

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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MULTIPLE FATALITIES TO PATCO

CONTRACTORS ON BENJAMIN FRANKLIN

BRIDGE NEAR CAMDEN, NEW JERSEY

ON OCTOBER 14, 2022

Accident No.: RRD23FR001

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Interview of: TIM KELLY, Assistant Superintendent
Skanska Koch

DoubleTree Inn
Philadelphia, Pennsylvania

Monday,
October 17, 2022

APPEARANCES:

MICHAEL BACHMEIER, Operations Group Chairman
National Transportation Safety Board

RUBIN PAYAN, Signal and Train Control Group Chairman
National Transportation Safety Board

PHILIP HERBERT, Accident Investigator
Federal Transit Administration (FTA)

ROBERT FINNEGAN, Chief Security and Safety Officer
Delaware River Port Authority (DRPA)

JOSEPH EBLING, Sergeant
DRPA Police Department

TODD KROPILAK, Program Manager
State Safety Oversight
New Jersey Department of Transportation (NJDOT)

MICHAEL MCKENNA, Attorney
Cohen Seglias
(On behalf of Mr. Kelly)

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I N T E R V I E W

(1:27 p.m.)

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2
3 MR. BACHMEIER: Good afternoon. My name is Michael
4 Bachmeier, and I am the NTSB operations group chairman for this
5 accident. We are here today, on October 17th at 1:27 p.m. at the
6 DoubleTree hotel, to conduct an interview with Tim Kelly, who
7 works for Skanska. The interview is in conjunction with NTSB's
8 investigation of the accident near the Ben Franklin Bridge. The
9 NTSB accident reference number is RRD23FR001. The purpose of the
10 investigation is to increase safety, not to assign fault, blame,
11 or liability.

12 Before we begin our interview and questions, let's go around
13 the table and introduce ourselves. Please spell your last name,
14 who you're a representative, and your title. I'd like to remind
15 everyone to speak clearly so we can get an accurate recording.
16 I'll start off and then pass it off to my right.

17 Again, my name is Michael Bachmeier. The spelling of my last
18 name is B-a-c-h-m-e-i-e-r, and I am the NTSB operations group
19 chairman for this accident.

20 MR. HERBERT: My name is Philip Herbert, H-e-r-b-e-r-t. I am
21 an accident investigator with the Federal Transit Administration.

22 MR. FINNEGAN: I'm Robert Finnegan, F-i-n-n-e-g-a-n. I am
23 the chief security and safety officer for the DRPA.

24 SGT. EBLING: Joseph Ebling, E-b-l-i-n-g. I'm a sergeant
25 with the DRPA Police, Badge 101.

1 MR. KROPILAK: Todd Kropilak, K-r-o-p-i-l-a-k. I'm the
2 program manager for NJDOT, State Safety Oversight.

3 MR. BACHMEIER: Rubin?

4 MR. PAYAN: I am Rubin Payan with the National Transportation
5 Safety Board. I am the signal and train control group chairman.

6 MR. McKENNA: My name is Michael McKenna. I'm with the law
7 firm of Cohen Seglias, and I'm here today as Mr. Kelly's counsel.

8 MR. KELLY: My name is Tim Kelly, K-e-l-l-y. I'm an
9 assistant superintendent with Skanska Koch.

10 MR. BACHMEIER: Okay. Thank you. Tim, do we have your
11 permission to record our conversation with you today?

12 MR. KELLY: Yes.

13 MR. BACHMEIER: Do you understand the transcription will be
14 part of the public docket; as such, we cannot guarantee any
15 confidentiality?

16 MR. KELLY: Yes.

17 MR. BACHMEIER: As we discussed, you have a representative
18 with you today, Mr. McKenna; is that correct?

19 MR. KELLY: Yes.

20 MR. BACHMEIER: Okay. I'd like everyone to ask -- clearly
21 announce your name and title before questioning.

22 With that --

23 INTERVIEW OF TIM KELLY

24 BY MR. BACHMEIER:

25 Q. Tim, could you give us a synopsis of your work experience

1 taking us up to your present job and let us know how long you've
2 been in your current position?

3 A. Yeah. I've been employed full time with Skanska Koch since
4 August of 2016. Prior to this, I've worked on other bridges,
5 airports. I've been at the Ben Franklin Bridge project since
6 March of 2020, working with ironworkers, laborers, overseeing
7 structural steel repairs, and other self-performed activities.

8 Q. Okay. So, on the night of question, on the night of October
9 14th, 2022, what time did you report to your project out there?

10 A. I was there by -- I was in my office by 8:15 p.m.

11 Q. Okay. Where is your office? Do you have an office right
12 there at --

13 A. Yeah, there's two different offices. I was in the contractor
14 yard; we call it our shape yard. I have like a Conex box office
15 there. So --

16 Q. Okay. Okay. And now, what was your -- for the night, now,
17 was Skanska going to do the work that night or were you -- were
18 you guys doing the work that night and what was the scope of the
19 work?

20 A. So Skanska had ironworkers and laborers on site that night as
21 well. The ironworkers had miscellaneous steel repairs going on,
22 on the underdeck and the laborers were working on a few
23 housekeeping items.

24 Q. Okay. And so it was all Skanska employees working?

25 A. Along with JPC was on site as well.

1 Q. And what was JPC? Is that a -- were they -- are they
2 affiliated with you?

3 A. They're a subcontractor for us.

4 Q. Okay. They're a subcontractor. And so do you oversee, as an
5 assistant superintendent, do you oversee your employees and the
6 subcontractors?

7 A. Yes. I help with the oversight of the subcontractors.

8 Q. And so what was -- the night of -- what was JPC going to do
9 that night?

10 A. JPC was actually going to be in three different locations.
11 They had work on the New Jersey approach stripping form work.
12 They were going to work at New Jersey anchorage on waterproof
13 umbrella column repairs, and then Philadelphia anchorage as well
14 on chipping the overlay.

15 Q. Okay. So you said three different spots there.

16 A. Um-hum.

17 Q. How many were with -- were they all with PATCO right on the
18 rail or -- was all of the stuff with the rail or no, like on the
19 bridge?

20 A. Everything was on the bridge, yes. I don't -- not all three
21 work locations were track sensitive, if that's what you're asking.

22 Q. Okay. Yep, yep, that's what I am, yep.

23 A. Yeah.

24 Q. Okay. So before something like this goes into effect, if
25 you're going to work on a bridge and you're working with PATCO,

1 who makes the determination if you need a flagman if you're going
2 to work on the right-of-way? Is that determined by you on site?

3 A. That's all in the contract.

4 Q. Okay. Okay. The contract states if you need a flagman?

5 A. Correct.

6 MR. BACHMEIER: Okay.

7 Phil, I'm going to pass it off.

8 BY MR. HERBERT:

9 Q. Phil Herbert with the Federal Transit Administration.

10 You mentioned the term track sensitive when he was -- when
11 Mike was asking about a flagman. So you said that there was New
12 Jersey approach, New Jersey anchorage, and the Philadelphia
13 anchorage.

14 A. Correct.

15 Q. Do you know which one of those were track sensitive?

16 A. The two anchorage locations, the work -- they actually had to
17 enter into that track envelope. So New Jersey anchorage and
18 Philadelphia anchorage, they would've actually had work on the
19 track.

20 Q. Okay. And were those work areas done simultaneous or was it
21 one area and then to the next area?

22 A. The previous night they were working both areas
23 simultaneously.

24 Q. And then that night was it simultaneous?

25 A. I think the plan was to work them simultaneously.

1 Q. And with regard to the JPC subcontractors, the two gentlemen
2 that were struck, did you have any contact with them?

3 A. I met JPC in our contractor yard for a JHA, like a pre-shift
4 meeting. I spoke with the foreman. We were just discussing where
5 he was going to be working that night and I went over a few work
6 items with him. I can't say for sure that I spoke directly with
7 any of the --

8 Q. But you spoke to a JPC?

9 A. Correct.

10 Q. Okay.

11 A. A foreman.

12 Q. And what was that discussion like? I mean, briefly, if you
13 can.

14 A. Just going over where they were going to be working that
15 night, what they were going to be working on, and what support
16 they needed from us.

17 MR. HERBERT: Okay. Okay. I think I'm good. Thank you.

18 MR. BACHMEIER: Robert?

19 MR. FINNEGAN: Rob Finnegan, DRPA. I have no questions at
20 this time. Thanks.

21 SGT. EBLING: Joe Ebling, DRPA. No questions at this time.

22 MR. BACHMEIER: Rubin?

23 MR. PAYAN: You missed --

24 MR. BACHMEIER: Oh, sorry, Todd. Sorry, Todd.

25 BY MR. KROPILAK:

1 Q. Todd Kropilak, NJDOT. You said you had a job hazard analysis
2 with the workers. Was that written or verbal or --

3 A. Our discussion was verbal. I'm not sure, to be honest with
4 you.

5 Q. Okay. In general, for the work was there a site-specific
6 plan developed for working on the bridge?

7 A. Yes. And then there's plans more specific to each activity.

8 MR. KROPILAK: Okay. That's all I have.

9 BY MR. PAYAN:

10 Q. Okay. So this is Rubin, NTSB. Mr. Kelly, you mentioned that
11 you're involved with requesting the flagmen for the work groups.
12 And what's that procedure involve, to your understanding? I mean,
13 how do you make that happen?

14 A. I coordinate with the team that PATCO sends out for the
15 outage. That's usually the maintainers and then the flagman. And
16 they just let me know when the track is out and we're safe to go
17 to work on the track.

18 Q. Okay. So they just show up -- a flagman shows up and then
19 you assign it to the crew? Or --

20 A. I'm not sure what you mean.

21 Q. I guess I'm saying -- do you ever request more than one
22 flagman or, no, it's just one flagman? Or how do you determine
23 how many flagmen you need?

24 A. We request the number of flagmen via email in our look-aheads
25 the week before.

- 1 Q. So a week before, you're planning the work?
- 2 A. Um-hum. Yeah.
- 3 Q. Okay. And for this job, did you -- or this -- on Friday
4 night you requested one flagman?
- 5 A. I'm not sure 100 percent, to be honest with you --
- 6 Q. Okay.
- 7 A. -- on the number.
- 8 Q. And normally is there one flagman for everybody on the outage
9 or per crew, or how does that work?
- 10 A. It changes. I don't know where they're working, but -- I'm
11 not sure how many were requested for that shift. I would have to
12 look.
- 13 Q. Okay. But you said there was going to be two work groups
14 working. Are these locations far apart, close by?
- 15 A. I'm not sure of the whole distance, but one would be New
16 Jersey anchorage, one would be Philadelphia anchorage. I know you
17 guys aren't familiar with the bridge, but --
- 18 Q. I'm not, yeah.
- 19 A. Yeah.
- 20 Q. That's why I'm trying to get an idea of how far apart they --
- 21 A. A half mile, maybe.
- 22 Q. Half a mile?
- 23 A. Yeah.
- 24 Q. Okay. And have you ever done that in the past, where you
25 work at the two locations?

1 A. Yes.

2 Q. What have they used in the past? One flagman, two flagmen,
3 three?

4 A. Honestly, I'm not sure. I believe it's usually one flagman.

5 Q. One flagman for both? Okay. And then on the crews from JCP
6 [sic], do they have a person in charge that talks to the flagman
7 or does that coordination go?

8 A. JPC, I do not believe -- I don't believe they talk to the
9 flagman, no.

10 Q. They don't?

11 A. No.

12 Q. Does the flagman talk to you when they report to the location
13 for work?

14 A. I deal with PATCO, the maintainers who put the outage in
15 place.

16 Q. Okay. And does the flagman or the PATCO representative sit
17 in on your job briefing before you start?

18 A. No.

19 Q. No? Okay. So they're not -- they just go with the crew?

20 A. Um-hum.

21 MR. PAYAN: Okay. I think that's all I have for now.

22 Mike, thank you.

23 BY MR. BACHMEIER:

24 Q. So you're saying, if I'm -- I just want to make sure that I'm
25 understanding.

1 A. Yeah.

2 Q. So when this work event starts, right, the dispatcher control
3 center talks to them, you know -- or the signalmen call up and say
4 they want to take out for the outage. They get it, and then the
5 dispatcher, they do all their checks, they get ahold of the
6 flagman.

7 A. Um-hum.

8 Q. The flagman then talks to you and then you let JPC know that
9 they're in the clear or does the flagman talk to JPC?

10 A. All the communication goes through me.

11 Q. Okay. So like on that evening, were you informed that the
12 outage was clear, that it was --

13 A. No. I was never informed there was an outage in place.

14 Q. Okay. And you had not talked to anyone from JPC at all?

15 A. I talked to JPC in the beginning of the night in our yard
16 just about what work was going on, but nothing about the track
17 being clear.

18 Q. Okay. So an average night, though, I mean, since 2020, since
19 you've been on the bridge working with PATCO, other
20 subcontractors, everything, the normal position is you --
21 everything goes through you with the flagman, and then you relay
22 it to your subcontractor that the flagman said it's okay to go to
23 work, and then they go to work --

24 A. Correct.

25 Q. -- with the flagman?

1 A. Correct.

2 Q. Okay. And when the work is completed at the end of the night
3 or in the morning, I guess it would be, do they report -- do the
4 flagmen -- does JPC work with you or how does it clear up in the
5 morning?

6 A. I check back in with the crews individually and make sure
7 that they're all clear of the track. I'll check myself, too,
8 before I give PATCO the okay that we're clear off of the track.

9 Q. Okay. Do you go up there and verbally check, too, kind of
10 make sure that -- like if JPC is up there, you'd go up there and
11 make sure that they're clear?

12 A. Yes.

13 Q. If they said they're clear, you'd go up there and double
14 check and then get ahold of PATCO?

15 A. Most cases.

16 Q. Most cases?

17 A. Most cases, yeah.

18 MR. BACHMEIER: Phil? That's all I got.

19 BY MR. HERBERT:

20 Q. Phil Herbert from the FTA. You said you had a JHA, job
21 hazard analysis, with JPC.

22 A. Yep.

23 Q. Was the discussion of that about the time the tracks were to
24 be out of service?

25 A. No.

1 Q. Did you know what time the tracks were going to be out of
2 service or what was the plan?

3 A. There was no discussion about what time the track would be
4 out at the JHA.

5 Q. Okay. Jumping to personal protective equipment, PPE, who's
6 responsible to check for PPE on the jobsite?

7 A. Myself, I guess you could say. But the safety representative
8 or the foreman. We have --

9 Q. Okay.

10 A. I'm not sure --

11 Q. So if an employee showed up, for instance, and he didn't have
12 safety shoes on or he didn't have a vest, who would that fall on
13 to address?

14 A. I'm not sure what you mean by that. I mean --

15 Q. Well, let's say I'm your employee, right?

16 A. Yeah.

17 Q. I work for you. And I show up for work and I don't have my
18 safety vest or I'm not wearing safety shoes --

19 A. Yeah.

20 Q. -- and you see me. What's the course of action?

21 A. Well, we put everyone through site-specific orientation and
22 we make it very clear what the minimum requirements are for PPE on
23 the jobsite. So everyone's fairly warned.

24 Q. And then before anybody goes out -- I mean, is there a formal
25 sight -- I mean, I need to see you before you go up on that

1 structure to perform work?

2 A. No. I'm not sure -- like a scan? Like a --

3 Q. Yeah. I mean, so if there's a crew going up, right, so you
4 have a foreman from JPC.

5 A. Yeah.

6 Q. And you've had your JHA, right, and your work crews are
7 getting ready to disperse to their respective work area.

8 A. Right.

9 Q. Who ensures that those people going up on that work area have
10 PPE?

11 A. I'm personally not checking each individual for PPE before
12 they go out.

13 Q. Okay.

14 A. If that's what you're asking.

15 Q. Okay. Then who does that fall on? Do you know?

16 A. No.

17 Q. Okay.

18 A. I mean --

19 Q. So you had indicated earlier that there were two separate
20 simultaneous work areas, the New Jersey anchorage and the
21 Philadelphia anchorage, and that those region -- those work areas
22 are about a half a mile apart. And knowing the Ben Franklin
23 Bridge, there is a summit -- so that bridge goes up and it comes
24 back down -- and it wouldn't be possible for a flagman, a single
25 flagman, to see and observe both work areas. Is that something

1 that would concern you as a superintendent, that, hey, these guys
2 are working over here by themselves and there's only a flagman
3 over here?

4 A. I think it depends on the nature of the work.

5 MR. HERBERT: Okay. I think I'm good. Thanks.

6 MR. BACHMEIER: Robert?

7 MR. FINNEGAN: Robert Finnegan, DRPA. Nothing.

8 BY SGT. EBLING:

9 Q. Joe Ebling, DRPA Police. Who was at that meeting with JPC
10 when you had that meeting?

11 A. It was myself and then the foreman and his employees.

12 Q. Do you remember what the foreman's name is?

13 A. Yes, Ryan Walsh.

14 Q. And how many employees were there during that time?

15 A. I believe there were five; five plus one.

16 Q. Okay. And what did you guys go over in that meeting?

17 A. We just discussed where he was going to be working that
18 night, where he needed crash trucks from us, and some of the items
19 that had been passed along from the day shift for me to go over
20 with him to make sure.

21 Q. And where did he say he was going to be working?

22 A. He was going to be working at the New Jersey approach, the
23 New Jersey anchorage, and the Philadelphia anchorage.

24 Q. Were there any flagmen there during that meeting at all?

25 A. No.

1 Q. After that meeting, where did they go? Did they just leave?
2 Did you leave?

3 A. Yeah, everyone kind of disperses and starts mobilizing the
4 work points from that contractor yard.

5 Q. So is it common that those contractors would go up onto the
6 bridge or did they have to wait for a DRPA or PATCO employee? Can
7 they just go up there by themselves?

8 A. Yeah, as long as the crash trucks are in place and the lane
9 is closed.

10 Q. Okay. And then they are told not to go into the track area
11 until they receive permission from who?

12 A. The foreman.

13 Q. Okay. And that would've been?

14 A. Ryan.

15 Q. Ryan. Did you ever have any problems with JPC before? Any
16 safety issues or anything like that?

17 A. Not personally, no.

18 Q. No? When you say personally, I mean, any other time besides
19 personally?

20 A. I can't speak on anyone else.

21 Q. Anyone else?

22 A. Yeah.

23 Q. Did you ever see any of their people in the track area when
24 they weren't supposed to be there?

25 A. Nope.

1 SGT. EBLING: Nothing further.

2 MR. BACHMEIER: Todd?

3 BY MR. KROPILAK:

4 Q. Todd Kropilak. If PATCO was preparing to go out and lead the
5 crew out there, how would that contact happen? How would you
6 contact or initiate conversation with the PATCO employee that
7 night?

8 A. We just have a group text that I would receive notification
9 from them when the outage is in place and it was safe to go to
10 work.

11 Q. Do you know if PATCO does a job safety briefing?

12 A. I'm not sure.

13 MR. KROPILAK: That's all I have.

14 BY MR. PAYAN:

15 Q. This is Rubin, NTSB. You mentioned that the meeting you had
16 there was five JPC employees and the foreman; did I hear that
17 right?

18 A. Yeah, from what I remember. I'm -- I could be one number off
19 here. I'm sorry.

20 Q. Were the two employees that got hit by the train, were they
21 part of it?

22 A. I don't -- I didn't see their faces. I didn't see who was
23 hit by the train, so I can't confirm that.

24 Q. Oh, okay. And while you were there, after your meeting, were
25 any instructions given to go up there and do some work ahead of

1 time?

2 A. Not that I heard.

3 Q. You didn't hear any of that? Okay.

4 MR. PAYAN: That's all I had, Mike. Thank you.

5 BY MR. BACHMEIER:

6 Q. Okay. Well, Tim, do you have anything you'd like to add?

7 A. No.

8 Q. Is there anyone you think that we should be interviewing?

9 A. No.

10 Q. Is there anything that you think could have prevented this
11 accident?

12 We can't see you, so --

13 A. Yeah. Sorry. No comment.

14 Q. Okay. So we may have follow-up questions. Would you mind if
15 we contacted you, Tim?

16 A. I would not mind, no.

17 Q. Okay.

18 MR. BACHMEIER: Okay. On behalf of the NTSB and our group
19 here, thank you for your time and cooperation, and thanks for
20 showing up.

21 MR. KELLY: Thank you.

22 MR. BACHMEIER: Thank you.

23 (Whereupon, the interview was concluded.)

24

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: MULTIPLE FATALITIES TO PATCO
 CONTRACTORS ON BENJAMIN FRANKLIN BRIDGE
 IN CAMDEN, NEW JERSEY
 ON OCTOBER 14, 2022
 Interview of Tim Kelly

ACCIDENT NO.: RRD23FR001

PLACE: Philadelphia, Pennsylvania

DATE: October 17, 2022

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.



Kay Maurer
Transcriber