



I, **Dave Fullerton**, have read the foregoing pages of a copy of my interview that was held on August 2, 2023. These pages constitute a true and accurate transcription of same except for the following amendments, additions, deletions or corrections:

<u>PAGE NO:</u>	<u>LINE NO:</u>	<u>CHANGE AND REASON FOR CHANGE:</u>
<u>7</u>	<u>7</u>	Replace "SAC" with "SACC", abbreviation for Safety Assurance Coordinating Committee
<u>9</u>	<u>12</u>	Replace "Safeties" with "Safety", grammar
<u>10</u>	<u>4</u>	Replace "approvement" with "improvement", meaning
<u>36</u>	<u>13</u>	Replace "litigation" with "mitigation", 2 instances to correct meaning
<u>39</u>	<u>4</u>	Replace "what" with "that", apparent typo
<u>39</u>	<u>10</u>	Replace "compliance" with "confined", correct meaning
<u>39</u>	<u>11 & 13</u>	Replace "compliance base" with "confined space", for correct meaning

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

Date: 9/23/2023

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<u>PAGE NO:</u>	<u>LINE NO:</u>	<u>CHANGE AND REASON FOR CHANGE:</u>
<u>45</u>	<u>3</u>	<u>Replace "we" with "they" for correct meaning</u>
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Date: 9/22/2023

Witness 

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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FATAL PATCO TRAIN ACCIDENT ON
THE BENJAMIN FRANKLIN BRIDGE
NEAR CAMDEN, NEW JERSEY ON
OCTOBER 14, 2022

Accident No.: RRD23FR001

* * * * *

Interview of: DAVE FULLERTON, Project Manager
PATCO and Delaware River Port Authority

Cherry Hill, New Jersey

Wednesday,
August 2, 2023

APPEARANCES:

MATT THOMPSON, Investigator in Charge
National Transportation Safety Board

MIKE BACHMEIER, Operations Group Chairman
National Transportation Safety Board

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

TODD KROPILAK, Program Manager
NJDOT State Safety Oversight

TODD KRAHOLIK, Investigator
National Transportation Safety Board

DANA SANZO, Branch Chief
National Transportation Safety Board

CHRIS GIBSON, Counsel
Delaware River Port Authority

TROY LLOYD, Railroad Accident Investigator
National Transportation Safety Board

PHILIP HERBERT, Accident Investigator
Federal Transit Administration

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I N T E R V I E W

1
2 MR. THOMPSON: A transcript or summary of the interview will
3 go into the public docket, and the interviewee can have one
4 representative of the interviewee's choice, and you brought
5 someone with you. My name is Matt Thompson, and I'm the NTSB IIC
6 for this accident. We're here today, on August 2, 2023, in
7 Cherry Hill, New Jersey, in conjunction with the NTSB's
8 investigation of the accident near Camden, New Jersey. The NTSB
9 accident number for reference is RRD23FR001. The purpose of this
10 investigation is to increase safety, not to assign fault, blame,
11 or liability.

12 Before we begin the interview and questions, let's go around
13 the table and introduce ourselves. Please spell your last name,
14 who you're representing, and your title. I'd like to remind
15 everybody to speak clearly so we can get an accurate recording.
16 I'll start off and pass off to my right. Again, my name is
17 Matt Thompson. Spelling of my last name is T-H-O-M-P-S-O-N. I am
18 the NTSB investigator in charge for this accident.

19 MR. BACHMEIER: Michael Bachmeier, B-A-C-H-M-E-I-E-R, NTSB
20 operations.

21 MR. FINNEGAN: Robert Finnigan, F-I-N-N-E-G-A-N, chief
22 security and safety officer for DRPA.

23 MR. KROPILAK: Todd Kropilac, K-R-O-P-I-L-A-K, State Safety
24 Oversight program manager.

25 MR. KRAHOLIK: Todd Kraholik, K-R-A-H-O-L-I-K, NTSB accident

1 investigator.

2 MS. SANZO: Dana Sanzo, S-A-N-Z-O, branch chief, NTSB.

3 MR. GIBSON: Christopher Gibson, Archer and Greiner,
4 representing David and the DRPA.

5 MR. FULLERTON: And Dave Fullerton, director of safety
6 services for Delaware River Port Authority. Spelling of my last
7 name is F-U-L-L-E-R-T-O-N.

8 MR. LLOYD: Good afternoon, everyone. My name is Troy Lloyd.
9 I'm with the National Transportation Safety Board. Spelling of my
10 last name is L-L-O-Y-D, and I'm a railroad accident investigator.

11 MR. THOMPSON: Okay. And then, we've got Phil on Teams
12 share. Go ahead, Phil.

13 MR. HERBERT: Hi. My name is Philip Herbert, H-E-R-B-E-R-T.
14 I'm with the Federal Transit Administration, and I am an accident
15 investigator.

16 INTERVIEW OF DAVE FULLERTON

17 BY MR. THOMPSON:

18 Q. Okay. And we can just start off, Dave, with, if you can give
19 us a little synopsis of your work experience taking you up to your
20 present position and how long you've been there?

21 A. I started with at PATCO as a project manager in 2003. Prior
22 to that, I worked for Con Edison in New York City as a safety
23 specialist. In around 2007, I took the position of systems safety
24 program manager for PATCO. And then, in 2017, my position was
25 expanded to be the director of safety for PATCO and the Delaware

1 River Port Authority.

2 MR. THOMPSON: Okay. Dana, do you want to start off, please?

3 MS. SANZO: Yes. This is Dana Sanzo.

4 BY MS. SANZO:

5 Q. Let's just start, if you can give us an overview of your
6 department: roles, responsibilities, staffing?

7 A. So, there is, of course, myself, and we have four safety
8 specialists assigned. In general, two of those safety specialists
9 are assigned to bridge operations at DRPA, and they are DRPA
10 employees. And there are also two PATCO employees who are safety
11 specialists, and they handle more of the things on the PATCO side.
12 But a lot of those -- you know, their duties overlap, so there's
13 nothing that prevents, you know, PATCO safety specialists from
14 helping out at the bridges or one of those DRPA safety
15 specialists, from taking over tasks at PATCO.

16 We are responsible for implementing the agency safety plan
17 for PATCO, so those things include providing training in SMS,
18 training in RWP, Roadway Worker Protection. We also are
19 responsible for drug and alcohol testing for DRPA and PATCO. So,
20 on a daily basis, we handle random testing, and also arrange for
21 post-accident testing when that's necessary. Other departments
22 handle preemployment testing, and return-to-duty testing, and
23 those things for employees who made be out of work for a while or
24 whatever. But they do all that in coordination with us.

25 We have our internal safety audit process. That covers all

1 of the aspects of the Public Transportation Agency Safety Plan
2 over a course of three years; and then, that three-year cycle
3 coincides with the three-year audit from New Jersey State Safety
4 Oversight. The current cycle ends in September, so we're coming
5 to the end of our current cycle of internal safety audits.

6 We prepare and conduct the monthly safety assurance
7 coordinating committee, SAC meeting. That's PATCO's safety
8 committee. That meets in conjunction with our employee safety
9 committee, and so that is a -- there's some of them represented,
10 but nonmanagement employees meet separately with the safety
11 specialist and discuss issues. And then, they also meet with the
12 larger committee on a monthly basis to discuss safety issues. In
13 addition, the most recent addition, we also have a labor
14 management safety subcommittee. That labor management safety
15 subcommittee was created to comply with the requirements of the
16 infrastructure and jobs at the (indiscernible). So, that's in
17 place, too.

18 In addition, there is also two DRPA safety committees that we
19 participate on. There's a central safety committee that includes
20 PATCO and personnel from the four bridges and public safety.
21 There's also an accident and incident investigation committee, and
22 that committee kind of coordinates our accident/incident
23 investigations with our claims department (indiscernible) for
24 coordination with them. That pretty much covers, in general, our
25 (indiscernible).

1 Q. Okay. So, you described a few different safety committees.
2 Could you describe, what type of actions might come from them?
3 What type of results or products may come as a result of the
4 safety committee's reports?

5 A. So, when safety issues are brought to that committee, if the
6 safety issue involves multiple departments, then we would
7 coordinate a resolution of that issue across multiple departments.
8 If it's an issue that can be solved within an individual
9 department, that generally doesn't require discussion at a
10 committee level, because it's within an individual department, and
11 they can run their own departments. So, at SAC, we review all the
12 reportable events, events that were reported to State Safety
13 Oversight and FTA.

14 We also just review a list of the occurrences that have
15 occurred in the previous month, looking to identify trends that
16 may be apparent in those events. Lately, for example, trespassing
17 has been the dominant issue we've had to deal with. So, you know,
18 typically, if we have 14 occurrences during the course of a month,
19 I think, last month, nine of those were trespasser incidents.
20 That led to the formation of a task force to deal with the issue
21 of trespassing. So, the task force includes personnel from our
22 transit services. That's our transportation operations
23 department. Or our track and facilities department, which would
24 be responsible for maintaining or adding security infrastructure
25 to prevent trespassing. And a safety specialist is assigned at

1 task force as, well, as public safety, the police.

2 So, everybody, working together, come up with ideas, so we,
3 for example, improved our signage and social media for
4 discouraging trespassing, letting people, you know, know what to
5 do, for example, if they drop their phone in the tracks, and
6 that's a situation you should -- you're trespassing if you go to
7 get your own phone out of the tracks. We improved the barriers at
8 the ends of our platforms. We put 8-foot-tall barriers. It
9 turned out 8 foot wasn't enough. We needed to add anti-climb
10 material on those, so that's something that came out of safety
11 committees activity and outlook from them.

12 Q. As far as results coming from the safeties committees, for
13 internal processes, do you have the ability to direct, and I mean,
14 by direct, I mean require, changes within PATCO?

15 A. Unilaterally?

16 Q. We'll start there, yes.

17 A. In general, no.

18 Q. If there was a safety issue observed internally, what would
19 it require to get safety actions taken? Additional approval, or
20 could it be something else?

21 A. In general, to get action on a safety just takes asking for
22 action on a safety issue. If additional resources are needed or
23 change is needed to be made, we make those changes.

24 Q. And who would have the ultimate authority to require or
25 approve those changes?

1 A. Depending on the level of resources needed, or -- it could
2 come from the general manager, it could come from the CEO and
3 president of PATCO and DRPA; or, if it requires capital
4 approvement or some policy change, it may have to come from the
5 Board of Commissioners.

6 MS. SANZO: Okay, thank you. I'll stop there.

7 MR. THOMPSON: Okay. I'm just going to go around this way.

8 MS. SANZO: Thank you.

9 MR. THOMPSON: You're welcome. Todd?

10 MR. KRAHOLIK: Todd Kraholik.

11 MR. THOMPSON: Spell your last name.

12 MR. KRAHOLIK: K-R-A-H-O-L-I-K.

13 BY MR. KRAHOLIK:

14 Q. So, the *Safety Administrative Manual*, the SAM, requires
15 contractors to have a safety manager on site. Do you know if
16 there was a safety manager on site there?

17 A. At the time of the accident?

18 Q. At the time of the accident.

19 A. I don't know if there was.

20 Q. Who's responsible for checking compliance with that, or with
21 the safety plan in general? Who would do that?

22 A. On a project of that size, we have AON. We have consultants
23 that periodically visit the site and verify that the contractor is
24 following the safety plan that they submitted and had approved for
25 that project.

1 Q. And did they do that during that project?

2 A. They have done that, and they're continuing to do that on
3 that project.

4 Q. Okay. When the job briefings were being held, how does PATCO
5 know that everybody understands the job briefing that was given to
6 them?

7 A. At the --

8 Q. At the time of the accident.

9 A. At the time of the accident? We would just go by what the
10 employees are doing, what -- at the time, we weren't individually
11 verifying that each employee was given all the information that
12 was being given out as far as the job safety briefing.

13 Q. So, the safety briefings weren't getting signed by every
14 individual at the time?

15 A. They were not.

16 Q. Okay. How do you know if you have sufficient watchmen for
17 everybody out there? How would you know if you have enough
18 watchmen protecting everybody?

19 A. Watchmen will generally tell us. If they can't cover enough
20 of the area, they'll let their supervision know that, hey, with
21 what's going on with here, I don't have enough people. How we
22 make the initial determination is through our track allocation
23 program where, prior to -- you know, it's an ongoing process of
24 requesting track outages and protection, and we take a look at
25 that. We meet every week to look at the upcoming week and

1 determine what (indiscernible), including watchmen, what they
2 needed to cover that work. But if, you know, during the work,
3 they realize that there's not enough, they can request more.

4 Q. Okay. Now, the contractors, who checks to make sure that
5 they were qualified to work out on your right of way? Who would
6 make that determination?

7 A. We would make sure that -- we require every contractor
8 employee to attend our safety briefing. So, it's conducted every
9 week. They need to attend that. And before they work on the
10 project, before (indiscernible) PATCO property, and they need to
11 attend that annually thereafter for a longer period of time.
12 They're issued a card that they should carry with them, and also
13 hardhat stickers to indicate the expiration date of their safety
14 briefing.

15 Q. So, every day, it was the IIC's responsibility to check that
16 each person had the badge, the sticker, or whatever?

17 A. No. The IIC --

18 Q. Yeah.

19 A. -- wouldn't be putting their eyes on every single contractor
20 employee, no.

21 Q. So, could a contractor get out there that didn't have the
22 training, potentially?

23 A. Yes.

24 Q. Okay. New Jersey DOT conducted an RWP audit in April through
25 August of '21. Did you guys give any responses to any of their

1 action items they had?

2 A. Yes.

3 Q. Okay. One of them -- I think they had like 15 times, they
4 noted that PATCO needed to revise their safety plan. Do you know
5 if the safety plan was revised before the accident happened?

6 A. It was revised, but before the accident, I have to look at
7 the dates to see. I believe it was.

8 Q. Okay. I don't think we've had that, if there's any way you
9 can supply that to us. I don't know. I think the last one we had
10 '19 when --

11 MR. THOMPSON: 2019 was --

12 MR. KRAHOLIK: Yeah.

13 MR. THOMPSON: -- the one that you put in.

14 MR. KRAHOLIK: Yeah.

15 MR. THOMPSON: Kiteworks.

16 UNIDENTIFIED SPEAKER: It might be that you have that. It
17 was revised in -- I don't want to quote the revision dates now,
18 but it may be that you have it. It has the wrong revision date on
19 it. (Indiscernible).

20 MR. THOMPSON: Okay.

21 MR. KRAHOLIK: Okay. That's all I have.

22 MR. THOMPSON: Okay. Todd?

23 MR. KROPILAK: Todd Kropilak, K-R-O-P-I-L-A-K.

24 BY MR. KROPILAK:

25 Q. AEON [sic], who is responsible, I guess, for reviewing the

1 SAM plan, do they issue any kind of report, or how do they provide
2 feedback?

3 A. So, they -- and it's AON. It's AON, is --

4 Q. Oh.

5 A. -- the name of the, is the company. So, they'll review the
6 specific safety plan for that project --

7 Q. Okay.

8 A. -- and they'll compare that to the contents of the *Safety*
9 *Administrative Manual*, and through the Construction Monitor,
10 they'll even request to make revisions, and resubmit, and -- just
11 like you would with any other contract document that's not
12 sufficient, tell them what they need to do to make it sufficient.
13 Thereafter, they periodically visit the worksite, and they have a
14 standard report that they send out to the -- on the personnel
15 managing the project, and it just shows areas where the contractor
16 is compliant with their plan, and then areas where they may not be
17 complying with their plan. Each one is accompanied by a
18 (indiscernible). In general, 90 percent of the time, I would say,
19 if they find something, it's corrected on the spot. And then,
20 they also attend the progress meetings for the project, and a
21 standard agenda item is any incidents/accidents that occurred and,
22 just generally, safety on the project.

23 MR. KROPILAK: Nothing else.

24 MR. THOMPSON: Nothing else? Mr. Finnegan?

25 MR. FINNEGAN: Nothing. Thank you.

1 MR. THOMPSON: All right. Mr. Bachmeier?

2 MR. BACHMEIER: Bachmeier, B-A-C-H-M-E-I-E-R.

3 BY MR. BACHMEIER:

4 Q. Following up on AON, would they also be the ones that kind of
5 would be the oversight to kind of check and see who was qualified
6 or was trained on your contractor safety stuff? Would they be --

7 A. They understand that, because they've had the same contractor
8 safety training as everyone else at this point. They've been
9 doing that for a number of years, so they're very experienced, and
10 if they found somebody who was not in compliance, not trained,
11 they would report that to me.

12 Q. Okay. So, I think you already answered this, but did AON --
13 you had Skanska, you had JPC. I'm sure you had other contractors
14 out there. Is AON the one that you guys would love to do
15 contractor observation safety checks?

16 A. Yes, yes.

17 Q. And then, they would provide that information to you?

18 A. Yes.

19 MR. BAHMEIER: Okay. Because we haven't seen any of that
20 stuff. That's why I was kind of -- you know, for observations for
21 JPC, Skanska, any kind of observations of them following rules,
22 you know, for your RW, Roadway Protector, you know, so -- and
23 that's all I've got. Thanks.

24 MR. THOMPSON: Matt Thompson, THO and PS1 (ph.).

25 BY MR. THOMPSON:

1 Q. So, you mentioned earlier, safety specialists. What exactly
2 are those duties of the safety specialists that you referred to
3 earlier?

4 A. Safety specialists?

5 Q. Yeah.

6 A. They conduct audits, inspections; they make the arrangements
7 for random drug and alcohol testing, they do accident
8 investigations. In my absence, they may make accident
9 notifications to NJSOA and FTA. They're my staff.

10 Q. Okay. On drug and alcohol testing, are contractors and
11 subcontractors required to, under FTA, well, drug and alcohol
12 testing?

13 A. So?

14 Q. So, like, talking like maybe preemployment randoms, post-
15 accident.

16 A. So, the requirements for contractor drug and alcohol testing
17 and the drug and alcohol program are in the *Safety Administrative*
18 *Manual*, and they do not come under FTA jurisdiction.

19 Q. Okay.

20 A. They probably have -- not probably. They would have
21 commercial drivers who would come under FMSCA --

22 Q. Okay.

23 A. -- so that, to my knowledge, that's the DOT program that
24 would apply to a contractor for a capital project.

25 Q. So, they wouldn't be getting randoms or anything like that

1 unless their employer decided, but there's nothing in like a
2 contract between DRPA and the subcontractor that says that they
3 have to, or anything like that?

4 A. The requirements are in the SAM, so they're --

5 Q. Okay.

6 A. -- required to have the drug and alcohol program, they're
7 required to make sure that all their employees are in compliance
8 with the drug and alcohol program, so -- and they do need to have
9 at least preemployment testing, and those kinds of testing, and
10 reasonable suspicion testing. Random testing for a contractor
11 who's not under DOT is up to them. You can't compel them --

12 Q. Okay.

13 A. -- to do that.

14 MR. THOMPSON: So, yeah, that's what I was curious about.
15 That's it for me right now. Troy?

16 MR. LLOYD: Yeah, thanks. And Troy Lloyd from the NTSB, L-L-
17 O-Y-D. Thanks for being here, Dave. (Indiscernible) these
18 interviews, but I just want to get a little bit more information
19 from everyone.

20 BY MR. LLOYD:

21 Q. This project as an FTA-funded project?

22 A. No.

23 Q. So, it's not an FTA? It's strictly a DP/DRPA kind of
24 co-funded project?

25 A. It's a -- all our capital projects are funded by DRPA,

1 because DRPA owns the assets. PATCO's the operating company for
2 DRPA. There might have been some state or federal funding, but
3 the project is not for PATCO.

4 Q. Right.

5 A. It's for PATCO in that we want to cross the bridge, but it is
6 a combination of projects for the bridge. The biggest portion of
7 it is cable dehumidification, but they have other smaller projects
8 planned, and they combined all of those into this one project.

9 Q. Yeah. So, not enough FTA fund reporting would have to come
10 in and have an FTA project manager design, review, (indiscernible)
11 things of that nature?

12 A. No, no.

13 Q. Okay. So, Matt mentioned preemployment screening for
14 contractors and subcontractors, so I'm going to go down the SMS
15 road. How does PATCO or DRPA know that someone's actually getting
16 an accurate screening that goes by your all's standards? If we're
17 on the SMS road of safety assurance, safety risk management, and
18 all that stuff, how do you know that they're just not giving you,
19 you know, yeah, our people are trained, or they're drug tested, or
20 in compliance to working on your all's policy, working on your
21 all's property?

22 A. We just have the requirement in there; and then, they certify
23 that all of the employees working on that project are in
24 compliance with their --

25 Q. So, no --

1 A. -- (indiscernible).

2 Q. -- safety assurance that -- what you're giving me is, the
3 proof in the pudding is (indiscernible), meaning that maybe your
4 role -- because this contractor's (indiscernible). I mean, a
5 contractor just doesn't come in and go, I'm going to do this,
6 this, and this to your property. You all can say, well, here,
7 hey, our rules -- you work under our rules. I mean, you're still
8 responsible.

9 A. Sure.

10 Q. DRPA and PATCO are still responsible for anybody who walks on
11 their property. So, what I'm trying to get at, a contractor just
12 doesn't go, we're going to do this, because you all can, say, no,
13 we need --

14 A. No.

15 Q. -- to do it this way. This is where --

16 A. Yeah.

17 Q. -- we are -- this is what this man down here makes us do, the
18 State Safety Oversight. So, I'm just trying to get what the
19 preemployment screening of contractors, subcontractors, how do you
20 guys get that assurance that, yeah, I mean, we're getting some
21 good people?

22 A. We require the contractor to certify that they're compliant.
23 We're not checking any individual's drug testing record.

24 Q. How come?

25 A. We don't believe --

1 Q. Yeah.

2 A. -- we can do that.

3 Q. Yeah, he won't get the records? I mean, maybe go to your
4 medical facility (indiscernible) like a medical --

5 A. Yeah, I'll go --

6 Q. -- maybe safety and health or something?

7 A. We do not. That's one of the other things that, we don't do
8 that. We contract that for various departments. At one time, we
9 did require contractors to go get a drug test, and then bring us
10 their drug test results, but the drug test result has personally
11 identifiable information, has all kinds of information, that we
12 don't need. All we need to know is if they passed a drug test and
13 their -- also, we require them to get a drug test just to work at
14 PATCO. When they've already had a drug test, us requiring a drug
15 test is above and beyond their preemployment test.

16 Q. Right.

17 A. So, they've already had a preemployment test to work for that
18 employer, and we say, well, you have to take another test, we're
19 directing someone to --

20 Q. Yeah, someone to -- yeah.

21 A. -- to test somebody --

22 Q. Yeah.

23 A. -- that's already been tested.

24 Q. Yeah. Okay, because I wanted to say that one of your either
25 (indiscernible) program plan that's under this project, or there's

1 something like, I think it was an *SAM*, or something, that states
2 that a contractor or subcontractor's (indiscernible) prescreening,
3 and then it's written in the contract everything they need to be
4 screened in. Do you guys do something with the records --

5 A. If it's --

6 (Crosstalk)

7 A. If it's still in there, it doesn't belong in there. That's
8 (indiscernible) --

9 Q. And that's what I'm saying. This is the stuff we're
10 receiving. That's why I'm asking.

11 A. That's not --

12 Q. That's why I'm asking questions. That's --

13 A. That's not the intent. And I know --

14 Q. So, we --

15 A. -- we have one version (indiscernible), and contractors were
16 getting -- when we made that change --

17 Q. Yeah.

18 A. -- they were getting confused by it. But the intent is that
19 they do all their own drug and alcohol testing for their
20 employees.

21 Q. So, let's talk about right of way safety training.

22 Contractors and subcontractors go through a right of way safety
23 training --

24 A. Yes.

25 Q. -- program that you guys provide, correct?

1 A. Yes.

2 Q. What's the difference between the regular PATCO employee and
3 the subcontractor or contractor getting trained? Is there a
4 difference in the training, or --

5 A. As a matter of practicality, on the first day of employment
6 at PATCO, you get the same exact training, because you're starting
7 on a Monday, and that's when we do the training. So, new
8 employees sit in with contractors in the same training; and then,
9 we keep the employees afterwards and do additional drug and
10 alcohol training. There are other initial safety training that
11 they need, (indiscernible), a number of other things, depending on
12 what the position is. But every employee gets that same on-track
13 safety briefing on the first day. Looking at changing that, but
14 on October 14, that's the way it was, and it's continuing that way
15 today.

16 Q. Do we know if the two individuals that was involved in the
17 accident, if they were right of way safety trained?

18 A. They were, yes.

19 Q. So, we have those, I guess, the training records for the two
20 that were --

21 A. Yes.

22 Q. -- involved? Okay. What is a -- I think you sent an email
23 or something about (indiscernible) what is a contractor-provided
24 (indiscernible) watchpersons? Contractors are to provide
25 watchpersons. What is a watchperson?

1 A. The contractor should provide watchpersons for the safety of
2 their own personnel.

3 Q. Okay, so not anything (indiscernible) safety watchmen, or
4 (indiscernible), or whatever, but it's just more of a safety
5 officer for that agency or for that contract --

6 A. Yes.

7 Q. -- that say, you know, fall protection, get your glasses on,
8 hardhats, and stuff like that, you know, but nothing to do with
9 right of way safety when it comes to train approach warning where
10 watchmen are used. So, they're totally different aspects, right?

11 A. I've never known other than in a railroad contract, I've
12 never known a contractor to have anyone who's trained to provide a
13 train approach warning, yeah.

14 Q. So, you guys would provide, if watchmen are needed for right
15 of way safety, if more flagmen are needed, or more people to check
16 for (indiscernible)? That falls under PATCO, right?

17 A. It would, but we would never use a train approach. We
18 have --

19 Q. No --

20 A. -- used a train approach (indiscernible) for contractors, and
21 none of them help.

22 Q. So, can a contractor or subcontractor be the employee in
23 charge?

24 A. No.

25 Q. So, that's a PATCO employee that's trained to provide job

1 safety briefings?

2 A. Yes.

3 Q. (Indiscernible) the physical characteristics of the
4 territory, how to check (indiscernible), all that stuff, right?

5 A. Yeah.

6 Q. Is that a different training? So, is that -- if
7 (indiscernible) safety trained, but then I want to be an EIC, what
8 do I need to do to -- is that a totally different training
9 program?

10 A. We have a basic right of way safety training for anyone whose
11 job involves work within the right of way. Also, flagperson
12 training, someone who would serve as a watchman (indiscernible)
13 flagmen, and then EIC training.

14 Q. Got you. So, we interviewed the employee in charge --

15 A. Mark Thompson.

16 Q. Yeah. (Indiscernible). I was asking questions about job
17 safety briefings. Following job safety briefings, how do you get
18 that understanding that everybody knows tracks have service from
19 point A to point B (indiscernible), or that these people posted,
20 you know, we're good to go? And then, several (indiscernible) we
21 didn't do before, but we do it now. So, it seemed like there was
22 a deviation of the plan. He said that this was leading up to
23 that. I mean, so what do you think happened --

24 (Crosstalk)

25 Q. -- we weren't doing it before; we're doing it now? Was that

1 a post-action action element that's been fixed or something, or --

2 A. Yes. Before that, the employee in charge wasn't briefing
3 each individual contractor informing them --

4 Q. Okay.

5 A. -- what was in place.

6 Q. So, now, we're getting a good job safety briefing
7 (indiscernible) interviewed, I think, Mr. --

8 A. Luke Metz.

9 Q. Yeah, Mr. Metz, but he said, now, we're getting full job
10 safety briefings. So, that's being done.

11 A. Yes.

12 Q. Every contractor and subcontractor is getting an
13 understanding of when a track's out of service, not to go, all
14 that stuff, and they don't move until that EIC says it's --

15 A. Yes.

16 Q. -- go get it, right?

17 A. You can ask Todd.

18 UNIDENTIFIED SPEAKER: That's --

19 MR. FULLERTON: Todd's been checking into it.

20 BY TROY LLOYD:

21 Q. All right. So, and the thing is like, so, you, as the safety
22 director, what responsibility do you have with compliance to pack
23 your rules and procedures where we weren't doing it before, but
24 we're doing it now? It's the responsibility of the safety
25 director to make sure, I mean, you have to make sure that these

1 rules and procedures are being followed, and job safety briefings
2 are being done, or being signed, or being given (indiscernible).

3 A. Yeah. So, it's part of the formal internal safety audit
4 process, and we just completed an internal safety audit of RWP.
5 That report was submitted to the State, but I don't know whether
6 they've had a chance to look at that yet, but it has been.
7 Obviously, because of this incident, been, there's been increased
8 focus on it, so we've been working even closer (indiscernible) on
9 implementing that. In addition to that, we also have a plan in
10 place. We're going out and doing checks to make sure that they
11 implemented effectively and that it would be expected it to be --

12 (Crosstalk)

13 Q. -- RWP or EIC job safety briefings, are they kept for a
14 certain amount of time? I do know some trades like want to keep
15 service for like 15 days so if you have an accident, I can go back
16 and look at it. Are you guys' records kept for --

17 A. No.

18 Q. -- a while showing complacency -- or, showing that competency
19 about what's --

20 A. Yes, we're maintaining in that, yes. We don't have a
21 schedule in place yet for when to --

22 Q. Yeah.

23 A. -- get rid of them, but we are receiving them now and making
24 them available also to State Safety Oversight.

25 MR. LLOYD: Yeah. That's all I have right now.

1 MR. THOMPSON: Okay. Dana, do you have anything else?

2 MS. SANZO: Yes. Like to talk about this --

3 UNIDENTIFIED SPEAKER: (Indiscernible)?

4 MR. THOMPSON: Oh, sorry, I forgot Philip. My bad, Phil. Go
5 ahead.

6 MR. HERBERT: I'm commonly forgotten.

7 MR. THOMPSON: Yeah. It's because you're on Teams.

8 MR. HERBERT: Yeah. Phil Herbert, H-E-R-B-E-R-T, from the
9 FTA. Dave, good morning. Thanks for -- actually, it's good
10 afternoon now. But thanks for coming in to talk to us, and thanks
11 for everything that you did in response to this, in fact.

12 BY MR. HERBERT:

13 Q. But I want to ask you, do you know the length of that span,
14 the Ben Franklin Bridge?

15 A. Not exactly off the top of my head. I was -- I'm doing
16 (indiscernible). Damn. It's a couple of miles.

17 Q. Okay. So, and what I want to get to is about watchmen. If
18 you have a span that long, and you have multiple teams out on that
19 span, and just for -- I don't recall what the number was, but I
20 believe it was three across that entire span. Do you think it was
21 appropriate to have only two watchmen at either end of the bridge?

22 A. Yes.

23 Q. You thought that was appropriate?

24 A. Once the track is out of service, and a train can't get onto
25 the span on that track, and --

1 Q. Okay.

2 A. -- the third rail power is off, there's nothing for a
3 watchman to watch for.

4 Q. There isn't?

5 A. At that point, they'd only be looking to see if a contractor
6 left an obstruction behind or damaged something that would be a
7 hazard to the train operation once they finished work or damaging
8 the PATCO property in some way.

9 Q. Okay. Are there ever hazards out there, tripping hazards,
10 fall hazards?

11 A. There are.

12 Q. Okay. So, did those contractors have any radio communication
13 with your crews?

14 A. No.

15 Q. So, theoretically, if someone fell off that span, you
16 wouldn't know, because you don't have a watchman there?

17 A. They're required to have a safety belt anytime they're
18 working over the water.

19 Q. That's not my question. My question was, if someone fell off
20 that span, would a watchman be able to see it?

21 A. No. If someone fell off the span, they would notify the
22 safety boat.

23 Q. Okay.

24 A. Assuming --

25 Q. So --

1 A. -- they fell off the span over the water. Fell off the
2 span --

3 Q. What --

4 A. -- over land wouldn't be notified.

5 Q. Okay. And theoretically, would it be a better practice to
6 have a watchman with each group on that span?

7 A. I don't know what a watchman would be. I don't know that. I
8 don't think it would.

9 Q. Well, I think what I'm getting to is communication, right?
10 So, you have people out on your track, and you've given them
11 authority to borrow your track, and you said that, well, once the
12 trains aren't moving, that it's safe for them to be out there.
13 But there's other hazards out there other than train movement,
14 right? And obviously, third rail power was down, but there's
15 still other hazards out there. And the problem that I want to ask
16 and try to get an answer to is, is it a better practice to have
17 somebody with the communication ability that if something happens
18 out on that span, they can communicate back either by radio
19 directly to PATCO to get proper assistance.

20 A. So, when you're talking specifically on the bridge, and it's
21 not a PATCO project, there's also coordinators from the bridge
22 that may be involved. They are required to have an emergency
23 action plan as part of their site-specific safety plan that states
24 how they're going to summon help. As part of helping them to
25 develop that safety plan, they need to know which emergency

1 responders to call, because it's a little bit different on the
2 bridge, for example, because you could be closer on the
3 Pennsylvania side of the bridge, but if you're on the westbound
4 lanes, you still call New Jersey, because in order for somebody
5 from Philadelphia to get over to the westbound side, they're going
6 to have to go all the way around the center barrier. There's a
7 lot of other things going on on the bridge.

8 So, just adding PATCO personnel to work with someone just
9 because they're on the track on the bridge doesn't necessarily
10 make sense. The largest part of that project is going on on the
11 suspension cables. We don't send personnel up on the suspension
12 cables with every contractor crew that's working up on the
13 suspension cables, either.

14 MR. THOMPSON: Anything else, Phil?

15 MR. HERBERT: Yeah. I'm just formulating in my mind right
16 now.

17 BY MR. HERBERT:

18 Q. And that's fine. I wouldn't expect everyone to climb cables,
19 specifically, but I'm referring more to the PATCO right of way,
20 and I know it's a Delaware River Port Authority project, but I'm
21 more interested in the PATCO right of way and the hazards that are
22 present there, because I wouldn't expect someone from the Delaware
23 River Port Authority, who is responsible for the bridge, to know
24 anything about, and correct me if I'm wrong, whether or not they
25 have right of way training to go onto that PATCO right of way.

1 A. We provide training to Ben Franklin Bridge personnel, as
2 well. On the PATCO tracks, there are storage areas beneath the
3 bridge, tunnel portals, and all those things.

4 Q. Okay. So, to your knowledge, does the Delaware River Port
5 Authority have people up on that spanion [sic] to observe the
6 workers on the PATCO rail?

7 A. No. Because once we have eliminated the hazards of personnel
8 being struck by a train or being electrocuted by the third rail,
9 there's very little else for us to watch for, except for, before
10 we put the track back in service, we ensure that there are no
11 personnel left on the tracks before we reenergize the third rail,
12 make sure that everyone's clear of the third rail. Once we put
13 the track back in service, the first train through that work area
14 would operate at restricted speed, because they would expect to
15 find, first of all, looking for personnel that were left behind,
16 but tools, equipment, materials, anything, anything that could
17 have been damaged. They operate at restricted speed, which means
18 they're prepared to stop short of any obstruction or tract defect.

19 Q. Okay, almost like a test train.

20 A. Exactly.

21 MR. HERBERT: Okay. All right. I have nothing further.

22 Thank you, Dave.

23 MR. THOMPSON: Okay. Thanks, Phil. Dana, back to you.

24 MS. SANZO: Do I need to turn this on Teams yet? Are you --

25 MR. THOMPSON: Yeah, my battery's still lasting me

1 (indiscernible).

2 MS. SANZO: Okay.

3 MR. THOMPSON: Go ahead.

4 BY MS. SANZO:

5 Q. I'd like to talk about internal audits, and particularly with
6 Roadway Worker Protection, and give an overview of the audit
7 process, and what's done, and who does it.

8 A. So, a safety specialist has to do internal audits, in
9 general. In some cases, it'll be where we bring in outside
10 assistance for the internal audits, because if it's an aspect of
11 our agency's safety plan that we're responsible for, then we bring
12 somebody else in to look at that so that we're not auditing
13 ourselves. Drug and alcohol is an example of them. We're
14 primarily responsible for the drug and alcohol program, so we
15 bring in someone else to (indiscernible) us and that.

16 So, the audit process includes preparing an audit checklist,
17 and that audit checklist gets sent to NJSOA for their approval,
18 and we notify NJSOA 30 days in advance of the audit so that they
19 can have someone attend if they want to do that. Then, there's a
20 period before that formal audit date where we request documents
21 from the departments that are being audited. And then, kind of
22 the day of the audit, it's just a matter of conducting an
23 interview; in some cases, maybe conducting a field audit or an
24 inspection to go out and verify that what's in the documents is
25 actually being done, checking records to make sure that what's

1 included in the procedure or process that's being audited is
2 actually being done.

3 Then, there's the report prepared. I generally review the
4 draft report. The departments or personnel who are being audited
5 get a chance to review the draft report just like NTSB does. They
6 can provide comments. They can't change the conclusion that's
7 reached in the report, but they can have input, at least, you
8 know. Not a good practice to surprise people with the stuff in
9 them. So, they get to see them before we release it; and then, it
10 gets sent to the State, along with any corrective actions that
11 come out of the audit.

12 Q. And a few questions specific to individual audits that were
13 done. Figures of audit reports were previously provided to the
14 investigation team. And for 2020, one item that's mentioned is,
15 since the safety department is in process of creating a
16 performance-monitoring program, and this is on the audit for RWP.
17 Could you talk about, is this a program that's been implemented,
18 and what is its status?

19 A. It is. So, we came up with a process for auditing compliance
20 with the RWP plan. It includes a checklist that's to be followed
21 and a procedure for using that checklist, and I think you have
22 that. And the other part of it is for having the safety
23 specialist go out onto the right of way. I also wrote a procedure
24 for how to do that. And then, training for the safety specialist
25 in Roadway Worker Protection, protecting themselves and complying

1 with the RWP plan while they're conducting the audit. And in
2 general, that includes a job safety briefing before they go out,
3 training before being qualified to go out.

4 And the training includes a review of the procedures, a
5 review of the RWP. They take a written test. And then, we do a
6 short field test. And the field exercise is just to verify that
7 they have the -- that they're able to navigate (indiscernible) the
8 right of way safely so that -- you know, for example, we have them
9 climb up and down the front of a train. It's not something that
10 we would test them on prior to making them a safety specialist,
11 but they need to know whether or not they can do that before they
12 have to attempt to do that, so we do that. And just in general,
13 their ability to walk on a ballast, walk up and down right of way
14 stairways, ladders, and those things, just to make a determination
15 on when somebody out there is not able to navigate safely.

16 The procedure includes -- we're not going to go out in less
17 than ideal weather to do audits, because it just doesn't make
18 sense to have us out there, first of all. It complicates whatever
19 work might be going on. If it's bad enough, there's not going to
20 be any right of way work going on, so it doesn't make sense to
21 have our personnel out there auditing someone. And also, it's not
22 as safe for them to be out there, you know, if it's raining, if
23 it's foggy. And so, basically, that's our procedure, like, don't
24 go out when it's not absolutely the best conditions to be out
25 there. And then, there's other precautions that are noted in

1 there.

2 And that's how we've been proceeding with it. We've done a
3 few of them now. It took us a while to get it underway, to get
4 out and start doing those things. And so, we are doing them now.

5 Q. So, when (indiscernible) observing compliance with the
6 Railway Worker Protection plan, who's being observed?

7 A. As far as?

8 Q. The observations. Is it PATCO employees? Does it include
9 possibly contractors?

10 A. We're looking at as many people as we can see. We're out, so
11 we're making sure that they're checking. If we're not there
12 during the safety briefing, which isn't always possible, we make
13 sure that the safety briefing was completed by looking at the
14 form, making sure that it was signed. Once everybody's spread out
15 and working on the right of way, it may not be possible to go
16 verify that everybody who's out there is on the form. But look at
17 the form and make sure that people sign the form that a briefing
18 was conducted; look at the precautions that were in place; and
19 make sure that, you know, lights are where the lights belong; make
20 sure that shunts are placed where they're supposed to be, flags
21 are placed where they're supposed to be; and if there's watchmen
22 involved, that watchmen are properly posted.

23 Q. And from an audit report from 2021, there's mention of safety
24 department working on something that was entitled, working on and
25 about the tracks, and if you could talk about that and if that

1 is -- what its status is.

2 A. I know that that's a section in the PTASP, but other than
3 that, I don't know what that's something separate. I'd have to
4 look at that.

5 MS. SANZA: Okay. We'll follow up with that later. I still
6 have a few more, but I don't -- do you want to --

7 MR. THOMPSON: Sure. Do you want to go around again, or do
8 you want to finish yours?

9 BY MS. SANZA:

10 Q. There's a completely different direction on something
11 different, is, turning towards the public transportation safety
12 plan. Looking through, there is a section on -- it's in risk
13 litigation, and -- procurement risk litigation, and it discusses
14 that contracts involving safety should be reviewed by the safety
15 department, and I'd ask, what has been your department's role in
16 evaluating any kind of procurements that involve safety?

17 A. So, safety equipment. We will review safety equipment to
18 make sure that it meets the standards. The most common one is,
19 things keep changing with where we're getting reflective clothing.
20 And so, we work with procurement to make sure that it meets the
21 ANSI standard that's required. We require everyone to wear class
22 three, so we make sure that things meet class three. We also
23 require, if it's possible, to have an inverted V on the back of
24 all of our clothing. It gets expensive to have things custom
25 made, so we don't require it absolutely, but a lot of times, they

1 can just add an inverted V using heat-applied 3M tape, and we'll
2 work to make sure that it's possible and it's implemented in a way
3 that makes sense.

4 Any kind of chemicals that are purchased are reviewed by a
5 safety specialist to be approved. We don't get too many new
6 chemicals. Usually, what happens more frequently is that the name
7 of a product becomes unavailable, and they're going to replace it
8 with something, or the name of the product changes. But in any
9 case, procurement has a process where they have us review and
10 approve that before they make that purchase.

11 Q. I just want to ask a little bit of follow-up to make sure my
12 understanding is right. So far, that sounds -- this is meant to
13 talk about purchasing items.

14 A. Yes.

15 Q. And when I was reading through it, I just, I wanted to do a
16 little bit of follow-up on this, because just reading from this,
17 it's -- PATCO includes safety requirements and technical
18 specifications in contracts. And these requirements include, not
19 limited to. And one of the items is roadway worker requirements.
20 So, more specifically, has your department ever reviewed contracts
21 that would, say, involve safety requirements for roadway workers
22 beyond the safety (indiscernible)?

23 A. Right. So, for capital projects, the *Safety Administrative*
24 *Manual* is always part of the contract, and there's also special
25 provisions of the contract on smaller procurements for services.

1 Purchasing will also work with us (indiscernible) to make sure
2 that the purchase order has those requirements. And it's not as
3 extensive as it would be for a major capital project, but
4 (indiscernible) example, if we have a tree-trimming contractor
5 that's coming in, we would make sure that the provisions in the
6 purchase order are adequate to cover safety, and that could be
7 RWP.

8 And typically, it's making sure that all of their personnel
9 attend a contractor safety briefing before they're brought on site
10 to work, make sure they know that there is going to be a safety
11 briefing from an EIC, that that's part of their work, because that
12 could change, kind of, the schedule of their work. If they need
13 to wait to have a safety briefing before they begin work every
14 day, that's something that affects the contracts. We make sure
15 that's in the purchase order. So, yes, we do review those. That
16 typically doesn't take long, because it's standard, but we review
17 it anyway to make sure that they have the correct paragraphs in
18 there.

19 Q. One item that's listed in the *SAM* for the contractors is a
20 site-specific work plan. Does the safety department have any
21 involvement in reviewing those site-specific work plans?

22 A. For smaller projects, a safety specialist will be assigned to
23 that, and we would review their safety plan the same way AON
24 reviews it for a larger project.

25 Q. And so, previously submitted to our investigators was a

1 Skanska site-specific work plan as part of the project process.

2 Are there other requirements? On a lengthy project such as this,
3 are there other site-specific work plans that are required?

4 A. No, they would have just what one plan. If the scope of work
5 changed, if something changed, they can amend the plan, if
6 there's -- so, you know, one of the things that I'll cover in our
7 project kickoff meetings is that when I (indiscernible), it'll get
8 rejected right away. So, if you send your corporate safety plan
9 with a cover sheet that says it's for this project, because if
10 you're not doing compliance base entry, I do not want to see a
11 section on compliance base, because it's just a waste of time if
12 you're not going to do that. If the scope of work changes or
13 there's something that wasn't anticipated, and a compliance base
14 entry becomes necessary, we'll amend the plan then, but I don't
15 want to see those sections in there. So, there is the one plan,
16 and they have an option of submitting separate plans for
17 subcontractors, but generally, we see one plan for the entire
18 project, and that plan applies to subcontractors, as well.

19 MS. SANZO: Okay. Thank you.

20 MR. THOMPSON: Anything else, Dana?

21 MS. SANZO: (No audible response.)

22 MR. THOMPSON: Todd?

23 MR. KRAHOLIK: I'm good.

24 MR. THOMPSON: Okay. Todd? Other Todd?

25 MR. KROPILAK: Todd Kropilak, K-R-O-P-I-L-A-K.

1 BY MR. KROPILAK:

2 Q. Just going back to the DRPA funding on projects, like the
3 yard rehab project, that was funded by -- do you remember where
4 that funding --

5 A. I don't think it was FTA-funded, because I don't remember
6 seeing the sign.

7 Q. Right, but was it -- it was DRPA-funded, not PATCO-funded?

8 A. They're all DRPA-funded --

9 Q. They're all? Okay.

10 A. -- capital projects, yes.

11 MR. KROPILAK: Okay. That was mine. Okay. Nothing else.

12 MR. THOMPSON: Okay. Mr. Finnegan, anything?

13 MR. FINNEGAN: No, sir, thank you.

14 MR. THOMPSON: Mr. Bachmeier?

15 BY MR. BACHMEIER:

16 Q. Dave, since this accident, what kind of safety actions have
17 you taken?

18 A. We implemented the actions that were in the State's letter of
19 October 19.

20 Q. Okay. Have you sent us any safety action items that you've
21 done? And if not, could you send us your safety actions which
22 you've done with how you've changed the job safety briefings --

23 A. Sure.

24 Q. -- and that kind of stuff, just kind of put that down?

25 A. Yes.

1 MR. BACHMEIER: That's all I've got.

2 MR. THOMPSON: Matt Thompson, T-H-O-M-P-S-O-N.

3 BY MR. THOMPSON:

4 Q. So, one thing that was brought up earlier -- maybe it was one
5 of the other interviews the last time. I don't remember. But
6 there was mention of five near-misses prior to the accident. Do
7 we know any details on these five near-misses?

8 A. Five near-misses on --

9 Q. PATCO.

10 A. -- on the bridge part of it, or --

11 Q. I don't know if it was bridge project, or if it was outside
12 the bridge project, but do you recall any information on those
13 five near-misses?

14 A. So, there was a notable one in 2018 where we had an employee
15 out taking photographs up around Mount Ephraim curve who had to
16 jump out of the way of an approaching train. That was the near-
17 miss that finally got us to eliminate simple approval as a method
18 of protection. So, when NTSB and, I think, FTA, included it in
19 their advisory, as well, recommended eliminating simple approval,
20 we started doing that right away, but we did for contractors. Our
21 own personnel were reluctant to eliminate simple approval, because
22 they didn't see how they could get the work done without just
23 being able to call themselves on the track and call themselves, we
24 call it under-your-own-protection procedure at the time, was
25 notify the dispatcher that you were going to be on the tracks, and

1 always state that you're going to be under your own protection.
2 In 2018, with that near-miss, we couldn't listen to any more
3 excuses or -- just clear and simple approval was not safe. So,
4 yes, that was 2018.

5 There was at least one involving track walkers doing walking
6 track inspections where they were not aware that the dispatcher
7 started running trains bidirectionally, so -- and I wouldn't -- if
8 you say it's five, it's probably five, and I could get more
9 details on those. I can't recall the date and all the specific
10 circumstances. But yes --

11 Q. Okay. If --

12 A. -- with the near-misses.

13 MR. THOMPSON: Going forward, if you can find that info and
14 give us it to us, that'd be good. That's all I have. Troy?

15 MR. LLOYD: Yes. Troy Lloyd, NTSB, L-L-O-Y-D.

16 BY MR. LLOYD:

17 Q. I might have missed it, Dave, and I apologize, but any prior
18 safety audits that your team or your PATCO completed on this
19 particular project prior to the accident?

20 A. It would have been AON conducting safety audits on.

21 Q. Would have been who?

22 A. AON. So, we have consultants who work specifically on larger
23 capital projects, and so, for the Ben Franklin Bridge project,
24 what would have been done --

25 Q. Rather than a third party doing stuff in consulting, who's

1 actually responsible for making sure that people are abiding by
2 the rules and procedures on PATCO property? Is it a consultant,
3 or is it PATCO?

4 A. It is PATCO.

5 Q. So, did PATCO particularly do any safety audits? You guys
6 know the property better than anybody, yeah, and it's been years
7 since I've been (indiscernible), but PATCO particularly, safety
8 department, maintenance (indiscernible), whatever, that went up
9 and did any type of (indiscernible) to make sure that their PATCO
10 employees are doing the right thing, the contractors are working
11 within the (indiscernible) the bridge manual or something like
12 that.

13 A. So, PATCO employees (indiscernible) under the supervision
14 from their department. And then, as far as the contractors, we
15 contract with experts to make sure that the contractor is
16 complying with what's in their plan.

17 Q. Who trains the consultants? Does PATCO train consultants on
18 what to look for: this bridge is this long, we're doing this type
19 of work? So, who trains consultants on what to look for or if
20 something's right within your compliance manual, or if something's
21 not right? Are they trained on right of way rules and safety? I
22 mean --

23 A. They're experienced at construction safety, and at this
24 point, the same people have been conducting these audits for us
25 for years.

1 Q. So, I mean, so, contractors are doing it, but PATCO, prior to
2 the incident, is not out there doing efficiency testing stuff?

3 A. We have consultants who go out and oversee --

4 Q. Yeah, so --

5 A. Yeah, yeah.

6 Q. So, I think it was noted that PATCO does not take it upon
7 themselves to go out and make sure that the project's being done;
8 it's -- because PATCO is responsible for safety efficiency
9 testing. You're working on PATCO property, you're working on a
10 DRP-funded project, you figure, and I think PATCO and DRPA's, I
11 guess, the authority, (indiscernible) or like the authority, they
12 call it --

13 A. Right.

14 Q. -- would be responsible. But, you know, (indiscernible) I'm
15 going to look at the consultants and make sure that they're doing
16 their job, because it's your all's property, it's your all's
17 money, it's -- that's what I'm looking for. What's PATCO doing to
18 make sure that they're following that SMS route and everybody's
19 doing their job?

20 A. So, for capital projects, there's a whole project management
21 team that's put in place that includes our -- there's an engineer
22 from DRPA assigned. We also hire a construction monitor that
23 manages the project. Part of managing the project is safety. The
24 *Safety Administrative Manual* has a number of submittals that a
25 contractor is required, so their site-specific safety plan is the

1 first of those. They're also required to conduct safety meetings
2 and submit the minutes of those safety meetings to the
3 construction monitor for review. We are required to submit job
4 hazard analysis for all the various tasks, and there are specific
5 requirements for special tasks, like critical lift plans and all
6 of those things. So, all those, we have various levels of
7 personnel in place to make sure that the contractor is complying
8 with the contract, including the safety performance of the
9 contract.

10 Q. So, are these safety consultants, are they overseeing PATCO
11 employees, too, as providing them protection?

12 A. They're under our supervision, the PATCO employees.

13 Q. So, the contractor's overseeing the PATCO employee -- or, the
14 safety consultant's overseeing the contractor employee to make
15 sure he's doing briefings, make sure the track's done correctly
16 out of service, if you're working under a track out of service
17 (indiscernible) or something, or --

18 A. That's what I'm saying. We've got PATCO people that tell
19 them it's okay to go out there. Once they go out there, you've
20 got a watchperson and safety consultants watching over stuff.

21 Q. Again, who from PATCO is making sure that briefings are being
22 done or your employees from PATCO is minding that ship? Who's
23 overseeing? Who's doing that, hey, man, can we see your
24 (indiscernible) your briefings, make sure that everything's in
25 compliance to the right of way safety plan? Who is --

1 A. So, we do that in the safety environment; and then, we --

2 Q. Right.

3 A. -- have a more formal program (indiscernible).

4 Q. So, that would be you guys?

5 A. Yes.

6 Q. You all do that? So, that's what I'm asking, was, was there
7 any safety audits completed by your group or by any PATCO groups
8 (indiscernible) leading up to the accident?

9 A. Specific RWP, no.

10 MR. LLOYD: Okay. That's (indiscernible). I'm good. That's
11 it.

12 MR. THOMPSON: Okay. Okay. Do we need to go back to Phil
13 again? Phil, do you have anything?

14 MR. HERBERT: No, I'm good, thank you.

15 MR. THOMPSON: Oh. (Indiscernible).

16 UNIDENTIFIED SPEAKER: I heard, no.

17 MR. THOMPSON: Okay. All right. Todd, anything else?

18 MR. KROPILAK: I'm good, I'm good.

19 MR. THOMPSON: All right. Okay. All right. So, this is
20 Matt Thompson, T-H-O-M-P-S-O-N. One thing. So, this AON, this is
21 the first I've heard of it, so I'd like a year of audits leading
22 up to the accident, prior to the accident, from them. Yeah,
23 nobody ever brought it up in any interviews or -- and if they were
24 taking care of the audits for you, we'd like to see that.

25 MR. FULLERTON: Sure.

1 MR. LLOYD: I have one more question.

2 MR. THOMPSON: Okay.

3 MR. LLOYD: I apologize.

4 MR. THOMPSON: Yeah. That's --

5 MR. LLOYD: One more question.

6 MR. THOMPSON: -- that's okay.

7 MR. LLOYD: One more question for me, please.

8 (Indiscernible)?

9 MR. THOMPSON: Yeah, that's -- go ahead, Troy. You can do
10 your questions.

11 BY MR. LLOYD:

12 Q. Any post-accident actions after this accident that PATCO's
13 put in place?

14 A. The actions from State Safety Oversight's October 19 letter
15 are the actions that we've taken.

16 Q. Since when?

17 MR. THOMPSON: Since the October 19 letter, he said.

18 MR. FULLERTON: Yeah.

19 BY MR. LLOYD:

20 Q. Since the October 19, what about lessons learned from this
21 accident? From this particular accident, has any post-accident
22 actions that PATCO's put in place? Just getting out there,
23 talking about it, teaching maybe some additional EIC training?
24 I'm just throwing some stuff out there. It might have been done.
25 I don't know. I'm asking. Did PATCO see anything that needs to

1 be updated, post-accident actions that was specific to this?

2 A. So, the more formalized training for basic RWP, flag person,
3 and EIC, all of those things were under development for some time.
4 Like, I've had those presentations ready, and we're in the process
5 of making those improvements. And when we've completed making
6 those improvements, we'll continue to add onto those things. But
7 now, we have a better-documented process for ensuring that
8 employees are trained. I don't think that was specifically in the
9 October 19 letter. It was a corrective action that was open
10 before the accident, and that's been completed now. But other
11 than that, just the action items that were in the October 19
12 letter.

13 Q. Has the SSO (ph.) provided any findings or anything
14 particular to this accident?

15 A. Just the October 19 letter, and I don't think that included
16 findings matched with the action items. I don't have the letter
17 in front of me, but it was just, here, you take these actions in
18 response to the accident.

19 Q. Okay. So, it's the 2019 findings that they found back in
20 2019, they're taking these findings, and they're saying, hey, here
21 are some caps for this accident, as well, same caps?

22 MR. THOMPSON: No, he was referring to the October 19 --

23 UNIDENTIFIED SPEAKER: 2022 --

24 MR. THOMPSON: -- 2022 --

25 MR. LLOYD: Yes.

1 UNIDENTIFIED SPEAKER: (Indiscernible)?

2 MR. THOMPSON: -- which was --

3 MR. LLOYD: Yes.

4 MR. THOMPSON: -- five days after --

5 UNIDENTIFIED SPEAKER: Got you.

6 MR. THOMPSON: -- the accident --

7 MR. LLOYD: Okay.

8 MR. THOMPSON: -- by approximately --

9 UNIDENTIFIED SPEAKER: Well, they changed the job safety
10 briefings (indiscernible).

11 MR. THOMPSON: Yeah.

12 MR. LLOYD: Okay. We're good.

13 MR. THOMPSON: Yeah.

14 MS. SANZO: I do want to make sure just, to this point, this
15 is the October 19, 2022 letter in which five safety actions were
16 proposed. That is in --

17 MR. THOMPSON: Yes.

18 MR. FULLERTON: Yes.

19 MS. SANZO: -- two dates. Those are the only post-accident
20 changes.

21 MR. LLOYD: That's what I'm asking --

22 MS. SANZO: I'm just --

23 MR. LLOYD: Yeah.

24 MS. SANZO: -- I'm confirming, because I want to --

25 MR. LLOYD: That's what I asked --

1 MR. SANZO: -- treat this --

2 MR. LLOYD: -- yes. So, nothing new.

3 MR. THOMPSON: Yeah. So, Matt Thompson, T-H-O-M-P-S-O-N.
4 So, like I said, I'd like to see, a year prior to the date of the
5 accident, AON audits, if that's how you pronounce it. And then,
6 also listed out post-accident actions that have changed either
7 through Todd's audits, or his agency's audits, or PATCO decided
8 themselves, or DRPA, or whatever. But I'd like to see those
9 listed out --

10 MR. FULLERTON: Sure.

11 MR. THOMPSON: -- as well. Do you have anything to add,
12 Dave?

13 MR. FULLERTON: I do not.

14 MR. THOMPSON: You do not? Does anybody else have anything?
15 Okay. On behalf of the NTSB, I'd like to thank you for your time
16 and cooperation. Appreciate it, Mr. Fullerton.

17 (Whereupon, the interview was concluded.)
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CERTIFICATE

This is to certify that the attached proceeding before the
NATIONAL TRANSPORTATION SAFETY BOARD

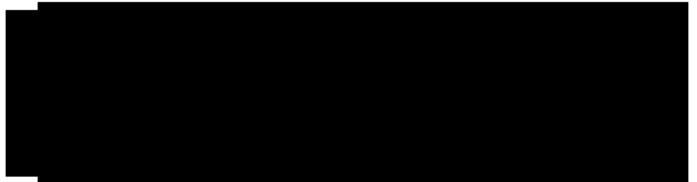
IN THE MATTER OF: FATAL PATCO TRAIN ACCIDENT ON THE
BENJAMIN FRANKLIN BRIDGE NEAR
CAMDEN, NEW JERSEY ON OCTOBER 14, 2022
Interview of Dave Fullerton

ACCIDENT NO.: RRD23FR001

PLACE: Cherry Hill, New Jersey

DATE: August 2, 2023

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