

**JURISDICTIONAL ASSIGNMENT PLAN
of the
ALBERTA CONSTRUCTION INDUSTRY
(J.A. Plan)**

DECISION OF THE UMPIRE - File #0104

**Review of Contractor's Intended Work Assignment
Loading, Unloading and Handling of Lunch Trailers et al**

PROJECT

**SUNCOR SITE – MILLENNIUM PROJECT
FT. MCMURRAY, ALBERTA**

CONTRACTOR

**Fluor Constructors Ltd.
(Fluor)**

PROTESTING PARTY

**International Association of Bridge, Structural, Ornamental
and Reinforcing Iron Workers #720, Edmonton
(IW)**

RESPONDENT

**Alberta and Northwest Territories (District of Mackenzie)
Regional Council of Carpenters and Allied Workers
(Carpenters)**

**Decision Published
April 25, 2001**

**Review of Contractor's Intended Work Assignment – Loading, Unloading and Handling of
Lunch Trailers et al**

1. NATURE OF PROTEST

IW, the protesting party has stated:

Unloading and Handling of Lunch Trailers et al. The Contractor assigned the disputed work correct (*to the IW*) but are proceeding with the work incorrectly (*not using IW*).

2. DESCRIPTION OF THE DISPUTED WORK

The description of the work in dispute was provided by Fluor in their Final Assignment dated November 04, 1999, Item T. which states:

T. Sea-Containers, Foreman Shacks, Lunch Trailers, Tractor Trailers (5th wheel)

Sea-Containers/Foreman Shacks/Lunch Trailers

Unloading and handling of sea-containers and foreman shacks in the laydown/warehouse or storage area will be the work of the Ironworker.

Loading, handling and unloading of same from the laydown, warehouse or storage to the work area will be the work of the Ironworker.

Handling, regardless of means, of the sea-container and foreman shacks within the work area will be the work of the craft utilizing same.

Loading and handling of same to laydown/warehouse or storage area from the work area or loading out to transport will be the work of the Ironworker.

3. AUTHORITY

The authority of the Umpire is based on the Jurisdictional Assignment Plan of the Alberta Construction Industry, the Application submission by the Protesting Party and response(s) submitted by the Respondent(s) and Contractor.

4. J.A. PLAN, PROCEDURAL RULES

Article IV: Contractor's Responsibility (in part)

Item IV 5 states:

"5. *The intended work assignment by the Contractor shall be made on the following basis:*

(a) *Where a Decision of Record applies to the disputed work, or where an Agreement of Record between the disputing trades applies to the disputed work, the Contractor shall assign the work in accordance with such Agreement or Decision of Record. Where a local trade agreement between two unions has been filed with the Umpire, the Contractor shall assign the work in accordance with such trade agreement providing such trade agreement does not affect another trade."*

(b) *Where no decision or agreement under (a) applies, the intended work assignment shall be made by the Contractor in accordance with established trade practice and the Prevailing Practice and with due consideration for efficiency, safety, good*

management, and the presence within the membership of the local union of workers workers qualified to perform the work, and a desire by all Parties to eliminate excessive allocation of manpower.

- (c) *If a dispute has arisen prior to the intended work assignment where no decision or agreement under (a) applies, or where there is no predominant practice in the Province, the Contractor shall nonetheless make an intended work assignment after consulting the representatives of the contesting Unions and considering any arguments or facts the Unions may wish to present regarding the applicable Decisions or Agreements of Record or Prevailing Practice. The Contractor should also consult any local association of Contractors in the locality regarding the established practice (amended by "Plan Amendments No. 2", (02/21/97).*

5. SUBMISSIONS

- I have reviewed all documentation received from the J.A. Plan Administrator. Reference Attachment A.

Disposition of Submissions

With this Decision all documentation has been returned to the J.A. Plan Administrator located at the Alberta Arbitration and Mediation Society Office, Decore Centre at the Law Centre, University of Alberta, Edmonton.

6. EVIDENCE

All submissions both written and oral have been accepted as Evidence. Reference Attachment A for summary of written Evidence and Attachment B for transcript of oral Evidence.

Comments on the Evidence

Before stating my Findings, which will lead to my Decision I wish to comment on this Assignment to the Ironworker made by Fluor at their November 04, 1999, Equipment Markup Meeting.

A composite crew was mobilized to unload, handle and place consisting of Carpenters, Labourers, Operating Engineers and as required Teamsters. The Ironworker was excluded.

The composite crew (without the Ironworkers) appear to have performed satisfactorily in spite of the Labourers giving less than desirable signals to the Operating Engineer(s) operating the fork lift (s) and the unsubstantiated comment of incorrect slings recently being used which could have caused a serious accident. Undoubtedly an esprit de corps exists between the members of this composite crew, which would be interrupted with the addition of a new member let alone the potential additional cost.

Fluor referred to the August 15, 1995 Letter of Understanding where in it states in part *"that, decisions of the Umpire shall not, wherever possible, result in an excessive allocation of manpower occurring on the job."*....

Far be it for any Umpire to tell any Contractor how to manage their operations when they are experienced in striving for maximum efficiency.

The Ironworker to whom Fluor assigned the work tolerated this situation since the work

commenced in late 1999 to March 22, 2001 then they filed their Application for Review some 15-16 months after the work had commenced. Why did the IW take so long?

During the Hearing Fluor made the comment they did not know why the Ironworker did not file their Complaint against the Operating Engineers and/or the Teamsters. The Ironworker commented they have no dispute with these two trades.

7. FINDINGS

From the written and oral Evidence presented I find:

- There are no Agreements or Decisions of Record.
- No local trade agreement between the IW and Carpenters was submitted.
- Fluor assigned the work to the Ironworker.
- Once the work started Fluor did not honour it's assignment by excluding the Ironworkers.
- The wording of this Assignment is identical to what Fluor had assigned on four previous projects.
- PCL's assigned on six previous projects the setting of lunch/office trailers to the IW with the Carpenters providing blocking material only.
- Fluor stated they have confidence in the Ironworkers ability to rig.
- The Ironworker is not claiming the right of the Teamsters to unload these trailers.
- The Ironworker is not claiming the right of the Operating Engineer to use fork lifts to move these trailers.
- The equipment used to move the trailers is not the determining factor.
- The Carpenters are performing more work than stated in their submission.
- The Labourers are being allowed to perform tasks on the composite crew they appear not qualified to perform.

8. RULING

- Fluor is to adhere to their Assignment by including the Ironworker, to perform the work assigned to them, in the common services crew.
- The Carpenters work is to be limited to the placement of blocking for leveling and trailer interconnects, stairs, passageways, skirting and decking.
- Costs shall be paid 65% by Fluor and 35% by the Carpenters.



W.A. Weir, Umpire
J.A. Plan/Alberta Construction Industry
April 25, 2001

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Review of Contractor's Intended Work Assignment
Suncor Site, Millennium Project, Ft. McMurray, AB
Loading, Unloading and Handling of Lunch Trailers, et al

ATTACHMENT A

WRITTEN EVIDENCE SUBMITTED

EVIDENCE

DECISION OF THE UMPIRE - File #0102
Review of Contractor's Intended Work Assignment
Loading, Unloading and Handling of Lunch Trailers et al.
Suncor Oil Sands Plant, Millennium Project, Suncor Site, Ft. McMurray, AB

6.1 Administrator

All Documentation sent to D. LaBoucan/H. Tostowaryk, (IW), Martyn Piper (Carpenters), H. Tackaberry (Fluor) and Umpire Weir via fax transmission from B. Davidson, J.A. Plan Administrator.

April 04/01 Oral Hearing scheduled for Monday, April 09, 2001 will now have a 1000 a.m. start.

April 04/01 Greg Zaba from the Ironworkers will attend the Oral Hearing. Mr. LaBoucan is unable to attend.

March 27/01 Notification of date of Oral Hearing – Monday, April 9, 2001 at 9:30 a.m. at Alberta Building Trades Council, 11848 - 111 Avenue, Edmonton. Requesting RSVP by all parties (1 pg.)

6.2 Ironworkers

April 02/01 Ironworker's rebuttal to Carpenter's submission.

March 22/01 Application for Review of contractors Intended Work Assignment (1 pg).

March 21/01 Ironworkers position on moving of Trailers at Suncor Site, Fort McMurray (26 pgs., including four copies of 6 of 6)

Tab A M.C.C. Final Assignment – Suncor Millennium Project

Tab B Multi-Craft Contractor Assignments

Tab C Jurisdictional Craft Agreements

6.3 Carpenters

March 29/01 Carpenters submission of their understanding of the unloading and handling of lunch trailers. (2 pgs.)

6.4 Fluor

March 30/01 Fluor's submission of description of work. (2 pgs.)

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ATTACHMENT B

ORAL EVIDENCE

J.A. Plan File No. 0104

Transcript of Oral Hearing

**Held Monday, April 9, 2001
10-00 a.m. – 12:00 p.m.**

**Alberta Buildings Trades Council
11848 111 Avenue
Edmonton, AB**

Present at the Hearing:

Representing the Iron Workers (IW):

Harry Tostowaryk, IW, Local 720
Larry George, General Foreman on the MCC Site
Greg J. Zaba, IW General Organizer

Representing the Carpenters:

Martyn A. Piper, Executive Secretary Treasurer, Carpenters
Elmer Collins, Job Stewart at MCC Site

Representing Fluor Constructors:

Hugh Tackaberry, Director of Labour Relations and Safety, Fluor Constructors Canada Ltd.

J.A. Plan Umpire:

W. A. Weir, J.A. Plan Umpire

Transcript:

UMPIRE WEIR: Commencement of hearing J.A Plan File No. 0104. I would ask that all the participants in this hearing affirm that the evidence that they are about to give is the truth, the whole truth and nothing but the truth, so I will pass this piece of paper and ask that you insert your name accordingly. I'd like you to read that out loud please, Mr. Piper.

MARTYN PIPER: I, Martyn Piper affirm that the evidence I'm about to give is the truth, the whole truth and nothing but the truth.

ELMER COLLINS: I, Elmer Collins affirm that the evidence I'm about to give is the truth, the whole truth and nothing but the truth.

HARRY TOSTOWARYK: I, Harry Tostowaryk affirm that the evidence I'm about to give is the truth, the whole truth and nothing but the truth.

GREG ZABA: I, Greg Zaba affirm that the evidence I'm about to give is the truth, the whole truth and nothing but the truth.

LARRY GEORGE: I, Larry George affirm that the evidence I'm about to give is the truth, the whole truth and nothing but the truth.

HUGH TACKABERRY: I, Hugh Tackaberry affirm that the evidence I'm about to give is the truth, the whole truth and nothing but the truth.

UMPIRE WEIR: Thank you. Let me test and see if this is recording.

BREAK IN TAPE

UMPIRE WEIR: This Application for review has been submitted by the Ironworkers. All parties have received copies of the information submitted from the Administrator of the J.A. Plan. The applicant, which is the Ironworker, will speak first. To be followed by the respondent, which is the Carpenters Union, and followed by the employer, represented by Hugh Tackaberry, of Fluor. Who, from your group Mr. Tostowaryk will be the spokesperson to address this, you or

Mr. Zaba?

HARRY TOSTOWARYK: Well each of us will be speaking on different things as we seek, but for the first part I'll start off.

UMPIRE WEIR: All right, proceed.

HARRY TOSTOWARYK: My names' Harry Toskowaryk from the Ironworkers. Just to start off there, we'll make it pretty brief here, we all have our different things here, every ?????? (sounds like mare) is pretty explanatory. I'll just do a quick summary here then Greg and Larry will speak, they have a couple of things to make a point on. The scope of this work kind of came to jurisdictional disputes about 4 or 5 years ago. I noticed on a lot of job site markups never spoke to it, so the submissions are in place there in your binders there, we ask for it to be included on some things, for example, the PCL things, and those things were contested and PCL made the ruling on them, it's in your markups there. They basically spoke that the Ironworkers would do all the work and the Carpenters by blocking only. And for the most part that was the norm for a lot of jobs there. I won't say all jobs, there are some jobs where the Carpenters have a larger scope and there are some jobs where the Ironworkers have a larger scope, it's one of these things where this type of work is different on every job there. On the MCC site though, it's quite interesting being that it's probably the largest job that's been completed of this nature in a long, long time. There's estimates of up to 450 trailers, lunch trailers, offices, on that site, currently, so it's quite a big scope there.

That work, like I mentioned earlier was contested for a year or two, and then basically it wasn't contested no more. The wording is in front of us here and the assignments were in place there and that's the way they've been done the last couple of years, the way they have said, they haven't been disputed by either trade.

Just to talk about it here

UMPIRE WEIR: And is the assignment, Mr. Tostowaryk, that you're talking about is the one dated November 4, 1999.

HARRY TOSTOWARYK: Yes, that's the MCC one, that's the MCC's wording. PCL's is slightly different. Fluor has been known for being very specific about there language, they're very clear on most their things there. I mean, their markups are always the thickest and the most comprehensive of all the multi-trade contractors. PCL's are in the back of your thing there, they are a little bit, they're different, but they're pretty clear too, on how they word things as well.

UMPIRE WEIR: Let's then concentrate on the markup in question, the assignment in question.

HARRY TOSTOWARYK: Sure, it's under T in there. In most places there it talks about C containers, foreman's shacks, lunch trailers, tractor trailers, and it's quite clear on how it speaks to it. Where the Ironworker has the differences in how it's interpreted and we'll speak to that as we go along here.

When the job first started there was only a couple of Ironworkers on site, I'm not going to say that there were hundreds like there was in peak, and it was talked about in the first part there and the Ironworker supervisor when it was brought to his attention, said, look I've only got a couple of guys, there's no excuse it's standard for almost all jobs. Joffre was the same way, when things started there, the Carpenter numbers were high and the same thing as the job as it progresses there. I talked to the Carpenters steward and the Ironworkers steward and Dave Buchar from Joffre at Brown and Root, told me that things changed drastically from when we started, when they first started. The Carpenters did most of them and now the last couple or three the Carpenters said, hey just go ahead do it, so the Ironworkers did the blocking and everything. Dave Bouchard told me last week that, that was the case there and it all works out in the end.

UMPIRE WEIR: Who is Dave Bouchard?

HARRY TOSTOWARYK: Dave Bouchard is the Brown and Root Superintendent for Joffre at the Amoco site there. I mean we work together with the Carpenters on a lot of things on these sites here and I'll speak to that later, there, it's the Carpenters submission talks about how they would like to see things done, their scope there and I'm sure Martyn will talk later. For the most part where the Ironworkers have an issue with is in certain instances and I'm going to speak to them shortly here.

Just to talk about some of this work here, the trailer traditionally comes on site on a truck, it's hooked up with at winch. It's offloaded roughly, to where it has to go. It's a really simple process, it's a PTO system pipe where it's just dragged off and roughly set in place. Then it is finally aligned using the equipment currently on site. Quite often with a loader, quite often it's very simple, just hook up one end, pick up blocking, goes underneath it, and stop in place. Very simple, very straight on a lot of jobs. But what's not on a lot of jobs, on the MCC for example, is it has to be intricately final aligned and placed using different methods and molds. Quite often they take a loader, they pick it up, but quite often, like what happened this morn, on site, they needed two loaders, one on the back and one on the front. One to pull, one to push, quite often it has to be rigged with intrigent tools, a portapower, snatch blocks, comealongs,

other miscellaneous rigging equipment because as you can imagine on a site like MCC, the size of it, these trailers are put everywhere and anywhere they can put them and they have to be put in a really tight spot. It's not just a matter of dropping it in a 40 acre yard, there is really tight quarters there, they've got no headroom, they've got no width, they've got no room to get equipment in there, they have to be rigged and specialized placed in place. It's a lot more complex than was originally thought. And this is done, traditionally, with Ironworkers when you use that kind of rigging there, this is where the Ironworkers have a question and a dispute on this work. This type of work has to be done on site there and quite often safety is an issue and other things that are important.

I'd like to speak about what happened this morning, I had about a twenty minute conversation with my job steward. We had a very, very close call, and I spoke about safety earlier. This example this morning is a perfect example of what happened. There was two Labourers that were asked to go get some rigging from the rigging Ironworkers. The Ironworkers said fine, gave them a couple of nylon slings, they hooked up the trailer to drag it and the operator refused to do the work. The Ironworker job steward just happened to walk by this morning, took one look at what was going on there, they had nylon slings over a sharp edge, and they had soring hooks used, which is a very, very unsafe mode of using it. The Ironworker foreman came by, gave them the proper iron rope slings and let them do the work, realizing that this was going to be resolved today, but if that operator would have chose to do the work today with the nylon sling over a sharp edge, there's a strong possibility that something could have happened. The nylon sling could have broke and I don't need to tell you what could happen if that sling would have shot around. The potential for injury is very serious. But the Ironworker is asking here is that Fluor be asked to go as their original assignment, which is quite clear, we don't have an issue with the way it's worded, we think it should be implemented that way. We've seen the Carpenters submission here, and we agree totally with the wording that Mr. Piper's put here. He's asked to do the preparing and the placing blocking for the leveling of lunch trailers, we agree with that. And he's asked for all associated and auxiliary work but is not limited to trailer interconnects, passageway stairs, decking, skirting. As you can be aware, Mr. Umpire, these trailers are quite often all tied together with blocking, wooding, that is their work, we are not contesting that at any means there. We're just talking about rigging, we're riggers, we like to do the rigging. Once they are set in place the Carpenters do an excellent job making passageways from one trailer to the next, we do not have an issue with that. We are just talking about when they are rigged into safety places, when they have to go back and forth. We are the people we think should be doing it and as I interpret the Carpenters submission here, I think from what I understand it, they don't really want to do that type of work too. We'll hear what Mr. Piper has to say about that. I don't want to put words in his mouth. But from what I understand here, it looks pretty clear.

There was a question about why the Ironworkers never contacted the Carpenters on site. That is correct. I talked to Jay Suzara, he talked to labour relations. Labour relations comment was a derogatory comment, not really worth repeating, but basically was saying why would the Ironworkers lower their standards to do this type of work. We don't consider ourselves doing work that's performed by the Carpenters lowering our standards. In fact, in the civil aspect we work very well together with the Carpenters doing all the civil work on the reinforcing end. Those gentlemen work together that perform the work for all the trades to do the work. If it wasn't for the civil work done by the rebar and the Carpenters, none of these structures would be standing today that we'd be working on. We don't consider that lowering our standards at all. We believe that we work together with them quite well. The final markup is clear and to get back to what I was saying a minute ago, Jay Suzara, our agent in McMurry, he did approach Martyn Piper and Ted Ash, on a different instance, in regards to anchor bolts and there resolve was not very possible, he got a very negative taste, even though that work that was disputed is pretty clear in the craft jurisdiction guide, basically anchor bolts, if they are for machinery is the Carpenters and if it's for structural steel it's the Ironworkers, that's a different issue, but basically he talked to those two gentlemen on that particular issue there and he had a very negative response. He should have talked to them again, he apologizes for not doing it, but basically that's his reasons for not doing it.

I have here with me Larry George, the Ironworkers GF on site and I'd like him to speak a little bit, because he is on site, about what is being done, how things are being done, from a GF's point of view. He's got some safety concerns and a couple of things here and being he's on site all the time, been there for almost a year, he could probably share some things on the safety issue that I'd like to bring into place.

UMPIRE WEIR: Just before that, Mr. Tostowaryk, would you address the Assignment and the Assignment as R,S,T,U,V,W.

HARRY TOSTOWARYK: Oh, it's T, the lines that are underlined.

UMPIRE WEIR: You talking about C containers, foreman shacks, lunch trailers

HARRY TOSTOWARYK: Yes, it's all under T, Mr. Umpire.

UMPIRE WEIR: Is that the only item of this assignment that the Ironworkers are here to discuss?

HARRY TOSTOWARYK: That is correct Mr. Umpire. We're not after, there's no issue here currently with C

containers, just foreman shacks and lunch trailers. And the foreman shacks would only when they are like lunch trailers. Right, Larry, that would be foreman shacks when they are like lunch trailers because quite often foreman shacks are like lunch trailers.

LARRY GEORGE: Well office trailers.

HARRY TOSTOWARYK: Yes, that's what they are. Yes, Mr. Umpire, not the C containers and not the tractor trailers.

UMPIRE WEIR: So would you address this, would you walk us through this.

HARRY TOSTOWARYK: Well basically I go through the whole thing. C containers, foreman shacks and lunch trailers, unloading and handling of C containers and foreman shacks in the laydown storage area, work of the Ironworker. Next line which is underlined is, loading handling and unloading of same from the laydown, warehouse, or storage to the work area with be the work of the Ironworkers. That's exactly what we're speaking to Mr. Umpire. It talks next sentence about the handing, regardless of means, of C containers and foremen shacks, those aren't an issue here, those are the, C containers are C cans that holds tools, once they get in the area they move them around. Foreman shacks are those little shacks that once they get from area to area, basically you and I could move them myself. Foreman shacks are very light, you just pick them up and move them from area to area. Quite often they are in the way, that's what they are referring to there and the last paragraph talks, loading and handling of same to laydown, warehouse or storage area, from the work area or loading out transport will be the work of the Ironworker. That's like when the job is finished, Mr. Umpire, transport, so when they take them out of there that's the Ironworkers work as per Fluor's assignment. What we're saying Mr. Umpire is that's not being interpreted correctly by the people on site there.

UMPIRE WEIR: So on the second page still in item T, the first paragraph says handling regardless of means of the C container and foreman within the work area will be the work of the craft utilizing same. There is no dispute on that as far as the Ironworker is concerned.

HARRY TOSTOWARYK: Yes we're not talking about C containers and foreman shacks.

UMPIRE WEIR: So that is not on the table.

HARRY TOSTOWARYK: That's correct.

UMPIRE WEIR: Thank you. Proceed.

LARRY GEORGE: My name's Larry George, I'm an Ironworker on the site and I guess what I'm going to be talking about is some of the type of situations you get into there where you got no laydown room and you have to drag some of these trailers into the units, where you just can't drop it off the truck and some of the specialty tools that you use like the portapowers, comealongs, and loaders with chokers and dragging or whatever means, turfing, I feel should be the riggers that do it, which would be the Ironworkers and I can't really say a lot, I don't want to hurt anyone for doing the work, the Carpenters been doing the work. They may be don't have the training that we do to use these tools and equipment and I'm a little concerned about some of the safety aspects that may be equipment and the personnel that are doing it, from what I've seen out there with some of the nylon chokers and how they are using some of the equipment.

UMPIRE WEIR: Mr. George, how long has this work been going on with the Carpenters doing it.

LARRY GEORGE: My own situation here, like I just came on board I was on night shifts and we never seen a lot of it and I came on board here on January 1. And ever since I've been there they have been doing it.

UMPIRE WEIR: Mr. Tostowaryk, when did the project start?

LARRY GEORGE: Oh, about a year and a half or two years ago, with the first trailer.

UMPIRE WEIR: So approximately 18 months ago?

LARRY GEORGE: At least, hey Hugh?

HUGH TACKABERRY: That's reasonable.

LARRY GEORGE: In my area, for one instance, I seen where they had to drag a trailer into like a little cul de sac area around some of the equipment and it had some pretty rough edges on it, what it was being done, so that's pretty much what I have to say I guess as a witness and if there's anything else with the questions I here to answer them.

UMPIRE WEIR: All right, and there may be questions as the hearing goes on. Any thing else Mr. George?

LARRY GEORGE: That's about all I can put on right now I think.

UMPIRE WEIR: Mr. Tostowaryk?

HARRY TOSTOWARYK: I've asked Mr. Zaba to talk about a couple of things here.

GREG ZABA: My name's Greg Zaba, I'm the International representative of the Ironworkers union. I mean first and foremost with this work situation is that Fluor made an assignment to the Ironworker for the off loading and handling and placing of this material, which is the trailers. That is Fluor's assignment, it was not contested by the Carpenter, and if it was, it was not at the markup, it went to the Ironworker. It is a change of assignment, which I feel is probably the height of wrong doing when it comes to work. Looking at Mr. Tackebury's letter, I really don't think he's speaking to the fact that there's no lifting required in some cases. Lifting is required in the practice of using a fork lift. Well the fork lift, to me is power equipment regardless the work was assigned to us and the documentation that has been presented to the panel and to the Umpire is very clear and has been the case for sometime over the years as an area practice in the province of Alberta. Whether he feels the cost factor, if Fluor felt there was a cost factor involved that was going to be so detrimental to them then they should have assigned it differently to start with and then we could have gone from there. However they didn't, and the reason they didn't was because of our expertise in rigging and so on and so forth and therefore the cost factor is a plus for them and not a minus.

Whether it is winched in, whether it's pulled in, pushed in, rolled in, it doesn't make any difference the assignment is very clear, it's 100% Ironworkers and the Carpenters have their work laid out in the assignment and we are not contesting that part of their work. But the timing on this, if I understand it, there was some contest made and basically the Ironworker was told to take a walk, I guess for want of another word, and that was wrong. However, we are here today, whether the assignment is two days old or a hundred days old, the assignment was made to the Ironworker, Fluor has broken their own assignment by allowing the Carpenters to do this work and therefore they are in violation as far as I'm concerned. So we're requesting that the Ironworker be, that the work be turned back to the Ironworker in its entirety and that the Carpenter be allowed to do their work that they have sort of done on these, and I don't think there's really too much more, the assignment was made and that's the way it should be.

UMPIRE WEIR: Mr. Zaba, you're talking about the, again item T, on the assignment, so there's no dispute, there's no difference in the item we're talking about.

GREG ZABA: Right.

UMPIRE WEIR: Anything further, Mr. Tostowaryk.

HARRY TOSTOWARYK: No.

UMPIRE WEIR: Mr. Piper?

MARTYN PIPER: Yes, I've got a number of responses but I think in order to have the full description of the work placed in front of you, from our perspective, I'm going to ask that our job steward walks us through the processes as he's seen it. He's been on the job some period of time and he can speak to that and then I think what I will do is follow it up with some comments in response to the Ironworkers position. But I think it's important that we all have a clear understanding of what the work is and how it's actually being administered at this point. So if you'd allow us that opportunity I'd ask Elmer to do that.

UMPIRE WEIR: You go right ahead.

MARTYN PIPER: Maybe Elmer just start off by talking a little bit about how long you've been on the job and then your observations of the different types of processing including the ...

UMPIRE WEIR: If you could start off with your name also, please.

ELMER COLLINS: My name is Elmer Collins, I'm the job steward for the Carpenters at MCC. On or about May 17, 1999, trailers started coming into the MCC project being placed the way they are now. For the most part, the trailers come in on a low bed, the teamster, with a winch and cable, hooks on to the trailer, pulls it aboard the low bed, takes it to the area, drops her. An OE comes in with a loader, it's got forks on, the OE pushes her, drags her, whatever he got to do, there's no Carpenter involved.

GREG ZABA: Excuse me, are you saying that when it comes in on the truck, low bed or whatever, the teamster drives it, it goes over to the area and then it's dropped off and then OE's do the rest of it.

ELMER COLLINS: The loader, with the forks on, goes in and butts it in place.

GREG ZABA: By himself?

ELMER COLLINS: Well, Labourers, I went and checked on this, and they say for the most part the Labourers help him out. Signaling, if you're going to talk signaling, the signaling is come on, come on, whoa, that's it for the most part.

MARTYN PIPER: You've talked about how these trailers are loaded, you've talked to me a number of times about the winching and all those kinds of things, so just understand here, the gentlemen at the end of the table doesn't know the work we're talking about, so I think the more detail you can provide is going to enable him to make a determination as to where we're at with this so, maybe be just a little more detailed in whose doing what.

ELMER COLLINS: Well, like I said for the most part they come in on a low bed, there's a winch with a cable, the Teamster takes the winch to the trailer, hooks on to the trailer, winches aboard a low bed, takes her to the area to be set, dislodges her from the low bed by jerking release method. Once there, the OE comes in with the loader with forks on, if there is a sling that's got to be used, wire rope or otherwise, it goes around a round beam, I don't even know what it's called, it's on the beginning of the skid, so the Labourers hook the sling on there, Labourers hook it onto the loader and the loader puts it in place. And the loader is operated by the OE's. The only part we have in it, is the Carpenter is the foreman of the common services doing the work.

HARRY TOSTOWARYK: The Carpenter directs the Labourer?

MARTYN PIPER: With respect, that's not the issue.

HARRY TOSTOWARYK: No, just questioning it.

ELMER COLLINS: Yes, the Labourer is part of the common services crew.

UMPIRE WEIR: Let Mr. Piper continue.

MARTYN PIPER: So I think we've sort of detailed the work and maybe there's more to come but just in light to rebut some of the comments made across the table. First of all, as I outlined in my letter, I am not, and my business agent is not aware of any issue with respect to this work and hasn't been made aware of that and I just heard a comment from my friend, Mr. Zaba over there that there was some contact made. My evidence is that there was no evidence made, I'm not aware of this and that's what I said in my letter, and to the best of my knowledge this work has been done for some 18 months. To be perfectly honest I wasn't aware on how the work was being detailed. The markup took place, the assignments were made, we're not disputing that.

In terms of Dave Bouchard, Amoco and other work, that's here say and I don't think that's relevant. What's relevant is the information that's been provided to you. There's been no mention of this dispute of the Labourers, of the Operating Engineers or the Teamsters, it seems to me that we're talking more than the two trades that are sitting here across the table. I don't think, with respect to the Chairman, it's job here to determine the issue of safety of the issue of cost, I think your job here is to determine whether the assignment of work is correct and whether the work is being carried out in the correct fashion.

So, at the end of the day, I've just heard the Ironworkers say, and again it's not for me to determine whether the fork lift is or isn't his work. The fork lift isn't in dispute here, the Carpenters are not arguing the issue of the fork lift. As far as we're concerned, we're playing a role in part of a larger crew to place these units and level and block them as I've outlined in my letter to you I suggest that we now, the focus of this dispute to that and nothing more than that. So as I've said I think there is more party to this issue than we've got here. You know there's been a claim made about the lack of training, etc, etc, with snatch box and pulleys, etc., again I don't think that we're not here to determine what level of training that we have or don't have, so at the end of the day, we feel we're doing the work that was assigned to us under the markup, we don't wish to encroach on the Ironworker jurisdiction and I think your role here is to determine whether this process is meeting with the requirements of the markup and then further to that then the assignment. Certainly we have a role to play in the placement of these units.

UMPIRE WEIR: Is the role the Carpenters play in the placement in the these units more than you would have put in your letter? The two items in your letter Mr. Tostowaryk referred to two items.

MARTYN PIPER: It is our position that in terms of the leveling, we did claim the final placement within the markup, we were denied that, but certainly the preparing the blocking and putting the blocking place is the work, further to that subsequent work, that I outlined in my letter with respect to decking and stairs and anything else that is sort of auxiliary to those units, they don't particularly stand alone.

UMPIRE WEIR: And the Ironworker in their submission said they are not objecting to this, they recognize the two

bullets you have here is your work, Mr. Piper, what's your interpretation of the assignment.

MARTYN PIPER: Right. Well I think it's self explanatory. I understand that we're not here to dispute the issue of C Containers and Foremen shacks, at least that's not what the original claim speaks to and it talks only to lunch trailers. So therefore the contractors that assign the work in terms of unloading and handling of the C containers, foreman shacks, we won't go there. On the issue of lunch trailers, is headed out in T, loading and handling and unloading the same, work area, will be the work of the Ironworker. So what our issue is primarily when it comes to the placement, the setting, the leveling, that would be the work that we would see ourselves doing.

UMPIRE WEIR: So what's your interpretation then of loading, handling and unloading of the same, from the laydown area, warehouse or storage, to the work area.

MARTYN PIPER: As to my understanding, according to my steward and you just heard his testimony, we're not involved in that.

UMPIRE WEIR: To repeat, quoting item T, "the loading, handling and unloading of the same from the laydown, warehouse or storage, to the work area will be the work of the Ironworker", you are not doing any of that?

MARTYN PIPER: We are not disputing that.

UMPIRE WEIR: And you are not doing any of that?

MARTYN PIPER: That's my understanding from my job steward.

UMPIRE WEIR: Is that right Mr. Collins?

ELMER COLLINS: The Teamsters and the OE.

UMPIRE WEIR: What is the established practice for this, i.e. the industry practice.

MARTYN PIPER: I believe it's as we, our position is I can't speak to the other trades, but in the terms of the movement of vehicles, fork lifts, loaders, obviously I don't want to get involved in another dispute but, Operating Engineers or Teamsters. But our position is when that trailer is set down than we would be involved in ensuring that it's in a stable level position and our work will continue from that.

UMPIRE WEIR: The reason I asked you that is that in the JA Plan there's a procedure that the Umpire has to follow. In rendering his decision the Umpire shall determine first whether a previous Decision of Record or an Agreement of Record governs. If no such Decision or Agreement applies, he shall then consider where there is an applicable agreement between the disputing Unions governing the case. If no such agreement is in effect, the Umpire shall consider established trade practice, prevailing practice, together with a reasonable acceptance for consideration of efficiency, safety and good management and a desire by all parties to eliminate excessive allocation of manpower.

So those are some of the criteria that the Umpire has to consider and with respect to what you said that safety shouldn't be part of the Umpire's consideration, I respectfully submit, it's a major concern and the plan has seen to that. Any further comments Mr. Piper.

MARTYN PIPER: No, other than the fact that you are dealing potentially with some other trades outside of this dispute and you know we often hear the words composite crew etc., etc., it seems to me that not only the other two parties here but you've got others that are actually involved with this. But in terms of what we determine is our work is what I've outlined to you. And I apologize on the issue of safety. Other than the point it was sort of an insinuation that the work is being done not safely, and we take exception to that if it's actually involving our people.

UMPIRE WEIR: So you say that, and I won't repeat what you said, because it's quite clear that you aren't involved in the items that Fluor has assigned to the Ironworker.

MARTYN PIPER: That's my understanding.

UMPIRE WEIR: You are involved in the areas once the shack has been placed into the area with blocking and the other items that you commented on in your letter.

MARTYN PIPER: That's correct.

LARRY GEORGE: Excuse me for a sec

UMPIRE WEIR: Repeat your name again, please.

LARRY GEORGE: My name's Larry George, Ironworker, GF, MCC site and I just wanted to ask a question here. You mentioned that the Carpenter foreman was in charge of that move, I believe, right Elmer.

ELMER COLLINS: Yes, the Carpenter foreman is the foreman of the crew.

LARRY GEORGE: Of that move, of the final alignment we are talking about.

ELMER COLLINS: No.

LARRY GEORGE: Well, it goes from the truck to the point where you guys start blocking. The Carpenter foreman takes care of that part.

ELMER COLLINS: If it's got to be done, he says OK well this trailer's got to go here,

LARRY GEORGE: OK, so there is involvement from the Carpenters. In my opinion and I may be wrong, but that's the way I see it, I'm sorry.

UMPIRE WEIR: And that Mr. George is from the point of view of supervising the crew being the foreman of the crew.

LARRY GEORGE: Yes, sir.

HARRY TOSTOWARYK: Mr. Umpire, can we have a two minute break then continue, please.

UMPIRE WEIR: Before you take your recess and that's very common in hearings, that recesses take place, Mr. Piper, if in your estimation if the Ironworker has been named the wrong trade, what are the trades that are involved in the loading, handling, and unloading of the work in question.

MARTYN PIPER: Based on what the evidence I've heard this morning, it appears to be labours, the Teamsters and possibly the Operating Engineers.

UMPIRE WEIR: That's what I heard also. Alright, before we take a recess, Mr. Tackaberry, do you have anything to present.

MARTYN PIPER: Sorry, before you go, and at the end of the day, you've talked about the economy in this and clearly we're not talking about a monumental project here so in your decision making powers I mean that's a consideration you're going to have to give with respect to how many people and who should be involved in this type of work.

UMPIRE WEIR: Thank you.

HUGH TACKABERRY: My names Hugh Tackaberry, Director of Labour Relations and Safety for Fluor Constructors Canada Ltd., and my job is to support Millennium Construction Contractors who is the direct hire entity at the Millennium project at Suncor. The labour relations group at Suncor is for Millennium is composed of a joint group of Fluor and Bechtel personnel. Any contact that the Ironworker or Carpenters had is with the joint group. Because the payroll is a Fluor payroll for various reasons, I am here representing this case, as Fluor but it's Millennium Construction Contractors, just to throw a little clarity on that issue. Certainly the markup contains language which talks about the handling of office trailers and lunch trailers. I can understand the Ironworkers confusion in that assignment but that assignment was based on the practice, I guess, of handling lunch trailers and office trailers by power rigging, which means that these trailers are not on skids, that they are actually units which stand on blocking and are not pulled down the road or pulled onto a flat deck, they are actually lifted by rigging and then lifted into the air with a crane and set and that's why the Ironworkers received that assignment because certainly their rigging skills in the construction industry of the highest. So the intent was to use people with the rigging skills to perform that rigging.

It just so happens that we have now come into a situation where we've got these types of trailers on metal skids, steel skids, which is a frame composed of steel beams under the trailer which enables these trailers to be slid down the road or pulled using a winch onto a deck of a flat bed truck, normally at the front of the trailer or the pull end there will be an attachment I guess which is a cross bar running perpendicular from the skids and normally that is a round piece of pipe that is where the sling attachments or the hook attachment of the winch attached and therefore the pull can be generated from that piece of pipe. My understanding is that these trailers can either be pulled down the road behind a piece of equipment, a front end loader or a fork lift, whatever, or they can be winched onto the deck of a flat deck truck, move with the truck and then dropped. So we're talking about a little different situation than the assignment is meant to address. Although again I repeat, certainly I can understand the confusion in the assignment.

I am also, and have indicated, I think, in my letter, that I'm a little bit confused as to where the Ironworker came at the Carpenter on this. My understanding is the Carpenters perform the leveling and blocking on these trailers. They don't actually do the attachment of the winch or slings for pulling, that's done by the OE and the Teamster and apparently there's some Labourers involved from what I hear here and I can understand that's part of the picture too, given that Labourers are part of common services. And also assist the Carpenter with the blocking. So, again, in my letter I've indicated that we can't foresee every situation. We certainly try to anticipate every situation when we do an assignment and a markup at the pre job but we're not infallible and certainly this is one that we'd didn't anticipate we'd have this conflict on trailers running on skids.

Given all that, I will reference what Umpire Weir has talked about in the assigning and the actual reasons for making assignments in the field when you talk about efficiency, safety, cost is an issue, like it or not, and all of those issues come into play here. Again, my understanding from the information I got from the field is the trailers are moved either by pulling down the road or mounting on a truck and dropped at their new location. If they need to be maneuvered into another locations, for instance under a pipe rack, which there are quite a few that are, they take the front end loader, they lift the ends and maneuver that thing into place. They do not rig that thing up by supporting it from chain falls or whatever, kind of move it with power rigging, it's not done that way. And again, that's where the Ironworker would have no necessity to be in the operation if there's not power rigging involved.

So, fundamentally the trailer is moved, it is dropped, the loader lifts it, the Carpenter is responsible for the blocking, the Carpenter places the blocking until the trailer is level and that's the end of the operation. Power rigging is not part of the operation. I appreciate the comments regarding the slings, but again, that to me is not strictly an Ironworker issues, it's a common sense issue out in the field. I don't see where an Ironworker or a Labourer or a Carpenter or an Operating Engineer or a Teamster, any of which could be involved in hooking those slings up would have any more knowledge when you're wrapping it around a round pipe, than anybody else. Certainly it is not common sense to use a nylon sling on a sharp edge and I don't think that's necessarily something that the Ironworker would have better knowledge than the Operating Engineer for instance. It's just a common sense thing. Safety is an issue, we're all concerned with safety, but that, to me is not a trade specific issue.

Having said all that I'll fall back on the letter of understanding which is contained in the jurisdictional assignment plan of the construction industry in Alberta. There's two of them at the back of the plan, and Umpire Weir, I would ask that you flip to yours. There's one that talks to collective agreement, this is on the one I would use, it's the other one that references practical nature of the work and cost and indeed the plan does allow for assignment based on the practical nature of the work and the cost. And I have stated in my letter that to add an Ironworker to the crew that's performing this work, which involves no rigging, involves a front end loader and involves blocking, none of which are the jurisdiction of the Ironworker, would add unnecessary cost and impractical manpower to the work. And again, I beg to differ a little bit to Mr. Piper's comment that this isn't very much work. It's been stated here, there's a couple hundred trailers out in the field or more and certainly every hour counts so we're not prepared to add additional crew to these moves when it's not necessary. It's not a safety issue, OK.

SIDE 2 TAPE 1

UMPIRE WEIR: Please proceed.

HUGH TACKABERRY: Again, this is Hugh Tackaberry speaking. Just to continue on with my argument, under the jurisdictional assignment plan there's certainly leeway to allow making assignments based on the practical nature of work, cost and safety issues, and that's what we've done. Again, I'm a little confused where the Ironworkers come from on this from filing a jurisdictional dispute with the jurisdictional assignment plan against the Carpenters, I agree with Mr. Piper that the Carpenter is the not party that should be in this dispute if any, that would probably be the Teamster or the Operating Engineers and certainly the work itself, I believe is being assigned correctly and the work is being done on the appropriate, practical nature in the field. I have not more to say.

HARRY TOSTOWARYK: Can we have just two minutes, please.

UMPIRE WEIR: Just a minute please.

GREG ZABA: Oh, all right.

UMPIRE WEIR: I'd like to ask Mr. Tackaberry the same question I asked Mr. Piper, with respect to the last paragraph of T, loading and handling of same to laydown area, warehouse or storage yard to work area before loading out to transport, that is the work of the Ironworker. Your interpretation of that?

HUGH TACKABERRY: I think I've addressed that in my talk. Our intent was that would deal with power rigging and we did not clearly specify that in the language, I agree, it does lend some confusion, but we've got a situation here where we've got skidded trailers, that's what the dispute is all about, not about the trailers that are power rigged, because those are certainly given to the Ironworker.

UMPIRE WEIR: But it goes on to say that handling regardless of means

HUGH TACKABERRY: That's for trailers in the normal work area to be done by other crafts. If it's to be power rigged, regardless of other means, the other crafts would be able to do that, not just the Ironworker. It just so happens that in a lot of those cases we would use Ironworkers because we have confidence in the Ironworkers ability to rig.

UMPIRE WEIR: Is this a normal assignment wording.

HUGH TACKABERRY: That is the wording we use, commonly, you see in the Ironworker submission they provided several markups that Fluor has done and the wording is the same. But we've never run into this issues before and normally what we'll do as we move along the path, that is a living document, we will adjust it to accommodate these types of situations where we run into some type of work that we had not anticipated would come into play. This is certainly that type of case, so you'll see in our next assignments that we deal with skidded trailers.

UMPIRE WEIR: I'm sure of that. In previous assignments that Fluor has made for this type of work and has used this identical wording, when the work in question that Mr. Collins and Mr. George and others have explained, has there never been a challenge?

HUGH TACKABERRY: There's never been a challenge that I've run into, but again, these things happen on site, there's always negotiation on site that I am never aware of, things are resolved. I can't even tell you with 100% accuracy because I do not know that on every site this is always done the same. There may have been times when at Nova for instance, three different areas, three different ways. So again, on the E3 site we had a way of doing it and I can't tell you with 100% accuracy how that was done. These are sometimes negotiations right on site there between the crafts and management may come to a conclusion on what those different trades are prepared to do. But I guess we're basing our argument on the practical nature of the work. And that additional workers are not involved to do this work. There's not an issue of safety, per say that is involved with rigging. In rigging you're talking about balance and you're talking about have the appropriate equipment to manage the weight and all that because it's up in the air. This is not that case.

GREG ZABA: Just before we break, I guess I have a little different view of rigging. I've seen people's hands and feet crushed when the thing was up 3 inches or up 300 feet, I don't think that's, the distance and height is not the problem. But any kind of rigging, any kind of movement. Any movement is rigging and MCC on this site where you're going to pull in one of these trailers and it's going to be dropped exactly where you want without having to lift it, place it back and forth, as you're doing this and this and this to walk it in, it means you've got to have it in the air. Rigging is rigging, it means movement of material in one fashion or another. And in your assignment you have agreed and I assume you're going to probably have a different wording in the next realm that the assignment is as it states. All work in this regard is going to the Ironworker. It doesn't say power rigging, it doesn't say skids, it doesn't say anything like that, it says the setting and placing of these units will be done by the Ironworker. And safety is a big part of it and I think when it comes to loaders and fork lifts or what ever you want to call them, they'll all power rigging. It's being moved to accommodate whatever the contractor wants. If I could stop there.

UMPIRE WEIR: Let's adjourn. Is 10 minutes enough?

HARRY TOSTOWARYK: That's more than enough, thank you.

UMPIRE WEIR: Reconvene at approximately 11:12.

GREG ZABA: As we were saying the assignment is quite clear in the case of the Ironworker and the riggings aspect of it. As far as we're concerned and the Ironworker should be involved in any and all rigging that takes place with these trailers. If the contractor is saying now that wasn't his intent, well, that's unfortunate but that's the way it was written and that's the way it was understood by the Ironworker that we be involved. From what I'm hearing is that the Carpenters are trying to say they're not doing any rigging. It's the Labourer doing the rigging. That's wrong also. Somebody's got to do the rigging on this thing, and if that's the case the rigging should be done by the Ironworker. And the cost to the contractor, obviously was factored in at the beginning of this project and therefore when they assigned it to the Ironworker they took those costs into consideration. We're not trying to hone in on something that isn't ours, we're not trying to do somebody else's work and we're not trying to cost the contractor any more money but the fact of it is that they needed the assignment and we agreed and nobody else disagreed and therefore we should be on the work. It's very clear, it's a change of assignment by the contractor and as far as practical, that is our work and it's been stated here very clearly the Ironworkers ability to do rigging and we maintain that it should be converted back to the Ironworkers and the Ironworker part of that work should be done by Ironworkers, not Labourers, not OE's, not Teamsters, and not Carpenters and not any body else. I think Harry might have a couple of things to ask you.

HARRY TOSTOWARYK: We seem to be talking on the same message there. Elmer mentioned that since May 1999,

that he has been working on a crew there and to his knowledge is that the Carpenter has never been a part of it, well, them Labourers that are allegedly hooking on that trailer are being formed on a crew with Carpenters, quite often they tender scaffolders, Carpenters, and to think in two years that the Carpenters have never been involved with that would have to be a little naive. The Ironworkers seen how that work's been done. In the places that we really have reference with this, when they have to placed and squeezed and put in place that's where we have the issue. I mean any job you go to of this magnitude, trailers are put in places where the job starts. 18, 24 months later when they're being removed quite often they have to be transferred over 60 – 80 feet to a place where they can be hooked on. That rigging has to be done and it should be done by Ironworkers. Any job that I've ever seen, there's things that are put in certain places, pipe racks, modules are put around them, drive ways, walk ways are moved, are put in, installed, you can't them out the same way you put them in. These types of trailers and things have to be hand rigged, maneuvered, power rigged by people to get in place where they can take them away and the intent of the markup is quite clear. The Ironworkers interpreted it in a certain way, if they would have broke it down, like Mr. Tackebury said earlier the Ironworkers would have questioned it. Circumstances that I mentioned a moment ago, we would have contested it. We don't have a problem with the OE operating the loader, the Teamster, we have an issue once it's roughly set and when it's put in final alignment, we should be there with the Carpenter, it the Carpenters want Labourers tendering the blocking, that is their prerogative, we believe that the most effective way to do that is to ask for the markup there. The Ironworkers working together with the Carpenters providing the blocking and leveling together would be a much more effective, safe and the best way to do this type of work.

LARRY GEORGE: My name's Larry George, I'm the Ironworker GF out at the MCC site and in my opinion, I've been in the trade for 22 years and anything that I don't lift by hand is power rigging, in my opinion, and the safety of the portion of the job from bringing it in, whether you're pulling up or pulling sideways stuff still happens if it's not done correctly. And that is a safety issue in my opinion and I just wanted to state that from when it leaves that truck from the Teamsters the Ironworker should be involved to the final placing.

GREG ZABA: One more comment, the evidence that has been put before this tribunal is fairly clear. And I think it has been awarded in this fashion for a number of years, and that is the evidence that is there. Because there is no specific agreements, so on and so forth, it's area practice and also the assignments that have been reported and I think that has to be taken into consideration and all these contractors when they awarded in this manner, they didn't feel it necessary to have the Ironworker involved.

UMPIRE WEIR: Mr. Zaba, in your comments, what is your definition of rigging.

GREG ZABA: My definition of rigging is in being moved. Now rigging can be done manual rigging, using a comealong and using chain pulls and so forth, that's rigging. If you're using power equipment of any kind to move something from one place to another, whether it's up and down, or whether it's sideways or pulled or whatever, it's positioned by using a mechanical device, not carried or lifted by hand.

UMPIRE WEIR: And what is the established trade practice of the work in question?

GREG ZABA: Pardon.

UMPIRE WEIR: What is the established trade practice in Alberta for the work in question?

GREG ZABA: ...Harry should answer that.

HARRY TOSTOWARYK: ...Mr. Tackaberry and Mr. Piper said. It varies from site to site, at Joffre, I'll be honest with you, it was disputed and done differently all across the site. I had an excellent relationship with Red, I don't know his name, the Carpenter, the big guy, Jan Anderson, we really worked together well on that. We used common sense. In most cases we worked together. It was a really, really good relationship, there was no problems. There were some Carpenters in some areas that weren't happy and there was some Ironworkers in other areas we were not involved, but for the most part, we worked together on the most site and did a good job.

UMPIRE WEIR: A composite crew.

HARRY TOSTOWARYK: It was very much a composite, the Carpenters provided the blocking, the Ironworkers did the role that was mentioned earlier, to help the Carpenter, the ironworker lifted it, asked the Carpenter when he was ready, the Carpenter put the blocking in there, then the ironworker signaled the crane down, then they checked together leveling and in most areas that's the way it was worked. On the Joffre site.

UMPIRE WEIR: And were fork lifts ever used.

HARRY TOSTOWARYK: Skid were the majority on that site, yes, very much so. Over 80 – 90% of them. There was very few that was unloaded by power rigging. There was some but there was very few. Most of them were just skidding on that site, Mr. Umpire.

UMPIRE WEIR: Have you ever been involved Mr. Tostowaryk with a Fluor project other than this one?

HARRY TOSTOWARYK: Yes, I was the agent responsible for the Joffre Public E3 project. An apprentice for the first part until it got to big for me and then Darryl took over apprentice.

UMPIRE WEIR: And what was the trade practice there?

HARRY TOSTOWARYK: It varied from site to site from time to time but it was PCL, Fluor, I'd have to talk to Larry Wanchuk and Jeff (Shandro, ?) but I know we had a marvelous relationship there. I've got to talk to them for sure Mr. Umpire I couldn't comment for sure. But I know Jan and I worked it out on a couple times there, it was different in different areas but for the most part we worked it out.

LARRY GEORGE: On some of the practices, like out on this site here, the loader is used in quite a bit of situations, reason being because the cranes are so tied up with the other crafts doing, other type of work, that the loader is easier, more assessable to get, right. Like you can find a loader that's dirt work or whatever and you can get him and when they do move these trailers in they have pins in the bucket of the loader, hook on to this piece of pipe that Mr. Tackaberry was talking about on the skid mount, hook onto these pins and they lift, same thing, all the way around.

HARRY TOSTOWARYK: To further answer your question at E3 there was a fairly large area and they only had to move the trailers a couple of times and never too restrictive. In square the room was really tight, that wasn't a Fluor area, so that's not answering your question, but in E3's which was Fluor's main thing, there was a wide open area so there wasn't much of an issue as far as getting as trailers moving them in and out. It was a pretty open area. Now that I thought about it a little longer, there wasn't really an issue with moving them in tight spots and taking them out and stuff. There was quite a long area over there at E3.

UMPIRE WEIR: Mr. Tackaberry, what is the schedule completion of this project.

HUGH TACKABERRY: Supposed to be done Oct, Nov, 2001.

UMPIRE WEIR: Of this year, that's approximately 6 – 8 months.

MARTYN PIPER: Yes, I've got a number of comments. I feel this issue I digressing to a number of other areas and I want to make it clear for the record that rigging is not exclusive to the Ironworkers in this job and in any other job in my experience and that goes back some 26 years. And there's many things that are power rigged on job sites that are not done by the Ironworkers and I think to even suggest that is not accurate and that goes for our trade and many other trades' across the building trades. I also want to mention the fact that trailers, we do camp set ups. There is not Ironworker involved in camp setups. We rig those trailers, they are power lifted with cranes, we did a lot of the office set up at Joffre with respect to that and the camp, and there was no dispute from the Ironworkers. So suggest at any thing that is power rigged on a trailer or a unit, a temporary unit is incorrect. I think what you have to do here gentlemen is go back to the issue of this process and make some sense of it. Here you have a trailer with a temporary unit situated on it. It's either been winched on, or it's been pushed on by some other vehicle. Now how much rigging is involved in that. Barely any, from what I can tell, whether it's choke around a rail of some description that's attached to the skids. So either pull it on or slide it back off. Once it's on the ground, there's only one way it can be moved. You don't have cranes to move it in those areas so to suggest that this crane, there is not weight cranes, it's very seldom craned. So what do you have, you have loaders or you have borers and neither of these two trades operate loaders or borers.. Then you have to raise that thing some how or you leave it on it's skid or you level it and you do it by blocking it, using Carpenters. Somebody has to control that whole process from the moment it comes off that trailer to moving it, situating it in position and leveling it and it has to be level because we are typically going to build some other structure around it. And the evidence I think you've heard today is that the Carpenters have been doing that. So what, you've got three or four different trades, you've got Operating Engineers, and you've got Teamsters and you've got Carpenters and it sounds like we might also have Labourers. This job, sir, has been going on for 18 months to 2 years and there has been no dispute with this work, not withstanding the assignment, and here we are 6 – 8 months prior to the termination of this project and we're discussing this work. This has never happened to the best of my knowledge in front of a panel jurisdictions work, it never was an issue at Joffre as I understand it and here we are now, talking about it in the final throws of this project. For the record, the Labourers, we're not talking about whether they do or do not assist us in blocking, that's not the issue. The Carpenters rig steel forms, huge steel forms, the Ironworkers don't do that, that's our work. So at the end of the day I think you have to narrow your decision down to a trailer, a low boy, how that comes off, how much rigging, are we calling it rigging, are we talking about some wires that attach on a couple of shackles, or are we simply talking it about how Mr. Collins described it, the low boys moves forward, the trailer slides back, so I ask the question in this process in the economy of scale what is the ironworker going to do. Is he just going to bolt on the two pieces of wire and then stand there and watch the rest of the process because as the Carpenters, that thing's got to be level and it's got to be in the right place because we're going to build the structures around it. Somebody has to lead that crew, so what we've moved from here is an issue of we do all the rigging, at least that's what I heard in the evidence of the Ironworkers, we do all the power

rigging, that is incorrect on both accounts. And you, I think, have to look in terms of your direction from that plan about what makes good economic sense. What people need to be engaged in this, somebody has to lead this process. Nobody's argued here today on this particular site, I'll argue on a camp set up about power rigging and trailer and hoist it in the air and drop it somewhere else, but we're not talking about that here today and when I talked about the minimum amount of work I didn't mean in terms of the scope of the overall project I talk about in terms of this process for a trailer for a lunch trailer.

And again, why are we 2 years or 18 months down the road suddenly talking about this crew that appears to have worked well, got the job done, I don't think there's any evidence of safety infractions to one we heard about this morning and I haven't from Mr. ????? even at the MCC site and apparently it was Labourers doing it, but that's not the discussion here, so I think good common sense here. Nobody can argue the assignment. You've heard the contractor say he didn't get into detail about that but it sounds like you have some latitude under this plan to make a determination. And I think we have to be serious about what we're talking about here and I think ultimately I think what you've heard will lead you to bring across a constructive resolution to the problem.

UMPIRE WEIR: Other comments Mr. Tackaberry.

HUGH TACKABERRY: Hugh Tackaberry here for work constructors at MCC. I would reiterate some of Mr. Piper's comments that my opinion is that the Ironworkers has come to the JA Plan here against the Carpenters which is to me not easy to explain. Because I don't believe the Carpenter has a part in this dispute. It would be the Operating Engineers or the Teamster in my opinion. I believe the Ironworkers themselves have said that there is a mechanism on a front end loader that allows the front end loader to lock on to the pulling mechanism previously described, to maneuver these trailers into the specific position that they are to be in. So that in itself negates, I think, any argument that power rigging is involved here. And again I would like to reiterate that the assignment that was contained in the original markup had to do with the power rigging of trailers not the skid mounted issue that we are talking about. Had this issue come up at the A3 site for instance or at the Shell Meg site or at the LP7 or any of these other major sites that we work on, we certainly would have had an opportunity to adjust the wording in our jurisdictional markup. Like I say it's a living document, we'll deal with the issues as they come up and we'll try to clarify to the best of our ability but when there hasn't been an issue, certainly we are not going to be alerted to the fact that we need to clarify the intent of our assignment.

I guess I will fall back, Umpire Weir, on the wording on the plan, again, the memorandum of understanding contained in the back that talked about efficiencies. We have a common services group which does not have Ironworkers as a part of it to move these trailers. Basically there is no rigging that is done with power equipment, OK, being loaders, which are the jurisdiction of the Operating Engineers, fork lifts which are the jurisdiction of the Operating Engineers and there is blocking and leveling, jurisdiction of the Carpenter. So we fail to see a need to add additional people to that common service.

Again, this job is gone and to follow on Mr. Piper's discussion, this job has gone almost 2 years and we haven't had this dispute. This stuff has been going on all that time, never been an issue, so we're a little confused when we first saw the paper come in and it's taken a lot of work to sort out where the actual claim of the Ironworker is. I can appreciate Mr. Zaba's comments that there is a change of assignment. OK, given that the wording we have in there was intended for the power rigging of lunch trailers and office trailers. But it doesn't clearly say that. We've got a situation here that deals with other work. So all and all I guess from MCC's point and Fluor's point of view, we still contend that this work is being done appropriately, really hasn't been an issue here to date and we would like to continue on doing the work in the same manner.

I think you're going to find it difficult to find against the Carpenter in this dispute because he's not involved. That concludes any comments we have regarding this issue.

UMPIRE WEIR: Mr. Zaba?

GREG ZABA: If I could just, I guess it's kind of weird to have a contractor admit to changing their assignment, we appreciate that, because that's basically has happened and it's unfortunate like he said that they weren't more detailed in it and that was the assignment and that is the assignment. The common services group, when it comes to this type of work, there should be an Ironworker in there, there should be a couple of Ironworkers there to make sure our work is being done and the work in these proceeding we feel very strongly that these should be done by Ironworkers. When it comes to the fork lifts or the front end loaders, it's not picked up by a fork lift, it's not scooped by the front end loader, there are shackles, there are chokers used to move, therefore there is rigging involved as far as we're concerned. The Carpenter being involved here, I believe, in the fact that they are, for want of a better word, in charge of the group, am I right. But the main thrust or it's a two fold thrust has to go also to the contractor for breaking their own assignment, for changing their own assignment, for not following their own assignment, I guess would be a better way of putting it. In regards to that we are seeking to have the Ironworkers involved in this work as it was assigned, properly assigned. If Mr. Tackaberry down the road wants to write it in more detail, which I'm very sure he's going to do, that's up to him. But the work in question was laid in a certain manner and you know you don't go to jail for being

bad, you go to jail for being caught, sort of thing. The assignment is there, we're not trying to take work away from the Carpenters, and the type of work they do.

The OE operates the fort lift, the front end loader, or the Teamster, that's not what we're after, what we're after is the actual rigging of the material that's in question and whether it's a little bit or a lot should not be the question here. Then stated there are hundreds of trailers on site, the actual work on some of them may not be that much on others, maybe more, but it's the combination of the work that's there. Not just dealing with one trailer here, or another trailer 6 weeks down the road or something.

I mean our position is that the assignment is to the Ironworkers and therefore the contractor changed the assignment, intentionally or unintentionally, has done so and we would ask

HARRY TOSTOWARYK: I'd like to speak to a couple of comments as well. Just last month we were in another decision disputing certain agreements that we had between rigging as far as the Ironworkers and Millwrights go. You were the Umpire there, Mr. Weir, talking about the '71 agreement that Mr. Piper is referring to. It has wording that speaks to when the Ironworkers do the rigging on heavy industrial plants. I won't dwell on it or go into much detail but it's there and you are well aware of it. All agreements are interpreted in certain ways by certain crafts. The Carpenter doesn't like the way that's worded. There are some agreements in place that the Ironworkers don't like the way they are worded, but we have to live with them. We do the power rigging for the Carpenters on many occasions for many reasons. It is a fact, it is there. As far as Mr. Tackaberry's comments about common services, the Ironworkers don't have a right to tell them how to do their work, but at the same time we feel that we should be part of that common services crew. There is no reason why, when they are put in such a way that we are mentioned here that the Ironworker could not be part of doing this work. We're not talking about just a simple trailer beam dumped out in an area with lots of room, we're talking about a final alignment that would take the skills of an Ironworker required to do the work. For all the reasons that were stated earlier by Mr. George, Mr. Zaba, and myself. I'm not going to dwell on the fact, it's been mentioned two or three times already, but the Ironworkers think that the assignment is quite clear, if it was worded differently we would have contested it at the time and followed the avenues.

As far as the work not being disputed for the last 2 years on this site, well it's been disputed for the last 5 years on jobs in the most cases the Ironworkers and Carpenters have got along and managed to work out deals between them. On this particular site, Mr. Fuchair, the agent for the area, talked to Mr. Cummings, got an answer, Larry as well, he and the GF talked to a couple of Carpenters. I won't repeat what was said to them, we figure that the only way to get this resolved was to take it to this level. We were trying to hopefully get it resolved other way, like we did in our other sites, Joffre, Prentice to name a couple, but unfortunately it's not, so we have to take this step and we'll see how it goes.

UMPIRE WEIR: But, why did it take you 22 months to come to the JA Plan to get those resolved, have those discussions been going on for that length of time?

HARRY TOSTOWARYK: The big reason that most of the trailers early on, Mr. Umpire, they just get dropped in place and it's really simple. But as the project gets built everything gets built around it's tough. And members like Mr. George and others see the scope of work for the most part if it's just been 5 minutes work, we don't have a problem with that, we don't like it but we have enough common sense to realize that if a trailer's dropped off and all it needs is 5 minutes work, we really don't have a problem with that. I mean we'll make it up with the Carpenters somewhere else. We have enough common sense that we'll deal with that.

We're talking about 400 trailers in some places, and we're not talking about 5 minutes work, we're talking about 3 hours work, to rig them in and out of place there. Some of them will take even longer than that if they are stuck in some hole some place. We're talking about a large amount of work here. That's where our professional skills are required. Safety and all that stuff I can go on there, that's what we're referring to, the later the scope of the job goes on and we can't get to a resolve, like we did at Joffre, then we have to follow another avenue. At Joffre we worked together, we resolved it internally on an area by area practice. We didn't have to go to the plan because it was resolved.

UMPIRE WEIR: Mr. George?

LARRY GEORGE: OK, on the Millennium site especially, like on this one it's like 22 months before it was realized, before we decided to dispute it. One of the factors in that is this here job site is broke up into about 8 different sections. I'm not exactly sure in the number, you got the extraction, the OPP, Plant 5552, all it's sort of all their own little job sites so this common services crew goes from this site, it might be there for a day, and then they're gone over here, so it's very easy to get looked over, because it's not always the same people, we're not talking on every little strategy going on in at that job site. So the part of the Carpenters team involved in this operation, their foreman is running the whole show there and in my opinion they're doing the rigging and the whole nine yards in there. And there is some power rigging on that, and that's the end for me.

UMPIRE WEIR: Does anybody else have clarification, new information to bring forward.

MARTYN PIPER: Just to rebut the last comment. Just so you are aware, that steward today at that job site has full timed stewards, I mean these guys don't do anything else other than administer the business of the union and the contractor. So to suggest that people don't know the work that's going on, people do know the work that's going on and there's been 400, my understanding is there's some 400 trailers that have been placed so again, in terms of the expertise you have to evaluate the skill level of which we're talking about here and the evidence will demonstrate that the expertise has been there to do the job. So here were are 400 trailers later sitting down in the last quarter of the job talking about this work under dispute. That's really all I would conclude in rebuttal to the comments that have just been made.

HUGH TACKABERRY: Hugh Tackaberry here, I'd just like to make a comment about the common services group. They are a consistent group, they move from area to area, the practice that they use to do this work is consistent, because that's what the common services group is, it's a group that serves all the areas, the sulphur plant, the pokers, the steep bank area, they move all over the site as one group to be consistent, so it's not all over the place. It is a consistent way of doing business, for one.

The second thing I'd like to talk about is Mr. Zaba's comment about we've admitted changing the assignment. No, we have not said that we have changed the assignment, what we have said, and I think if you go back on the record, you'll find that we can see how you could be confused. We have not said we changed the assignment.

GREG ZABA: You've changed the assignment Hugh, and that's all there is to it.

HUGH TACKABERRY: That's your opinion.

UMPIRE WEIR: The reason we are here today, Mr. Tackaberry is the wording of the last paragraph in item T of your assignment.

HARRY TOSTOWARYK: And there's 400 trailers to be shipped out Mr. Umpire, the job's only half done. And I would say it's the Umpire's job here to determine whether indeed the assignment applies or not, given all the discussion we had today.

UMPIRE WEIR: Thank you, the interpretation.

HARRY TOSTOWARYK: Mr. Umpire, can I just say one more thing. I think that all the trailers are there in place now, I would say that the critical scope of the work is the removal of them, being that the job site wasn't there when they started and it's there now. This is the most critical part. They are in places now where they are jammed in tight and all kinds of things, this is the most critical part of the scope of the work, removal of the trailers.

ELMER COLLINS: I would like to comment on that. My name is Elmer Collins, I'm job steward for the Carpenters. The trailers were put in the critical places when the stick built and everything was done, so the plant wasn't built around the trailers. The trailers were put there when the plant was being built. The plant wasn't built around the trailers.

UMPIRE WEIR: Any comments.

HARRY TOSTOWARYK: I think we made our point.

GREG ZABA: Once again, I appreciate, coming in late, holding up your

UMPIRE WEIR: You're more than welcome Mr. Zaba. I certainly appreciate all the comments, the information that has been given to me and will consider it accordingly. Thank you very much.

Hearing adjourned at 11:45