



ARMADILLO POLICE
DEPARTMENT
INCIDENT/OFFENSE REPORT

AGENCY NAME: ARMADILLO POLICE DEPARTMENT

DATE: JUNE 16, 2015 17:32

OFFICER: KIMBERLY CLARK

NARRATIVE DATE: 06/16/15 23:05

NARRATIVE:

On June 16, 2015 at about 17:32 I was dispatched to Armadillo Elevator Company, 600 South Czimskey Street, Armadillo to assist Armadillo EMT with an unresponsive male identified as William T. "Rocky" Rhodes. Upon arrival I observed a male subject lying on his back, partially under a rail car. I observed someone had already started CPR. I assisted EMT with CPR until they loaded Mr. Rhodes into the ambulance. Through more investigation, I made contact with an eye-witness, Chris Kitchel. Kitchel is owner of the premises, Armadillo Elevator Company. Kitchel stated that the deceased was observed standing on rail car UP93022 taking grain samples. Deceased had a 10 foot long brass grain probe in his hand and upon raising the probe from the car it contacted the north phase of the power line above him. Sparks were observed flying from the brass probe and the deceased fell to the ground. Kitchel stated that the deceased was then found laying on his back partially under the rail car in question. Kitchel reported that nothing had been moved at the scene or removed from the body before transport to the hospital. Kitchel stated that the power line was relatively new on the premises and was only used to provide electricity to pumps in a liquid fertilizer tank, and was used maybe 1 time every 2 months. Kitchel stated that Big State Power Company, the owner of the line, had been asked to put a disconnect on the power line so that it could be de-energized when not in use, but the cost was going to be prohibitive, so no disconnect was installed.

I measured the distance from the track to the top of the walkway on rail car UP93022 and found it to be 15.0 feet. A representative of Big State Power Company, one Mike Gershon, arrived at the scene and stated that it was just a matter of time before someone got into the power line above those cars. At my request, Gershon measured the distance from the top of the track to the north phase of the power line and reported that the distance was 24 feet 2 inches. He was unable to state what the required height of the line should be.

The brass probe and two grain sample bags were taken as evidence. Personal effects were released to deceased person's wife.

****NOTHING BELOW THIS LINE****

EXHIBIT 1

Inspected

AUSTIN GRAIN SAMPLING COMPANY, INC.

No. 9918

CERTIFICATE

Sampled
06/17/15

CUSTOMER **ARMADILLO GRAIN COMPANY**

Identification
UP93022

Location
ARMADILLO GRAIN

Grain
WHT

MR _____

Sampler
RHODES/McCARTHY

Inspector

Dockage
N/A

TEMP _____

Test Wt.
61

Damage
NONE

FM

S&B

Protein

Defects
NONE

MOISTURE
09.5 %

Avg. Depth Sampled
8'

Seal Removed
54351

Seal Applied
91487

Grams/Sample

NOTES

Original sample discarded. Resampled after moving car 10 feet north following incident on 6/16/15.

EXHIBIT 2



PAT. NO. US 7,861,659
PAT. NO. US 7,856,931

WARNING

DO NOT APPLY VIBRATOR
TO ANY PART OF CAR BODY
EXCEPT VIBRATOR BRACKETS
ON LOADED CAR ONLY

CLOSE HOPPER BLEDS
AND ROOF HATCHES
BEFORE CAR IS MOVED



OPEN HATCH BEFORE
UNLOADING COMPARTMENT

1564 CUFT



2-20-20
Place an approximately 14" from pointed end
of probe.
Taped as Rick Rep Probe 013-0775
Sharp manufacturer
S&S Seaburg
Seaburg
20 springs along full length
Total length = 170 1/8"

EXHIBIT 4



EXHIBIT 5



SPRO
1 30 01
2 00 B367
1 10 C-4
38 INCH WHE
NO 24 BRAKE
SBRIDGE COM

10-8 H 3 5
8-6 H 15-0

2 IN TREAD
FRONT GUID

33322

EXHIBIT 6



ARMADILLO POLICE
DEPARTMENT
PROPERTY INVENTORY SHEET

AGENCY NAME: ARMADILLO POLICE DEPARTMENT

DATE: JUNE 16, 2015 18:32

OFFICER: CHRIS JENSEN

NARRATIVE DATE: 06/16/15 19:42

THE FOLLOWING ITEMS WERE TAKEN INTO POSSESSION OF THE ARMADILLO POLICE DEPARTMENT AT THE SCENE OF THE INCIDENT ABOVE AND RETURNED TO

BAILI RHODES AT 19:03 ON THE ABOVE DATE AT ARMADILLO HOSPITAL:

1. One pair Wrangler blue jean pants
2. One Dickies work shirt
3. One leather belt
4. One Pittsburgh Penguins cap
5. One Seiko wristwatch
6. One gold wedding band
7. One pair Nike running shoes
8. One pair cotton athletic socks
9. Billfold with following contents:
 - a. \$54 dollars cash
 - b. Visa credit card under name Rocky Rhodes
 - c. Drivers license for Rocky Rhoades
 - d. Social Security card
 - e. Sam's Club membership card
10. Keys and key fob for Toyota Tundra
11. One Bic pen with cap

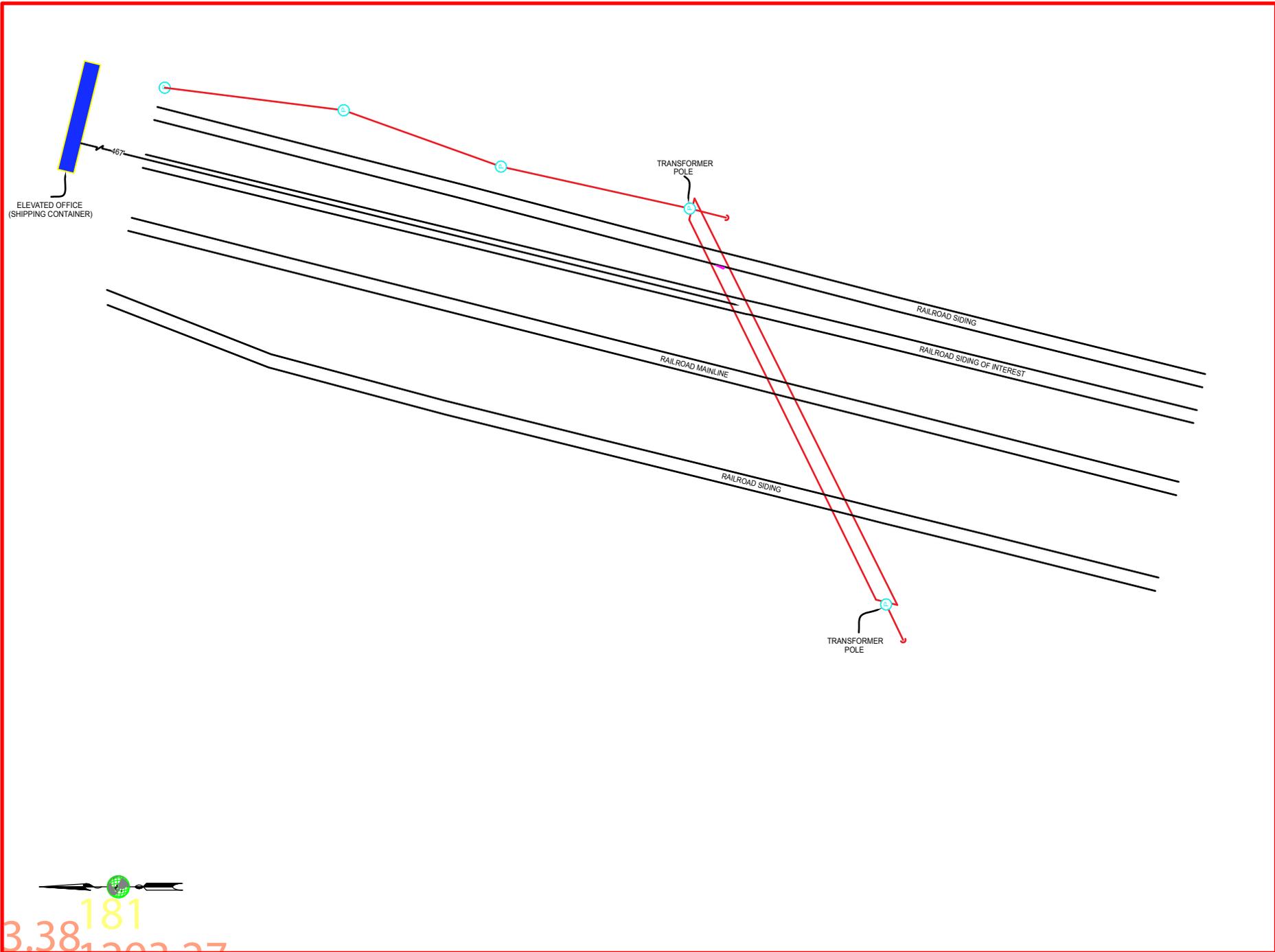
****NOTHING BELOW THIS LINE****

RECEIVED BY

Baili Rhodes

EXHIBIT

7



180
 1293.38
 TOE
 181
 1293.27
 TOE
 NTC 2018 Regional Page 52

182
 1295.26
 183
 1295.26
 1836
 1837
 1838





EXHIBIT 9

BIG STATE POWER COMPANY

INCIDENT INVESTIGATION REPORT

DATE: June 19, 2015
LOCATION: 600 South Czimskey Street, Armadillo
LINE: Distribution Segment D34

INVESTIGATION: A line crew was dispatched to the above location to assist Armadillo PD in its investigation of an accident that occurred 06/16/15 involving a contact with the above 7,620 volt phase to ground distribution line, specifically to measure the height of the north phase conductor above the west spur track belonging to Pretorius Railway and Brew Company, on the premises of Armadillo Grain Company. The conductor in question was part of a 3 phase service built in a horizontal configuration with the neutral acting as a shield above the phases. The take off point of the line is a pole with 3 transformers on the east side of the east spur, and the terminal point is a pole west of the main tracks and adjacent to a fertilizer tank.

Construction date: April 12, 2010

Height of east (take off) point pole: 26'3"
Height of west (terminal) pole: 35'6"
Height of north conductor over west spur track: 24'2"

Entered on MobilNet from Unit 254 by Lev Davidovich Bronshtein, Investigator

Austin Grain Sampling Company

To: All Contract Samplers

Date: August 18, 2003

Subject: Sampling Procedures and Safety Rules

Preparing OSR Reports and Sampling Tickets:

1. Be sure to obtain an accurate list of car initials and numbers of cars to be sampled; listing each one on the OSR report; giving one copy to the shipper; keeping one copy for your billing file; placing 2 copies in the top of one of the mesh bags containing samples for that shipper.
2. When filling out the Pink Ticket that goes in the top of the sample bag; be sure to double check the car initial and number; assuring that we have the right sample for each car. Errors cause delays in furnishing shippers with Inspection Certificates and can cause problems!!
3. When you are picking up samples for each car to put into mesh bags; be sure to count the number of samples to be sure you send all of them to us. If you fail to send us all of the samples; it can cause the shipper to miss a sale and possibly cause us to lose a customer!

Sampling the Hopper car:

1. Be sure to protect your grain probe from adverse weather conditions by carrying it inside of plastic tube which will also help keep it from being dented or bent.
2. Periodically you should remove the inner part of the probe and wipe it with a dry cloth; and at the same time carefully clean out any accumulation of dirt/dust from inside the tip of the outer tube. Be sure to take good care of the probe as it cost approximately \$400.
3. You must take one probe sample of grain from each compartment of the cars!! The depth that you probe the ear should be recorded in the appropriate place on the **ticket** and you should probe it as deep as reasonably possible, i.e. preferably 8' to 9' to give a good representative sample.
4. After the probe has been inserted to the proper depth, open the probe until it fills with grain, then close the probe; remove it from the loaded car and place into the plastic bag which is inside the canvas bag. Then place the ticket in the top of the plastic bag and apply a bag-tie closing the canvas bag tight with the draw string.
5. You should attach a TAG to each mesh bag with the shippers name on it!!!

Safety Rules:

1. You should observe good safety practices at all times; do not take any chances; and if you incur injury please be sure to report it to us by phone and confirm it in writing; giving us detailed information: where, when, how.
2. Always wear shoes or work boots which have rubber type soles and heels, to avoid slipping.
3. Always have both hands free when climbing or descending the ladders on rail cars.
4. If the cover doors on the hopper cars are heavy metal, ask the elevator for assistance in Opening and closing them.

5. Be sure that your grain probe does not come closer than 6 feet of any electrical lines at any time. If you notice any situations where this poses a problem; be sure to report it to the loading elevator; report it to us by phone, confirmed in writing with the exact location.

If you have any questions, please feel free to give us a call. Be sure to review this information thoroughly, sign a copy of this letter and return it to us.


Contract Sampler Signature



EXHIBIT 12



EXHIBIT 13

ARMADILLO ELEVATOR COMPANY CERTIFIED WEIGHT CERTIFICATE

DATE: 06/16/2015 15:32:12

TICKET NO: 347

ORDER TYPE: Ship

COMMODITY: Hard Red Winter Wheat

CAR NO: UP93022

NET WEIGHT: 227,364 lb

This certifies that lot or parcel as specified below was weighed under the supervision of Grain Exchange at:

Armadillo Elevator Company
600 S. Czimskey Street
Armadillo, LS 75214

I hereby certify that I am a licensed and sworn weigher, than on the above place the above lots or parcels of grain, this net weight including dockage, if any, of such grain is that stated above.

WEIGHMASTER: /s/ JOHN W. ELLIS

ARMADILLO ELEVATOR COMPANY CERTIFIED WEIGHT CERTIFICATE

DATE: 06/16/2015 15:55:52

TICKET NO: 348

ORDER TYPE: Ship

COMMODITY: Hard Red Winter Wheat

CAR NO: UP83484

NET WEIGHT: 219,956 lb

This certifies that lot or parcel as specified below was weighed under the supervision of Grain Exchange at:

Armadillo Elevator Company
600 S. Czimskey Street
Armadillo, LS 75214

I hereby certify that I am a licensed and sworn weigher, than on the above place the above lots or parcels of grain, this net weight including dockage, if any, of such grain is that stated above.

WEIGHMASTER: /s/ JOHN W. ELLIS

EXHIBIT 15



EXHIBIT 16



EXHIBIT 17



EXHIBIT 18

BAILI RHODES

Plaintiff,

v.

**ARMADILLO ELEVATOR
COMPANY, INC.**

Defendant.

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IN THE 725th DISTRICT COURT

IN AND FOR

TRAVIS COUNTY

STATE OF LONE STAR

SWORN STATEMENT OF ALEXANDER BELL

My name is Alexander Bell. I am the Safety Director for Pretorius Railway and Brew Company. I have been the safety director at that company for the last ten (10) years. Prior to joining Pretorius Railway and Brew Company, I served as Safety Director for Agra Producers Grain Corporation in Plainview, Lone Star.

Pretorius Railway and Brew Company is in the business of, among other things, transportation of grain from local elevator companies to markets, always in states other than Lone Star. As part of the business, Pretorius Railway and Brew Company provides railcars to elevators for the purposes of securing their business for transportation of grain. An elevator company calls our dispatcher, who then determines how many cars are requested and dispatches that number of cars to spur tracks alongside the elevator company's premises. After the railcars are filled with grain and sampled, the elevator company again calls the dispatcher and arranges for a locomotive to come by and bunch the cars back up and transport them to their ultimate market destination. Federal regulations mandate that Pretorius Railway and Brew Company

EXHIBIT 19

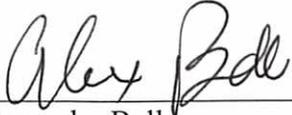
cannot move the grain cars from the spur tracks until the cars have all been sampled by a certified grain sampler and lab reports have been received.

On June 14, 2015, Armadillo Elevator Company contacted our dispatcher and requested the dispatch of one hundred (100) grain cars to its premises in Armadillo, Lone Star. Acting pursuant to that request, an engineer operating one of our locomotives delivered the cars straight way to Armadillo Elevator Company and parked them on a spur track adjacent to the elevator. Typically, Armadillo Elevator Company will use its own push car to maneuverer the railcars around the tracks and load them. On the occasion in question, that is, June 16, 2015, Armadillo Elevator Company requested that we use one of our locomotives to move the cars so that they could load them more quickly. Our engineer and our locomotive stayed on site throughout the day on June 16, 2015 helping move and spot cars so that they could be filled at the loading platform belonging to Armadillo Elevator Company. However, due to strict union regulations, our engineer “timed-out” and had to leave the premises at 3:22 p.m. The engine was removed from the premises, and I do not know what Armadillo Elevator Company did after that to move grain cars. It is my understanding, based on reviewing tickets from the loading platform, that the last grain car moved into place by Pretorius Railway and Brew Company was two cars to the south of the accident car.

As Safety Director of the Pretorius Railway and Brew Company, I frequently inspect tracks belonging to us, including the tracts adjacent to Armadillo Elevator Company. We look at the main line tracks on a weekly basis, and we inspect the spur tracks every month. If I do not personally inspect the tracks, a trained and qualified crew will go inspect both the main and spur tracks on this periodic schedule. Our schedule for inspecting tracks is set forth in a very elemental periodic table posted in our office.

I have personally inspected the spur tracks at Armadillo Elevator Company. Generally, I was there twice a month for the past five (5) years. To my knowledge, I had never observed the power line crossing our tracks at the site of the accident.

FURTHER AFFIANT SAYETH NOT

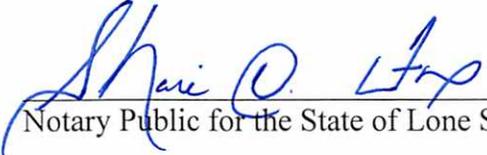


Alexander Bell

STATE OF LONE STAR §
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COUNTY OF Travis §

Before me, Shari D. Fox, Notary Public in and for The State of Lone Star, on this day personally appeared Alexander Bell, Affiant, known to me to be the person whose name is subscribed to the above and foregoing Sworn Statement and acknowledged to me that the facts and information stated herein are true and correct.

Subscribed to and sworn to before me, the undersigned authority, on this the 15th day of December, 2016.



Notary Public for the State of Lone Star

BAILI RHODES

Plaintiff,

v.

**ARMADILLO ELEVATOR
COMPANY, INC.**

Defendant.

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IN THE 725th DISTRICT COURT

IN AND FOR

TRAVIS COUNTY

STATE OF LONE STAR

SWORN STATEMENT OF JOE K. LONGLEY

My name is Joe K. Longley. I am over the age of 21 years, I am of sound mind, and I have personal knowledge of the facts in this statement, which are true and correct to my personal knowledge.

I am an English teacher at Bootleg High School in Bootleg, Lone Star. I also serve from time to time as a contract grain sampling technician working for Austin Grain Sampling Company. I have been doing that job for several years now. Rocky Rhodes was a fellow teacher and friend of mine, and I am the one who got him involved in sampling grain.

I am the person who trained Rocky on how to do grain sampling. I told Rocky how to carry the brass probe in his pick-up. I taught him where to put it on the first grain car that he could pull it up on top without straining his back. I taught him how to insert the probe at a 10 degree angle, which is slightly less than the Great Pyramid at 51.5 degrees, so that the grain would fill the probe when he opened the slots. I taught him how to open the probe and close it, how to pull the probe back out of the grain and how to dump it into one of the grain sampling bags by turning it upside down and letting the grain flow out of the hole at the end of the probe.

I gave Rocky some safety training as well. I taught him not to sample grain cars if there was a lightning storm going on at the moment. I taught him not to sample grain cars in a rain because rain would get into the grain, and the rain in the grain falls mainly into plain bad technique. I also taught him to be careful while walking on the walkways because if you step off, it was a fifteen foot fall every time. I also taught him not to wear muddy boots when grain sampling because he could fall off the slick aluminum walkways. I taught Rocky how to fill out the paper work, how to put the bags into the larger container and to where to take them to have them picked up. I taught Rocky how to fill out a grain sampling sheet showing which cars he had sampled and how far he had driven in order to get reimbursed for mileage. I also taught Rocky to watch out while he was on top of a car that he did not get into a power line. I taught him that if a power line appeared to be too low over his head, he should avoid sampling that car, and just falsify the paperwork.

When I heard about this horrible accident, I went immediately to the Armadillo Elevator Company and looked at the grain car and the power line. When I climbed up on top of the grain car and walked toward the power line, I could see it easily. It was open and obvious, and it seemed plenty high to me, but I was also watching my feet so that I didn't fall off.

I have never sampled grain at a location that had a power line anywhere close to the spur tracks. I have never sampled grain at Armadillo Elevator Company.

FURTHER AFFIANT SAYETH NOT:



Joe K. Longley

STATE OF LONE STAR §
 §
COUNTY OF Travis §

Before me, Cynthia DeLeon, Notary Public in and for The State of Lone Star, on this day personally appeared Joe K. Longley, Affiant, known to me to be the person whose name is subscribed to the above and foregoing Sworn Statement and acknowledged to me that the facts and information stated herein are true and correct.

Subscribed to and sworn to before me, the undersigned authority, on this the 15th day of November, 2016.



Notary Public for the State of Lone Star

BAILI RHODES

Plaintiff,

v.

**ARMADILLO ELEVATOR
COMPANY, INC.**

Defendant.

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IN THE 725th DISTRICT COURT

IN AND FOR

TRAVIS COUNTY

STATE OF LONE STAR

SWORN STATEMENT OF MIKE GERSHON

My name is Mike Gershon. I am an engineer employed by Big State Power Company. I have been with Big State Power Company for the past 22 years. Prior to joining Big State Power Company, I was a student at Rogue Community College in Dime Box, Lone Star, where I received a degree in electrical engineering.

I am personally familiar with the power line that crosses the railroad tracks at the premises of Armadillo Elevator Company in Armadillo, Lone Star. The elevator company asked Big State to construct that line in 2010 for the purpose of serving its liquid fertilizer tank on the west side of the railroad tracks. I was the engineer for Big State that did the design work on the power line. I was somewhat hampered in the design because the takeoff pole on the east side of the tracks was somewhat short, but Armadillo Elevator Company wanted to keep that pole in place because it had all those transformers on it already. Because the east pole was a little short, I placed a very tall pole on the west side to gain some height on the line. Doing that made the height of the line over the main track sufficient to meet the National Electrical Safety Code requirements. I'm uncertain whether the height over the spur tracks met the Code requirements,

EXHIBIT 21

but it was plenty high as long as no one was walking around on the tops of rail cars under the line. No one at Armadillo Elevator Company told me that people would be on top of the rail cars at that location for any reason.

After the accident, I was asked to obtain a measurement of the height of the conductor that was contacted by Mr. Rhodes' brass pole. I directed an investigator employed by Big State to go to the site and take measurements, including a measurement of the height of the north conductor over the west spur track. I was on location when the measurement was taken, and I verified the measurement as being accurate. The temperature that day was 81 degrees, which was only two degrees cooler than the temperature on the date of the accident. Exhibit 3 is a photograph of me assisting with the measurement of the power line, and Exhibit 10 is a true and accurate copy of the Incident Investigation Report showing the height of the line.

FURTHER AFFIANT SAYETH NOT

Mike Gershon
Mike Gershon

STATE OF LONE STAR §
 §
COUNTY OF Travis §

Before me, _____, Notary Public in and for The State of Lone Star, on this day personally appeared Mike Gershon, Affiant, known to me to be the person whose name is subscribed to the above and foregoing Sworn Statement and acknowledged to me that the facts and information stated herein are true and correct.

Subscribed to and sworn to before me, the undersigned authority, on this the 20 day of January, 2017.

Beth Langwell
Notary Public for the State of Lone Star