



REVIEW COMMITTEE

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PACIFIC GAS AND ELECTRIC COMPANY
201 MISSION STREET, ROOM 1508
MAIL CODE P15B
P.O. BOX 770000
SAN FRANCISCO, CALIFORNIA 94177
(415) 973-8510

**CASE CLOSED
FILED & LOGGED**

OCT 19 1994

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(510) 933-6060
R.W. STALCUP, SECRETARY

RICK R. DOERING, CHAIRMAN

**San Joaquin Valley Grievance No. FRO-93-20-300
Pre-Review Committee File No. 1719**

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

**Melanie Curry
Company Member
Local Investigating Committee**

**Ron Van Dyke
Union Member
Local Investigating Committee**

Grievance Issue: Termination of Backhoe Operator for violation of the Drug Free Pipeline Program.

Facts of the Case:

The grievant was in Post Rehabilitation Testing Program for about 3 years and was being tested on a quarterly basis.

On July 19, 1993, the grievant was randomly selected to be tested. Several things happened at the collection site that were not in accordance with the procedure. First, the collector changed the "Reason for the Test" on the Custody and Control form from "Random" to "Post Rehab"; and second, the amount of the sample was less than 60 milliliters.

The sample was tested as well as the split and both test results came back positive.

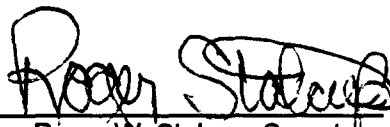
Discussion and Disposition:

The Committee had an expert review the litigation package and primarily review the specimen volume. It was determined that there was sufficient quantity to test both the primary and split. The recommended quantities by DOT and the agreement take into consideration leakage, spillage and the possibility for a need to retest. It was agreed to by the parties that the sample size of less than 60 ml is not a "fatal flaw" of the test. The Committee also agreed that the change made on the form from Random to Post Rehab did not constitute a "fatal flaw."

The Committee agreed that the grievant violated the terms of the Drug Free Pipeline Program and was discharged for just cause. This case is closed without adjustment.



John A. Moffat, Chairman
Review Committee



Roger W. Stalcup, Secretary
Review Committee

10/19/94

Date

10/19/94

Date