

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

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AMTRAK WORKER FATALITY *

BOWIE, MARYLAND * Accident No.: RRD18FR006

APRIL 24, 2018 *

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Interview of: MICHAEL DIVADIO

Bowie, Maryland

Wednesday,
April 25, 2018

APPEARANCES:

RUBEN PAYAN, Investigator in Charge
National Transportation Safety Board

MIKE HOEPF, Ph.D., Human Performance Investigator
National Transportation Safety Board

LOU TOMASSONE, Deputy Administrator
Federal Railroad Administration

KRISTIN LEESE, Director of System Safety - Engineering
Amtrak

CARL FIELDS, Coordinator, Safety Task Force
Brotherhood of Locomotive Engineers and Trainmen (BLET)

STEVE STEARN, Vice Chairman
Brotherhood of Maintenance of Way Employees (BMWED)

TYRONE NELSON, Vice Chairman
BMWED

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I N T E R V I E W

1
2 MR. PAYAN: All right. My name is Ruben Payan, P-a-y-a-n. I
3 am the investigator in charge for this accident.

4 Today is April 25th, 2018. We are at Bowie, Maryland
5 interviewing the welder in connection with an accident that
6 occurred at milepost 119.2 on April 24th, 2018. The NTSB accident
7 number is RRD18FR006.

8 We are recording this interview so we can transcribe it, and
9 you will be given a copy of the transcription for review and you
10 can make corrections and/or additions as you see fit.

11 I am going to go around the room and have everybody introduce
12 themselves. Like I said, my name is Ruben Payan, P-a-y-a-n, I'm
13 with the NTSB.

14 MR. STEARN: Steve Stearn, Brotherhood of Maintenance of way
15 Employees, S-t-e-a-r-n.

16 MS. LEESE: Kristin Leese, L-e-e-s-e, Director of Safety for
17 Engineering.

18 MR. TOMASSONE: Lou Tomassone, T-o-m-a-s-s-o-n-e, I'm the
19 deputy administrator for the FRA.

20 MR. PAYAN: Mike?

21 MR. HOEPF: I'm sorry. Mike Hoepf, H-o-e-p-f, NTSB.

22 MR. FIELDS: Carl Fields, F-i-e-l-d-s, Brotherhood of
23 Locomotive Engineers and Trainmen.

24 MR. PAYAN: Okay. And your representative one more time?

25 MR. NELSON: Donald Nelson, Nelson, vice chairman BMWV.

1 INTERVIEW OF MICHAEL DIVADIO

2 BY MR. PAYAN:

3 Q. All right. We are kind of trying to gather information on
4 this accident and we are going to ask you to kind of if you could
5 take us through the day when you showed up, what time you got up,
6 went to work and all the way up to the accident what you saw. And
7 if you could provide times or details that would help us out.

8 A. I'm not exactly sure of times, but --

9 Q. Sure.

10 A. -- we did our job briefing and they, you know, they placed
11 the lodge men, all that stuff. Luke was the gang watchman. So,
12 he was placed right behind where the welding truck was parked on
13 the, I guess the field side of number 1 track. He was standing
14 on, I guess the edge of the tie because there was a steep grade
15 there. So, that's really the only place you can stand and be able
16 to visually see both ways, you know, to give approach warnings for
17 trains.

18 We made a saw cut and then we were about to go further down
19 the tracks to make two more saw cuts. Got the first one done, you
20 know, after all the equipment was powered up and everything. They
21 were getting the speed swings ready to be moved. I hopped in the
22 welding truck to move further down and I'm sitting there and I
23 hear the, you know, I hear the horn going. Got the speed swings.
24 They are blowing their horns everything. There's a train coming
25 southbound on 3-track.

1 So, I see the train and I look out the back window and I see
2 Luke standing same spot that he basically was standing in the
3 beginning and which is, you know, right on the edge of the tie 1-
4 track field side. And I didn't -- I looked away and then next
5 thing you know I see the train, you know, rush by on my -- I was
6 sitting in the rear passenger side seat and the train came by me
7 going north on 3-track.

8 And then as soon as the train went by I see guys just running
9 like hysterical, you know, so I hop out. I go down the hill and
10 then, you know, see what's left lying there.

11 Q. Okay. If we could go back just a little bit. Were you
12 staying at the hotel with the rest of the crew?

13 A. I do not stay at the hotel, no. I go home every day.

14 Q. You go home. Okay.

15 A. Yeah.

16 Q. And what time did you arrive at the -- about at the work
17 site?

18 A. At the work site? Probably -- we arrived around probably
19 like 7:00.

20 Q. Okay.

21 A. Right around 7:00 we arrived. We met in the parking lot at
22 Bowie station.

23 Q. Okay. Were you there for the job briefing and any other
24 briefings?

25 A. Yeah. I was there for the initial job briefing and 1-track

1 safety briefing and all that stuff.

2 Q. Okay. And what was the job going to be that day?

3 A. We were I guess we were going to weld and we had a grind to
4 finish on one of the welds that was previously done. I actually
5 was in a crane class for the past six weeks. So, I haven't been
6 with my normal group. I have been in Perryville getting trained
7 on a crane. So, yesterday was my first day back.

8 Q. Okay.

9 A. -- you know, with this gang. That's why I wasn't --
10 yesterday morning was the first time I ever talked to Luke. You
11 know, that was my first time ever being -- and I talked to him in
12 the job briefing. And but I guess our job for the day was to
13 correct Rail F, replace pads and slaters and clips. Then do some
14 welds.

15 Q. Okay. And you say you met him that day, you hadn't never
16 previously?

17 A. I had never previously met him before, no.

18 Q. Okay. And based on that brief first time meeting, did he
19 appear alert?

20 A. Yeah. He seemed to be alert.

21 Q. Knowledgeable?

22 A. And I mean he didn't have much time on the railroad,
23 obviously, but, you know, I mean he seemed, you know, like a
24 really good guy, seemed like all there, you know what I mean.

25 Q. Uh-huh. Okay.

1 A. Probably around like I said five minutes the I talked to him.
2 I mean that's all the time I've ever spent talking to him. So, I
3 don't have too much about him.

4 Q. Uh-huh. Okay. And he walked down the -- once he got access to
5 the track, did he walk with you the welder, the welding gang or
6 did he --

7 A. He was staying with the gang. See we started the equipment
8 up -- they started the equipment up, started the truck up. We
9 made a saw cut and then we moved up about I don't know maybe 30
10 feet or something like that the truck moved up. And he did move a
11 little bit with the truck as the truck was moving and then the
12 guys that were with the truck.

13 We had another group of guys that split off like I said
14 another group of guys took us all and went further north to make
15 two more saw cuts. So, some of the welders, you know, some of
16 those welders went with that group or whatever to do the other saw
17 cuts but some of us were with the welding truck also but he was
18 staying there.

19 Q. He stayed with you?

20 A. Yeah. He was staying there as a -- I guess the gang
21 watchman.

22 Q. Okay. And you mentioned that he was up on the edge of the
23 tie.

24 A. Yeah.

25 Q. Is that how he was able to -- so he can see the banner or was

1 there --

2 A. That's -- it's either you stand on basically the edge of the
3 tie or the ballast. Right on the edge of the tie. In that
4 scenario that's the only place there is to safely stand unless you
5 stand on the hill that is, you know, it's got a serious grade.
6 You can't stand on it.

7 Q. Uh-huh.

8 A. So, yeah, I mean if I was watching that would probably be the
9 same place I would be standing.

10 Q. So, if you walk not on the ballast, but if you walk more
11 towards the access road that's on the side, would you be able to
12 see the banner do you think?

13 A. It's not about me being able to see the banner or hear the
14 horn at that point. It's about him being able to see the
15 approaching train.

16 Q. Oh, okay, it's more his field of view?

17 A. If he's down on that level access road or whatever it is --

18 Q. Uh-huh.

19 A. -- he's going to have cat poles in his way. He's not going
20 to be able to visibly see a train coming because he's the gang
21 watchman. There's nobody north of him at all. It's his job to,
22 you know, warn everybody, hey, there's a train coming from the
23 north side.

24 Q. I see. Okay.

25 A. You know what I mean.

1 Q. Makes sense, yes. So, this was the first spot you guys were
2 working at?

3 A. That is where we started in the morning, yes.

4 Q. And then when you guys moved he kind of took up the same
5 position so that was --

6 A. What's that?

7 Q. At the -- his position to --

8 A. He moved a little bit with the truck.

9 Q. Uh-huh.

10 A. I mean like I said, the truck only moved like 30 feet. So,
11 he just kind of --

12 Q. But he remained up on the ballast so he can see?

13 A. Yes. Yes.

14 Q. Okay. So that basically his routine, if you want to call it
15 that?

16 A. And I would assume in that position, you know, being where he
17 had to be to see the trains, you know, that would be your normal
18 position.

19 Q. Okay.

20 A. And that was covered in the job briefing. I believe I
21 remember hearing about the watchman standing on live track in the
22 job briefing. I mean it's -- you have to talk about it in a job
23 briefing but it's common practice if you're in a scenario like
24 that sometimes it's okay to be in live track to watch because
25 that's the only place you can be to be able to efficiently watch

1 and protect the guys. You know what I mean.

2 Q. Uh-huh.

3 A. But generally, in that scenario when you have a train
4 approach, even if it's on a track two or three tracks away from
5 you, you need to step off into the field side. Obviously, when
6 you hear that warning you need to be in a place of safety.

7 Q. Uh-huh.

8 A. That's on a service track or field side or whatever. You
9 know what I mean.

10 Q. So, when you mention that it's part of the job briefing, do
11 you mean for that location as in it was going to happen or as a
12 rule of the day or safety talk?

13 A. That was a safety rule.

14 Q. Okay.

15 A. That was a safety rule for the day actually.

16 Q. Okay. So, it wasn't brought up that that was going to happen
17 at that location and you had to discuss it?

18 A. Honestly, I don't remember. As far as I don't remember if it
19 was specifically -- I know he -- I know that Chris specifically
20 talked about that and I'm having trouble recalling whether or not
21 he would talk to the watchmen about it because generally they'll
22 take the, you know, they'll take the watchmen and say, okay, look,
23 you know this is what's going on. We're going to place you here,
24 you know. But I mean being a welder I don't watch. So, I don't -
25 - I'm not in on that kind of stuff.

1 Q. Uh-huh. I see, okay.

2 MR. PAYAN: I'm going to go around the room and let other
3 people ask questions.

4 FRA.

5 BY MR. TOMASSONE:

6 Q. Tomassone again. The first job briefing goes everyone seemed
7 to be alert and paying attention to the foreman that was giving
8 the job briefing.

9 A. Absolutely.

10 Q. Okay. The Amtrak -- Amtrak's rules for watchmen found on a
11 track they have to discuss that in the job briefing does that
12 sound --

13 A. That sounds right.

14 Q. And you don't specifically remember --

15 A. I don't specifically remember. No.

16 Q. Okay. And then the only other question I had in the brief
17 time from when you stepped on the tracks till the incident
18 occurred, had any other trains passed and if there were did you
19 happen to notice how Luke handled the previous trains?

20 A. Yeah. I don't remember. He would -- that one -- the train
21 that went south right before, you know, on 3-track right before he
22 got hit I mean he was on that.

23 Q. Right.

24 A. He was on that one quick. And I don't remember -- because I
25 remember hearing the horn and we were like waiting for a while for

1 it to come. So, he called it like way in advance. You know what
2 I mean.

3 Q. Uh-huh.

4 A. But I don't remember if there were any other trains that
5 passed --

6 Q. Okay.

7 A. -- prior to that. To that one.

8 MR. TOMASSONE: Thanks. That's all I got.

9 MR. PAYAN: Okay. Thank you.

10 Amtrak?

11 BY MS. LEESE:

12 Q. Just one question in regards to as you said so he's standing
13 on the edge of the tie or at the top of the ballast.

14 A. Right.

15 Q. When we were out there yesterday so we all kind of saw how it
16 dropped down a little --

17 A. Yes.

18 Q. -- then you had the road. Let's just say you were watching
19 or another person, how would you clear up like you hear the horn
20 go?

21 A. As soon as -- Okay. So, as soon as you see -- if I'm a
22 watchman in that position I'm going to see that train or, you
23 know, coming from my left, from my right, it doesn't matter. I'm
24 going to go right down the hill to the bottom where it flattens
25 out where I'm definitely not going to be anywhere within the four

1 feet.

2 Q. Uh-huh.

3 A. And everybody can still see my banner. I mean -- when you
4 blow a horn everybody is supposed to completely cease work, you
5 know, work is supposed to completely stop. Everybody is supposed
6 to be at a predetermined place of safety. That's where the
7 watchman needs to be too not standing in a line of traffic.

8 So, me personally, I mean if I -- like I went through this
9 yesterday over in my head. I was like, man, you know, if I were
10 in that position watching I would have been standing exactly where
11 he was standing. But maybe I would have known that I need to get
12 off the line of traffic no matter if it's coming on 3-track or
13 what track. It doesn't matter. If there's a train coming you get
14 into a predetermined place of safety, bottom line.

15 Q. So, and I know we talked about this with some of the other
16 folks at (indiscernible) it was you had two trains basically
17 coming at once.

18 A. Yeah.

19 Q. So, very close to one another.

20 A. Double bubble is what they call it.

21 Q. Double bubble right. So, let's say you stand back to get out
22 of the way, you know, you hear the alarm.

23 A. Yep.

24 Q. How would you know it was safe to step back up on to the tie?
25 Like what, you know, thinking that that -- there could be another

1 second train?

2 A. Really? You're going off of what you can see and then what
3 the other watchmen do. In that scenario it's kind of -- I would
4 say it's a little bit tricky because if I'm right here and I say I
5 was Luke and I have, you know, two or three whatever watchmen to
6 my left --

7 Q. Uh-huh.

8 A. -- and I got a train coming this way. Like that southbound
9 on 3-track was. I'm not going to put my banner down until the
10 last watchman puts his banner down. So, he'll put his banner
11 down. The next guy will put his banner down. Everybody puts them
12 down like, and I'll be the last one to put mine down.

13 Q. Okay.

14 A. When you have a double bubble like that, you know, two trains
15 coming at one time, I mean there shouldn't -- as long as anybody
16 has a banner up if there's a train in the vicinity nobody is going
17 to be going back to work or anything. I'm going to hold my banner
18 up and every other watchman is going to hold their banner up until
19 they're absolutely there are no more trains coming.

20 Q. Uh-huh.

21 A. But that's how you would know. If they still have their
22 banners up and you know you're clear like the train has done
23 passed you. Say, a train was going northbound and I'm standing in
24 that position --

25 Q. Uh-huh.

1 A. -- and I'm ready to put my banner down because he's, you
2 know, 10 cat poles away. If they still have theirs up then there
3 must be another train coming you're not going to put yours down.
4 So, the guys would know, hey, look banner is still up. Can't go
5 back to work.

6 Q. Okay. Did that happen relatively frequently when you guys
7 were working -- I know you said you were gone --

8 A. Yeah. I had been out of that area for like six weeks. I
9 mean I've worked in the undercutter for a while. You know, I've
10 been a welder in the undercutter for a while and you -- it's a
11 very large gang. And you have a bunch of different small sections
12 of people, you know, you have the undercutter, you have the rail
13 gang, the surfacing gang. Everybody doing their own little thing,
14 you know, with their own separate sets of watchmen and everything
15 like that. I mean sometimes when there are curves like that and
16 it's hard to see what's going on, they'll have watchmen on both
17 sides of the tracks. You know what I mean.

18 Q. Uh-huh.

19 A. As an extra layer of protection. I've never -- double
20 bubbles don't happen too too often from what I've seen but I mean
21 they do. That's why you have to make sure you always get in a
22 predetermined place of safety.

23 Q. When it does happen do you find and an employee on the ground
24 is there extra notification as to horns going or any change to the
25 normal procedure that you might think if you're not looking there

1 might be two trains coming?

2 A. You'll hear more, you know, the watchman will be really
3 really laying on their horn.

4 Q. Yeah.

5 A. That's one thing I do notice. I know if I'm watching -- if I
6 see a train coming and I got my banner up and all of a sudden, I
7 see another train coming, I'm going crazy to let the guys know.
8 But that's all you can do. I mean you're just laying on the horn
9 more than you normally would. You hit the -- each watchman will
10 hit their horn a few times and let the next, you know, let the
11 next watchman know or the work group know, hey, there's a train
12 coming. They'll have their banners up. But like I said, if you
13 see a second train then you're really going to be laying on your
14 horn to say, hey, something is up. It's a little bit different.

15 Q. Okay.

16 A. But I mean there's no special procedure for: hey, I got two
17 trains coming at the same time, be away, you know. One on each
18 side of you when you're working in the middle of two tracks.

19 Q. Right. So, as far as you can recall and yesterday was no
20 different. I mean I'm sure the guys once they acknowledged the
21 second train they were hitting the horn extra --

22 A. Oh, absolutely.

23 Q. -- you didn't know -- I didn't know the second one.

24 A. Yep.

25 Q. Okay.

1 MS. LEESE: All right. We're good. Thank you.

2 MR. PAYAN: Okay. Thank you.

3 Mr. Stearn?

4 BY MR. STEARN:

5 Q. Thank you. Steve Stearn, BMW. So, I mean we are hitting
6 the horns a little bit extra, common practice that the Maintenance
7 of Way equipment there hitting some horns too?

8 A. Yes, absolutely.

9 Q. At the double bubble are they hitting a little extra?

10 A. The equipment or the --

11 Q. The equipment, BMW equipment?

12 A. The equipment was going crazy. I mean like there was horns
13 all over the place but that's -- with the equipment that's
14 typical. I mean the guys are going to lay on the horns a lot to
15 let everybody know on the ground: Hey, you got, you know, hot
16 rail. That's just like an added, you know, obviously, the
17 watchman is already blowing his horn and everything, but that's
18 just an added thing to let everybody know.

19 Q. We've had a lot of talk about the difference in horns, train
20 horns --

21 A. Uh-huh.

22 Q. -- watchman horns, now, equipment horns and they have a
23 different sound you can recognize the difference between a train
24 horn, a watchman horn and like the horn in the bay bone or --

25 A. They are very distinctive, yes.

1 Q. Uh-huh. And your comment you said, well, you know, if I were
2 watching and this is how I might do it or this is what I may have
3 done differently. So, you have been a watchman before?

4 A. Absolutely.

5 Q. And you were qualified as a watchman?

6 A. Uh-huh.

7 Q. Do you remember how that qualification process took place,
8 what was required of you, how did you become qualified as a
9 watchman?

10 A. You have to take a class. I forget how long the initial --
11 well, when you get hired the initial class is two weeks and that's
12 everything. That's AMT2, that's RWP, everything. But as far as
13 the requal, which I've just did. So, I know. That's a 1-day
14 thing to do a requal for RWP watchman class. And you, you know,
15 you go through, you take a test but initially when you get
16 qualified as a watchman you have to shadow somebody and basically
17 do what they're doing. And then they have to watch you do it for
18 a certain amount of hours. I think that's pretty much it. Take a
19 test.

20 Q. And then -- so then there's periodic re-qualifications as a
21 watchman?

22 A. Yearly.

23 Q. Annually?

24 A. Annually, yes.

25 Q. Just like other things such as RWP, and et cetera?

1 A. Yep.

2 Q. AMT2. And so then have you been through that requal?

3 A. Yes. Twice.

4 Q. And so, then that differs from the initial --

5 A. Yeah. I think the initial is a lot more in-depth obviously.
6 See, when you do your requal nobody is watching to see how you
7 watch. When you initially do it, when you initially get your
8 watchman card, you're being basically tested not just on a piece
9 of paper but by another person, you know what I mean, in real
10 life, watching for real trains.

11 Q. Who is that person that is watching you?

12 A. Another qualified person.

13 Q. Could be anybody? Could be another qualified watchman?

14 A. Yes. It could be a qualified. It could be a foreman. I
15 mean it could be anybody.

16 Q. And they sign-off --

17 A. As long as they are watchman qualified.

18 Q. Then they would sign-off saying Mike Divadio he's good,
19 basically?

20 A. Yes.

21 Q. And that's good enough?

22 A. To their standards, yeah.

23 Q. To Amtrak's standards?

24 A. To Amtrak's standards, yeah.

25 Q. You had said that we got a MARC train coming south on three.

1 He may be slowing to make a stop at Bowie.

2 A. Uh-huh.

3 Q. You called it early. You guys are like saying, you know,
4 wow, where's the train. What's taking it so long?

5 A. Right.

6 Q. Maybe because the train is slowing for the platform stop or
7 maybe he saw it early, which would you think?

8 A. Probably slowing down for the platform, to stop at the
9 platform assuming it's a MARC train they typically stop there.

10 Q. After he blew you looked to see --

11 A. Yes. Yep.

12 Q. So, you think he had very good visual vantage point from
13 where he was standing to see?

14 A. Absolutely.

15 Q. The south bounds on three?

16 A. Yep.

17 Q. And the same on one?

18 A. One till -- he's in a curve. So, he's mostly trusting what
19 the other watchmen are telling him via horn and the banner.

20 Q. So, we know it's 261 territory, in either direction, but for
21 a northbound move on one he would pretty much be relying on the
22 advance watchman?

23 A. Yes.

24 Q. And that advance watchman was placed on the platform?

25 A. The second advance watchman was on the platform I believe.

1 If I recall.

2 Q. So, Luke was --

3 A. It should have been Luke and then another guy and then
4 another guy on the platform.

5 Q. So, from about where you were performing the welding
6 functions and where Luke was standing would he be able to see the
7 first advance watchman, the one on the platform?

8 A. From his angle I'm not sure. From the field side of 3-track,
9 yeah, because I remember looking at them yesterday and seeing all
10 the watchmen standing out there. But I'm not a hundred percent
11 sure from where he was standing if he would be able to see them.
12 He could definitely see the next one in line, obviously, you know,
13 two cat poles away. But as far as the one beyond that I'm not
14 really a hundred percent sure.

15 Q. So, you had been away really for crane training --

16 A. Uh-huh.

17 Q. -- for a while and unfortunately for you or --

18 A. The day I came back.

19 Q. -- the day you came back, are you qualified NORAC?

20 A. Yes.

21 Q. And had you been previous to your crane training?

22 A. Yes.

23 Q. In your NORAC training were placing watchmen covered in that
24 training?

25 A. I do not -- I don't think so. I don't think it's in NORAC.

1 I could be wrong. I don't remember covering that. I know --

2 Q. How about hotspots, Mike, do you know much about hotspots?

3 A. Yeah. It's in the RWP book.

4 Q. I'm sorry.

5 A. It's in every RWP book they should have hotspots.

6 Q. Was 119 a hotspot?

7 A. With the station and the curve, I would just go off the top
8 of my head probably say yes.

9 Q. Given the work you guys had to do yesterday, given the fact
10 that number 2-track was out of service, 1 and 3 were live, traffic
11 in either direction, maximum authorized speeds, three watchmen are
12 placed and then Luke a floater with the welders; did you feel that
13 was adequate watchman protection?

14 A. I feel that the -- I feel that it was probably adequate but
15 depending on if and how much equipment was running it might not
16 have been adequate. That goes with them on their whistle test.
17 You know what I mean. But as far as like their distance between
18 each other in a curve and all that kind of stuff that maybe it
19 wouldn't be adequate but, like I said, I don't -- I wasn't
20 watching and I didn't deal the whistle test. I didn't do any of
21 that stuff. I don't know.

22 Q. So, in 2-track M&W a number of pieces of Maintenance of Way
23 equipment are occupying 2-track out of service, speed swings, rail
24 heaters, welding truck, Brandt, et cetera, --

25 A. Yeah. The Brandt truck was further north, but yeah.

1 Q. They are moving back and forth in that out of service as work
2 changes progresses.

3 A. Right.

4 Q. And so, their movement could like change -- require the
5 change of the watchman locations?

6 A. Absolutely. Every time -- I mean they say whenever the work
7 conditions change you got to do a, you know, redo a job briefing
8 whatever, which you might have to like -- in the job briefing I
9 remember they said one to seven watchmen. I believe that's what
10 it was. One to seven watchmen. He said we are using x-amount for
11 now because of where we are, which that's probably adequate for
12 that spot. But, you know, obviously, if you're spread out more
13 then you're going to need more watchmen. You can't just put two
14 watchmen four poles away from each other and expect them to be
15 able to warn each other.

16 Q. And you touched on whistle test, what is that?

17 A. Whistle test when all the watchmen get placed by the foreman
18 or the employee in charge, whatever, they do a whistle test to
19 see, you know, how audible they are with each other. They don't
20 do the horn obviously because the horn -- the whistle test is, you
21 know, if everything else fails you use your whistle test. So, if
22 your air horn runs out of air, if it breaks, if it doesn't work,
23 you use a whistle. So, the whistle is obviously in a way a bit
24 quieter than an airhorn. So, they use the whistle to make sure
25 that: hey, I can warn the next guy or warn the gang that there's a

1 train approaching. And that has to be from the first watchman to
2 the last -- from the gang watchman to the very far advanced
3 watchman. They go down the line and everybody blows their whistle
4 and they signal, yeah, I can hear you, you're good or, no, we need
5 to reassess and move closer.

6 Q. So, then, if equipment was running such as, I don't know,
7 rail grinders or maybe a mat well unit or rail saws, et cetera,
8 maybe what earlier was a sufficient distance for the whistle test
9 or sufficient placement for watchman given the whistle test maybe
10 those conditions changed.

11 A. They do.

12 Q. And that has happened in your gang before?

13 A. Yeah.

14 Q. Do you recall yesterday if there was a whistle test
15 conducted?

16 A. I do not remember.

17 MR. STEARN: Okay. Thank you.

18 MR. PAYAN: All right. Thank you.

19 Mr. Fields.

20 BY MR. FIELDS:

21 Q. Just a couple, Mike, if I could. I don't know how tall and I
22 apologize if this is redundant, how tall Josh was, but if he's
23 your stature --

24 A. Josh?

25 Q. Yeah.

1 A. Luke?

2 Q. Or Luke, excuse me.

3 A. He's pretty tall. He's probably maybe a couple inches taller
4 than me. Like I said, I only met him one time but he looked
5 taller than me.

6 Q. So, if he were to place himself like you said down on the
7 access road, do you think he could visually see the other watchman
8 once the coast is clear?

9 A. I really don't honestly. See, the issue is the cat poles are
10 kind of placed in a spot, obviously, they can't, you know, they
11 got to be so many feet off the track. And that hill there I
12 believe the cat pole was like coming right out of that hill. The
13 base of the cat poles come right off of that hill. If he's
14 standing down here and he's got a cat pole here and he's got a
15 watchman up here (indicating) he's not going to be able to see
16 through the cat pols to see the other watchman or an approaching
17 train.

18 Q. I apologize because I haven't been to the site yet so I can't
19 visualize.

20 A. It's a decent curve. You know what I mean. So, it's not
21 like it's straight tangent track where, you know, you just get on
22 one side and you're good. It's going like this (indicating). So,
23 you have cat poles going like this (indicating), which impedes
24 your visibility. You know what I mean. That's why I said if I
25 was in that position I probably would have been standing in the

1 same spot because that's where you can see the most. You know
2 what I mean.

3 Q. So, then, how would you know it would be safe to come back up
4 to shoulder?

5 A. Well, as a watchman, I mean, you're their protection. So,
6 you have got to be able to assess the situation. You know what I
7 mean. You got to -- you're the one that's providing protection
8 for the workers. So, you should be able to provide your own
9 protection. You know what I mean.

10 If the other guys have their banners down that that other
11 train went by then -- and you have nothing coming on your right
12 side, then I would assume you would be able to come back up, you
13 know, obviously looking left to right before you get back up on to
14 the edge of the tie up anywhere near fouling the tracks, but --

15 Q. Okay. All right. And you said that's the first time you
16 talked to Luke.

17 A. Yes.

18 Q. Did he know when you were talking to him that he was going to
19 be the designated watchman for you guys that day at that time?

20 A. I don't believe so because we didn't really talk about it.
21 like I said, I didn't even know his -- I didn't even know his job
22 title. You know what I mean. I just -- we were talking about
23 boots.

24 Q. Okay.

25 A. So, it was off topic, you know, not -- kind of railroad

1 related but not, you know, work related at that exact moment. You
2 know what I mean.

3 Q. Yeah. I appreciate it.

4 MR. FIELDS: That's all I got. Thanks.

5 MR. PAYAN: All right. Thank you.

6 Mr. Hoepf.

7 BY MR. HOEPF:

8 Q. I don't really have anything new here for you. I think we
9 covered pretty much, you know, covered this. I think, obviously,
10 you have gotten a lot of questions about position, you know, where
11 you were standing --

12 A. Right.

13 Q. -- (indiscernible) on the topic, coming back to it. So, I
14 mean you made it pretty clear that that was really the only
15 position that he could be standing in (indiscernible) --

16 A. Mostly north, but also south.

17 Q. Okay.

18 A. -- I mean, obviously, he has to be able to look at the other
19 watchman to see.

20 Q. Uh-huh.

21 A. Because if there is an issue like Steve was saying if another
22 noise like something -- a machine comes on and it's super loud and
23 he can't hear the horn. Well, he needs to be looking left to
24 right to be able to see the banner coming --

25 Q. Right.

1 A. -- you know what I mean, as visible, hey, there's a train
2 coming.

3 Q. Right.

4 A. Any time you're watching you shouldn't just be looking one
5 way. It doesn't matter if you're an advance watchman or what.
6 People miss trains. There's human error is just what it is.
7 There's that factor that you have to introduce in that situation.
8 And you can't always count on somebody that might be off of their
9 game or you never know what's going on in somebody's personal life
10 and if somebody says, hey, you're watching today.

11 Q. Right.

12 A. If they are not in a mental capacity to watch that day
13 because they got something going on at home or whatever, they're
14 not going to be completely with it. So, you need to be as a
15 watchman prepared to maybe pick up a little bit of slack from, you
16 know, your co-worker or whatever, you know, people sometimes just
17 don't see things. They are looking this way and all of a sudden
18 there's a train right there. You know what I mean.

19 Q. Uh-huh.

20 A. So, yes, you need to have your head on a swivel as a
21 watchman. You should be looking left and right. It doesn't
22 matter what if you're a gang watchman, advance watchman doesn't
23 matter. You should be looking left and right.

24 Q. Right. Right. Yeah. You know, we're just trying to piece
25 it together and, you know, it sounds, you know, obviously you

1 know, your expectations play a role and, you know, it sounds like,
2 you know, there was -- it was a little bit more geared toward that
3 northbound direction --

4 A. Right.

5 Q. -- and it sounds like he was pretty highly vigilant in that
6 he, you know, he caught that southbound MARC train quickly, you
7 know, and so it's not like he was stooping at the wheel.

8 A. Yeah.

9 Q. But then, you know, this train comes from the south and, you
10 know, it's coming on at a pretty good clip. So, I'm just, you
11 know, I guess I'm just trying to think, you know, is this, you
12 know, earlier in the day I mean the trains are coming from the
13 north or heading north I mean, she would see them coming then he
14 would clear down to the --

15 A. (Indiscernible) I don't remember if there were any trains
16 that came by that's part of what I was telling because --

17 Q. Oh, because it was only 9:00.

18 A. Yeah, it was like 9:00 in the morning. We got to Bowie at
19 roughly 7:00 and by the time you do a job briefing you're going to
20 have a hundred guys sign a job briefing we literally had just got
21 out there.

22 Q. Oh.

23 A. By the time it happened we literally had just got out on the
24 tracks not very long before that.

25 Q. I got you. So, that literally could have been the first

1 northbound train passing you guys?

2 A. Could have been. I'm not -- don't hold me to it --

3 Q. Oh, yeah, yeah.

4 A. -- but it absolutely could have been. I mean taking a
5 scenario like this with everything that happened, you know, so
6 fast, I mean I --

7 Q. Right.

8 A. -- see trains go by me every day. I don't count them.

9 Q. Right. Right.

10 A. I just make sure I'm not in front of them.

11 Q. Yeah, well, I mean you've got a job to do, you know, it's not
12 like knowing --

13 A. Yes, absolutely.

14 Q. -- you were going to be quizzed on what was the watchman
15 doing. I mean that's probably not the focal point of, you know,
16 what you're doing.

17 A. Right.

18 Q. You know, we are just trying to kind of get an idea of what's
19 going on --

20 A. Yeah. It makes perfect sense. I would say maybe he just
21 didn't hear the other watchman blowing his horn again.

22 Q. Yeah.

23 A. you know what I mean.

24 Q. Yeah. I mean you hear the (indiscernible) trainman blowing
25 his horn equipment.

1 A. Right.

2 Q. So, you said you hit your horn?

3 A. Yeah. They were all -- all the horns were going, speed
4 swings were going, I mean there was horns galore. Everybody was
5 blowing their horns --

6 Q. Yeah.

7 A. -- which is typical for a line up like that with all that
8 equipment --

9 Q. Right.

10 A. -- when there's a train coming it's not only, you know,
11 everybody gets on the radio, hey, hot rail, you know, and
12 everybody is going with their horns.

13 Q. Uh-huh.

14 A. So, that's pretty typical process for any kind of production
15 gang that I have been in --

16 Q. Yeah.

17 A. -- where you have on-track equipment everybody is letting
18 everybody know.

19 Q. Yeah. Yeah. That make sense. Makes sense. And I hear what
20 you're saying about, you know, in deed, we were out there at the
21 site, you know, yesterday and, you know, it's a pretty steep drop
22 off there.

23 A. Really.

24 Q. And so, and now that I'm thinking about it, you know, we're
25 trying to come up with why he'd be, you know, standing where he

1 was, but, you know, I don't know if you were down on that access
2 road how you would see --

3 A. If you have never watched you would understand why
4 (indiscernible) --

5 Q. Yeah.

6 A. -- anybody would. That's why I put my -- I was going over it
7 through my mind yesterday. I was like, if I'd been standing there
8 that easily it could have been me. It could have been you. It
9 could have been anybody.

10 Q. Yeah. Yeah.

11 A. You know what I mean?

12 Q. Yeah. I mean --

13 A. (Indiscernible) totally find a way to get away from traffic
14 to stand there

15 Q. Right. Right. Because I mean --

16 A. He always takes that chance.

17 Q. He's responsible for, you know, providing safety. So, I mean
18 he's got the job to do. So, you know, he can't just be -- and so
19 I mean, let's say hypothetically, you know, you were a guy that
20 was by the book, never violated any rule, you know, because
21 probably technically there's a rule somewhere that says, you know,
22 you're not supposed to stand, you know, stand there to be a
23 watchman. I mean correct me if I'm wrong, but --

24 A. You are allowed to stand there because (indiscernible) --

25 Q. You have to go to what?

1 A. It has to be discussed in the job briefing that, hey, the
2 watchman will be fouling.

3 Q. Oh.

4 A. Will be fouling the track, you know, live track on your
5 watch.

6 Q. Okay.

7 A. Everybody is aware of that.

8 Q. Okay. Okay. So, it is allowed. It's just you talk about it
9 acknowledges the exit route as a risk and then you just do it
10 anyway?

11 A. But then you're also like you're constantly moving too. So,
12 it's like the conditions are constantly changing.

13 Q. Right.

14 A. You know what I mean?

15 Q. Right.

16 A. If he would have been -- he was directly in between --
17 roughly directly but in between two cat poles.

18 Q. Uh-huh.

19 A. If he would have been placed a little bit north he would have
20 been able to stand on a cat pole base, which I've done numerous
21 times too. Typically, around the cat pole bases the ballast is
22 flat. So, that's usually a spot that you want to stand. But if
23 you are in the middle between the two you kind of get, you know,
24 it's kind of tough.

25 Q. Oh, okay. Okay. Yeah, I'm just trying to, you know, we are

1 just trying to appreciate it that's what we are trying to do and,
2 you know, it sounds like you have got a difficult situation where
3 you need that visibility and I'm not really seeing any
4 alternatives, you know, I mean you have any suggestions about --

5 A. The only suggestion that I can possibly think of would be in
6 every hotspot in the whole territory to build platforms -- we have
7 this hotspot book. It tells you how many watchmen are suggested
8 for this curve or, you know, whatever -- for whatever the track
9 conditions are. Okay. They should build platforms, like small
10 platforms that the watchman can stand on in a predetermined place
11 in that, you know, maybe in that hotspot book you need five
12 watchmen here. Put five little platforms out that the watchman
13 can stand on whenever you have somebody working there that may
14 need to watch, you know what I mean.

15 Q. Right. Yeah, I mean --

16 A. It can be the bare minimum, you know. You absolutely have to
17 have four watchmen here spaced apart maybe a pole-and-a-half, two
18 poles, whatever. So, you put those platforms, you know, spaced
19 out that far to where the watchman is not -- cannot tell the track
20 but he has a safe place to stand where he doesn't have to worry
21 about falling down the hill breaking his leg.

22 Q. Yeah. I mean that's another (Indiscernible) like you said,
23 if he's not seeing the ties, you know, if he's standing on the
24 edge of a --

25 A. He takes a chance at getting hurt either way, you know.

- 1 Q. Yeah. Yeah. Okay. Thanks, Mike.
- 2 MR. FIELDS: I think I'm through.
- 3 MR. PAYAN: Okay. You doing okay?
- 4 MR. DIVADO: Yeah.
- 5 MR. PAYAN: I think we are almost done.
- 6 FRA, do you have any follow-up questions?
- 7 MR. TOMASSONE: No, I don't.
- 8 MR. PAYAN: No. Okay. Amtrak?
- 9 MS. LEESE: We're good.
- 10 MR. PAYAN: You good. Mr. Stearn?
- 11 MR. STEARN: We are good. Thank you.
- 12 MR. PAYAN: Very good. Mr. Fields?
- 13 MR. FIELDS: No, thank you.
- 14 MR. PAYAN: Okay. Mike Hoepf, back to you any?
- 15 BY MR. HOEPF:
- 16 Q. No. I think we pretty much covered it. You know, Rueben has
17 got some standard questions just to end with and, of course, you
18 know, if you have anything else to add or, you know, I mean you
19 can say so now or you can contact us later, I mean if you have any
20 other suggestions for other safety improvements. You know, we've
21 talked today about restricting train speeds through, you know,
22 construction zones.
- 23 A. I'd agree with that.
- 24 Q. Yeah.
- 25 A. If you're working in a center track where you got live track

1 on both sides, especially in a curve I would totally agree to
2 that. In tangent, in a tangent track, straight track --

3 Q. Uh-huh.

4 A. -- I don't think it's that much of a deal, that big of a deal
5 because you can clearly see on a straight track. But the issue is
6 in that curve is a totally different story.

7 Q. Yeah. I mean it definitely sounds like a hazard, you know,
8 when you have got trains going zipping by

9 A. 100, 110-mile-an-hour track. I don't know how fast the train
10 was going, but that one track I believe is like 110.

11 Q. Yeah, a good 100 miles an hour. (Indiscernible) it might be
12 a different matter, but, you know, I wouldn't want to be in that
13 situation. What about some sort of warning device that's not a
14 horn? You know, we talked about -- do you wear hearing
15 protection?

16 A. Yeah. And that's another thing that I kind have issue with.

17 Q. Yeah.

18 A. Because we are required to wear hearing protection no matter
19 what even the watchmen even though they are watching they are
20 around loud equipment we are required to wear it where we get,
21 what's that a 16 -- what is it 1872? You're written up for not
22 wearing ear plugs.

23 Q. Yeah. I mean, you know, I'm not a -- I'm a psychologist.
24 I'm not a railroader. You know, and so I just don't understand
25 it's like you are wearing ear protection but then --

1 A. You're expected to hear.

2 Q. Yeah. You're supposed to get an audible warning when there's
3 a train coming. So, it's like, you know, you have got multiple
4 trains, multiple types of horns, (indiscernible) and air horns and
5 you're supposed to disambiguate, that's not even a good word, but,
6 you know, you're supposed to figure that out through you're
7 hearing protection, you know, while you're working potentially
8 using noisy equipment. I mean does that -- am I missing something
9 here? Is that --

10 A. Yeah, sounds about right.

11 MR. HOEPF: All right. Thanks again. Like I said, if you
12 have any other thoughts for (indiscernible) now or, you know, get
13 in contact with us later.

14 MR. PAYAN: Okay. Thank you. Mr. --

15 MS. LEESE: (Indiscernible).

16 MR. PAYAN: Oh, go ahead Amtrak.

17 MS. LEESE: Sorry.

18 BY MS. LEESE:

19 Q. Just one more. And I don't know if -- in your opinion, and I
20 don't know if you happen to notice while you were out there or
21 would you suspect but do you think the other three watchmen were
22 likely positioned the same way standing on the tie?

23 A. To my knowledge, I think that they were -- well, the one was
24 on a platform.

25 Q. Right.

1 A. So, he was in a perfectly safe place. I believe the next one
2 up was placed like directly at a cat pole. So, like I said he had
3 that safe place to stand either at the base or the ballast around
4 the base is generally flat to an extent where it's a lot easier to
5 stand on than the side of the hill.

6 MS. LEESE: Okay. Thank you.

7 MR. PAYAN: All right. Thank you.

8 Mr. Stearn?

9 MR. STEARN:

10 Q. Yeah. Mike, you touched on something there and I'd like to
11 visit. I mean I'm an old railroader and we never had hearing
12 protection. We didn't even have ears when I was doing it on the
13 road. But, watchmen wear hearing protection?

14 A. Everything. Any required BPE you're required to wear
15 anywhere else. They require you to wear it no matter what you're
16 doing.

17 Q. And so that would like dramatically impact things like
18 whistle tests and warning horns?

19 A. Yeah. (Indiscernible).

20 Q. Do watchmen typically wear their --

21 A. If I'm watching, no, I'll take the 1872 because I think it's
22 unsafe. But if -- some watchmen do. Some people wear ear plugs
23 day in and day out because they don't feel like getting written
24 up. They don't, whatever, you know what I mean. They just wear
25 it because they are told, hey, you got to wear this thing

1 especially it's a trend in the undercutter more than anywhere else
2 I've ever been. I've never -- I'm not dumb. I've been a welder
3 for long enough when I'm cutting with a saw or I'm grinding, you
4 better believe I've got my ear protection in because I don't want
5 to go deaf. But when I'm doing anything else, you know, I don't
6 care. But in the undercutter they have a thing like, hey, man you
7 need to wear your ear protection because the trains are so loud
8 the horns on the train, you know, they will hurt your ear. Man, I
9 want to hear what's going on around me. I want to hear that train
10 coming. I don't care how loud it is. I want to hear it coming
11 before it hits me.

12 Q. Is hearing protection typically covered in job briefing or
13 on-track briefings?

14 A. Yeah. Hearing protection -- they always say your hearing
15 protection.

16 Q. Are readily available?

17 A. Yeah. It's always there. I mean if someone needs it we have
18 it. Welding truck stop -- ear buds and stuff like that, you know
19 what I mean. I've been told working in the cutter that or with
20 the cutter that they want it on at all times. And the reasoning
21 for that is because the trains, like I said, the trains, the horns
22 on the trains they are so loud that's over whatever decibels that
23 requires hearing protection.

24 Q. One other quick thing too and I'm -- as we talk to workers
25 who were there and we are all getting a visualization of what was

1 going on, 2-track had previously been undercut.

2 A. To my knowledge, yes.

3 Q. That's right. You weren't there.

4 A. I wasn't there but I mean you could tell it's fresh undercut
5 surface.

6 Q. But it was fresh undercut and fresh surfaced.

7 A. Uh-huh.

8 Q. Meaning it was like fresh dusty?

9 A. It was very dusty.

10 Q. So, a passing train is a lot of dust, reduction of
11 visibility, et cetera, or --

12 A. I would agree. Yeah. I did notice that when the train went
13 by I did notice how dusty it was. I was, wow, you can tell that's
14 just been surfaced.

15 Q. Dropped stone and regulated.

16 A. I did notice that now that you mentioned that.

17 Q. How far up to the north was the surfacing equipment? Could
18 you see them from where you guys were?

19 A. No. But they were -- the surfacing equipment was past where
20 that train stopped. I mean it was way down there. It was pretty
21 far down there.

22 Q. Okay.

23 A. So, I couldn't, we couldn't see it from where we were but
24 later that day when we left, you know, after the incident happened
25 we went out that way and drove past it. So, it was in front of

1 where the, that train was sitting.

2 Q. So, it brings another point. Surfacing unit was working that
3 day?

4 A. I believe so.

5 Q. Surfacing unit has its watchmen?

6 A. Yes.

7 Q. Surfacing unit uses their Maintenance of Way horns like you
8 guys do, your hot rail, the watchman is hitting the air horn, the
9 tampers and regulators are bumping their horns, they are on the
10 radio, hot rail, hot rail?

11 A. Yeah.

12 Q. Any of that coming through to you guys a mile away?

13 A. If it's on the radio it should be. You should definitely
14 hear it.

15 Q. But the watchmen don't have radios.

16 A. Well, yeah, but I mean it the guys and the equipment are
17 saying hot rail, which typically they do, then, yeah, that'll come
18 through to us because we are pretty much all on channel 47.

19 Q. So, the surfacing unit to your north a couple miles even you
20 hear them on the radio talking amongst themselves about a hot
21 rail, you know in anticipation you'll have probably a southbound
22 move on 3 or 1?

23 A. Right. Correct. Absolutely.

24 Q. Okay. All right. Good.

25 MR. STEARN: I'm done. Thank you.

1 MR. PAYAN: All right. Now, any other questions?

2 (No response.)

3 MR. PAYAN: Okay. We are almost done. I just need some
4 basic boilerplate information from you.

5 BY MR. PAYAN:

6 Q. Can you state your full name and spell your last name for the
7 record, please?

8 A. Michael Ryan Divadio, last name is D-i-v-a-d-i-o.

9 Q. Okay. And current employer is?

10 A. Amtrak.

11 Q. Amtrak. And your current position?

12 A. Butane welder

13 Q. Okay. And can you kind of walk us through when you got hired
14 and the different positions you have been, you have held with
15 Amtrak?

16 A. Started out as a trackman in 22016 and became a driver, my
17 driver's date worked all over the place. I've worked in
18 Harrisburg, Lancaster, Paoli, Baltimore, Perryville, down here
19 even further than normal Baltimore division. What else?
20 Elizabethtown, either way. I started out as a trackman, did a 90-
21 day, roughly 90 to 100 days in Perryville where I got hired. Went
22 to Harrisburg, got a driver date. Was a driver there for about a
23 month. My back area though. And I went to Baltimore and then
24 went back to Perryville as a backhoe operator. Got qualified as a
25 welder. Then I became a welder. And then I think about that time

1 is when I came to the undercutter I believe. And I have been in
2 the undercutter as a welder for a while, definitely over six
3 months but I'm not exactly sure how long but I have been holding
4 the same position in the undercutter since I've been here.

5 Q. Okay. And for your current position what railroad
6 certifications do you require and are you up to date on them?

7 A. I have NORAC and I'm up to date on that. I just did that
8 actually I believe this year. I have RBP an AMT2, watchman card,
9 train brakes, I think that's about it.

10 Q. Okay. Very good. Once we go on the record I'm going to ask
11 for some contact information so we can send you a transcript and
12 you can read it and send us corrections. But thank you very much
13 for coming in. We appreciate your information. And thank you for
14 sticking around.

15 A. Okay.

16 MR. PAYAN: And we are off the record at 1:10.

17 (Whereupon, the interview was concluded.)
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25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: AMTRAK WORKER FATALITY
 BOWIE, MARYLAND
 APRIL 24, 2018
 Interview of

ACCIDENT NO.: RRD18FR006

PLACE: Bowie, Maryland

DATE: April 25, 2018

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.



Letha J. Wheeler
Transcriber