

This incident occurred within the city limits of Amarillo, Texas.

On Monday, January 9th at about 11:07 a.m. Central time, a 57-year-old welding foreman, Neil Thomas Touvell (known as Tommy), employee identification number [REDACTED], with 35 years, 6 months of railroad service was opening a derail from the southerly rail of track #1805 when he was struck by a LORAM switch grinder (See photos of the switch grinder BNSF designation SG006) making a westbound movement.

See diagram of the area.

The LORAM personnel on the switch grinder were Superintendent/Operator Gerald Hollinger (known as George), General Laborer Nicholas Hill (known as Nick) and Safety Coordinator Matthew Rossing. Crew Chief Michael Prock was the fourth LORAM employee assigned to the grinder who was at a local Grainger store in the process of purchasing parts for the grinder. Michael was not at the location at the time of the incident.

There were two BNSF personnel assigned by bulletin and award to the switch grinder gang (identification number TSGX0370) Tommy and John A. Gayton, BNSF employee identification number [REDACTED]. January 9th was the first day of work for this assignment of work with SG006 grinder. Tommy's exempt supervisor for this assignment is Welding Supervisor Don Hiatt.

Tommy's duties were to act as the BNSF employee in charge and to pilot/escort the LORAM rail grinder while traveling and working on BNSF trackage. Tommy has had in excess of ten years

of experience working with switch grinders and based upon information from BNSF exempt personnel he would exercise his BMWED seniority rights to bid in on these machines when they were in his area.

John's duties would be to basically perform work tasks as directed by Tommy. John was not at the site at the time of the incident, nor was he at the safety briefing. Prior to the start of work John called Tommy and asked for permission to arrive later than his assigned start time for personal reasons. It is our understanding that Tommy granted this request.

This incident occurred on a yard track 1805 which connects onto main track 2 of the Red River Valley (RRV) subdivision at MP 334.7. (See track chart page 2B).

The work day started with a job briefing at 0730 hours, which lasted for 1-1/2 to 2 hours. The briefing was conducted in the cab of the grinder which was located on yard track 0604 in the Amarillo south yard, approximately 1 to 1-1/2 miles from the location of the accident.

The attendees at the job briefing were:

- Neil Thomas Touvell/BNSF
- Gerald Hollinger/ LORAM
- Nicholas Hill/ LORAM
- Matthew Rossing/ LORAM
- Michael Prock/LORAM
- Don Hiatt/Welding Supervisor*
- Phil Dodson/Roadmaster*

* = Neither Don or Phil signed the safety briefing document as neither were going to accompany the grinder for the day's work.

The briefing was led by Neil Thomas Touvell with involvement by others at the briefing.

The items covered at the job briefing are as follows:

- Safety expectations
- Rules compliance
- Involve everyone
- Conducting good briefings
- Understanding track charts, timetables and authorities
- Reviewed BNSF stretching exercises
- Discussed fire safety
- Emergency contact information reviewed
- Audited BNSF welding foreman truck
- Discussed lock out tag out
- Discussed work plan for the day
- Checked portable radios and laptop & recorded serial numbers
- Talked a lot about communication and to let the supervisor know if anything is needed

As evidenced in the BNSF radio recordings, Tommy had conversed with the yardmaster prior to leaving his yard tie up point and proceeding easterly towards MT2 on the RRV subdivision.

Tommy had also secured track and time authority number 440-54 at 10:58 central time on RRV

MT2. The rail grinder was operating on other than main track authority prior to passing the derail on track 1805.

After Tommy secured track and time authority to enter main track 2, he opened the derail on track 1805 for the grinder to make a forward move (eastbound) towards main track 2. After the grinder passed the derail, the grinder stopped approximately 30-feet east of the derail and Tommy restored the derail on track 1805 and applied the security padlock. As the grinder was passing Tommy, he noticed hydraulic oil leaking on the easterly end of the grinder. After the grinder stopped Tommy informed George the operator of the grinder. George, the operator, advised that he, Tommy and Nick all assembled on the ground by the southeast end of the grinder on the ground to evaluate the hydraulic leak. Upon evaluation of the leak, it was determined that the grinder would have to clear up back into the yard to make necessary repairs as the leak was too severe to continue onto the work location planned on the Red River Valley subdivision. George stated that he and Tommy discussed that the derail would have to be removed to allow for their reverse movement while they were still on the ground. George also stated that he and Tommy walked along the southerly side of the grinder on the ground to the west end of the grinder where George then climbed onto the grinder and walked into the cab of the grinder. The next time George saw Tommy was after he had gotten into the grinder cab and Tommy was standing northwest of the grinder between tracks 1805 and 5299. While George was going to the cab of the grinder, Nick took point position on the grinder at the extreme west end of the grinder and was visible to George in the cab and to Tommy on the ground.

Shortly after George had entered the cab, George stated that Tommy gave a hand signal to George, the operator, to make a westbound movement. LORAM management stated that during post accident interviews of their personnel, it was communicated to them that George gave two horn blasts prior to backing up. George then stated that Tommy stepped across the north rail of track 1805 in a southerly direction and due to the physical configuration of the grinder, George was no longer able to have visual contact with Tommy. George either had already started backing up or then started backing up. Nick stated that he did have visual contact with Tommy from the time a signal was given by Tommy presumably to make the westbound move until the grinder struck Tommy.

Nick stated that after giving the signal to proceed west, that Tommy walked in a southerly direction across the north rail into the middle of track 1805, to the derail on the south rail, kneeled down and proceeded to unlock and remove the derail from the south rail to allow movement to the west.

It should be noted that there are several cameras, which do not record their images, which are on the switch grinder that are used when in the grinding or work mode so the operator knows when to sequence the grinding operations. Based upon tests that were performed after the incident, the main camera on the grinder pointing in a westerly direction (or in the direction of the westbound move) provided a sight distance of approximately 18-feet as measured to the west end of the grinder. At 18-feet from the grinder you can see the toes of the work boots of an individual standing there but no higher until you get closer to the grinder.

Nick stated that he was on the point (westerly) end of the grinder in sight of the operator observing the movement and could see Tommy. He stated that Tommy while in the middle of the rails proceeded to unlock and remove the derail when he was struck by the grinder and was fatally injured. Nick stated that he was aware of the grinder moving west and that Tommy was foul of the movement but believed that George would stop short of the derail. Once he realized the grinder may not be able to stop short of Tommy, he started to yell for Tommy to get out of the way of the grinder. As best as Nick could tell, Tommy never heard him. It is assumed that due to the noise of the grinder and the hearing protection that Tommy was wearing, Tommy never heard Nick as his back was to the grinder as the grinder was approaching and there was no body movement to indicate he heard Nick. Nick did have a Loram radio to communicate with George however Nick advised that he did not use the radio.

George stated in his opinion he would have done the same as Nick did if he had been the pilot. Nick and George (who did see Tommy in his camera before impact) both stated independently that Tommy had his back to the grinder when he was struck. George stated he immediately took action to stop the grinder once he saw Tommy in his camera. It is not known at what point George saw Tommy in his camera or how far the distance was from first sight of Tommy as to the distance from the grinder.

After the grinder was able to come to a stop, George immediately proceeded to make emergency notification to BNSF 8825 who in turn toned 911 to BNSF dispatcher for emergency medical services. Nick, who had just completed CPR class in Kansas City the week before, went to Tommy to check for pulse and perform CPR/first aid if appropriate. No pulse was detected.

We also interviewed LORAM employee Matthew Rossing as to his recollection of events surrounding this incident. Matthew stated that he was busy in the east end of the cab working on the computer and did not have any specific statements to make other than the incident did occur.

Based upon the survey information and information collected after the incident, it is believed that the grinder came to a stop to check for leaking hydraulic oil very close to 32.5-feet east of the derail on track 1805. This distance would be measured from the derail to the westerly end of the grinder. The grinder making the reverse move went 18.5-feet past the derail as measured from the derail westerly to the extreme west end of the grinder.

Tommys' body was removed from the under the grinder by emergency personnel. He was lying face up between the rails of track 1805 with his head facing east.

The onsite investigation revealed that the derail had been struck by the cowcatcher on the grinder and was ripped from the ties that it was mounted on. Impact marks present on the cowcatcher and the derail are consistent with the derail having been in the half thrown or approximately vertical position at the time of impact.

From a communication device standpoint, the grinder is equipped with a BNSF HLCS device and a BNSF company radio. The HLCS device is a safety overlay system which alerts both the operator of the equipment when they are approaching the end of their on-track authority limits and both the operator and the BNSF dispatcher if the equipment exceeded the end of their on-

track authority limits. The grinder has a LORAM radio immediately next to the operators' chair. Nick had in his immediate possession a LORAM portable radio while acting as the point person for the reverse move. Tommy had two BNSF portable radios and those were found in his truck after the accident. Tommy had a cellphone which was found in the LORAM grinder after the accident. The coroner advised that there was no cell phone or radio attached to or contained in Tommy's clothing. No communication device of any nature was found in or around the track area before or after the grinder was removed from the accident scene.