

147

3/16/85

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

MAR 20 10:59

In the Matter of

TEXAS UTILITIES ELECTRIC
COMPANY, et al.

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

||
||
||
||
||
||
||
||
||
||

Docket Nos. 50-445
and 50-446

OFFICE OF THE
DOCKETING & SERVICE
BRANCH

(Application for an
Operating License)

SUPPLEMENT TO CASE'S 1/7/85 MOTION FOR RECONSIDERATION
OF BOARD'S 12/18/84 MEMORANDUM (CONCERNING WELDING ISSUES)
(LBP-84-54)

As discussed in CASE's 1/7/85 Motion for Reconsideration of Board's 12/18/84 Memorandum (Concerning Welding Issues) (LBP-84-54) (pages 1-5 and 64), and in CASE's 3/7/85 Motion to Stay Ruling Regarding CASE's 1/7/85 Motion for Reconsideration of Board's 12/18/84 Memorandum (Concerning Welding Issues) (LBP-84-54), we are filing this Supplement for several reasons: First, it is necessary for accuracy. We believe that the Board erred in certain instances, and that the Board's Memorandum is not an accurate reflection of what is actually in the record. We should be provided with the opportunity to prove this to the Board.

Further, CASE believes that the Board has been unduly harsh in its minute examination of the testimony of CASE's witnesses, while at the same time the testimony of Applicants' witnesses has not been subjected to the same minute scrutiny (which is understandable, since the Board relied heavily upon Applicants' Proposed Findings in writing its Memorandum). Credibility of the witnesses was a key factor in the Board's determinations on the welding issues, and credibility must be weighed and balanced. CASE does not believe that the Board will be able to make the same findings

DS03

8503200565 850316
PDR ADOCK 05000445
PDR

regarding credibility once CASE has completed its supplementation of what is actually in the record (as discussed herein and in our previous pleadings, there is far more to support the Stiners' credibility than the Board has acknowledged or given them credit for), plus the answers to discovery which has been duly authorized by the Board, plus information which should be contained in the Staff's SSER's or other Board Notifications yet to be received (and/or a Board Notification by CASE, if necessary, following release of the information from the Staff), plus the new and significant information which CASE expects to receive shortly (some of which is attached hereto; we fully expect that once we file this, the flow of information will stop).

This opportunity should be afforded to CASE and its welding witnesses (see discussion, CASE's 1/7/85 Motion for Reconsideration, pages 1-5 and 64, and CASE's 3/7/85 Motion to Stay Ruling). The precedent for allowing this has already been set in these proceedings; indeed, the Board has already allowed Applicants to relitigate the Walsh/Doyle issues without a showing of good cause by Applicants for doing so (see Board's 2/8/84 Memorandum and Order (Reconsideration Concerning Quality Assurance for Design), at pages 1-3, and pages 34-35). The Board has also, in effect, invited Applicants to rehabilitate their witnesses (see Board's 12/18/84 Memorandum (Reopening Discovery; Misleading Statement), at page 9). Further, the Board appears ready to allow Applicants to now have yet another opportunity to prove their case, again without a showing of good cause (see transcript of 2/5/85 telephone conference call, beginning at 24051/16). It is patently unfair and prejudicial for the Board to allow Applicants such undeserved privileges while at the same time denying CASE the comparatively infinitesimal opportunity to supplement our welding findings (which were themselves not completed initially because of Applicants' misrepresentations to the Board).

CASE has asked for relatively little such relief in these proceedings (especially when compared with the amounts of time the Board has allowed Applicants and NRC Staff, and considering CASE's comparatively meager resources).

CASE's review of the record in conjunction with the Board's Memorandum is much more difficult and time-consuming than simply preparing initial proposed findings, and must be performed at the same time we are working on other necessary matters. If the Board feels that it must establish a cut-off date by which CASE is to complete our analyses and complete our supplementation /1/, CASE suggests that an appropriate cut-off date would be that date by which Applicants and NRC Staff file their last responses to CASE's answers to Applicants' Motions for Summary Disposition and to CASE's Motions for Summary Disposition (with advance notification so CASE can file simultaneously).

The Board has recognized the importance of allowing the parties to assist it. For example, the Board is currently relying upon the NRC Staff's review of Applicants' response to the TRT findings to assist the Board in making a future determination as to whether or not a 100% reinspection of construction/hardware should be imposed. And in its September 23, 1983, Memorandum and Order (Emergency Planning, Specific Quality Assurance Issues and Board Issues), the Board recognized that CASE should be allowed to assist the Board; the Board stated (page 11):

/1/ Excluding the answers to discovery which has been duly authorized by the Board, plus information which should be contained in the Staff's SSER's or other Board Notifications yet to be received (and/or a Board Notification by CASE, if necessary, following release of the information from the Staff), plus the new and significant information which CASE expects to receive shortly (some of which is attached; we fully expect that once we file this, the flow of information will stop).

"We consider that it is the Board's obligation to make a reasoned assessment of its record. It must act on the contentions and make reasonable decisions about whether to act on any potentially serious safety matters raised in that record. Whether we act on contentions, in pursuit of our obligation to compile a complete record on those contentions, or in fulfillment of our sua sponte responsibility, we seek to act in a reasoned fashion and will accept any assistance that may be helpful. Since CASE is equipped to help and willing to do so, we would be foolish to bar it from helping us."

CASE realizes that the Board has indicated that certain of the welding issues are subject to further pursuit depending upon what the NRC Staff uncovers in its investigations (Board Memorandum at bottom of page 1 continued on page 2) (and we would hope that the Board would recognize and find that any findings of such investigations which support the testimony and concerns of Henry and Darlene Stiner also reflect favorably upon their credibility, and correspondingly reflect unfavorably upon the credibility of Applicants' witnesses). We are dealing here not just with the issues, but also with the credibility and lives of people -- people (Mr. and Mrs. Stiner) who have gone far beyond the call of duty to attempt to provide the Board with the truth about the welding problems at Comanche Peak, and who are still committed to doing so. As matters stand right now, they have been, in effect, kicked in the teeth for their trouble.

The manner in which the NRC deals with individuals such as Mr. and Mrs. Stiner is vitally important. First, it affects the Board's understanding and decisions regarding the issues. And ultimately we are also dealing with the credibility of the NRC. CASE assumes that the Board acted in good faith and felt that it ruled fairly. However, the fact is that the Board's Order has provided Applicants with the means to place a brand upon Henry and Darlene Stiner, and carefully selected portions of the Board's Order have now been bandied about all over the plantsite, as a warning to any other potential whistleblowers who might dare to come forward (see attached

12/18/84 NEWS CIRCUIT BREAKER, which was obtained by CASE since our 1/7/85 pleading). This NEWS CIRCUIT BREAKER was distributed all over the jobsite at the time of the Board's 12/18/84 Memorandum. Thus, Applicants have been able to effectively use the Board's Order to further intimidate and reinforce previous intimidation of QC inspectors, craftspeople, and other employees at Comanche Peak. /2/

DISCUSSION OF SPECIFIC PORTIONS OF BOARD'S MEMORANDUM

We will refer to these items by the page number on which they occur in the Board's Memorandum.

Pages 9, 31, 69-71, re: Credibility of Applicants' Witnesses:

At page 9 of the Board's Memorandum, the following statement was made:

"Applicants' witnesses provided credible and consistent testimony on direct and in response to the cross-examination questions of all parties. In addition, in response to cross-examination questions Applicants' witnesses stated that they were instructed to tell the absolute truth when testifying and that if their testimony reflected problems with the plant, it would not adversely impact their employment at the plant (Tr. 11518-9, 11652, 11703, and 11744-5). In short, the Board finds no inconsistencies from Applicants' witnesses which would call into question their credibility. . . ." (Emphases added.)

/2/ It is noteworthy that Applicants' writer of this NEWS CIRCUIT BREAKER makes light of the Board's stated concerns regarding certain of Applicants' welding practices; this does not reflect the fact that Applicants thought the Board's concerns important enough that Applicants tried an end-run around to the Board to attempt to prematurely involve the Appeal Board, and sends a distorted signal to Applicants' employees about the acceptability of certain welding practices and of violating procedures. Further, that writer makes the contrast between the credibility of the Stiners and the alleged consistency of Applicants' witnesses; as discussed herein, the record reflects that this "consistency" is not as perfect as Applicants' Proposed Findings (and the Board's wording which followed the language of Applicants' Proposed Findings) would have one believe.

And at page 31 (regarding weave welding), the following is stated:

". . . there were no inconsistencies of any moment in any of Applicants' witnesses' testimony." (Emphasis added.)

However, at pages 69-71, there are discussions which obviously call into question the credibility (and/or competence) of Applicants' witnesses (i.e., unauthorized repair welds, lack of deficiency paper, no contemporaneous investigation, conflicting testimony regarding individuals being terminated when they violate procedures, lack of adherence to procedures, possibility of QC procedures being ignored, significant violation of 10 CFR Part 50, Appendix B, etc.).

The Board's Memorandum appears to be inconsistent regarding these various statements, and CASE urges that the Board delete or revise the quoted wording on page 9 so that it agrees with the Board's statements on pages 69-71.

In addition, CASE calls the Board's attention to the following:

C. Thomas Brandt: There are several matters which call into question the credibility of Mr. Brandt's testimony:

The Board stated in its 9/22/83 Memorandum and Order (Emergency Planning, Specific Quality Assurance Issues and Board Issues) at page 27:

"We would note that Mr. Brandt is a senior employee of applicant and has strong motives for favoring the applicant's interest in this case. Furthermore, his new testimony about downhill welding is suspect because he did not choose to make this simple, direct response to this allegation earlier in the case. Mr. Brandt also was involved in the firing of Mr. Atchison for pretextual reasons. /70/.

/70/ LBP-83-34, 18 NRC _____, July 6, 1983, slip op. at 2. (We do not know whether or not Mr. Brandt played a role in the pretextual dismissal of Mr. Hamilton.)"

The statements made by the Board on 9/23/83 are just as true today, and this should be considered by the Board.

Mr. Brandt's credibility is called into further question by the 11/30/84 Recommended Decision and Order in William A. Dunham vs. Brown & Root, Inc. proceedings by the Administrative Law Judge (which is part of the record and copy of which has been supplied to the Licensing Board in the intimidation hearings). On page 7 of that Recommended Decision and Order, the ALJ stated:

"Credibility, however, is a relative concept, and the reputations of Respondent's principal witnesses, Brandt and Purdy, for untruthfulness in relation to discharging subordinates is a matter of record. See Atchison v. Brown & Root, Incorporated, 82-ERA-9 (ALJ, December 3, 1982, and decision of the Secretary, June 10, 1983). Under all circumstances, I find that their self-serving testimony is biased in the extreme and is no more worthy of belief than Complainant. Consequently, the issues herein have not been decided on the basis of credibility of witnesses but on the probity of the direct and circumstantial evidence adduced and the inferences fairly and reasonably drawn therefrom."

Thus, the ALJ clearly indicated that Mr. Brandt's testimony was not to be believed or relied upon.

The Licensing Board in these proceedings cannot ignore the body of evidence in the record regarding the lack of credibility of Mr. Brandt (for example, his testimony in the Intimidation hearings and in the CAT hearings /3/). The Board should make clear that it will take all of Mr. Brandt's testimony in the record of these proceedings into account when arriving at its conclusions regarding his overall credibility. The Board cannot and should not rely upon the testimony of Mr. Brandt to bring out the truth regarding the manner in which Comanche Peak has been designed and/or constructed.

/3/ See Tr. 8403-8424, especially 8415/4-11 (Mr. Tolson), 8416-5/8417/5 (Mr. Brandt), and 8417/6-8418/8.

Neither can the Board ignore the fact that Mr. Tolson has now resigned (about the same time that Messrs. Chapman and Vega were transferred to non-nuclear duties) /4/.

Also, at page 74, last sentence continued on top of page 75, the Board noted that "Mr. Muscente implied that it is sufficient for a welder 'to take his torch and play it over this material until he gets it up to what we refer to as hand warm.' Tr. 10028 (Muscente)." This also reflects unfavorably on the credibility of Applicants' witness Mr. Muscente.

In addition, the Board should acknowledge that the various statements made in the Board's Memorandum at page 69, first full paragraph, through page 71, at the end of the second full paragraph, all reflect unfavorably on the credibility of Applicants' witnesses.

Further, Applicants' Witness Mr. Green stated that the idea for some of the wording in his prefiled testimony (specifically regarding the subject of safety being "paramount" because he lived near the plant) came from Applicants' attorneys (Tr. 11745/14-11747/9, especially 11747/2-9). Since Applicants' witnesses were not cross-examined regarding each and every statement attributed to them in their prefiled testimony (and CASE should not have had to cross-examine on each such statement), there is no way of knowing at this point in time whether or not this was the only such instance

/4/ CASE realizes that the Applicants have not yet seen fit to inform the Board regarding these events, and all CASE has at the moment is newspaper articles (see attached article, and articles attached to CASE's 2/25/85 Fourth Set of Interrogatories to Applicants and Requests to Produce Re: Credibility); however, we have included questions regarding this and other welding matters in our 2/25/85 Fourth Set of Interrogatories (for example: pages 24-27, question 11; pages 30-32, questions 13-19 and 21-23).

where the ideas in the testimony came from the attorneys rather than the witnesses. (CASE has filed discovery requests regarding this, however; see Footnote 4, page 8, of this pleading.)

In addition to the preceding, further inconsistencies in Applicants' testimony and/or representations made by Applicants' counsel in their Proposed Findings are identified and discussed elsewhere in this pleading. The Board should also take those inconsistencies into consideration.

Page 16 of Board's Memorandum, next-to-last paragraph, regarding pencil grinders:

The Board stated:

"Mrs. Stiner testified that welders did not generally have and could not easily obtain pencil grinders (Tr. 10285-86). Other welders and foremen (Messrs. Pickett, Braumuller, Fernandez, Coleman, Brown and even Mr. Stiner) testified that they had pencil grinders and, when asked, they testified that pencil grinders were readily accessible in the areas in which they were working (Tr. 10614, 11469, 11547, 11621-22, 11643, 11666). On this direct conflict of testimony, we find that Mrs. Stiner lacks credibility."

CASE believes that the Board has inferred more in its Memorandum than is warranted by the record.

At page 4, middle paragraph, of the Board's Memorandum, the Board states:

"Mrs. Stiner was in a qualified welding position (though not welding the entire time), from February 27, 1979 to August 3, 1980."

On page 5 of the Board's Memorandum, last paragraph, it is stated:

"Mr. Coleman also worked as a welder in the same areas as Mrs. Stiner .
. . ."

However, there is no indication that Messrs. Pickett, Braumuller, Fernandez, or Brown were employed in the same areas at the same time as Mrs. Stiner.

Further, at Tr. 10614, which Applicants have referenced in support of their statement that "even Mr. Stiner" testified that he had a pencil grinder, Mr. Stiner was discussing the incident regarding the reporting of a gouge in a pipe for which he believed he was fired. The Board's Memorandum at page 4 states:

". . . [Mr. Stiner] was rehired and was again qualified as a structural welder on June 22, 1981. He welded for approximately three weeks before he was again terminated . . . "

Thus, Mr. Stiner's testimony regarding pencil grinders concerned a time period some 11 months after the last date on which Mrs. Stiner was in a qualified welding position.

Also, Mr. Stiner cannot properly be included in that part of the statement in the Board's Memorandum which states "when asked, they testified that pencil grinders were readily accessible in the areas in which they were working."

Page 19, footnote 2, of Board's Memorandum, re: inconsistencies in testimony of Henry and Darlene Stiner:

The Board's Memorandum at page 19, footnote 2, states:

"While many additional inconsistencies are contained in their [Mr. and Mrs. Stiner's] testimony (see e.g., Tr. 10744-58, 11153), the Board will not take the time to detail them."

(It should also be noted that the same information is contained in footnote 23 of the Board's Order.)

If there are other such inconsistencies, the Board should state specifically where they are, so that CASE and the Stiners will have the opportunity to review the record and, if necessary, clarify the record in this regard. This is especially important under these particular circumstances, where Applicants have misled the Board in so many instances regarding what is actually contained in the record.

Page 23, Footnote 7, of Board's Memorandum, re: violation of procedures under time pressure:

It is stated at page 23, footnote 7, of the Board's Memorandum:

"Mr. and Mrs. Stiner alleged that welders routinely violated procedures under the direction of their foreman even though they knew that they could be terminated if they were caught (Tr. 10284, 10287-88, 10312-14)."

(It should be noted that all of the transcript citations in the above concern testimony of Mrs. Stiner; however, Mr. Stiner did give similar testimony.)

Mrs. Stiner also made very clear that one of the primary reasons for this was because of the lack of time available and the push to hurry and get things done (Tr. 10284, 10287).

Even Applicants' witness Mr. Green stated (when asked how he saw his job at Comanche Peak when he was a foreman during the time Mr. Stiner worked for him) (Tr. 11744):

"To build it as safe as I could and without as many delays as we could help, you know; without delays." (Emphases added.)

Mr. Green's statements in this regard lend further credibility to Mr. and Mrs. Stiner's allegations, and illustrate the attitude of foremen at the plant. The Board should take this into consideration.

Page 38 of Board's Memorandum, second full paragraph, regarding downhill welding:

Page 38 of Board's Memorandum, second full paragraph, states:

"Significantly, applicants testified that there was no situation where it was easier to do a downhill weld than an uphill weld (Tr. 11488-89, 11854-57)." (Emphasis added.)

However, the record reflects that Applicants' witness Mr. Baker testified that in some circumstances running a downhill weld could be faster than making an uphill weld (Tr. 11845/1-11847/25). This would supply a reason for a welder to make an illegal downhill weld (rather than procedurally-called-for uphill weld), and contradicts Applicants' purpose for the quoted statement (which was obviously to try to convince the Board that there would be no reason for making an illegal downhill weld).

It should also be noted that the transcript citation 11854-57 does not appear to support the statement being made. Further, the transcript citation 11488-89 is testimony only by Applicants' witness Mr. Brown; thus, only one of Applicants' welding witnesses made this statement (according to the transcript citations in the Board's Memorandum), rather than several of Applicants' witnesses, as is implied by the terminology "applicants testified."

Page 57, first full paragraph, re: Weld Rod Control -- safety concern; embrittlement:

At page 57, first full paragraph (this same wording is repeated on page 58, first full paragraph) regarding Mr. and Mrs. Stiner's concerns over the impact of welders exchanging weld rods, it is stated:

". . . however, in later testimony, Mr. Stiner stated that this was not a safety concern (Tr. 11150)."

But at Tr. 11151/7-9, Mr. Stiner indicated that one of his concerns was that "they would not be following their own procedures." As the Board itself pointed out at page 69 of its Memorandum:

"Violations of procedures are important in their own right because they contribute to the workers' understanding of the extent to which procedures are to be taken seriously and followed scrupulously."

The overall cumulative effect of violations of these and other procedures is one of the global issues which the Board will have to consider in its overall findings regarding this case.

Further down the page on page 57 of the Board's Memorandum, third paragraph, it is stated:

"The NRC Staff testified that if weld rods had been exposed to ambient air at CPSES for two to three days (such as alleged here) the 'worst-case effect' would be porosity in the weld (which is due to arc instability and off-gassing of water vapor) which should be detected during the normal visual inspection by the welder and QC (NRC Staff Testimony at 33, 35)."

This statement is not entirely accurate. The actual statement was that porosity in the weld would be the principal indication. It also ignores testimony at the top of page 33 of the Staff's testimony which states:

"In addition, in both low and high alloy steels, water absorbed into the weld rod coating will also be turned into vapor, which can cause porosity and embrittlement." (Emphasis added.)

(And there then follows a discussion of the applicable portions of the 7th Edition of the AWS Welding Handbook and the 1974 ASME Code.)

Further, at Tr. 12263/24-12265/11, there is additional testimony in this regard by NRC Staff Witness Mr. Collins to the effect that, while underbead cracking is not a significant concern for A36 and A500 low/mild carbon steels, it is nonetheless a concern. Mr. Collins stated:

". . . In terms of restraint welding, you can generate cracking in welds. . . you can create underbead cracking in a highly restrained weld.

"Let me just go further in that statement, with electrodes -- if they're maintained properly -- then the chances of you getting underbead cracking is (sic) very, verm (sic) minimal."

The potential for embrittlement and underbead cracking is an important consideration which should not be overlooked. The Board's Memorandum on page 26, last paragraph, discusses steel used at Comanche Peak to construct hangers (i.e., A36 steel). And on pages 66 and 67, there is a discussion regarding the tests which Applicants performed on SA36 plate material.

At Tr. 10024/21-25, Applicants' Witness Muscente testified:

"These samples [of SA36 plate material] haven't been tested for brittleness, obviously. However, we are talking about a material that we know considerable about over many years of experience with it. It's a material well known in the industry -- " (Emphasis added.)

One of CASE's continuing concerns throughout these proceedings has been Applicants' lack of attention to the interactions between, and interdependence of, various aspects of regulatory and code requirements. This is a classic example: the possibility of embrittlement and underbead cracking is increased by improper maintenance of electrodes. Yet Applicants have continually downplayed the importance of weld rod control in these proceedings. In this particular instance, Applicants have not performed a test which should be performed. The Board should so find.

In addition, the statement that porosity in the weld should be detected during the normal visual inspection by the welder and QC does not necessarily mean that such porosity will be detected (or that a conscientious QC inspector will be allowed to properly deal with porosity should he find it). This aspect of the welding issues is also impacted by

the issue of intimidation and harassment of QC inspectors. The Board should recognize this in its findings.

Page 63 of Board's Memorandum, re: Welding of Misdrilled Holes (Plug Welding) -- by Darlene Stiner:

Darlene Stiner (like Henry Stiner) also performed "plug welding" (which, if done properly, is referred to as the repair welding of misdrilled holes) which was illegal in two ways: (1) The plug welding was not properly documented or inspected by QC; and (2) the technique utilized did not result in what could be regarded as properly-performed repair welding of misdrilled holes, but was rather a bootleg plug weld in which slag (and air, to a lesser extent than was entrapped in those plug welds performed by Henry Stiner) was entrapped.

Referring to page 63 of the Board Memorandum, it is apparent from the testimony of Darlene Stiner that (like Henry Stiner) when she spoke of plug welding at Comanche Peak, she was not referring to properly done repairing of misdrilled holes. In her 9/82 prefiled testimony (Tr. 4154-55):

"I made the statement to them [NRC investigators] that it happens at Comanche Peak all the time, that plug welding is also a common practice. When I was a welder, I even got so good at making plug welds that I could do it with one rod. . . I told them that the way it would be handled, you would wash it over one side . . . On the side you're welding on, you fill the hole, but on the other side you'll have slag and coating, etc. Then when you flip it over, what you've actually got is a hole about 1/2 full. Then I would take my hammer and chip out all I could chip out. Then I'd take the other half of the rod and wash it over the other side. With the end result, you couldn't tell just by looking, but you would have all that slag trapped in the middle. . . Sometimes I would plug weld one area and they would come back and make an overlapping hole which would mean that only a very thin bit of metal separated the new hole and the hole which was filled up with slag and stuff."

At pages 22 and 23 of her prefiled testimony for the 2/84 hearings (CASE Exhibit 919, bound in following Tr. 10333), Darlene Stiner stated:

"I feel this is a very important issue because when plug welds are done, there is slag entrapped inside the welded area. I don't personally, through personal experience, know of any way to make a plug weld without entrapment of slag. One side is welded, then flipped over to make the other side weld. When side #1 is welded, slag rolls under and gathers on the bottom of the weld. The piece is then turned over and you have to chip out the slag as best you can before finishing the weld, thus entrapping slag which is held in cracks, etc."

Apparently Darlene Stiner attempted to remove more of the slag than Henry Stiner did; however, it still is clear that there was entrapped slag and air remaining inside after she had completed the repair (because she just washed the rod over the second side). It also is apparent that Mrs. Stiner used a different technique from Mr. Stiner, in that, while Mr. Stiner utilized a stringer bead, Mrs. Stiner washed the electrode back and forth in a weave welding motion.

Properly vs. Improperly Performed "Plug Welds":

CASE believes it should have been obvious from the testimony in the record that both Darlene Stiner and Henry Stiner had performed improperly-made plug welds (in addition to their being illegally performed because of lack of proper documentation and inspection); see CASE's 1/7/85 Motion for Reconsideration at pages 31-39; see also the line of questioning at Tr. 12232/18-23, 12233/20-25, 12234/14-15, 12238/2-4, 12244/17-19.

However, it was difficult to get anyone (except Mr. and Mrs. Stiner) to discuss the type of illegally-performed plug welding which had been performed. But when NRC Staff expert witness Mr. Collins did discuss it, he confirmed the testimony of Mr. and Mrs. Stiner that slag could have been covered up when such illegally-performed plug welding was performed. He testified (Tr. 12242/22-12243/21):

"Q: [By Mrs. Ellis] I think that you apparently are used to it being done right or used to thinking in terms of it being done right. Could it not have been done in the manner that we have described, so that you do have a significant amount of slag entrapped inside?

"A: Well, yes. I couldn't conceive of anyone not attempting to do it right. I could not conceive of anyone just going in and intentionally doing it wrong. But yes, you are correct. Someone that has the intent of doing that, of covering up things of this nature, there is (sic) methods of achieving it, yes.

"I can't conceive of why they would want to do it.

"JUDGE BLOCH: The objection here is that sometimes they were doing it when it wasn't properly authorized, and they thought they were doing something wrong. That was what the attempt was to prove, and under those circumstances, they are trying to do it very fast, not to be caught at it.

"JUDGE MCCOLLOM: If someone were trying to do it fast, would you expect them to be covering the slag up, in that process?

"WITNESS COLLINS: I think they could conceivably, yes. They could cover slag up in the process. Going too fast or trapping it in the weld, not removing it as they make their bead pass, just chipping out what was available for chipping out and welding right over the remaining part of it that was entrapped."

This contradicts the testimony of Applicants' Witness Mr. Baker when he testified at page 35 of Applicants prefiled testimony (Applicants Exhibit 177 , bound in following Tr. 9976) that an arc cannot be established without first removing the slag. This confirms the testimony of Mr. and Mrs. Stiner and calls into question the credibility of Applicants' witness Mr. Baker. The Board should so find.

And at Tr. 12244/17-25, Mr. Collins testified:

"BY MS. ELLIS:

"Q: Again, sir, I think you're indicating you're talking about when it's done correctly. Is that right?

"A: (WITNESS COLLINS) Yes, that's the only thing I can compare with -- basis for comparison.

"JUDGE BLOCH: Suppose you're trying to rush and do it incorrectly. Could you do it in three minutes?

"WITNESS COLLINS: I would have to defer to the people who made those calculations."

No one who testified in these proceedings is in a position to make such calculations than are Mr. and Mrs. Stiner, since they are the only witnesses who testified that they ever performed such illegal plug welds. The Board should so find.

Page 63, middle of page, continued on page 64 of Board's Memorandum, re: counterfeit hanger vs. plug welding:

At the middle of page 63 continued on page 64 of the Board's Memorandum, it appears that two separate incidents have been erroneously combined. The incident regarding Mr. Wilkerson's having caught Mrs. Stiner making unauthorized repairs had to do with one counterfeit hanger (not three plug-welded hangers). (See 9/1/82 prefiled testimony of CASE Witness Darlene Stiner, CASE Exhibit 667, admitted at and bound in following Tr. 4124, page 47 (Tr. 4171), line 3, through page 48 (Tr. 4172), line 6.) Mrs. Stiner never testified that she was ever caught performing illegal plug welds. CASE believes that this is an important distinction, for the reasons discussed herein.

Applicants' Witness Mr. Baker testified regarding the effectiveness of the QC program for inspection of the welding of misdrilled holes ("plug welding") (Tr. 10038/4-10043/9). Mr. Baker stated (Tr. 10040/4-8):

"JUDGE BLOCH: . . . Were there any repairs made in hangers on safety-related systems?"

"WITNESS BAKER: I have not been able to identify any case where we have ever 'plug' welded on any ASME pipe support."

And at Tr. 10040/14-10041/3, Mr. Baker stated:

"JUDGE BLOCH: . . . So your testimony is that these never were welds on ASME materials?

"WITNESS BAKER: I say I have not been able to identify it. It's standard practice on the ASME pipe supports that if we have to repair the base material in any way, that it requires a repair process sheet authorized by welding engineering. We have, to my knowledge, never issued a repair process sheet to repair any holes on ASME hangers.

"JUDGE BLOCH: If the craft, for one reason or another decided that they had to repair a hole that was made in the wrong place on such hangers, I take it there was no procedure in effect by which they could have done it; is that correct?

"WITNESS BAKER: Not on ASME Class 1, 2 and 3 hangers or pipe supports."

He further testified (Tr. 10041/17-18):

"WITNESS BAKER: . . . ASME is used primarily for piping and pipe supports of all classes."

And, at Tr. 10041/22-10043/9, Mr. Baker testified:

"JUDGE BLOCH: . . . I believe you said you don't have any way of knowing about whether or not there were such repairs made on ASME materials; is that what your answer was?

"WITNESS BAKER: Yes, sir. I'm saying that, in questioning my staff, that we have no knowledge of ever issuing a repair process sheet for this type of repair.

"JUDGE BLOCH: Except with respect to the Stiners . . . have you ever heard that anyone else has made allegations or statements that there were repairs made in these hangers in this fashion?

"WITNESS BAKER: No, sir.

. . .

"WITNESS MUSCENTE: I have never heard anybody make that allegation.

"JUDGE BLOCH: So there is no direct or indirect information that would lead either of you to believe that repairs of the kind alleged here were ever made in ASME materials?

"WITNESS BAKER: That's correct.

"WITNESS MUSCENTE: That's correct.

"BY MR. REYNOLDS: Mr. Baker, had there been any such repairs, would you likely have known about it? . . .

"The context of my question is your role on the job site. Do matters such as this come to your attention?

"A: (Witness Baker) Not normally. They are handled by my staff. But in pursuing this question, I understand that in the early days of the program, that it was expressly told to the craft not even to request to do this type of repair on ASME hangers."

At Tr. 11765/18-11766/20, Mr. Baker again testified that he had not been able to identify in any case where they have issued an RPS for the welding of misdrilled holes on ASME supports. However (as can be reasonably inferred from the testimony of Mr. Coleman that he was not even aware that any form of paper, such as a Repair Process Sheet, was needed for him to repair misdrilled hole in the Unit 1 cable spread room), it is now obvious that this does not mean that such illegal "plug welding" was not done on ASME supports, and it may well be that the three supports on which Applicants now admit Mrs. Stiner performed illegal plug welding were themselves ASME supports, especially in light of further testimony by Mr. Baker at Tr. 11785/13-16:

"BY MR. REYNOLDS:

"Q: Mr. Baker, what type of hangers were fabricated or modified on the fab tables in the turbine building [where Mrs. Stiner performed illegal plug welds]?

"A: (Witness Baker) Small bore hangers, all classes."

It should be noted that Mr. Baker testified (Tr. 11781/24-11782/8) that there were three hangers, whereas the NRC Staff's prefiled testimony (admitted at and bound in following Tr. 12146) states (page 28) that there were two hangers involved.

Further, the Staff's testimony (page 28) regarding their interview with Mr. Wilkerson confirmed that the problem was not plug welding, but rather "the welding of a short piece of angle iron to an existing angle iron section, in order to extend the dimension of the angle iron." This is consistent with, and confirms, Mrs. Stiner's testimony regarding the counterfeit hanger.

Mr. Stembridge was interviewed by NRC Staff Witness Mr. Taylor. The Staff's testimony (pages 29 and 30) states: Mr. Stembridge "recalled a situation where he had two supports that could not be installed because they would not fit into place. He instructed the fitter to modify the supports to make them fit, but did not give any specific directions how to modify the supports." Mr. Taylor further testified that he then held a joint interview with Mr. Stembridge and Mr. Wilkerson, and that "Mr. Wilkerson stated that he recalled only one support which had the problem with improper welds; Mr. Stembridge added that an additional support was under the table." Mr. Hallford (the individual who "tipped-off" Mr. Wilkerson) then joined the interview and stated that he observed what he believed was improper welding, did not receive a satisfactory answer from Mr. Stembridge, and then reported his concerns to Mr. Wilkerson.

As can be seen from the preceding, the statement that is made on page 64 of the Board's Memorandum that "Staff testimony supported the results of Applicants' investigation (NRC Staff Testimony at 27-30)" is not completely accurate. The Board should revise its Memorandum to reflect what is actually in the record.

Also, this is yet another instance where an employee (Mrs. Stiner) was caught deliberately violating procedures and was not fired, which further calls into question the credibility of Applicants' witnesses' testimony (see second full paragraph on page 70 of Board's Memorandum).

The wording of the entire paragraph at the bottom of page 63 continued on page 64 of the Board's Memorandum is taken word for word from Applicants' 9/7/84 Proposed Findings. When one reviews the testimony, it is clear what is stated there. How, then, are the inconsistencies between Applicants' testimony, the Staff's testimony, and Mrs. Stiner's testimony to be explained?

Applicants have now admitted through their own testimony that there was unauthorized plug welding performed by Mrs. Stiner on three hangers that had misdrilled holes in them and that this was performed at the instruction of her foreman, Mr. Stembridge. However, the other inconsistencies detailed above stand unexplained in the record.

It is also important to note that the one, two, or three hangers involved were not cable tray supports, but pipe hangers (see Applicants' Witness Baker at Tr. 11785/13-16) -- perhaps ASME pipe hangers, in which case the testimony of Mr. Baker in that regard would have been misleading at best.

CASE submits that there are three possible reasons for Applicants' having misrepresented the record in this regard:

- (1) Applicants are attempting to give the impression (which is not consistent with Mrs. Stiner's testimony) that these three

instances were the only instances where Mrs. Stiner performed illegal plug welding at the instruction of Mr. Stembridge or others.

- (2) Applicants are attempting to give the impression that illegal plug welding was never performed on ASME pipe hangers.
 - (3) Applicants are attempting to divert the Board's attention from testimony in the record by Mr. Stiner, Mrs. Stiner, and NRC Staff witness Mr. Taylor regarding counterfeit pipe hangers, an issue which has never been adequately addressed in these proceedings and which Applicants would obviously like to avoid if at all possible.
- . . . or all of the above.

Page 64 of Board's Memorandum, re: "demotion" of Mr. Stembridge:

On page 64 of the Board's Memorandum, regarding unauthorized repairs which Mr. Stembridge had directed Mrs. Stiner to make, the Board states:

"The hangers were subsequently scrapped and Mr. Stembridge was demoted to and remains in a non-supervisory position (NRC Staff testimony at 28-30; Tr. 11786)."

And on page 70 of the Board's Memorandum, middle of page, it is stated:

". . . Mr. Stembridge was merely reduced in rank."

These statements are not reflective of what is actually contained in the record. On page 28 of the Staff's testimony, it is stated:

"Mr. Baker also stated that Mr. Stembridge voluntarily demoted himself from a supervisory position . . ." (Emphasis added.)

And on page 29, it is stated:

"Mr. Wilkerson also confirmed that Mr. Stembridge demoted himself from a supervisory position to a craftsperson . . ." (Emphasis added.)

The record does not support the idea that Applicants took any sort of disciplinary action (much less their alleged firing of anyone who deliberately violates procedures) in the case of Mr. Stenbridge. This is an important distinction to make, and goes directly to the heart of not only the credibility of Applicants' witnesses and their counsel who prepared their Proposed Findings, but also toward Applicants' commitment to quality.

Page 65 of Board's Memorandum, first full paragraph, re: difficulty and/or impossibility of welding over unacceptable slag deposits:

On page 65 of Board's Memorandum, first full paragraph, there is a discussion of the welding of misdrilled holes and the following statements are made:

" . . . Applicants stated that it was very difficult to leave significant slag deposits using low hydrogen electrodes, like those used at CPSES, because the normal welding technique provides assurance that slag remains fluid, floats to the top of the weld and is removed (Applicants Exhibit 177 at 36). . . Applicants testified that it was very difficult to weld over unacceptable slag deposits using normal welding techniques (Applicants Exhibit 177 at 36, 37)." (Emphasis added.)

However, it is important to note that Applicants' Mr. Baker also testified at page 35 of Applicants Exhibit 177 (bound in following Tr. 9976):

"(Although there are some types of welding electrodes manufactured that produce a slag cover that can be welded over, the low hydrogen electrode utilized at CPSES results in a slag covering that is so heavy that an arc cannot be established without first removing the slag." (Emphasis added.)

Obviously, it is impossible to weld without having established an arc. Mr. Baker's statement was even stronger than that discussed in the Board Memorandum, but was at the same time also contradictory to other statements

made in Applicants' own prefiled testimony. This contradictory testimony reflects adversely on the credibility of Applicants' witnesses, and the Board should so find.

Mr. Baker's testimony is again inconsistent regarding his discussion of the test Applicants performed in their attempt to simulate the conditions referred to by Mr. Stiner. Mr. Stiner stated in his testimony (CASE Exhibit 919, bound in following Tr. 10333, bottom of page 8):

" . . . on several occasions, I was instructed to repair hangers where the weld was in excess of four-core-wire diameter where the parent metal was heated so hot that the parent metal for four or five inches out from the weld was blue tempered, causing brittleness."

Mr. Baker testified (Tr. 10021/19-1002274):

"We tried to simulate a test. We didn't know exactly what Mr. Stiner had observed, but we picked a thin material, quarter of an inch thick, using 6 x 8 tube steel with short sections where we wouldn't have any type of heat sink. We welded on this again, violating the heat input parameters of the welding procedure, using excessive weave beads. We welded on it continuously for 37 minutes, stopping only long enough to change electrodes." (Emphasis added.)

Mr. Baker's testimony is not consistent with Applicants' testimony at pages 35-37 of Applicants' Exhibit 177 (as quoted in the preceding). This testimony also reflects adversely on the credibility of Applicants' witnesses, and the Board should so find.

Page 65 of Board's Memorandum,, towards bottom of page, re: painting of ground-down illegally performed plug welds:

On page 65 of the Board's Memorandum, towards the bottom of the page, it is stated:

" . . . if the weld was (sic) not relatively free of slag, there would in all likelihood be unacceptable surface indications remaining on the face of the weld. Tests techniques corroborated this."

And at the bottom of page 68, continued on page 69, the Board stated:

". . . based on . . . Staff testimony that as long as the surface of the weld repair of a misdrilled hole was acceptable (as both Mr. and Mrs. Stiner stated) the weld would provide acceptable structural strength . . . "

However, the Board's conclusions ignore the testimony in the record by Darlene Stiner and Henry Stiner that each of them would grind the weld down flush with the base metal, then paint it with grey paint (which was readily available) so that no surface indications would be visible.

Darlene Stiner testified in her prefiled testimony for the 2/84 hearings (CASE Exhibit 919, bound in following Tr. 10333) at page 23, lines 11 and 12:

"We ground and painted the surface so QC would not have been able to detect such a weld."

See also Darlene Stiner's testimony at Tr. 10232/2-14 and 10235/16-10237/13.

Also in the same prefiled testimony for the 2/84 hearings, Henry Stiner testified at page 22, lines 15-19:

"I was told to grind the plug weld down to the top of the parent metal and buff the surface so that you could not tell it was there, then take a can of grey paint like they use on the metal and paint it so no one could see it. This is what all or most of the welders do."

See also Henry Stiner's testimony at Tr. 10684/6-14.

Additional weight and support is given to the Stiners' testimony by the testimony of NRC Staff witnesses. In the prefiled testimony of the Staff (bound in following Tr. 12146) at page 27, Messrs. Gilbert and Taylor state:

"Although, 'plug welds' with uncorrected surface indications would be visible, Mr. Stiner (as well as Mrs. Stiner) stated (CASE Exhibit 919, pp. 22-23) that the repair welds were ground down and painted. Therefore, there would be no visual indication of the location of such unauthorized welds."

NRC Staff witness Mr. Gilbert also stated (Addendum to Page 27 of Staff Testimony at pages 1 and 2, bound in following Tr. 12146):

"I did find indications of plug welds in 3 supports in the North Cable Spreading Room . . . I found indications of 2 'plug welds' in the web of each of the three supports. I found these indications by observing the surface of the support very closely, at times shining a flashlight at an oblique angle. By close observation I could see, in these six instances, areas where surface grinding had produced a surface smoother than that of the base metal. This same smoother surface indication also appeared on the back side of the web. This indicates plug weld repair work had been done on these supports and had been ground smooth before painting." (Emphases added.)

The Board should reconsider its conclusions regarding this particular matter, and find that the Board can and should rely upon the testimony of Henry and Darlene Stiner and the NRC Staff's witness regarding this issue. In addition, the information in the record bears favorably on the credibility of Mr. and Mrs. Stiner. Conversely, the information in the record bears unfavorably on the credibility of Applicants' witnesses. The Board should so find.

Page 67, bottom of page continued on page 68 of Board's Memorandum, re:

Acceptable structural strength of plug welds:

At the bottom of page 67, continued on page 68 of the Board's Memorandum, the Board discusses its reluctance ordinarily to accept any test of a single sample to be dispositive of any safety issue. The Board indicated that it relied upon the NRC Staff's support of Applicants' conclusions and stated specifically:

"If the 'plug weld' was (sic) made well enough not to be readily discernable after surface grinding, which was the case for both Mr. and Mrs. Stiner, the Staff testified that the weld and the surrounding base material would be at least as strong as the original base material before it was drilled (Staff Testimony at 26)."

And at page 68 of the Board's Memorandum, it is stated:

". . . based on . . . Staff testimony that as long as the surface of the weld repair of a misdrilled hole was (sic) acceptable, as both Mr. and Mrs. Stiner stated, the weld would provide acceptable structural strength, the Board finds that even if some weld repairs of misdrilled holes were not properly inspected and contained defects as alleged by Mr. and Mrs. Stiner, it is unlikely to have an adverse impact on the safety of the plant."

However, this statement by the NRC Staff (and thus the Board's conclusion which relied on the Staff's statement) was made based on the assumption that the plug welding had been properly performed. As discussed herein and in CASE's 1/7/85 Motion for Reconsideration (pages 31-39), neither Darlene nor Henry Stiner performed what could called properly performed plug welding (or welding of misdrilled holes). There has been no test performed on the type of bootleg improperly performed illegal plug welds which Darlene and Henry Stiner testified they had performed, or on the illegal plug welds found by the NRC. The Board should reconsider its conclusion to rely upon only the one test regarding this matter.

There is another important aspect of this matter which has not been addressed in the Board's Memorandum, but which should not be overlooked. As discussed previously herein, in her 9/82 prefiled testimony, Darlene Stiner testified (Tr. 4155):

"Sometimes I would plug weld one area and they would come back and make an overlapping hole which would mean that only a very thin bit of metal separated the new hole and the hole which was filled up with slag and stuff."

And at Tr. 11543/21-11544/1 and 11545/13-20, Applicants' Witness Fred Coleman confirmed that most of the misdrilled holes that he rewelded were very close to the original hole in the base plate, so that when the hole was drilled the second time, he actually was drilling through filler material

for the biggest part of the hole. (CASE has not yet completed our review; however, we believe that such welding of overlapping holes is contrary to the code.)

Also, at pages 67 and 68 of the Board's Memorandum, it is stated:

"The Staff further testified that an Inspection Report 81-12 (Staff Exhibit 178) determined that 'plug welds' were being utilized by welders in accordance with Brown & Root welding procedures (NRC Staff Testimony at 26, 30)."

However, in the back-up notes of the investigator for Inspection Report 81-12 (Staff Exhibit 178) (CASE Exhibit 666C, attachment to 9/1/82 prefiled testimony of CASE Witness Henry Stiner, CASE Exhibit 666, both admitted at Tr. 4202), there is information which supports the testimony of Mrs. Stiner and Mr. Coleman; at page 666C-11 there is a note attributed to Individual A (Mr. Stiner) regarding this. And on page 666C-34 (notes of unknown origin), it appears to be indicated by the investigator that he had talked with a number of welders and none confirmed that this practice had been observed; however, this is not consistent with the investigator's notes at page 666C-23, where Individual E appears to indicate that he/she has plugged holes and seen them overlap holes, and that the engineering disposition was to use as is. The investigator's notes that none confirmed that this practice had been observed is also inconsistent with the sworn testimony of CASE Witness Darlene Stiner and of Applicants' Witness Fred Coleman.

(This again calls into question the reliability and credibility of Inspection Report 81-12, and is an additional reason that the Board should not rely upon the conclusions in that report. It is an additional reason to question the reliability of other NRC Region IV inspection reports through the years.)

The testimony of both Mrs. Stiner and Applicants' own witness, Mr. Coleman, in conjunction with the investigator's back-up notes regarding statements by Individual E, calls into serious question the Board's conclusion that the weld would provide acceptable structural strength. It is obvious that this type of repair could not be depended upon to provide the same structural strength as would be provided had the misdrilled holes been an acceptable distance apart. Even if the plug welding had been performed properly (which it was not), the structural strength could have been decreased because of the closeness of the holes; and obviously, if the plug welding had been performed improperly, the structural strength would be even more questionable. The Board should so find.

In addition, if (as CASE believes) the welding of such overlapping holes is contrary to code(s), this would be another instance of Applicants' violation of codes, without any deficiency paper having been generated.

Further, Mr. Coleman's testimony and the investigator's back-up notes attributed to Individual E confirm and support Mrs. Stiner's testimony in this regard, and bears favorably on Mrs. Stiner's credibility; the Board should so find.

Page 70 of the Board's Memorandum, re: lack of oversight by welding technicians, QC inspectors, and welding engineering personnel:

At page 70 of the Board's Memorandum, it is stated:

"Fred Coleman, who was a welder at the plant, testified that there were many misdrilled holes repaired in the Unit 1 cable spread room. Tr. 11542. Additionally, Mr. Coleman was not even aware that any form of paper, such as a Repair Process Sheet, was needed for him to repair such a hole. Tr. 11544-45."

And at page 71, the Board stated:

"We are particularly concerned about the extent to which welding procedures and, possibly, QC procedures may have been ignored. The possibility of QC procedures being ignored is supported by the testimony of Mr. Fred Coleman, who stated that QC inspectors were present in the cable spreading room during the time he was welding misdrilled holes. Tr. 11542."

CASE submits that the implications of Mr. Coleman's testimony go even beyond those indicated by the Board. At page 2 of Applicants' prefiled testimony (Exhibit 177, admitted at and bound in following Tr. 9976), Mr. Coleman stated:

"I am currently a QC welding inspector at CPSES. . . During the period August 1976-August 1983, I was either a structural welder or welding foreman (assisting about 5-15 welders) at CPSES."

Attachment C to Applicants' Testimony (Educational and Professional Qualifications of Mr. Coleman) indicates that Mr. Coleman has been a QC inspector C since September 4, 1983. It is reasonable to assume that all of the plug welds performed by Mr. Coleman or performed under the direction of Mr. Coleman when he was a foreman were all performed without any form of paper (such as a Repair Process Sheet) being utilized. Further, this calls into question the adequacy of the training of Mr. Coleman as a current QC inspector and other QC inspectors (both past and present). In addition, this calls into question the credibility of Mr. Baker's testimony (Applicants' Exhibit 177, page 12):

"Welding technicians are assigned to each area of the plant where welding is taking place. These individuals continuously monitor the welders they are assigned. They know each welder's capability and, more importantly, what each welder is doing and how he or she is doing it. . . Further, welding engineering (apart from QA/QC) also conducts unannounced inspections of each active welder every approximate fourteen days of welding." (Emphases in the original.)

During the time when Mr. Coleman was performed plug welding without the proper documentation, where were the welding technicians? the QC inspectors? the welding engineering personnel? (See, also Tr. 12267/13-

12272/12 regarding testimony of NRC Staff Witness Mr. Taylor concerning drawbacks or inadequacies in the weld technician program.)

The obvious and immediate way in which the discrepancies between the testimony of Messrs. Baker and Coleman might be interpreted would be that the welding technicians, the QC inspectors, and the welding engineering personnel had all just missed catching Mr. Coleman performing illegal plug welding. However, there is another possibility: that (at least some of) the welding technicians, QC inspectors, and/or welding engineering personnel knew (or at least suspected) that such illegal plug welding was going on, and did not report it because they were intimidated, harassed, and/or were afraid of making waves and possibly losing their jobs. This is a possibility which the Board cannot ignore, based on testimony in the Intimidation and Harassment portion of these proceedings.

This also raises an additional question regarding the credibility of Mr. Coleman's testimony. He testified that he didn't know he needed a Repair Process Sheet when he made plug welds. One would assume that, since he is now a QC inspector, that he now knows that Repair Process Sheets are needed and that he now knows that Repair Process Sheets were needed at the time he made plug welds. Yet there is no indication in the record that Mr. Coleman promptly identified and corrected this problem or that he ever wrote Nonconformance Reports (NCR's) or other reports of nonconforming conditions regarding those illegal plug welds which he performed when he was a welder.

As discussed herein, the Board should also recognize the further implications of Mr. Coleman's testimony.

With further reference to CASE's 1/7/85 Motion for Reconsideration, at pages 38 and 39 (re: page 10, last sentence of second paragraph; and page 59 and

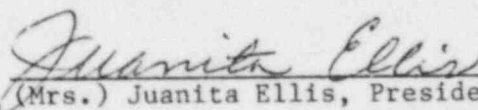
first full paragraph of page 60; re: Welding of Misdrilled Holes by Henry Stiner, where CASE urges that the Board acknowledge that Mr. Stiner was right when he stated that he had made plug welds in the North Cable Spreading Room, as has now been substantiated by the NRC Staff):

In the NRC Staff's prefiled testimony (Addendum to Page 17 of NRC Staff Testimony on Welding Fabrication Concerns Raised by Mr. and Mrs. Stiner, bound in following Tr. 12146), page 1, NRC Staff Witness Mr. Gilbert acknowledged that the reason he looked at the North Cable Spreading Room was because of the concerns raised by Mr. and Mrs. Stiner. And when asked on cross-examination, NRC Staff Witness Mr. Gilbert testified that the reason he looked at the North Cable Spreading Room was "That was the area alleged to have been welded with misdrilled holes." (Tr. 12254/12-17.)

This is further support for CASE's motion that the Board should find that Mr. Stiner's testimony in this regard was consistent, and further that the Staff's finding illegal plug welds in the location Henry Stiner said they were bears favorably on his credibility.

For the reasons stated herein and in our previous pleading, CASE moves that the Board rule favorably on the matters raised by CASE herein and again reurges our Motions made in CASE's 1/7/85 Motion for Reconsideration of Board's 12/18/84 Memorandum (Concerning Welding Issues) (LBP-84-54).

Respectfully submitted,



(Mrs.) Juanita Ellis, President
CASE (Citizens Association for Sourd
Energy)

1426 S. Polk
Dallas, Texas 75224
214/946-9446

news

circuit breaker

December 18, 1984

ASLB FINDS STINERS TO BE WITHOUT CREDIBILITY

The Atomic Safety and Licensing Board has concluded that Henry and Darlene Stiner, former Comanche Peak workers who made numerous allegations concerning welding practices, are not credible witnesses.

"The record demonstrates that Mr. and Mrs. Stiner are individuals who possess memories that produce different versions of the same facts when questioned at different times and possess selective recall of facts and details favorable to their claims, accompanied by a failure of memory as to other facts regarding those claims," the board concluded in a memorandum issued late Monday.

In contrast to the Stiners, the board said it "finds no inconsistencies from (the company's) witnesses which would call into question their credibility."

The ASLB ruled that with two exceptions, the allegations raised by the Stiners are without merit. The board said it still had questions regarding two welding practices, but said "there is reasonable assurance that these allegations are not reflective of any condition that could adversely impact the safe operation of the plant."

The board said part of its conclusion that the Stiners had no credibility stemmed "from our realization that both of the Stiners misunderstood the technical foundation for the weave welding procedure which was the crux of a substantial portion of their complaint about the plant."

Furthermore, the board said it found that Henry Stiner was fired because of a long-standing absenteeism problem at work, not, as he claimed, because he reported a problem to a QC inspector.

The board noted a number of inconsistencies and contradictions in Henry Stiner's testimony last September in hearings in Fort Worth and pointed out Stiner's "willingness to provide adverse testimony to (the company) without sensitivity to whether the matter is beyond his expertise."

Darlene Stiner "apparently relied heavily on what her husband told her" and "responds to questions by significantly overstating the facts," the board said.

Official who took heat at Comanche Peak quits

By BRUCE MILLAR
Star-Telegram Writer

GLEN ROSE — A key figure in Texas Utilities Electric Co.'s defense of its beleaguered quality control program at Comanche Peak nuclear power plant has resigned, a plant spokesman confirmed Tuesday.

Ron Tolson, who formerly headed the utility's on-site quality control program, resigned his job as a staff engineer Feb. 15 to take a position with a Dallas engineering consulting firm. Tolson's resignation became effective four days before utility officials announced the replacement of the quality control program's top two managers.

"People change jobs every day. It's not unusual. It's difficult to separate the two, but there is absolutely no connection whatsoever" between Tolson's resignation and the reassignment of two of his former supervisors, company spokesman Dick Ramsey said in an interview.

Ramsey said it was strictly a coincidence that Tolson left the company shortly before his former boss, Dave Chapman, and Tolson's successor, Antonio Vega, were transferred. Utility officials said they replaced Chapman and Vega with three outside experts to add "fresh perspective" to the quality control program.

"Tolson resigned entirely voluntarily," Ramsey added.

The plant's quality control program, including Tolson's management of the program, has been a continuing controversy at hearings

before the U.S. Atomic Safety and Licensing Board. The adequacy of the plant's quality control program plays a vital role in whether the board recommends a federal operating license.

The licensing board has had extensive hearings on allegations that plant supervisors, including Tolson, have harassed and intimidated quality control inspectors attempting to carry out their responsibilities. No decision has been reached.

The NRC report also criticized utility management for its handling of a controversial March 1984 "T-shirt" incident with which Tolson became closely identified.

Eight electrical quality control inspectors came to work wearing T-shirts bearing the slogan, "Comanche Peak nitpickers. We are in the business of picking nits." The slogan was a response to orders from a manager not to "nit-pick" in inspections.

Tolson testified that he found the slogan personally offensive and ordered the men detained for four hours while their desks were searched, according to hearing testimony.

Tolson resigned from his quality control job the same morning after Dallas-based utility executives overruled him and ordered the inspectors sent home for the day instead of being fired, according to testimony.

The Jan. 8 NRC report faulted Tolson and utility management for knuckling under to the pressures and complaints from construction workers.

Chairman
Atomic Safety and Licensing Appeal
Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Renea Hicks, Esq.
Assistant Attorney General
Environmental Protection Division
Supreme Court Building
Austin, Texas 78711

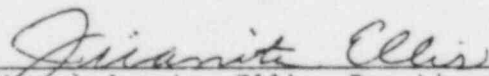
John Collins
Regional Administrator, Region IV
U. S. Nuclear Regulatory Commission
611 Ryan Plaza Dr., Suite 1000
Arlington, Texas 76011

Lanny A. Sinkin
114 W. 7th, Suite 220
Austin, Texas 78701

Dr. David H. Boltz
2012 S. Polk
Dallas, Texas 75224

Michael D. Spence, President
Texas Utilities Generating Company
Skyway Tower
400 North Olive St., L.B. 81
Dallas, Texas 75201

Docketing and Service Section
(3 copies)
Office of the Secretary
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555



(Mrs.) Juanita Ellis, President
CASE (Citizens Association for Sound Energy)
1426 S. Polk
Dallas, Texas 75224
214/946-9446