pole which was going to be loaded, which was
17 going to be in reverse order of the installation, the first one
18 loaded, it's going to be at the bottom of the stack of poles.
19 That was going to be last one that we set. It was close to 7,000
20 pounds, which was a bit much for the forklift to handle, because
21 it can't get too close to track 2 without fouling track 1 the way
22 the -- everything is -- the track spacing is very close there, and
23 we wanted that pole to set on the carts close to track 1, but not
24 fouling it.

25 So we decided to use the crane that I was driving to pick

1 that pole, because it has a much greater capacity than that
2 forklift does. So I set the outriggers short on the track 1 side
3 and just straight down so they wouldn't be fouling track 1. And
4 then I extended the outriggers on the crane that I was driving to
5 their maximum extension so that I had the maximum capacity to pick
6 from the San Bruno yard over, and then set that first initial,
7 almost-7,000-pound pole on the carts.

8 So we did that. Got the crane set up. Got the pole rigged
9 up. Brought it over. Set it down on the carts. And then my
10 groundman and apprentice unhooked the rigging on the pole. And
11 then the rest of the poles were smaller, so we could handle those
12 with the telescopic boom forklift that was in the yard.

13 So once the rigging was detached from the boom, I retracted
14 the boom and swung it around and was cradling the boom. The rest
15 of the crew had gone to assist with rigging up the next pole with
16 the forklift. So we had one person in the forklift, which was
17 probably Courtney Talley, you know, my lineman, and then the
18 groundman and the apprentice were finding balance, I assume, on
19 the next pole so that they could bring it over and load it on the
20 carts.

21 So at this time, I set the boom down, and I am facing north
22 now in the crane cab, the same -- in view is the pilot's pickup
23 truck, and that's when I hear the train horn. And that's when I
24 hear other horns, too. I hear the air horn, and I hear screaming.
25 I can't tell you what the screaming was, but I heard, like, this

1 panicked sound, and the frenetic honking, you know, blowing of
2 that train horn.

3 It's a slight curve, so as I'm looking north, the curve of
4 the track goes slightly to the east a little bit. So there is not
5 a perfect alignment of track 1 and 2. They're curved somewhat.
6 And I'm looking at this train that's coming, and I'm thinking that
7 doesn't look right. And as it -- it keeps coming, and then it
8 becomes clear that it's on track 2.

9 And then I -- this is what has been told to me. I said,
10 "Fuck." And I jumped out of my -- the crane cab, and it's about
11 eight feet off the ground. I just leaped out of it and landed on
12 the ground next to the right-of-way, you know, next to track 2.

13 At that point there, in that area, it's the old San Bruno
14 station. They've constructed a new station to the north. So the
15 remnants of the old station are what we use for loading poles,
16 because it's asphalt and concrete there. It's, you know, a very
17 nice, level surface to work off of when we're loading poles.

18 So I jump off, and I lay down flat, and I cover my head like
19 this. But I, you know, I'm not really sure if that's when I
20 covered my head, because I laid down, and I'm getting ready, you
21 know, for impact. And so I hear all the smashing, you know, up
22 ahead of me.

23 And then soon enough thereafter, I get hit by something. And
24 I think I know what it was that I got hit with. The train, the
25 first thing it hit was Tim Hidalgo's pickup truck. And I think

1 that it smashed it into the ground, and it was just spraying
2 ballast ahead of it, you know, as it's making its way south. I
3 think that's what I got hit with, because if it were anything more
4 than small rocks, I'd have suffered some kind of head trauma, or
5 you know, I'd have suffered some kind of, you know, impact, but I
6 didn't. But I felt something, you know?

7 And so the next thing I know is I have blood. Blood is
8 coming down, filling up my safety glasses, because I'm facedown
9 like this. And I see the blood just pouring into my safety
10 glasses. And then next thing I know, I see flames everywhere
11 around me. So I'm fully engulfed.

12 And so I get up, and I run back to the dirt yard where our
13 poles are staged. And I see the rest of my crew. I see Courtney,
14 and I yell at him and say, "Am I on fire?" Because I put my hands
15 out. My hands were on fire. I stomped those out. And he goes,
16 "No, but your head is bleeding." I said, "Yeah, I know, I know my
17 head is bleeding." But so long as I'm not on fire, you know,
18 that's like I don't -- you know, what I can do?

19 So my initial thought, though, when I was laying down and I
20 got hit, I was hoping that I didn't have any kind of a major head
21 trauma, because that would have, you know, that's a game changer,
22 you know, and -- but I didn't, you know, as it turned out. I
23 didn't have a major head trauma. I didn't get knocked out right
24 there, fully engulfed. That could have, you know, made things
25 different.

1 The only -- the reason that my hands got burnt and my torso
2 did not is because I had an FR, or a flame-resistant, shirt from
3 another job in times past, because that's minimum personal
4 protective equipment. If you're going to be working energized
5 conductors. You have to have flame-resistant clothing on. So it
6 was a cool morning, so I had that long-sleeved shirt on that was
7 flame-resistant. My reflective vest ignited and melted into my FR
8 shirt, but my FR shirt did not. And it's just like, you know, how
9 lucky can you get?

10 Other thing that didn't happen to me -- so I told you that I
11 had my short outriggers on the track 1 side. I was going to do
12 all the lifting on the field side of track 2. So that's where I
13 had the long, you know, the fully-extended outriggers. I was
14 lying right in line with the outrigger pad, the foot of the
15 outrigger. My assumption is that when Tim's pickup truck got hit
16 and then the train, you know, of course in his desperate effort to
17 stop, but he can't, you know, hits my crane.

18 I think because of the shape of the front of the locomotive,
19 it lifted that crane up and the outriggers over me, because if
20 those outriggers had hit me, it'd have been over. The back
21 half -- the back third of my hard hat, which I don't know if
22 anybody was able to recover that, had the appearance that it was
23 sheared off. So I can only imagine that that outrigger, the foot
24 of the outrigger just, like, grazed the back of my hard hat and
25 took it off.

1 I mean, so many things that happened that day that added up
2 to me being here. And it's been -- I mean, people comment on my
3 attitude, but I'm just grateful to be here. I'm not sour grapes
4 at all. Not at all.

5 Q. Thanks. Thanks, Phil. Are you still good to go?

6 A. Yeah.

7 Q. You want to continue?

8 A. I'm warmed up now.

9 Q. Well, listen, fill in a couple of blanks for us. We have
10 alluded to these other members who are part of your crew. We knew
11 you and Courtney were there, but could you give some names and
12 what they were doing for the other two, and if you could tell us a
13 little bit more about two other things.

14 I want you to cover the names of the people, the other people
15 that were there. And I want you to talk to us about what
16 considerations that you make when you're setting up your crane for
17 a lift in terms of swinging, pivoting, and fouling, potentially
18 fouling the operating envelope of main track 1.

19 And the last thing I want you to go into just a little bit
20 more detail is the whole idea of the engineer that you talked
21 about and her being out there, if you could tell us a little bit
22 more about that, why that was necessary?

23 A. Okay. So we'll start with the considerations. We'll start
24 with the other crewmembers. Matthew Carillo was my apprentice,
25 and he's still -- as far as I know, he's still on the project.

1 His name is Matthew, M-a-t-t-h-e-w, last name Carillo, or Carillo,
2 C-a-r-i-l-l-o. So he's an apprentice lineman.

3 And the other fellow that was on the crew that day who from
4 what I understand is not with the company anymore, his name is
5 Mark Santana, M-a-r-k, and then Santana, S-a-n-t-a-n-a, he was a
6 groundman. And both of their tasks were similar, assisting with
7 loading poles and setting up the equipment so that we could use
8 it. Mainly they are our muscle on the job.

9 Matthew is a lower-step apprentice, so he is mostly muscle
10 these days, you know? He's not used for any -- many more things
11 than the ground that would be used. The exception to that -- but
12 on this -- that particular day -- he can get in the bucket, in the
13 bucket truck and do work, you know, in an elevated position. But
14 the groundmen cannot. So they were there for mainly muscle,
15 loading things, moving things, rigging up things, that kind of
16 thing. So those two.

17 For the setting up of the crane, so Tim had worked with us,
18 you know, maybe the week before, and he was familiar with the
19 way -- the construction of the crane, the layout of it. It has a
20 small counterweight on it, but it does not -- when you're swinging
21 the boom around, that counterweight does not extend beyond the
22 limits of the bed, so there is no -- it doesn't foul when you're
23 swinging the opposite way. On the field side of track 2, the
24 counterweight assembly, the back of the cab, the back of the boom,
25 do not foul adjacent track.

1 So in the same way, too, when you put the outriggers in their
2 non-extended position, not extended out, but extended down, you
3 know? You get them so that they are really almost overlapping
4 onto the rail itself. That's how close they are to the track that
5 the vehicle is on. So they just basically go straight down, and
6 those are not fouling either.

7 The other side, the field side, I fully extended those
8 outriggers so that I had the maximum capacity to pick up that
9 heavy pole, which was probably -- I'd say it was probably close to
10 25 feet away from the center of track 2. So that's why I needed
11 to extend those outriggers out, because there was a lot of
12 leverage picking up that pole that far away. But at no time did
13 we foul track 1.

14 The engineer -- you want me to elaborate more on that?

15 Q. Please.

16 A. So there are provisions in the crane computer, also called an
17 LMI, a load moment indicator. These cranes have computers on them
18 so that you do not -- you don't use it overcapacity. You program
19 it with the setup that you're using. You have to manually enter
20 the configuration of the crane, and then it will monitor the
21 position of the boom and so on. But I do not as a rule enter in
22 any limits for swinging the boom.

23 So if you're going to use that computer to its full capacity,
24 you may enter in that you do not want the boom to extend beyond
25 center line to the right, we'll say. I don't enter that in

1 because I know I'm only going to be working it to the left. These
2 are -- yeah, so I know where my -- the live track is. I don't
3 have to set in those parameters, you know, for protecting anybody.
4 I'm not going to swing it over into where the live track is.

5 So these are options that are available in there, in the
6 computer. I chose not to use that for that day, but fouling the
7 track, track 1, was not -- you know, isn't part of our discussion
8 anyway.

9 Q. Okay. That's good to know. So, again, I thought I heard you
10 say that part of the plan was that you were going to meet an
11 engineer at the supply yard who was going to mark --

12 A. Yes.

13 Q. -- poles. Was she present during the incident?

14 A. She was. She was, like, an angel. I'll say that. Yeah.
15 Because -- and I'm getting emotional now. But I can go through
16 it. So she was there -- so we got our cart set up, and then now
17 it was time to -- for her to assist us in the order that the poles
18 would be loaded, and you know, eventually installed in the field.
19 Her name is Ashrita, A-s-h-r-i-t-a. I don't -- I could look up
20 the spelling of her last name if you wanted to speak with her, but
21 she is the only Ashrita that I know at the company.

22 Q. Okay. Understood.

23 A. Yeah, everyone knows Ashrita. So she helped us out, and
24 we -- you know, I went along with a Sharpie and marked down the
25 poles in the order that they would be stacked on the cart.

1 And so after the incident, you know, my hands are not on fire
2 anymore, and I have Mark Santana and another young man, they're
3 pouring cold water on my hands and on the top of my head because
4 my head, my face, my legs, my hands, and my elbow, everything got
5 burnt, but the -- everything got burnt, but my hands were the
6 worst.

7 So while I'm getting the first aid from, you know, my
8 other -- the other crewmembers, Ashrita was still in the yard, and
9 as were many other people preparing poles for maybe the next day,
10 and loading up materials, because it's a fairly large yard, and
11 there's just, like, I'd say at least a quarter-mile-long strip of
12 materials stacked up and stored there for future use. So there
13 were many people in the yard that day. But Ashrita came to me and
14 stuck with me while the ambulance was coming and asked if she
15 could ride in the ambulance with me to wherever they were taking
16 me. Because it wasn't understood or disclosed yet where they
17 would be taking me to.

18 So because she was there, and -- my concern was for two
19 people, my wife and my mom, because I didn't want them to hear on
20 the news, you know, that something that happened, and they didn't
21 know. So I asked Ashrita to call my wife, and she did. And you
22 know, I was -- and I was coherent and talking, and I was giving
23 other people advice on, you know, "Hey, give the cops a break, you
24 know?" Because the police showed up, and there were dozens of
25 people on the train that needed attention also, you know, so they

1 needed to triage them.

2 So the first two waves of, yeah, ambulances and firetrucks
3 just -- they saw me that I was standing at the side of the road,
4 and they just went past me to the train, where it was engulfed,
5 you know? So somebody started yelling at a policeman like, "Where
6 is the ambulance for him?" And I said, "Hey, calm down. I'm all
7 right. I'm not shocky. You know, I'm in pain. That's for sure,
8 you know? But I'm okay."

9 So she stuck with me, Ashrita did, and she called my wife,
10 and I was able to speak with her. And you know, I don't know what
11 my tone was like, but I would imagine it's something like it is
12 right now, you know, "Hey, there was an accident. You might hear
13 about it on the news. They're taking me to the hospital, but I'm
14 okay. I just need you to know that, you know, that I'm okay."

15 So that was the main thrust, you know, of -- but she, like I
16 said, Ashrita stuck with me, and -- oh, my wife wants to add
17 something. Is that okay?

18 MS. MERLINO: Just as to his tone when he called me from the
19 ambulance, and he was calm and collected and clear-headed, and it
20 sounded like all he needed was a Band-Aid over his boo-boo.
21 That's what the impression that I had on the other side of the
22 phone. And if it wasn't for that phone call, I don't think I
23 would have survived the shock of what had happened. That's all.

24 MR. HIPSKIND: Thank you, Carolina. Thank you for that.

25 BY MR. HIPSKIND:

1 Q. Okay, Phil, you've taken us through all the highlights of the
2 day. Let me pause our conversation, and let's draw in the other
3 interviewers and see if there's some things on their mind. You
4 still good to go?

5 A. Yes, I'm good.

6 MR. HIPSKIND: All right. Let me hand it over to Rick.

7 BY MR. BRUCE:

8 Q. Good morning, Phil.

9 A. Good morning.

10 Q. Thanks for taking the time coming in here. I appreciate it.
11 And how are you and your wife doing now, if I can ask?

12 A. Feeling better than ever, I mean, really pulled together as a
13 team. And it's something that, well, we've been forced to, you
14 know? And you know, circumstances being what they are, I'm
15 usually a traveling worker, so we're not in each other's company
16 all that often. I come home for visits, and then I'll go back to
17 work, you know, in another city. But you know, we've been
18 together ever since I was discharged from the hospital, and it's
19 really been a good experience, I'll say, yeah.

20 Q. That's great and great to have a great partner with you. I
21 appreciate that.

22 A. Yeah.

23 Q. So I do have two questions for you if you can help me out.
24 Was there any communications before the accident between your
25 pilot and yourself or the group that there might be a passing

1 train or an approaching train?

2 A. None whatsoever.

3 Q. Okay. And then the second one. At visitation yard, your
4 startup briefing, was it clear -- you said a couple times -- was
5 there clear to the group that there was going to be a stopping,
6 loading communication done at that time or was there no discussion
7 at that time with that group?

8 A. No. That was a focal point of our conversation, that we
9 would be stopping at San Bruno to load poles, absolutely, clear as
10 day.

11 Q. And the RWIC was there? Claude was there and heard this
12 communication?

13 A. Yes.

14 Q. Okay. Phil, again, thank you, sir. I appreciate you.
15 That's all I got. Thanks.

16 MR. HIPSKIND: Rick, thanks for adding some value there.
17 Felipe?

18 BY MR. AYALA:

19 Q. Yeah, I have a couple of questions. Let me see here. First
20 of all, when you were at San Bruno while you guys were doing your
21 work, you know, preparing or loading the poles on the adjacent
22 number 1 track, did you have any trains passing?

23 A. No. None passed us.

24 Q. While you were there?

25 A. Right.

1 Q. Okay. And you mentioned when you had your outriggers out,
2 the outriggers that would have been on your right side, closest to
3 the number 1 track, were those extended?

4 A. They were not extended toward track 1. The cylinders and the
5 feet were extended down only, but not out. Only down.

6 Q. So when you started having the discussion that you would have
7 to use the crane to load the pole, was there a conversation
8 between you and Tim regarding whether or not you may have to foul
9 the number 1 track?

10 A. Yes. And Tim is very careful, and we are, you know, careful
11 in like manner with him. So when it was time to set up the crane,
12 "Hey, Tim, I'm going to -- I'm not going to foul track 1, but I
13 have to get on track 1 side to put pads underneath the feet of my
14 outrigger. Is that okay?" "Yeah, go ahead. Nothing is coming."
15 So there was a discussion with Tim, you know, and I explained to
16 him that we were not going to foul; I just needed to, you know,
17 put the outriggers down so that they were solid on the ties.

18 Q. So when you had to do that, perform that duty, where was Tim
19 located at that time?

20 A. Tim was ahead of us near his pilot vehicle.

21 Q. So when you went around the truck to put the pads in there,
22 was there anybody there with you?

23 A. Probably it would have been -- I don't know for certain, but
24 I would assume so, because I have Matt -- I would have Matt and
25 Mark helping me with the outrigger pads.

1 Q. Okay. And let me see here. So, typically, you said you've
2 worked with Tim, you know, there on the property. Typically, when
3 they're going to release a track authority, is that communicated
4 to you?

5 A. Yes, very clearly, very clearly. And it's also been
6 communicated to me, too, that, you know, track and time does not
7 expire. Neither does a form B. It doesn't expire where when you
8 get to the end of what you're -- you know, the anticipated end of
9 the track authority, it doesn't just expire, and San Jose just
10 says, "Okay, well, they're done, you know, we have clear track."

11 They have to release it. So, yeah, there's always a
12 communication about holding that protection, when they're going to
13 release it. Always. Always. "Okay, guys. We're all good.
14 Okay. I'm releasing. I'm releasing track 1 or track 2, you know?
15 It's always clear. It's part of our routine, you know, an
16 established routine.

17 Q. So the day of the incident, you mentioned that, you know,
18 they obtained track and time on the number 2 track, that you knew
19 those limits, and you needed to foul the number 1 track to set the
20 truck on. When they obtained the track and time on the number 1
21 track, did they tell you the limits of that authority?

22 A. No.

23 Q. Okay. And then you said on 2 track you guys proceed north.
24 Was there ever communication relayed to you in regards to the
25 release of track number 1?

1 A. I don't remember.

2 Q. And Rick kind of covered this a little bit, but back at the
3 initial meeting that you had at the visitation yard, can you just
4 clarify me -- you said you guys -- it was not an official briefing
5 there; you guys just discussed some of the work to do?

6 A. Right.

7 Q. And that was with the entire group, right, everybody else
8 involved, Claude --

9 A. Yeah, Claude, Tim, the assistant, the young man that I don't
10 know his name, and then the four employees, including myself.

11 Q. So while you were there having that conversation, did -- was
12 anybody filling out any forms in regards to what you guys were
13 talking about or anything?

14 A. I can't be sure. I don't remember. Maybe the rule of the
15 day and the rule of the job maybe was shared with us, but
16 that's -- I can't say for sure.

17 Q. And let me see here. I just need one more clarification.
18 You mentioned that -- I wasn't sure if you mentioned that Tim or
19 Claude had been off for about a year because of an ankle?

20 A. Claude.

21 Q. Oh, it was Claude --

22 A. Claude had told me that directly.

23 Q. Okay. And let me see. I think -- when you were loading
24 everything, you know, when you guys were working, getting ready to
25 load the poles, do you recall where Tim and his apprentice were

1 located at that time?

2 A. They would be to the north of us.

3 Q. Okay. So they would have been closer to their truck?

4 A. Yes.

5 Q. Right? Both of them?

6 A. Yeah.

7 MR. AYALA: Yeah, I believe that's all I have there.

8 MR. HIPSKIND: Okay. Thanks, Felipe.

9 And James, we'll go to you next, but give me just about a
10 half a minute here to talk to Phil.

11 BY MR. HIPSKIND:

12 Q. Phil, I just want to clear up. You used the term "pecking
13 order" earlier in your description, and I just want to get clear
14 on the record, when we use the term "RWIC," roadway worker in
15 charge, that person is Claude Robins, is that correct?

16 A. That's correct.

17 Q. What title do you give to Tim? I've heard various things
18 like subcontractor, watchman, EIC, employee in charge? How do you
19 think about him?

20 A. Okay. So on that particular day, he would have been commonly
21 referred to as our pilot, our north pilot.

22 Q. Okay. But Tim Hidalgo was definitely not the roadway worker
23 in charge?

24 A. Definitely not.

25 Q. Okay. Thanks for that clarification.

1 MR. HIPSKIND: James, your turn.

2 BY MR. RIDGEWAY:

3 Q. Yes, thank you, Phil and Carolina, appreciate it. My
4 question is was there any briefing about while you were loading if
5 there was any traffic on main 1, that you would be notified in any
6 certain way?

7 A. You know, I don't know if there was or wasn't specifically
8 because it's part of an everyday -- it's part of a normal
9 conversation when you're having a briefing, you know, that
10 there'll be an either horn or a sign that will indicate that a
11 train is coming. Mainly it's the horn. But I really don't know
12 if -- I would have to say I can't remember it specifically, but I
13 would have to say almost certain, you know?

14 It's almost like, you know, everyone knows the Pledge of
15 Allegiance, you know, and everyone knows certain things that are
16 always discussed in the briefing, you know, is your equipment
17 safe, is your load tied down, don't foul, you know, and the
18 notifications that will be given when a train is approaching.

19 So I can't say yes or no, but I would just say it would have
20 been the oddest, most strange thing if it wasn't said, because
21 it's just part of the normal briefing. Everybody, you know, all
22 the pilots, RWICs, whomever they might be, whomever is conducting
23 the briefing always mentions that, the method of warning.

24 Q. Thank you, Phil. That's all I have.

25 MR. HIPSKIND: Thanks, James.

1 Derek, can we hear from?

2 MR. BROWN: I don't have any questions, Phil. Rick already
3 covered those. I just want to say thank you to you and your wife.

4 MR. MERLINO: Much appreciated. Thank you.

5 MR. BROWN: Thanks, man. Appreciate it.

6 MR. HIPSKIND: Thanks, Derek.

7 And Robert, your turn.

8 MR. SEBEZ: Yes, thank you.

9 BY MR. SEBEZ:

10 Q. And thank you, Phil. That was quite a touching story.

11 A. I wish I was making it up.

12 Q. And I'm so glad that you're here to tell it. I think Phil --
13 excuse me -- Felipe took care of one of them for me. But so the
14 briefing was at 7 a.m. I understand the work took place, or the
15 approval was at 9:30. The form B I think started at 9. Why the
16 briefing at 7 a.m.?

17 A. That was the informal briefing. That was where we show up,
18 you know, we show up in our personal vehicles and switch from our
19 personal vehicles to the company vehicles, the crane, the two
20 cranes mainly.

21 So Claude had met us. Claude was there. And that was our
22 informal briefing, not really the official briefing that gave us
23 the official briefing that gave us, you know, the track and time,
24 and so on. That was over at Center Street closer to 9:00. That's
25 when that official briefing would have been. There may have been

1 little bits of information that were given to us at the informal
2 briefing, such as rule of the day and rule of the job, and -- but
3 not a complete briefing. I would not call it that.

4 Q. Do you think there would be anything that would prohibit you
5 from a consolidated briefing at the second location?

6 A. You mean -- no, no. We had a briefing at the second
7 location. We did, because I remember I had to summon everybody
8 over to the area west of track 2 for our briefing. Tim indicated,
9 "Okay, let's have our briefing," because he had more information
10 about the -- I believe the tracking time on track 2, and our form
11 B, and so on.

12 And I believe that information would come from Claude to him
13 because Claude is the one that, from my understanding, that's in
14 direct communication with San Jose dispatch. So he would have
15 been informed by Claude of what our protection was for that
16 moment. And that was at Center prior to us getting on track.

17 We had the briefing, and then we went back to our trucks and
18 waited for, you know, track and time to be granted for adjacent
19 track being track 1.

20 Q. Okay. Thank you. And last question, so I noticed at the San
21 Bruno yard, there was no adjacent track protection for that scope
22 of work, but there was that form B for adjacent track protection
23 at the actual work location. And is there a difference in the
24 nature of work that made it so that you needed that adjacent track
25 in South San Francisco?

1 A. The only difference might be that when we're installing
2 poles, I have to extend the crane boom out quite a ways, you know,
3 maybe -- the average was about a 50-foot boom extension. So if
4 you're going to set a 35-foot pole, you have 50-foot of boom up,
5 and that -- because of the angle, you may only have, you know,
6 eight or ten feet of cable between the top of the pole. So
7 because of all this equipment out like that, everything extended
8 out, nothing bolted together.

9 I could see why we would need adjacent track protection,
10 because as the train on the adjacent track is approaching, they
11 cannot tell with any kind of certainty if I'm going to swing that
12 pole into them, you know? They can't tell. So it was more
13 comfortable for us to have adjacent track protection for them to
14 call ahead, and then if we were going to set a pole, we knew that
15 we had, like, eight or ten minutes maybe to set it.

16 And if nobody had called, then we would go ahead and set it.
17 If they had called, and we hadn't raised the pole up, then we
18 would wait. If we had raised the pole up and a train called, then
19 I would swing the pole away and set it on the ground so that it's
20 clear from a distance away that that -- all of that equipment, the
21 boom and the pole are stationary. So I could see the reasoning
22 why you would want adjacent track protection when you're setting
23 poles. It made sense.

24 Q. Thank you for that. At any time, would the boom be extended
25 towards main track 1?

1 A. No.

2 Q. Let's say that is to say beyond the center line of main track
3 2 towards main track 1?

4 A. So there are times, because of the size of the crane, it has
5 the capacity to -- let's say that we have poles that are on the
6 east side of track 1, which is the field side of track 1. There
7 have been times when, you know, we know what the train schedules
8 are. We have our crane on track 2, but yet we have poles that are
9 going to be set on the field side of track 1.

10 If we have enough time, that crane is big enough to be able
11 to pick a pole up and set it over track 1. In that instance, it's
12 very important to have adjacent track protection, because you
13 don't want to have that boom over track 1 and then have a train
14 call, and yeah, so there are times when absolutely we foul track 1
15 to do our job.

16 Q. All right. Thank you very much, Phil. I much appreciate it.

17 A. You're welcome?

18 MR. HIPSKIND: Is that it? Okay. Thank you, Robert.

19 John, I know you've got a series of questions you want to
20 cover.

21 MR. MANUTES: Yeah, thank you. I do. I do, actually.

22 BY MR. MANUTES:

23 Q. So, Phil, thank you so much for your candidness today. And
24 like you said this would -- I wish this story was fiction also. I
25 wish you could have made it up, but you almost couldn't make up a

1 story like this.

2 A. Yeah.

3 Q. So thank you to you and your wife for being here today. Are
4 you doing okay? I do have a fairly long list of questions. You
5 need a glass of water, or anything?

6 A. I think I'm all right, yeah.

7 Q. Okay. And I apologize that some of these are going to be
8 doubling back a little bit. And of course in my list here some of
9 these have already been asked, so I'm going to try to just do this
10 deliberately. I apologize.

11 Okay. So can you start by summarizing again when did you see
12 Claude Robins and when did you not see Claude Robins between the
13 start of the day and the accident?

14 A. I saw Claude Robins at visitation from, well, at visitation
15 only. I did not see him after we left.

16 Q. Okay. Great. Thank you. And do you know where he was
17 after -- did he tell you or did he describe to you where he was
18 going after visitation?

19 A. No.

20 Q. Okay. You had worked with Claude Robins the day before, but
21 prior to that, would -- never mind. Strike that. Strike that
22 comment. You seem to have implied -- we danced around this a
23 little bit. I want to verify. To your knowledge, did Claude
24 Robins have anybody else working with him in his vehicle when you
25 saw him that day?

- 1 A. No, he did not.
- 2 Q. Do you know who actually contacted the dispatcher to get
3 track and time?
- 4 A. No, I do not know that.
- 5 Q. Okay. So when you learned that you were protected on the
6 track, you heard that from --
- 7 A. Tim.
- 8 Q. Okay. But you don't know if he called the dispatcher or if
9 somebody else called the dispatcher?
- 10 A. I do not know.
- 11 Q. I have a bit of an odd request. Do you recognize the name
12 Chris Jenson (ph.)?
- 13 A. I do.
- 14 Q. Can you tell me who Chris Jenson was the normal, the usual
15 foreman on the crew, and so I would normally be working under him.
- 16 Q. Normally you would be working under Chris Jenson, but the day
17 of the accident on the 10th, Chris Jenson was not on scene,
18 correct?
- 19 A. No, he was not. He was not even in the state. He was -- he
20 had to help his mom and dad out with replacing a septic line, a
21 sewer line, at their house in Idaho. So he's a handy guy, you
22 know? He knows how to work a backhoe, and he knows how to do
23 almost everything. So he was -- he's Johnny-on-the-spot. And
24 he's very sharp, too. I mean, besides good with his hands, he's
25 got a great mind, as well.

1 Q. Awesome. Was he on scene the day before on the 9th, or was
2 he also out of state on the 9th?

3 A. No, he was off also.

4 Q. Okay. All right. Here is my very, very odd question. If
5 you can see your screen, do you recognize the handwriting on this
6 form?

7 A. Oh, I have my glasses. My wife just reminded me. No, I
8 couldn't tell you whose handwriting that is --

9 Q. Okay. Do you recognize --

10 A. That appears to be our -- yeah, that looks like the -- our
11 job briefing, safety briefing handbook from Balfour Beatty. It
12 looks like a page out of that.

13 Q. Okay. It looks like a page out of that? Okay.

14 A. But I don't --

15 Q. Okay. Would you have filled out a form or a briefing book
16 similar to this on the day of the accident as foreman?

17 A. I wouldn't have done that. That would have been mostly the
18 apprentice's responsibility to fill that out. Usually they are
19 tasked with that. The briefing book that we have is much smaller.
20 It's a little spiral-bound maybe three-by-five book, and it's got
21 a spot for it, putting our protection, rule of the day, things
22 like that on it. You can carry it in your pocket.

23 Q. Okay. Do you know if anybody, one of the other folks in your
24 crew, do you know if anybody filled out a bigger sheet like this
25 that day?

1 A. I don't know.

2 Q. Okay.

3 A. I don't know.

4 Q. Okay. All right. Thank you. I'm going to unshare that now.

5 Thank you for that. That's helpful. Okay. I lost my place.

6 Give me just a moment. Still doing okay?

7 A. Yeah, I'm good.

8 Q. Okay. So you made a comment earlier when you were talking
9 with Dick that when Tim Hidalgo set his truck on he didn't have to
10 shunt. And that perked my interest. So can you expand a little
11 bit more on the shunting? If Tim didn't have to shunt, what's the
12 rest of that story? Do you have to shunt? Is that a Balfour
13 Beatty rule? Did you?

14 A. We have to shunt, yeah.

15 Q. Can you walk me through that?

16 A. Yeah, we always shunt. And you know, it's for everybody's
17 protection. So the arms come down, the lights come on, and yeah,
18 so we do shunt to get Balfour Beatty's equipment on, but TASI does
19 not.

20 Q. Okay. And so that's at the crossing, right, when you --

21 A. It's at the crossing, right.

22 Q. Can you just briefly -- I'll plead ignorance. Can you walk
23 me through how that actually works? Is it manual clamps on the
24 rail? Talk to me about how shunting works.

25 A. It's manual clamps on the rail. So once the pilot vehicle is

1 on, then we get, you know, adjacent track and time or authority,
2 you know, because we have track and time on the adjacent track.
3 Then they're manual clamps, just a simple, I would say, like, a --
4 you know, they're just clamps. They go, you know, between the two
5 rails. But (indiscernible) up and cause the arms to come down and
6 the lights to come on. Those are installed until the last vehicle
7 is set on rail and out of the crossing, and then those clamps,
8 that shunt is removed.

9 Q. Okay. Would it be normal to apply any kind of a shunt
10 outside of a crossing, like, up at the San Bruno yard where you
11 were doing your work?

12 A. No. It would not be normal to do that. I have suggested,
13 you know, since the accident -- I mean, not to the company, but I
14 thought that that would be helpful if we could shunt, because then
15 we'd be visible to -- you know, if the whole system is working,
16 we'd be visible to San Jose dispatch and the protective system
17 that exists would prevent anything from switching into us if
18 we're, you know, if we're shunting.

19 Just an informal discussion with one of my workmates, and I
20 supposed they had a discussion with others at the company. And
21 the objection raised was that, well, if you do that, then you're
22 not going to have control over the arms. You're going to cause --
23 you might cause problems in the neighborhood at every crossing.
24 The arms will be down, and nobody will know why.

25 So I understand, you know, the objection to it, but, you

1 know, it's great if you can be safer, but you can't, you know,
2 shut down the world. The system is what it is, you know?

3 Q. Okay. Thank you for that. That's really helpful. And then
4 I think this is my last question on shunts. Do you know if either
5 of the trucks that you were using -- I'll call them flatbeds with
6 cranes -- had the ability to shunt with a switch or a manual
7 dropdown or anything like that?

8 A. Most of the equipment that Balfour Beatty has is equipped
9 with at least a switch and the associated hardware to make -- to
10 shunt. Whether or not it has a good enough electrical contact to
11 actually work is up for debate sometimes. There have been times
12 when we're approaching a crossing, and I'll flick the shunt switch
13 on, and nothing happens.

14 So, I mean, there's a lot of pieces to that, you know, switch
15 and the rail gear and wires that are -- you know, everything moves
16 up and down every time you pick up the rail gear. Sometimes it
17 works. Most of the time they work, I should say. Sometimes they
18 don't. Almost everything is -- shunt --

19 Q. So did it cross your mind to try and use the manual -- the
20 toggle in the truck as the crossing protection or would you not do
21 that, because you need to be protected before --

22 A. No, because the rail gear is not down. So you could whatever
23 you wanted with that switch. It would never bring the arms down
24 until your rail gear were touching.

25 Q. Got it. Okay. All right. I promised that would be my last

1 question, and it should have been, about shunts.

2 Okay. So can you talk to me briefly about the prior days'
3 work? I mean, it doesn't have to be the level of detail that you
4 went into about the 10th, but maybe think about coming to work
5 wherever you started on the 9th, and talk to us about the
6 differences between the work you did on the 9th and the work you
7 did on the 10th.

8 A. Okay. So I'll take you back to the 8th.

9 Q. Okay.

10 A. We had just -- it's the set up for the 9th and the 10th. So
11 on the 8th, we had some mechanical difficulties with the crane
12 that I was running, where it did not -- it needed to be re-genned,
13 which is -- you know, there are filters for the diesel engine so
14 that it doesn't pollute. Sometimes they get plugged, and then it
15 has to go through this 30-minute process to clean that filter. So
16 it was constantly requiring that on the 8th.

17 Consequently, all of the poles that we had loaded up to set
18 that day did not get set, but we had enough time to at least set
19 them off next to their respective foundations. So that's the 8th.

20 The 9th, we had the -- we got the problem fixed on the truck,
21 so it was like we're good to go. You know, all those poles that
22 are set off to the side, we've got our form B, you know, we're
23 ready, we're ready to rock, you know?

24 So on the 9th, the six poles that we had set off to the side,
25 we had staged them. We got all those set, and we had time to go

1 back to San Bruno and get three -- load up three more poles and
2 take them out to the field and set those off. It was a very
3 productive day on the 9th. We got a lot done. The expectation at
4 the end of the 9th was to just continue picking up poles and
5 setting them on the 10th. So there were no real issues on the 9th
6 because we had the mechanical issue with the -- with my crane all
7 sorted out. It was a good day. The 9th was a good day.

8 Q. Okay. But you did on the 9th set -- did you set on at Center
9 on the 9th?

10 A. Yes.

11 Q. And you did travel to the San Bruno yard, the old station?

12 A. Yes.

13 Q. And you did pick up three poles?

14 A. Yes, we did. We did pick up three poles.

15 Q. And then you went to South San Francisco area?

16 A. Yes. Set the poles that we had set off, and then set -- and
17 then set off to the side the other three that we had picked up
18 from San Bruno.

19 Q. Okay. So I had heard, and I can't tell you where I had heard
20 this, that maybe there were no poles to be picked up on the 9th
21 and that you set on and went straight to South San Francisco. And
22 that's not how you remember it?

23 A. No, that's not how I remember it, because on the night of the
24 9th, we had some training, after-hours training, and Chris Jenson
25 from Idaho texted me and asked me what we had gotten done. So I

1 texted him back we got those six poles set, and we got these other
2 three staged at approximately 8.6 mile marker. So I have a record
3 of that that refreshed my memory, and I referred to that this
4 morning before I came to the meeting.

5 Q. Right. Thank you. Thank you for that. Okay. Moving on a
6 little bit, I think you've described this already, but let's just
7 verify the times in the past that you've worked with Claude
8 include the 9th and the 10th. Were there any other times that
9 you've worked with Claude?

10 A. No.

11 Q. Okay. How well, do you know Claude? You know, besides
12 working on the 9th or the 10th, do you know him outside of work or
13 opportunities to work with him in other locations?

14 A. No.

15 Q. Could you describe anything related to Claude -- and I know
16 you don't know him real well -- did he seem distracted to you at
17 the visitation yard? Did he seem normal? Any concerns about his
18 performance or anything that you took note of at the visitation
19 yard?

20 A. No, nothing specific other than what I stated at the very
21 beginning that I thought it was kind of a poor way to supervise,
22 you know, to run your -- the guy that's going to be doing all the
23 work for you up and down, you know? I didn't like that. The
24 other thing that -- so I had worked out of visitation yard, you
25 know, for a while before. My RWIC was somebody different. And I

1 know that that area there, Brisbane and north of that, approaching
2 the tunnels, it's extremely busy, you know? There are a lot of
3 tracks there. And you really got -- and traveling south, going
4 south from there, you better know what you're doing, you know?

5 And I don't know the layout or the traffic or anything as
6 well as the, as the TASI guys do. But it's an area that you could
7 easily get confused, because the numbering of the tracks is not
8 sequential. Like, I'm just making this up, but you have, like,
9 track 4, track 1, track 2, track 3, and then you have a siding
10 track. So they're not -- it's not 1, 2, 3, 4 and then a siding
11 track. They're numbered non-sequentially, for whatever reason.
12 And you've got to know what's going on and the switching well
13 ahead, you know, for you to be safe on there.

14 So I don't know -- I didn't know Claude, but from what he had
15 told me, that he'd been with the company for so long, and right
16 away that instilled confidence in me, you know, that he was well-
17 versed with what was going on, that he had been to visitation
18 before, because he mentioned that that's where he got hurt, you
19 know? So, well, that's where -- you know, he knows the area. He
20 knows everything that he needs to to keep us safe. That was -- I
21 mean, I got that impression.

22 The other thing, though, too, you know, when he told me that
23 it was his first day back after being off for a year, that was a
24 little bit unsettling for me, because, you know, anything can
25 happen, you know?

1 And also, now I know, you know, that after an injury, you
2 know, this burn injury, you have maybe an extreme amount of
3 discomfort, which is distracting, you know? And you know, knowing
4 that now about how distracting my discomfort has been, I just
5 wonder, you know, maybe he was distracted by -- maybe he had some
6 lingering pain, or something like that. I don't know. It's just,
7 you know, what's going on in my head.

8 Q. No, I appreciate that. And to double-back on something you
9 said, it sounds like we -- without speculating, it sounds like he
10 had enough going on that he asked somebody else to put in the red
11 flags, right?

12 A. Yes.

13 Q. And somebody else to pound poles. And so maybe -- well, if I
14 say maybe, I'm speculating. But we know that, so can you just
15 briefly -- so I'm not saying it -- tell me again what you know
16 about him asking somebody else to put in poles and red flags?

17 A. Yeah, he mentioned that that was what one of their tasks was
18 going to be, to install those, you know, for the limits of the
19 form B. So I only got that information from him, you know, and he
20 shared that with us, the rest of the group, that they would be
21 doing that kind of work.

22 Q. But talk to the why he wasn't going to put the poles in.

23 A. I don't know why.

24 Q. Oh, okay. All right. Because I thought you had told me
25 that --

1 A. I don't know why he --

2 Q. I thought you had said he asked Hidalgo, the assistant, to do
3 it. I'm sorry. Maybe I misunderstood.

4 A. Well, yeah, he did, but I don't know why he did. I don't
5 know if it was -- why, you know? I don't know why.

6 Q. Okay. All right. Very good. Very, very good. Thank you.
7 So this comment that Claude made to Tim at the visitation yard
8 about if you can't do it safely, you know, you can't be here, how
9 do you think that affected Tim?

10 A. I think that it affected him in a negative way. Because, you
11 know, as I was saying he's very conscientious. He appears -- his
12 presentation is somewhat like he's nervous, you know, like he's --
13 like the weight, the weightiness of the job is sufficient that it
14 stays with him all day long. He knows, you know, if something
15 goes wrong, it's more than a big deal, you know? And that was
16 evident in the way that he ran his form B, you know, days before.

17 We had a lot of time. We were just waiting for that
18 southbound to come. And I timed it one time. We were waiting
19 seven minutes for the southbound to clear and for us to get back
20 to work. And you know, you do that six or eight times in a shift,
21 that's a lot of time that has gone by -- the company wants to know
22 why you didn't set as many poles as you were assigned to. But I'm
23 not going to try and rush him, you know? That's not -- I'm okay.

24 And so for him to be treated that way I thought was -- I
25 don't know -- I thought it was thoughtless, really, that -- yeah,

1 I didn't think it was considerate of Claude to talk that way to
2 the group, and I didn't think there was reason for it, because in
3 my opinion, Tim had always done a good job when we worked -- you
4 know, when he was protecting us.

5 Q. And we mentioned adjacent trains. From the time you set -- I
6 know I'm bouncing all over. I'm sorry. You still -- you good?

7 A. Yeah.

8 Q. You need a drink of water, or anything?

9 A. No. I'm okay.

10 Q. From the time you set on at Center until the time of the
11 accident, do you remember seeing any other trains besides the
12 accident train?

13 A. No, I don't remember seeing any others.

14 Q. Okay. Did anybody in the visitation yard, either you to Tim,
15 Tim to Claude, any of the leaders of this group or any of the --
16 any of your linemen express concerns with the work plan for the
17 day as you laid it out, as it was laid out?

18 A. No. No concern expressed. So my groundman, you know, my
19 groundman, Mark Santana, was there for the kind of running down
20 that Claude gave Tim. He was present for that. So we were
21 moving -- we're driving my crane down to Center Street, and so
22 Mark says to me -- he goes, "Wow, that guy Claude. He's really on
23 it. You know, I like that, I like that, you know, that he's, you
24 know, real authoritative."

25 And I didn't share with him my opinion of how he, you know,

1 treated Tim. But the impression that Mark got was like, oh, yeah,
2 Claude is on it, you know? We're safe. And it didn't affect me
3 that way, I thought. I was thinking more of the personal, you
4 know, the way it would have affected Tim and made him feel, you
5 know?

6 Q. Okay. And with regards to the work, setting on, traveling to
7 San Bruno, loading, and then mobing (ph.) again up to south San
8 Francisco, do you feel like when you left the visitation yard
9 everybody was in agreement, including Claude and Tim and you on
10 what was to be done that day?

11 A. Absolutely. Yeah. I have no doubt that everybody was aware
12 of what our plan was for the day.

13 Q. And did that plan change at all between the visitation yard
14 talk and your time -- time of the accident?

15 A. No, it didn't change.

16 Q. All right. Again, I know that took a long time.

17 A. It's okay.

18 Q. I was obviously fed a few questions, so --

19 A. I have another thing, you know, for the -- everyone to hear,
20 another "what if." What if that form B was released and the track
21 and time was released while we were high-railing up to San Bruno?
22 We would have not had a chance to bail out. We'd have been done.

23 Q. Yeah. It's not lost on our team that you were very fortunate
24 that you were looking in the proper direction and could get out.

25 A. Yeah.

1 Q. And the rest of your crew was in the yard. No doubt about
2 it.

3 MR. MANUTES: Dick, it's time for me to pass along to you
4 back control of this meeting. Thank you for giving me an
5 opportunity to ask so many questions.

6 Phil, thanks for hanging in there. I know we're not done
7 yet, but I'm going to take a breath. Thank you.

8 MR. MERLINO: Okay.

9 MR. HIPSKIND: Thanks, John, I thought you added a tremendous
10 amount of value there.

11 BY MR. HIPSKIND:

12 Q. And thanks, Phil, for addressing all of John's questions, all
13 of our question thus far today. I've only got just a couple of
14 real short questions, real short answers I'm looking for. And
15 then I'll poll the group to see what's still on their mind, and
16 that'll be, like, the second round. And then, after that, if it's
17 time, I'll ask your permission to begin the closeout, okay?

18 A. Sounds good.

19 Q. I think I know the answer to this, but I've got to hear it
20 from you. Do you ever talk with the dispatcher?

21 A. No.

22 Q. That's just not part of your duties and responsibilities,
23 right?

24 A. I have no access to them.

25 Q. Okay. All right. And do you ever talk with the RWIC when

1 the RWIC provides protection for multiple groups? And I get it.
2 We're not talking about conversations on cell phones. I'm talking
3 about does any of this stuff ever come across on the radio where
4 you can monitor it or where the RWIC can specifically reach out to
5 you?

6 A. It's usually face-to-face. If we -- let's say that we have
7 to pass through somebody else's track and time to get to our work
8 zone. Then there will be, like, an acknowledgment time, you know,
9 expressed to us. But it's generally when we're ready to move from
10 the part that we're getting on track to maybe a further area away.
11 It doesn't relate to visitation or Center. But sometimes we do,
12 but it's not, like, contemporaneous. It's not on the radio. It's
13 not, like, when this is given to the RWIC. I don't know if I
14 confused the question in my mind.

15 Q. No. Let me -- I would say it this way, and I'll see if
16 you're in agreement. Most of the communication, pretty much all
17 of the communication that goes on out there, whether when there a
18 RWIC who may have one group or multiple groups, the communication
19 between the RWIC generally is with the pilot, or the
20 subcontractor, or the watchman? I mean, is that your
21 understanding?

22 A. Yes.

23 Q. I don't want to put words in your mouth.

24 A. No. That's exactly what I've witnessed.

25 MR. HIPSKIND: All right. Well, listen, I think we've

1 covered quite a bit here this morning, but let me poll the group.
2 I'll just ask everybody. Is there anybody who has some additional
3 follow-up questions, and if so, please speak up.

4 UNIDENTIFIED SPEAKER: Yes, I've got -- oh, Derek, go first.

5 MR. HIPSKIND: Derek, please.

6 MR. BROWN: Thank you, sir. Thank you.

7 BY MR. BROWN

8 Q. I got one question. After leaving the visitation location,
9 there's two pieces of BBI equipment, correct?

10 A. That's right.

11 Q. Did that two pieces go directly the center or did they stop
12 for any reason, for materials or any other tools, or anything,
13 between visitation and Center?

14 A. Sometimes we will stop at the truck stop that's on Airport
15 Avenue -- I think that's the street -- to fuel up. And it's on
16 the way to visitation -- I mean on the way to Center. So there
17 are times when we'll fuel up, but --

18 Q. You can't recall if you -- anyone stopped that day --

19 A. I don't know if that day we did or didn't. I really don't.
20 I couldn't tell you --

21 Q. Okay. Thank you, Phil, appreciate it.

22 A. You're welcome.

23 MR. HIPSKIND: Thanks, Derek. I thought I heard somebody
24 else chime in there

25 John, do you have a question?

1 MR. MANUTES: Yeah, a couple of quick follow-ups.

2 BY MR. MANUTES:

3 Q. On the day prior, on the 9th, when you stopped to pick up the
4 three (indiscernible) poles, that's the same move as the 10th,
5 correct? You're set on? You're on the right-of-way? Same move?

6 A. Yeah, same move. Same move.

7 Q. Oh, you mentioned a location on the railroad where the tracks
8 are not labeled sequentially, and I want to verify, is that South
9 San Francisco?

10 A. I am trying to think. Yes. Well, it's north of Brisbane,
11 where they're -- I don't think they're numbered sequentially. And
12 I don't know the name of that.

13 Q. And I guess just for the transcript, did you have -- that
14 area where you're talking about, did you have protection in that
15 area? Were you going to do work in that area on the 10th?

16 A. No. So this is weeks before. We had a different RWIC. And
17 I became aware that the tracks weren't labeled sequentially, and
18 then it was like, oh, well, I can't tell you what track we're on,
19 because I don't know. You know, he was sitting with me in my
20 crane, and he's -- you know, we got to know each other, and it was
21 really impressed on me how you really have to know what's going on
22 to be able to be an RWIC safely.

23 Q. Would you say that it's -- this is the last one. I promise.
24 Would you say that it's common based on your prior experience to
25 have an RWIC that's not with you? I mean, you've talked about all

1 of these years you've had other RWICs. Are they normally right
2 there with you or are they sometimes not with you?

3 A. Many times they're not with us. They are parked adjacent to
4 the track, but we may be more than a quarter mile away from them
5 with our pilot, and yeah, sometimes they're not with us at all,
6 but they're in communication with the pilot, and they have a
7 radio, as well. So we can hear the -- our contractor's radio
8 communication, but we don't have every communication, because they
9 have a different --

10 Q. All right. Thank you.

11 A. Yeah, you're welcome.

12 Q. Thank you, thank you, thank you.

13 MR. HIPSKIND: Thanks, John.

14 Rick, Felipe, James, Robert, anything else?

15 BY MR. AYALA:

16 Q. I do have one more question, and I asked it already, but I
17 just have to make sure I understood correctly. Once the whole
18 group arrived at San Bruno, did you guys have another briefing
19 there?

20 A. No.

21 Q. Okay. So once you arrived there, did you just go to work,
22 basically?

23 A. Basically, yeah.

24 Q. Okay.

25 A. Because we had talked about, you know, what we were going to

1 do at Center Street.

2 Q. Center.

3 A. Yeah.

4 Q. At Center Street, did you guys discuss anything about -- once
5 you arrived at San Bruno, was there a discussion about, you know,
6 providing on-track safety on the number 1 track, on the adjacent
7 track?

8 A. No. That wasn't, that wasn't -- we didn't feel that was
9 necessary.

10 Q. All right. Thank you.

11 BY MR. HIPSKIND:

12 Q. All right. I think everybody has emptied their cup. I think
13 we've asked all of the questions we need to ask. Phil, with your
14 permission, I'll proceed to go through the closeout portion.

15 A. Go right ahead.

16 Q. Okay. Is there anything that you would like to add or
17 change? Maybe there was some question that you thought we were
18 going to ask, but we didn't. So anything like that on your mind?

19 A. Yes. I have something in mind.

20 Q. Okay. Go --

21 A. So, you know, oftentimes safety rules, safety procedures,
22 personal protective equipment, anything that's related to safety,
23 there is a certain amount of redundancy built into it. But in the
24 system that we're operating on on this project, there is almost no
25 redundancy. You're counting on the word of one person to keep

1 everybody safe. And if that person has a different understanding
2 of what the current conditions are, it can lead to a serious
3 problem like, you know, we're talking about now.

4 There are other instances that I can recall on this project
5 that there have been -- mistakes have been made, and where thank
6 god nothing happened, but people were sitting on the wrong track.
7 And the RWIC and the pilot didn't catch it.

8 There have been other times where we're operating on a form
9 B, another location, you know, but same project. Nobody calls to
10 ask if men and equipment are in the clear, and here comes a train,
11 shoom (ph.), right down the adjacent track. And Chris Jenson
12 said, you know, to the pilot, "Hey, what the fuck. Nobody called.
13 You didn't tell us that a train called? You just let it come?"
14 And then, sheepishly, you know, the pilot had to admit that, yes,
15 he did.

16 So there is this -- there is no redundancy built into the --
17 into this method of protection. It all depends on the person who
18 has been assigned to be RWIC or pilot, and I think that is -- it's
19 a mistake. That's a mistake.

20 Q. Well, I think you've segued into my next question. Do you
21 have any suggestions for preventing a reoccurrence?

22 A. The only one that I came up with, you know, one using the
23 track protection system (indiscernible) --

24 Q. Phil, I'm going to ask you to -- time out, Phil, time out.
25 We're having some audio difficulties, and I want to be sure that

1 we clear this up for the transcriptionist.

2 A. Yeah.

3 Q. I don't know if the others are seeing the same thing I am.

4 But I want to ask you this question again, and I want to --

5 A. (Indiscernible).

6 MR. HIPSKIND: Felipe, can you hear me?

7 (No response.)

8 MR. HIPSKIND: Felipe, can you hear me?

9 (No response.)

10 MR. HIPSKIND: Well, if you can hear me, please understand

11 we're having some audio and visual challenges on your end.

12 MR. MANUTES: I can hear you now. Can you hear me okay?

13 MR. HIPSKIND: I can hear you now

14 BY MR. HIPSKIND:

15 Q. But I want both of you to understand we had a few minutes
16 there when I asked Phil the question about do you have any
17 suggestions for preventing a reoccurrence, and at least on my end,
18 I did not hear anything he said, and your visual got really fuzzy
19 for the first time. So I would like to revisit that if we can.

20 A. I heard the question, and I'll answer it. I was hoping that
21 we could shunt and let San Jose dispatch know that we are present
22 in any location so that it would prevent another train from being
23 switched into us. That's what I -- that was my suggestion, but I
24 don't know that that's possible.

25 Q. Okay. And I fully understood that, and thank you for that,

1 Phil. Last question is, is there anyone else who we should
2 interview?

3 A. Maybe Ashrita, because she could tell you with certainty when
4 she requested the track protection. I think that is her job at
5 Balfour Beatty to line out the work for the next day, so Ashrita,
6 you might want to reach out to her and ask her questions. That's
7 all I can think of.

8 MR. HIPSKIND: Okay. And I'll poll the group again. Are
9 there any other questions, any other comments before we end the
10 interview?

11 (No response.)

12 MR. HIPSKIND: Hearing none, Phil, your interview, I'm sure
13 you realize, was very important, very valuable to our
14 investigation. So I want to thank you and Carolina for coming in
15 there today to spend some time with us. It was very helpful. So
16 you have our thanks and appreciation for the time that you spent.
17 Watch for a couple of e-mails from me, and as soon as we get it
18 transcribed, I will send you a cover letter, and I will forward my
19 business card to you probably yet today, and I want to stay in
20 touch until we close out the entire interview process with you,
21 okay?

22 MR. MERLINO: Okay.

23 MR. HIPSKIND: All right. With that, we can excuse Phil and
24 his wife, and in a couple of minutes, let's wait for them to
25 depart, and then we'll do our track group meeting. Thanks again.

1 MR. MERLINO: Thank you.

2 MR. HIPSKIND: All right. Bye-bye.

3 MR. AYALA: I'm going to walk them out, and I'll be right
4 back.

5 MR. HIPSKIND: Okay. And you've cut off your recording?

6 MR. AYALA: Thank you for that reminder. And Phil, thank
7 you.

8 Carolina, thank you.

9 (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: CALTRAIN COLLISION WITH
CONSTRUCTION EQUIPMENT NEAR
SAN FRANCISCO, CALIFORNIA
ON MARCH 10, 2022
Interview of Phillip Merlino

ACCIDENT NO.: RRD22LR007

PLACE: Via Microsoft Teams

DATE: April 21, 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.



Danielle S. VanRiper
Transcriber