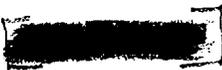


C O N T E N T S

EXAMINATION

WITNESS



4

BY MS. FAHEY

E X H I B I T S

IDENTIFIED

NUMBER

[NONE.]

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[9:50 a.m.]

MS. FAHEY: Okay, for the record this is an interview with [redacted] who is employed as a Senior Reactor Operator by Commonwealth Edison at the Zion Nuclear Power Station located in Zion, Illinois. Today's date is March 18, 1998. The time is approximately 9:50 a.m. The location of the interview is the Holiday Inn, 6161 Grand Avenue in Gurnee, Illinois.

My name is Mary Kay Fahey, I'm a special agent with the NRC's Office of Investigations in Region III. This interview is being tape recorded by Court Reporter, Ron LeGrand. The subject of this interview is [redacted] allegation that he's been discriminated by being passed over for promotion and receiving an inferior performance review after he brought forward safety concerns on two separate occasions. [redacted] please stand and raise you right-hand. Whereupon,

[redacted] the Interviewee, was called for examination and, having been first duly sworn, was examined and testified as follows:

MS. FAHEY: All right. As we discussed prior, sir, at the beginning of this interview about resolving this issue, the NRC intends to take all reasonable efforts not to disclose your identity to anyone outside the agency with

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1 these few exceptions that are on this form here. And before
2 the interview started you signed NRC Advisement and Identity
3 Protection and dated it and we'll give you a copy of that
4 before you leave the Holiday Inn.

5 Now, when investigating cases of discrimination
6 it's almost always necessary to provide your identity. And
7 when you talked to Jay Hopkins on February 27th, you told
8 him that you didn't have a problem with anybody knowing your
9 identity.

10 THE INTERVIEWEE: That's correct.

11 MS. FAHEY: Do you still feel that way?

12 THE INTERVIEWEE: Yes.

13 MS. FAHEY: Okay, so you understand that your
14 identity probably is going to be known?

15 THE INTERVIEWEE: Yes.

16 MS. FAHEY: Okay. And you also signed an
17 authorization to the Office of Investigation so we might
18 access your Commonwealth Edison personnel file, correct?

19 THE INTERVIEWEE: That's correct.

20 DIRECT EXAMINATION

21 BY MS. FAHEY:

22 Q Okay. I'd like you to provide some background
23 information for the record. Your current title? How long
24 you've been employed in that position? How long you've been
25 employed at Zion all together?

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1 A My current title is Senior Control Room
2 Supervisor. I've had that title for approximately
3 that's as long as that title existed. I've been a Senior
4 Reactor Operator at Zion station for approximately
5 years. I was a reactor operator for approximately
6 7 years prior to that. I've been employed at the
7 Zion station as a component employee for approximately
8 7 years.

9 Q Okay. Now, I'm going to ask you to describe the
10 series of events that occurred in the latter part of '97
11 which caused you to feel that you were being discriminated
12 against.

13 A Okay. Some time throughout the -- in the course
14 of the year, I would estimate some time in maybe August,
15 September time frame, I was told by the then
16 supervisor, that I was going to be the next --
17 promoted as the next shift manager and he directed me to get
18 a qualification book and start filling it out so that I
19 could become qualified for the position as soon as
20 reasonably possible.

21 So a couple of months later went by and I'm not
22 sure the best way to lay this out, so I'll just choose one
23 way and no special order. A little bit later then

24 was replaced in his position as
25 supervisor by And I believe he took that

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1 position some time in early October time frame is my
2 estimate.

3 Q Okay, when is it that [redacted] first advised
4 you to start filling out that book?

5 A I would estimate that it was some time in August
6 time frame, I don't have an exact date.

7 Q Okay. Can you tell from your first entry in the
8 book?

9 A I never filled out the book -- started filling it
10 out now and I'll tell you why in a minute and the course of
11 this.

12 Q Okay. Go ahead

13 A So [redacted] I spoke with him one time while
14 leaving the plant after working on shift out in the parking
15 lot. He had questioned if I had received the qualification
16 book yet and I stated that I had not, I was still waiting to
17 get a copy of it from the training department.

18 They were making revisions to it and they had told
19 me as soon as they had updated it, made the necessary
20 revisions, they would forward a copy of the book to me. So
21 [redacted] was certainly aware that I was waiting for the
22 book and was expected to fill the position.

23 Q Did he give you any indication during that first
24 conversation that you were not supposed to fill it out when
25 you received it?

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1 A None whatsoever.

2 Q Okay.

3 A So then I was waiting to get the book. And I'll
4 kind of back up now and kind of give the two incidents that
5 I felt were held against me for improper reasons. Two
6 separate issues. One was a component cooling pump that
7 developed an oil leak, significant oil leak, after some
8 testing that we had performed.

9 This testing was strictly electrical testing only,
10 it was some auto start inhibit circuitry. And we had tested
11 the pump and over the last couple days before that on shift
12 the non-licensed operator that had the slot the monitor of
13 that equipment had on his turnover and mentioned at the
14 shift brief that there was -- that they had added oil to one
15 of the pump bearings and it was mentioned, a couple days in
16 a row at the shift brief that it was on the non-licensed
17 operator's turnover so I was aware that we had had to add
18 oil to that.

19 So when we performed this testing we racked the
20 breaker to test, did the inhibit circuitry testing. It
21 worked fine. The test was complete and satisfactory. We
22 racked the breaker back in and then we typically start the
23 pump to verify operability just to prove that the breakers
24 been racked in properly and should it need to start, that it
25 would do so.

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So we racked the breaker back in and started the pump per a system operating instruction and as soon as the breaker closed we made a log entry saying that the pump was now operable since at that point that was the only thing that prevented it from being declared operable was just a question, was the breaker properly racked or not? So as soon as the pump started, we declared it operable. Well, within a couple of minutes the local operator down at the pump contacted the control room and said that there was a significant oil leak on the pump. And I forget if it was the in board or outboard bearing, the log entries would give that detail.

So I -- he called and talked to the reactor operator, so I wanted to talk to him directly to get a first hand -- so I could get the first hand story to ask him what was -- how bad the leak was. I asked him and he said, well, it's dripping, you know, such that the reservoir would be empty within a hour or two, at the present rate. So I felt that that leakage was enough that I could not reasonably say that the pump was operable and capable of performing its functions as intended over a long period of time.

So I directed the reactor operator to place the pump in pull to lock to stop it and declare the pump inoperable. So he did that, placed it in pull to lock, we made the appropriate log entry stating that the pump was in

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1 pull to lock and declared inoperable due to the oil leak.
 2 So in the meantime, I contacted a operating supervisor
 3 working back in the work control center who also had just
 4 come from the fuel handling department and the fuel handling
 5 department does most of our lubrication for pumps so I felt
 6 he was a very good guy to have down there, that he would be
 7 knowledgeable on the oiler assembly, you know, to take a
 8 look at it and see if he could find anything obviously wrong
 9 with it.

10 Q And what was his name?

11 A I'm sorry?

12 Q What was his name?

13 A And I also contacted the
 14 assistant engineer to go down there and also to take a look
 15 at it. His name was . So while they were
 16 looking at it, in the mean time, kind of unrelated to my
 17 equipment, but certainly plant related, I would say within
 18 15 to 30 minutes after I had declared that component cooling
 19 pump inoperable, they were doing testing on unit one at the
 20 time, on the diesel generator. One Bravo diesel generator
 21 that failed to start, which made that diesel generator
 22 inoperable, which was the emergency power supply to another
 23 component cooling pump.

24 Component cooling is a shared system, so that
 25 component cooling pump, on unit one that was rendered

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1 inoperable, left us with not enough operable component
 2 cooling pumps with mine, with the oil leak and their's with
 3 the inoperable emergency power supply. That made the entire
 4 component cooling system inoperable and then you got to
 5 declare all the systems that component cooling supports also
 6 inoperable, which the major one that that would include is
 7 the residual heat removal system. Which at the time, my
 8 unit, unit two, was in mode five, cold shut down and relying
 9 on residual heat removal to continue to keep the -- take the
 10 decayed heat away from the fuel.

11 So we had to make a emergency notification to the
 12 NRC and, of course, a lot of activity to go along with that.
 13 So in the meantime, many people were being notified, the
 14 NRC, of course, the resident if you're a duty officer and
 15 also the shift operating supervisor who by this time was [REDACTED]

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16 [REDACTED] He came up to the control room and was aware of
 17 what was going on.

18 So in the meantime, the guys from the field, the
 19 operating supervisor who came from fuel handling and the
 20 system engineer with the local operator, were down at the
 21 pump and they requested that we start the pump up again so
 22 that they could observe the oil leakage. So we talked about
 23 it and said, yeah, we can do that for them.

24 So again, we restarted the pump, per the
 25 appropriate system operating instruction. And then, in

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1 fact, the leak still continued, the system engineer or the
2 fuel handling supervisor, I forget which called me up and
3 said, yeah, it was still leaking excessively, pretty much
4 the same that it was before. And so it still had the
5 problem.

6 Well, in the meantime, they took the oil bulb off
7 of the -- the oiler bulb off to do some type of an
8 inspection at it. They looked at it and they couldn't find
9 anything wrong with it. They didn't see anything that was
10 obvious that was wrong. They put the bulb back on it and
11 when they put the bulb back on, it stopped leaking. And so
12 now they're looking at it and they said, well they didn't
13 find anything wrong, it's not leaking right now.

14 You know, so the question is, you know, is it
15 operable or not? My feeling on it was, was that since there
16 was a problem that existed over a couple of days before and
17 was most likely not the result of taking a bulb off and
18 putting it on, you know, not properly aligned once and since
19 it had been pulled off at least a couple of times within the
20 last couple of days, I felt since we didn't identify what
21 was wrong, the problem had existed for a bit of time and it
22 go so severe that the bulb was going to empty out within a
23 relatively short period of time. I did not feel comfortable
24 in saying that that pump was operable.

25 What I thought was the proper thing to do was to

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1 get a documented work package written up so that the
 2 maintenance department could go down and take it apart and
 3 do a thorough inspection, you know, maybe with either work
 4 instructions or a vendors manual but they could identify if
 5 there was a problem that you got a bent part, a missing, you
 6 know, piece, something that's broken, something's that
 7 mislined, whatever. That I could be on firm ground to say
 8 hey, you know, that it is okay rather than saying well, you
 9 know, it was leaking real bad, we don't know what we did,
 10 but now it's not.

11 So I felt that that was the proper thing to do.
 12 During that time frame, [REDACTED] was up in the control
 13 room and I felt that he was kind of pressuring me to declare
 14 the pump operable. He had stated that, you know, he asked
 15 what did I want to do. And I told him what I just stated
 16 and he said, well, you know, we got other things that's -- I
 17 said, why don't just, you know, see if it's not leaking
 18 anymore and declare it operable. And he said that there
 19 were other things in the plant that leaked oil, that we were
 20 considering operable. And I said, well these other things
 21 weren't leaking oil so badly that the bulb was going to
 22 drain out, like prior to this.

23 So anyway he went along with whatever, you know,
 24 my decision was. So that was my decision and we still
 25 called it inoperable. So then that was near the end of our

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1 shift, the next shift was coming on for night shift. They
2 came on and tagged it out of service so that maintenance
3 could go in and look at it. And they did and then
4 throughout that night shift the pump was declared operable
5 again, after maintenance had looked at it.

6 Q So on the following shift there was somebody in
7 your same position and he agreed with your assessment?

8 A I can't say whether he agreed or disagreed. You
9 know, but that was the path that they took.

10 Q So he just followed your recommendation?

11 A I believe that's true, yes. One other thing too,
12 you know that I, you know, I was concerned about. A couple
13 things. I mean, the most important one was, you know, can I
14 rely on this pump if we really needed to, you know, for a
15 long period of time. And to me that's the true definition
16 of operability. But a couple of other concerns that I had
17 with it. One goes, since this oil was obviously not working
18 right by leaking externally, I also had a concern that
19 inside the bearing reservoir itself, that the proper oil
20 level was in there. I mean, if this thing is
21 malfunctioning, it's possible that it's putting too much oil
22 in bearing reservoirs, too high which might be detrimental
23 or too low if it's leaking externally and not feeding into
24 the bearing housing itself so, that was something that I
25 felt we could not determine without tagging it out of

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1 service and having the oiler assembly taken apart by the
2 maintenance department.

3 The other concern that I had which wasn't as
4 important, but was still a concern in mind is that we would
5 look very foolish if we declared it operable and then it
6 started leaking oil again and then we'd wind up having to
7 declare everything inoperable again and make another four
8 hour red phone call to the NRC saying that, you know, all
9 these systems are inoperable again. So for a variety of

10 reasons, I felt that the correct thing to do was to get on a
11 little firmer ground with a documented work package to
12 thoroughly see if there was a problem in there or not.

13 So that pretty much is the discussion on the
14 component cooling pump oil leak. And I would -- you can
15 verify that time frame. I would guess that that was
16 sometime in the September or October time frame of '97 and
17 we could find that exactly by looking at the red phone call
18 log and, you know, it will list that where we had the oil
19 pump, I'm sorry, the component cooling pump oil leak
20 concurrent with the one Bravo diesel generator failure
21 making its associated component cooling pump inoperable.

22 So I can find that exact date if necessary. So
23 that was the component cooling pump oil leak issue. So then
24 my other issue that came out later to concern me was
25 sometime, I would say, again, early October time frame, I

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1 came on to work a night shift and I noticed that one of the
2 things that was out of service was -- you might have to
3 excuse me if I get a little technical there, you know, we're
4 talking a little bit technical.

5 I noticed that one of the panels that houses black
6 out and SI timers, for the electrical division had been
7 taken out of service. Each division has two trains of
8 timers, a train A and train B, both an SI and a black out
9 timer. And typically during the outage will, if we're going
10 to do bus work on one of the ESF buses that's the time when
11 you schedule the black out timers or these panels, the black
12 out and SI timers to be worked so that you make everything
13 inoperable at once and do all the work and schedule it, you
14 know, minimize the impact on the rest of the plant.

15 So I came in on a night shift and was kind of
16 surprised to see that we had tagged out of service one of
17 the two trains of SI and black out timers. You know, we had
18 done all of the ESF work, bus work previously in the outage.
19 I was kind of surprised to see that we had taken that out of
20 service. It kind of bothered me. I mean, I wasn't real
21 comfortable.

22 We didn't meet the SI timer -- was not required
23 operable because we were in a mode where safety injection
24 was not required. However the black out timer would still
25 be required to function in the current plant mode if you had

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1 a loss of off site power. And you'd loose the bus and the
2 diesel would start up and that black out timer would
3 function to sequence the loads on. And the ones that we
4 still required operable and particular, were component
5 cooling and service water pumps. So there was still
6 equipment that was required operable in the mode that we
7 were in. So it kind of concerned me that, you know, that
8 they had tagged one of these divisions out, or one of the
9 trains for a division that were out.

10 ~~So I noticed that the work group had completed~~
11 their work on it, so, you know, I initiated a full clear
12 check list for the out service and -- we cleared the out of
13 service, you know, just because I wanted to get that back as
14 soon as possible. So in my mind I was questioning, you
15 know, is that division still operable, if you've taken away
16 on of the two trains, I mean, that the two trains are
17 redundant. You know, however, when you get into train type
18 things, I mean, if you're up in that power and you take out
19 a train of reactor protection, you're clearly on the clock
20 to restore it or shut down.

21 And you take out trains of safe guards, you're on
22 a clock to, you know, restore it to normal or shut down,
23 continue down that path. Although in other in areas you can
24 look at starting air on a diesel generation, there is two
25 starting air trains, only one of them is required operable

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1 and the diesel is still operable. So there's, you know,
2 some conflicting input as to what happens when one of two
3 trains is inoperable.

4 So, you know, I had looked and I couldn't find
5 anything in the tech specs or the tech specs basis. I
6 didn't see anything and our design operability determination
7 manual that would support operability of the division to, I
8 don't know, with train out, that the division would still be
9 operable. So it was in the back of my mind, it bothered me.

10 So we went up -- I had questioned one of the guys
11 that used to do outage planning and there were two guys that
12 used to, you know, in a recent past duty outage planning. I
13 asked the one guy about it, [REDACTED] and he didn't
14 really know and I think that was because in the past
15 normally we would take both of those out at the same time,
16 you know, when the bus was already considered operable.

17 Well then I asked [REDACTED] about it and fearing
18 that he was one of the other guys that did the outage plan
19 and he might be knowledgeable in that area. And he -- first
20 thing he stated was well, at the time he was the work --
21 that was prior to him being the [REDACTED] supervisor,
22 he was the [REDACTED] supervisor. And I believe he
23 may have also been involved with reviewing the schedule for
24 a shut down risk consideration.

25 So he told me that, well, he had looked at that

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1 item for the work to be performed and the work that was
2 being done didn't affect a component cooling, the relay that
3 was being inspected or worked on or whatever, didn't affect
4 component cooling or service water. And I said, well, but
5 the out of service that was placed took out power to that
6 whole panel, you know AC and DC power to the entire panel,
7 so it did have an impact on, you know, on the operability or
8 the operation of a component cooling and service water pump.

9 So I kind of felt like what he knew was in the
10 schedule, what he approved in the schedule, was a little bit
11 different than what actually was executed by taking power
12 out to that entire panel. Well, I expressed some concern
13 over that and questioned, you know, is that division
14 operable with one of the two trains inoperable? And so I
15 asked him about that and he didn't give me a response, yes
16 or no. I believe at the time we were out in training and he
17 went to the phone and called up system engineering to try to
18 get some input from them. And I never heard anything more
19 about it from him.

20 Until on November 13th, but backing up a little
21 bit before November 13th, maybe a week or so before that, I
22 talked to [REDACTED] may have even been the same week as
23 the 13th. But I talked to [REDACTED] and I had received
24 the qualification book and so I talked to him and said, hey,
25 [REDACTED] you had asked me before if I had the qual book yet, I'm

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1 letting you know now that I just received it.

2 So he asked me was it the most current revision or
3 not. And I said that, you know, well I assume it was since
4 I just got it from training, but I'll contact them to verify
5 that. And he told me well, don't bother, you won't need to
6 worry about it or you won't be needing to fill it out. So
7 he said we'll talk about it later. So I was kind of
8 surprised, but I said, okay, we'll -- when we get the
9 opportunity we'll talk about it.

10 So on November 13th, we were out in training and I
11 got an opportunity to talk to him to ask, hey, what
12 happened? Why are you telling me not to fill out the book
13 now? So we were sitting down in the training room and he
14 told me, well, you know, we're not -- you're not what we
15 think is a good individual for the position. So I asked
16 him, you know, why and he said -- he gave me two examples
17 and only two examples.

18 And the first example he gave was, well you can't
19 make decisions. And I said, well, can you give me an
20 example of that? And he says, well, yeah that component
21 cooling pump oil leak. And he said you couldn't make a
22 decision. I said, well, I did make a decision, I mean, I
23 declared the pump inoperable. You know, I felt that was the
24 correct thing to do. I felt that you were pressuring me to
25 declare it operable. I'm kind of confused why you're saying

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1 that I can't make a decision, you know, I made a decision.
2 You may not have liked that decision, but I made a decision.
3 And he said something about, well you might not like, you
4 know, hearing it whatever, but that's the way I feel. So I
5 was kind of surprised by that.

6 So I asked him well, can you give me another
7 example of why you're saying I'm not suitable for the
8 position now. And he said, while you were good at bringing
9 up issues, but you're not good at solving them. And I said,
10 well, can you give me an example of that. And he said, all
11 the black out SI timer thing. He says, you know you asked a
12 question and you never found the answer to it. And I said,
13 well, if I had the answer to it, you know, why would I ask
14 the question. I didn't know.

15 You know, I'm questioning maybe it is operable
16 maybe it's not. I mean, I think in the past we may have
17 considered the division operable when we would have one
18 train to fail, but I didn't think that, you know, just
19 relying on some past, you know, that's the way we've always
20 done things is a real good way to operate anymore.

21 I mean, in the last year or two I think we've, you
22 know, made great strides in questioning, hey, is it, you
23 know, something that we're doing just because we've always
24 done it that way or should we, you know, question, is it
25 really the right thing to do or the conservative thing to do

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1 or whatever. So in any event, he said that that was an
2 example of where I would bring up issues but not resolve
3 them. And he used that as an example of why I would not be
4 suitable for that position. So I was really kind of
5 surprised.

6 You know, I felt it was encouraged to raise
7 questions if you had something in your mind and especially
8 in light of he didn't have the direct answer. The guy that
9 I talked to -- the other guy did outage planning, he didn't
10 have the direct answer. [REDACTED] had talked to system
11 engineering on the phone. Obviously they didn't have the
12 direct answer. I couldn't find anything written down as I
13 had stated in the tech specs or the operability
14 determination manual. You know, so it wasn't something that
15 I was asking a simple question that everybody knew but me.
16 It sounded like it was pretty much everybody was on the same
17 board, well, it's just the way we've done it and without any
18 written justification or basis for it.

19 So that pretty much concluded our meeting with why
20 I was not suitable for that position. And I had, you know,
21 kind of said that I was surprised by that and he had said,
22 well, you know, I know you don't like hearing it, but that's
23 the way it is. That I'm somehow deficient in those areas.

24 Q Was anybody else present during the conversation?

25 A There were people in the room, but either one --

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1 nobody in the room, I think would have been close enough to
2 hear the direct conversation that we had. So that was the
3 end of it. So I went home and the more I thought about it,
4 it really bothered me. And not so much from a perspective
5 of -- that I would not be filling out the job, but what
6 really bothered me was the reasons and the only two reason
7 that he had used to say that I was not suitable for it.

8 And I would have to think that there's a lot of
9 thought that goes into who you are choosing for any licensed
10 position. Most certainly that position, you know, is the
11 highest licensed position on shift, I mean, the shift
12 manager position, has an enormous amount of responsibility.
13 You know, so I would have to think that when somebody is
14 being chosen for that position that a lot of thought goes
15 into it and very careful decision. And if you're going to
16 choose somebody for it, that you have a lot of positive
17 reason to choosing somebody for it.

18 And if you're going to say that somebody's not
19 suitable for it, that you'd have valid reasons. And in this
20 case here since I had been told that I was and then told
21 that I wasn't, I just felt like the two reasons that were
22 given and the only reasons that were given, I didn't feel
23 they were appropriate. And because of my concern for that
24 I, you know, felt that I needed to talk to somebody. So,
25 you know, and it was kind of, you know, this that 

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1 [REDACTED] is my supervisor's supervisor. So I didn't feel
2 like it would be good to go to my supervisor since he was at
3 a level below, so I went to a higher level supervisor, a guy
4 that I felt I had a good relationship -- working
5 relationship with and that was the general plant manager or
6 plant manager Rob Starkey.

7 So I called him from home because I think I was
8 off that weekend and telling him that I had a concern and
9 wanted to talk to him about it. And he called me back at
10 home and, you know, said, well we'll get together on Monday
11 or whatever. So we met. I talked to him about it. I
12 relayed the whole story that I did just right now. And I
13 made very clear to him what my concern was that, you know,
14 it's not so much the job and I kind of cited with him
15 previous examples that I have -- had over the last year
16 where, you know, having a questioning attitude and
17 questioning something turned out to be very beneficial to do
18 so.

19 So what I told him and made very clear was my
20 concern is that in the future when I'm faced with a decision
21 that I have to make, that I don't have to make a choice
22 between, hey, this is the right thing to do, it's the
23 conservative thing to do versus contrast and well, but if I
24 do this other thing, it will maybe be good for a better
25 promotional opportunities. And, you know, to not have to

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1 choose between those two.

2 To me, and I made it very clear to him, that I
3 think those things should go hand in hand. I mean, the
4 decisions that you're making that are safe, conservative and
5 so on and asking questions and so on, that those things
6 should not be a separate or diverse that they should go hand
7 in hand. What's good for your job, good for your career,
8 good for promotional opportunities, go hand in hand with,
9 you know, safe operation, questioning attitude.

10 So that was my big concern with him is that I want
11 to go forward and have to be faced with a decision and to do
12 that. I said I can't operate that way, you know, and I need
13 to have it made very clear that they're one in the same. So
14 we talked for a little bit and I didn't really get the sense
15 that he thought it was that big of an issue based on he had
16 said to me words like I suppose you want me to do something.
17 And I said, well, yeah, you know, I -- I think that, you
18 know, I think that you should do something.

19 So he said he would talk to -- he would set up a
20 meeting with myself and [REDACTED] and now the ops manager
21 was Tim O'Connor. So later on that week I talked to him.
22 And I'll say too since that meeting where I talked to
23 Starkey and told him that I had a serious concern, to this
24 day he's never gotten back to me to ask were my concerns
25 addressed? Am I happy with the meeting that he set up? And

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1 so never got back to me.

2 So anyway I had a meeting then with [REDACTED]
3 and Tim O'Connor and went over my concerns and --

4 Q This was in December?

5 A I believe that would have been in probably in the
6 December time frame by then, yes. Or possibly late
7 November, I don't remember the exact date.

8 Q And were they the only two present with you?

9 A Yes. So in that meeting again, I made it very

10 clear to them that my concern was to not have to make another
11 choice in the future when I'm in a gray area, that I
12 wouldn't have to make a choice that wasn't consistent with
13 what was good for conservative operations and what was good
14 for my job and career, that they were not one in the same.

15 And we talked about it at length and I never
16 really felt like we -- that they understood my concern.
17 [REDACTED] kept saying repeatedly, well, that he didn't
18 disagree with my decision, that he just felt, well I didn't
19 utilize all of my resources. And I said, well, I mean, I
20 had another operating supervisor who was from the fuel
21 handling department that performed the lubrications. I felt
22 he was very qualified to look at the situation. I got the
23 system engineer down there. I was talking to you. So I
24 felt I had pulled in about all the resources that I could to
25 help out there.

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1 You know, so I didn't really understand that and I
2 kept saying that I just don't see that that's something that
3 you can use or should use as a negative against me. You
4 know, in a consideration for a job promotion. And we just
5 never really agreed on it. And I mean O'Connor, he pretty
6 much was saying like -- at one point and I, you know, I
7 forget if it was the first meeting or a second meeting that
8 we had. He was raising his voice and telling me you don't
9 get it, you don't get it and I said, I don't. You know, I
10 mean, I don't understand. You're using this as negative
11 against me, but then you're saying that you're not using it
12 as negative against me, that you agree with my decision.

13 So I don't think we ever really fully agreed on,
14 you know, what my concern was or what I felt to be the way
15 that we were preaching that we should operate. So we had
16 the meeting. I didn't think it went too well. You know, we
17 discussed some other issues. I think it was at that meeting
18 that Tim O'Connor had said something about, you know, my
19 performance review for the year and, you know, why it was
20 lowered from what my immediate supervisor gave to me and
21 that was news to me. I had no knowledge that my review was
22 being modified in any way. And we discussed some other
23 things that I guess aren't really related directly to my
24 concerns here so I'll just go on with the rest of the story.

25 Q What was O'Connor's title?

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1 A Operations Manager.

2 Q Okay.

3 A So we concluded that and I guess I still wasn't
4 very comfortable or happy because I didn't feel -- I mean,
5 what I was looking for was to say hey, you know, you're
6 right those things should never be used negatively against
7 someone. We encourage you to ask questions. You know, we
8 encourage you to make conservative decisions. But yet what
9 I got from them, I felt was well, we're not saying you were
10 wrong, but we're going to say that you're not suitable for a
11 job because of it. So I felt, you know, it was inconsistent
12 what they were telling me versus what the actions were.

13 So that concluded the meeting and then shortly
14 thereafter I was talking to my immediate supervisor, [REDACTED]
15 [REDACTED]. And spoke with him about, you know, the issue and
16 the meeting that I had and saying that I was pretty unhappy
17 with it. And [REDACTED] said, well, yeah, you know that
18 component cooling pump oil leak, that when he and [REDACTED]
19 [REDACTED] were going over my review for the year, he said
20 [REDACTED] talked with him about that for about 30 minutes, you
21 know, over that one issue. And realizing that my review
22 didn't go up, it went down, I'd have to think that him using
23 that as an example to talk about one thing for 30 minutes, I
24 would have to think that he used that as a negative input,
25 you know, or justification to lower my review for the year,

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1 not something to raise it or keep it the same. And, [REDACTED] 76
 2 knows pretty much what he was saying, was he was using it as
 3 a negative in my review.

4 So none of that really bothered me. When I
 5 started thinking, well, you know, I can live without, you
 6 know, a job promotion. I was in the same job before. I
 7 mean I wasn't really happy about that, but now I started
 8 thinking, well, you know, now he's using this as input,
 9 negative input into my review for the year. So this really
 10 bothered me. And I have, you know, copies, I mean if you
 11 have access to file. And actually I don't know if you do
 12 have access because my final review was modified so I would
 13 imagine what's in my file is only my final review and not
 14 the review that came from my immediate supervisor.

15 So anyway this really bothered me that now this is
 16 being used against me in my review. So I'm kind of like
 17 running out, you know, well who do I talk to. I mean, I've
 18 talked to -- I really can't -- my immediate supervisor can't
 19 do anything because it's his boss that's -- I'm involved
 20 with. I went to the plant manager, you know, he's the
 21 second in command at the plant so he's pretty high up. The
 22 guy above him, I don't know him, so I decided well I'll talk
 23 to employee concerns and I talked to them.

24 So I did and I called them from home and I talked
 25 to Tony Miosi and told him my concerns. And again, I made

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1 it very clear that my concerns are, as I stated, not be
2 faced with decisions in the future that are inconsistent,
3 you know, what's good for my career and what's good, safe,
4 conservative decision making.

5 So he seemed like he was concerned about it, but
6 one thing that he said kind of bothered me a little bit.
7 You know, he's well, are you aware of anybody else that's
8 been treated this way or something, had similar situation to
9 you. And I stated, no not that I was aware of and he said

10 something like well, you act if there was, you know, more
11 people involved then he would have to really, maybe have to
12 do something right of way. How many people do you have to,
13 you know, have something done against them or think they
14 have something done against them, to have to investigate it?

15 So we talked about it for a little bit over the
16 phone and he said that, well, you know, as far as my review
17 goes, there is an appeal process for that and he suggested
18 that I talk to Human Resources and gave me the individual's
19 name.

20 Q So he never actually looked into it or he did look
21 into it and got back to you?

22 A. He never really did, although I touched base with
23 him once more and I'll explain that in a moment. But he
24 kind of wanted to go with the -- or wanted me to go with my
25 concern, with my review being modified for, you know, what I

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1 felt were unjustifiable reasons to Human Resources and said
2 they had an appeal process and talk to them. So I forget if
3 he set up the meeting of if I set up the meeting, but I met
4 with Human Resources representative who was Holly Stanton.

5 And talked with her and gave the whole story that
6 I repeated here and, you know, she's telling me, well she'd
7 set up a meeting with [REDACTED] and O'Connor again, to go
8 over, you know, my review and the process. And I said,
9 well, I'm not really wild about that because I've already
10 met with them and didn't do too well. During the course of
11 that meeting, Tim O'Connor, you know, was swearing at me,
12 was abusive and I just didn't feel that -- I didn't know
13 that that was going to go in the right direction to, you
14 know, resolve it.

15 So I talked with her for a little bit --

16 Q Do you want to go off the record for a minute?

17 A Yeah.

18 Q Okay, it's approximately 10:35.

19 [Discussion off the record.]

20 BY MS. FAHEY:

21 Q We're back on the record about 10:36 a.m.

22 A So when I was talking to the HR rep, Holly Stanton
23 and she's trying to arrange a meeting that I didn't think
24 would, you know, be very fruitful. And I expressed my
25 concerns and at some point there she suggested maybe the

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1 best thing for me to do would be to get another job. And I
2 was kind of surprised by that. And especially in light of
3 -- I had received a, shortly after that time frame, a letter
4 from her, you know, talking about how all first line
5 supervisors have to receive some safety concern type
6 meeting, I think she was maybe even instructing it, so she
7 certainly, fully aware of, you know, issues if somebody
8 raises a, you know, a question or whatever, that you can't
9 be harsh, can't be, shouldn't be, you know retaliated

10 against in any way for it.

11 She was certainly aware of that issue and I made
12 it very clear to her, you know, that I felt that I'm being
13 negatively -- my review for the year is being negatively
14 reviewed and my consideration for promotion was put down
15 for, what I felt were two inappropriate reasons. And her
16 response was, you know, suggests she finds another job.

17 Q She didn't offer any resolution to the problem?

18 A Just go back and meet with the two again and they
19 would show me the via the CFR process, the review process,
20 why my review for the year was modified. So that was pretty
21 much all I could do. You know, she -- I guess it's either
22 quit, get another job, like her suggestion, or you know, go
23 try and meet with them again to go over this review. You
24 know, why my review is modified.

25 So we set up another meeting and at some point, I

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1 don't remember, I went back and I talked to Miosi again to
2 ask him well, where do we go from here, you know, because I
3 felt he had kind of directed me towards HR with my concern
4 for the -- with my review. And I mean, I had more concerns
5 than that and he said, well -- I said where are we going
6 with it and he kind of said, well, you know, I thought that
7 the HR would resolve all your questions or ask all your
8 questions.

9 I said, you know, no, I mean, if I quit, you know,
10 leave, I'm gone for a year, I think you still have potential
11 for a problem here that, you know, you had people who are,
12 in my opinion, are given some -- exerting negative influence
13 to question operability of something or to make a
14 conservative decision on something. Well, I kind of was
15 surprised that it seemed like he felt it was resolved, you
16 know, if I just talk to HR with it. I didn't think that it
17 was, you know, so I kind of didn't get a good feeling that
18 going through the employee concern program channels was
19 going to do much.

20 So I just didn't pursue anymore through him
21 because I felt that I had contacted him, you know, I had
22 explained the situation. I didn't -- and I kind of think he
23 felt that it was all over if I just talked to HR and went
24 through my review, you know, and didn't address anything
25 with the promotion or any negative, you know, retaliation

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1 for, you know, questioning operability of something or
2 whatever.

3 So anyway I went back for the meeting with [REDACTED]
4 and O'Connor and it was pretty much the same as the first
5 one but we wound up going over my review. Actually we
6 didn't go over it, I mean, I, you know, found it kind of
7 surprising that there was many -- I shouldn't say many
8 pages, I don't know, a half dozen pages or so in the review
9 process. I mean, I had to sit down and fill out my goals
10 for the year with my supervisor, fill it out. This is what
11 I'm going to do and, you know, and what you do to meet
12 expectations, what you do to exceed expectations and so on.
13 When I sat down with [REDACTED] and he's giving me, you know,
14 why my review is what it is, he never even looked at this
15 review sheet that I had filled out earlier in the year,
16 didn't even reference that.

17 Furthermore, he didn't even have anything written
18 down, you know, that would say well here it is, let's go
19 over it. It was like, well here's a blank sheet, let's fill
20 it out now. And all that confusion was, was it -- was going
21 to come -- there were three possibilities here, either below
22 expectations, meeting expectations or exceeding
23 expectations.

24 And my immediate supervisor had given me his
25 rating of exceeding expectations and they had told me that I

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1 was being modified to just meeting expectations. And so he
2 sat down and filled out this sheet, you know, with the two
3 of us sitting there and saying, well, here, here, here, you
4 know, you need improvement here. You're okay here. See,
5 your -- meets expectations.

6 Q So it hadn't actually been modified until this
7 last meeting that you had with them?

8 A I don't think they had anything down. I mean, as
9 far as I know, when I went to the meeting for him to go over
10 my review, he didn't come in with something that was written
11 down that says, here it is, let's review it. What I got
12 was, you know, a blank sheet with him and he checked boxes,
13 wrote some things in to come to the conclusion of see, your
14 meets expectations. And I guess the thing is that that's,
15 you know --

16 Q Did he use these two examples that you previous
17 stated on the record?

18 A No.

19 Q He had other examples?

20 A No, there were no examples positive or negative
21 for anything. You know, I mean, there was just the review
22 thing, it's, you know, check boxes. No examples positive or
23 negative for anything. And I guess, you know, that portion
24 of the review thing, he didn't mention that as a negative,
25 but yet it was apparent that the decision was made, what

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1 your rating was before the paperwork was filled out I guess.
2 I mean, because he didn't have any filled out paperwork,
3 like I say to show me, here's, you know, what we went over
4 with your supervisor, you know, here's the input. As far as
5 I know, you know, it was just the paperwork on me was filled
6 out when I sat down with him, to my knowledge.

7 Q You've got a copy here of your performance
8 appraisal for '97 that you completed with [REDACTED]?

9 A That's correct.

10 Q And he reviewed his comments on this form with you
11 and I take it that you signed something that you agreed, or
12 that you at least reviewed it?

13 A Yes.

14 Q Okay. And this is dated 10/21/97?

15 A That's correct.

16 Q And can I get a copy of that after the hearing?

17 A Yes, you can.

18 Q Okay. And then sometime in what, say December,
19 you had this last meeting with O'Connor and [REDACTED]?

20 A I would believe that it was December. Yes, it's
21 possible it was late November, but it was probably December.

22 Q Okay. And your performance appraisal or
23 evaluation was adjusted?

24 A It was modified from what my direct supervisor
25 made it. And, you know, that's my understanding is that's

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1 part of the process to, you know, have the guys higher up,
2 you know, go over all the reviews that the first supervisors
3 do and that's fine. But what bothered me is that, you know,
4 when I talked to my supervisor before going over anything,
5 you know, that my supervisor had said, oh, yeah, when he was
6 talking to [REDACTED] about my review that he had talked to him
7 for, you know, 30 minutes over this component cooling pump
8 leaking oil issue.

9 So it was apparent, you know, to me that he was --
10 when going over my review for the year that [REDACTED] was
11 putting quite a bit of emphasis on that for my review.
12 There's nothing written on that in my review, but there's no
13 examples for anything, positive nor negative on that review.
14 It's pretty much, you know, check boxes.

15 Q Okay. Do you think, in your own opinion, that
16 [REDACTED] lowered your performance rating to justify the fact
17 that you weren't chosen for this position?

18 A I can't say one way or another, you know, if, I
19 mean, I don't see any reason why you couldn't have however
20 many people that you had to be rated. You know, I don't
21 think there's anything that says you can have a guy that's,
22 you know, rated exceeds expectations. You can chose a guy
23 that's meeting expectations for the promotion.

24 Q A high rating is not one of the criteria for
25 selection?

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1 A I don't know for sure. I mean, because I kind of
2 asked that, you know, who's inputting into, you know, who is
3 chosen for a shift manager. I never really got a great
4 answer on that. I mean, why is it I asked was I chosen for
5 this before and, you know, and now you're saying I'm not. I
6 don't know who all put into it, if it's other shift mangers.
7 But the only examples that were given to me for why I wasn't
8 qualified for it were the two that I cited. Like I said,
9 you can give many many reasons that could be, you know,
10 valid or invalid for, you know, not choosing somebody for a
11 position or saying that their review is what it is. You
12 know, but I just felt these are bad ones to give.

13 So now when I go forward, you know, as I continue
14 on as a unit supervisor, you know, if I think in my mind,
15 hey, I don't know if this thing is, maybe I question whether
16 it's operable, that either I find out the answer on my own
17 or I shut up and don't ask it. You know, so that it's not
18 used against me negatively in the future.

19 Q Do you know who was selected for the position of
20 shift manager?

21 A Yes, yes.

22 Q Was that person qualified? In your opinion?

23 A I can tell you this. I mean, he's a nice guy. I
24 like him. I think he would do okay on the position. But
25 what kind of amazes me about it, is we had the assessment

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1 earlier in the year, I believe in April of going over core
2 competencies, you know, who is suitable for being on shift
3 operating that covered different areas including safety
4 awareness and other items like that. But one of the key
5 core competencies was safety awareness. I can tell you that
6 through that assessment, I was rated as an A team. I stayed
7 on shift. The guy who was chosen to be the shift manager
8 was rated as a B team guy and was off shift since April all
9 the way until the time when they said he was going to be the
10 next shift manager. Which I found kind of, interesting or
11 unusual.

12 I wouldn't say that the guy was not okay for the
13 position or that he wouldn't have done okay. I personally
14 like the guy very much, but I kind of found it surprising,
15 you know, how could you, you know, say a guy is not suitable
16 for being on shift, not go back on shift until you're told
17 well, you know, you're going to get a promotion to a higher
18 shift level than what you were told you weren't suitable
19 for, you know, back in April.

20 But, you know, that's more to me a management
21 issue, you know, not so much a -- to me my concern is a
22 safety issue that I did not, do not feel comfortable that I
23 could raise questions or make decisions that I think are
24 conservative without fearing that I'm going to be negatively
25 impacted by those decisions.

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1 Q Would this promotion have resulted in a
2 substantial raise in salary?

3 A It would have been a raise in salary, yeah. What
4 it is I can't say. I mean, the last promotion that I got
5 was, you know, it didn't follow our own HR rules on
6 promotions and pay and everything and that was one of the
7 issues that -- you know, when I said earlier at the first
8 meeting with O'Connor and [REDACTED] that we kind of talked
9 about some other things, that was one of them. That I felt
10 that we were not, you know, I was unhappy with that, that we
11 weren't following our own rules and he got all hostile with
12 me and swore at me.

13 Q That was O'Connor, right?

14 A That's correct.

15 Q Okay. Have you had any previous problems with
16 [REDACTED]?

17 A Uh.

18 Q Disciplinary problems prior to all this?

19 A No, uh-huh. I mean, well what's kind of
20 unfortunate about it is I felt I got along with him pretty
21 good over the years. I mean, he's been working at the
22 station the entire time that I've been there. I mean, I've
23 been in operating for my whole time there except for the
24 first three months when I started, I was a station laborer,
25 or station man. I've always had a pretty good relationship

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1 with him or thought I had a good relationship with him. So
2 I was kind of surprised and disappointed.

3 And I'll tell you too, I mean, after the meeting
4 with Human Resources, when she suggests that I consider
5 maybe just getting another job, I started looking for
6 another job. I talked to another utility and went and I
7 interviewed up there. I haven't heard back from them yet.
8 They told me they would get back to me early April. But
9 then, you know, it's been that the plant was closing came
10 out after that. So I can tell you that, I mean, I felt my
11 options inside the station there were very very limited.

12 Q Okay. Have you filed a complaint with the
13 Department of Labor?

14 A No.

15 Q Okay. Do you intend to?

16 A I don't know. I mean, I hadn't really thought
17 about it too much until -- when I talked to the resident and
18 Jay Hopkins, when he -- I think he's required to tell me
19 that. I told him no. I mean, he asked me what was I
20 looking for or was I looking for anything personally, some
21 result or, you know, something. I said, no I'm not. I
22 really didn't have anything in mind. I mean, he asked like,
23 do you think maybe you still want to be considered for the
24 position or whatever. And I said no, I mean I wasn't really
25 looking for anything personally from it, to say that oh, I

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1 was getting the promotion or the raise or whatever.

2 I'm pretty sure I'm going to be leaving the
3 industry here. I don't know, I'm most likely leaving the
4 company. I would imagine, I mean if I stayed with the
5 company, it will be in a non-nuclear capacity. So at this
6 point, I mean, I'm not really looking for anything in that
7 area.

8 Q Did Human Resources offer to help you find another
9 job within the company or did that not come up?

10 A No, they didn't really say anything there.
11 Because I don't think that they really -- she didn't really say,
12 you know, find another job inside the company, she just
13 said, she suggested I find another job. So she didn't
14 really say one way or another.

15 Q Was Miosi surprised -- did you relate Holly
16 Stanton's comment about finding another job to Tony Miosi?

17 A I don't recall whether I did or did not. I kind
18 of think that I did not. I don't remember for sure.

19 Q Okay.

20 A But I guess at that point I just kind of gave up
21 because, you know, I felt like I had gone the route of going
22 through a supervisor or going employee concerns, going
23 through HR and I was pretty much back to, you know, I didn't
24 feel like any progress. And employee concerns kind of
25 asking, oh, do you still have a problem. So I just kind of

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1 felt that I had done all that I could do through the company
2 channels.

3 Q Okay. Is there anybody else at the plant that's
4 aware of your situation?

5 A I've talked to some other people about it, yes.

6 Q Do you think it would have an impact on them as
7 far as bringing safety concerns forward? In light of your
8 experience, would they be concerned themselves?

9 A See possibility because the people that I've
10 talked to and I've talked to some of my fellow supervisors
11 on it. You know, the response that I've got from a couple
12 of the guys is, you know, you should be writing this down,
13 you know, putting dates or whatever. Because the impression
14 I got from them was they felt that what was said, what was
15 done, was wrong and, you know, that I should be -- doing
16 something about it to, you know, correct it. So I can tell
17 you that other supervisors were aware of it, that I talked
18 to and they seemed to be supportive of my position that it
19 was inappropriate.

20 Q Who was the original [REDACTED] supervisor that told
21 you to start filling out the shift manager's book?

22 A That was the [REDACTED] supervisor, that was
23 [REDACTED]

24 Q Okay. And have you talked to him since to let him
25 know what's happened?

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1 A No, uh-huh.

2 Q Okay. Do you know if he was told my [REDACTED] that
3 you were not going to be selected?

4 A I have no idea.

5 Q Okay. Is he still at the plant?

6 A Yes, he is. His job title has changed. He's been
7 moved around, so I don't know if he's in operating anymore
8 or not. I mean, we've had a lot of changes in the last, you
9 know, year but he is still at the station.

10 Q Okay. All right. Anything else you want to add
11 for the record before we wrap up?

12 A No, I think that pretty much covers it.

13 Q Okay. I need to ask you, have I threatened you in
14 any way or offered you any rewards in return for your
15 statement?

16 A No.

17 Q Okay. We're concluding at approximately 10:55
18 a.m.

19 [Whereupon, at 10:55 a.m., the interview was
20 concluded.]

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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

NAME OF PROCEEDING:

INTERVIEW OF



(CLOSED)

70

CASE NUMBER:

PLACE OF PROCEEDING:

Gurnee, IL

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Ron LeGrand

Official Reporter

Ann Riley & Associates, Ltd.

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5/20/98



completed.

transcript once the investigation is

I would like to request a copy of my

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I have made corrections to the best

in the presence of Mary Kay Farley.

consisting of 144 pages, on May 20, 1998,

from my OI interview of March 18, 1998,

I have reviewed a copy of the transcript

C O N T E N T S

WITNESS EXAMINATION

BY MS. FAHEY

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E X H I B I T S

NUMBER IDENTIFIED

[NONE.]

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P R O C E E D I N G S

[9:50 a.m.]

MS. FAHEY: Okay, for the record this is an interview with [redacted] who is employed as a Senior Reactor Operator by Commonwealth Edison at the Zion Nuclear Power Station located in Zion, Illinois. Today's date is March 18, 1998. The time is approximately 9:50 a.m. The location of the interview is the Holiday Inn, 6161 Grand Avenue in Gurnee, Illinois.

My name is Mary Kay Fahey, I'm a special agent with the NRC's Office of Investigations in Region III. This interview is being tape recorded by Court Reporter, Ron LeGrand. The subject of this interview is [redacted] allegation that he's been discriminated by being passed over for promotion and receiving an inferior performance review after he brought forward safety concerns on two separate occasions. [redacted], please stand and raise you right-hand. Whereupon,

the Interviewee, was called for examination and, having been first duly sworn, was examined and testified as follows:

MS. FAHEY: All right. As we discussed prior, sir, at the beginning of this interview about resolving this issue, the NRC intends to take all reasonable efforts not to disclose your identity to anyone outside the agency with

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1 these few exceptions that are on this form here. And before
2 the interview started you signed NRC Advisement and Identity
3 Protection and dated it and we'll give you a copy of that
4 before you leave the Holiday Inn.

5 Now, when investigating cases of discrimination
6 it's almost always necessary to provide your identity. And
7 when you talked to Jay Hopkins on February 27th, you told
8 him that you didn't have a problem with anybody knowing your
9 identity.

10 THE INTERVIEWEE: That's correct.

11 MS. FAHEY: Do you still feel that way?

12 THE INTERVIEWEE: Yes.

13 MS. FAHEY: Okay, so you understand that your
14 identity probably is going to be known?

15 THE INTERVIEWEE: Yes.

16 MS. FAHEY: Okay. And you also signed an
17 authorization to the Office of Investigation so we might
18 access your Commonwealth Edison personnel file, correct?

19 THE INTERVIEWEE: That's correct.

20 DIRECT EXAMINATION

21 BY MS. FAHEY:

22 Q Okay. I'd like you to provide some background
23 information for the record. Your current title? How long
24 you've been employed in that position? How long you've been
25 employed at Zion all together?

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1 A My current title is Senior Control Room
2 Supervisor. I've had that title for approximately []
3 that's as long as that title existed. I've been a Senior
4 Reactor Operator at Zion station for approximately []
5 years. I was a reactor operator for approximately []
6 [] years prior to that. I've been employed at the
7 Zion station as a ~~component~~ ^{COMFD} employee for approximately []
8 years.

9 Q Okay. Now, I'm going to ask you to describe the
10 series of events that occurred in the latter part of '97
11 which caused you to feel that you were being discriminated
12 against.

13 A Okay. Some time throughout the -- in the course
14 of the year, I would estimate some time in maybe August,
15 September time frame, I was told by the then []
16 supervisor, [] that I was going to be the next --
17 promoted as the next shift manager and he directed me to get
18 a qualification book and start filling it out so that I
19 could become qualified for the position as soon as
20 reasonably possible.

21 So a couple of months later went by and I'm not
22 sure the best way to lay this out, so I'll just choose one
23 way and no special order. A little bit later then []
24 [] was replaced in his position as []
25 supervisor by [] And I believe he took that

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1 position some time in early October time frame is my
2 estimate.

3 Q Okay, when is it that [redacted] first advised
4 you to start filling out that book?

5 A I would estimate that it was some time in August
6 time frame, I don't have an exact date.

7 Q Okay. Can you tell from your first entry in the
8 book?

9 A I never filled out the book -- ^{never} started filling it
10 out now and I'll tell you why in a minute and the course of
11 this.

12 Q Okay. Go ahead

13 A So [redacted] I spoke with him one time while
14 leaving the plant after working on shift out in the parking
15 lot. He had questioned if I had received the qualification
16 book yet and I stated that I had not, I was still waiting to
17 get a copy of it from the training department.

18 They were making revisions to it and they had told
19 me as soon as they had updated it, made the necessary
20 revisions, they would forward a copy of the book to me. So
21 [redacted] was certainly aware that I was waiting for the
22 book and was expected to fill the position.

23 Q Did he give you any indication during that first
24 conversation that you were not supposed to fill it out when
25 you received it?

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1 A None whatsoever.

2 Q Okay.

3 A So then I was waiting to get the book. And I'll
4 kind of back up now and kind of give the two incidents that
5 I felt were held against me for improper reasons. Two
6 separate issues. One was a component cooling pump that
7 developed an oil leak, significant oil leak, after some
8 testing that we had performed.

9 This testing was strictly electrical testing only,
10 it was some auto start inhibit circuitry. And we had tested
11 the pump and over the last couple days before that on shift
12 the non-licensed operator that had the slot, ^{and} ~~the~~ monitor ^{ed} ~~of~~
13 that equipment had on his turnover and mentioned at the
14 shift brief that there was -- that they had added oil to one
15 of the pump bearings and it was mentioned, a couple days in
16 a row at the shift brief that it was on the non-licensed
17 operator's turnover so I was aware that we had had to add
18 oil to that.

19 So when we performed this testing we racked the
20 breaker to test, did the inhibit circuitry testing. It
21 worked fine. The test was complete and satisfactory. We
22 racked the breaker back in and then we typically start the
23 pump to verify operability just to prove that the breakers
24 been racked in properly and should it need to start, that it
25 would do so.

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1 So we racked the breaker back in and started the
2 pump per a system operating instruction and as soon as the
3 breaker closed we made a log entry saying that the pump was
4 now operable since at that point that was the only thing
5 that prevented it from being declared operable was just a
6 question, was the breaker properly racked or not? So as
7 soon as the pump started, we declared it operable. Well,
8 within a couple of minutes the local operator down at the
9 pump contacted the control room and said that there was a
10 significant oil leak on the pump. And I forget if it was
11 the in board or outboard bearing, the log entries would give
12 that detail.

13 So I -- he called and talked to the reactor
14 operator, so I wanted to talk to him directly to get a first
15 hand -- so I could get the first hand story to ask him what
16 was -- how bad the leak was. I asked him and he said, well,
17 it's dripping, you know, such that the reservoir would be
18 empty within a hour or two, at the present rate. So I felt
19 that that leakage was enough that I could not reasonably say
20 that the pump was operable and capable of performing its
21 functions as intended over a long period of time.

22 So I directed the reactor operator to place the
23 pump in pull to lock to stop it and declare the pump
24 inoperable. So he did that, placed it in pull to lock, we
25 made the appropriate log entry stating that the pump was in

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1 pull to lock and declared inoperable due to the oil leak.
2 So in the meantime, I contacted a ^{re}operating supervisor
3 working back in the work control center who also had just
4 come from the fuel handling department and the fuel handling
5 department does most of our lubrication for pumps so I felt
6 he was a very good guy to have down there, that he would be
7 knowledgeable on the oiler assembly, you know, to take a
8 look at it and see if he could find anything obviously wrong
9 with it.

10 Q And what was his name?

11 A I'm sorry?

12 Q What was his name?

13 A [REDACTED] And I also contacted the
14 ~~assistant~~ ^{SYSTEM} engineer to go down there and also to take a look
15 at it. His name was [REDACTED] So while they were
16 looking at it, in the mean time, kind of unrelated to my
17 equipment, but certainly plant related, I would say within
18 15 to 30 minutes after I had declared that component cooling
19 pump inoperable, they were doing testing on unit one at the
20 time, on the diesel generator. One Bravo diesel generator
21 ~~that~~ failed to start, which made that diesel generator
22 inoperable, which was the emergency power supply to another
23 component cooling pump.

24 Component cooling is a shared system, so that
25 component cooling pump, on unit one that was rendered

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1 inoperable, left us with not enough operable component
2 cooling pumps with mine, with the oil leak and their's with
3 the inoperable emergency power supply. That made the entire
4 component cooling system inoperable and then you got to
5 declare all the systems that component cooling supports also
6 inoperable, which the major one that that would include is
7 the residual heat removal system. Which at the time, my
8 unit, unit two, was in mode five, cold shut down and relying
9 on residual heat removal to continue to keep the -- take the
10 decayed heat away from the fuel.

11 So we had to make a ⁿ emergency notification to the
12 NRC and, of course, a lot of activity to go along with that.
13 So in the meantime, many people were being notified, the
14 NRC, of course, the resident, ^{NRC} ^{NUCLEAR} if you're a duty officer and
15 also the [REDACTED] supervisor who by this time was [REDACTED] 70
16 [REDACTED]. He came up to the control room and was aware of
17 what was going on.

18 So in the meantime, the guys from the field, the
19 operating supervisor who came from fuel handling and the
20 system engineer with the local operator, were down at the
21 pump and they requested that we start the pump up again so
22 that they could observe the oil leakage. So we talked about
23 it and said, yeah, we can do that for them.

24 So again, we restarted the pump, per the
25 appropriate system operating instruction. And then, in

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1 fact, the leak still continued, the system engineer or the
2 fuel handling supervisor, I forget which called me up and
3 said, yeah, it was still leaking excessively, pretty much
4 the same that it was before. And so it still had the
5 problem.

6 Well, in the meantime, they took the oil bulb off
7 of the -- the oiler bulb off to do some type of an
8 inspection at it. They looked at it and they couldn't find
9 anything wrong with it. They didn't see anything that was
10 obvious that was wrong. They put the bulb back on it and
11 when they put the bulb back on, it stopped leaking. And so
12 now they're looking at it and they said, well they didn't
13 find anything wrong, it's not leaking right now.

14 You know, so the question is, you know, is it
15 operable or not? My feeling on it was, was that since there
16 was a problem that existed over a couple of days before and
17 was most likely not the result of taking a bulb off and
18 putting it on, you know, not properly aligned once and since
19 it had been pulled off at least a couple of times within the
20 last couple of days, I felt since we didn't identify what
21 was wrong, the problem had existed for a bit of time and it
22 go so severe that the bulb was going to empty out within a
23 relatively short period of time. I did not feel comfortable
24 in saying that that pump was operable.

25 What I thought was the proper thing to do was to

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1. get a documented work package written up so that the
 2 maintenance department could go down and take it apart and
 3 do a thorough inspection, you know, maybe with either work
 4 instructions or a vendors manual but they could identify if
 5 there was a problem that you got a bent part, a missing, you
 6 know, piece, something that's broken, something's that
 7 mis^alined^a, whatever. That I could be on firm ground to say
 8 hey, you know, that it is okay rather than saying well, you
 9 know, it was leaking real bad, we don't know what we did,
 10 but now it's not.

11 So I felt that that was the proper thing to do.
 12 During that time frame, [REDACTED] was up in the control
 13 room and I felt that he was kind of pressuring me to declare
 14 the pump operable. He had stated that, you know, he asked
 15 what did I want to do. And I told him what I just stated
 16 and he said, well, you know, we got other things that's -- I
 17 said, why don't just, you know, see if it's not leaking
 18 anymore and declare it operable. And he said that there
 19 were other things in the plant that leaked oil, that we were
 20 considering operable. And I said, well these other things
 21 weren't leaking oil so badly that the bulb was going to
 22 drain out, like prior to this.

23 So anyway he went along with whatever, you know,
 24 my decision was. So that was my decision and we still
 25 called it inoperable. So then that was near the end of our

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1 shift, the next shift was coming on for night shift. They
2 came on and tagged it out of service so that maintenance
3 could go in and look at it. And they did and then
4 throughout that night shift the pump was declared operable
5 again, after maintenance had looked at it.

6 Q So on the following shift there was somebody in
7 your same position and he agreed with your assessment?

8 A I can't say whether he agreed or disagreed. You
9 know, but that was the path that they took.

10 Q So he just followed your recommendation?

11 A I believe that's true, yes. One other thing too,
12 you know that I, you know, I was concerned about. A couple
13 things. I mean, the most important one was, you know, can I
14 rely on this pump if we really needed to, you know, for a
15 long period of time. And to me that's the true definition
16 of operability. But a couple of other concerns that I had
17 with it. One goes, since this oil was obviously not working
18 right by leaking externally, I also had a concern that
19 inside the bearing reservoir itself, that the proper oil
20 level was in there. I mean, if this thing is
21 malfunctioning, it's possible that it's putting too much oil
22 in bearing reservoirs, too high which might be detrimental
23 or too low if it's leaking externally and not feeding into
24 the bearing housing itself so, that was something that I
25 felt we could not determine without tagging it out of

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1 service and having the oiler assembly taken apart by the
2 maintenance department.

3 The other concern that I had which wasn't as
4 important, but was still a concern in mind is that we would
5 look very foolish if we declared it operable and then it
6 started leaking oil again and then we'd wind up having to
7 declare everything inoperable again and make another four
8 hour red phone call to the NRC saying that, you know, all
9 these systems are inoperable again. So for a variety of
10 reasons, I felt that the correct thing to do was to get on a
11 little firmer ground with a documented work package to
12 thoroughly see if there was a problem in there or not.

13 So that pretty much is the discussion on the
14 component cooling pump oil leak. And I would -- you can
15 verify that time frame. I would guess that that was
16 sometime in the September or October time frame of '97 and
17 we could find that exactly by looking at the red phone call
18 log and, you know, it will list that where we had the oil
19 pump, I'm sorry, the component cooling pump oil leak
20 concurrent with the one Bravo diesel generator failure
21 making its associated component cooling pump inoperable.

22 So I can find that exact date if necessary. So
23 that was the component cooling pump oil leak issue. So then
24 my other issue that came out later to concern me was
25 sometime, I would say, again, early October time frame, I

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1 came on to work a night shift and I noticed that one of the
2 things that was out of service was -- you might have to
3 excuse me if I get a little technical there, you know, we're
4 talking a little bit technical.

5 I noticed that one of the panels that houses black
6 out and SI timers, for the electrical division had been
7 taken out of service. Each division has two trains of
8 timers, a train A and train B, both an SI and a black out
9 timer. And typically during the outage will, if we're going
10 to do bus work on one of the ESF buses that's the time when
11 you schedule the black out timers or these panels, the black
12 out and SI timers to be worked so that you make everything
13 inoperable at once and do all the work and schedule it, you
14 know, minimize the impact on the rest of the plant.

15 So I came in on a night shift and was kind of
16 surprised to see that we had tagged out of service one of
17 the two trains of SI and black out timers. You know, we had
18 done all of the ESF work, bus work previously in the outage.
19 I was kind of surprised to see that we had taken that out of
20 service. It kind of bothered me. I mean, I wasn't real
21 comfortable.

22 We didn't ^{need} ~~meet~~ the SI timer -- was not required
23 operable because we were in a mode where safety injection
24 was not required. However the black out timer would still
25 be required to function in the current plant mode if you had

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1 a loss of off site power. And you'd lose the bus and the
 2 diesel would start up and that black out timer would
 3 function to sequence the loads on. And the ones that we
 4 still required operable ⁱⁿ and particular, were component
 5 cooling and service water pumps. So there was still
 6 equipment that was required operable in the mode that we
 7 were in. So it kind of concerned me that, you know, that
 8 they had tagged one of these divisions out, or one of the
 9 trains for a division that were out.

10 So I noticed that the work group had completed
 11 their work on it, so, you know, I initiated a full clear
 12 check list for the out service and -- we cleared the out of
 13 service, you know, just because I wanted to get that back as
 14 soon as possible. So in my mind I was questioning, you
 15 know, is that division still operable, if you've taken away
 16 one of the two trains, I mean, that the two trains are
 17 redundant. You know, however, when you get into train type
 18 things, I mean, if you're up in that power and you take out
 19 a train of reactor protection, you're clearly on the clock
 20 to restore it or shut down.

21 And ^{if} you take out trains of safe guards, you're on
 22 a clock to, you know, restore it to normal or shut down,
 23 continue down that path. Although in other in areas you can
 24 look at, starting air on a diesel generat^rion, there ^{are} ~~is~~ two
 25 starting air trains, only one of them is required operable

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1 and the diesel is still operable. So there's, you know,
2 some conflicting input as to what happens when one of two
3 trains is inoperable.

4 So, you know, I had looked and I couldn't find
5 anything in the tech specs or the tech specs basis. I
6 didn't see anything ^{in Zion} and our design operability determination
7 manual that would support operability of the division to, I
8 don't know, with ^{one} train out, that the division would still be
9 operable. So it was in the back of my mind, it bothered me.

10 So we went up -- I had questioned one of the guys
11 that used to do outage planning and there were two guys that
12 used to, you know, in a recent past duty outage planning. I
13 asked the one guy about it, [REDACTED] and he didn't
14 really know and I think that was because in the past
15 normally we would take both of those out at the same time,
16 you know, when the bus was already considered ⁱⁿ operable.

17 Well then I asked [REDACTED] about it and ^{knowing} ~~fearing~~
18 that he was one of the other guys that did the outage planning
19 and he might be knowledgeable in that area. And he -- first
20 thing he stated was well, at the time he was the work --
21 that was prior to him being the [REDACTED] supervisor,
22 he was the [REDACTED] supervisor. And I believe he
23 may have also been involved with reviewing the schedule for
24 a shut down risk consideration.

25 So he told me that, well, he had looked at that

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1 item for the work to be performed and the work that was
2 being done didn't affect ~~X~~ component cooling, the relay that
3 was being inspected or worked on or whatever, didn't affect
4 component cooling or service water. And I said, well, but
5 the out of service that was placed took out power to that
6 whole panel, you know AC and DC power to the entire panel,
7 so it did have an impact on, you know, on the operability or
8 the operation of a component cooling and service water pump.

9 So I kind of felt like what he knew was in the
10 schedule, what he approved in the schedule, was a little bit
11 different than what actually was executed by taking power
12 out to that entire panel. Well, I expressed some concern
13 over that and questioned, you know, is that division
14 operable with one of the two trains inoperable? And so I
15 asked him about that and he didn't give me a response, yes
16 or no. I believe at the time we were out in training and he
17 went to the phone and called up system engineering to try to
18 get some input from them. And I never heard anything more
19 about it from him.

20 Until on November 13th, but backing up a little
21 bit before November 13th, maybe a week or so before that, I
22 talked to _____, may have even been the same week as
23 the 13th. But I talked to _____ and I had received
24 the qualification book and so I talked to him and said, hey,
25 _____ you had asked me before if I had the qual book yet, I'm

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1 letting you know now that I just received it.

2 So he asked me was it the most current revision or
3 not. And I said that, you know, well I assume it was since
4 I just got it from training, but I'll contact them to verify
5 that. And he told me well, don't bother, you won't need to
6 worry about it or you won't be needing to fill it out. So
7 he said we'll talk about it later. So I was kind of
8 surprised, but I said, okay, we'll -- when we get the
9 opportunity we'll talk about it.

10 So on November 13th, we were out in training and I
11 got an opportunity to talk to him to ask, hey, what
12 happened? Why are you telling me not to fill out the book
13 now? So we were sitting down in the training room and he
14 told me, well, you know, we're not -- you're not what we
15 think is a good individual for the position. So I asked
16 him, you know, why and he said -- he gave me two examples
17 and only two examples.

18 And the first example he gave was, well you can't
19 make decisions. And I said, well, can you give me an
20 example of that? And he says, well, yeah that component
21 cooling pump oil leak. And he said you couldn't make a
22 decision. I said, well, I did make a decision, I mean, I
23 declared the pump inoperable. You know, I felt that was the
24 correct thing to do. I felt that you were pressuring me to
25 declare it operable. I'm kind of confused why you're saying

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1 that I can't make a decision, you know, I made a decision.
2 You may not have liked that decision, but I made a decision.
3 And he said something about, well you might not like, you
4 know, hearing it whatever, but that's the way I feel. So I
5 was kind of surprised by that.

6 So I asked him well, can you give me another
7 example of why you're saying I'm not suitable for the
8 position now. And he said, while you were good at bringing
9 up issues, but you're not good at solving them. And I said,
10 well, can you give me an example of that. And he said, all
11 the black out SI timer thing. He says, you know you asked a
12 question and you never found the answer to it. And I said,
13 well, if I had the answer to it, you know, why would I ask
14 the question. I didn't know.

15 You know, I'm questioning maybe it is operable
16 maybe it's not. I mean, I think in the past we may have
17 considered the division operable when we would have one
18 train to fail, but I didn't think that, you know, just
19 relying on some past, you know, that's the way we've always
20 done things is a real good way to operate anymore.

21 I mean, in the last year or two I think we've, you
22 know, made great strides in questioning, hey, is it, you
23 know, something that we're doing just because we've always
24 done it that way or should we, you know, question, is it
25 really the right thing to do or the conservative thing to do

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1 or whatever. So in any event, he said that that was an
2 example of where I would bring up issues but not resolve
3 them. And he used that as an example of why I would not be
4 suitable for that position. So I was really kind of
5 surprised.

6 You know, I felt it was encouraged to raise
7 questions if you had something in your mind and especially
8 in light of he didn't have the direct answer. The guy that
9 I talked to -- the other guy did outage planning, he didn't
10 have the direct answer. I had talked to system
11 engineering on the phone. Obviously they didn't have the
12 direct answer. I couldn't find anything written down as I
13 had stated in the tech specs or the operability
14 determination manual. You know, so it wasn't something that
15 I was asking a simple question that everybody knew but me.
16 It sounded like it was pretty much everybody was on the same
17 board, well, it's just the way we've done it and without any
18 written justification or basis for it.

19 So that pretty much concluded our meeting with why
20 I was not suitable for that position. And I had, you know,
21 kind of said that I was surprised by that and he had said,
22 well, you know, I know you don't like hearing it, but that's
23 the way it is. That I'm somehow deficient in those areas.

24 Q Was anybody else present during the conversation?

25 A There were people in the room, but either one --

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1 nobody in the room, I think would have been close enough to
2 hear the direct conversation that we had. So that was the
3 end of it. So I went home and the more I thought about it,
4 it really bothered me. And not so much from a perspective
5 of -- that I would not be filling out the job, but what
6 really bothered me was the reasons and the only two reasons
7 that he had used to say that I was not suitable for it.

8 And I would have to think that there's a lot of
9 thought that goes into who you are choosing for any licensed
10 position. Most certainly that position, you know, is the
11 highest licensed position on shift, I mean, the shift
12 manager position, has an enormous amount of responsibility.
13 You know, so I would have to think that when somebody is
14 being chosen for that position that a lot of thought goes
15 into it and very careful decision. And if you're going to
16 choose somebody for it, that you have a lot of positive
17 reasons to choosing somebody for it.

18 And if you're going to say that somebody's not
19 suitable for it, that you'd have valid reasons. And in this
20 case here since I had been told that I was and then told
21 that I wasn't, I just felt like the two reasons that were
22 given and the only reasons that were given, I didn't feel
23 they were appropriate. And because of my concern for that
24 I, you know, felt that I needed to talk to somebody. So,
25 you know, and it was kind of, you know, this that

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1 is my supervisor's supervisor. So I didn't feel
2 like it would be good to go to my supervisor since he was at
3 a level below, so I went to a higher level supervisor, a guy
4 that I felt I had a good relationship -- working
5 relationship with and that was the general plant manager or
6 plant manager Rob Starkey.

7 So I called him from home because I think I was
8 off that weekend and telling him that I had a concern and
9 wanted to talk to him about it. And he called me back at
10 home and, you know, said, well we'll get together on Monday
11 or whatever. So we met. I talked to him about it. I
12 relayed the whole story that I did just right now. And I
13 made very clear to him what my concern was that, you know,
14 it's not so much the job and I kind of cited with him
15 previous examples that I have -- had over the last year
16 where, you know, having a questioning attitude and
17 questioning something turned out to be very beneficial to do
18 so.

19 So what I told him and made very clear was my
20 concern is that in the future when I'm faced with a decision
21 that I have to make, that I don't have to make a choice
22 between, hey, this is the right thing to do, it's the
23 conservative thing to do versus contrast and well, but if I
24 do this other thing, it will maybe be good for a better
25 promotional opportunities. And, you know, to not have to

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1 choose between those two.

2 To me, and I made it very clear to him, that I
3 think those things should go hand in hand. I mean, the
4 decisions that you're making that are safe, conservative and
5 so on and asking questions and so on, that those things
6 should not be a separate or diverse that they should go hand
7 in hand. What's good for your job, good for your career,
8 good for promotional opportunities, go hand in hand with,
9 you know, safe operation, questioning attitude.

10 So that was my ~~big concern with him~~ is that I want
11 to go forward and have to be faced with a decision and to do
12 that. I said I can't operate that way, you know, and I need
13 to have it made very clear that they're one ^{and} in the same. So
14 we talked for a little bit and I didn't really get the sense
15 that he thought it was that big of an issue based on he had
16 said to me words like I suppose you want me to do something.
17 And I said, well, yeah, you know, I -- I think that, you
18 know, I think that you should do something.

19 So he said he would talk to -- he would set up a
20 meeting with myself and ^{and} and now the ops manager
21 was Tim O'Connor. So later on that week I talked to ^{them} him.
22 And I'll say too since that meeting where I talked to
23 Starkey and told him that I had a serious concern, to this
24 day he's never gotten back to me to ask were my concerns
25 addressed? Am I happy with the meeting that he set up? And

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1 ^{he}
~~so~~ never got back to me.

2 So anyway I had a meeting then with
3 and Tim O'Connor and went over my concerns and --

4 Q This was in December?

5 A I believe that would have been in probably in the
6 December time frame by then, yes. Or possibly late
7 November, I don't remember the exact date.

8 Q And were they the only two present with you?

9 A Yes. So in that meeting again, I made it very
10 clear to them that my concern was to not have to make a
11 choice in the future when I'm in a gray area, that I
12 wouldn't have to make a choice that wasn't consistent with
13 what was good for conservative operations and what was good
14 for my job and career, that they were not one ^{and} in the same. ^{should} ^{one and}

15 And we talked about it at length and I never ^{the same}
16 really felt like we -- that they understood my concern.

17 kept saying repeatedly, well, that he didn't
18 disagree with my decision, that he just felt, well I didn't
19 utilize all of my resources. And I said, well, I mean, I
20 had another operating supervisor who was from the fuel
21 handling department that performed the lubrications. I felt
22 he was very qualified to look at the situation. I got the
23 system engineer down there. I was talking to you. So I
24 felt I had pulled in about all the resources that I could to
25 help out there.

*Porter
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1 You know, so I didn't really understand that and I
2 kept saying that I just don't see ~~that~~ that's something that
3 you can use or should use as a negative against me. You
4 know, in a consideration for a job promotion. And we just
5 never really agreed on it. And I mean O'Connor, he pretty
6 much was saying like -- at one point and I, you know, I
7 forget if it was the first meeting or a second meeting that
8 we had. He was raising his voice and telling me you don't
9 get it, you don't get it and I said, I don't. You know, I
10 mean, I don't understand. You're using this as negative
11 against me, but then you're saying that you're not using it
12 as negative against me, that you agree with my decision.

13 So I don't think we ever really fully agreed on,
14 you know, what my concern was or what I felt to be the way
15 that we were preaching that we should operate. So we had
16 the meeting. I didn't think it went too well. You know, we
17 discussed some other issues. I think it was at that meeting
18 that Tim O'Connor had said something about, you know, my
19 performance review for the year and, you know, why it was
20 lowered from what my immediate supervisor gave to me and
21 that was news to me. I had no knowledge that my review was
22 being modified in any way. And we discussed some other
23 things that I guess aren't really related directly to my
24 concerns here so I'll just go on with the rest of the story.

25 Q What was O'Connor's title?

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1 A Operations Manager.

2 Q Okay.

3 A So we concluded that and I guess I still wasn't
4 very comfortable or happy because I didn't feel -- I mean,
5 what I was looking for was to say hey, you know, you're
6 right those things should never be used negatively against
7 someone. We encourage you to ask questions. You know, we
8 encourage you to make conservative decisions. But yet what
9 I got from them, I felt was well, we're not saying you were
10 wrong, but we're going to say that you're not suitable for a
11 job because of it. So I felt, you know, it was inconsistent
12 what they were telling me versus what the actions were.

13 So that concluded the meeting and then shortly
14 thereafter I was talking to my immediate supervisor,

15 And spoke with him about, you know, the issue and
16 the meeting that I had and saying that I was pretty unhappy
17 with it. And [] said, well, yeah, you know that
18 component cooling pump oil leak, that when he and
19 [] were going over my review for the year, he said
20 [] talked with him about that for about 30 minutes, you
21 know, over that one issue. And realizing that my review
22 didn't go up, it went down, I'd have to think that him using
23 that as an example to talk about one thing for 30 minutes, I
24 would have to think that he used that as a negative input,
25 you know, or justification to lower my review for the year,

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1 not something to raise it or keep it the same. And,
2 knows pretty much what he was saying, was he was using it as
3 a negative in my review.

4 So none of that really bothered me. When I
5 started thinking, well, you know, I can live without, you
6 know, a job promotion. I was in the same job before. I
7 mean I wasn't really happy about that, but now I started
8 thinking, well, you know, now he's using this as input,
9 negative input into my review for the year. So this really
10 bothered me. And I have, you know, copies, I mean if you
11 have access to ^{my} file. And actually I don't know if you do
12 have access because my final review was modified so I would
13 imagine what's in my file is only my final review and not
14 the review that came from my immediate supervisor.

15 So anyway this really bothered me that now this is
16 being used against me in my review. So I'm kind of like
17 running out, you know, well who do I talk to. I mean, I've
18 talked to -- I really can't -- my immediate supervisor can't
19 do anything because it's his boss that's -- I'm involved
20 with. I went to the plant manager, you know, he's the
21 second in command at the plant so he's pretty high up. The
22 guy above him, I don't know him, so I decided well I'll talk
23 to employee concerns and I talked to them.

24 So I did and I called them from home and I talked
25 to Tony Miosi and told him my concerns. And again, I made

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1 it very clear that my concerns are, as I stated, not be
2 faced with decisions in the future that are inconsistent,
3 you know, what's good for my career and what's good, safe,
4 conservative decision making.

5 So he seemed like he was concerned about it, but
6 one thing that he said kind of bothered me a little bit.
7 You know, he's well, are you aware of anybody else that's
8 been treated this way or something, had similar situation to
9 you. And I stated, no not that I was aware of and he said
10 something like well, ~~you act~~ if there was, you know, more
11 people involved then he would have to really, maybe have to
12 do something right ~~of~~away. How many people do you have to,
13 you know, have something done against them or think they
14 have something done against them, to have to investigate it?

15 So we talked about it for a little bit over the
16 phone and he said that, well, you know, as far as my review
17 goes, there is an appeal process for that and he suggested
18 that I talk to Human Resources and gave me the individual's
19 name.

20 Q So he never actually looked into it or he did look
21 into it and got back to you?

22 A He never really did, although I touched base with
23 him once more and I'll explain that in a moment. But he
24 kind of wanted to go with the -- or wanted me to go with my
25 concern, with my review being modified for, you know, what I

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1 felt were unjustifiable reasons to Human Resources and said
2 they had an appeal process and talk to them. So I forget if
3 he set up the meeting of if I set up the meeting, but I met
4 with Human Resources representative who was Holly Stanton.

5 And talked with her and gave the whole story that
6 I repeated here and, you know, she's telling me, well she'd
7 set up a meeting with [redacted] and O'Connor again, to go
8 over, you know, my review and the process. And I said,
9 well, I'm not really wild about that because I've already
10 met with them and didn't do too well. During the course of
11 that meeting, Tim O'Connor, you know, was swearing at me,
12 was abusive and I just didn't feel that -- I didn't know
13 that that was going to go in the right direction to, you
14 know, resolve it.

15 So I talked with her for a little bit --

16 Q Do you want to go off the record for a minute?

17 A Yeah.

18 Q Okay, it's approximately 10:35.

19 [Discussion off the record.]

20 BY MS. FAHEY:

21 Q We're back on the record about 10:36 a.m.

22 A So when I was talking to the HR rep, Holly Stanton
23 and she's trying to arrange a meeting that I didn't think
24 would, you know, be very fruitful. And I expressed my
25 concerns and at some point there she suggested maybe the

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1 best thing for me to do would be to get another job. And I
2 was kind of surprised by that. And especially in light of
3 -- I had received a, shortly after that time frame, a letter
4 from her, you know, talking about how all first line
5 supervisors have to receive some safety concern type
6 meeting, I think she was maybe even instructing it, so she
7 certainly, fully aware of, you know, issues if somebody
8 raises a, you know, a question or whatever, that you can't
9 be harsh, can't be, shouldn't be, you know retaliated
10 against in any way for it.

11 She was certainly aware of that issue and I made
12 it very clear to her, you know, that I felt that I'm being
13 negatively -- my review for the year is being negatively
14 reviewed and my consideration for promotion was put down
15 for, what I felt were two inappropriate reasons. And her
16 response was, you know, ^{she} suggests ^I ~~she~~ find another job.

17 Q She didn't offer any resolution to the problem?

18 A Just go back and meet with the two again and they
19 would show me the via the CFR process, the review process,
20 why my review for the year was modified. So that was pretty
21 much all I could do. You know, she -- I guess it's either
22 quit, get another job, like her suggestion, or you know, go
23 try and meet with them again to go over this review. You
24 know, why my review is modified.

25 So we set up another meeting and at some point, I

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1 don't remember, I went back and I talked to Miosi again to
2 ask him well, where do we go from here, you know, because I
3 felt he had kind of directed me towards HR with my concern
4 for the -- with my review. And I mean, I had more concerns
5 than that and he said, well -- I said where are we going
6 with it and he kind of said, well, you know, I thought that
7 the HR would resolve all your questions or ask all your
8 questions.

9 I said, you know, no, I mean, if I quit, you know,
10 leave, I'm gone for a year, I think you still have potential
11 for a problem here that, you know, you had people who are,
12 in my opinion, are given some -- exerting negative influence
13 to question operability of something or to make a
14 conservative decision on something. Well, I kind of was
15 surprised that it seemed like he felt it was resolved, you
16 know, if I just talk to HR with it. I didn't think that it
17 was, you know, so I kind of didn't get a good feeling that
18 going through the employee concern program channels was
19 going to do much.

20 So I just didn't pursue anymore through him
21 because I felt that I had contacted him, you know, I had
22 explained the situation. I didn't -- and I kind of think he
23 felt that it was all over if I just talked to HR and went
24 through my review, you know, and didn't address anything
25 with the promotion or any negative, you know, retaliation

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1 for, you know, questioning operability of something or
2 whatever.

3 So anyway I went back for the meeting with
4 and O'Connor and it was pretty much the same as the first
5 one but we wound up going over my review. Actually we
6 didn't go over it, I mean, I, you know, found it kind of
7 surprising that there was many -- I shouldn't say many
8 pages, I don't know, a half dozen pages or so in the review
9 process. I mean, I had to sit down and fill out my goals
10 for the year with my supervisor, fill it out. This is what
11 I'm going to do and, you know, and what you do to meet
12 expectations, what you do to exceed expectations and so on.
13 When I sat down with [redacted] and he's giving me, you know,
14 why my review is what it is, he never even looked at this
15 review sheet that I had filled out earlier in the year,
16 didn't even reference that.

17 Furthermore, he didn't even have anything written
18 down, you know, that would say well here it is, let's go
19 over it. It was like, well here's a blank sheet, let's fill
20 it out now. And all that ~~confusion~~ ^{conclusion} was, was it -- was going
21 to come -- there were three possibilities here, either below
22 expectations, meeting expectations or exceeding
23 expectations.

24 And my immediate supervisor had given me his
25 rating of exceeding expectations and they had told me that I

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1 was being modified to just meeting expectations. And so he
2 sat down and filled out this sheet, you know, with the two
3 of us sitting there and saying, well, here, here, here, you
4 know, you need improvement here. You're okay here. See,
5 you^{ape} -- meets expectations.

6 Q So it hadn't actually been modified until this
7 last meeting that you had with them?

8 A I don't think they had anything down. I mean, as
9 far as I know, when I went to the meeting for him to go over
10 my review, he didn't come in with something that was written
11 down that says, here it is, let's review it. What I got
12 was, you know, a blank sheet with him and he checked boxes,
13 wrote some things in to come to the conclusion of see, your
14 meets expectations. And I guess the thing is that that's,
15 you know --

16 Q Did he use these two examples that you previous
17 stated on the record?

18 A No.

19 Q He had other examples?

20 A No, there were no examples positive or negative
21 for anything. You know, I mean, there was just the review
22 thing, it's, you know, check boxes. No examples positive or
23 negative for anything. And I guess, you know, that portion
24 of the review thing, he didn't mention that as a negative,
25 but yet it was apparent that the decision was made, what

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1 your rating was before the paperwork was filled out I guess.
2 I mean, because he didn't have any filled out paperwork,
3 like I say to show me, here's, you know, what we went over
4 with your supervisor, you know, here's the input. As far as
5 I know, you know, it was just the paperwork on me was filled
6 out when I sat down with him, to my knowledge.

7 Q You've got a copy here of your performance
8 appraisal for '97 that you completed with [redacted] ?

9 A That's correct.

10 Q And he reviewed his comments on this form with you
11 and I take it that you signed something that you agreed, or
12 that you at least reviewed it?

13 A Yes.

14 Q Okay. And this is dated 10/21/97?

15 A That's correct.

16 Q And can I get a copy of that after the hearing?

17 A Yes, you can.

18 Q Okay. And then sometime in what, say December,
19 you had this last meeting with O'Connor and [redacted] ?

20 A I would believe that it was December. Yes, it's
21 possible it was late November, but it was probably December.

22 Q Okay. And your performance appraisal or
23 evaluation was adjusted?

24 A It was modified from what my direct supervisor
25 made it. And, you know, that's my understanding is that's

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1 part of the process to, you know, have the guys higher up,
2 you know, go over all the reviews that the first supervisors
3 do and that's fine. But what bothered me is that, you know,
4 when I talked to my supervisor before going over anything,
5 you know, that my supervisor had said, oh, yeah, when he was
6 talking to [redacted] about my review that he had talked to him
7 for, you know, 30 minutes over this component cooling pump
8 leaking oil issue.

9 So it was apparent, you know, to me that he was --
10 when going over my review for the year that [redacted] was
11 putting quite a bit of emphasis on that for my review.
12 There's nothing written on that in my review, but there's no
13 examples for anything, positive nor negative on that review.
14 It's pretty much, you know, check boxes.

15 Q Okay. Do you think, in your own opinion, that
16 [redacted] lowered your performance rating to justify the fact
17 that you weren't chosen for this position?

18 A I can't say one way or another, you know, if, I
19 mean, I don't see any reason why you couldn't have however
20 many people that you had to be rated. You know, I don't
21 think there's anything that says you can have a guy that's,
22 you know, rated exceeds expectations. You can chose a guy
23 that's meeting expectations for the promotion.

24 Q A high rating is not one of the criteria for
25 selection?

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Patricia
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1 A I don't know for sure. I mean, because I kind of
2 asked that, you know, who's inputting into, you know, who is
3 chosen for a shift manager. I never really got a great
4 answer on that. I mean, why is it I asked was I chosen for
5 this before and, you know, and now you're saying I'm not. I
6 don't know who all put into it, if it's other shift managers.
7 But the only examples that were given to me for why I wasn't
8 qualified for it were the two that I cited. Like I said,
9 you can give many many reasons that could be, you know,
10 valid or invalid for, you know, not choosing somebody for a
11 position or saying that their review is what it is. You
12 know, but I just felt these are bad ones to give.

13 So now when I go forward, you know, as I continue
14 on as a unit supervisor, you know, if I think in my mind,
15 hey, I don't know if this thing is, maybe I question whether
16 it's operable, that either I find out the answer on my own
17 or I shut up and don't ask it. You know, so that it's not
18 used against me negatively in the future.

19 Q Do you know who was selected for the position of
20 shift manager?

21 A Yes, yes.

22 Q Was that person qualified? In your opinion?

23 A I can tell you this. I mean, he's a nice guy. I
24 like him. I think he would do okay ⁱⁿ on the position. But
25 what kind of amazes me about it, is we had the assessment

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1 earlier in the year, I believe in April of going over core
2 competencies, you know, who is suitable for being on shift
3 operating that covered different areas including safety
4 awareness and other items like that. But one of the key
5 core competencies was safety awareness. I can tell you that
6 through that assessment, I was rated as an A team. I stayed
7 on shift. The guy who was chosen to be the shift manager
8 was rated as a B team guy and was off shift since April all
9 the way until the time when they said he was going to be the
10 next shift manager. Which I found kind of, interesting or
11 unusual.

12 I wouldn't say that the guy was not okay for the
13 position or that he wouldn't have done okay. I personally
14 like the guy very much, but I kind of found it surprising,
15 you know, how could you, you know, say a guy is not suitable
16 for being on shift, not go back on shift until you're told
17 well, you know, you're going to get a promotion to a higher
18 shift level than what you were told you weren't suitable
19 for, you know, back in April.

20 But, you know, that's more to me a management
21 issue, you know, not so much a -- to me my concern is a
22 safety issue that I did not, do not feel comfortable that I
23 could raise questions or make decisions that I think are
24 conservative without fearing that I'm going to be negatively
25 impacted by those decisions.

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1 Q Would this promotion have resulted in a
2 substantial raise in salary?

3 A It would have been a raise in salary, yeah. What
4 it is I can't say. I mean, the last promotion that I got
5 was, you know, it didn't follow our own HR rules on
6 promotions and pay and everything and that was one of the
7 issues that -- you know, when I said earlier at the first
8 meeting with O'Connor and [] that we kind of talked
9 about some other things, that was one of them. That I felt
10 that we were not, you know, I was unhappy with that, that we
11 weren't following our own rules and he got all hostile with
12 me and swore at me.

13 Q That was O'Connor, right?

14 A That's correct.

15 Q Okay. Have you had any previous problems with
16 ?

17 A Uh.

18 Q Disciplinary problems prior to all this?

19 A No, uh-huh. I mean, well what's kind of
20 unfortunate about it is I felt I got along with him pretty
21 good over the years. I mean, he's been working at the
22 station the entire time that I've been there. I mean, I've
23 been in operating for my whole time there except for the
24 first three months when I started, I was a station laborer,
25 or station man. I've always had a pretty good relationship

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1 with him or thought I had a good relationship with him. So
2 I was kind of surprised and disappointed.

3 And I'll tell you too, I mean, after the meeting
4 with Human Resources, when she suggests that I consider
5 maybe just getting another job, I started looking for
6 another job. I talked to another utility and went and I
7 interviewed up there. I haven't heard back from them yet.
8 They told me they would get back to me early April. But
9 then, you know, it's been that the plant was closing came
10 out after that. So I can tell you that, I mean, I felt my
11 options inside the station there were very very limited.

12 Q Okay. Have you filed a complaint with the
13 Department of Labor?

14 A No.

15 Q Okay. Do you intend to?

16 A I don't know. I mean, I hadn't really thought
17 about it too much until -- when I talked to the resident and
18 Jay Hopkins, when he -- I think he's required to tell me
19 that. I told him no. I mean, he asked me what was I
20 looking for or was I looking for anything personally, some
21 result or, you know, something. I said, no I'm not. I
22 really didn't have anything in mind. I mean, he asked like,
23 do you think maybe you still want to be considered for the
24 position or whatever. And I said no, I mean I wasn't really
25 looking for anything personally from it, to say that oh, I

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1 was getting the promotion or the raise or whatever.

2 I'm pretty sure I'm going to be leaving the
3 industry here. I don't know, I'm most likely leaving the
4 company. I would imagine, I mean if I stayed with the
5 company, it will be in a non-nuclear capacity. So at this
6 point, I mean, I'm not really looking for anything in that
7 area.

8 Q Did Human Resources offer to help you find another
9 job within the company or did that not come up?

10 A No, they didn't really say anything there.
11 Because I don't that they really -- she didn't really say,
12 you know, find another job inside the company, she just
13 said, she suggested I find another job. So she didn't
14 really say one way or another.

15 Q Was Miosi surprised -- did you relate Holly
16 Stanton's comment about finding another job to Tony Miosi?

17 A I don't recall whether I did or did not. I kind
18 of think that I did not. I don't remember for sure.

19 Q Okay.

20 A But I guess at that point I just kind of gave up
21 because, you know, I felt like I had gone the route of going
22 through a supervisor or going^{c o} employee concerns, going
23 through HR and I was pretty much back to, you know, I didn't
24 feel like any progress. And employee concerns kind of
25 asking, oh, do you still have a problem. So I just kind of

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1 felt that I had done all that I could do through the company
2 channels.

3 Q Okay. Is there anybody else at the plant that's
4 aware of your situation?

5 A I've talked to some other people about it, yes.

6 Q Do you think it would have an impact on them as
7 far as bringing safety concerns forward? In light of your
8 experience, would they be concerned themselves?

9 A ^{It's} ~~See~~ possibility because the people that I've
10 talked to and I've talked to some of my fellow supervisors
11 on it. You know, the response that I've got from a couple
12 of the guys is, you know, you should be writing this down,
13 you know, putting dates or whatever. Because the impression
14 I got from them was they felt that what was said, what was
15 done, was wrong and, you know, that I should be -- doing
16 something about it to, you know, correct it. So I can tell
17 you that other supervisors were aware of it, that I talked
18 to and they seemed to be supportive of my position that it
19 was inappropriate.

20 Q Who was the original [] supervisor that told
21 you to start filling out the shift manager's book? 700

22 A That was the [] supervisor, that was

23 []

24 Q Okay. And have you talked to him since to let him
25 know what's happened?

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1 A No, uh-huh.

2 Q Okay. Do you know if he was told ^{by} ~~my~~ that
3 you were not going to be selected?

4 A I have no idea.

5 Q Okay. Is he still at the plant?

6 A Yes, he is. His job title has changed. He's been
7 moved around, so I don't know if he's in operating anymore
8 or not. I mean, we've had a lot of changes in the last, you
9 know, year but he is still at the station.

10 Q Okay. All right. Anything else you want to add
11 for the record before we wrap up?

12 A No, I think that pretty much covers it.

13 Q Okay. I need to ask you, have I threatened you in
14 any way or offered you any rewards in return for your
15 statement?

16 A No.

17 Q Okay. We're concluding at approximately 10:55
18 a.m.

19 [Whereupon, at 10:55 a.m., the interview was
20 concluded.]

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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

NAME OF PROCEEDING: INTERVIEW OF

7(6)

(CLOSED)

CASE NUMBER:

PLACE OF PROCEEDING: Gurnee, IL

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Ron LeGrand

Official Reporter

Ann Riley & Associates, Ltd.

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