

**CAUSE NO: 11-15A**  
**NAME: ZELLER ELEVATOR**  
**ADMINISTRATIVE LAW JUDGE: GARY W. BIPPUS**  
**DATE: JULY 21, 2011**  
**COMMISSION ACTION: AFFIRMED**

**FINDINGS OF FACT**

1. On March 22, 2011 elevator number 34611 located at 1236 Lincoln Avenue in Evansville, Indiana was offered as available for public use at a time when that elevator did not have a current operating permit. This elevator was operating under an alteration permit obtained by Petitioner.

2. There are two elevators located at 601 NW 2<sup>nd</sup> Street in Evansville, Indiana which are in issue; one has state number 34371 and the other has state number 34372. Both of these elevators were initially installed in 1964. The hydraulic cylinders were extracted and some work performed on them with the intent that the work would bring them up to current code standards. Upon reinstallation there was no documentation available to demonstrate that the modifications performed on those hydraulic cylinders meets required current engineering and design standards, or that the elevator's plunger stops meet the new design and construction standards, or that all welding performed on the subject cylinders meets code requirements.

3. There was no acceptable means provided on either elevator 34371 or 34372 to check for stray currents that can cause corrosion to the hydraulic cylinders as a result of galvanic or electrolytic action.

4. Mr. L. M. (Mike) Zeller performed elevator mechanic work on elevators 34371 and 34372 by performing alteration inspection testing on those two elevators April 5, 2011.

5. Mr. Zeller did not hold an appropriate certification allowing him to legally perform elevator work on April 5, 2011.

6. On April 5, 2011 there was no overspeed valve installed on the hydraulic jack on elevator number 34371.

7. On April 6, 2011 the running clearance on at least one of the non-entrance sides of elevator 114086 located at 505 Mulberry, Mount Vernon, Indiana was approximately 10 inches.

8. On April 6, 2011 the main line disconnect switch on elevator 114086 was located under the car in the elevator pit.

9. Any item which is denominated a Finding of Fact which should be considered a Conclusion of Law is hereby incorporated by reference into the Conclusions of Law.

### **CONCLUSIONS OF LAW**

1. The Department of Homeland Security is an agency within the meaning of I.C. 4-21.5.

2. The Agency is the state entity charged with building safety within the State of Indiana.

3. I.C. 4-21.5, I.C. 22-12 and 675 IAC apply to this proceeding.

4. The Fire Prevention and Building Safety Commission is the ultimate authority within the meaning of IC 4-21.5 with respect to Agency actions taken, violations, or alleged violations of the Indiana Building Code.

5. Pursuant to I.C. 22-12-1-22 (a) all four of the elevators which are the subject of this review are regulated lifting devices.

6. Section 675 IAC 21-1-3.1(a) provides, in pertinent part, as follows:

A regulated lifting device may not be operated without an operating certificate that covers the operation of the regulated lifting device. However, an

individual who is performing maintenance on, repairing, installing, or altering the regulated lifting device may use the regulating lifting device without an operating certificate to the extent necessary to complete the work and required testing.

7. The elevator described in Agency exhibit A was in violation of the above referenced portion of the Indiana Administrative Code on March 22, 2011.

8. Section 675 IAC 21-3-1 of the Indiana Administrative Code provides:

That certain document, being titled as ANSI/ASME A17.1, 2004, Safety Code for Elevators and Escalators, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016 is hereby adopted by reference and made a part of this rule as if fully set out herein, save and except those additions, deletions, and amendments as are made in section 2 of this rule.

9. Section 3.18.3.8.1 of the above referenced ANSI/ASME Safety Code provides that, "Cylinders buried in the ground shall be protected from corrosion due to galvanic or electrolytic action, salt water, or other underground conditions".

10. Section 3.18.3.8.2 of the referenced ANSI/ASME Safety Code identifies the requirements for this protection as being methods that, "are installed with means for monitoring and maintaining them in accordance with recognized industry standards applicable to the methods" and which, "provide means for checking ongoing compliance with 3.18.3.8.1".

11. Elevators 34371 and 34372 were not provided with an acceptable means to check ongoing compliance with 3.18.3.8.1 on April 5, 2011 and were, therefore in violation.

12. Section 3.18.3.1 through 3.18.3.7 of the referenced ANSI/ASME Safety Code contains several design and engineering standards for the design of hydraulic cylinders used with hydraulically actuated elevators. By not having documentation available subsequent to burying the cylinders for elevators 34371 and 34372 or not allowing inspection prior to burying the said cylinders it is impossible to confirm that those elevators are in compliance with those standards.

13. Section 3.18.4.1 of the referenced ANSI/ASME Safety Code contains standards

concerning metal stops limiting the movement of hydraulic cylinders used with hydraulically actuated elevators. By not having documentation available subsequent to burying the cylinders for elevators 34371 and 34372 or not allowing inspection prior to burying the said cylinders it is impossible to confirm that those elevators are in compliance with those standards. Accordingly, elevators 34371 and 34372 are not in compliance with the elevator code.

14. Section 3.18.5.1 of the referenced ANSI/ASME Safety Code, by incorporating by reference Sections 8.8.1 through 8.8.3 of the same code, contains standards for the welding of hydraulic cylinders used with hydraulically actuated elevators. By not having documentation available subsequent to burying the cylinders for elevators 34371 and 34372 or not allowing inspection prior to burying the said cylinders it is impossible to confirm that those elevators are in compliance with those standards.

15. Pursuant to I.C. 22-15-5-6 (a)(5), "Elevator mechanic" means an individual who engages in the construction, reconstruction, alteration, maintenance, mechanical, or electrical work or adjustments of a regulated lifting device.

16. Pursuant to I.C. 22-15-5-4 only a licensed elevator mechanic shall perform maintenance on a regulated lifting device.

17. Mr. L.M. Zeller is not a licensed elevator mechanic but he acted as though he was so licensed on April 5, 2011 by performing Alteration Inspections on elevators 34371 and 34372.

18. Pursuant to section 2.1.1.7 of the referenced ANSI/ASME Safety Code, "The running clearance between the platform enclosure walls and the runway enclosure shall be not less than 2 in. (51mm) nor more than 3 in. (76 mm)," on the sides not used for entrance or exit.

19. Mr. Zeller's admission that at least one of the subject non-entrance side clearances was approximately 10 inches confirms one of the violations charged on elevator

114086 located in Mount Vernon, Indiana.

20. Any item which is denominated a Conclusion of Law which should be considered a Finding of Fact is hereby incorporated by reference into the Findings of Fact.

### **DECISION AND ORDER**

The decision of the Administrative Law Judge in this matter is that each of the subject Violations To Be Corrected issued by the Division of Elevator Safety is affirmed.

The Fire Prevention and Building Safety Commission is the final authority in this matter and that Commission will consider this nonfinal decision at 9:00 AM on September 7, 2011 in Conference Room B of the Indiana Government Center South, 302 West Washington Street, Indianapolis, IN 46204.