

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

TEXAS UTILITIES ELECTRIC
COMPANY, et al

(Comanche Peak Steam Electric
Station, Units 1 & 2)

Docket No. 50-445
50-446

Deposition of: Henry Stiner

Location: Glen Rose, Texas

Pages: 51,500-51,721

Date: Friday, July 13, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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 In the matter of: :
 :
 TEXAS UTILITIES ELECTRIC :
 COMPANY, et al. : Docket Nos 50-445
 : 50-446
 (Comanche Peak Steam Electric :
 Station, Units 1 and 2) :
 -----x

Glen Rose Motor Inn
Glen Rose, Texas

July 13 , 1984

Deposition of: HENRY STINER
 called for examination by counsel for Intervenor,
 taken before Suzanne Young, Court Reporter,
 beginning at 5:00 p.m., pursuant to agreement.

APPEARANCES:

On behalf of Applicant:

MARK L. DAVIDSON, ESQ.
 WILLIAM A. HORIN, ESQ.
 Bishop, Liberman, Cook, Purcell & Reynolds
 1200 Seventeenth Street, N.W.
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1 APPEARANCES (Continued):

2 On behalf of State of Texas:

3 RENEA HICKS, ESQ.
4 Assistant Attorney General
4 411 West 13th
5 Austin, Texas 78701

6 On behalf of Intervenor, CASE:

7 ANTHONY Z. ROISMAN, ESQ.
8 Executive Director
8 Trial Lawyers for Public Justice
8 Washington, D.C. 20036

9 On behalf of NRC Staff:

10 RICHARD G. BACHMANN, ESQ.
11 STUART TREBY, ESQ.
11 Office of the Executive Legal Director
12 U.S. Nuclear Regulatory Commission
12 Washington, D.C. 2055513
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I N D E X

<u>WITNESS</u>	<u>EXAMINATION BY</u>	<u>PAGE NO.</u>
HENRY STINER		
	Mr. Hicks	51,511
	Mr. Davidson	51,537
	Mr. Bachmann	51,619
	Mr. Davidson	51,661
	Mr. Bachmann	51,683
	Mr. Hicks	51,684

E X H I B I T S

<u>Exhibit No.</u>	<u>Identified</u>
H. Stiner-1 and 2	51,511
H. Stiner 3, 4, 5 & 6	51,513

* * *

P R O C E E D I N G S

1
2 Whereupon,

3 HENRY STINER

4 was called as a witness and, having been first duly sworn,
5 was examined and testified as follows.

6 MR. HICKS: I am Renea Hicks, Assistant Attorney
7 General of the State of Texas, which is a semi-party or party
8 to this proceeding, and I am going to present testimony of
9 Mr. Henry Stiner in this proceeding and I have no statement
10 beyond that.

11 Do you want me to go ahead and make our statement
12 on whether we are limiting our stuff to you? I might as well.

13 Mr. Stiner has prefiled testimony on September 1st,
14 1982, that is already a part of the record in this proceeding.

15 It is designated as CASE Exhibit Number 666.

16 His direct examination or the scope of the presenta-
17 tion that he will make at this time is limited to the parts
18 of CASE Exhibit 666 that begin on page 35, line 2, and
19 continues through page 41, line 6 and another part that begins
20 on page 46, line 9 and continues through page 49, line 6.

21 That is the scope of the area to be covered by his
22 testimony and I would like to not mark it as an exhibit but
23 for the convenience of the Board, I suppose, have those parts
24 of that exhibit bound into the record at this point.

25 MR. DAVIDSON: Before we do that, Mr. Hicks, if I

1 may, I would like to make an opening statement and then we
2 can perhaps go to the next step and have Mr. Bachmann making
3 a statement he wishes. And then if you wish to offer or mark
4 for identification any portions of the previous testimony
5 to which you have made reference and offer the same, either
6 as exhibits or ask that the same be bound in, I think that at
7 that time it would be appropriate and then we could entertain
8 any objections that might be made thereto.

9 So I would like to state for the record that my name
10 is Mark L. Davidson. I am a member of the law firm of Bishop,
11 Liberman, Cook, Purcell and Reynolds, counsel for Texas
12 Utilities Electric Company, Applicant in this proceeding.

13 I appear here today in that capacity. In anticipa-
14 tion of the testimony, the witness, Mr. Henry Stiner,
15 discussions were had between counsel for Applicant and
16 Mr. Tony Roisman, who has appeared here in behalf of CASE,
17 the Intervenor and I would like to summarize for the record
18 the substance of that understanding that was reached and which
19 understanding was discussed both with Mr. Hicks and
20 Mr. Bachmann, who appears here today as NRC Staff Counsel.

21 In the Attachment to its June 27, 1984 letter
22 addressed to Leonard W. Belter, CASE represented it would
23 offer the testimony of this witness, Mr. Henry Stiner, in
24 support of the allegations of harassment and intimidation
25 listed on page 28 of the NRC OI Report of March 7, 1984, and

1 likewise listed in Mr. Stiner's September 15, 1983 statement
2 to the NRC and next as Attachment 7 to that report. In
3 reference to those allegations CASE indicated it would depose
4 among others the following Applicant witnesses: Doug Frankum,
5 James Callicut, Ken Liford and Ronnie Johnson.

6 (Discussion off the record.)

7 MR. DAVIDSON: Back on the record.

8 The depositions of Messrs. Frankum, Callicut, Liford
9 and Johnson have now been completed and CASE has agreed not
10 to offer testimony or otherwise pursue in this proceeding any
11 of the allegations made by Mr. Stiner that were incorporated
12 in the NRC OI Report, or his September 15, 1983 statement,
13 except those relating to an incident alleged to have occurred
14 in July of 1981 involving Mr. Stiner's then foreman,
15 Johnny Green.

16 The claimed circumstances of Mr. Stiner's discharge
17 a few days thereafter for alleged excessive absenteeism and
18 certain assertions concerns the thoroughness of the NRC's
19 investigation of Mr. Stiner's complaints. All of these matters
20 are embraced in testimony previously offered in these proceed-
21 ings in a document known as CASE Exhibit Number 666.

22 And as Mr. Hicks noted in his opening statement,
23 the portion that defines and delimits the scope of the
24 testimony here to be offered from that document, Exhibit 666,
25 is that which begins at line 2 of page 35 and continues to

1 line 6 of page 41.

2 Additionally, also defining the scope is that
3 material in Exhibit 666 which commences at line 9 of page 46
4 and continues to line 6 of page 49.

5 I would note at this time, in making this offer,
6 that no understanding has been reached as to the admissibility
7 of any of the testimony contained within that specified
8 section of the exhibit nor has any commitment been made with
9 respect to any objections that would or would not be raised
10 in respect thereto.

11 Let me continue. In exchange for CASE's having
12 delimited Mr. Stiner's testimony in the manner described,
13 Applicant has agreed not to raise here again facts already
14 in the record reflecting on Mr. Stiner's credibility.

15 Mr. Bachmann, Mr. Hicks, that concludes my opening
16 statement and I think at this time if Mr. Bachmann has a
17 statement, he should go ahead or be permitted to make it.

18 MR. BACHMANN: On behalf of the Staff, I would like
19 to state for the record that the Staff was not a party to
20 this agreement. The Staff was informed very shortly before
21 the deposition of this agreement. On that basis, the Staff
22 would claim as at least part of this agreement, surprize --
23 in the sense that the Intervenors' June 27th, 1984 letter,
24 which purported to define the scope of the Intervenors'
25 testimony or Mr. Stiner's testimony, under the section where

1 they gave witness Henry Stiner under incident states, he
2 will testify about the harassment and intimidation incident
3 listed on page 28 of the OI Report and listed in his
4 September 15, 1983 statement to the NRC incorporated as
5 Attachment 7 to the OI Report (supra).

6 That was the ordered scope of Mr. Stiner's testimony.
7 If one goes to the OI Report and to the September 15, 1983
8 statement, there is no mention whatsoever in there of certain
9 assertions concerning the thoroughness of the NRC's
10 investigation of Mr. Stiner's complaints.

11 Therefore, from line 9 on page 46 of Mr. Stiner's
12 testimony ending on page 49, line 6, the Staff would then
13 claim they are surprized by the introduction of this testimony.

14 As we recall, the remedy for such surprize is that
15 the Staff would be granted opportunity at a later date to
16 provide rebuttal testimony.

17 The Staff has no objection to the pages being bound
18 into the transcript, reserving any other objections for a
19 more appropriate time.

20 MR. DAVIDSON: Mr. Bachmann, if I may make only two
21 points.

22 The first one is that I don't believe that the
23 material from Exhibit 666 has been offered for any purpose.
24 It has been marked for identification or it has been suggested
25 that it be bound in so I think it is premature for any of us

1 to agree as to whether it should be or can be.

2 MR. BACHMANN: We raise no objections to it being
3 bound in and we did not object, we merely took our right of
4 claiming surprize at this time.

5 MR. DAVIDSON: Off the record.

6 (Discussion off the record.)

7 MR. DAVIDSON: Back on the record.

8 The second point I would make, Mr. Bachmann, and I
9 think I suggest it in my opening statement, that the under-
10 standing between the Applicant and CASE, the Intervenor, in
11 no way was it meant to bind or otherwise restrict or in any
12 way limit any rights that NRC Staff would have in the
13 participation of this deposition nor with respect to any
14 matter on the report.

15 The sole purpose of the understanding was to limit
16 Mr. Stiner's direct testimony at the convenience of CASE and
17 in exchange therefore to provide a reasonable limitation on
18 the cross examination to which that testimony would be offered,
19 but I think that I may say that your objection is noted and
20 also it is well founded if you feel that the material now
21 sought to be offered is not embraced within the June 27th
22 letter.

End 1.

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1 MR. HICKS: At this time, I would
2 like to ask that the pages that we have been
3 referring to and the lines from Case Exhibit 666
4 for the convenience of the licensing board,
5 be bound into the record again beginning at
6 Page 35, Line 2 and through Page 41, Line 6
7 and to Page 46, Line 9 continuing through
8 Page 49, Line 6.

9 MR. DAVIDSON: Mr. Hicks, do you
10 wish to supply any identification of the
11 marking of the material that you wish to
12 have bound in? Do you wish to have Mr. Stiner
13 review it before you do so and perhaps attest
14 that he still continues to adhere to that
15 earlier testimony?

16 MR. HICKS: I think after we bind
17 it in, we can do that.

18 MR. DAVIDSON: I don't purport
19 to tell you how to do it.

20 MR. HICKS: Since we are doing this
21 for the convenience of the Board--I don't think
22 that kind of approach needs to be taken.

23 MR. DAVIDSON: May I suggest, Mr.
24 Hicks, that we have here two documents that
25 have been prepared and extracted from Exhibit 666

1 to encompass the lines that you have mentioned
2 and pages, and if those are marked for
3 identification and the lines indicated by
4 some ink markings which are initialed by the
5 witness, I think that they can then be bound
6 in for the record for the purpose and
7 convenience of the Board.

8 MR. HICKS: Okay. It's my understanding
9 they don't need to be admitted into evidence.
10 They are there merely for the convenience of
11 the Board, but if it will make it more convenient--

12 MR. DAVIDSON: No, all I'm suggesting
13 is that they be marked for identification. I
14 certainly am not prepared to agree that they
15 should be admitted into evidence. I'm not
16 objecting to their being bound in or marked for
17 identification. I obviously am not waiving
18 any objections I may have to that material. I'm
19 not waiving any objection as to its relevance
20 or whether it's proper in the scope of these
21 proceedings or whether it is legitimate testimony
22 whether it's hearsay or the like. Nor is Mr.
23 Bachmann as I understand. We are merely marking
24 them for identification and binding them in for
25 convenience.

1 MR. HICKS: I understand. Why don't
2 we call it Excerpt No. 1 from Case Exhibit 666?

3 MR. DAVIDSON: May I suggest that
4 we call the first excerpted portion Stiner No. 1
5 and the second excerpted portion Stiner No. 2.

6 MR. DAVIDSON: Make that H. Stiner.
7 (H. Stiner No. 1 and H. Stiner
8 No. 2 were marked for
9 identification.)

10 EXAMINATION

11 BY MR. HICKS:

12 Q. Will you state your name for the
13 record.

14 A. My name is Henry A. Stiner.

15 Q. Are you the same Henry Stiner who
16 has testified in this proceeding before?

17 A. Yes, I am.

18 Q. Mr. Stiner, have you reviewed what
19 has just been marked for identification purposes
20 as H. Stiner No. 1 and H. Stiner No. 2?

21 A. Yes, I have.

22 Q. And is that your testimony?

23 A. Yes, it is.

24 Q. In regards to that, in that testimony
25 at Page 40, I will show you a copy of it starting

1 around line 8 and going through line 17. In
2 connection with that part of your testimony,
3 I am going to show you some documents and ask
4 you some questions about them.

5 MR. DAVIDSON: I think, Mr. Hicks,
6 we may have a problem here. The fact that
7 these excerpts have been marked for identification
8 and the fact that they had been bound in doesn't
9 make them his testimony. It merely defines
10 the scope of his testimony and it is merely
11 a convenient reference to it, but he hasn't
12 testified as to anything.

13 BY MR. HICKS:

14 Q. Is that your testimony?

15 A. That is my testimony.

16 MR. DAVIDSON: That isn't sufficient.
17 I will object to that because this statement
18 here that has previously been used is replete
19 with hearsay, replete with unconfirmed statements
20 and replete with speculation and hypothesis
21 by the witness and none of that is admissible.
22 And this is an evidentiary deposition so I'm
23 going to object to any of that and I'm going to
24 move to strike the entire proffer unless you
25 examine him on it.

1 MR. HICKS: I am handin the
2 court reporter four documents. Will you mark
3 those for identification purposes?

4 (H. Stiner No.'s 3, 4, 5 and
5 6 were marked for identifi-
6 cation.)

7 BY MR. HICKS:

8 Q. Mr. Stiner, I'm going to hand you
9 what has been marked for identification purposes
10 as H. Stiner No. 3, H. Stiner No. 4, H. Stiner
11 No. 5, and H. Stiner No.6. And I believe I have
12 already provided copies to other Counsel.

13 MR. DAVIDSON: Thank you, Mr. Hicks.
14 You have.

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MILLERS FALLS
ERASE
COTTON CONTENT

1 BY MR. HICKS:

2 Q. Mr. Stiner, I want you to hold
3 those and when I ask you to, look at them.
4 Mr. Stiner, looking at H. Stiner No. 3, which
5 has been marked for identification purposes,
6 do you recognize that?

7 A. Yes, I do.

8 Q. What is it?

9 A. It's a letter that I sent to Mr.
10 Yockey, who is the head of personnel at Brown
11 & Root at Comanche Peak, Glen Rose, Texas,
12 requesting him to change two termination slips
13 which were on file at the Brown & Root
14 employment office; requesting that he change
15 those two termination slips to bear the truth.

16 Q. And is that a true and accurate
17 copy of the letter that you did send him?

18 A. Yes, it is.

19 MR. HICKS: I asked that H. Stiner
20 No. 3--I offer it into evidence.

21 MR. DAVIDSON: I object on the grounds
22 that the document is hearsay and cannot be
23 offered for the truth of the matter there
24 asserted.

25 BY MR. HICKS:

1 Q. Mr. Stiner, I asked you to look at
2 H. Stiner No. 4 and briefly tell me what that
3 is.

4 A. It is a disability certificate from
5 the Brazos Medical and Surgical Clinic for the
6 dates that I was off at the time of the termination.

7 Q. Was or was that not an attachment to
8 what has been offered into and objected to
9 as H. Stiner No. 3?

10 A. Yes, it was.

11 Q. Is this a true and accurate copy of
12 the attachment that you made to H. Stiner No. 3?

13 A. Yes, it is.

14 MR. HICKS: I offer H. Stiner No. 4.

15 MR. DAVIDSON: I make the same
16 objection. I'm sorry.

17 MR. BACHMANN: Do you offer it for
18 what?

19 MR. HICKS: Well, they will all be for
20 the same thing, so we will go through all this
21 and then you can state your objections to all
22 of them. I think it's just as easy to do it
23 that way.

24 MR. DAVIDSON: I think what Mr.
25 Bachmann is asking for is a proffer to determine

1 the relevance of those documents, because I
2 believe that there has been no foundation laid
3 and no connection made that would even allow
4 an offer into evidence. Am I misstating your
5 position, Mr. Bachmann?

6 MR. BACHMANN: Let's answer that
7 one first.

8 MR. DAVIDSON: Well, that is certainly
9 my position.

10 MR. HICKS: Will you restate it?

11 MR. DAVIDSON: Certainly. I'm
12 objecting to the admissability of these documents
13 not only because they are hearsay, but more
14 significantly and more pointedly, because there
15 has been no foundation laid for the admission of
16 any such documents or any testimony about them.
17 There has been no connection made between the
18 matters alleged to be contained and reported
19 in these documents and what is the scope of
20 these proceedings, which is an investigation
21 into allegations regarding alleged harassment,
22 intimidation and threatening of QC/QA personnel.
23 In fact, we haven't established yet whether Mr.
24 Stiner has any relevant knowledge of that. My
25 understanding is, and I'm prepared to be

1 corrected, my understanding is that Mr. Stiner
2 was craft and not in the QC/QA department, and
3 I don't believe--although again, I certainly
4 stand to be corrected--I don't believe that
5 any of the statements he makes here relate
6 to the intimidation of any QC inspector.

7 MR. BACHMANN: We are in an unusual
8 situation here in that we have a lot to be
9 bound into the record, a number of pages of
10 previously filed testimony. Essentially what
11 we call prefiled directed testimony. Therefore,
12 usually, once that testimony is filed in an
13 NRC proceeding, and once the person has attested
14 to the completeness and accuracy of it, that
15 they indeed prepared it, and any corrections
16 are made, we would then normally proceed to
17 cross examination. That's the evidentiary manner
18 in which these things are handled. I assume
19 given that statement I just made, that what Mr.
20 Hicks is doing is bringing in attachments to
21 his testimony which will then be subject to
22 objection and cross examination, etc. I assume
23 that's what he is doing. My basic comment here
24 was to try to get him to clarify just what he
25 perceives is going on here.

1 MR. HICKS: I think that basically
2 what Mr. Bachmann has stated is the situation.

3 MR. BACHMANN: That these documents
4 should be at this point be marked as exhibits
5 to be attached to Mr. Stiner's direct written
6 testimony and then would be offered into
7 evidence along--well, now we're in a rather
8 complicated situation.

9 MR. DAVIDSON: Yes, that's right.

10 MR. BACHMANN: I suppose if these
11 were marked for identification as exhibits,
12 for the Board's convenience, and considered
13 attached to this direct written testimony and
14 then the proper foundation laid by you after
15 these things are exhibits, then they could be
16 then offered into evidence and any objections
17 made by the other parties if they exist. That
18 seems to me the way it should be handled.
19 But I don't know what your view or Mr. Davidson's
20 views are at this point.

21 MR. DAVIDSON: Mr. Hicks, do you
22 wish me to respond to Mr. Bachmann's statement?

23 MR. HICKS: If you wish.

24 MR. DAVIDSON: All I would say is
25 that I think that while we have expressed it

1 differently that Mr. Bachmann and I are laboring
2 under the same impression and that is that
3 at some point, before there is any proffer for
4 admission into evidence of this material, which
5 has been marked for identification, it will
6 require a foundation to demonstrate its
7 connection to the matters under inquiry and to
8 show its relevance and to therefore, testify
9 its admissability.

10 MR. BACHMANN: I think we also
11 have another problem that may have been a little
12 too subtle for all of us initially, and that is
13 the chronology here. This was a letter written
14 by Mr. Stiner subsequent to his termination.

15 MR. DAVIDSON: That's right.

16 MR. BACHMANN: We haven't quite
17 brought him along to the point of when he
18 was terminated and what happened subsequent
19 to that. And I think that is what's causing
20 the confusion here. Perhaps if you went through
21 any other parts of his testimony and got us
22 to that place in time, then we might see better
23 how these things fit into the picture.

24 MR. HICKS: I guess I don't understand
25 what point you're making there. The letter, the

1 two attachments and what has been marked for
2 identification purposes now is H. Stiner No. 6.
3 All relate directly to the part of the prefiled
4 testimony that is already in the record, to
5 which Mr. Stiner referred just before these
6 were marked for identification purposes. That
7 is Page 40, Line 8 through Page 40, Lines 17.
8 And while it might be neater and easier for
9 everybody to understand, if we did all this
10 testimony again, I don't think that is necessary.
11 I think that these documents have dates on
12 them. I know these documents have dates on
13 them, and if they ultimately have no relevance,
14 then you all certainly obviously agree to argue
15 that. This problem, it seems to me, rises from
16 question of what is H. Stiner 1 and H. Stiner 2
17 in this proceeding.

18 MR. BACHMANN: Okay. Let's try
19 another tack perhaps. I do not recall from
20 my personal knowledge and more than likely
21 I was not there at the time, but I believe it's
22 correct to say that the part of Mr. Stiner's
23 testimony concerning the circumstances surrounding
24 his termination was not explored on cross
25 examination at any previous hearing session and

1 therefore, this testimony is as if it were just
2 now filed. He may be thinking that perhaps
3 there was an opportunity previously to cross
4 examine. There hasn't been on this section.

5 MR. HICKS: No, I understand that.
6 But now there's a little confusion in the way
7 things proceed, but it seems to me that this
8 is his direct testimony; this is evidence going
9 in on his direct testimony; you're going to have
10 an opportunity to cross examine.

11 MR. DAVIDSON: Mr. Bachmann, Mr.
12 Hicks, if I may say something. First, just
13 to get a matter of format out of the way, I
14 wouldn't characterize this as evidence, Mr.
15 Hicks, but it is certainly some proffer of
16 documentary material, what is or what
17 ultimately may become--

18 MR. HICKS: We are offering it
19 as evidence and you're objecting that it isn't.

20 MR. DAVIDSON: My point is only
21 this: I think everyone has made their
22 positions as clear as they can. I think the
23 record reflects our objections. And I think
24 maybe unless either you or Mr. Hicks or Mr.
25 Bachmann object strenuously, then we ought to

1 just go ahead.

2 MR. BACHMANN: Well, I think that
3 he's offering these into evidence; I'm not quite
4 through with my objection if it goes through
5 with these, but at that point, I suppose maybe
6 Mr. Hicks would even want these bound into
7 the record. No one is here to rule on the
8 admissability so I guess my original comment
9 was whether he was offering these into evidence
10 and now we know that he is. Each individual
11 paper. I have a different objection on Mr.
12 Stiner's No. 3 as opposed to 4 and 5. I don't
13 have a hearsay objection on No. 3; that's the
14 letter in Mr. Stiner's handwriting. He can
15 authenticate it. I do have the objection of
16 authentication out of hearsay without authentication
17 objection on No.'s 4 and 5.

18 MR. DAVIDSON: Those that report to
19 be the signature of someone else not present
20 here to testify?

21 MR. BACHMANN: I would probably be
22 willing to stipulate that these documents were
23 indeed attached to the letter that Mr. Stiner
24 has identified as his Exhibit 3. As to the
25 truth of the matter stated therein, I in no way

1 would do that without any further authentication.
2 But I would stipulate that Mr. Stiner can
3 certainly testify that he attached these
4 documents to the letter to Mr. Yockey and that
5 he wrote the letter to Mr. Yockey. Now, we
6 don't have Mr. Yockey's testimony that he
7 received it, but we do have a response coming
8 up here from Mr. Yockey indicating he did
9 receive it.

10 MR. DAVIDSON: I'm sorry, Mr. Stiner,
11 did you wish to say something or did you wish
12 to confer with Mr. Hicks?

13 MR. HICKS: No.

14 MR. BACHMANN: Also, at this point,
15 I would probably want to ask Counsel for
16 Applicant whether or not they would deny the
17 authorship of the Yockey letter to the extent
18 that he acknowledged the receipt of the
19 September 21st letter from Mr. Stiner. I think
20 if they acknowledge that this is the letter that
21 was received, we can probably move ahead quicker.

22 MR. DAVIDSON: I think I'm prepared
23 to stipulate for the record that there was an
24 exchange of correspondence. I cannot stipulate
25 that Mr. Yockey's letter in response is necessarily

1 to H. Stiner 3, but obviously to some letter that
2 was written to him and that was dated September
3 21. I think that you quite accurately point
4 out that H. Stiner 3, which is a letter dated
5 September 21, 1981, purportedly addressed to
6 Ray Yockey and signed by Henry A. Stiner appears
7 to be an attempt to explain certain absences and
8 to provide certain documentary material of some
9 two to two and a half months after the
10 termination in question. It does purport to
11 include or enclose certain--I think the letter
12 refers to them as doctor's reports--no item
13 has been marked here that qualifies or appears
14 to be a doctor's report and nothing in that
15 letter describes the attachments or alleged
16 attachments that were there made which is
17 called a disability certificate. So I can't
18 stipulate to what was attached.

19 MR. BACHMANN: Just to move this
20 thing along, I think Mr. Stiner is a competent
21 witness to testify that he wrote this letter
22 and attached these given reports.

23 MR. DAVIDSON: I think now you've
24 come to the thrust of what I wanted Mr. Hicks
25 to do and when I said why don't we just go ahead.

1 And I think what you want to do, Mr. Hicks, and
2 forgive me for telling you--

3 MR. HICKS: I know what I'm going
4 to do. The only thing I don't know is where
5 we stopped on the offering of the exhibits,
6 which exhibit we stopped at.

7 (Discussion off the record.)

8 MR. DAVIDSON: My suggestion is
9 let's start over to the extent we've got
10 objections noted. They're on the record. We
11 all have plenty of places to refer to. I want
12 to get Mr. Hicks to get to what he wants to do.

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1 BY MR. HICKS:

2 Q Would you look at what has been marked for identifi-
3 cation as P. Stiner-No. 4.

4 MR. BACHMANN: Could we just stipulate as to the
5 identity of Stiner's 3,4,5 and 6, not for whatever they are
6 being offered but simply that we have got his letter, two
7 doctors' reports and the Brown & Root response letter.

8 MR. HICKS: That's fine but this won't take but a
9 second to go through this.

10 MR. DAVIDSON: I think we ought to let Mr. Hicks
11 do it his way.

12 MR. BACHMANN: Fine.

13 BY MR. HICKS:

14 Q Mr. Stiner, is what has been marked for identification
15 as H. Stiner - Number 4 one of the -- a true and accurate copy
16 of one of the documents that you attached to what has been
17 offered into evidence as H. Stiner-Number 3?

18 A Yes, it is.

19 Q Would you look next at what has been marked for
20 identification purposes as H. Stiner-Number 5. Is that a
21 true and accurate copy of one of the documents that was
22 attached along with what has been offered into evidence as
23 H. Stiner - Number 4 and attached to what has been offered
24 in evidence as H. Stiner - Number 3?

25 A Yes, it is.

1 Q Mr. Stiner, would you look at what has been marked
2 for identification purposes as H. Stiner- Number 6? Is it a
3 true and accurate copy of a letter you received in the mail
4 which is signed "Ray Yockey"?

5 A Yes, it is.

6 Q And what is the date on that?

7 A September 28, 1981.

8 MR. HICKS: I offer into evidence, and again this
9 may be somewhat repetitious, what has been marked for
10 identification purposes as H. Stiner-Numbers 3,4,5, and 6.

11 MR. BACHMANN: Now could I ask Mr. Hicks the purpose
12 of the offering of these into evidence, such as is it to prove
13 the truth of the matters asserted therein, in which case I
14 will object.

15 MR. HICKS: H. Stiner-Number 3 is being offered into
16 evidence for the truth of the matters stated therein and also
17 for the purpose of showing that Mr. Stiner attempted to call
18 to Mr. Yockey's attention his reasons for not being at work
19 on certain days.

20 H. Stiner-Numbers 4 and 5 are being offered into
21 evidence, one, for the truth of the matters asserted therein
22 and two, in addition to that, to show that Mr. Stiner attempted
23 to call and apparently did call to Mr. Yockey's attention
24 certain documents purporting it to be signed by doctors,
25 making certain statements as to Mr. Stiner's disability during

SY4rg3

1 certain times.

2 MR. BACHMAN: I will state for the record the Staff
3 objects to the admissibility of these two documents for the
4 truth of the matters stated therein.

5 We have no authentication by anyone in any shape,
6 manner or form that these were indeed signed by what appears
7 to be Dr. Hamilton and that these were indeed -- that
8 Mr. Stiner was indeed disabled on that day.

9 I could agree that Mr. Stiner could testify that
10 he attached these documents to the letter that he may testify
11 that he sent to Mr. Yockey. I will accept nothing further
12 than that, otherwise it is total hearsay situation.

13 MR. DAVIDSON: If I may, I would like to join in
14 Mr. Bachmann's objection. I think I would only make one slight
15 correction and that is that I have looked at the two documents,
16 one marked H. Stiner-4 and the other marked H. Stiner-5, both
17 on slips of paper bearing the printed legend "Brazos --
18 B-r-a-z-o-s -- Brozos Medical and Surgical Clinic" but neither
19 one of which appears to have been signed by a doctor.

20 One is signed allegedly in behalf of a Doctor
21 Hamilton and he is not a medical doctor but a D.O., which I
22 believe is a Doctor of Osteopathy, although we have no way of
23 knowing; by an M. Dorathan, it appears.

24 I do not know who Mr. or Mrs. M. Dorathan is.

25 Likewise, with respect to H. Stiner-4, the signature

1 is not that of Dr. Hamilton or indeed the other person just
2 previously referred to but is signed allegedly in behalf of
3 Dr. Hamilton, once again not a medical doctor, by a set of
4 initials, R.L. That is not even a name.

5 Dr. Hamilton has not testified in these proceedings
6 nor has he been called. This individual named Dorothan has
7 not testified in these proceedings nor has that individual
8 been called. R.L. has not been identified, has not been
9 called and has not testified.

10 We have no way of knowing what the custody of these
11 pieces of paper were, other than Mr. Stiner has now produced
12 them some three years after the date that they bear.

13 With those corrections and elaborations upon the
14 factual problem presented here, I think it is pretty plain
15 to me at least, as Mr. Bachmann has pointed out, that this
16 is clearly -- these are not authenticated documents. They
17 cannot be offered for the truth of the matters asserted.
18 They are merely hearsay but hearsay piled upon hearsay and
19 speculation and assertion. They do not have any legal
20 standing whatsoever.

21 I do believe, however, that as Mr. Bachmann
22 correctly states and as Mr. Stiner wishes to say, that he
23 proffered these or attached them to his earlier letter. That
24 probably is about as far as he can go but these certainly
25 cannot suggest nor can anyone in this room suggest that

SY4rg5

BU-2

1 these pieces of paper are anything more than pieces of paper.

2 MR. HICKS: What has been offered into evidence is
3 H. Stiner-6. It is offered for the truth of the matters
4 stated therein. It is also offered to show what Mr. Stiner
5 apparently or had reason to believe was the position of
6 his employer in response to his letter with attachments of
7 September 21st, 1981, which has been offered into evidence
8 as H. Stiner-3 with Attachments H. Stiner-4 and 5.

9 MR. DAVIDSON: Mr. Hicks, I know that we are involved
10 in a proceeding that has somewhat novel and certainly somewhat
11 more flexible rules of procedure than one might normally
12 encounter and that is because the mission of the Board is,
13 of course, to get to the bottom of all allegations and to
14 get to the bottom of all the concerns that have been raised
15 so that it can fulfill its mandate to assure itself that the
16 project for which a license is being sought does in fact have
17 the attributes of safety that are required for operation.

18 However, I have one slight problem with your
19 characterization of H. Stiner-6 and I really think it is
20 fairly fundamental and that is that it certainly does, and we
21 have stipulated by the way to the authenticity of the document
22 of Mr. Yockey's letter, and we have likewise stipulated at
23 Mr. Bachmann's request as to the purport of the document.

24 We did not however stipulate nor would we, because
25 we think there is no evidence in the record -- in fact, I

SY4rg6

1 think if you review these documents you are going to find that
2 there is in fact a discrepancy in the record that goes the
3 other way -- that this letter is necessarily in response to
4 the letter submitted now as H. Stiner-3 and the two
5 attachments.

6 It may well be in response to a letter of
7 September 21 from Mr. Stiner and there may or may not have
8 been attachments, but there is no way of determining that from
9 the September 28 letter and there has been no testimony on it.

10 So I think we are going a little far, but I under-
11 stand you have made an offer. We have made our positions
12 clear and I want you to go ahead.

13 MR. BACHMANN: Without taking a specific position
14 on this, since Mr. Davidson represents the Applicant who
15 employs Mr. Yockey and since he is not willing to stipulate
16 other than to the authenticity of Mr. Yockey's letter, I think
17 it should be noted that on July 11th, 1984, Mr. Yockey was
18 present and offered for a deposition.

19 Having reviewed Mr. Yockey's deposition, which
20 according to the numbering system now in use, occupies
21 pages 47,000 to 47,024, I can see no question or answer from
22 Mr. Yockey concerning any of these documents. I just thought
23 I would make that a part of the record.

24 MR. DAVIDSON: May I ask for a clarification,
25 Mr. Bachmann? Are you saying that CASE, the Intervenor who

1 is now offering these documents into evidence, when given an
2 opportunity to opportunity to examine Mr. Yockey about them
3 never did so?

4 MR. BACHMANN: I was not present at the deposition.
5 I have reviewed the transcript of the deposition. The Inter-
6 venor had, I believe, an attorney or at least certainly a
7 representative present at the deposition and from what I can
8 determine from the transcript, there were no questions asked
9 concerning these documents of Mr. Yockey.

10 MR. DAVIDSON: Thank you, Mr. Bachmann.

11 BY MR. HICKS:

12 Q Mr. Stiner, do you recall sending to Mr. Yockey or
13 anybody else connected with Brown & Root, Incorporated, a
14 letter dated September 21, 1981, other than the letter which
15 has been offered into evidence as H. Stiner-3?

16 A That is the only letter sent on the 21st of
17 September, 1981.

18 Q By you?

19 A By me.

20 Q Mr. Stiner, in that letter, you say in the first
21 line, and I am paraphrasing, that you have given Mr. Yockey
22 copies constituting doctor's excuses for two different days
23 and then you mention December 5th, 1980 and July 15, 1981.

24 Are there documents which you attached to that
25 letter concerning December 5th, 1980 that you have not

1 reviewed today and have not been offered into evidence?

2 A Yes, there are.

3 MR. DAVIDSON: I will object to that question as
4 leading. He is your own witness. I think that is improper.
5 I will move to strike that testimony.

6 MR. HICKS: And I want to state for the record the
7 reason for the exclusion of those and that is, it is based on
8 the agreement that was stated by the Applicant's attorney
9 at the beginning of this proceeding and that is that the
10 scope of Mr. Stiner's testimony does not include the
11 December 5th, 1980 termination.

12 MR. DAVIDSON: Are you representing, counsel, that
13 you reviewed the other documents and made a decision to
14 eliminate them from the proffer?

15 MR. HICKS: Yes.

16 MR. DAVIDSON: So then you in fact saw that there
17 were additional documents and determined that they were not
18 relevant and decided not to offer them?

19 MR. HICKS: They aren't relevant to the scope of this
20 proceeding, as we have agreed at the beginning.

End 4.

21 I saw the additional documents.
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1 BY MR. HICKS:

2 Q Mr. Stiner, let me ask you a couple of questions
3 about what has been offered into evidence as H. Steiner
4 Numbers 4 and 5.

5 In what manner did you receive the originals, of
6 which those are copies?

7 A These are the originals that I did receive. These
8 are originals that I did receive from the Brazos Medical
9 Clinic -- the clerks that work in the office there.

10 I think one of the problems that they are having
11 is with doctor's signature here. It is standard practice at
12 Brazos Medical Clinic, as far as -- as many as I have had,
13 nearly every one of them is done in this manner.

14 MR. DAVIDSON: Excuse me.

15 I'm going to move to strike that response.
16 Mr. Stiner certainly is in no position to testify as to what
17 a standard practice of the Brazos Medical and Surgical Clinic
18 is.

19 BY MR. HICKS:

20 Q Mr. Stiner, when you were testifying about the
21 standard practice, were you saying that whether or not this
22 was the way it was every time you had it done?

23 A Yes, that's what I mean.

24 Q Was it done this way this time?

25 A Yes, it was.

1 Q And by "this way," what do you mean?

2 A I mean that the clerk in the office wrote the
3 excuse out. The doctor told her to give me a disability
4 certificate, which, in the process, she wrote the disability
5 certificate out and signed the doctor's name and initialed
6 below it that she was actually the one that had written the
7 certificate.

8 Q And when you say "the certificate," are you
9 referring to both H. Stiner 4 and 5?

10 A Yes, I am.

11 Q And was the same procedure followed in both
12 instances?

13 A Yes, it was.

14 Q Mr. Stiner, please look at H. Stiner 4 and tell
15 me, from your knowledge of the circumstances that are
16 described in that document, whether you see any problems,
17 any discrepancies, in terms of dates or anything else.

18 MR. DAVIDSON: I object to the form of that
19 question. I also object to this topic.

20 This document, which we've already objected to,
21 as being an incompetent admission, says whatever it says.

22 And I don't believe you've asked a question that
23 would elicit testimony. I think you have asked the witness
24 to read the document to us, and I don't think that's a proper
25 topic of direct or cross-examination.

1 BY MR. HICKS:

2 Q I will rephrase it.

3 Mr. Stiner, will you look at what's been offered
4 into evidence as H. Stiner No. 4.

5 In particular, will you look at the dates that
6 are purportedly certified as the dates that you were under a
7 doctor's care.

8 Do you have any knowledge as to whether those
9 dates are correct or not?

10 A They are not.

11 Q Do you recall what dates you were under a doctor's
12 care?

13 A From the 14th to the 17th.

14 (Pause.)

15 Q Looking at what's been offered into evidence as
16 H. Stiner No. 6, are you, by any chance, familiar with
17 Mr. Yockey's signature?

18 A I have seen it on several occasions.

19 Q On what kinds of documents?

20 A Personnel records and inter-office memos.

21 Q Does this appear to be the same signature that
22 you saw on those documents?

23 A Yes, this does appear to be Mr. Yockey's
24 signature, as I know it.

25 MR. HICKS: I have no further questions.

6:00 P.M.

XXXXXXX

EXAMINATION

1 BY MR. DAVIDSON:

2 Q Mr. Stiner --

3 MR. BACHMANN: Excuse me.

4 Before we go any further, let's just get a few
5 ground rules here.

6 I assume that at this point you would go to
7 cross-examination based on this testimony.

8 MR. DAVIDSON: I'm going to, yes.

9 MR. BACHMANN: I would like to make a motion to
10 strike Henry Stiner No. 2 at this point.

11 Should I wait now? Or -- shall I wait, or is this
12 the time to do it?

13 MR. DAVIDSON: No. I think, Mr. Bachmann -- and
14 certainly I wouldn't purport to tell you when to make a
15 motion, but my own feeling is that now is as good a time as
16 any, since Mr. Hicks has stated that he's concluded his
17 examination.

18 MR. BACHMANN: Okay.

19 At this point, the Staff moves to strike. And
20 failing that, objects to Exhibit -- Henry Stiner No. 2.

21 The grounds for the objection is that of
22 relevancy. The scope of this proceeding is not broad enough
23 to encompass any actions taken by NRC Staff members, and that
24 is the sole thrust and sole gist, shall we say -- in fact, it
25

1 is really all that's contained in Henry Stiner No. 2, is
2 certain allegations made to perhaps what one could say
3 behavior of the NRC Staff.

4 It's the Staff's position that that is totally
5 beyond the scope of the issue in this proceeding.

6 We are not disputing this on the basis that
7 Mr. Stiner is not a QC personnel. The Board has ruled that
8 he is the one single objection to where we could look into the
9 intimidation of Craft personnel.

10 However, the Staff submits that this testimony,
11 since it does not go to any on-site people, it goes to no
12 employees of the Applicants, that the Board's ruling contains,
13 on page -- transcript page 13, line 39, can only be interpret-
14 ed to apply to personnel within some form of direction and
15 control of the Applicants, which I submit the Board can take
16 official notice that any NRC inspectors certainly are not
17 that.

18 In fact, one could even read into it closer, the
19 fact that when the Board considers the burden to shift, that
20 it is the Applicant's responsibility to demonstrate to the
21 Board that it had responded reasonably to such information
22 concerning intimidation.

23 Therefore, anything done or not done by the
24 completely independent NRC Staff can have absolutely no
25 relevance -- no relevancy whatsoever to the issue as stated

1 by the Board.

2 MR. DAVIDSON: Mr. Hicks, while obviously I cannot
3 join in the full statement of Mr. Bachmann, because many of
4 the statements he has made are obviously objections and points
5 reserved exclusively to the NRC, and for them alone to make.

6 I will, however, join in to the extent that I
7 believe that Mr. Bachmann has correctly stated that the
8 scope of these proceedings, as delimited by the Board, does
9 not expand so far as to encompass the subject matter which
10 is found at pages 46, line 9, through 49, line 6.

11 And to the extent that it is beyond the scope of
12 these proceeding, it seems to me it is entirely appropriate
13 for Mr. Bachmann to move to strike it. It is objectionable,
14 and it is inappropriate. And I therefore have to endorse his
15 view.

16 MR. HICKS: I would just respond briefly, by
17 saying that the State, representing CASE, would reserve any
18 responses to motions and objections until filing written
19 documents or presentation before the Board.

20 MR. BACHMANN: Mr. Hicks, I would invite you to
21 make a statement for the Board at this point.

22 The Chairman has invited counsel, when a relevancy
23 objection comes up, to make a statement on the record to show
24 the relevancy of a given line of questioning of a witness or
25 so forth and to show that this relevancy statement is made in

1 entirely good faith.

2 And based on the Judge's statement, I invite you
3 now to state for the record how you perceive this to be
4 relevant to the issue before the Board.

5 MR. DAVIDSON: Mr. Hicks, I don't know whether
6 you heard all of what Mr. Bachmann said.

7 MR. HICKS: I got the gist of it.

8 MR. BACHMANN: If you will give me a moment, I can
9 show you the transcript citation from the telephone conference
10 that was held on Monday morning.

11 MR. HICKS: Okay.

12 MR. DAVIDSON: Off the record.

end 5

13 (Discussion off the record.)
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1 MR. ROISMAN: Will you note that Mr. Roisman is
2 here representing CASE and that the issue which has been
3 raised by the regulatory staff here involves a matter of
4 continuing disagreement between ourselves and the Staff on
5 the relevancy of the inquiry into the nature of the Staff's
6 response to complaints of harassment and intimidation or
7 other complaints from workers at the site.

8 And the essence of our position on it is that
9 part of the impact of any harassment, intimidation that
10 takes place on the site was heightened and intensified by
11 the feeling of many individuals on the plant site that the
12 Staff was less than responsive to their concerns. And that
13 in some instances, the Staff would disclose their names,
14 although they were not supposed to. In other cases, the
15 Staff expressed disinterest in their concerns. And in other
16 cases, the Staff in doing investigations seemed to ignore
17 the credibility of what the worker was saying and accepted
18 the credibility of what was being said by the management
19 personnel.

20 For all of those reasons -- but all of those
21 reasons represent pertinent considerations in trying to
22 assess what is the impact on the work force at Comanche Peak
23 of alleged incidents of harassment and intimidation, that the
24 sense of isolation was an important piece of the potential
25 impact of those events.

6pb2

1 That is not a good faith basis formed this
2 afternoon upon hearing the Staff's objections, but rather
3 represents the basis which was formed some time ago when
4 CASE originally presented its position on why this was part
5 of the harassment, intimidation issue. And I believe it is
6 contained in the filing that we made in early June, articulating
7 our view of the scope of harassment, intimidation hearings
8 that are taking place here.

9 MR. DAVIDSON: Mr. Roisman, while the thrust and
10 principal proponents of this objection and a motion to strike
11 is Mr. Bachmann, I trust you will let me respond just briefly
12 on a matter of procedure.

13 I think that Mr. Roisman has stated in some
14 particular detail what he believes is the good faith basis
15 for the assertion that this material is relevant. However,
16 I think overlooked in Mr. Roisman's recital is the fact that
17 what he has provided is not a good faith basis that is found
18 in the record, but rather a series of allegations otherwise
19 unsubstantiated.

20 It is my understanding of the rules of evidence
21 as well as procedure that before a matter can be judged
22 relevant and permitted and made admissible on the basis of
23 such assertions that there must be some foundation laid in
24 the record and some inference raised sufficient such as to
25 permit and connect that good faith basis with the claimed

6pb3
1 relevance.

2 To my knowledge, Mr. Roisman, and I am prepared to
3 be corrected on this, I don't believe there is any record
4 evidence in these proceedings to the effect that the NRC
5 has been -- excuse me, that there has been any such problem
6 created as you have portrayed. This so-called climate and
7 miasma to which you have made reference. And I think in the
8 absence of such a foundation, and in the absence of making
9 some connection between that foundation with credible and
10 admitted evidence already of record, that Mr. Bachmann's
11 objection is well founded still, and that this claimed good
12 faith belief is without basis in the record.

13 MR. ROISMAN: Okay. I don't want to argue it
14 further, but I do want to just make a point procedurally that
15 the pages to which we are referring, which is 46 through 49
16 are in fact in the record. They have been received in
17 evidence and we are not talking now about adding something
18 into the record. We are talking, in effect, about a motion
19 to strike, which is being raised by the Staff to already
20 admitted evidence.

21 And I think that that deals with the objection
22 from a procedural perspective as it was raised here by Mr.
23 Davidson. I would like to be excused only because -- I don't
24 mind this being on the record. I am babysitting Mr. Stiner's
25 daughter and I have left her in there with two Applicant

6pb4
1 lawyers.

2 MR. DAVIDSON: Mr. Roisman, thank you for coming
3 in.

4 MR. TREBY: The Staff would like to make one
5 final statement. The Staff would just like to have it set
6 out in the record at this point that the Staff strongly
7 disagrees with the position stated by Mr. Roisman. We believe
8 that the issue in this case is whether or not the Applicant
9 has been in compliance with Appendix B. Whether the Applicant
10 has a quality assurance program in accordance with Appendix
11 B, and whether there have been any acts or statements by
12 Applicants, supervisors or other employees which have caused
13 other Applicant's employees not to comply with the written
14 provisions of the quality assurance program, or other
15 procedures for ensuring the safe construction of the facility.

16 In order for there to be any relevance to the
17 matters which seek to be raised here, there must be some
18 showing of nexus. And we would claim that there has not been
19 any showing of nexus on this subject. That there has not
20 been any showing that the actions by the NRC Staff in
21 performing their functions would have any impact on the
22 Applicant.

23 If the Applicant is properly performing its
24 functions, the fact that the NRC Staff may not have performed
25 its function would not be relevant as to whether or not the

6pb5

1 Applicant has prevailed in its position on this record, and
2 should have a finding in its favor made by the Board.

3 On the other hand, if the Applicant has not been
4 performing its functions, the fact that the Staff may not
5 have performed its function would not be relevant. It would
6 be overkill, if you wish, in the sense that all that needs
7 to be established is what the Applicants have done. There
8 just is no basis for this subject to be raised on this record,
9 and the Staff objects.

10 MR. DAVIDSON: Mr. Treby, I would just ask you,
11 would you also move to strike on the basis of your statement?

12 MR. TREBY: Yes. And we would say that we have
13 not been persuaded that this matter is relevant.

14 MR. BACHMANN: Since we do not have the Board here
15 to rule and since I assume the questioning will continue,
16 any questions addressed to Mr. Stiner on the Stiner Exhibit
17 No. 2 by the Staff in no way constitutes a waiver of our
18 objection, or a withdrawal of our motion to strike.

19 MR. DAVIDSON: I will agree with that, Mr. Bachmann,
20 if you will, Mr. Hicks, to his statement that he does not
21 waive his objection by making any examination.

22 MR. HICKS: Sure.

23 MR. DAVIDSON: With all this now in the record
24 and in truly vivid detail, I would like to go back to where
25 started, which was to state, Mr. Stiner --

6pb6

1 BY MR. DAVIDSON:

2 Q What I was going to say to you, Mr. Stiner, was
3 that you and I have been sitting over here since 5:00 and
4 neither one of us has had much to do yet. And I was just
5 wondering whether you are ready to do a little testifying?

6 A I am.

7 Q Good, I hope I can remember what I came to this
8 room to do. In any event, Mr. Stiner, let me ask you about
9 these medical documents that we had marked for identification
10 and on which there has been an offer into evidence to which
11 substantial objection has been made.

12 Mr. Stiner, when did you come into possession of
13 the two disability certificates that have been marked as
14 H. Stiner 4 and 5?

15 A On the dates that are shown at the top of each
16 certificate.

17 Q I don't think she heard your answer, Mr. Stiner.

18 A I received those on the dates that are shown at
19 the top of each certificate.

20 Q And when you say you received those on those dates,
21 we're talking about the certificates you earlier identified
22 here as being the original certificates that you claimed to
23 have received from the clerks working for an R.D. Hamilton
24 who is a D.O.?

25 A That's correct.

6pb7

1 Q So you have had those two certificates, the
2 originals of them since July of 1981?

3 A That is correct.

4 Q Were those two certificates prior to today ever
5 offered into evidence in these proceedings?

6 A I don't know.

7 Q Did you ever submit them at any time in these
8 proceedings, Mr. Stiner?

9 A I never did.

10 Q Mr. Stiner, you have heard quite a bit about Stiner
11 1 and Stiner 2, do you remember when they were originally
12 marked in this proceeding?

13 A Yes, I do.

14 Q Do you remember that they were excerpts from what
15 is known as CASE Exhibit No. 666?

16 A Yes, I do.

17 Q I think Mr. Hicks asked you whether you were
18 familiar with CASE Exhibit No. 666 and whether it contained
19 your testimony.

20 A Yes, he did.

21 Q Do you recollect, and I ask you whether you
22 recollect when CASE Exhibit No. 666 was offered in these
23 proceedings?

24 A I do not.

25 Q If I showed you CASE Exhibit No. 666, do you think

6pb8

1 it might refresh your recollection as to when it was submitted?

2 A I'm not quite sure I understand that question.

3 Q All right, then I will explain it. Listen, Mr.
4 Stiner, any time you don't understand what it is I'm asking,
5 don't answer it. Ask me what is it that I'm trying to get
6 at. Ask me to explain. Tell me you don't understand it and
7 then I will tell you.

8 A All right.

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end 6.

1 Q I ask you to look at that document, Mr. Stiner,
2 which is labelled CASE Exhibit-666, and this purports to be
3 the entirety of your prefiled statement, and I ask you whether
4 you remember the circumstances of its preparation?

5 A Yes, I do.

6 Q When I asked you whether your recollection is
7 refreshed, that is if when you look at it, does it jog your
8 memory and you start to remember things?

9 A I am familiar with this document, yes.

10 Q Do you remember when it was prepared?

11 A No, I do not.

12 Q Do you remember -- oh, I'm sorry -- were you going
13 to say something else?

14 A I don't remember the exact day.

15 Q Do you remember an approximate day?

16 A No.

17 Q Do you remember when you signed it?

18 A I don't even remember when I signed it.

19 Q The document bears a date on it of September 1, 1982.
20 Could that date be an accurate date for the date of its
21 preparation or submission?

22 A I remember the date being in the upper right hand
23 corner being September 1st, '82.

24 Q You do?

25 A Yes, I do.

1 Q And do you think it was accurate at the time?

2 A Like I said before, I don't remember --

3 Q But that's certainly an approximate --

4 A It could be approximate. It is the approximate
5 date, somewhere around September.

6 Q Mr. Stiner, is there a copy of Stiner-3,4 or 5,
7 which we have had marked for identification next to this
8 testimony that you have identified as CASE Exhibit No. 666?

9 (Counsel hands document to witness.)

10 A H. Stiner-6 is attached --

11 Q When you refer to H. Stiner 6, you are talking about
12 the letter from Mr. Yockey addressed to you of September 28?

13 A That is correct -- labelled CASE Exhibit 666A.

14 Q Right. But the question I asked you was not about
15 H. Stiner-6 but H. Stiner 3,4, and 5. Did you find those?

16 A No, I did not.

17 Q They are not annexed? So, we have established that
18 H. Stiner-6 was annexed but not 3,4, and 5?

19 A Correct.

20 Q Mr. Stiner, in H. Stiner-3, and I am going to show
21 you that so you can look at it while we talk about it, that
22 is the document which you claim was a handwritten letter by
23 you addressed to Mr. Ray Yockey signed by you dated
24 September 21, 1981.

25 In that document, Mr. Stiner, I think it says you

1 submitted a copy of a doctor's report?

2 A That is correct.

3 Q What were the contents of that report and has it
4 been produced here today?

5 A The content was in reference to the 12/5 of '80
6 termination.

7 Q I see, so it is not relevant -- to the second?

8 A It is not relevant to the second discharge, no.

9 Q When did you get the doctors' reports that you
10 submitted under cover of the September 21, '81 letter that
11 has been marked as H. Stiner-3?

12 A I said -- you say the doctor's report. Which
13 doctor's report are you referring to?

14 Q Well, you just told me that the doctor's report
15 referred to in this letter related to the 12/5/80 discharge?

16 A That is correct.

17 Q And not to the second discharge?

18 A That is correct.

19 Q So what I asked you was, well, when did you get that
20 doctor's report?

21 A On the 12/5th of '80?

22 Q Yes.

23 A I believe I picked it up when I picked up the second
24 or the H. Stiner-4 -- or 5, excuse me.

25 Q Just to make certain, in other words you say you got

1 a report from your doctor relative to the 12/5/80 discharge
2 some time in 1981, July of '81?

3 A That is correct.

4 Q Did you not receive such a report for the first --
5 excuse me -- did you not receive such a report contemporaneous
6 with the condition that the doctor treated in December 5 of
7 1980?

8 A I had no records at that time, no. The doctor
9 kept all the records and I just decided to let the termination
10 slide because I felt like they would rehire me. So, therefore,
11 I didn't pursue it any further.

12 Upon being terminated the second time, then I
13 requested a copy for the first time because I had found out
14 then that the record -- the Brown & Root records indicated
15 that actually in effect I quit the first time that I was
16 terminated and the reason for termination the first time
17 was failure to return, which -- you know -- I was under a
18 doctor's care is the reason why I was not there.

19 My supervisors from the highest on down knew that
20 I was in a motor vehicle accident. They had stated to the
21 unemployment commission that it was due to a motor vehicle
22 accident and a misunderstanding on the part of the general
23 foreman, Forrest Dendy, and as a matter of fact they tried
24 to deny my unemployment rights, but later on I guess they
25 decided to go ahead and tell them what really happened.

1 MR. DAVIDSON: I want to move to strike that answer
2 as unresponsive to the question but I think it is going to
3 go a little quicker, Mr. Stiner, if you would confine
4 yourself to questions that I ask and not try to make assertions
5 which frankly, based on what you said, are not supported
6 either by the record and indeed are statements about facts
7 which you couldn't know.

8 For example, you stated what Brown & Root records
9 show and I don't think you know that and in point of fact I
10 can tell you right now that they don't show what they say.
11 They do not show that you quit. They show that you were
12 discharged.

13 But I am not going to argue with you. I am just
14 trying to tell you that if we limit your answers to what I
15 ask you, we'll get done quickly.

16 MR. HICKS: I would also like to make a point and
17 that is, that has to do with the first discharge and I
18 understand why you asking some questions about it, to try
19 to separate out what has to do with the first discharge and
20 what has to do with the second one.

21 So I will support your motion to strike as to things
22 having to do with the first discharge, because it is not
23 relevant to what is happening here today.

24 MR. DAVIDSON: I didn't say I didn't want anything
25 as to the first discharge. I merely said the statement is

BU2 Side 2

1 not responsive.

2 If you will join me in just suggesting to the
3 witness that he be responsive to the questions then we can
4 move along quickly.

5 THE WITNESS: Okay. I will be responsive.

6 MR. DAVIDSON: I think that because we kept
7 Mr. Stiner here with so much lawyer's colloquy for so long
8 that he is desperate to say something and he will say it
9 regardless of whether we ask him. But in any event, let me
10 go forward.

End 7.

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MILLERS

1 BY MR. DAVIDSON:

2 Q. Mr. Stiner, I believe it has
3 been your testimony over, I might add,
4 some objection, that you attached H. Stiner
5 No. 4 and 5 to the document which was the
6 letter to Ray Yockey that you identified as
7 H. Stiner 3.

8 A. That is correct.

9 Q. Was that the first time that those
10 disability certificates or copies of them
11 were submitted to the Brown & Root personnel
12 people?

13 A. No, they were not.

14 Q. When did you do it earlier?

15 A. Upon return from the illness.

16 Q. Mr. Stiner, just to reiterate, you
17 have to talk into the microphone, otherwise
18 the recorder just isn't going to get any of
19 your testimony and you've been waiting so long
20 to testify that you should not be denied your
21 opportunity.

22 Mr. Stiner, I'd like to turn to
23 Case Exhibit 666 or that portion which has
24 been marked for identification here as Excerpt
25 1, on Page 36, I would direct your attention to

MILLERS FALLS

1 that. Have you got a copy of Exhibit 666?
2 A. I do. Page 36, Lines what?
3 Q. Well, I haven't found any lines yet
4 but I will give you those right now.
5 If you look at Lines 4 and 5, or
6 even, 4, 5, and 6, is it a fair summary to
7 say that what you alleged there is that you
8 notified your foreman on Friday that you had
9 to take off a Monday on account of illness?
10 A. That is correct.
11 Q. And is it not also the case that on
12 Line 8 there, that you indicated that you told
13 your foreman that you would be back in by
14 noon Monday?
15 A. I did tell him I would try to be
16 back in by 12 noon.
17 Q. Mr. Stiner, were you back in by 12
18 noon that Monday?
19 A. No, I was not.
20 Q. And what date was that, if you
21 remember?
22 A. I believe it was the 14th.
23 Q. Well, let me ask you this: We
24 have prior to the beginning of your testimony
25 at Mr. Bachmann's insistence, tried to pin down

1 the dates Monday, Tuesday and so on, and Mr.
2 Bachmann has advised us that Friday was July
3 10th, 1981 and that Monday was July 13th, so
4 that's, I take it, assuming that you don't
5 disagree--

6 MR. BACHMANN: Mr. Bachmann was
7 informed by Mr. Hicks of these.

8 MR. DAVIDSON: I think we're getting
9 down to the source here. I'm not going to ask
10 Mr. Hicks where he found out. I'm going to
11 accept that between the two of them, they
12 probably have the right day and trust that they
13 will represent that they have some reason to
14 believe that those are the days.

15 BY MR. DAVIDSON:

16 Q. In any event, so based on that
17 representation, can we agree that you had--
18 that it is alleged here in your testimony
19 that you had this conversation about your
20 absence on July 10th with your foreman; Friday,
21 July 10th?

22 A. Are you referring to me telling him
23 that I intended to be off?

24 Q. Yes, that's what you say. You say
25 you said it on Friday. I'm saying that's July 10th.

1 A. I don't remember the exact date.
2 If it is the 10th, I believe it was on a Friday
3 before the termination.

4 Q. Well, if in fact, Friday was July 10th,
5 then that is when you told him?

6 A. Correct.

7 MR. DAVIDSON: I would like to
8 ask that we either have a stipulation that that
9 was July 10th or that we get a 1981 calendar.

10 MR. HICKS: I will stipulate that
11 that Friday was July 10th. I think the hearing
12 board can also take judicial notice of that if
13 I'm not mistaken.

14 MR. DAVIDSON: Yes. I think it would
15 be helpful for the witness because then he can
16 have a basis for his answers.

17 BY MR. DAVIDSON:

18 Q. You've heard the stipulation here.
19 You have no problem with it, do you?

20 A. No.

21 Q. So we can now agree, can we not, that
22 you alleged that you had a conversation with
23 your foreman on Friday, July 10th?

24 A. That is correct.

25 Q. And if that's correct, then I take it

1 that you also told him that you would be back in
2 by noon Monday, July 13. Is that right?

3 A. What the actual conversation with
4 the foreman was, was that what I told him was
5 provided that the doctor had released me to
6 come back to work, I would try to make it back
7 in by noon.

8 Q. So you were going to go see the
9 doctor Monday morning, July 13th and that's
10 what you told the foreman?

11 A. That's correct.

12 Q. And you said--it doesn't indicate
13 this in your testimony, but if you'd elaborate
14 here, you are under oath after all, that you
15 told him that you would see the doctor and if
16 it was okay for you to come back to work, you
17 would be back in by noon on Monday.

18 A. That's correct.

19 Q. July 13th?

20 A. July 13th.

21 Q. Did you see the doctor on July 13?

22 A. Yes, I did.

23 Q. Were you back in by Monday, July 13th?

24 A. No, I was not.

25 Q. Do you have a disability certificate

1 indicating whether authenticated or not a
2 disability certificate indicating that you saw
3 the doctor on July 13th and were treated by him
4 on that date and were not capable of returning
5 to work?

6 A. No, I do not.

7 Q. Did you provide any such certificate
8 relevant to July 13th to anyone at Brown & Root?

9 A. I'm not sure I quite understand the
10 question--

11 Q. I think it's pretty obvious. If you
12 never had such a certificate, obviously you
13 didn't give it to anybody.

14 A. That is correct.

15 Q. Mr. Stiner, did you return back to
16 work on or about July 13th at noon?

17 A. No, I did not.

18 Q. Mr. Stiner, did you return to work
19 on Tuesday, July 14th?

20 A. No, I did not.

21 Q. Mr. Stiner, did you return to work
22 on Wednesday, July 15th?

23 A. Yeah, that would be the date that
24 I did return to work.

25 Q. Went to work on July 15th?

1 A. The 15th, that's correct.

2 Q. And thus, if the records reflect that
3 you did not, they would be in error and you
4 would be right?

5 A. That is correct.

6 Q. And what would happen if your
7 certificates of disability would indicate that
8 you did not go back to work, then they would
9 be in error too, the ones that you produced?

10 A. Would you rephrase that again?

11 Q. Well, according to the doctor's
12 certificate which you have submitted or offered
13 for evidence here, you were under treatment or
14 allegedly under treatment by this R. D. Hamilton
15 on September 15th to September 17th, and were
16 certified to go back to work on the 17th.

17 A. Okay. I think maybe I see where the
18 problem is. Let me clarify that for you.

19 Q. Well, first answer my question. Isn't
20 that a discrepancy?

21 A. What was the question?

22 Q. Perhaps I'll just move on. Or do you
23 feel that you have something to say?

24 A. I think I can clarify it for you.

25 I didn't really return--when I say

1 return back to work, it wasn't to return to go
2 back to work, but merely to make sure that
3 the medics at work knew and gave me a release
4 so that--Brown & Root has a policy if you miss
5 three days a month, you are terminated.

6 Q. Is that right?

7 A. That's my understanding. So therefore,
8 I went back on the third day, or Wednesday, which
9 would have been the third day, which as I've
10 already testified in my prefiled testimony,
11 Darlene was under the same medication that I
12 was, the medics released her and sent her on
13 back home. But I had been terminated when I
14 arrived; I had already been terminated, I believe,
15 Tuesday, the 14th.

16 Q. But you don't know that for a fact?

17 A. No, I do not know for a fact. That's
18 correct.

19 Q. When you say you were under medication,
20 do you remember what medication that was, Mr.
21 Stiner?

22 A. I can't remember at this point, no.

23 Q. You don't perhaps have a prescription
24 slip left?

25 A. I'm sure there is one on file. I

1 don't have one in my possession.

2 Q. When you say on file, where do you
3 mean?

4 A. Where we got the prescriptions
5 filled.

6 Q. You mean at the pharmacy?

7 A. Yes, at the pharmacy.

8 Q. So if I understand your explanation,
9 I think you have clarified it for me. You did
10 not return to work on July 15th, Wednesday,
11 July 15th. You may have visited the plant site,
12 but you didn't go back to work?

13 A. That's correct.

14 Q. Okay. Who was the foreman that you
15 had this conversation with on Friday, July 10th?

16 A. Jimmie Green.

17 Q. I think earlier I called him Johnny;
18 was that a mistake on my part?

19 A. It was a mistake.

20 MR. BACHMANN: You might indicate
21 that that is spelled, J-i-m-m-i-e.

22 BY MR. DAVIDSON:

23 Q. And during the course of the
24 conversation you had with Mr. Green on July 10th,
25 did you tell him you would be absent on Tuesday

1 and Wednesday?

2 A. No, I did not.

3 Q. Mr. Stiner, you testified earlier
4 that this was the second time you were discharged
5 by Brown & Root?

6 A. That's correct.

7 Q. It is my understanding that the
8 records reflect that the first time you were
9 discharged was for failure to return, did you
10 say?

11 A. For failure to return, yes, sir.

12 Q. That means you just didn't go back?

13 A. That's what they've called it. That's
14 what Mr. Yockey called it.

15 Q. Now, you said you knew, however, or
16 you thought that you would likely be rehired.
17 What reason did you have for that belief?

18 MR. HICKS: Could I interrupt here for
19 a second? I think--I don't know whether to
20 lodge this as an objection or not, but that
21 seems to be outside the scope of what we agreed
22 that this was covering.

23 MR. DAVIDSON: I think you are going
24 to find in just two questions from this one
25 exactly what the relevance is and if you'll permit

1 me those two, I think you'll see exactly where
2 I'm going, and if not, at that time we can of
3 course resolve your objection.

4 MR. HICKS: Okay.

5 THE WITNESS: Would you repeat
6 the question?

7 BY MR. DAVIDSON:

8 Q. I sometimes forget them myself after
9 this happens. I think that what I was saying is
10 you have testified with respect to that earlier
11 discharge that you didn't produce any medical
12 evidence at that time because you felt that
13 you would be rehired; isn't that what you said?

14 A. That is correct.

15 Q. And I just asked you why you thought
16 you would be?

17 A. When you say that I didn't produce
18 any medical documents, for every day that I
19 missed there was a doctor's disability certificate
20 submitted to Brown & Root or written out and they
21 were notified every morning--by telephone.

22 Q. Is this in connection with the
23 second or first discharge?

24 A. The first discharge.

25 Q. Is that why you thought you would

1 be rehired?

2 A. No. That is one of the reasons why.
3 Secondly, was a conversation that I had with
4 Ronnie Johnson which was the gold hat over my
5 group, and he told me don't worry about it. When
6 you get released from the doctor and get a release,
7 come on back and we'll hire you back. That
8 was my reason for my belief.

9 Q. And did they hire you back?

10 A. No, they did not.

11 Q. They did not hire you back?

12 A. They did not.

13 Q. So how did you get discharged the
14 second time if you were never rehired? You
15 were rehired subsequently, weren't you?

16 A. Well, I say when I go back--you see
17 they didn't hire me back. I had to get a
18 divorce first and then they rehired me the
19 second time.

20 Q. When you were rehired, Mr. Stiner,
21 weren't you counseled about absenteeism?

22 A. I was not directly counseled by a
23 person. To the best of my knowledge, no one
24 ever told me, hey, you've got too many absenteeism's
25 from your first time here and if you miss any more

1 days, you will be terminated. I was never
2 counseled by a person.

3 Q. If you see a puzzled look on my
4 face, Mr. Stiner, you know why, don't you?
5 Because you're saying by a person. And I'm
6 wondering what it was that counseled you if
7 it wasn't a person.

8 A. Okay. What Brown & Root does, and
9 I found this out at a later date, is they
10 have you sign documents whenever you are
11 rehired or whenever you hire in. Part of those
12 documents, you know, say something to the
13 effect that, you know, excessive absenteeism
14 is grounds for termination which I don't believe
15 I ever signed one of them. So when you asked
16 me--was your question was I counseled about
17 my absenteeism? The answer would be no.

18 Q. And when you say that, do you mean
19 to exclude the possibility that you had a
20 conversation with Mr. Halford who was Jimmie
21 Green's supervisor?

22 A. Never had a conversation with Mr.
23 Halford until the day that he terminated me.

24 MR. HICKS: May I interrupt for
25 one second again? Just so we can keep the

1 record clear. The date that he terminated you,
2 you are referring to the second termination?

3 THE WITNESS: To the second one,
4 that's correct.

5 MR. BACHMANN: For the purposes
6 of the record, could I get the proper spelling
7 for Mr. Halford from the Applicant's Counsel
8 since he is an employee of Brown & Root, I believe,
9 or whatever of the Applicants, somehow or other.

10 MR. DAVIDSON: I don't believe that
11 any member of the firm of Bishop, Liberman,
12 Cook, Purcell & Reynolds or anyone associated
13 with our firm is an employee of any other
14 organization. Either our client, which is
15 the Texas Utilities Electric Company, or Brown
16 & Root.

17 MR. BACHMANN: He is an employee
18 of your client's and I would like to get
19 an official spelling. I've seen it too many
20 different ways.

21 MR. DAVIDSON: I don't want to
22 be picky about this, but Brown & Root is
23 separately represented in these proceedings
24 by Vinson & Elkins and I cannot claim the
25 fare of my clients. However, they are a

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contractor for my clients, and I think we
do have the proper spelling of the man's
name.

(Discussion off the record.)

MILLERS FALLS
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COTTON CONTENT

1 MR. DAVIDSON: Back on the record.

2 I am sorry, Mr. Stiner, we are trying to find the
3 spelling of a gentleman's name. I am not sure we have it yet.
4 But we will have it for the record.

5 BY MR. DAVIDSON:

6 Q I guess we are still on page 36 of your testimony.

7 Mr. Stiner, would you read that whole page, or at
8 least that -- until the beginning of the first incomplete
9 paragraph at the bottom, in other words, lines 4 through 22,
10 just read that to yourself and I will ask you a question
11 about it.

12 (Pause.)

13 Mr. Stiner, you read that?

14 A Yes, I have.

15 Q Now it mentions the conversation you had with
16 Mr. Jimmie Green on Friday, July 10th, is that right?

17 A Yes, it does.

18 Q It also mentions the telephone conversation, or
19 what appears to be a telephone conversation with someone
20 identified only as Mike Rupe's secretary?

21 A That is correct.

22 Q Did that also occur on Friday, July 10th?

23 A No, not on Friday. That was on Monday.

24 Q Did you speak with anyone else about your absences
25 at Brown & Root prior to Wednesday?

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1 A No.

2 Q All right. You did not?

3 A No, I did not.

4 Q You didn't call on Tuesday?

5 A I called Monday, Tuesday -- Monday and Tuesday,
6 both days I called.

7 Q So you want to change your testimony to say you
8 called on Tuesday?

9 A I did call. You are talking about the week after
10 the Monday, the first Monday that I missed, right?

11 Q Oh, are you talking about the 20th? You called
12 on the 21st?

13 A No. I am talking about the 13th and 14th.

14 Q You say now you called on the 14th?

15 A Correct.

16 Q Is there any mention of a telephone call in your
17 testimony here?

18 A I am looking -- I don't think it is there, no. I
19 didn't say -- I don't think I testified in this prefiled
20 testimony that I did call.

21 Q That's right, you didn't.

22 A But I did call.

23 Q It now occurs to you?

24 A Well, I have always known.

25 Q It now occurs to you two years later that you left

1 that out?

2 A Right.

3 Q Mr. Stiner, you said that you went to the Brown &
4 Root medics to be examined on July 15th, is that correct?

5 A I never did make it to see them.

6 Q You did not see them?

7 A No, I did not see them.

8 (Pause.)

9 MR. BACHMANN: What page are you up to?

10 MR. DAVIDSON: I was looking at page 38 at this
11 point.

12 MR. BACHMANN: Would it make this procedure go
13 faster if you had gotten that far by asking quickly the
14 questions I have prior to page 38?

15 MR. DAVIDSON: Oh, you have some questins on page
16 36?

17 MR. BACHMANN: Yes. I have questions on page 35.

18 MR. DAVIDSON: I don't think page 35 is in.

19 MR. HICKS: 35 is in.

20 MR. DAVIDSON: Oh it is. Well, you know you are
21 quite right. I'll tell you what I would like to do,
22 Mr. Bachmann. I would like to try to finish my examination,
23 then obviously turn the witness over to you. I don't mean
24 to delay it but --

25 MR. BACHMANN: Then could we agree that -- let me

1 come in at the end of Stiner-1 and then we can go to Stiner-2
2 as a separate thing rather than try to do them all at the
3 end?

4 MR. DAVIDSON: Well, I think we probably could do
5 that --

6 MR. BACHMANN: I think it might help Mr. Stiner's
7 memory a little bit if we take them separately.

8 MR. DAVIDSON: If Mr. Hicks has no objection to the
9 procedure and Mr. Stiner has none.

10 MR. HICKS: I have no objection.

11 BY MR. DAVIDSON:

12 Q All right, let's go that way.

13 At page 35 of the canned testimony prepared for
14 you by CASE it states that in connection with an alleged
15 gouge mark you found in a pipe that you sent a Mr. Alvarez
16 upstairs to find a QC inspector, is that correct?

17 A That is correct.

18 MR. HICKS: Let me interrupt for a second. It is
19 my understanding that this is testimony and it is not canned
20 testimony prepared by CASE. It is Mr. Stiner's testimony and
21 I don't think it is appropriate for you to continue.

22 I realize that may be your personal view but to
23 continue to refer to it as "the canned testimony prepared
24 by CASE" --

25 MR. DAVIDSON: Well, if we can, we can find out

1 whether Mr. Stiner typed it himself and whether in fact it
2 was delivered and taken down by stenotype or whether in fact
3 it was prepared by CASE.

4 MR. HICKS: Let's find out if it is canned.

5 MR. DAVIDSON: "Canned" is prefiled.

6 MR. HICKS: Okay, just as long as it is clear on the
7 record that when you say "canned testimony prepared by CASE" --

8 MR. DAVIDSON: Did you think I was saying it was
9 "ashcanned" testimony?

10 MR. HICKS: Well, if you are saying it is prefiled
11 testimony prepared by CASE --

12 MR. DAVIDSON: I meant "prefabricated testimony."

13 BY MR. DAVIDSON:

14 Q Is that your testimony that you sent Alvarez up
15 there?

16 A Yes, I did.

17 Q And it was not Mr. Green you sent up?

18 A No, it was not.

19 Q And Mr. Alvarez would know the circumstances of that,
20 wouldn't he?

21 A Yes, he would.

22 Q And if he said that it was Mr. Green, then you would
23 be wrong in your recollection?

24 A No.

25 Q It wouldn't matter what he said?

1 A I know what I remember.

2 Q And it doesn't matter what he said? It doesn't
3 change your statement?

4 A No, it would not change my statement.

5 Q And it won't change your statement if Mr. Green
6 says that as well?

7 A That is exactly what happened. They wouldn't change
8 my statement a bit.

9 Q So they are wrong and you are right?

10 A That is correct.

11 Is that their testimony that Mr. Green -- told him
12 to go upstairs?

13 Q I am sure Mr. Hicks will tell you that, you know,
14 another one of the rules is not only that you are supposed
15 to be responsive to my questions but I don't have to answer
16 yours. You are the witness.

17 A Okay.

18 Q Maybe at some further time the roles will be
19 reversed. Then you can ask all the questions you like.

20 MR. HICKS: That's just fine, Mr. Stiner.

21 BY MR. DAVIDSON:

22 Q Mr. Stiner, once again I am looking at page 35 and
23 if I understand the testimony here correctly, you are talking
24 about a gouge mark of about four inches long and a quarter
25 inch deep and eight inches wide in a pipe, is that correct?

1 A That is correct.

2 Q Can I direct your attention to page 46 of CASE
3 Exhibit 666, which is a portion that I will note for
4 Mr. Bachmann of excerpt number two? However, I don't believe
5 at that point that it discusses anything to do with the NRC
6 Staff, which is I believe the area in which he wishes to
7 reserve examination on.

8 And you see at line 9, where it says "The hanger
9 which had the gouge mark" --

10 A Yes, I do.

11 Q Which of those two statements is correct?

12 In one place you say it is a pipe with a gouge mark
13 and in another place you say it is a hanger with a gouge mark.
14 In other words, we have got a travelling gouge here.

15 A The gouge was in the pipe.

16 Q So one of the statements is incorrect?

17 A Correct.

18 Q I am being straightforward. I just want to know.
19 One of those is incorrect.

20 A That is a misstatement there as far as the words
21 "the hanger which had the gouge mark."

22 Q So that is an inaccuracy in your sworn testimony?

23 A That would be an inaccuracy, yes.

End 9.

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1 Q But there are no other inaccuracies, right?

2 A That one slipped by me, I guess.

3 Q Did any others slip by you, too?

4 A Well, that's so minor. You've got to
5 understand that we're talking about something that happened
6 quite a few years ago --

7 Q No, this statement was prepared September
8 of 1981.

9 A That's correct.

10 Q So if you were having difficulty remembering
11 in '81 you want us to feel confident about your memory in
12 '84? I'm sorry, that was September '82. Do you want us
13 to have more confidence in your memory with the passage
14 of time if you say you couldn't remember from five pages
15 apart in a written document you reviewed?

16 Well, that's not a question. That's really
17 an argument and I don't want to pursue it with you. All
18 I'm saying is that there's an inaccuracy. It may be more
19 than that. All I'm saying is you have written testimony
20 here. It was prepared for you. You've had a chance to
21 review it. It is your testimony, and I was just saying to
22 you that it seemed to me that that ought not to occur.

23 And now you're saying you don't remember
24 anything about it.

25 A That is an inaccuracy, I will say, sir.

10pb2

1 Q It's inaccuracy about the location of a
2 gouge that you claim gave rise to the whole case of your
3 -- the whole discussion you've had with respect to this
4 incident involving a QC inspector. That's just a statement,
5 you don't have to respond to that if you don't wish to.

6 A I won't

7 Q Okay. Mr. Stiner --

8 A Before we go on, this might could be a
9 discrepancy, then it might not be if you read the wording
10 of it in the way that I meant it. The hanger which had the
11 gouge -- in other words, whenever I have told this story
12 I not only told it to the NRC, I've told it to attorneys,
13 my attorneys, CASE, people that do the typing as I dictate
14 it to them. And through my dictation to them, and in haste
15 to get this all done in a speedily manner, what I'm actually
16 saying here is, the gouge mark in the hanger that I am
17 referring to -- and it's in parentheses -- which I believe
18 was the reason for my termination is the reason why that
19 reads the way it is.

20 It is -- it should read, "The hanger, which
21 I believe was the reason for my termination." Maybe the
22 gouge mark should have been left off there.

23 Q I'm sorry to tell you this, but now you've
24 got me even further confused, because I was under the
25 impression that at page 35 you were relating an incident

10pb3

1 which you found a gouge mark in a pipe, and that then you
2 wanted to report it.

3 Now you tell me that the incident really was
4 all about a hanger, and that's the same discrepancy I had
5 from the beginning. The same problem. Well, I think that
6 the record will reflect whatever it is you said here.

7 A Right, right.

8 Q Unless you're saying that they just wrote
9 it wrong. Is that what you're saying? Did they mess that
10 up?

11 A They wrote what I told them to.

12 Q They did? Okay. So then you did say that
13 it's the hanger which had the gouge.

14 MR. BACHMANN: Counsel, I think we're spending
15 an awful lot of time on something that's very minor. I
16 think one should point out that Mr. Stiner's welding
17 expertise is in pipe hangers, and he states on page 35, we
18 are constructing a hanger. They noticed a gouge in a pipe.

19 I think it's quite natural that he just might
20 confuse the word hanger, since that what he does welding on.
21 But I'm sure he was --

22 MR. DAVIDSON: Mr. Bachmann, I won't accept
23 your rehabilitation of this witness, and I don't think it
24 is minor. I think it's very major.

25 The gentleman has stated that it's because of

10pb4

1 a discovery of a gouge that the whole incident occurred with
2 the QC inspector. I don't think that's minor if all of
3 the sudden the gouge travels from a pipe to a hanger.

4 And as per your statement as to his expertise,
5 it's quite true. This is the man in this room who knows
6 better than any one of us, including you, Mr. Bachmann, what
7 a hanger is and what a pipe is. And if he's prepared to
8 state now that he doesn't know the difference, then I think
9 we have an even more damaging admission than the one that
10 I have found.

11 BY MR. DAVIDSON:

12 Q Mr. Stiner, once again that's just a lawyer's
13 disagreement. We'll get back to examination.

14 Mr. Stiner, did you ever have an opportunity
15 to be interviewed by an H. Brooks Griffin?

16 A Yes, I did.

17 Q And did you, Mr. Stiner, relate to him various
18 incidents you claimed occurred?

19 A Yes, I did.

20 Q And were those incidents, to the best of your
21 knowledge, included within a report prepared by Mr. Griffin?

22 A Yes, it was.

23 Q Have you ever seen a copy of that report?

24 A Yes, I did.

25 Q Mr. Stiner, I have here at page 28 from the

±0pb5

1 March 7, 1984 report of H. Brooks Griffin in which he
2 relates the interview he had with you and four incidents
3 that you related to him.

4 Do you see that?

5 A Yes, I do.

6 Q Would you look at those incidents quickly to
7 see if those were the ones that you related to Mr. Griffin?
8 In fact, don't say quickly. Take your time and look at it
9 carefully.

10 (Witness reviewing document.)

11 Q Have you had a chance to study it?

12 A Not yet.

13 Q I'm sorry, please take your time. Don't let
14 me rush you. If you need more time, just tell me.

15 A I need more time.

16 Q Take all the time you want.

17 MR. HICKS: Mr. Stiner, why don't you just
18 say when you have finished reading it?

19 (Pause.)

20 MR. DAVIDSON: I think we'll go off the
21 record to allow Mr. Stiner to study this page.

22 (Discussion off the record.)

23 BY MR. DAVIDSON:

24 Q Mr. Stiner, are you with me?

25 A I am here.

10pb6

1 Q Have you looked at that document I showed
2 you and studied it carefully?

3 A Yes, I did.

4 Q Have you had ample opportunity to read it all?

5 A I read the portions marked I, II, III and IV.

6 Q Okay. Well, I'm not going to ask you about
7 the introductory, I'm only going to ask you about the item
8 that is marked number III. And I just want to ask you a
9 question --

10 MR. HICKS: Can I interrupt? Is this going
11 outside the scope of what we said was going to be covered --

12 MR. DAVIDSON: It is, in fact the case that
13 Mr. Stiner is not offering direct testimony on this incident
14 that is alleged here. However, I think that I need some
15 clarification about his statement to determine whether or
16 not it is accurate.

17 MR. HICKS: Well, it seems that you're seeking
18 clarification and it's outside the scope of the agreement
19 that we've reached. Can you tell me what part of the agreement
20 says that that is within it?

21 MR. DAVIDSON: I don't think that's what I
22 just said. And I think if you think about what I said it
23 would be very plain. I said I want to get some clarification
24 as to the answers in this statement.

25 MR. HICKS: Okay.

10pb7

1 BY MR. DAVIDSON:

2 Q Mr. Stiner, you see item number III?

3 A Yes, I do.

4 Q Mr. Stiner, I'm going to show you another
5 document. You're shaking your head yes.

6 A Yes.

7 Q Do you recognize it?

8 A No, I'm just saying I recognize that you're
9 showing me another document.

10 Q Okay. And it purports to be a statement by
11 you dated September 15, 1983. In fact, it appears to be
12 signed by you. Do you recognize it?

13 A Yes, I do.

14 Q And it indicates it was made in Arlington,
15 Texas at the NRC OI office. Do you remember making such
16 a statement?

17 A Yes, I do.

18 Q Would you look at this document and see
19 whether what I'm going to call item number III of that earlier
20 document is also related in this one?

21 (Witness reviewing document.)

22 A Yes, I do see the portion that is related to
23 item number III.

24 Q You do?

25 A Yes, I do.

10pb8

1 Q In this paragraph that I'm pointing to?

2 A In the paragraph you're pointing to, yes.

3 Q Now it identifies here four individuals.

4 A Mr. Frankum, a Mr. Calicutt, a Mr. Liford. Is that supposed
5 to be Liford?

6 A Yes.

7 Q Is that misspelled?

8 A I believe it is.

9 Q Would that be L-i-f-o-r-d?

10 A I believe so.

11 Q And a Mr. Hebert.

12 A That's correct.

13 Q And they're described here as all being
14 superintendents.

15 A That's correct.

16 Q Is in fact Mr. Frankum a superintendent, or
17 was he at that time?

18 A What I call a superintendent is -- when I
19 refer to them as superintendents meaning gold hats, meaning
20 they all had gold hats on. Mr. Frankum was a project manager.

21 Q What about Mr. Calicutt? Is he a superintendent?

22 A He is a gold hat.

23 Q In other words, all of these were somehow
24 supervisors --

25 A They all had gold hats.

10pp9

1 Q At the site.

2 A That is correct.

3 Q So you didn't mean when you said all
4 superintendents in this statement, which is your statement
5 now that we're referring to, September 5, 1983 statement,
6 you didn't mean the word superintendent to mean anything
7 other than that they were supervisors?

8 A I meant it to mean that they all had gold hats.

9 Q And is it my understanding that you claim
10 that all four of these gentlemen had a discussion with
11 Mr. Johnson -- that is Ronnie Johnson -- regarding certain
12 work all at the same time?

13 A Mr. Frankum was the one that did the chewing
14 and the cussing, and the rest of them were there and was
15 examining the pipe and talking about how they had been out
16 for two years and they needed to get it bought off.

17 But Mr. Frankum was the one that actually
18 did the chewing.

19 Q And you recollect this incident well.

20 A Yes, I do.

21 Q And if Mr. Calicutt testified that he had
22 no recollection of any such incident, he would be wrong?

23 A To me he would be wrong, yes.

24 Q And what about if Mr. Liford said so?

25 A The same with him.

10pb10

1 Q And what about if Mr. Frankum so testified?

2 A Same with him.

3 Q Do you know who Mr. Johnson -- well, let me
4 ask you this. Was Mr. Johnson a superintendent at that time?

5 A He was a gold hat.

6 Q Do you know for whom he worked? Who was his
7 immediate supervisor?

8 A No, I do not know.

9 Q Were any of the gentlemen whose names here
10 were mentioned his immediate superior?

11 A I don't know about immediate superior. I
12 couldn't say. I thought Liford was, but I could be mistaken.
13 I really don't know.

14 Q So you think it was Liford?

15 A Like I say, I really don't know.

16 Q Weren't you in Mr. Johnson's crew?

17 A Yes, I was.

18 Q And you don't know who Mr. Johnson's immediate
19 supervisor was?

20 A No, sir, I do not.

21 Q Did you know at the time?

22 A No, sir.

23 Q Do you know now?

24 A No, sir.

25 Q You don't mind if we go back to the infamous

10pb11

1 CASE Exhibit 666. At one time it referred to as "canned"
2 testimony and now only to be referred to as prefiled
3 testimony.

4 Mr. Stiner, at page 38 of this testimony you
5 make some reference to a three-part memo allegedly issued
6 from Hal Goodson's office and you talk about that as being
7 a key factor in your termination -- have I accurately stated
8 what you testified to here?

9 A That's correct.

10 Q How did you learn of the existence of this
11 claimed three-part memo, and Hal Goodson's alleged involvement
12 in your termination?

13 A Briefly, there were two secretaries that
14 worked for my group. One of them was Darlene Swain. I
15 don't remember what the other girl's name was because I never
16 had a chance to talk with her. But her husband and another
17 welder named Nathan Hammett, I believe. I'm not quite sure.
18 I'm not sure that's his last name. I only know him as Nathan
19 -- came over to my house to look at my welding machine
20 shortly after I got terminated. I was going to sell it
21 because I needed the money.

22 They were looking at the welding machine.
23 The conversation came up about my termination, and this --
24 I don't know what his name is, but the other guy that came
25 with Nathan, his wife is the secretary, the unknown secretary.

10pb12

1 I won't call her because I can't remember her name told me,
2 yeah, he said you really got a raw deal.

3 I said, what do you mean? He said, well my
4 wife told me that they almost had a fight with Hawford
5 because they terminated you and they were telling him that
6 you had a three-part memo -- or that you had a doctor's
7 excuse and that you called in every day, and why was they
8 terminating you. And they said, well, a three-part memo had
9 come down from Hal Goodson.

10 Q And this is what is related in a somewhat
11 abbreviated substance in line 6 down to, I guess, line 18?
12 And that is the basis for those statements?

13 A I don't know about the end of line 18.

14 Q Well, how about down to line 10, 11? Will you
15 give me that?

16 A Yes.

17 Q And that is the basis for those assertions?

18 A Yes.

19 MR. DAVIDSON: I move to strike all of that
20 testimony as being based solely upon hearsay. In fact, it
21 is not just one hearsay, but it is in fact in some cases two
22 and three removed from actual personal knowledge.

23 MR. BACHMANN: Let me ask Mr. Stiner something
24 about that before I respond --

25 MR. DAVIDSON: Mr. Bachmann, I think I would

10pb13

1 like to complete my examination.

2 MR. BACHMANN: I'd just like to ask him one
3 quick question. He mentioned that he got all of his
4 information from the friend who had a wife that was a
5 secretary.

6 MR. DAVIDSON: Right.

7 MR. BACHMANN: So that starts on line 6 and
8 down to the words Henry Stiner on line 11?

9 MR. DAVIDSON: That's what he said, yes.

10 MR. BACHMANN: I just to make that clear.

11 MR. DAVIDSON: I'm sorry, Mr. Bachmann. I
12 didn't know you were asking for clarification.

13 MR. BACHMANN: A clarification for Mr. Stiner
14 that all of that information stated there was from --

15 THE WITNESS: Came from the friend who had
16 the wife that worked for Ed Hawford.

17 BY MR. DAVIDSON:

18 Q Do you know that this was once a song?

19 (Laughter.)

20 A No.

21 Q You never heard of "There was a hole in the
22 ground," or "That was the house that Jack built"?

23 A Yeah, I heard that one.

24 MR. BACHMANN: I would join in that motion to
25 strike and agree with the objection based on the clarification

10pb14

end 10.

1 gotten from Mr. Stiner.

2 MR. DAVIDSON: Thank you, sir.

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WILKINS HALLS
EVERETT
COTTON COMPANY

1 BY MR. DAVIDSON:

2 Q Mr. Stiner, would you look at page 36?

3 A Yes.

4 Q Are you looking?

5 A I'm looking.

6 Q Let me direct your attention to line 23. Are you
7 with me?

8 A I am with you.

9 Q And we have three short sentences or three short
10 lines on this page and then I am going to take you to the
11 next page, so take a look at them.

12 (Witness reviewing document.)

13 Q And I want to just take you through the word -- to
14 the conclusion of the carryover sentence to the word "Stiner"
15 on line 2 of page 37, and this relates as I read it to a
16 conversation you had with, I think, your then foreman, Jimmie
17 Green, in which you asked him why you were terminated and he
18 said, "I don't know" and then continued to say something about
19 a three-part memo -- is that right?

20 A That's correct.

21 Q And he says -- you relate that he said that this
22 alleged three-part memo came down not from Hal Goodson's
23 office but from Ed Hawford?

24 A That is correct.

25 Q Is the basis for these statements here that

1 conversation you had with Jimmie Green?

2 A That is correct.

3 Q And that is the sole basis?

4 A That's the sole basis.

5 MR. DAVIDSON: I move to strike this testimony as
6 being based on hearsay.

7 MR. BACHMANN: I do not support that objection. If
8 the purpose of the testimony is merely that Mr. Green told --
9 supposedly told Mr. Stiner something, not that the fact of
10 the memo actually existed but merely for the fact that he was
11 told that there was such a memo.

12 BY MR. DAVIDSON:

13 Q Mr. Stiner, did you mean to -- as you understand
14 CASE's submission, did you mean to submit this information
15 as an explanation for the reason why you were fired?

16 A That is my belief.

17 MR. DAVIDSON: I once again reiterate my motion to
18 strike.

BU3, Side 2

19 Mr. Bachmann, I think you have -- one moment, please.

20 (Discussion off the record.)

21 MR. DAVIDSON: Back on the record.

22 BY MR. DAVIDSON:

23 Q I think we are on page 37 now. I just reiterated
24 my motion to strike and I am now on page 37.

25 MR. DAVIDSON: I am just looking now to see if I have

1 any further questions with respect to excerpt number one,
2 because as I believe that all counsel have here agreed,
3 rather than continuing my examination and moving to excerpt
4 number 2 or going to other areas not necessarily related to
5 excerpt number 1, Mr. Bachmann has expressed an interest in
6 making his cross on excerpt number 1 --

7 (Discussion off the record.)

8 MR. DAVIDSON: Back on the record.

9 BY MR. DAVIDSON:

10 Q Mr. Stiner, now that we have all had a short break
11 to clear our minds, I want to turn once again to excerpt
12 number 1 and to page 39, that is Stiner-1, page 39, and I want
13 to direct your attention to lines 23 and 24 and 25.

14 Do you see it?

15 A Yes, I do.

16 Q Now line 23-24, that is, there is a carryover,
17 refers to doctors' excuses.

18 A Yes.

19 Q To what does that refer?

20 A It refers to the disability --

21 Q The two disability certificates that we have marked
22 here as Stiners 4 and 5?

23 A Not only for the second termination but also for
24 the first termination.

25 Q So there were more than two.

- 1 A There were more than two.
- 2 Q And it also refers on line 24 to handwritten letters
3 from the doctors?
- 4 A That is correct.
- 5 Q Are there such letters in existence?
- 6 A That is one of the documents that deals with the
7 first termination.
- 8 Q There are no handwritten letters from doctors
9 dealing with the second?
- 10 A Well, I don't have them.
- 11 Q Were there ever?
- 12 A Yes, there were.
- 13 Q Did you submit them to Mr. Yockey at any time?
- 14 A No, I didn't.
- 15 Q No, you didn't -- and you don't have them now?
- 16 A I don't have them now.
- 17 Q And they are not attached to the September 1, '82
18 testimony?
- 19 A No, they are not.
- 20 Q Now it says you have telephone receipts?
- 21 A That is correct.
- 22 Q Would they substantiate the calls that you allege
23 that you made?
- 24 A That is correct.
- 25 Q Did you produce those telephone receipts?

1 A No, I did not.

2 Q Do you have those telephone receipts?

3 A I do have those telephone receipts.

4 Q Will you produce them?

5 A Yes, I will.

6 MR. HICKS: Do you know where they are?

7 THE WITNESS: No. I couldn't dig them out in two
8 or three hours, but they are in our files. We have retained
9 all of the telephone bills from back during that period for
10 that purpose.

11 BY MR. DAVIDSON:

12 Q Mr. Stiner, you will be asked to sign your deposition.
13 At that time I would appreciate it if you would see to it that
14 CASE Intervenors are provided with not only your executed
15 transcript but also with those telephone receipts and that
16 they are annexed to and bound into that deposition transcript.

17 A For the second termination?

18 Q Yes, sir.

19 A Okay. Will do.

20 MR. HICKS: I understand that you say you will do
21 it if you can find them?

22 THE WITNESS: If we can find them.

23 MR. HICKS: And if they are the ones to which you
24 refer here?

25 THE WITNESS: That is correct.

1 MR. DAVIDSON: I am sorry, Mr. Hicks, I think that
2 you misstated the representation. He said he could find them.
3 He knows where they are. It will take him some time, but
4 he says he has them -- not whether he can find them.

5 BY MR. DAVIDSON:

6 Q Isn't that right? You do have them?

7 A To the best of my recollection, we have them.

8 Q We are not going to find out later you don't?

9 A That is to be seen. If I find them, I will produce
10 them. If I don't, I don't have them.

11 Q They weren't bound into the testimony of September 1,
12 '82, were they?

13 A No, they were not.

14 Q But you had them then?

15 A I don't believe I had them at that time.

16 Q I see.

17 A I also had to get some more telephone bills for the
18 Department of Labor. So I had to get all of them.

Q Right.

20 Mr. Stiner, did you visit the doctor on July 13, 1983?

21 A Yes, I did.

22 Q Did you produce here today a certificate of
23 disability evidencing your visit on July 13?

24 A No, I did not.

25 Q Do you have such a certificate?

1 A I do know that there are records in the Brazos
2 Medical and Surgical Clinic files that do indicate that I
3 did visit the doctor on the 13th.

4 Q Do you have such a certificate?

5 A I do not have it, no.

6 Q And you haven't produced it here today?

7 A I haven't produced it here today.

8 Q And you never produced it for Mr. Yockey, did you?

9 A No, I did not. As a matter of fact, I think this
10 is probably the first time that the issue has come up.

11 Q I see.

12 MR. DAVIDSON: Mr. Roisman has come into the room
13 and requested that we take a short break.

14 (Discussion off the record.)

15 MR. DAVIDSON: On the record.

16 BY MR. DAVIDSON:

17 Q Mr. Stiner, are you taking down what I was saying?

18 A No, I am just making personal notes to myself to
19 get those telephone bills.

20 Q Mr. Stiner, I would like to direct your attention
21 to page 40, the prefilled testimony, and you make reference
22 there to surgical reports.

23 Do you see that, on page 40 at line 8?

24 A Yes, I do.

25 Q You have not produced any surgical reports here

1 today, have you?

2 A No, I have not.

3 Q There are no surgical reports annexed to your
4 testimony of September 1, 1982, are there?

5 A I don't believe there are.

6 (Pause.)

7 Q Mr. Stiner, on that same page, there is also
8 reference to what I take to mean some kind of document from
9 the unemployment office. Do you see that?

10 A That is correct, yes.

11 Q Did you produce a copy of that unemployment office
12 document here today?

13 A No, sir, I did not.

14 Q Is a copy of that document annexed to your
15 September 1, '82 testimony?

16 A I don't believe I saw it in there. However, I might
17 add that I should get back with Juanita and find out -- you
18 know, why they were not attached because they should have
19 been.

20 Q Is it your statement that you produced all of these
21 documents to her?

22 A That is correct.

23 Q And if she were to say that she never received them
24 from you, that could be true though? I mean, it is possible
25 that you did not --

1 A It is possible that I didn't produce them to her.
2 I do have them though and intended -- because of my testimony
3 about the first termination, that is backup for that in other
4 words along with the surgical reports.

5 Q Could I ask you as I did before in connection with
6 the telephone receipts if, you know, you would get a copy --

7 MR. HICKS: May I interrupt for a second?

8 That has to do with the first termination though.

9 BY MR. DAVIDSON:

10 Q I'm sorry. Are all these documents I am referring
11 to now as to the first termination and not the second?

12 A The surgical report -- the termination slip from
13 the unemployment commission, unemployment office -- they refer
14 to the first termination.

15 Q I see; then I won't ask you to produce those.

16 However, they were not annexed to your original
17 testimony which did include some discussion of the first
18 termination.

19 A That is correct. I did see them, to the copy that
20 you have there.

21 Q You didn't see them or they were not annexed?

22 A I didn't see them in the copy that you have there.

23 Q Do you think this copy is any different from the
24 copy that was filed?

25 A Who knows?

1 Q Well, I think you had better check.

2 A That is why I say I will get back to Juanita --

3 Q No, you had better check this copy and tell if you
4 think it is accurate.

5 A I have no way of knowing if this is an accurate
6 copy unless I have a copy of the court's copy.

7 That is your copy.

8 Q No, actually --

9 A For instance --

10 Q Wait a minute, Mr. Stiner. I think you misspoke.
11 This actually is a copy that you entered this deposition with
12 Mr. Hicks.

13 Mr. Hicks, is this an accurate copy?

14 THE WITNESS: If you have a copy, I will show you
15 my concern.

16 If you notice here, for instance, on page 35,
17 transcript number 4237, yours says 4238. I am sure there is
18 a discrepancy in who wrote this one down --

19 BY MR. DAVIDSON:

20 Q Do you know whose handwriting that is?

21 A I have no idea.

22 Q Juanita Ellis?

23 A That is why I say, looking at that copy --

24 MR. HICKS: Can we either go off the record while
25 you are testifying --

1 MR. DAVIDSON: No.

2 MR. HICKS: This is not in evidence.

3 MR. DAVIDSON: That's true and it shouldn't be,
4 except that it has been put into evidence as Mr. Bachmann
5 pointed out.

6 MR. HICKS: But this that you are talking about is
7 not in evidence?

8 MR. DAVIDSON: The issue is whether it is a true
9 and correct copy, which I think you asked him earlier?

10 MR. HICKS: No. I asked him if the excerpt that
11 we put into the record was a true and correct copy.

12 I am not even sure I asked him that fact.

13 The problem is that we do not have the record of
14 CASE Exhibit No. 666 that is on file with the Licensing Board
15 before us. Mr. Stiner is saying how could he possibly know
16 without comparing it.

17 BY MR. DAVIDSON:

18 Q What would you need to satisfy you that this is a
19 true and correct copy?

20 A Well, that is hard to say.

21 Q In other words, you would like to maintain that you
22 don't know what your testimony was earlier and you cannot
23 recognize it, is that it?

24 A No, not at all.

25 I am just saying that--

1 Q You don't remember what your testimony looked like?

2 A My testimony was about the unemployment commission
3 with the receipt that I had that should have been attached
4 to that right along with these right here. As to why they are
5 not, I have no explanation whatsoever for it.

6 Q What I was concerned about was that earlier you
7 seemed to be able to recognize the excerpts that you want to
8 offer but when I ask you to recognize the entire document,
9 you don't. Don't mistake me --

10 A In other words, I would not offer that document
11 there unless it was a true court copy. In other words, I
12 couldn't say that it is complete.

13 Q Then what did you offer here today? What testimony
14 did you offer here today?

15 A The testimony that is contained in CASE Exhibit 666.

16 Q And where did you get it from?

17 Where is the document you got it from? You are
18 pointing to your head?

19 A Out of my mind.

20 Q Now, slow down. Wait a minute, Mr. Stiner. Let
21 me explain where I am going and you can understand.

22 You and Mr. Hicks offered some documentary testimony
23 which were excerpts. That is what we have been referring to
24 as CASE Exhibit-666 and obviously you got them from a
25 particular document and that must be one you acknowledge to

1 be a valid and true, correct copy of Exhibit 666 or else you
2 couldn't possibly offer those excerpts. Now all I am saying
3 is, where did you get them from?

4 MR. HICKS: That is not a question for the witness
5 because they are not offered as exhibits.

6 MR. DAVIDSON: You offered them into evidence, sir.

7 MR. HICKS: I did not.

8 MR. DAVIDSON: So in other words the witness is
9 saying he disclaims any personal knowledge as to whether they
10 were --

11 MR. HICKS: No.

12 MR. DAVIDSON: This is not a game. It is very
13 important to determine whether this is actually the witness's
14 testimony or it is Mrs. Ellis's testimony or it is some
15 prepared testimony he doesn't remember or whether it is some
16 misrepresentation of his earlier testimony. I think that is
17 pretty important.

18 MR. HICKS: Well, I think things are getting a little
19 confused. If I can, I would like to state what I think the
20 situation is.

21 What happened at the very beginning of this was we
22 said the scope is limited to -- and we listed the pages and
23 line numbers at the very beginning and you agreed to that and
24 Mr. Bachmann agreed to that with a reservation as to what
25 is called Excerpt 2.

1 We did not offer them into evidence. They were
2 already part of the record. So Mr. Stiner did not testify
3 as you would when you seek to admit a document that these are
4 true and accurate copies or excerpts from copies. And we did
5 this merely for the convenience of the Licensing Board.

6 Mr. Stiner had looked over those, I think he said,
7 and those excerpts were his testimony he says.

8 BY MR. DAVIDSON:

9 Q Did you ever see a document, Mr. Stiner, in
10 preparing to determine which excerpts you would offer -- did
11 you ever see a complete document that purported to be CASE
12 Exhibit 666?

13 A Yes, I did.

14 Q Who showed you that document, sir?

15 A I had it. I had to prepare it.

16 Q No, I mean today.

17 A Oh, today? That is it right there.

18 Q You are pointing at what, sir?

19 A I am pointing at the copy that Renea has.

20 Q So it is your understanding that this is the true
21 and correct copy of the CASE Exhibit 666?

22 A I took it for granted that it was.

23 Q Was it represented to you as being such?
24
25

End 11.

12pb1

1 Q In other words, did they tell you that it
2 was a copy of Exhibit 666? Did they ask you to pick out
3 stuff?

4 A No, they sure didn't.

5 Q You didn't participate in the selection of
6 your testimony; is that your statement?

7 A No, that's not my statement.

8 MR. HICKS: I object. He's infringing on
9 attorney-client privilege here.

10 MR. DAVIDSON: I don't believe that's a
11 privilege you have a right to assert. And I don't believe
12 Mr. Stiner is represented by counsel.

13 MR. HICKS: If he isn't -- I want to know
14 what the purpose of this questioning has to do with anything
15 that we are doing.

16 MR. DAVIDSON: Because I noticed earlier
17 Mr. Stiner was able to give crisp and clear responses as to
18 what was in and what was not in his testimony. Now he decides
19 he doesn't know what documents we're dealing with here. He
20 doesn't have a very good recollection.

21 The only thing he knows is that when a document
22 is offered by you, Mr. Hicks, that's true and correct and
23 that he knows.

24 MR. HICKS: That's --

25 MR. DAVIDSON: Mr. Hicks, I'll tell you one

12pb2

1 more time, please don't interrupt me. Mr. Hicks, that's
2 three times. One thing, Mr. Hicks, you can say anything you
3 like, but I don't think I've ever once interrupted you today.
4 You have done it four times to me.

5 I don't mean to make too big a point of this
6 because I don't enjoy colloquy between counsel. I don't
7 think that's what we're here for, and I'm certainly not here
8 to instruct you as to courtesy and professionalism. However,
9 I do think that it is not a demonstration of etiquette to
10 counsel, which I think we can both agree is appropriate here
11 for you to constantly interrupt. If you would just let me
12 finish you can disagree with anything I say.

13 MR. HICKS: At times you have to acknowledge,
14 it's appropriate to interrupt counsel in their questioning
15 on the other side. And it happens all the time and you are
16 perfectly aware of that. And I don't know why we . playing
17 this particular game. I don't mind going off the record and
18 talking with him and then coming back on the record. But
19 I don't know what you're trying to get at.

20 You stated what this testimony was. You are
21 not somebody who testifies.

22 MR. DAVIDSON: Mr. Hicks, are you going to let
23 me make my statement, or are you going to continue to
24 interrupt it?

25 MR. HICKS: If I think it's appropriate to

12pb3

1 interrupt you, I will interrupt you. I will show you every
2 courtesy though. I just don't understand why we're playing
3 the game. I am perfectly willing to work with you and
4 Mr. Stiner and anybody else to try to get straight what's
5 going on here. I don't quite understand. I don't understand
6 at all what you're getting at. Nobody's trying to play any
7 games.

8 MR. DAVIDSON: May I now make my statement,
9 Mr. Hicks, or do you want to interrupt me again?

10 MR. HICKS: I can't state ahead of time. I
11 told you I will show you every courtesy. If you say something
12 that I think is worthy of interruption, I will interrupt you.
13 I won't do it improperly.

14 MR. DAVIDSON: Mr. Hicks, now may I speak?

15 MR. HICKS: You can speak any time you want.
16 I'm not stopping you. You can speak any time you want. Please
17 feel free.

18 MR. DAVIDSON: I believe you have actually
19 asked me what it is, what is the reason why I have expressed
20 some concern and started a line of questioning with respect
21 to what documents we're dealing with here. That is because
22 I noticed a serious deterioration in Mr. Stiner's memory as
23 the examination has progressed. His answers were clear and
24 crisp in the beginning, particularly when we referred to
25 material that was offered as exhibits here. Or at least

12pb4

1 marked as exhibits here.

2 And he has become less sure about the
3 accuracy of these documents, and less sure about what his
4 testimony is as we've progressed. And that was just my
5 concern, and I was trying to find out whether there was a
6 reason for it.

7 If you have some objection to that line of
8 questioning, of course that's fine. I think Mr. Stiner has
9 an objection to that line of questioning.

10 MR. HICKS: Before Mr. Stiner states his
11 objection, I will go ahead and state my concern.

12 MR. DAVIDSON: Wait a minute. You just
13 interrupted the witness, and I'm really getting a little bit
14 disturbed. You have said four times here that you intend --
15 that you have stated that you will show etiquette. Yes, you
16 have stated it, but Mr. Hicks, you haven't shown it. And I
17 ask you one more time, please -- and I say this, and I'm
18 sorry to be so insistent about it -- but I must tell you,
19 Mr. Hicks, and I don't know what the reason is, but I think
20 that your concept of courtesy is at serious odds with my
21 own.

22 And I do not agree with you, and will not
23 agree with your statement that it is ever appropriate to
24 interrupt someone when they are speaking.

25

12pb5

1 BY MR. DAVIDSON:

2 Q Mr. Stiner, did you want to say something?

3 A Yes, I did. I thought the whole thing was
4 to speed this thing up. In an effort to speed this up, I'm
5 going to tell you why I have trouble. It's not a memory
6 lapse, it's not a memory loss. I'm very familiar with this
7 testimony. I prepared it and Juanita typed it. And I don't
8 think there's any more questions that need to be asked about
9 who prepared it or who did what, or who typed it up. It's
10 been asked and I have answered it.

11 MR. DAVIDSON: I agree with Mr. Stiner.

12 THE WITNESS: Secondly, these documents -- all
13 of them -- every document that I've ever had at one time or
14 the other has been turned over to CASE. In my oral testimony
15 -- I have testified in oral testimony, if we have the time
16 to sit down and look at it I would find it for you. I
17 explained to the Board specifically that we were limited by
18 time by Mr. Miller the administrative law judge.

19 In an effort to get all this in, we did what
20 we could do. I will guarantee you, if I'd had a little bit
21 more time there would be so much into this record that it
22 would make everybody's head spin, if it doesn't already. But
23 where I have a problem, you're talking about interrupting --
24 him interrupting you. Let me finish.

25 MR. DAVIDSON: You're absolutely right.

12pb6

1 THE WITNESS: But where I have a problem, what
2 I'm saying is, you point to this copy here. Now look, it
3 ends on page 52. There's not any more documents to the back
4 of it. Look at your copy. What is in it?

5 MR. DAVIDSON: Well, I've got all of it. This
6 is a complete and accurate copy.

7 THE WITNESS: Okay. So let's take --

8 MR. DAVIDSON: Do you want to use this one.

9 THE WITNESS: Let's use this one. Let me
10 review it.

11 MR. DAVIDSON: Okay, no problem.

12 THE WITNESS: Instead of this copy ending at
13 page 52, it goes onto page 53, Henry Stiner's resume which
14 is transcript 4255, 4256, 4257, 4258, on and on and on.

15 So therefore, that's where I have my problem
16 with saying that I can endorse that that is a complete copy.
17 And that was the question, I believe.

18 MR. DAVIDSON: And we were looking at that
19 other one that was incomplete.

20 THE WITNESS: Right. I was looking at the
21 other one.

22 MR. DAVIDSON: Mr. Stiner, thank you. You
23 know what you've done? You've done two things. The first
24 thing is that you speeded up. The second thing is by letting
25 you speak, which is what I had wanted, rather than have

12pb7

1 Mr. Hicks, as he says, protect you, you have clarified to
2 me my concern and my question. And I think that's why you
3 wanted to speak.

4 THE WITNESS: Right. Because there's no
5 memory loss at all.

6 MR. DAVIDSON: Mr. Stiner, thank you. Thank
7 you very much.

8 THE WITNESS: You're welcome. Now can we
9 move on now?

10 MR. DAVIDSON: We sure can. You know, I think
11 we ought to let Mr. Stiner direct these proceedings and I
12 think we'll move a lot more quickly.

13 I just want to say, Mr. Hicks, that I know
14 we have somewhat less than gentlemanly exchanges. I would
15 even characterize one of them as perhaps heated. And I
16 hope you understand why I was less than happy with your
17 repeated interruptions. I meant no disrespect by my comments,
18 and I hope that you understood them in the manner in which
19 they were intended.

20 MR. HICKS: Just as I hope you understood
21 my interruptions.

22 MR. DAVIDSON: No, that I don't think I would
23 agree with. I hope we won't have any more of them, either of
24 me or the witness.

25 Let me just review my notes here for a moment

12pb8

1 and I think I may be at a point where I can conclude the
2 examination on excerpt number 1. And then I think that under
3 the agreed to procedure, we're going to get Mr. Bachmann in.
4 So if I could at this point, I will go off the record to
5 review my notes.

end 12.

(Discussion off the record.)

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1 MR. DAVIDSON: Back on the record.

2 BY MR. DAVIDSON:

3 Q Mr. Stiner, I may have forgotten. Going
4 back to the circumstances of your absences from the
5 site in July, did you call in on Wednesday, July 15th?

6 A I don't believe I did, because we showed up
7 at regular work time.

8 Q When you say "we," who do you mean?

9 A Me and my wife. She was also off on the
10 same three symptoms, the same medication.

11 Q So you did not call in?

12 A I don't remember whether we did or didn't.
13 I know we were there at regular work time, which was
14 quite early.

15 Q But you did not report for work? I mean
16 you didn't go to work at work time?

17 A Well, I didn't go there to go to work. I
18 went there to go to the medics.

19 Q But you never got to the medics?

20 A I never got to the medics. She did, but I
21 didn't.

22 Q She did?

23 A Yes.

24 Q But you did not?

25 A I did not.

1 Q You came together?

2 A We came together.

3 Q Mr. Stiner, did you prepare for your
4 testimony here today?

5 A What do you mean, prepare?

6 Q Did you review any documents, did you try
7 to refresh your recollection so that when you came
8 for this examination, you would be prepared to answer
9 the questions?

10 A I'd say that I looked at a few documents
11 like this handwritten letter here. I can't remember
12 what these are. 3 -- H. Stiner-3, 4, 5 and 6, and I
13 also looked at the report from the Unemployment
14 Commission that dealt with the first termination.
15 And as far as sitting down and looking at my testimony,
16 I did not.

17 Q So that you did not review what we have
18 called --

19 A CASE Exhibit 666?

20 Q You got it. You did not review that before
21 you came?

22 A I have not looked at 666. I thought I hadn't
23 looked at it since we submitted it.

24 Q And you haven't looked at any portion of it
25 since then?

1 A I haven't looked at any portion of it.

2 Q I mean prior to the time that Mr. Hicks
3 showed you the portions you wanted to mark for
4 identification?

5 A Right.

6 Q And it is your testimony that the only
7 documents you were shown or that you looked at prior
8 to today, prior to coming to this room for your
9 examination, are those that were marked H. Stiner 3,
10 4, 5 and 6?

11 A I believe that is correct, including the
12 one that I mentioned from the Unemployment Commission
13 and the surgical reports for the first termination.

14 Q And did you discuss your testimony here
15 today, or what you would testify to Mr. Hicks?

16 A What I would testify to?

17 No. The only thing, I showed him these.
18 To see if we should -- if this shouldn't be entered
19 into the record and, of course, I brought them with me,
20 the original copies. But as far as -- if you mean did
21 he tell me, you know, what I was going to be asked, no,
22 he didn't have any way of knowing, I don't think.

23 Q So you did not discuss what your testimony
24 might be here today --

25 A Well, we did talk about what it was going to be

1 limited in scope as far as -- you know, in other
2 words, we weren't going to get into what is in the
3 first part of this and that it would be limited to --

4 Q When you say "the first part of this," you
5 are referring to CASE Exhibit 666?

6 A Correct. -- that it would be limited to only
7 the portions of my termination, that they wanted to
8 clear up the issue about my termination and the gouge
9 mark in the pipe.

10 Q Did you have any other conversations with
11 Mr. Hicks about your testimony?

12 A That's basically it, I believe. I mean,
13 other than talking about the kid.

14 Q No, I was saying about discussions about
15 your testimony.

16 A No.

17 Q Did you have any discussions with anyone
18 else today about your testimony?

19 A Other than them telling me to -- not to
20 ramble on, you know, because we have got to keep it
21 short, to answer the question; if I don't remember,
22 say I don't remember.

23 Other than that --

24 Q Do you mean Mr. Hicks?

25 A Mr. Hicks, yes.

1 Q Do you mean anyone else? Was he with
2 someone else when you had that discussion?

3 A No. Just me and him. I don't think there
4 was anybody else in the room besides Robin.

5 Q You drove here today from Arkansas, didn't
6 you?

7 A That's right.

8 Q How long did it take you to get here?

9 A It took me approximately five hours.

10 Q What time did you start?

11 A I left this morning, I'd say about 8:00
12 o'clock.

13 Q Did you get here about 1:00 o'clock?

14 A No, I got here about 12:45, I think.

15 Q And between that time and the time we started
16 this deposition, which was set for 4:00, which is when
17 we, I think, started, although we started with a series
18 of off-the-record discussions to which you were not a
19 party -- what did you do?

20 A I baby-sitted.

21 Q Is that all?

22 A That's basically it.

23 Q You didn't talk to anyone?

24 A I didn't talk to anyone. I was in the room
25 by myself. And -- well, I take that back. You were

1 sitting there working, but as far as --

2 Q When you say "you," you don't mean me?

3 A No, I mean Mr. Hicks.

4 Q Was Mr. Roisman there?

5 A No.

6 Q He didn't speak with you?

7 A He did say hello when they first came in
8 and introduced himself to me, and that was it.

9 Q No one from CASE spoke with you?

10 A Billie and them are not from CASE, are they?

11 I don't believe I did. I talked to Billie Garde
12 when I first got here, you know, hello, hi, I hugged
13 her and everything, you know, and she said, "How's
14 everything been going? You going over here to this
15 room down here."

16 Q Did you discuss your testimony with Ms.
17 Garde?

18 A No, none whatsoever.

19 Q Are you represented here today by Mr. Hicks?

20 A I don't believe he is representing me.

21 As far as an attorney, a paid attorney, you know, that
22 I paid and hired to represent me, I've never had an
23 attorney.

24 Q Have you asked him to represent you as
25 counsel here?

1 A No, I don't think I did ask him. As far as
2 I know, during the whole course of the hearings, I
3 don't think I've ever been represented by an attorney
4 but one time, and that was Rob Hager.

5 Q He's not here today?

6 A He's not here today.

7 MR. DAVIDSON: Mr. Hicks, is Mr. Stiner's
8 statement correct, you are not his attorney?

9 MR. HICKS: I am not his attorney. I am
10 an attorney for the State of Texas.

11 MR. DAVIDSON: And is the State of Texas
12 sponsoring or otherwise endorsing the testimony of Mr.
13 Stiner?

14 MR. HICKS: He is a CASE witness, offered
15 by CASE. We are participating in the direct examination.

16 MR. DAVIDSON: Are you offering him as a
17 witness, that is the State of Texas?

18 MR. HICKS: Sure.

19 MR. DAVIDSON: Then you have been authorized
20 to do that?

21 MR. HICKS: I am authorized because I am
22 the attorney for the State of Texas. I don't have to be
23 authorized.

24 I'm not quite sure that we need to go any
25 further with this. We can go off the record if you like.

1 MR. DAVIDSON: No, I don't want to pursue it
2 any further. I just asked a question.

3 Mr. Bachmann, that concludes my examination
4 with respect to excerpt No. 1, and pursuant to the
5 agreement that was reached among Mr. Hicks, myself
6 and yourself with respect to the order of examination, I
7 would ask now if you have any questions.

8 MR. BACHMANN: Yes, the Staff has a number
9 of questions to address to Mr. Stiner.

10 EXAMINATION

11 BY MR. BACHMANN:

12 Q We will start with Exhibit H. Stiner No. 1,
13 which is the excerpt from the previously filed testimony,
14 and we will go to page 35.

15 As a general statement, I would like Mr.
16 Stiner to refer from about -- well, let's see. From
17 line 12 on page 35 to the middle of line 11 on page 36.
18 And indicate for the record -- and look at it carefully
19 and indicate for the record whether there are any
20 alterations that may have come to his recollection
21 since the few years since this thing was originally
22 written and filed.

23 A (Witness reviewing document.)

24 The only thing I could see that might be
25 misleading is on line 14, where it says one of the

13pb9

1 332 rods, that should be 3/32. Line 14, page 35.

2 Q Is 3/32 a designation of a type of rod?

3 A It is the designation of a size of a rod,
4 an electrode.

5 Q With that preliminary question out of the
6 way, it is your testimony then on lines 13, 14, 15 and 16
7 that your foreman, Mr. Jimmie Green; is that correct?

8 A That is correct.

9 Q Is it your testimony that he was requesting
10 that you perform some form of cover-up of the gouge?

11 A That is correct.

12 MR. DAVIDSON: I'm sorry, could I have the
13 question repeated. I didn't hear it.

14 BY MR. BACHMANN:

15 Q I asked Mr. Stiner whether the import of his
16 testimony starting on page 13 with the words, my foreman
17 and ending on page 16 with no, it was there, if the input
18 of that testimony is Mr. Stiner's opinion that his foreman
19 Mr. Jimmie Green was asking him to cover up the defect in
20 the pipe.

21 MR. BACHMANN: I'm sorry. Did I confuse the
22 page and line in my last statement?

23 MR. DAVIDSON: I think you did. But my point
24 was I was about to say thank you for repeating the question,
25 and I'm sorry I interrupted you, Mr. Stiner, because I heard

1 your answer. I merely didn't hear the question. But if you
2 want we can replay the match.

3 BY MR. BACHMANN:

4 Q What part of the statement that you say Mr.
5 Green made to you, and it may be all of the statement. I'm
6 just asking you if there is a specific part that you would
7 consider improper.

8 A Well, making the down hill weld with the
9 3/32 electrode on a carbon steel pipe for one.

10 Q Is there significance to the type of electrode?

11 A Well, it's procedure. There is a procedure
12 required for repair of all piping. And it would be out of
13 procedure to just merely take a 3/32 rod and run it down and
14 make a pass on it.

15 Q It would not be part of procedure?

16 A It would be out of procedure. It would not
17 be part of the procedure.

18 Q What would be procedure?

19 A I'm not sure what the procedure would actually
20 be.

21 Q You did not weld -- you are not a pipe welder;
22 is that right?

23 A I'm not a structural pipe welder, no.

24 Q Your job there was what type of welder?

25 A Structural welder, classified as a structural

13pb11

1 welder.

2 Q So you were actually doing welding on the
3 hanger?

4 A Right. Hangers and any type of angle iron or
5 I-beam. Anything other than pipe under 24 inches. I can
6 weld 24 pipe and 24 inches at that time.

7 Q Then what is the basis for your opinion that
8 what he told you was out of procedure for repairing that
9 gouge?

10 A Because I know from being at the plant and
11 from talking with the pipe welders and reading other
12 procedures that you have to have a repair process sheet
13 issued to do any type of repair on any kind of a hanger or
14 a pipe. And another thing that threw me off was the spray
15 paint. And I know they don't do that without a final visual
16 inspection.

17 Q I think I may have skipped over a question
18 here. Would you have been certified or qualified, whatever
19 the word is to make that repair?

20 A No, I would not be.

21 MR. DAVIDSON: Mr. Bachmann, I don't wish
22 to interrupt your train of thought or otherwise interrupt
23 your questioning, but I am having some difficulty connecting
24 this line of questioning with what I understand to be the
25 scope of these proceedings, which is the subject of intimidation.

13pb12

1 Now I know, and you pointed out quite correctly, I believe,
2 that the Board's ruling was that while these proceedings
3 were in all other respects limited to QC/QA, harassment,
4 intimidation or threatening and allegations thereof, that
5 in the case of Mr. Stiner, intimidation of this craft person
6 was within the scope of the proceedings.

7 But I'm not sure I understand the connection
8 between that relevant scope, which is intimidation and this
9 line of questioning. But I'm not now objecting. I'm just
10 merely making a statement.

11 MR. BACHMANN: Well, I will just state briefly
12 that it appears that one of Mr. Stiner's allegations is
13 that he was requested to do an improper procedure. If it
14 is shown later that there is some connection with intimidation
15 to this improper procedure, Mr. Stiner is the one singular
16 exception to the craft exclusion as ordered by the Board.

17 And before one can intimidate him into doing
18 something wrong, we must somehow establish that in his mind
19 it is wrong.

20 MR. DAVIDSON: I hear you, sir.

21 BY MR. BACHMANN:

22 Q Now you then refused to do -- according to
23 your testimony you refused to do what had been suggested
24 to you by Mr. --

25 A No, I didn't refuse to do it. What I said

13pb13

1 was that I would rather not do it. As a matter of fact, I
2 told him I'm not saying I won't do it, but I would rather
3 not. At that point he told me to go help Buster who was the
4 fitter who was working on the other side of the room, and
5 that's what I did. I went to help him.

6 Q Now we can all read your testimony as to the
7 fact that then Mr. Green left, and then you called your
8 wife on the intercom and informed her of what was happening.

9 A That is correct.

10 Q Do you know approximately what time of day
11 this was occurring? Was it afternoon?

12 A It was mid-day because I remember going back
13 before the end of the shift to tell Jimmie to make sure that
14 he understood I was going to be off Monday. Because I felt
15 like after he saw me showing that QC inspector the gouge
16 that, you know, when I took off that they would terminate
17 me --

18 MR. DAVIDSON: I move to strike that as
19 unresponsive to the question posed.

20 MR. BACHMANN: I think that really wasn't
21 quite what I asked you.

22 MR. DAVIDSON: You know, Mr. Stiner, you
23 remember you were told by some people to be responsive and
24 not to ramble on. And I think you said Mr. Hicks confirmed
25 that. And of course you and I agreed that that was a good

13pb14

1 idea. And I just would remind you I don't think you were
2 doing that.

3 BY MR. BACHMANN:

4 Q Where was your wife at the time you called
5 her to tell her this?

6 A I don't know. She heard me call her over
7 the intercom.

8 Q Is this like a PA system?

9 A Yes, it is.

10 Q Would anyone else have heard what you said
11 to her?

12 A Only if they were listening on the intercom
13 itself. In other words, it has a button that you can push
14 to go to a loudspeaker, which just broadcasts all over the
15 whole plant. You know, Darlene Stiner, pick up on intercom.

16 Q So then she picked up the telephone.

17 A Then she picked up. And once she picks it
18 up then it goes to like a phone. It's just like talking
19 on a phone. There could have been somebody else listening.

20 Q Okay. So to the best of your recollection,
21 what as best you can remember, what were your words to your
22 wife about this?

23 A I told her, I said, hey, there's -- you know,
24 I said, Jimmie just tried to get me to cover up a gouge
25 mark down here in a pipe. And I said, he thinks I made it.

13pb15

1 And I said, you know, I didn't have anything to do with it.
2 I didn't have a grinder on -- their grinder. I didn't have
3 that type of wheel that made the gouge mark. And I said that
4 he thinks that I done it. And I think they are fixing to
5 cover it up, if you don't come down here and do something
6 about it.

7 And she said, well --

8 Q Wait, I just asked you what you said to her.

9 A Well, that's what I'm telling you, what I
10 said to her.

11 Q And I think you finished that, didn't you?

12 A No. And I told her, I said, well, you need
13 to come down here and see about it. Oh, okay, I see what
14 you're saying. Now I'm getting into what she said back to
15 me.

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end 13.

14pb1

1 MR. DAVIDSON: It may be an efficient way to
2 proceed to have him just relate the whole conversation.
3 Isn't that what you're seeking?

4 MR. BACHMANN: Yes. In fact I probably was
5 a little hasty there. Go ahead and tell me what she said
6 back to you.

7 THE WITNESS: Okay. She told me, she said,
8 well, it wouldn't be good for me to come down there, or
9 something to the effect that it wouldn't be good for her to
10 come down there because it would connect the two and that
11 she would try to get somebody else to come down there. And
12 I said, well, what about Susie Neumeyer? I think Alvarez
13 has gone to find her, but if you know how to get ahold of
14 her, send her down here.

15 And I don't know who got ahold of Susie,
16 whether it was Darlene or Alvarez or who, but I know it wasn't
17 shortly until Susie came down.

18 BY MR. BACHMANN:

19 Q Just to be clear, according to your testimony,
20 it was after your conversation with your wife that you sent
21 Alvarez out to look for a QC inspector.

22 A It could have been.

23 Q Where was Buster when you were making this
24 call to your wife?

25 A He was approximately -- I would say he was

14pb2

1 approximately ten foot away from me.

2 Q Did he know you were calling your wife?

3 A I don't know if he did or not. He was
4 working at the time. Working on this hanger.

5 Q Okay. Do you have any idea if he could hear
6 what you were saying to her?

7 A I don't think he could. I don't think anybody
8 could because I tried to keep it down as low as I could.

9 Q And Mr. Green was not in the immediate vicinity?

10 A No, he was not there.

11 Q I guess the next event essentially is the
12 arrival of Susie Neumeyer, whom I believe this was before she
13 was married, she went under a different name. Or was she
14 Susie Neumeyer at that time?

15 A I'm not sure. I thought it was Stogdaie.

16 Q Okay. But anyway, the lady who is now known
17 to everyone as Susie Neumeyer arrived. When she arrived,
18 Mr. Green had still not returned?

19 A No, he hadn't returned yet.

20 Q In your testimony you say there was a pipe
21 welder there by the name of Alvarez, and I sent him upstairs.
22 You found Susie Neumeyer. She came down there to look at it.
23 Then your next sentence is, by then my foreman had already
24 gone upstairs and Cliff Brown was with him. How did you
25 know Mr. Brown was with your foreman if he was upstairs?

14pb3

1 A What I meant was, by then he had already went
2 and gotten Cliff Brown.

3 Q And had come back down?

4 A Well, no. See, Cliff Brown is the one that
5 does all this. You know, he testified he never did any of
6 that in the hearings, but he is the one that Jimmy goes and
7 gets if there's a problem somewhere, you know, with a limited
8 access weld or something like that, you know.

9 Q Is Mr. Brown a supervisor or an inspector,
10 do you know?

11 A He was just a welder like I was.

12 Q Was he a pipe welder?

13 A I don't know. He could have been a pipe
14 welder, but I'm not sure.

15 Q So I'm trying to set the stage here. It's
16 a little difficult. Susie Neumeyer is with you and Buster.
17 And after she arrives, Mr. Green and Mr. Brown arrive?

18 A Right. I was up on the scaffold showing Susie
19 where the gouge mark was when they walked down the stairs
20 into the north pump room where we were at.

21 In other words, we were in a little small
22 room, probably the width of this room here. And probably
23 that long, too. And, of course, you know, you've got all
24 the welders down there grinding and a lot of noise.

25 Q Okay. According to your testimony, you were

14pb4

1 on a scaffolding with Susie Neumeyer. You were pointing out
2 the gouge to her.

3 A That's correct.

4 Q Jimmy Green and Cliff Brown came into the
5 doorway. They saw me, didn't say a word, turned around and
6 left. That is the end of the incident as far as your
7 testimony is concerned? Unless there's something else in
8 your testimony as far as what physically happened.

9 A That's what I thought as the reason I was
10 terminated.

11 Q What I'm trying to get at is now you and
12 Susie Neumeyer are still on the scaffolding. What happens?
13 What happened after that?

14 A I told here I was going to get fired.

15 Q I mean, what did she do? She looked at the
16 weld? She looked at the gouge?

17 A She looked at the gouge and I got down and
18 away from it and went to help Buster.

19 Q Is that the way you completed your day?

20 A That's the way I completed the day, working
21 on that hanger that Buster was working on.

22 Q Did Jimmy Green come back or talk to you or
23 say anything before the end of the day?

24 A He did come back but he wouldn't talk to me.
25 I went up and talked to him and told him, you know, hey, you

14pb5

1 know I'm taking off Monday to go to the doctor. He said,
2 yeah, I know.

3 Q Do you have any information as to what --
4 and I may be asking for hearsay here -- do you have any
5 information as to what Susie Neumeyer did about the gouge?

6 MR. DAVIDSON: I would certainly say, Mr.
7 Bachmann, it wouldn't be hearsay if he would state whether
8 he had personal knowledge.

9 THE WITNESS: I don't know what she did with
10 it.

11 BY MR. BACHMANN:

12 Q In other words, you are not aware of any
13 NDE report that she may have created on that non-destructive
14 examination?

15 A No.

16 Q Do you have any further knowledge, either
17 direct knowledge or however indirect as to any disposition
18 of that particular gouge in the pipe after you left Susie
19 on the scaffold?

20 A Yeah. When we were in the hearings this
21 last March of '84, the last time we had a session where me
22 and Darlene testified, they tried to enter into the record,
23 and they talked about some kind of an NDE that had been
24 written up on that particular hanger. That's the first time
25 I heard about it.

14pb6

1 Q You have heard of an NDE that had been written
2 on that?

3 A Yes.

4 Q And you mean that particular pipe?

5 A That particular pipe, yes. I mean the pipe.

6 MR. DAVIDSON: Of course I'm going to object
7 to these responses as being predicated on hearsay. He has
8 acknowledged that he had no knowledge of what happened.

9 MR. BACHMANN: I just wanted to see whether
10 he had heard anything true or not about an NDE on that pipe.
11 That's all I sought to establish.

12 BY MR. BACHMANN:

13 Q I guess that ends that incident. Is there
14 anything else about that incident that you have direct
15 knowledge of that you think might be pertinent to what we're
16 talking about? I'm not talking about what anyone tells you,
17 just what physically happens at the time of the gouge and
18 the inspection and everything else.

19 A You mean like, were there any more people
20 down there?

21 Q Any other possible witnesses to the incident?

22 A There was one other welder down there by the
23 name of Fernandez. Henry was his first name, but in Spanish.
24 He was down there, but I don't know if he'd seen anything or
25 heard anything. Other than that, that is basically all I

14pb7

1 know about it. And she's the one who told me that if they
2 do terminate you, you can go to the NRC about it.

3 Q Who was she?

4 A Susie.

5 Q She told you this while you were on the
6 scaffolding?

7 A Yes.

8 Q Did she say anything else in that vein to
9 you?

10 A No.

11 Q Now you testified that you spoke to Jimmy
12 Green before you left the site that day and told him you
13 would not be in on Monday.

14 A That is correct.

15 Q What was his response?

16 A He said, okay.

17 Q When he said, okay, do you think he meant
18 okay, I heard what you said or okay, it's okay not to be
19 in on Monday?

20 MR. DAVIDSON: I'm going to object to that
21 question. I don't think that Mr. Stiner can tell you what
22 it was that was meant. If he's told you what was said, that's
23 the best he can do. He can't tell you what's inside Mr.
24 Green's head.

25 MR. BACHMANN: Well, I would like his opinion

14pb8

1 considering the context of everything as to whether he formed
2 the impression that he could not come back.

3 MR. DAVIDSON: Well, I think the question is
4 what did you think he meant? What do you, Mr. Stiner, think
5 he meant? Not what did he mean.

6 MR. BACHMANN: My question was that. Maybe I
7 didn't phrase it properly.

8 MR. DAVIDSON: I'm sorry.

9 THE WITNESS: It was apparent that he was
10 highly ticked off at me about being up there showing Susie,
11 because the whole day he just high-sighted me the rest of
12 the day.

13 BY MR. BACHMANN:

14 Q He just what?

15 A High-sighted me. In other words, he wouldn't
16 even come around me. He'd ignore me. He would stand there
17 and talk to me and carry on a conversation right there because
18 everybody worked together in a 10 by 10 area. And it was
19 apparent to me that I was in big trouble because of the gouge
20 mark. That's my belief.

21 MR. DAVIDSON: I move to strike all of that as
22 speculation and hearsay, and statements that have no basis,
23 at least in terms of the evidence in the record.

24 MR. BACHMANN: I would ask Mr. Stiner again
25 to please answer my questions. We are getting into a little

1 bit of a rambling situation.

2 MR. DAVIDSON: Motion to strike also on the
3 grounds that the answer was decidedly unresponsive.

4 BY MR. BACHMANN:

5 Q I think the question that I'm still looking
6 for an answer to was what was your opinion of Mr. Green's
7 response when you told him that you would not be in on
8 Monday? Did it appear that it was all right with him or
9 did it appear that he had just kind of accepted that you had
10 told him and that was it? Which is the case?

11 A My opinion was that, in the way that he
12 answered me was that, sure. In other words, whatever you want
13 to do, whatever you think is right, you know. And that was
14 it. I mean, he never said, you know, well, you're not going
15 to have a job. He never said that, no.

16 Q All right. I just wanted to make sure. He
17 didn't say anything more --

18 A He gave me the impression that I would not have
19 one.

20 MR. DAVIDSON: I object to that statement and
21 I also move to strike it as being unresponsive to the
22 question. And I might say also, rank speculation on the
23 part of the witness. I think this testimony should be
24 confined to what was said, or what you understood was said.
25 Not what you think he meant, not what you think was in his

14pb10

1 mind, only what was in your mind. That's what you know. You
2 don't know what was in his mind.

3 THE WITNESS: But the question was, what do
4 you think he meant.

5 MR. DAVIDSON: Yes, but that wasn't your
6 answer. That's why I moved to strike it. That's not what
7 you told us.

8 (Laughter.)

9 BY MR. BACHMANN:

10 Q Now you went home at the end of the shift on
11 Friday and your next workday would have been Monday the
12 13th of July; is that correct?

13 A That is correct.

14 Q You testified that you went to the doctor on
15 the 13th of July.

16 A That is correct.

17 Q And you also testified that the Brazos,
18 B-r-a-z-o-s Clinic would have records showing that you had
19 gone in there on Monday.

20 A That is correct.

21 Q Did you or anyone else phone in on Monday to
22 tell the site you would not be in on Monday?

23 A Darlene did.

24 MR. DAVIDSON: I'm sorry, I didn't hear you.

25 THE WITNESS: Darlene, my wife.

14pb11

1 MR. DAVIDSON: You did not call in?
2 THE WITNESS: No.
3 MR. DAVIDSON: You asked Darlene to call in?
4 THE WITNESS: She called in for her and me.
5 BY MR. BACHMANN:
6 Q Approximately what time did she phone in?
7 A It was before the regular work hour began.
8 Q And the regular work hour began what?
9 A at 7:00, I believe.
10 Q Do you know or do you have reason to believe
11 who she spoke to concerning the fact that you would not be in?
12 A Did you say who I believe she spoke to?
13 Q Or any idea who she spoke to.
14 A I believe she spoke to Darlene, the secretary
15 that also had the same name, Darlene.
16 Q Oh, okay. Darlene spoke to Darlene?
17 A Yes. Darlene Swain spoke to --
18 MR. DAVIDSON: Is this the wife of Nathan
19 Swain to whom you earlier referred?
20 THE WITNESS: No --
21 MR. DAVIDSON: Another Swain?
22 THE WITNESS: Well, his name was Nathan
23 Hammell or something like that.
24 BY MR. BACHMANN:
25 Q So the statement in your testimony where you

14pb12

1 said, I called my group secretary, it was actually Darlene
2 who called in on Monday; is that correct?

3 A That's correct.

4 Q And therefore the statement where it said --
5 I'm sorry, I should refer you, page 36, line 14 -- she said,
6 okay, don't worry about it. You called in and you got a
7 doctor's excuse. Darlene Swain did not say that to you
8 directly; is that correct?

9 A Now she told me once when I called in that
10 if you've got a doctor's excuse don't worry about it.

11 Q But I'm talking specifically about Monday
12 morning.

13 A Monday I don't believe she -- that's confusing.

14 MR. DAVIDSON: I'm sorry, I didn't hear you.

15 THE WITNESS: I said that is confusing.

16 MR. DAVIDSON: You mean what's in the paper
17 is confusing or the question?

18 THE WITNESS: No, the question.

19 BY MR. BACHMANN:

20 Q What I'm trying to get at is the testimony
21 says, she said, okay, don't worry about it. I take that to
22 mean the Monday call.

23 A Maybe I did call her on Monday. Can we take
24 a break for a minute?

25 MR. DAVIDSON: Do you want to consult with

14pb13

1 Mr. Hicks or something?

2 THE WITNESS: No, I just need to take a
3 break.

end 14.

4 (Recess.)

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SY15rgl

H. Stiner

1 MR. BACHMANN: Back on the record.

2 MR. DAVIDSON: I just want to reiterate that we
3 just took a break at Mr. Stiner's request and I told him just
4 as we broke that any time he feels the need for a break, he
5 need only indicate it and I think that all three of us here
6 would be perfectly happy to accommodate you.

7 THE WITNESS: Thank you.

8 BY MR. BACHMANN:

9 Q Mr. Stiner, the question that I had asked you just
10 before the break as I recall it went to the fact of who had
11 made the phone call on Monday saying you would not be in,
12 whether it was you or whether it was your wife -- could you
13 say it so we could get it on the record?

14 A It was me.

15 Q And so your statement, then, is correct -- "So I
16 called me group secretary and let her know that I was
17 temporarily incapacitated."

18 A That is correct.

19 Q And this was a secretary named Darlene?

20 A Darlene Swain.

21 Q And she stated according to her testimony, she
22 stated to you that okay, don't worry about it, you called in
23 and you have got a doctor's certificate?

24 A I told her I had a doctor's excuse.

25 Q Now the next day, Tuesday, I don't quite see it here

1 on the testimony, did you or your wife phone in Tuesday
2 morning?

3 A I believe she phoned in Tuesday morning.

4 Q Do you know about what time that would be?

5 A It would be before seven o'clock.

6 Q Did she go to work that day?

7 A No, she did not.

8 Q So she phoned in for both of you?

9 A She phoned in for both of us.

10 Q Did she talk to the same secretary?

11 A I believe she did but I am not certain.

12 Q Did -- are you aware of any response from the site
13 as to the second phone in for not being in? In other words,
14 any reaction as to the fact that you weren't coming in for
15 the second day in a row?

16 A I really don't understand the question.

17 Q We established that the first time you personally
18 phoned in --

19 A Right.

20 Q -- and the secretary according to your testimony
21 had told you it was okay not to come in on Monday?

22 A Right.

23 Q The second day your wife phoned in for both of you?

24 A Right.

25 Q Did you get any understanding from your wife as to

1 whether the secretary may have said this time that that was
2 also okay?

3 A Yes. She said -- Darlene knows the other Darlene,
4 so if ever anything was wrong, she would have said hey, they
5 said you had better come in.

6 MR. DAVIDSON: I am going to move to strike that
7 response as hearsay. I think the only thing that would be
8 permissible is to ask whether Darlene told him anything was
9 said and you could only offer it for the fact of the utterance
10 rather than the truth thereof.

11 MR. BACHMANN: That is all I really wanted to know.

12 BY MR. BACHMANN:

13 Q If your wife imparted to you the information that it
14 seemed to be okay --

15 A She did say everything was all right.

16 Q Now how about Wednesday? I think this has already
17 been answered, but please bear with me, but I believe you
18 testified that there were no phone calls in on Wednesday?

19 A Well, I don't remember if we called in. I know we
20 were there before working hours, so I am going to say that we
21 didn't call in. I don't believe we called in because of the
22 fact that we were there at 7:00 o'clock and there wouldn't
23 be any reason for us to phone in. But I couldn't say for
24 positive, you know. I really don't remember if we did phone
25 in or not. I don't think we did.

1 Q Would you have been ready for work on Wednesday?

2 A No, I would not have been.

3 Q According to what has been labelled Henry Stiner-4,
4 the disability certificate dated July 14, '81, which was
5 Tuesday, the doctor or someone has signed for the doctor
6 indicating that you could be able to return to regular
7 duties on July 15, which was Wednesday. Is that correct?

8 A That was by his instructions. If I didn't have the
9 same problems -- in other words, if I could return to work --
10 it gets into a very embarrassing situation there, but in order
11 to clarify things, what it was was I had some warts removed.

12 Q I believe that is in your testimony.

13 A Yes, and that is the reason why it says that. If
14 you will notice the other one, the number 4.

15 Q We were referring to number 4.

16 A Okay, number 5, then -- that goes on to the 17ths.

17 Q When did you have these warts removed?

18 A I had them removed that Monday, I believe. I can't
19 really remember. It seems like I went to the doctor twice,
20 Monday and Tuesday and that is the reason why the two
21 disability certificates.

22 Q Well, one is dated July 14, which is Tuesday, and
23 the other is dated July 16, which is Thursday.

24 A I am thinking it was Monday and Tuesday.

25 Q I think you testified earlier under cross that you

1 had gone to the doctor on Monday but you did not get a
2 disability certificate from him on Monday?

3 A I don't think I did. I don't remember.

4 Q Can you think of any reason why you didn't get one
5 from him on Monday?

6 A I can't think of any reason why I didn't get one.
7 Probably if anything it was because I anticipated getting a
8 release from him whenever I did get released to go back.

9 Q Well the question that led us to this last line of
10 questioning was the fact that Exhibit No. 4 is dated Tuesday,
11 and states "You can go back to work on Wednesday, the 15th"
12 and on Wednesday, the 15th, you came to the plant at working
13 hours with your wife, is that correct?

14 A That is correct.

15 Q Did you -- but you said at that time you were not
16 ready to go back to work?

17 A Right.

18 Q Can you kind of explain the fact that the doctor
19 said you would be ready on Wednesday but that you went to the
20 plant prepared to say you were not?

21 A He felt like that I would -- well, when I went back
22 to the plant, I did not go back prepared to go to work. The
23 sole purpose of the trip back to the plant was to go to the
24 medics and make sure that they knew that I was taking this
25 medication and to have them say to go home.

1 In other words, see, before the first time I was
2 terminated I had a doctor's excuse, was in the hospital and
3 they terminated me anyway but the way I understand that the
4 policy at Comanche Peak is, if the medics tell you to go home
5 then you are covered for sure, any time they tell you to go
6 home.

7 Q Okay. Now, I am just going to try to ask a few
8 general questions to wrap up this particular line here.

9 On Friday, when you told Green you would not be
10 in on Monday, did you tell him the nature of your medical
11 problem that would preclude you from coming to work on
12 Monday?

13 A I told him that I some back problems and that it
14 was due to the first termination, the motor vehicle accident
15 accident that I had and that it was bothering me because they
16 had been making me move a bunch of heavy metal down into the
17 North Terminal and I wanted to go have it checked out and that
18 basically was it.

19 Q I am a little confused then. Where does the wart
20 removal --

21 A That is after I got to the doctor and then I showed
22 him what I had and he said, well, I have got some stuff that
23 will take it off. It is nothing to worry about. He said
24 people get them on their arms and on their face. If you get
25 one removed off of where I had it, then you can't walk and

1 you don't want to tell the secretary when you call in what
2 it was.

3 Q But the reason for not reporting for work on Monday
4 was because you went to see the doctor about the back problems
5 and while you were there --

6 A Plus I had the flu.

7 Q So while you were there, he gave you medication for
8 your back problems and took care of your wart problem?

9 A That's true.

10 Q Now Tuesday -- Monday was the day you phoned in and
11 said I am going to the doctor and of course judging from the
12 time you phoned in prior to going to the doctor, prior to the
13 7:00 o'clock opening, is that right?

14 A I believe that is right.

15 Q Now Tuesday, you had already been to the doctor and
16 you again phoned in prior to 7:00 a.m. in the morning or your
17 wife phoned in on Tuesday, indicating to this Darlene Swain
18 that you would not be in on Tuesday, is that correct?

19 A That is correct.

20 Q Now was this still because of the back problem and
21 the medication or did this have something to do with the warts
22 or was it a combination?

23 A It had to do with all of it, the fact that I
24 couldn't walk. As a matter of fact, when I went in Wednesday,
25 I couldn't walk hardly. They could see -- you know.

1 Q When you went in Wednesday -- that is all I have
2 about the doctors. When you went in on Wednesday, you went
3 down to I believe what the terminology is, the "cattle shoot"
4 or something like that, is that correct?

5 A That is correct.

6 Q And Darlene, your wife's, brass was there and yours
7 was not, is that correct?

8 A That's correct.

9 Q In fact, I believe that is in your testimony?

10 A That is correct.

11 Q At the bottom of page 40, lines 24 and 25, this is
12 a brass number that is hung up just outside the shoots into
13 the plants?

14 A That's correct.

15 Q And each worker has an individual number, which he
16 picks up?

17 A That is correct.

18 Q Now somehow shortly after that, you -- or sometime
19 that morning -- you have talked to Jimmie Green?

20 A That morning.

21 Q How -- did you call for him to come out?

22 A Yes. You want me to tell you about it?

23 Q Briefly. I just want to get briefly --

24 A Briefly, when I got to the brass and I noticed my
25 brass wasn't there, Darlene had hers and I said, well, you

1 go on to the medics and I will go into the time office and
2 see what is happening.

3 That is when I went in and I asked him. I said,
4 how come my brass ain't out there? And they asked him what
5 number it was and looked it up and they said well, you have
6 been terminated.

7 And I said, well let me talk to Jimmie Green, my
8 foreman and they called him down in the field and had him
9 come up there.

10 Q You were now in the --

11 A Time office.

12 Q Time office, okay. Now what did you say to Jimmie
13 Green at that point?

14 A I told him, I said what's going on? Why am I
15 terminated? I told you Friday I had to take off. He said I
16 don't know. You stepped on somebody's toes. And I said what
17 do you mean? He said, well all I know is a three-part memo
18 came down from Ed Halford to fire Henry Stiner. And I said
19 well, let me talk to Ed Halford, then.

20 So he took me out to the field to get my tools --

21 Q Just one second. Did he indicate Ed Halford's
22 memo -- concerning Ed Halford's memo, did he indicate who it
23 was addressed to?

24 A To him, I believe.

25 Q And the memo --

1 A He said that a three-part memo had come down from
2 Ed Halford to fire me.

3 Q Did you ever see the memo?

4 A No, I did not.

5 Q Have you ever seen the memo?

6 A No, I have not.

7 MR. DAVIDSON: I am going to move to strike this
8 testimony and deny admissibility on the grounds that it is
9 all hearsay and he does not know the facts.

10 THE WITNESS: Mr. Green testified that there was a
11 three-part memo though.

12 MR. DAVIDSON: Yes, but that is his testimony. We
13 are talking about yours. Well, he may have seen it and if
14 he says he saw it then that is one thing. If you say you
15 heard that someone saw it, that is not considered okay.

16 MR. BACHMANN: Of course if he were told by
17 Mr. Green that Mr. Green had seen it --

18 MR. DAVIDSON: I don't think that would be admissible
19 except for the statement that Mr. Green made but not for the
20 truth of the existence of any three-part memo.

21 MR. BACHMANN: Yes. And that is all we want, is
22 the fact that Mr. Green told him of the existence of the memo
23 from Mr. Halford.

24 MR. DAVIDSON: With that limitation, and solely for
25 that purpose, I would accept the testimony.

1 MR. HICKS: I would like to interject, since
2 everybody is saying what the law is, that I don't think this
3 is hearsay. Mr. Green is employed by the Applicant and I don't
4 think it is hearsay under the federal rules of evidence.

5 MR. BACHMANN: It would only be hearsay -- oh, I see
6 what you are saying.

7 MR. HICKS: I don't think that what Mr. Stiner says
8 that an employee acting in his capacity as an employee of the
9 Applicant or an agent of the Applicant says is hearsay.

10 MR. DAVIDSON: No.

11 MR. HICKS: That is a legal point. I haven't said
12 anything all along; that I had responded at one point.

13 MR. DAVIDSON: Mr. Hicks, don't apologize. You
14 have every right to make any statement you wish. However,
15 I think -- forgive me for saying this -- I think you are a
16 little confused.

17 If you are saying that Mr. Green can bind the
18 Applicant because he is an employee and therefore his state-
19 ments are those of the Applicant, that is one thing, and I
20 am not certain that is true because I am not sure he is a
21 supervisory person.

22 If you are saying, however, that Mr. Stiner can
23 relate as fact of his personal knowledge something on the
24 basis of which Mr. Green said to him occurred, I think the
25 answer is it does not solve the hearsay problem.

SY15rg12

1 MR. BACHMANN: --

2 MR. HICKS: I disagree.

3 MR. BACHMANN: From my line of questioning, and it
4 is my line of questioning --

5 Q MR. DAVIDSON: But we already accepted the testimony
6 for the limited purpose he offered it.

7 MR. BACHMANN: The statement was made to Mr. Stiner
8 and Mr. Stiner testified the statement was made to him. That
9 is all I wanted to hear. We got somehow sidetracked here.

10 BY MR. BACHMANN:

11 Q Did you get to see Mr. Halford?

12 A Yes, I did.

13 Q Did Mr. Halford -- what did Mr. Halford say to you
14 or what did you say to him as the case may be?

15 Did you ask Mr. Halford why you were fired?

16 A Yes, I did.

17 Q And what was his response.

18 A He said that he had to come to work sick and that
19 I wasn't going to play off and that I had to be to work every
20 day and he wasn't going to put up with it and on and on and
21 on about how it is, you know, company policy and all this
22 kind of stuff -- he is just not going to put up with it.

23 Q All right. Now he said it was company policy.

24 Did he explain to you what the company policy was?

25 A No, he did not.

1 Q In what context did he say -- what were the words
2 surrounding the statement about company policy?

3 A Surrounding the words? The company policy was when
4 he told me that he wasn't going to put up with any of his
5 hands, a man off from work no matter what it was for, that
6 they should always come in first and then have the medics
7 send them home, you know, if that be the case. And that is
8 basically it about the company policy.

9 Q All right. Now you testified earlier that you knew
10 it was perfectly all right to leave if the medics sent you
11 home?

12 A That is correct.

13 Q You knew that was company policy?

14 A I did know that was company policy.

15 Q How did you know that?

16 A Well, because I have had several friends to get
17 sick at work and plus I have had a couple of times that I
18 have had metal particles in my eyes where they would send you
19 home.

20 Of course, if it is a company accident, they generally
21 pay you for it.

22 Q What was the basis for your belief that phoning in
23 and saying you wouldn't be there for medical reasons was
24 all right?

25 A Because we were told by our foremens and general

1 foremens -- they have a safety meeting every Monday morning
2 and they had been having a lot of trouble with people missing
3 and Ed Halford had told all the foremens to be sure and tell
4 all their hands that they would have to give 24 hour notice
5 before they could take off and that if you miss three days
6 a month that you got counselled and then after that, after
7 that counselling they would put you on a probationary period
8 and then they -- the next time you missed three days I think
9 it is they would terminate you.

10 Q Okay. Now you have said -- who specifically told
11 you this? Was it --

12 A Jimmie Green.

13 Q Green told you that Halford had said this?

End 15. 14 A Right.

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1 Q Was this told you on one occasion or more than
2 one occasion?

3 A Just one occasion.

4 Q Do you recall approximate, when that was?

5 A Just sometime during that two-week period that
6 I worked out in the field. I do know that on other
7 occasions when I worked there before that it was company
8 policy that if you missed more than three days a month
9 without an excuse, they could terminate you.

10 Q Okay now, when you went in to see Mr. Halford,
11 did you remind him of what Green had said that he had
12 said?

13 A No. Really, we were standing out in the middle
14 of the road. I didn't go in to see him. I talked to
15 Mr. Green first, and then George Bundt, and -- I more or
16 less pleaded with him, you know, that I needed my job, and
17 that I was incapacitated, and then I told them why. And
18 I said, So you can see, I can't even walk, you know.

19 Q Did it appear to you that -- now, this is just
20 strictly your opinion -- that what Mr. Halford was telling
21 you on the day you were terminated was different from what
22 you thought he was saying through Mr. Green at this previous--

23 A Most definitely.

24 Q But Mr. Halford, at the time of your termination,
25 just said, The only way you can get a medical excuse is
to have the medics send you home?

1 A In a roundabout way. No, he didn't tell me
2 the only way you could get sent him with an excuse was
3 by the medics. He never said anything about the medics.
4 He just said, you know, We're not going to put up with any
5 of our hands taking off and not coming in on a Monday
6 morning.

7 I think the main concern that he was trying to
8 throw off on me was the fact that I missed a Monday
9 morning, for whatever reason.

10 Q Now, I'm going back to -- that was the end of
11 your conversation with Mr. Halford. Had you already picked
12 up your tools?

13 A I had gotten my tools out of the field. There
14 were still some strung out that they were supposed to get
15 for me, but they never did.

16 Q Did you pick up your check before you left?

17 A I don't believe I did.

18 Q So you got a hold of Jimmie Green, you got what
19 tools you could collect, talked to Mr. Halford --

20 A Talked to Mr. Bu-dt.

21 Q And got talked to by Mr. Halford?

22 A And then Halford come out.

23 Q And then, was that the end of your conversations
24 with these people?

25 A Well, it sounded to me like after I had pleaded

sy3

1 with him and told him, you know, why I couldn't walk, you
2 know, and I said that I didn't tell the secretary that over
3 the phone, he just kind of looked behind me. And I noticed
4 kind of a flash out behind me, George Bundt moving out
5 around behind me, and he was telling him to you known,
6 get him out of here, in other words.

7 Q I may have asked you this before, forgive me if
8 I did, but did Mr. Halford at any time mention this memo
9 that Green had said he had gotten from Halford?

10 A No.

11 Q And then you essentially left the site?

12 A No. After Ed Halford told him to -- you know,
13 he said a particular word, he said, you know, just f-u-c-k.
14 and fire him, And I told Jimmie, I said, Well, I'm going
15 to go talk to Mr. Scruggs then, because I felt like if I
16 explained to him what had happened, they might look into
17 it further.

18 So I went and talked to Mr. Scruggs then,
19 Charlie Scruggs. I explained the situation to him, that
20 I felt like it was because of the gouge mark that they
21 was really doing it.

22 Q You said this to Mr. Scruggs?

23 A Right.

24 Q Did you mention this to Mr. Halford, Mr. Green
25 or Mr. Bundt?

1 A No, I never said anything to them. I was
2 still, at that point, thought I could get my job back if
3 I just kept my mouth shut and just tell them --

4 Q That's okay. I just wanted to know if you had
5 mentioned it to them.

6 A No.

7 Q And Mr. Scruggs you called the Assistant Project
8 Manager.

9 A Right.

10 MR. BACHMANN: Does counsel agree with that
11 characterization? We don't know?

12 MR. HORIN: I'm not aware of the exact title
13 of Mr. Scruggs at that time.

14 BY MR. BACHMANN:

15 Q And you say you went in and told Mr. Scruggs
16 the whole story? I'm referring to page 38, line 14. When
17 you say the whole story, does that mean the bit about the
18 gouge and the QA inspector --

19 A And about going to the doctor and everything.

20 Q Was anybody else there when you told
21 Mr. Scruggs this?

22 A I think his secretary was sitting there, in
23 either the next office over or something. She was coming
24 in and out. I don't know if she heard any of it or not,
25 but there was a secretary there.

sy5

1 Q Now, Mr. Green was what, waiting outside for you?

2 I guess what I'm trying to get at is, were you
3 being escorted at this point?

4 A Oh, yes, I was escorted over to Scruggs' office,
5 and I can't remember whether he was standing there when I
6 came back out or not.

7 Q Was something waiting there?

8 A I don't think there was anybody.

9 Q I think you testified you did not pick up your
10 final paycheck that day.

11 A I don't remember.

12 Q Did you eventually get your final paycheck?

13 A I'm sure I did.

14 Q When you got your final paycheck, or at any time
15 thereafter or before or whenever, did you ever get a copy
16 of the termination form?

17 A I don't think I ever got a copy of either
18 termination slips.

19 Q Are you pretty sure about that?

20 A I am relatively sure.

21 Q That's all right.

22 MR. DAVIDSON: What do you mean, Mr. Stiner?
23 I told Mr. Hicks that we shouldn't interrupt the witness
24 when he's trying to finish his answer, and I'll say it to
25 you, too, Mr. Bachman. Even though I know that he may

1 ramble. I'll just move to strike if the answer is not
2 responsive, but I think he's entitled to finish whatever
3 he was going to say. Did you have something further?

4 THE WITNESS: Well, I think there was some
5 argument that we had in the time office about the termination,
6 and I told him I wasn't signing nothing.

7 BY MR. BACHMANN:

8 Q Who did you have the argument with?

9 A I can't remember the guy's name. Darlene
10 knows him.

11 Q Was this the clerk?

12 A It was the clerk that handles all the
13 terminations and stuff. It's a male clerk.

14 And we had somewhat of a heated argument. They
15 said that you couldn't get your check unless you signed the
16 termination slip. And to the best of my knowledge, I don't
17 believe I signed it. And that's the reason why I don't
18 think I got my check right then. I think they mailed it
19 to me.

20 Q I just have one or two last questions here.
21 Just to be clear, and again, I think this may have been
22 asked but I want to put it all in one place.

23 From the time that you were on the scaffolding
24 with Susie Neymeyer until the time that you walked out the
25 gate for the last time, did anyone indicate to you, other

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1 than perhaps -- other than Susie Neymeyer in response to
2 your comments about the gouge -- did anyone indicate to you
3 that you could or would be terminated because of bringing
4 her down to see the gouge?

5 A No. As far as someone coming up and saying,
6 Man, they're going to terminate you for that, nobody of any
7 kind of official capacity came down and said anything to me.

8 Q When you told Mr. Scruggs that you believed that
9 was the reason you were being terminated -- and I think you
10 indicated is a fairly higher up person -- do you believe he
11 is -- and I don't know the answer to this, but I'm asking
12 your opinion -- do you believe he's higher up in the
13 hierarchy than Mr. Halford?

14 A Yes.

15 Q Did he have any reaction to the story about
16 the gouge?

17 A He acted real concerned about it and said,
18 Well, if you've got a doctor's excuse --

19 Q Now I'm not talking about the doctor's excuse.
20 I'm talking specifically about being terminated because of
21 the gouge. Did he indicate anything to you?

22 A He said that they couldn't do that.

23 Q He said they couldn't terminate you --

24 A He told me at that time to come back Monday
25 morning and that my brass would be waiting on me, because

1 they can't do that to you. He said, We don't put up with
2 that out here.

3 Q And that's all he said?

4 A That's all he said.

5 Q And no one else said anything about that?

6 A Nobody else.

7 MR. BACHMANN: That's all the questions I have.

8 MR. DAVIDSON: Mr. Stiner, I don't have but a
9 couple of questions based on what you were discussing
10 with Mr. Bachmann.

11 EXAMINATION -- Further

12 BY MR. DAVIDSON:

13 Q Mr. Bachmann asked you about these warts, if
14 you remember. Was it one wart or more than one wart?

15 A It was two or three.

16 Q Now, when did you discover that you had these
17 warts?

18 A Well, I couldn't even tell you. Somewhere
19 right during that time there, I had noticed them and
20 wondered if they were venereal warts, you know, the kind
21 that spread and get all icky.

22 Q No, I don't know.

23 (Laughter.)

24 A I don't know, either. I couldn't pinpoint the
25 exact date.

1 Q Well, you don't know. How did you discover them?

2 A I saw them.

3 Q I mean, you looked down, and there they were?

4 A Yeah, I saw them.

5 Q That was the only thing that drew your attention
6 to them, the fact that you just saw them?

7 A That's it.

8 Q You testified in response to Mr. Bachmann's
9 questions that you had them removed.

10 A I had them removed.

11 Q But I didn't quite understand. Did you have
12 them surgically removed?

13 A Not surgical. They put something they called
14 dioplar on it or something like this.

15 Q An ointment?

16 A No, it was a caustic solution that burns
17 them out.

18 Q And it was your testimony that you obtained that
19 medication -- I take it they didn't put that medication on
20 at the doctor's; you got a prescription to get it?

21 A No, they put it on. They had to put it on.
22 As a matter of fact, I had to go back to get retreated.
23 They take several treatments to get them off, to completely
24 get them.

25 Q Do you remember when the final treatment was?

1 A I don't remember when the final treatment was.

2 Q If I understood your testimony correctly, you
3 didn't go to the doctor, though, for the warts. They were
4 discovered at the doctor's office?

5 A No. I knew that I had them, and while I was
6 there getting them off, I wanted to get everything taken
7 care of right then.

8 Q Right. You bet.

9 Now, you said that all this could be clarified
10 or at least supported by medical records you believe that
11 Brazos Medical and Surgical Clinic had, is that right?

12 A That is correct.

13 Q Would you be willing, Mr. Stiner, to waive any
14 physician/patient privilege you might have so that we could
15 have access to those records?

16 MR. HICKS: Mr. Stiner --

17 THE WITNESS: Without talking to an attorney
18 that represents me first, I couldn't answer that.

19 BY MR. DAVIDSON:

20 Q In other words, you're not prepared now to
21 produce those records or give us a waiver so we could
22 obtain them from your doctor?

23 A Well, there may be some things in there I don't
24 want you to know about. Now, as far as pertaining to the
25 case, I'd rather talk it over with the attorney that

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1 represented me and, you know, then we will go that way.

2 Q I understand your point, and no one is going to
3 suggest to you that you can't consult an attorney, and you
4 are here without one.

5 The only point I was trying to determine is
6 that obviously, there has been some question here about
7 what took place and in part, you yourself said there was
8 no disability certificate for July 13th, and you said,
9 But you know, if you looked at my records, you could
10 establish that I was there on the 13th, and you could
11 establish that I was there to be treated for the things that
12 I said I was treated for.

13 So I was saying to you, All right, if you would
14 waive -- either produce them or waive your rights so that
15 the doctor could produce them to us, then we could see it.
16 And we could verify it. You see what I mean?

17 A I made an effort to get all the records, but
18 they told me I would have to have my attorney to submit a
19 medical release form, I think.

20 Q Who told you this?

21 A This is the secretary that works at the Brazos
22 Medical Clinic.

23 Q And she said that your attorney should present
24 them with a medical release, rather than their asking you
25 to sign one of theirs?

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1 A Right. I was going to get her to send them to me
2 up in Arkansas. I can't think of the girl's name, but
3 she's been there a long time.

4 Q Why did you want her to send these records to you?

5 A Because I wanted to have them to submit as
6 evidence when all this took place.

7 Q When did you call her?

8 A I called her -- it was this year. Prior to the
9 last hearings that we had. Prior to the last hearings
10 that we had, I called him and requested copies of everything
11 in my medical -- my complete file.

12 Q Now, -- I'm sorry, I didn't mean to interrupt
13 you.

14 A That's all right. To transfer them up to my
15 new doctor.

16 Q Right. And when you say prior to the last
17 hearings, do you mean the ones held in March of 1984?

18 A Right.

19 Q And since that time, have you made any efforts
20 to provide the medical releases you say they required?

21 A Well, I called Juanita several times and told
22 her, you know, that they said they would rather have the
23 attorney do it and she said, Well, I will get on it. But
24 you know, she's got so much going that I guess she didn't
25 get them.

1 Q If you or she gets them, when do you think we
2 could have them?

3 A That would be hard to say without an attorney --

4 Q So you won't make any commitment?

5 A I don't really want to make a commitment because
6 I don't know when. But I will promise you as soon as we
7 can get them, we will.

8 Q I know that Mr. Bachmann asked you, you know,
9 how is it that you don't have a disability certificate for
10 Monday and you said, well, gee, I can't tell you. I noticed
11 that you went to the doctor -- at least it's your testimony
12 that you went to the doctor on Tuesday, July 14th. Is
13 that correct?

14 A Yes.

15 Q And I think in connection with that, you
16 produced what we've marked for identification here as
17 H.Stiner-4. Do you see that?

18 A Yes.

19 Q And that indicates that that disability certifi-
20 cate was issued -- or it suggests that it was issued
21 because it's dated --- July 14th. And it certifies that
22 you were under the care of -- or allegedly under the care
23 of -- R.D. Hamilton, D.C. by R.L., for the date 7/14/81
24 to 7/14/81; i.e., that day. That is, just for that day.
25 Is that right?

1 A I think -- if I vaguely remember, --

2 Q I'm not asking you what you vaguely remember.

3 I'm asking you if I've just correctly stated what's on

4 this document that you have in your hand.

5 A Yes, that's correct.

6 Q Now I want you to look at H.Stiner-5. Do you

7 see the date that it purports to have been issued?

8 A Yes.

9 Q What is the date?

10 A The date is the 7/16/81.

11 Q July 16, 1981. Which is, I think, Thursday.

12 A Yes.

13 Q And that indicates -- and I believe I'm reading

14 this correctly -- that you were under the care of this

15 individual, R.D. Hamilton, D.O., or alleges it does, on

16 the date 7/15 to 7/17. So in other words, it was possible

17 to obtain a certificate that covered more than one day.

18 Isn't that what that suggests?

19 You're shaking your head no.

20 A Yes and no.

21 Q I mean, it was possible, because he could give

22 it to you on the 16th and say --

23 A I can tell you why the discrepancy in these dates.

24 Q You think these dates are wrong?

25 A Well, no, they're not wrong for the certificate.

1 But what I think happened was if, you know -- I stand to
2 be corrected -- is that they didn't issue --. I forgot to
3 get one. You see, they won't issue you one unless you
4 tell them that you need one, and then they will write
5 it up.

6 Q Well, when you got the one on the 14th, why
7 didn't you ask them to cover the 13th as well? You did that
8 on the 16th.

9 A They put the wrong dates, is what I'm thinking
10 happened. And that's one of the reasons why Ray Yockey
11 was saying that, you know, that something wasn't right
12 with the deal. And I wrote him a statement on one of the
13 doctor's deals -- you saw it -- that said, you know, feel
14 free to contact Brazos Medical Clinic and then you can
15 check this out.

16 Q I'm sorry. When you say, "feel free to contact
17 Brazos Medical Clinic," what are you saying?

18 A I told Ray Yockey if he wanted to check on the
19 portions that I had sent to him on the correctness of them,
20 if they did write them and everything, that he could call
21 the Brazos Medical Clinic and find out from them, you know,
22 what he wanted to know.

23 Q So you had no objection back in September --

24 A For him to check with -- . You see, I had
25 discussed this with my doctor.

1 Q Who was that, sir?

2 A Hamilton. Dr. Hamilton. And I told him that
3 because they messed up on the dates, that the company
4 wants to terminate me. And he said, well, they can't
5 terminate you because you've got a doctor's excuse, and
6 he said, We'll get it straightened out and we'll write you
7 one for the correct dates.

8 But somehow, they never put down for the 13th,
9 in other words, is what it boiled down to.

10 Q Well, he offered to straighten it out but he
11 didn't do it?

12 A Well, he tried to. I thought that it was with
13 that one there saying I was covered to the 17th.

14 Q So you asked him to give you extra coverage
15 and he said he would re-write some certificates for you?

16 A Well, no, he said that -- he told me that
17 whenever I felt like going back to work, you know, when I
18 felt like the flu symptoms had got over with and my back
19 had eased up, I was taking muscle relaxers is what it was.
20 And he said, because they won't let you work out there
21 taking that medication -- and they wouldn't. Clinoril is
22 what I think it was. You asked me earlier, and it just
23 dawned on me.

24 But anyway, I'm not for positive. Let me just
25 say that I'm not for positive what the foul-up was on the

1 dates. But there was something to do with th dates, that
2 they weren't satisfied with it or something. And they were
3 saying, well, you've got the wrong dates here.

4 Q When you say "they" who do you mean? Mr. Yockey?

5 A Halford.

6 Q Oh, Mr. Halford was saying that your excuses
7 didn't cover your absences, I see.

8 A And then Yockey came back and said the same
9 thing. As a matter of fact, I think there's a letter
10 here or something.

11 Q And didn't you invite Mr. Yockey to check with
12 your doctor to get all that information?

13 A I did do that.

end 16

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17pb1

1 Q Did you tell the doctor?

2 A The portions that I sent.

3 Q Did you tell the doctor that you wanted him
4 to give that information?

5 A No, I did not. I didn't know at that time
6 that you would have to give him any information. I just,
7 out of good faith, told him to check with the doctor.

8 Q But you were willing in September of '81 to
9 give access to Mr. Yockey to your medical records.

10 A That is correct. Only to the portions that
11 I sent him.

12 Q I don't follow what you mean.

13 A I had a conversation with my doctor because
14 I told him that they had terminated me because of all this.
15 And he said, well, they can't do that because you've got
16 a medical. You know, you were under my care. And he says,
17 let me write this other one for you. And he told the girl
18 what to put down on it and everything. So that's what she
19 did. I always did that a way.

20 We will provide you with copies of the doctor's
21 statements. I think that will clear the whole thing up
22 right there. In other words, of what the doctor wrote down
23 on what day when I was there.

24 Q You mean your medical record with Dr. Hamilton?

25 A Only for the portions that are pertaining to

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1 the days that were missed.

2 Q When you say that you obviously have a
3 limitation in mind that I don't understand.

4 A If I tell you that you can have full access
5 to my medical records, you would get a full access to it,
6 and that means you can get a copy of just everything and
7 anything that's in there. There may be some things in there
8 that I don't want you to get.

9 Q I understand. Are you saying that you are
10 willing, however, to get access for all of the medical
11 records that relate to July 13, 14, 15 and 16? I guess,
12 and 17, since that's the period described by the discussions
13 we had in this testimony. Is that right?

14 A That is correct. In other words, I have
15 nothing to hide.

16 Q I understand that's your statement. So you
17 said, I'll give them everything that goes to this, and I
18 just wanted to find out what this was. So then, I take it,
19 you have no objection to, assuming that we can get over the
20 legal formality, to having Dr. Hamilton provide us with all
21 of the pertinent medical records that deal with the dates
22 under consideration here, which are July 13th through July
23 17th.

24 A I will get them for you.

25 Q When will you produce those, sir?

11pb3

1 A Soon.

2 Q Well --

3 A As soon as I talk to an attorney.

4 Q I understand. You are still reluctant to
5 make a commitment. That's understandable.

6 A And there are some things that we need to get
7 from the Applicants that it was an agreement that they
8 produce anything that they used, and that we produce that
9 we used in our testimony. And so far I haven't gotten
10 anything.

11 MR. DAVIDSON: Well, I think that completes
12 my recross with respect to excerpt number 1. My colleague
13 Mr. Horin says that he thinks your reference to something
14 due you from Applicants is a little vague. And he asked me
15 if before I once again relinquish the microphone, with
16 respect to excerpt number 1 that I ask you to clarify exactly
17 what it is you're talking about.

18 What is it you think that Applicant owes you?

19 THE WITNESS: Okay. In the hearings, I
20 can't tell you what transcript page it's on because I
21 haven't had time to look it up. Juanita has been screaming
22 for me to find it, too. But in the hearings, Mr. Bloch --
23 there was a discussion about the evidence that each party
24 used. The swapping of it, in other words.

25 The books, the QC books that I referred to

17pb4

1 that I had studied. You know, they wanted to know what those
2 were. The procedures that I testified about. They wanted
3 to have a listing of those. Any book or reference that I
4 made reference to, they wanted to have a detailed copy --

5 BY MR. DAVIDSON:

6 Q When you say they, do you mean the Board?

7 A I mean the Applicants. For your findings of
8 facts.

9 Q I understand.

10 A Then vice versa. It's supposed to be the
11 other way around.

12 Q What was this? A general document request or
13 is this something that is specifically owed to you?

14 A I think it's just a general document request
15 for findings of fact.

16 Q So there's no commitment specifically on
17 the part of the Applicant to give you personally anything.

18 A I think it was an order from Peter Bloch
19 because I had asked a question about, you know, if I could
20 look at my personnel records.

21 Q Are you saying that you made a request for
22 your personnel file; is that correct?

23 A Yes, several times. And they won't even
24 let me look at them.

25 Q Who was they?

17pb5

1 A Mr. Yockey and --

2 Q When you say you made a request to see your
3 personnel file, do you mean you made a request to Mr. Yockey?

4 A We made a request to Mr. Yockey. We made a
5 request to Mr. Reynolds, which is was agreed upon that we
6 could go to the plant and that they would let us visually
7 view them, but they wouldn't give them to us. You know what
8 I mean? They wouldn't make copies of it, but we could look
9 at them, and that was as far as it would go.

10 So that was the understanding that everybody
11 had. But then when it came down to go view them, that wasn't
12 the decision. What Mr. Yockey wanted us to do was to sign
13 a release on my records, so in other words they could turn
14 them loose to anybody.

15 Q Is that a correct statement or is that a
16 characterization?

17 A That's my --

18 Q Now wait a minute. I let you ramble, but I
19 have to haul you in a little bit. Isn't what they said to
20 you, sir -- and I don't represent that this is the case,
21 but I think this is what was said. Remember when we talked
22 about your medical records and the doctor said we've got
23 to have a release to give them out?

24 A Yes.

25 Q Didn't Mr. Yockey say to you that if you want

17ob6

1 us to give out your personnel files to people such as
2 Juanita Ellis, we're going to need a release from you? Isn't
3 that what he said?

4 A That's it.

5 Q Yeah. And somehow you thought that was wrong?
6 It was okay for your doctor, but not okay for Mr. Yockey;
7 is that what you're telling us?

8 A No, if I give them a release to give it to
9 Juanita, that means he can give it to anybody.

10 Q Is that what you think? That's your personal
11 opinion or a legal opinion?

12 A My personal opinion.

13 Q Did you consult an attorney about that?

14 A I don't have an attorney.

15 Q So you did not?

16 A No.

17 Q Did you sign that release?

18 A No.

19 Q Did you attempt to determine whether that
20 release could be narrowed so they would only be released
21 to people that you authorized?

22 A I have talked to several people. Not attorneys,
23 but people that are knowledgeable about the facts. And
24 I have been told that if I sign the release that they can
25 send them to anybody. Am I wrong? You're an attorney.

17pb7

1 (Laughter.)

2 Q Well, normally, Mr. Stiner, I charge for that.
3 And I don't think you're prepared and I don't think it's
4 proper for me to give it to you. But I think the answer is
5 it depends on the terms of the release. And if there's a
6 release for a specific purpose -- and that is not to suggest
7 to you for a moment, that I am now authorizing or otherwise
8 admitting that you have properly requested those documents,
9 or that you can't have access. Or that if with the proper
10 release they would give you access.

11 All I'm saying to you, Mr. Stiner, is that
12 my understanding is that proper procedure, both for the
13 medical profession and indeed with the personnel office is
14 that they don't just let a file go to anybody. They require
15 a release. And generally speaking, those releases are
16 directed towards a specific kind of thing, such as when you
17 file an insurance claim for an accident or something like
18 that. You authorize the insurance company to have access to
19 your file for their purpose.

20 It doesn't mean that the insurance company
21 can send them to anybody. And it doesn't mean that the
22 doctor that gets the release can send them out now to people
23 over the party line, so that people can generally look and
24 snoop into your medical affairs.

25 So I don't know where you got that impression,

17pb8

1 if you have such an impression. But it seems to me you
2 haven't overcome it by diligently pursuing the place that
3 you could get the answer, which is a lawyer.

4 A But to get back to my other statement about
5 the findings of fact records, are we not supposed to get
6 copies of the material --

7 Q Mr. Horin is more informed on the subject and
8 I'm sure he can tell you.

9 MR. HORIN: Mr Stiner, my understanding is
10 that we have provided material that Applicants relied upon
11 in their testimony. I am aware of only one outstanding
12 issue and that has to do with Darlene's book. I would like
13 to state that I do not believe, as I think you suggested,
14 maybe not intentionally, that there was any connection or
15 quid pro quo that if we get something, you would give us
16 something. And certainly not with respect to these medical
17 records, because that is a matter that was not even brought
18 up or related at all to the prior testimony, which this
19 agreement was made with the Board chairman.

20 What I'm saying is that my understanding is
21 we provided everything to this point, and I don't think that
22 there should be left any impression on the record that there
23 is some connection between the question with respect to the
24 medical records and the question with respect to materials
25 relied upon in previous testimony.

17pb9

1 MR. DAVIDSON: I appreciate Mr. Horin's
2 explanation on the record, and I see you are nodding yes,
3 Mr. Stiner. Do you understand what he said?

4 THE WITNESS: I think I understand it. What
5 you're saying is that you sent Juanita all the information.

6 MR. HORIN: All the information that was
7 within the scope of the Board's request.

8 MR. DAVIDSON: And I think what he's also
9 saying is that that is a matter separate and apart from the
10 issue that just came up today, which was your medical records.
11 So he is saying two things. He is saying, one, whatever
12 has been asked for has been provided. And two, that separate
13 and apart from that, what we are asking for now or what we
14 would like to have now has no bearing whatsoever on that.
15 That's just a simple direct question of whether you want
16 to give us an opportunity to substantiate the claims here
17 and clarify the record.

18 THE WITNESS: So it's my understanding that
19 my personnel files have been turned over to Juanita?

20 MR. HORIN: No, I didn't say that. I said
21 that the Board had indicated that both parties were to
22 provide the material on which each party relied upon in
23 their testimony. And we have done that.

24 The question of your personnel files, I also
25 think was a separate matter. I'm not aware of there being

17pb10

1 connection between the two.

2 THE WITNESS: This is the part where I spoke
3 out. It's the part that I spoke out and Judge Bloch was
4 telling me, you know, you can't just speak out like that,
5 Mr. Stiner, you are not an attorney. Do you remember that?

6 (Laughter.)

7 And that's what it pertained to because I
8 wanted to look at my personnel files, because I felt like
9 there might be some things in there that were not true.

10 MR. DAVIDSON: So in other words, this is
11 not a document request that the case has filed that you are
12 talking about.

13 THE WITNESS: It should have been. It should
14 have been a document request for my personnel files. And
15 me and my wife participated in filing an affidavit with
16 Judge Bloch and a statement to the effect that we still have
17 not gotten to see our personnel file. And they were relied
18 upon extensively in testimony from Baker, W.E. Baker.

19 References that were referenced back to absenteeisms, such
20 as that, which the only way that you can get those is by
21 looking at the personnel records, which to my knowledge I
22 have never seen any portion to where it says that Henry
23 Stiner missed so many days of work, which they testified to.

24 That's what I am mainly trying to get at, is
25 the fact that if Juanita has got those things, then she

17pb11

1 hasn't sent them to us. And you know, she is supposed to be
2 representing us, but that doesn't always mean that she has
3 time enough to remember everything in this whole ball game.

4 MR. HORIN: I think that it's best that if
5 you have a question with respect to some specific item that
6 you bring it up with Mrs. Ellis and --

7 THE WITNESS: Well, I have you see.

8 MR. HORIN: I am not aware of any additional
9 requests.

10 THE WITNESS: I mean, you know, I would like
11 to -- I'd like for Juanita to keep representing me and
12 everything, but there are a few things that we don't see
13 eye to eye on. And that is one of them. Just like I told
14 her, if she wanted a copy of that red book, the one that you
15 just mentioned, just like I told her, I'm not turning that
16 over until I see my personnel files -- one way or the other
17 you all are waiting on it, right?

18 MR. HORIN: That's correct.

19 THE WITNESS: So one way or the other, you
20 know what I mean? If I don't get to see what you all used,
21 I'm not going to turn over what we used until I am ordered
22 to do so.

23 MR. HORIN: I see. So you're making the
24 connection on your own as to our producing personnel files
25 and your producing that red book.

17pb12

1 THE WITNESS: Right. Because we are the ones
2 that's got the records on what we know about and --

3 MR. DAVIDSON: And you don't intend to give
4 those up until you damn well please to do so, right?

5 THE WITNESS: I don't intend to give them
6 up until I am forced to do so, or until the agreement that
7 I understood that we had in the hearings in March is met.

8 MR. DAVIDSON: Let me ask you this, Mr.
9 Stiner. You say, until you are forced to do so. What kind
10 of force do you require?

11 THE WITNESS: I don't know. I imagine they
12 maybe could throw a federal, you know, order on me or
13 something and just order me to produce them, you know. And
14 if in that case they did, I would have to.

15 MR. HORIN: I think we have exhausted this.
16 I think we have different understandings.

17 MR. DAVIDSON: I think Mr. Horin is right.
18 Obviously we can't resolve this issue here. I think though
19 that it was of some value to you to ventilate your feelings
20 about it on this record, and tell us what it is you are
21 concerned about.

22 And I take it now you've decided that you
23 want to toss into this the medical records as well and just
24 start withholding that as well.

25 THE WITNESS: No.

17, b13

1 BY MR. DAVIDSON:

2 Q Is that a separate issue?

3 A No, anything that I've testified to, you will
4 get a copy of it.

5 Q The stuff today is a separate issue?

6 A Yes, that's what I was saying. You will get
7 that. I promised you that a few minutes ago.

8 Q I think you did, but I wanted to make sure
9 that it didn't get thrown back in somewhere else. We still
10 agree that today's testimony is today's testimony and the
11 issues today about documents are the issues today.

12 A Correct. That's totally separate from the
13 March hearing, are they not?

14 Q I thought they were until, frankly I listened
15 to this, and then I thought maybe I had misunderstood. But
16 I take it you and I have the same understanding.

17 A Yes.

18 MR. DAVIDSON: I don't believe I have any
19 further questions with respect to excerpt 1.

20 MR. BACHMANN: I have one question. Just
21 one very simple question that's been brought up from one
22 of the things that was just said.

23 EXAMINATION

24 BY MR. BACHMANN:

25 Q Mr. Stiner, you indicated in discussions with

17pb14

1 your doctor that you said, well, they can't bar you if you
2 have a medical reason. Is that correct?

3 A Yes.

4 Q What is your understanding at the time as
5 to who could fire you? How high up did it have to go? Who
6 could make the final decision?

7 A It was my understanding that as long as you
8 did your job --

9 Q I'm asking who was the person that could fire
10 you. Jimmie -- did Jimmie Green fire you?

11 A Yes, your foreman could fire you.

12 Q Did he have to get approval?

13 A Not to my knowledge.

14 MR. DAVIDSON: So you don't know really.

15 THE WITNESS: I really don't know, that's true.

16 MR. BACHMANN: All right, that's fine.

17 MR. DAVIDSON: Mr. Hicks?

18 MR. HICKS: I guess I could go ahead and ask
19 my redirect questions on excerpt 1, limited to that.

20 EXAMINATION

21 BY MR. HICKS:

22 Q Mr. Stiner, would you look at page 46, line
23 9, that's really excerpt 2. Well --

24 MR. DAVIDSON: Do you want to do that now?

25 MR. HICKS: Well, you went into it.

17pb15

1 BY MR. HICKS:

2 Q Do you recall your testimony under questioning
3 from Mr. Davidson about why the word hanger was used there?

4 A That's correct.

5 Q Let me ask this. If you substituted the word
6 pipe there for the word hanger, would the testimony be
7 correct or not?

8 MR. DAVIDSON: I object to that. That is
9 totally hypothetical and this is his sworn statement. And
10 now you're saying, if you change this sworn testimony would
11 it be different. And the answer is, it certainly would.

12 MR. HICKS: Well, let him answer it.

13 MR. DAVIDSON: I'm sorry. I haven't finished
14 my objection. I object to the question. I think it's
15 totally improper.

16 And moreover, I would suggest to you, sir,
17 that if you read the entire sentence it then turns it into
18 gobbledy-gook.

19 MR. HICKS: Well, he can say that.

20 THE WITNESS: What was the question?

21 MR. DAVIDSON: The question was, if you change
22 the word hanger to the word pipe in the first sentence --

23 MR. HICKS: I didn't want you to change that,
24 and I will ask the questions, okay?

25 MR. DAVIDSON: I'm sorry, I apologize.

17pb16

1 BY MR. HICKS:

2 Q If the word pipe was in that sentence instead
3 of the word hanger, would the testimony using that same
4 sentence except substituting the word pipe for the word
5 hanger, would that be correct? Or would it be correct to
6 leave it as hanger?

7 A No, it would be correct to change hanger to
8 pipe, which had the gouge on it.

9 Q And let me ask this simple question. Do you
10 recall now whether the gouge mark was in a pipe or a hanger?

11 A No, it was in the pipe.

12 Q Okay. Do you recall back in September of '82
13 whether you were of that same view?

14 A Yes, it was in the pipe.

15 Q Now, will you please turn to page 38, and
16 look at line 6 through 11?

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end 17.

1 MR. DAVIDSON: I'm sorry, could you repeat the page?

2 MR. HICKS: Page 38, lines 6 through 11.

3 BY MR. HICKS:

4 Q Just look up when you have read it.

5 Now, correct me if I am wrong, I think that concerns
6 the area when you talked about what you described as the
7 other secretary, the secretary whose name you don't recall?

8 A That is correct.

9 MR. DAVIDSON: I object to that question and the
10 answer. That was leading and he is your witness, sir.

11 BY MR. HICKS:

12 Q And in that portion of the testimony, where you
13 discussed the husband of this other secretary, am I correct
14 in understanding that? Am I correct in understanding that
15 you don't recall his name?

16 MR. DAVIDSON: Excuse me, Mr. Stiner. I do have
17 the right to object, first. Mr. Hicks, I am going to object
18 to that. You have stated he is your witness and there you
19 have no right to lead.

20 MR. HICKS: You can go ahead and answer the question.

21 THE WITNESS: I don't know his name.

22 BY MR. HICKS:

23 Q Okay. Do you know for whom that person, that
24 husband, worked?

25 A He worked for Brown & Root.

1 Q He did at the time he talked to you?

2 A I believe he did. "It is my belief that he did.

3 Q On lines 6 through 11 on page 38, tell us, did you
4 get all of the information that is set out there from the
5 husband of the other secretary?

6 A No. I didn't get all of it.

7 Q What parts did you not get from him?

8 A The parts that I --

9 MR. BACHMANN: I object to these questions as being
10 asked and answered. I asked that question and it has already
11 been answered.

12 MR. HICKS: I am not sure you asked it in the exact
13 form?

14 MR. BACHMANN: I asked Mr. Stiner specifically where
15 he got the information for -- that was contained on lines
16 6 through 11 and he answered that question and I don't see
17 what is the purpose in having him respond in a different
18 manner because you phrased it differently.

19 MR. DAVIDSON: Moreover, I would point out, Mr.
20 Bachmann, that I also asked him that question with respect
21 to lines 6 through 11 and I think we both elicited the
22 information, albeit with a slightly different question. And
23 I would support Mr. Bachmann's objection and I think this is
24 cumulative and asked and answered and I also think he has
25 already testified that he got this through hearsay means. He

1 has no personal knowledge.

2 BY MR. HICKS:

3 Q Would you answer the question?

4 A The part that says on line 11 that says "And Ed
5 Halford sent a memo to Jimmie Green" -- that portion I got
6 from Jimmie Green.

7 Q Is there any other part in there that you didn't
8 get from the husband of the other secretary in the lines
9 6 through 11 on page 38?

10 A No. The rest of it I got from the husband of the
11 secretary.

12 Q So earlier when you testified, assuming you testified
13 to this, assuming that the two characterizations that have
14 been given in your earlier testimony are correct, if you
15 testified that all of that information came from the husband
16 of the other secretary, was that correct except for the part
17 you have just mentioned?

18 MR. DAVIDSON: I object only because I find the
19 question hard to follow, but answer if you understand it.

20 THE WITNESS: That is correct.

21 BY MR. HICKS:

22 Q On page 36, starting on line 23 and going through
23 page 37, line 2 --

24 A 36, line what?

25 Q 23, and going through page 37, line 2, would you

1 read through that quickly and then look up when you have read
2 it?

BU5, Side 2 3 I am not clear what your answer was before, but was
4 the basis for that a conversation -- what is that based on?
5 A conversation you had with anybody in particular?

6 A With Jimmie Green.

7 MR. DAVIDSON: I would like at this time to renew
8 my motion to strike both of the portions on which you have
9 just elicited testimony because I think you reinforced what
10 Mr. Bachmann and I adduced, which is that this is all hearsay.

11 MR. HICKS: Okay. And I will state at this point
12 that I don't think it is hearsay at all under the federal
13 rules of evidence.

14 MR. DAVIDSON: I think in that case you should point
15 to the rule you were relying upon and we might take a look at
16 it.

17 MR. HICKS: It is rule 801(d) 2 of the federal
18 rules of evidence and I don't see any purpose -- I mean, you
19 are welcome to look at it if you'd like --

20 MR. DAVIDSON: I would like to see it because I
21 don't think you are right.

22 MR. HICKS: While you are looking, I am going to
23 continue with my questions.

24 BY MR. HICKS:

25 Q On page 39 -- never mind, I'm sorry. Strike that.

1 I think you testified that on Wednesday, the 15th
2 of July, you went by to pick up your brass. is that correct?

3 A That is correct.

4 Q What time was it when you went by to pick up your
5 brass?

6 A It was 7:00 o'clock in the morning, the regular
7 work time.

8 Q Where did you go when you noticed your brass was
9 not there --

10 MR. BACHMANN: I am going to object to this line
11 of questioning. I questioned Mr. Stiner extensively on those
12 events, specifically the very question you asked him and this
13 is really getting very cumulative and very repetitious.

14 MR. DAVIDSON: Also, you have a fundamental
15 misstatement as to the meaning of this rule, sir. If you wish,
16 we can discuss it now.

17 MR. BACHMANN: I have an objection on the table.

18 MR. DAVIDSON: I'm sorry, Mr. Bachmann. You are
19 absolutely correct.

20 MR. BACHMANN: I asked Mr. Stiner about his brass
21 and precisely where he went, who he spoke to. I don't see the
22 point in this line.

23 Go ahead and ask your question.

24 MR. DAVIDSON: I think perhaps we ought to ask
25 what the point of the line is.

1 MR. HICKS: I am going to tie down some information
2 that I don't think was tied down.

3 BY MR. HICKS:

4 Q Where did you go next?

5 A I went from the time office --

6 Q I'm sorry. Where did you go next after you noticed
7 your brass wasn't there?

8 A I went to the time office.

9 Q And what time was it when you were there at the
10 time office?

11 A It was approximately two or three minutes after
12 seven.

13 Q And was that the point at which you were told that
14 you were discharged?

15 A That is the time.

16 Q What' is your normal time for reporting to work?

17 A Seven o'clock.

18 MR. HICKS: I have no further questions on excerpt
19 one.

20 MR. DAVIDSON: Could I just have a followup question,
21 Mr. Hicks, on one of your questions?

22 MR. HICKS: Sure.

23 BY MR. DAVIDSON:

24 Q This will be short. There is really only one
25 question.

1 THE WITNESS: Well I got to thinking about it after
2 I got to the

3
4 After I thought about it or had time to think about
5 it and got to reviewing over what I did look at, it dawned
6 on me that the main thing that I had forgotten was the page
7 numbers that you had asked me about, you know what I am
8 talking about?

9 BY MR. HICKS:

10 Q Are you talking about pages 35, line 2 through
11 page 41, line 6 and page 46, line 9 through page 49, line 6?

12 A I said I think what was asked of me was did I review
13 this and in my mind, you know, I was trying to think of
14 everything that I did look at, you know, and I don't think --
15 I think I said that I didn't look at this --

16 Q When you say "this," what are you referring to?

17 A I am talking about CASE Exhibit Number 666, but I
18 did look at portions of this, only the foot -- the pages that
19 we mentioned.

20 MR. DAVIDSON: I really have only one question for
21 you, Mr. Stiner, with respect to this and it relates only to
22 the syntactical exercise that Mr. Hicks asked you to engage
23 in -- that is the exercise in hypothecation and speculation
24 about what would happen to the sentence if you substituted
25 a word that wasn't there for the one that was.

1 BY MR. DAVIDSON:

2 Q You may remember that he asked you at page 46 to
3 substitute the word "pipe" for the word "hanger" and he said
4 that if you did that, which by the way you have not done in
5 the sworn testimony, wouldn't that make it right?

6 And I want to show you something: the word "hanger"
7 appears twice in that sentence. Now I know there is a
8 parenthetical but let's drop that out to make the sentence
9 shorter because I don't think it will change the meaning.

10 Do you see the sentence as it reads now? It says,
11 and I am going to read it the way it is now without the stuff
12 in the parentheses -- "The hanger which had the gouge mark
13 was also a counterfeit hanger."

14 Now let's engage in the exercise that Mr. Hicks
15 invited you to do, an exercise that I don't think is an
16 appropriate means of testimony I might add, and let's change
17 the word "hanger" to "pipe," now can you read the sentence
18 without the parenthetical just as I did but using the word
19 "pipe" -- read it aloud.

20 A "The pipe which had the gouge mark was also a
21 counterfeit hanger."

22 Q No, you didn't change both words. He asked you to
23 change the word "hanger" so change it both times.

24 A "The pipe which had the gouge mark was also a
25 counterfeit pipe."

1 Q Yeah, it doesn't make any sense, does it?

2 A No.

3 Q It is not what you meant, is it?

4 A It is not what I meant at all, no.

5 Q And you didn't say that, did you? That it is a
6 counterfeit pipe?

7 A Oh, no. I meant that it was a gouge mark in a pipe
8 that had a counterfeit hanger.

9 Q I am with you. I understand. It is not accurate,
10 is it?

11 A No, it is not accurate.

12 Q No, it is not.

13 MR. HICKS: When you say "it," what are you referring
14 to?

15 THE WITNESS: The word -- the statement "The hanger
16 which had the gouge mark." It should be "the pipe which had
17 the gouge mark."

18 MR. DAVIDSON: What he is saying is the sworn
19 testimony is not accurate.

20 THE WITNESS: Which I believe was the reason for
21 my termination. Up to that point, it would be correct and
22 then it should say it also had a counterfeit hanger. That
23 would have been more correct.

24 MR. DAVIDSON: Okay.

25 As to your reference to the federal rule, we have

1 looked at it and thank you for providing a copy and it relates
2 to the possibility of using the admission of a party
3 opponent of a statement made within the scope of the authority
4 and employment of that agent.

5 We have not established that the individual whose
6 hearsay statement you wish to rely upon had that necessary
7 relationship by any credible testimony in the record nor have
8 we established his position in either TUGCO -- that is
9 Texas Utilities -- or Brown & Root, so that his statements
10 could be binding upon them and be statements of that party.

11 Therefore, I don't think that the rule applies at
12 all unless of course you are prepared to make that proffer
13 and substantiate it with evidence in the record as to who
14 that individual is and their status and position in the
15 company.

16 MR. HICKS: I am not sure which individual you are
17 talking about right now.

18 MR. DAVIDSON: I'm sorry. Let me try to be more
19 explicit. You will recollect, Mr. Hicks, that we moved to
20 strike two portions of the testimony offered here on the
21 grounds that it was hearsay and you said, well, it is not
22 hearsay because rule 801(d) I think it was permits this
23 testimony and you left it at that.

24 You didn't deign to explain yourself to us or
25 otherwise educate me as to the matter but you were good

1 enough to --

2 MR. HICKS: I thought you were already so educated
3 and I did not need to educate you.

4 MR. DAVIDSON: I am going to take that as a
5 compliment despite the snide tone in which it was said and I
6 think that we don't really need that, Mr. Hicks. We are
7 talking as one professional to another, both people who have
8 a job to do here and we are trying to make a record and not
9 score points like children.

10 MR. HICKS: I agree wholeheartedly.

11 MR. DAVIDSON: Then put it into practice. 801(d)
12 requires that the statement that you wish to rely upon and
13 avoid a hearsay objection with, the one that is made by a
14 party opponent. Now that has not been established here or
15 that it be made by an agent authorized to bind that party
16 opponent. That hasn't been established here.

17 We haven't established who the individual is. We
18 haven't even got his identity as to the person source of
19 some of this information.

20 And moreover, to the extent that we have established --
21 I'm sorry, that is the secretary's husband. That is the one
22 we haven't established.

23 The other one, of course, is Jimmie Green, but I
24 do believe that the testimony here will show that Jimmie Green
25 is not a management person. He is not a supervisory person

1 of a rank sufficient and high enough to fall within that
2 category of agent who is authorized to speak and bind, and
3 therefore you don't meet the requirements of 801(d).

4 Therefore, I think while your attempt to reuse the
5 rule was made in good faith and I think it was a legitimate
6 attempt to say what is otherwise defective testimony, I think
7 the rule does not save you. That is all I am saying.

8 MR. HICKS: I disagree.

9 MR. BACHMANN: The Staff would like to make it
10 clear that we oppose the motion to strike because we wish to
11 have Mr. Stiner's testimony not to the truth of the matters
12 asserted but merely that Mr. Stiner testified that Mr. Green
13 told him that he had a memo.

14 MR. DAVIDSON: I understand that, Mr. Bachmann and
15 if you will recollect, I did not object to --

16 MR. BACHMANN: My opposition to your motion?

17 MR. DAVIDSON: No. To having that received for
18 that limited purpose, but Mr. Hicks insisted it was evidence
19 and that it should be for the truth of the matter asserted
20 and that is why the hearsay objection and the motion to
21 strike was made.

22 I certainly, if he were to join you in your view,
23 would of course withdraw my motion and my objection, but since
24 he hasn't done so, I had to renew it and also contest his
25 assertion, which I think was improper of the saving by

1 rule 801(d) of the federal rules of evidence.

2 MR. BACHMANN: I would like to state for the record
3 that it is now almost ten minutes after 10:00 p.m. at night
4 and I would like to ask Mr. Stiner if after we take a break
5 for our much belated dinner, whether he feels physically and
6 mentally well, or rested, or whatever to continue on until
7 we finish or whether he would prefer to end this part of the
8 deposition now and wait until tomorrow morning to resume.

9 THE WITNESS: How long are we talking about?

10 If it is another four hours, no. But if we can
11 get overwith pretty speedily, you know, I will try not to
12 ramble on about anything.

13 MR. BACHMANN: How much more, assuming we could
14 break for food -- about how much more time?

15 THE WITNESS: Oh, a couple more hours.

16 MR. BACHMANN: You feel pretty certain?

17 THE WITNESS I have a headache but I am fixing to
18 take something for that.

19 MR. DAVIDSON: Do you think maybe dinner might
20 renew you a little bit because I think we have some food
21 for you? Okay.

22 Miss Reporter, I think --

23 MR. BACHMANN: We will renew the question to
24 Mr. Stiner when we come back and then if he still feels
25 all right, then I guess we can proceed on that basis.

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MR. DAVIDSON: Thank you Mr. Bachmann, Mr. Hicks.
Mr. Hicks, that's fine.

(Dinner break.)

End 18.

(10:12 p.m.)

mgc 19-1

LATE EVENING SESSION

(10:55 p.m.)

MR. DAVIDSON: On the record.

During the recess that we had, Mr. Bachmann and Mr. Hicks and I had a brief discussion in which we agreed that with respect to Excerpt No. 2 -- that is, H. Stiner Exhibit 2 -- that because of the NRC Staff's more intimate involvement in that alleged episode, that Mr. Bachmann might go first in his questions with Applicant reserving an opportunity after his examination to do cross.

With that statement, I would like to ask Mr. Bachmann to proceed.

EXAMINATION

BY MR. BACHMANN:

Q The first thing I would like to do, just for the record, would be to have Mr. Stiner state his physical condition about proceeding on.

A I feel like a new man now after refreshment and food. We can carry on for quite some time now. The headache went away.

Q Thank you. We will be referring now to the Exhibit which is now H. Stiner No. 2, and I would like to refer generally to this document and probably on page 47, the first two lines, first sentence.

mgc 19-2

1 Mr. Stiner, to the best of your recollection,
2 what date did you first make contact with the NRC?

3 A Sometime in August. I couldn't pinpoint
4 the exact date.

5 Q This is August of what year?

6 A Of '81.

7 Q Were you still employed by the --

8 A No. I had been terminated. I had been
9 terminated at that time for several weeks.

10 Q Did you contact the NRC?

11 A Yes, I did.

12 Q Did you arrange a meeting with the NRC?

13 A Yes, I did.

14 Q Where was that first meeting held?

15 A The first meeting was held in Hurscht,
16 Texas.

17 Q Where specifically?

18 A It was held at an attorney's office,
19 Roger Gillmore.

20 Q Could you spell that name, please.

21 A I don't know how to spell it.

22 G I L L M O R E (spelling)?

23 MR. DAVIDSON: It's probably one L, I think.

24 THE WITNESS: Could be.
25

mgc 19-3

BY MR. BACHMANN:

Q Who suggested the meeting be held there?

A I had had a conversation with Betty Brink, and I told her that I didn't feel comfortable with the way things, you know, would be handled, and that I would like somebody, you know, on my behalf to be present, in other words, so they could listen to what I told them and make sure to do a follow-up and to make sure that what I told them was taken care of.

Q Who is Betty Brink?

A She is a woman that I got -- I got her name from one of the employees at the Equal Employment Opportunities Commission. She gave me her name and said, "Well, there's nothing we can do about them terminating you," and she gave me her name, so I contacted her, and I told her what the situation was and she said, "Well, let me come down and I'll talk to you about it, and she said, "There's a couple of people that are still involved in the hearings and what have you."

Q Did you talk to her before you first contacted the NRC?

A No.

Q Did you talk to her before you arranged for the meeting, the actual physical meeting with the NRC people?

mgc 19-4

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A Yes.

Q At that time, did she suggest that you tell the NRC to meet you at Mr. Gilmore's office?

A I can't remember if it was her or Juanita.

Q You had already talked to Juanita about this, too?

A She had talked to Juanita. Juanita had talked to me on the phone and said that they would like for me to come up so they could talk to me and find out what had happened, you know.

Q Okay. So you had, by the time you had arranged for the meeting with the NRC inspectors, you had talked to Betty Brink and Juanita Ellis?

A That's right.

Q And one or the other of them had suggested that you meet in Mr. Gilmore's office?

A That is correct.

Q Did you inform the NRC inspectors that they were going to Mr. Gilmore's office?

A I don't think I told them that that's where we would meet. I think they called either Juanita or Betty. I'm not quite sure. I really don't remember who actually told them to meet there.

Q But you think either Juanita or Betty were the ones who informed them where to meet you?

mgc 19-5 1

A I'm thinking it was Juanita, but I'm not
2 sure.

3 Q Did you or anyone inform the inspectors
4 that there would be anybody but you at the office?

5 A I never told anybody who would be there.

6 Q Now who was there at this meeting?

7 A Betty Brink, Juanita Ellis, Roger Gilmore,
8 Dick Valk, --

9 Q Who was he?

10 A Somebody with CEFUR, a group called
11 C E F U R (spelling).

12 MR. HORIN: A former intervenor in the
13 proceeding.

14 THE WITNESS: Yes.

15 BY MR. BACHMANN:

16 Q Was Mrs. Ellis' husband there?

17 A No, I don't believe he was there. You know,
18 he stays in the background. If he was there, I didn't
19 notice him. He wasn't in the immediate hearing room. I
20 think that is all, other than Jim Gagliardo and Mr. Driskill.

21 Q Was anyone taping this meeting?

22 A Juanita had a tape recorder going, and I
23 don't know what happened to the tapes or anything.

24 Q Was that the only tape recorder that you
25 were aware of?

mgc 19-6 1

A That's the only one that I was aware of.

2

Q So there could have been others? Could

3

there have been other tape recorders?

4

A Yeah, there could have been other ones.

5

Q Has Juanita mentioned anything to you about

6

that tape after the meeting?

7

A Well, not really. It more or less slipped

8

her mine, you know. She hasn't said anything one way or

9

the other about it.

10

Q She didn't indicate to you whether or not she

11

got a good tape or a bad tape or anything?

12

A No.

13

Q Mrs. Juanita Ellis would be the person to

14

have the tape?

15

A That is correct.

16

MR. BACHMANN: At this point, the Staff would

17

like to state for the record that we require a copy of

18

this tape if it still exists. I would like to represent

19

that the Staff Counsel was informed by Mrs. Ellis that,

20

as far as she knew as of this afternoon, the tape still

21

does exist, although she could not immediately locate it.

22

This is in a telephone conversation.

23

We believe that this tape, assuming its

24

audibility, is sufficient -- is the best evidence as to

25

what went on at the meeting, is better evidence than what

mgc 19-7

1 Mr. Stiner has testified here after a number of years
2 have gone by, and we are requesting on the record that
3 we be provided, that the NRC Staff be provided a copy
4 of the tape as soon as possible, and failing that for
5 whatever reason, we would request a subpoena for the tape
6 at the earliest possible time, so that the Staff may hear
7 and understand the conversations that went on, including
8 what seems to be extremely important, the tone of the
9 questions and answers that happened at the meeting.

10 Staff has no further questions at this time,
11 subject to whatever the counsel for other parties may say.

12 MR. DAVIDSON: Thank you, Mr. Bachmann.

13 Actually, I had a question for clarification
14 for Mr. Hicks.

15 I am unaware of the law of Texas with regard
16 to the taping of conversations, and I ask Mr. Hicks, is
17 there any criminal sanction for undisclosed recording of
18 conversations?

19 MR. HICKS: Not that I'm aware of.

20 MR. DAVIDSON: Okay. I ask the question,
21 Mr. Hicks, because I am not a member of the Texas Bar, and
22 I am unfamiliar with the laws of this jurisdiction, and I
23 didn't wish to have any testimony be taken here of
24 Mr. Stiner, who is not represented by counsel, where he
25 might be testifying not so much for himself, but might be

mgc 19-8

1 testifying about general conduct unless he had some advice
2 in that respect.

3 MR. HICKS: Mr. Stiner wasn't testifying
4 that he tape recorded anything and didn't disclose it,
5 so he doesn't have that worry.

6 MR. DAVIDSON: That's true.

7 MR. BACHMANN: I'd like to make one point
8 of clarification, if I might.

9 The Staff requests the original of
10 Mrs. Ellis' tape. We would also request that Mr. Stiner
11 convey that to Mrs. Ellis at the earliest possible
12 opportunity.

13 THE WITNESS: I will do that.

14 (Discussion off the record.)

End 19

20pb1

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BY MR. DAVIDSON:

Q Mr. Stiner, to your knowledge were there any other tape recorders in operation during this meeting to which you have testified?

A No.

Q Do you know whether Mr. Gilmore taped that conversation?

A No.

Q Is it possible that he might have?

A I don't know.

Q Do you know who Mr. Gilmore was representing at that meeting?

A I believe he was with CEFUR.

Q He was with CEFUR. He was not your attorney?

A He was not my attorney.

Q Whose suggestion was it to have the meeting held at Mr. Gilmore's office?

A Mine.

Q Is was your suggestion?

A It was my suggestion.

MR. HICKS: May I ask a question? Are we starting to switch back and forth here?

MR. BACHMANN: No, I'm finished.

MR. HICKS: Oh, okay. I didn't hear that. I didn't know that he had said he was finished.

1 MR. BACHMANN: No, I said, based on that the
2 Staff was through.

3 MR. DAVIDSON: I believe I heard Mr. Bachmann
4 say, having established that there was a tape recording --

5 MR. HICKS: That's all right. It just passed
6 me. I'm not arguing.

7 MR. DAVIDSON: I believe Mr. Bachmann concluded
8 his questioning on the grounds that he said there was a
9 tape recording of this meeting, and he felt that the best
10 evidence of the meeting, particularly since the tone with
11 which certain statements was made was put in issue by Mr.
12 Stiner's statements that the best way to replicate that was
13 not Mr. Stiner's recollection. Indeed, that perhaps might
14 even not be any way at all. But rather to have a tape
15 recording of it.

16 And I think he said that having determined
17 that one existed, he wanted it.

18 MR. HICKS: I heard all that, except I didn't
19 get out of it that you were stopping.

20 MR. DAVIDSON: And then Mr. Bachmann said,
21 having established that he was now prepared to leave the
22 record alone.

23 BY MR. DAVIDSON:

24 Q But my question was, whose idea was it to
25 meet in Mr. Gilmore's office.

20pb3

1 A I spawned the idea.

2 Q You spawned the idea?

3 A Meaning that I wanted to meet somewhere where
4 we could all be, you know, in other words not down in
5 Walnut Springs where all my neighbors were going to see, you
6 know, all these people come in, you know, with government
7 cars and what have you. And I believe Juanita is actually
8 the one who set the meeting up at Gilmore's office.

9 Q Well, did you suggest to her, you said, listen
10 I think we should have it at Gilmore's office? Or did you
11 say --

12 A No, I just said we need to have it someplace
13 where we could meet, you know, and not be down here where
14 everybody can see what's going on.

15 Q When you say down here, what do you mean?

16 A Walnut Springs.

17 Q And what is Walnut Springs? That's not the
18 location of the NRC --

19 A That's where I live.

20 Q In other words, you didn't want to have it
21 at your house?

22 A Right, correct.

23 Q Did you consider going to the NRC office?

24 A Never thought about it really.

25 Q You never gave it second thought?

20pb4

1 A Never gave it a second thought.

2 Q Did you discuss going to the NRC office with

3 Juanita?

4 A No.

5 Q Did you discuss going to the NRC office with

6 anybody else?

7 A No.

8 Q Did anyone suggest to you you shouldn't go

9 to the NRC office?

10 A No.

11 Q And you were not reluctant to go to the NRC

12 office?

13 A No. They said we would hold it at the NRC

14 office, we would go to the NRC office.

15 Q No reason not to go down to visit them?

16 A No reason not to, no.

17 Q Have you ever filed or raised a complaint with

18 a government agency before? I mean, other than the one

19 you have lodged with the NRC.

20 A I don't believe I have. Maybe indirectly when

21 I was in the military I might have had some kind of, you

22 know, complaint to my CO or something.

23 Q Did he come to your house?

24 A Are you talking about Driskill or --

25 Q No, when you wanted to make your complaint

20pb5

1 to the CO in the Army.

2 A Oh, no.

3 Q Did he come to your bunk?

4 A No.

5 Q Did you consider taking it someplace else
6 other than his office?

7 A It wouldn't have mattered to me, anyplace.

8 Q But wouldn't the normal place to go to his
9 office, the CO's office?

10 A Sure, or wherever he would suggest that we
11 would meet.

12 Q Did you ever file a claim with any government
13 agency?

14 A No.

15 Q You never filed for unemployment insurance?

16 A Well, yes, okay. I guess I have.

17 Q You have? Workman's compensation?

18 A Never any working comp.

19 Q But you filed for unemployment?

20 A Unemployment.

21 Q Did they come to your house?

22 A Food stamps.

23 Q Okay, excuse me. List all of them, if you
24 will.

25 A Just the unemployment and the food stamps is

1 all I can think of right now.

2 Q Did they come to your house?

3 A No, I went to their office.

4 Q You went to their office. That's normally
5 the way you file a claim or bring something to the attention
6 of the government that you want action?

7 A Right.

8 Q When you discussed with Juanita holding the
9 meeting somewhere else, didn't you suggest going to the
10 NRC office?

11 A I don't recall the conversation that we had
12 about it, and how it actually got around to -- or out of the
13 office of the NRC. You see, I called the Washington office
14 by phone.

15 Q Oh, you did.

16 A And they sa'd they would have somebody contact
17 me back.

18 Q And when did you call the Washington office?

19 A Like I say, I can't place a date on it. It's
20 in the phone bills, you know. But I don't remember.

21 Q When you say it's in the phone bill, what do
22 you mean?

23 A In other words, the phone call that I placed
24 to the Washington office would be on my phone bill for that
25 month.

20pb7

1 Q Because it's a toll charge.

2 A Right.

3 Q Well, just for the moment, let's see if we
4 can't pin down the date. Do you remember at all or have
5 any idea when it might have been?

6 A Not really.

7 Q Well, we've had some testimony here that the
8 meeting you had with the NRC in Texas here at Mr. Gilmore's
9 office was, did you say in August?

10 A Well, it could have been July.

11 Q It could have been July.

12 A I am real vague as to when we actually had
13 the meeting.

14 Q All right. It was sometime in July or August.
15 Did the call to the Washington office of the NRC precede
16 the meeting? That is, come before.

17 A Yes.

18 Q So it must have been earlier than that?

19 A It was earlier than that by a couple of weeks
20 I'm sure. Maybe three weeks.

21 Q Three weeks earlier.

22 A When I called the Washington office, they
23 said they'd have somebody call me back. I've got a list
24 of people's names who I talked to, Botchum, I think it was.
25 Anyway, they said they would have somebody contact me back.

20pb8

1 The very next day they had someone call me and they said,
2 well, we're kind of tied up here on this other case. We'll
3 get somebody down there to you.

4 And I think it was about a week later is
5 when Driskill called and said, is there someplace that we
6 can meet you to set up an appointment. And I think that's
7 when I called Juanita and told her that they wanted a place
8 to set up. And I think that's how the meeting at the Harsht
9 office got set up.

10 Q Oh, now I understand. If I understand the
11 chronology, then your call to the NRC -- that is, your first
12 call -- was in what, June or early July? This is to the
13 Washington office.

14 A I am really so vague on it, I can't remember.

15 Q Well, we walked it back. You told me the
16 meeting that you had occurred either in early August or
17 late July. That is, the meeting in Mr. Gilmore's office.
18 And you told me that based on everything you've said here
19 that your call to Washington took place two to three weeks
20 earlier than that. And that would put it back to the early
21 part of July or the latter part of June. Isn't that correct?

22 A I'm thinking it was two or three days after
23 I was terminated that I called the Washington office.

24 Q And not before?

25 A Not before because in the meantime I was

20pb9

1 calling attorneys in the Department of Labor and, you know,
2 the EEOC, and all the government agencies that regulate
3 things like that.

4 Q You were unhappy about being terminated?

5 A Most definitely.

6 Q And you thought that you had been improperly
7 terminated.

8 A That's correct.

9 Q Were you anxious to get your job back?

10 A Sure.

11 Q Did you think that if you made this complaint
12 to the NRC that perhaps you could get your job back?

13 A Yeah, I felt like I could.

14 MR. DAVIDSON: I have no further questions
15 on what has been marked as Stiner Exhibit 2, also known as
16 the second excerpt.

17 Mr. Bachmann, you've reserved the right to
18 continue your cross-examination on this portion. And if I
19 have opened up any area that you feel you wish to pursue
20 at this time, I assume, Mr. Hicks, that that would be
21 appropriate.

22 MR. HICKS: It's okay with me.

23 (Pause.)

24 MR. BACHMANN: I have one question based on
25 the questions asked by Mr. Davidson.

20pb10

1 BY MR. BACHMANN:

2 Q I believe you just testified that you had
3 called Washington and they called you back within a day; is
4 that correct?

5 A It might have been that night.

6 Q Okay. And then they said that -- and they
7 got back to you within about a week to set up a meeting with
8 you; is that correct?

9 A Driskill did.

10 Q Do you consider that responsive? I mean,
11 a responsive manner?

12 A At the time I didn't.

13 Q Why not?

14 A I felt like something that important should
15 have been taken care of right then. Of course, who am I
16 to say?

17 Q Well, let me just clarify it. What specifically
18 did you say that you considered so important?

19 A Well, the fact that they were violating
20 the procedures and I'm sure they had it tape recorded because
21 I could hear the little beeper going off when I talked to
22 them. I just told them basically that there were things
23 happening at Comanche Peak that weren't quite right, and
24 that I needed to talk to someone. And that I had been
25 terminated because of turning in the gouge mark.

20pb11

1 And they said, well, you know, all of our
2 investigators are out at some other nuclear power plant.
3 They said which one, but I don't remember which one. And
4 that they would get back in contact with me, which either
5 that night or the very next day, is when I got a call from
6 Driskill. And he is the one that said he was going to be
7 tied up for a week. It could have been even possibly two
8 weeks.

9 It took him a long time, in other words, to
10 get around to finding out what the problem was.

11 MR. BACHMANN: I have no other questions at
12 this point.

13 BY MR. DAVIDSON:

14 Q One question. Mr. Stiner, I take it that
15 what you mean is, whatever the response time you got from
16 the NRC, it wasn't quick enough for you.

17 A For me, right.

18 Q It wasn't quick enough for you.

19

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end 20.

21pbl

1 MR. H'CKS: I have no questions.

2 MR. DAVIDSON: I think these proceedings must
3 be at an end unless Mr. Bachmann has further questions. I
4 believe I concluded my cross, so therefore, I probably have
5 no opportunity for further questions.

6 MR. BACHMANN: The Staff has nothing else
7 to say except the fact that even though we did ask the
8 questions and mentioned the tape, we have not waived our
9 right to object to the relevancy of the entire testimony
10 concerning the Staff.

11 MR. DAVIDSON: You're talking about excerpt
12 number 2, Mr. Bachmann?

13 MR. BACHMANN: That's correct.

14 MR. DAVIDSON: Do you wish to renew at this
15 time your motion to strike?

16 MR. BACHMANN: Yes, we renew the motion to
17 strike, and also the objection as to the fact that it's
18 not relevant. We recognize, we have requested the tape.
19 This is just preserving our right to object, that's all.

20 MR. DAVIDSON: These proceedings are closed.
21 And the evidentiary record of this witness is now made.

22 (Whereupon, at 11:25 p.m., the taking of
23 the deposition was concluded.)

24

25

HENRY STINER

CERTIFICATE OF PROCEEDINGS

1
2
3 This is to certify that the attached proceedings before the
4 NRC COMMISSION

5 In the matter of: Texas Utilities Electric Company, et al.
6 Deposition of Henry Stiner

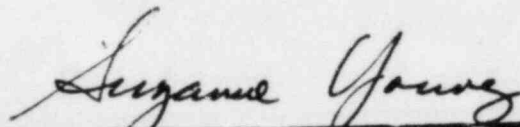
7 Date of Proceeding: Friday, July 13, 1984

8 Place of Proceeding: Glen Rose, Texas

9 were held as herein appears, and that this is the original
10 transcript for the file of the Commission.

11 Suzanne Young

12 Official Reporter - Typed

13 

14 Official Reporter - Signature

*Erik ~~St~~ Lobb
Cliff H. Steiner #1*

who supervised her work would tell you the same thing.

2 Q. All right. So you had gone back to work at Comanche Peak. How
3 did your second termination come about? ↓

4 A. We were worked on constructing a hanger, and when Jimmy Green, my
5 foreman, did a final inspection on it, prior to calling QC for their final
6 inspection, he noticed a gouge mark in the pipe, one of the pipes the hanger
7 was holding.

8 Q. How many pipes does one hanger hold?

9 A. It may hold up several pipes at one time. I think the most I've
10 welded on myself was where there were about six pipes to one hanger.

11 Q. Please continue.

12 A. The gouge mark was about 4" long and 1/4" deep and 1/8" wide (the width
13 of a grinding disc). My foreman came up and whispered to me, can't you take
14 one of the 332 rods and make a downhill pass until you get it filled up, then
15 grind the surface off and spray it with some of that can of red paint there,
16 so nobody'd ever know it was there? I told him, I won't say that I won't,
17 Jimmy, but I'd rather not. He said don't worry about it, go help Buster (another
18 fitter), I'll get somebody else. He left, I assumed to go get somebody else.
19 While he was gone, I called Darlene on the little intercom system and told
20 her what was going on and she said that she was in the hanger department
21 and could write an NCR on the pipe, but it would be better to have somebody from
22 the piping department to do it. Then, there was a pipe welder there by the
23 name of Alvarez and I sent him upstairs; he found Susie Newmeyer, a pipe in-
24 spector, and she came down there to look at it. By then, my foreman had already
25 gone upstairs and Cliff Brown was with him. Susie couldn't find the gouge

mark on the pipe, so I crawled up on the scaffold and was showing her, pointing to where it was at, when my foreman and Cliff Brown came in through the doorway where we were. They saw me, didn't say a word, just turned around and left. I believe it was on a Friday that this all took place. That same day, I had informed my foreman that I had to take off Monday to go to the doctor to have some treatment on my back and that I was also having some flu-like symptoms that I'd also have taken care of when I went. I told him I'd try to make it back in by noon Monday, but when I went to the doctor, apparently there was enough wrong with me that he decided to restrict me to home, because some of the medication he gave me would make me drowsy and it would be dangerous for me to work out in the construction plan. So I called my group's secretary and let her know that I had been temporarily incapacitated by my doctor and that I didn't know when I would be released to go back to work but I felt like probably Tuesday or Wednesday I would be all right. She said O.K., don't worry about it, you called in and you've got a doctor's excuse. Well, I believe, Wednesday of that week, which would have been the third day that I had missed, I decided to go in and see the medics at work. I was still sick, even when I went in and was still taking that medication, but I thought it would be better for them to see me and tell me themselves that I ought not to be working, so they wouldn't be able to terminate me like they did the first time. When I got there Wednesday I was already terminated, so I requested to talk to my foreman, Jimmy Green, to find out why.

I was terminated under a doctor's care and Jimmy Green talked to me and I told him I had a doctor's excuse and asked him why I was being terminated. He said, I don't know, Henry; he said a three-part memo came down from Ed

3 Hofford, my general foreman, and he said that all it said was to fire Henry
4 Stiner. Then I requested to talk to Ed Hofford; Jimmy Green took me into
5 the field to get my tools and we ran across George Bunt, my gold hat (who
6 was above Ed Hofford). I asked him if there was any way they could reconsider
7 terminating me; I almost begged the man not to fire me because I needed the
8 job to pay my bills. At that time I told them about something else that made
9 it necessary for me to be off work, because I was afraid they would think I
10 was sluffing off from work.

11 Q. You mean, something besides what you've already told us about?

12 A. Yes. What I told them was true as far as it went, but there was one
13 other complication I hadn't wanted to mention to the secretary when I called
14 in. I told George Bunt and Jimmy Green about the other problem. I had had
15 some warts removed off of my privates that rendered me literally incapable of
16 walking, and at that time I was even having to walk around funny to even get
17 around at all. I told him that as he could see, the only reason I had come
18 out there that day was so that I wouldn't get terminated for excessive absences;
19 I felt like if I got a release from the medics there onsite that they wouldn't
20 terminate me. He replied that that's all good and well, but Ed Hofford would
21 have to make the decision about whether I came or went. About that time Ed
22 Hofford came out, and George Bunt motioned for him to come over there, and he
23 said for me to tell him what I had just said to him, so I re-explained everything
24 to Ed Hofford. They went to kicking rocks around and looking down and wouldn't
25 look me in the face. By that time George Bunt had already walked over behind
me and I was facing Ed Hofford, and Ed Hofford went to saying well, if I do
hire you back, we're not going to put up with this, we just can't have anybody

1 taking off when they get ready to. Then he looked up at what appeared to me
2 to be George Bunt and said something I can't say here -- "_____ him --
3 fire him." They told Jimmy Green to escort me out the gate. I was trying to
4 ask them, why am I being fired, I've got a doctor's excuse. They said they
5 didn't even want to talk to me.

6 I found out later from one of the secretary's husband that the secre-
7 tary had told him that a three-part memo had been sent down from Hal Goodson's
8 office to the gold hat over my gold hat to fire Henry Stiner. It didn't say
9 anything else on it, just to fire Henry Stiner. Then one was sent from George
10 Bunt's office to Ed Hofford's desk (in the same office) saying to fire Henry
11 Stiner, and Ed Hofford sent a memo to Jimmy Green to fire Henry Stiner. Jimmy
12 told me he didn't know what was going on, that I had stepped on somebody's
13 toes. Then I requested to see Mr. Scruggs, the Assistant Project Manager, and
14 I went in and told Mr. Scruggs the whole story. He said let me check into
15 it, I'll get back with you, you come back Monday to go to work, don't worry
16 about it, I'm going to check it out, don't worry about it, son. If you've got
17 a doctor's excuse and the medics won't let you work using that medication,
18 they can't do that. Monday when I returned to work my brass wasn't waiting for
19 me and as far as the time office knew, nothing was ever mentioned to them about
20 hiring me back. I tried to get back in contact with Charlie Scruggs and he
21 didn't want to talk to me, according to the secretary. Then I requested to
22 talk to Mr. Dewey Rankum, the Project Manager. When I went in to talk to
23 him, it was like I was a piece of trash that was just getting kicked over
24 to the side, and he was telling me that there were two sides to every story
25 and that he would call me and let me know as soon as he heard the other side.

I waited two or three weeks and never received a phone call, so I called Mr. Frankum back on the phone and told him I sure did need my job and asked if he had found out anything about what I had told him. He got very loud and rude on the phone and told me that he would call me back when he found out something and that he would suggest that I not call him back anymore because he told me that he'd call me, and he hung up on me. I never heard anything else from him. Several times I tried to contact Mr. Ray Yockey, the Personnel Manager, to get my records corrected, because every time I'd go out there and put my application in, everybody else signed the rehire slip except Mr. Yockey. All I was told at the Brown & Root employment office was that Mr. Yockey wouldn't sign it so they couldn't hire me. They wouldn't tell me why or anything.

So I called Mr. Yockey on the phone and requested that he change his mind and wanted to know why he wouldn't rehire me and he told me that the decision had been made. He also told me when I asked him who was the one that made the decision and if there was anyone else I could talk to. He said "you're talking to him." I said, as you can see it's a shame for a man to be terminated from his job for being in the hospital sick and that the records don't reflect the truth and I would like to have them changed so if I went someplace else to get a job, they wouldn't give me a bad work record. He said he could appreciate the fact, but that the records don't reflect and that he wasn't going to change the records. He said if you want a job you'll just have to go someplace else to get it. I told him that I had doctor's excuses and hand-written letters from the doctors, that I called in every day and that I had telephone receipts on that, and that I'd like to get the records

straight so that they could make a redecision on hiring me. He said he was not changing the records, the decision had been made. He kept saying the decision has been made, over and over again. He said they could hire people every day that had cleaner records than I do, and I told him, I thought I had a pretty good record. He said, well, as far as your work goes, you have a pretty good record, but as far as we're concerned we're just not going to change the records, and he hung up on me.

Then, I got all my doctor's excuses, along with surgical reports from the doctor, and a copy of the termination from the unemployment office where they were saying that the employer was saying that I was terminated the first time for a personal injury, which I sent to Mr. Yockey in a certified return receipt type of letter; he sent me a letter back that said something to the effect that I can appreciate what you are saying but the records don't reflect that, and it's up to the employer to decide whether or not an absence is excused or not excused, and in your case we do not wish to excuse your absences, so therefore your request for the records to be changed and for you to be reinstated to your old job are denied.

When I was fired that second time, both Darlene and I had the same kind of symptoms except she didn't have a backache. We both had fever. We both went to the doctor at the same time and the doctor said we had some kind of flu and gave us both shots and antibiotics, and gave me a muscle relaxer for my backache. It really made me drifty.

Q. Did Darlene go back to work at the same time you did?

A. Yes. When we got back, Darlene's brass was waiting for her, but mine wasn't. I was terminated but she was not. Darlene went to the medics

because she was still sick too. I never made it to the medics. Darlene was told to go on home, that she should not take the medication and try to work. We called the laborboard on the phone and they said they couldn't do anything. They said that was out of their jurisdiction because they could fire you for anything other than being black or white; if they didn't like your looks, they could fire you for that.

Q. On CASE Exhibit page 666D-30, at the bottom of the page, and on 666D-31, at the top of the page, it refers to Mary Ann Snyder-Burk. Is that the person you spoke with at the Labor Board?

A. Yes.

Q. Did you ever think the NRC investigators would make Ms. Snyder-Burk's name public?

A. No, I didn't. I wouldn't have done anything to get her in trouble.

Q. Do you think that she might get in trouble because of this?

A. I don't know. I hope not, but I'm afraid she might.

Q. Did you ever think the NRC investigators would make the names of the witnesses to your first personal interview with the NRC investigators public?

A. No. I would have thought that they would have been just as concerned with protecting the confidentiality of those people as they would be with protecting the confidentiality of the people accused of wrongdoing. I really don't understand how they make decisions about whose names to reveal and whose to keep confidential.

Q. You stated earlier that you believed the gouge in the pipe was the reason you were terminated?

A. Yes, I believe it was.

*Exh 1046
Conf. H. Steiner # 2*

Q. What are the effects of downhill welding?

A. You have slag, trapped inclusions, lack of fusion and various other undesirable weld conditions. There is a process for downhill welding, but it's not allowed on the jobsite at all.

Q. Is there a procedure that says you can't downhill weld?

A. I believe CPM 6.9 does, as well as 11032, 11065, and 10046.

Q. Is there anything further you'd like to say regarding the counterfeit hangers?

A. The hanger which had the gouge mark (which I believe was the reason for my termination) was also a counterfeit hanger. After I was fired for turning in a gouge mark to QC, I realized that this could happen to anybody and that it set up a situation where the rest of the workers would be more job-scared. After what happened to me, I realized why they were so job-scared and I realized something had to be done, not only for the things I had seen happen out there, but for the simple fact that they were setting up a situation where nothing would be turned in, it would all be covered up. And I knew that in my own craft and my own group of people that I worked with that was the situation. I got to thinking that if the same situation was happening with the other crafts (and I feel like they were because I had talked to other crafts and they told me they had the same problem.), something had to be done.

That's when Darlene and I decided to go to the NRC and report what we knew, even if it meant Darlene being terminated too. I don't really know why she hasn't been terminated already, other than that they may be scared it would incriminate them. That's the reason I believe they haven't terminated her yet.

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When I first talked to the NRC, they said that once a person came to the NRC that they should not be terminated. He said they had provisions set up for that so they wouldn't be terminated, that there's a federal law that says they can't fire you for it. He said that first off, they would try to keep our names just as a letter designation but that if Darlene was terminated there were provisions that took care of that. That's when we came out and told them everything. The first meeting they didn't tell me anything about this law. At that first meeting, Mr. Driskill told me that I couldn't tell anybody about this, because I might be biting off more than I could chew. He said they had had some witnesses that had been harrassed and that if it were to leak out I might even be assaulted or something -- he didn't say it in those exact words, but that's what I took it to mean. I told him that if he thought he was going to scare me into not making these allegations, he was wrong. I told him that was the reason these other people were present, because I didn't trust his office. Mr. Gagliardo had to clarify for Mr. Driskill what he was implying wasn't that he was trying to scare me off, he was just trying to make me aware that sometimes witnesses do get assaulted and harrassed and that his and Mr. Driskill's main concern when they do an investigation is the protection of the informer. He emphasized that Mr. Driskill didn't tell me in the right words. He had to clarify for Mr. Driskill. He knew that it made me mad.

22 Q. Did you feel that the NRC investigators really wanted to know what
23 you were concerned about?

24 A. No, I did not.

25 Q. Why not?

1 A. Because the whole time, on every occasion where they interviewed
2 either me or my wife, they took such a pessimistic outlook on every allega-
3 tion we told them about. They even tried telling us that people would be
4 prosecuted for some of these things -- that when I gave them names of people
5 to talk to out there, some of those people might even be prosecuted if they
6 did something wrong. That's the reason I didn't give them more names than
7 I did.

8 Q. Could you give us some specific instances of what you mean?

9 A. Well, about the gouge mark in the pipe, they said that unless I had
10 proof it wouldn't do them any good to investigate it. They said that if we
11 didn't have hanger numbers, and times, and dates, and names, that just the
12 fact that I could tell them where it was at wasn't good enough, that they'd
13 have to have all the information before they could do an investigation on
14 it. They let me know right there that I was barking up the wrong tree.

15 I asked Mr. Driskill what would be the outcome of the investigation.
16 I got to thinking that they might federally prosecute me for telling them that
17 I'd done some of those things. So he told me that probably there would be
18 a federal hearing in which Brown & Root and the Applicants would have high-
19 priced attorneys present that would take my past criminal record and just chew
20 me up and spit me out.

21 Q. Those were his words?

22 A. Those were his words. He said he knew that because he'd had to sit
23 in on some of those hearings and that they even did him the same way. So
24 in general, I just felt like they were just trying to get by as lightly as
25 they could, about every aspect of the whole investigation, just sluff the

whole thing off. They seemed very arrogant to me, and I just felt like they weren't going to do anything right from the start about our allegations. As it turned out, my assumptions were right. They didn't.

3
4 Q. Who else was present when Mr. Driskill made the statement that they
5 would chew you up and spit you out?

6 A. Richard Herr, the other investigator, and my wife Darlene.

7 Q. How did Mr. Driskill know about your past criminal record? Did you
8 tell him?

9 A. After he had mentioned it to me, as I recall I talked to him about
10 it some. He might have surmised it from something that had been said. I
11 don't remember specifically. I felt like at the time that the investigators
12 had already contacted the plant and found out that on my job record it said
13 that I had been convicted. That was just my gut feeling at the time.

14 Q. You stated that you felt that the investigators had already contacted
15 the plant and found out that on your job record it said that you had been
16 convicted? So Brown & Root was aware of your past record?

17 A. If they weren't, it was because they didn't look at my application.
18 I never made a secret of it. I'm not exactly proud of it, either, but I
19 didn't lie on my job application about it. I've made some mistakes in the
20 past, but I'm trying to stay on the straight and narrow now and make up for
21 those mistakes. And one thing I've never been convicted of is lying -- if
22 I had lied in the past, I might not have ever been convicted.

23 Q. You realize that you're placing yourself in a very vulnerable position
24 by testifying in these proceedings, don't you?

25 A. Yes, I do. I realize that what Mr. Driskill said may be right --

9-21-81

TO: RAY YOKEY

HERE IS A COPY OF MY
 DOCTOR'S EXCUSE'S FOR
 THE TWO DIFFERENT DAYS
 I WAS TERMINATED.
 12-5-80 + 7-15-81
 ALONG WITH THE DOCTOR
 EXCUSE ARE COPIES OF THE
 DOCTOR'S REPORT. I RESPECTFULLY
 REQUEST THAT YOU REINSTATE
 ME AND CHANGE THE
 TWO TERMINATION SLIPS,
~~THE~~ THAT WERE FILED IN
 YOUR OFFICE. I FEEL SINCE
 I WAS TERMINATED FOR
 THESE TWO EXCUSED
 ABSENCES THAT THE
 DOCTOR'S EXCUSE NEVER
 REACHED YOUR OFFICE.
 PROMPT ATTENTION IN
 THIS MATTER WILL BE
 BENEFICIAL, SINCE I WAS
 TERMINATED FOR WRONGFUL
 REASON OF DISCHARGE.

Amy A. Steiner

H. Steiner - 4

BRAZOS MEDICAL & SURGICAL CLINIC

305 W. PEARL

GRANBURY, TEXAS 76048

PH. OFFICE (817) 573-2601 PH. FORT WORTH (817) 443-0381

DR. L. A. WILLS

DR. R. D. HAMILTON

DR. CHARLES WINTERS

RES. (817) 573-2777

RES. (817) 573-9693

RES. (817) 326-4744

DISABILITY CERTIFICATE

Date 7-14-81

Name Henry Steiner

Address Celen Rose

Employer B+R

To Whom It May Concern:

This is to certify that the above patient was under my professional care from 7-14-81 to 7-14-81 inclusive and was totally incapacitated during this time.

This is to further certify that the above patient has now recovered sufficiently to be able to return to light work duties on 7-15-81
regular

Restrictions: None

Dr. R.D. Hamilton MD
B+R

H. Steiner - 5

BRAZOS MEDICAL & SURGICAL CLINIC

305 W. PEARL GRANBURY, TEXAS 76048

PH. OFFICE (817) 573-2601 PH. FORT WORTH (817) 443-0381

DR. L. A. WILLS DR. R. D. HAMILTON DR. CHARLES WINTERS

RES. (817) 573-2777 RES. (817) 573-9893 RES. (817) 326-4744

DISABILITY CERTIFICATE

Date 7-16-81

Name Henry Steiner

Address Glen Rose

Employer Brown's Root

To Whom It May Concern:

This is to certify that the above patient was under my professional care from 7-15-81 to 7-17-81 inclusive and was totally incapacitated during this time.

This is to further certify that the above patient has now recovered sufficiently to be able to return to light work duties on 7-17-81
regular

Restrictions: None

Dr. R. D. Hamilton, D.O.
by M. D. Dauter

H. Stiner-6

Brown & Root, Inc. Post Office Box 1001, Glen Rose, Texas 76043



September 28, 1981

Mr. Henry A. Stiner
P.O.Box 1441
Glen Rose, Texas 76043

Dear Mr. Stiner:

Receipt of your letter dated September 21, 1981 is acknowledged.

Please be advised that your two terminations from employment on this project will not be voided to permit reinstatement as you have requested. Both terminations were valid at the time executed and the records there of remain valid.

Review of official Time Office records disclose that you were absent from work on July 13, 14 and 15, 1981. Departmental records reveal that you were counselled regarding absenteeism on reemployment. The copies of doctors statements presented by you do not excuse your absences. The decision to excuse an absence is the responsibility of the employer and must so remain. In this instance the employer has elected not to excuse your absences, therefore the termination remains valid.

Sincerely,

Ray Yockey
Ray Yockey
Manager, Personnel Services

RY/jmc