

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

*

DERAILMENT OF UNION PACIFIC *

RAILROAD TRAIN UEBLTG 20 WITH * Accident No.: RRD19FR007

SUBSEQUENT FIRE AND HAZARDOUS *

MATERIALS RELEASE, FORT WORTH, *

TEXAS, APRIL 24, 2019 *

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Interview of: SCOTT PENN

District Superintendent, Park & Recreation

City of Fort Worth, Texas

Fort Worth, Texas

Wednesday,
June 26, 2019

APPEARANCES:

RYAN FRIGO, Rail Accident Investigator
Operations and System Safety
National Transportation Safety Board

JAMES SOUTHWORTH, Investigator In Charge
National Transportation Safety Board

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I N T E R V I E W

1
2 MR. FRIGO: Good morning. My name is Ryan Frigo. I'm an
3 investigator with the National Transportation Safety Board. We
4 are here today in Fort Worth, Texas to meet with Mr. Scott Penn.
5 He is the district superintendent with the City of Fort Worth Park
6 and Recreation Department. Today is June 26th, 2019. This is in
7 reference to a Union Pacific train derailment in Fort Worth, Texas
8 on April 24th, 2019. The NTSB accident reference number is
9 RRD19FR007.

10 Before we begin, we'll go around the room and introduce
11 ourselves. For the benefit of the transcriptionist, please spell
12 your last name. Once again, my name is Ryan Frigo, F-r-i-g-o,
13 NTSB Operations and System Safety.

14 MR. SOUTHWORTH: James Allen Southworth. I'll go by Jim.
15 That's S-o-u-t-h-w-o-r-t-h. I'm a railroad accident investigator,
16 investigator in charge for this accident in Fort Worth.

17 MR. PENN: Scott Penn, P-e-n-n, district superintendent with
18 City of Fort Worth Park and Recreation Department.

19 MR. FRIGO: Great, Scott. And are you okay if we go on a
20 first name basis?

21 MR. PENN: I am.

22 MR. FRIGO: Excellent. And do you wish to have a
23 representative with you here today?

24 MR. PENN: No.

25 MR. FRIGO: Okay. And do we have your permission to record

1 this discussion with you today?

2 MR. PENN: Yes.

3 MR. FRIGO: Great.

4 INTERVIEW OF SCOTT PENN

5 BY MR. FRIGO:

6 Q. So, Scott, before we begin and get into some questions, can
7 you give us a little bit about your work background? You know,
8 how long have you been in your current position? If that was a
9 short time, what other positions did you hold prior?

10 A. Sure.

11 Q. And go from there.

12 A. Okay. I started work at the City of Fort Worth Park and Rec
13 Department in 2000, October of 2000. So I'm on my 19th year,
14 about ready to complete my 19th year and go into my 20th year at
15 the city. I started as a landscape architect or a project manager
16 in the capital side. I still maintain a license as a registered
17 landscape architect in the state of Texas. I became district
18 superintendent over trades, infrastructure and small capital
19 improvements in 2010 on an interim basis, and in '11 permanently.
20 So for the last 8, 9 years I've been in the position I'm in now.

21 In the city levels, sometimes you act and do interim things
22 for other people as they move on to other departments or do
23 something temporarily. So right now, I'm also the interim capital
24 projects planning manager. So I manage the other landscape
25 architects and the delivery of capital projects for the Park and

1 Recreation Department.

2 So my job currently, now, or before I was the interim
3 project -- or capital manager, was trades and infrastructure
4 maintenance, so we maintain all infrastructure and maintenance in
5 parks. So it's not mowing and litter, that's district operations,
6 but infrastructure and amenity stuff like shelters, playgrounds,
7 those kinds of things. Paving, parking lots, that type of stuff
8 is under our duty to maintain. Electrical and plumbing are also
9 underneath me.

10 Q. Interesting. Well, good. I think we got the right person to
11 chat about Echo Lake Park.

12 A. Hopefully.

13 Q. So what's your understanding about the lake and its history
14 and --

15 A. Most of the stuff that I can speak to is just when the city
16 got involved.

17 Q. Okay.

18 A. When it became a discussion to become part of the City of
19 Fort Worth Park and Recreation System. I've heard other outside
20 stuff that's hearsay as to why the lake was formed, and that has
21 to do with the railroad and some other things, you know. And then
22 we've had some subsequent studies done when we learned, in early
23 2017, that we were going to pursue acquiring the lake from the
24 county or taking it from the county in early 2017, so we had some
25 environmental work done and things like that.

1 So we found out some stuff through that, that there was
2 some -- you know, like it could have been a gun range or some
3 other stuff, there were some other contaminants in there that
4 could have been from ammo, and a lot of it from the railroad and
5 -- some of the creosote and some of the stuff for the wood. So
6 some of that kind of led to some of the history that we learned of
7 the area. But again, it hasn't been ours since -- I mean, it's
8 only been ours since October of 2017.

9 But we started pursuing looking into the lake and stuff in
10 early 2017, and we did do an environmental assessment. We've done
11 property appraisals for it. They did some remediate lake sediment
12 and surface soil sampling was done, you know. So Intercon
13 Services did the environmental for us. We do have an
14 environmental report.

15 Other than that, council went ahead and authorized the
16 interlocal agreement with the county in March of 2017, March 21st
17 to be exact. And that was not to take effect until October of
18 that year, is when we would take it on as a maintenance. But our
19 maintenance, once we took it over, was primarily the mowing and
20 litter pickup; it was the park area associated with it.

21 The ILA was executed on April 3rd of 2017, and it did have
22 some verbiage or language in there, because there was an ongoing
23 project from the county, for the outfall structure for the lake to
24 be rehabbed. In conversations with them, the only thing I ever
25 remember them saying is that one of the pipes was completely

1 collapsed or was not working sufficiently, and that part of their
2 rehab project for that was to put in an entirely new one, and then
3 make sure that the other one was still in place, that it was
4 working order. So that was still all contingent -- you know, a
5 contingency of our agreement with the county since they signed it
6 on April 3rd and we took it over in 2017.

7 Since that time, we've -- I'd have to get back with you on
8 the mowing schedule and stuff like that, but it's just been
9 routine maintenance, mowing and litter pickup in Echo Lake Park.
10 We haven't done any capital improvements or anything else. We did
11 demo a couple of restroom facilities that were there. We don't
12 typically keep restroom facilities in our parks. They're a safety
13 concern and a place for transients to go and for not such good
14 things to go for public use, so we took those out. There was two
15 building structures that were on the property that we did demo.

16 That's basically -- most of our maintenance has been those
17 two demos, and then routine maintenance, but we haven't done any
18 capital improvements. The parking lot was re-striped and some
19 other small things like that on the surface, but nothing with the
20 lake itself.

21 Q. Okay. So with the -- you know, to the best of your
22 knowledge, the current purpose of the lake, is it recreational
23 use? Is it for stormwater runoff and management?

24 A. I wouldn't even venture to say.

25 Q. Okay.

1 A. Right now -- we took the property on. We take on a lot of
2 properties that have lakes on them. We have -- there was -- our
3 stormwater group did take a look at the lake and do an assessment
4 on our own behalf, for the city, post-accident, post-April 24th,
5 obviously. I guess that's the date of the derailment. So we do
6 have that document if you'd like us to provide that.

7 We did do our own assessment of the lake. It's most of the
8 stuff, and it's a lot of pictures of UP and their pumping
9 equipment out there draining the lake, or pumping it down;
10 hopefully not draining it. I spoke with a member of the Texas
11 Parks and Wildlife because there was some concern -- I don't know
12 if it came from the community or somebody else -- about, you know,
13 a fish kill and things like that, and things floating. So I
14 wanted to make sure that we weren't draining it all the way down.
15 And it never has been drained all the way down, just low enough
16 below the outfall structure. So I think that that was good. And
17 we never saw any fish kill and we haven't heard back from the
18 community.

19 I don't know if it's -- but for all intents and purposes,
20 what I've heard from hearsay is that no, it was just done by the
21 railroad a long time ago. It was turned into a lake. But it
22 didn't have stormwater or a drainage --

23 Q. So the question is about capacity and --

24 A. Oh, no, I wouldn't have any idea.

25 Q. Okay. And maybe that's something in that post-accident, the

1 assessment, that --

2 A. Yeah, I think most of their assessment had to do with the
3 outfall itself and the pipes that are leading in and out of it. I
4 can go back and take a look at some of the documents that we have.
5 There might have been some stuff that was conveyed over with the
6 county as far as the last -- I don't know if it was an EAP, but
7 any other kind of registration from TCEQ, I believe, that the
8 county was maintaining on the lake that we might have gotten that
9 says it was -- you know, it would have what the lake's initial
10 depth was, what it is now, and those kind of things. I can look
11 back in the project file. I don't -- it would have come from the
12 county though.

13 Q. Okay. And what about, is there any monitoring devices
14 currently installed at the lake?

15 A. Not to my knowledge.

16 Q. Okay. And I know your knowledge of it is fairly recent, but
17 do you have any historical knowledge of -- prior to the takeover
18 by the city, do you have any knowledge of any other overflow
19 events?

20 A. No.

21 Q. What about after the takeover by the city?

22 A. Overflow events?

23 Q. Of the lake.

24 A. Meaning?

25 Q. Above level, overflowing the dam structure that are there.

1 Are you aware of any?

2 A. Okay. Because I mean, I'm not too familiar with the designed
3 outfall, and then the emergency spillway that goes under the
4 railroad on the northeast corner. Has the lake flooded or been
5 above normal water level significantly? On at least five
6 occasions, I guess, since.

7 Q. And you have those -- it looks like you've got some dates
8 written down?

9 A. Oh yeah, most definitely.

10 Q. Okay.

11 A. I mean, we have when we did the ILA, when we filed the
12 warranty deed, and stuff like that, and then when we got all the
13 extension requests from the county. I believe that there are four
14 extension letters from the county asking us to submit a letter
15 authorizing or saying that we understand you need an extension to
16 finish drainage improvements per our contract agreement. And we
17 have granted them an extension, per our agreement, on four
18 different occasions, the last one being April 12th of this year.

19 Q. But just getting back to my question about the overflow
20 events, you think there are about five?

21 A. January 8th, we went up there and cleared it. The 9th. It
22 was probably the same event, and trades just went out there the
23 second day. So January 8th or 9th event. March 14th there was
24 another event. April 10th there was an event, and April 16th
25 there was an event.

1 Q. And those are all 2019?

2 A. Correct.

3 Q. Okay. And these are -- you're getting -- I'm assuming you
4 got this from work orders that were generated?

5 A. Definitely. Well, I think the first one came in, the
6 community was concerned with how high the lake level got, that it
7 was above normal, was the comment we got from the citizens.

8 Q. Okay.

9 A. So we went out to investigate why the lake level was rising
10 so much, and there was some debris blocking the outfall piping.
11 We did our best to try and remove it. At that time, I do believe
12 we had asked the county what they had done in the past or if they
13 could assist us in that effort.

14 And then on the other ones after that first instance, we just
15 made sure that the district operations, who are the folks who do
16 mowing and litter pickup -- they're out in the parks every day.
17 You know, we maintain the parks citywide. So there's 290 of them,
18 so we're not out at that park every week. So we asked them to
19 monitor it. And there was a couple other times when it got high
20 and they asked for our staff's help in trying to go out and remove
21 some of the debris that was gathering at the front of the outfall
22 structure. And those are what we did the other subsequent three
23 events.

24 Q. Okay.

25 A. We just removed debris from the outfall structure to see if

1 that would release some of the water. We do have a lot of
2 pictures of it floating -- I mean, we had elevated electrical
3 panels, that I believe are 6-foot, up on a utility pole down at
4 the bottom of where the embankment of the pond would be, and the
5 water was within 12 inches of it. We had to cut off the power at
6 the park because we were concerned. So we have all those photos
7 and things of the events.

8 Q. So maybe that's something -- maybe if you could send us the
9 date of those events with some photos tied to --

10 A. Sure.

11 Q. -- whatever you might have tied to those dates, and whatever
12 the mitigation -- you know, the observations and then mitigations.

13 A. Okay. We're limited on our -- as far as the mitigation
14 stuff, it's whatever we can grab with our hand or reach. We don't
15 have Gradalls. We're not stormwater. We didn't really have the
16 equipment to get out there to clear away the front of the outfall
17 structure. So it was really just trying to grab whatever large
18 branches or debris that was gathering there. The grate on it had
19 been gone for a long time, or the protective grate over the
20 outfall, so there was nothing stopping large debris from going
21 into the pipe.

22 Q. And then what about -- any of these events, was there any
23 communication with the railroad about these events?

24 A. Not on the city's part.

25 Q. Okay.

1 A. To my knowledge, we haven't talked to any of the railroads.
2 That's always just been the county.

3 Q. Okay. So let me ask that same question again but as it
4 relates to the county. With the five events that you mentioned,
5 was that communicated to the county that these high level, high
6 water events had occurred on certain dates?

7 A. Definitely.

8 Q. Okay. And maybe if you have a record of those that you could
9 provide us?

10 A. Sure.

11 Q. Okay. What's your understanding of the drainage improvement
12 project?

13 A. My understanding of the drainage improvement project?

14 Q. Um-hum.

15 A. I mean, we've got a set of documents from the county for what
16 they're intending to do and the area that they will need to use
17 that's part of the park to replace the structure. I mean, I know
18 that one pipe is completely new, and the abandonment of two of
19 them, I believe. So without going back and looking at the full
20 set of documents, I don't know exactly what it is, but there's
21 going to be obviously some dewatering and then some work on the
22 park side where they're going to stage from. But that's about the
23 limit of it.

24 I mean, we're putting it all on them. We're not inspecting
25 it. We're not going to be in charge of signing off on it or final

1 approve thereof. So it's just in their agreement to finish it and
2 complete it. And then, hopefully, we would like to get back with
3 the county -- I don't believe it's in our contractual commitment,
4 but for them to give us the final and revised EAP for the dam, you
5 know, so that we start with something that's legit, with legit
6 numbers for a new drainage that's part of it, so that we can keep
7 up with the EAP through TCEQ moving forward.

8 Q. And the --

9 A. The emergency action plan. Sorry.

10 Q. That's fine.

11 A. So you don't have to come back to me with that later.

12 Q. The piping that is there, are you -- do you have any
13 knowledge of what the condition of the existing --

14 A. No, other than what we were told by the county when they said
15 that they needed to provide these improvements in our contract and
16 that one was completely collapsed, is all that I know.

17 Q. Okay. Was there any information given as to what was the
18 cause of the collapse?

19 A. No, not to my knowledge.

20 Q. Okay. Are you aware of any sinkholes that have occurred on
21 the railroad property --

22 A. No.

23 Q. -- in that area?

24 A. No.

25 Q. Okay. The adjoining, the adjacent community to the park --

1 A. There's one north and one south.

2 Q. Both. The stormwater/sewage runoff, do you know who
3 maintains that? The grading, all the catchment basins, is that
4 the city that would maintain that?

5 A. If it's stormwater, it would be our TPW stormwater folks that
6 would maintain it. If it's sewage, it would be water and sewer.
7 It would be the water department downtown that would be
8 responsible for it.

9 Q. Okay. So that might be -- we might have to -- we might have
10 some follow-up with some of those folks if you can help us.

11 A. I can put you in contact with somebody.

12 Q. Yeah, who the right people are, but --

13 MR. FRIGO: I don't have any further questions, Scott.
14 Jim?

15 BY MR. SOUTHWORTH:

16 Q. What's TPW stand for?

17 A. Transportation Public Works.

18 Q. TPW.

19 A. Yes. And then as it relates to the -- TPWD was Texas Parks
20 and Wildlife Department, the ones that were worried about the fish
21 kill and some other things when the lake level started going down.

22 Q. And then the ILA you were talking about?

23 A. Is interlocal agreement with the county.

24 Q. Gotcha.

25 A. Tarrant County.

1 Q. Let's see. I understand and I get the dividing date, so to
2 speak, is October of 2017, with the contingencies which were to
3 work on, I guess, what you considered the collapsed pipe and the
4 new pipe to be put in. Are you aware of any work that's going on
5 out there now?

6 A. Aside from what I've been told that, I guess the railroad --
7 well, come to think about it, I guess I have to go back on that
8 statement. Somebody must have contacted legal or the third floor
9 at city hall, our city manager's office, from the railroad,
10 requesting permission to put those pumps out there and begin doing
11 it. And of course, we would have immediately just said yes,
12 whatever you've got to do to bring the lake level down. So that
13 might be the only contact the city's had with the railroad, but
14 somebody would have had to call. Because in meetings with our
15 legal office, they had told me that somebody reached out to them.
16 So the only work that I know has happened out there is the
17 railroad putting the large pumps in.

18 Q. And that was started before we left our on-scene
19 investigation around the 24th, 25th, in that area.

20 A. Sure.

21 Q. And then I would imagine that probably included some
22 discussions from the railroad on what they wanted and needed to
23 do, once we gave them the okay, to clear and re-rail and open it
24 back up for commerce. So at some point, if you have access to
25 those documents of what was discussed or laid out, I'd like to

1 have them. And I'm also going to ask the railroad for that, as
2 well. When we get on scene, we don't do anything that's going to
3 stop the mitigation of a hazard or a rescue, those kinds of
4 things.

5 A. Yeah.

6 Q. What we do is we try and make sure that they know that we're
7 very much interested in evidence from the standpoint of what
8 happened out there. And that delays them sometimes, and they're
9 not crazy about that, but that's just the nature of our work. So
10 the more I get as it relates to what they did to fix the problem
11 out there in 3 or 4 days is good.

12 I know that there was a threat of additional heavy rainfall
13 around the 26th or 27th when we probably left on site. And there
14 was concern that all that they had done to fix what had happened
15 out there might be a problem additional. And that probably is
16 where the lake came into play and the drainage. So if you get
17 access to some of that documentation, just pass it on to us, as
18 well.

19 A. Okay.

20 Q. I'm going to ask the railroad for it, too. I just want to
21 try and keep in my mind, so Ryan can as well, is communication
22 with the city, communication with the county, were they similar,
23 were they different, was there additional communications, that
24 kind of thing, just to see how dissemination of information and
25 decisions were made on cleanup and restoration. And then from

1 some of that, we'll probably get information that relates to what
2 was going on before.

3 A. Sure. Yeah, as far as I know --

4 Q. So not really a question, just so you know what --

5 A. Yeah, on the cleanup and restoration side, I know that the
6 city hasn't done anything, it's been done by the railroad. I
7 don't know if it's UP, but the railroad. And to my knowledge, I
8 don't think the county has done anything, either. I think most of
9 it's been done by the railroad since the incident.

10 And I think some of it'll show in the stormwater assessment
11 of the lake afterwards. They point out some of the grading that
12 the railroad did in and around the track on the north side that
13 runs east/west. They've added some fill and, like, built up a
14 berm or did something else over there. So it might allude to
15 that, because they would have concerns with that because that
16 changes whatever was out there before and the drainage
17 characteristics of the property. So that might be noted in that
18 report.

19 Q. Yeah.

20 A. So, hopefully, when I provide you that report, then you guys
21 will be able to see that.

22 Q. And I'm sure the City of Fort Worth is still interested in
23 any of the activity and information that pertains to the
24 obligation of pipe prior to October '17. In other words, the
25 conditions of the approval of the transfer included working on

1 that pipe, correct?

2 A. Yes.

3 Q. Okay.

4 A. Yeah. Well, the city's interest is, is that it's fixed in
5 accordance with what the county has put forth to --

6 Q. And they agreed to --

7 A. -- and our understanding is that they've been working with
8 the railroad to get this done underneath that north/south
9 railroad. And that's what's in our agreement, and we want that
10 done satisfactorily and signed off on by the railroad, TCEQ and
11 the county before we accept it as complete --

12 Q. Okay. Good.

13 A. -- for their commitment in our contract, yes.

14 Q. That's all I have. At some point we'll go through and
15 discuss a list of things we'll be looking for that we might want
16 from you.

17 A. Okay.

18 MR. SOUTHWORTH: I don't have any further questions right
19 now.

20 MR. FRIGO: Yeah, I don't either. So, Scott, I mean, we
21 mentioned a few other city departments that I guess you can put me
22 in contact with. If we could get maybe a copy of your timeline,
23 and then also more details on the overflow events that we noted in
24 the -- in our discussion.

25 MR. PENN: Okay.

1 MR. FRIGO: The stormwater assessment post-accident that was
2 completed. And I think that's good.

3 MR. PENN: Is email sufficient? If the files will go,
4 email's fine?

5 MR. FRIGO: Email is -- if not, we've got a file transfer
6 site that we can set up for you.

7 Is there anybody else you think we should speak with?

8 MR. PENN: At the city?

9 MR. FRIGO: Um-hum.

10 MR. PENN: Not at this time. I'll get back with you on the
11 legal and the city manager's office as to their preliminary
12 discussions, if it was indeed with the railroad when they got on
13 the site. When they contacted the city, I'm sure they spoke with
14 somebody up there. So if they need to offer up any more
15 information, you might talk directly with them instead of hearing
16 it third-party through me. So there might be an additional person
17 in legal or in the city manager's office you might need to speak
18 with.

19 MR. FRIGO: Okay. And are there any questions that we did
20 not ask you that we should?

21 MR. PENN: I don't think so, no.

22 MR. FRIGO: Okay. All right. Well, with that, we'll go off
23 the record.

24 (Whereupon, the interview was concluded.)

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: DERAILMENT OF UNION PACIFIC
RAILROAD TRAIN UEBLTG 20 WITH
SUBSEQUENT FIRE AND HAZARDOUS
MATERIALS RELEASE, FORT WORTH,
TEXAS, APRIL 24, 2019
Interview of Scott Penn

ACCIDENT NO.: RRD19FR007

PLACE: Fort Worth, Texas

DATE: June 26, 2019

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.



Lisa Fuerstenberg
Transcriber

A handwritten mark, possibly a signature or initials, in blue ink.