

September 4, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket Nos. 50-390-CivP; 50-327-CivP
TENNESSEE VALLEY AUTHORITY)	50-328-CivP; 50-259-CivP
(Watts Bar Nuclear Plant, Unit 1)	50-260-CivP; 50-296-CivP
Sequoyah Nuclear Plant, Units 1 & 2)	50-260-CivP; 50-296-CivP
)	
)	ASLBP No. 01-791-01-CivP
)	
)	EA 99-234

NRC STAFF RESPONSE TO TENNESSEE VALLEY AUTHORITY'S
FIRST SET OF INTERROGATORIES

INTRODUCTION

Pursuant to 10 C.F.R. § 2.740b(b), the Nuclear Regulatory Commission (NRC) Staff (Staff) hereby provides the following responses and objections to Tennessee Valley Authority's (TVA) First Set of Interrogatories. The Staff notes that TVA's First Set of Interrogatories did not include an Interrogatory 10. The Staff has responded to these interrogatories as numbered by TVA in its First Set of Interrogatories.

INTERROGATORY 1

State the factual basis of your contention on page 3 of the February 7, 2000, Notice of Violation (NOV) and Proposed Imposition of Civil Penalty that Thomas J. McGrath was "knowledgeable and critical of Fiser's 1991-1993 protected activity involving chemistry related safety concerns." Include:

A. The specific "protected activity involving chemistry related safety concerns" in which Fiser was involved, the nature of his involvement, the dates of his involvement, the identity of all documents pertinent to his alleged protected activities, the identity of each person you contend had knowledge of such activity and the date and manner in which each such person became aware of such activity.

B. All evidence showing how and when McGrath became knowledgeable of Fiser's alleged protected activity, the identity of all persons with information as to how or when McGrath acquired such knowledge, and the identity of all documents pertinent to McGrath's knowledge of Fiser's alleged protected activity.

C. The facts upon which you base your conclusion that McGrath was "critical" of Fiser's alleged protected activity. Please describe in detail each and every instance in which McGrath was critical of Fiser's alleged protected activity as defined by you in response to subsection (a) above, including the dates, locations, persons present, the substance of all oral communications, and the identity of all written documents pertinent to such alleged criticism.

RESPONSE

A. The protected activity in which Fiser was involved includes conducting a review of the Chemistry Program; identifying specific problems with the program; discussing these problems with members of the Nuclear Safety Review Board (NSRB); entering these problems into TROI; and filing a 1993 DOL complaint.

B. McGrath became knowledgeable of Fiser's protected activities in his position as Chairman of the NSRB. In this position, he attended meetings with Fiser about the chemistry problems that Fiser had identified. Fiser Interview, OI Exhibit 3; and Jocher statement, OI Exhibit 4.

C. Ron Grover stated that McGrath made negative comments about Fiser. Grover statement, OI Exhibit 4. Rob Beecken told Fiser that McGrath was so upset with Fiser after a meeting with NSRB members that McGrath stated that Fiser was a problem and that TVA needed to get rid of him. OI Exhibits 2 and 4. Bill Jocher stated that McGrath was very upset with Fiser after Fiser brought the problems with the Chemistry department to his attention. Jocher statement, OI Exhibit 4. Dan Keuter stated that McGrath and McArthur stated that Fiser was not working out as the Corporate Chemistry Manager. Keuter statement, TVA-OIG Interview for 1993 DOL complaint.

INTERROGATORY 2

State the factual basis of your contention on page 3 of the NOV and Proposed Imposition of Civil Penalty that Wilson C. McArthur was “knowledgeable and critical of Fiser’s 1991-1993 protected activity involving chemistry related safety concerns.” Your answer should include:

A. The specific “protected activity involving chemistry related safety concerns” in which Fiser was involved, the nature of his involvement, the dates of his involvement, the identity of all documents pertinent to his alleged protected activities, the identity of each person you contend had knowledge of such activity, and the date and manner in which each such person became aware of such activity.

B. All evidence showing how and when McArthur became knowledgeable of Fiser’s alleged protected activity, the identity of all persons with information as to how or when McArthur acquired such knowledge, and the identity of all documents pertinent to McArthur’s knowledge of Fiser’s alleged protected activity.

C. The facts upon which you base your conclusion that McArthur was “critical” of Fiser’s alleged protected activity. Please describe in detail each and every instance in which McArthur was critical of Fiser’s alleged protect[ed] activity as defined by you in response to subsection (a) above, involving the dates, locations, persons present, the substance of all oral communications, and the identity of all written documents pertinent to such alleged criticism.

RESPONSE

A. The protected activity in which Fiser was involved includes conducting a review of the Chemistry Program; identifying specific problems with the program; discussing those problems with members of the NSRB; entering those problems into TROI; filing a 1993 DOL complaint; and providing information to TVA-OIG in its investigation of a complaint by Jocher.

B. McArthur stated that he was aware that the subject of Fiser’s 1993 DOL complaint involved disagreement between Fiser and members of the NSRB. McArthur Interview, OI Exhibit 10. McArthur was interviewed by TVA-OIG for the 1993 DOL complaint. Charles Kent stated that he and McArthur discussed the 1993 DOL complaint at the time it was occurring. Kent statement, OI Exhibit 4. McArthur stated that he became aware that Fiser was tape recording his conversations during the investigation of the Jocher complaint. McArthur stated that he thought

this was unprofessional. McArthur statement, OI Exhibit 4 and McArthur Interview, OI Exhibit 10. Ben Easley stated that he and McArthur discussed Fiser's tapes and that they did not think that the taping was professional or fair to the people being taped. Easley Interview, OI Exhibit 20.

C. Grover stated that McArthur distrusted Fiser because he had tape recorded conversations with McArthur and that McArthur had a problem with Fiser because of his past DOL complaint. Grover statement, OI Exhibit 4. Jocher stated that McArthur told him that Sequoyah wanted Fiser fired and then directed Jocher to RIF Fiser, even though there were open positions that Fiser could have filled. Jocher Interview, OI Exhibit 15. Dan Keuter stated that McGrath and McArthur stated that Fiser was not working out as the Corporate Chemistry Manager and that McArthur and Keuter reached a consensus that Fiser should be demoted. Keuter statement, TVA-OIG Interview for 1993 DOL complaint. Fiser stated that after the selection process in 1996, McArthur specifically stated that he would not talk to him because Fiser had tape recorded him in the past. Fiser Interview, OI Exhibit 3. McArthur stated that he thought Fiser's taping was unprofessional and that he felt he had to be careful about what he said around Fiser. McArthur Interview, OI Exhibit 10. Easley stated that he and McArthur discussed the tape recordings and felt that they were unprofessional and unfair to the individuals being recorded. Easley Interview, OI Exhibit 20.

INTERROGATORY 3

With respect to the assertion on page 3 of the NOV that McGrath's and McArthur's actions with regard to Fiser's alleged protected activity in 1991-1993 were part of the "information developed associated with the 1993 DOL case", specifically identify and describe in detail all such "information developed associated with the 1993 DOL case." Your answer should include the identity of each pertinent document.

RESPONSE

See response to Interrogatories 1 and 2.

INTERROGATORY 4

Identify each person referred to on page 3 of the NOV who was interviewed by the Department of Labor (DOL) as part of the proceedings instituted as a result of Fiser's 1993 complaint:

RESPONSE

Page 3 of the NRC's February 7, 2000, Notice of Violation (NOV) does not contain a reference to "persons interviewed by the Department of Labor (DOL) as part of the proceedings instituted as a result of Fiser's 1993 complaint." The NOV does refer to ". . . the number of TVA employees who were involved in the various DOL and inspector General interviews. . .", and this statement refers to Fiser's 1996 DOL complaint.

INTERROGATORY 5

State when the DOL investigative file on Fiser's 1993 complaint was first reviewed by the NRC staff involved in issuing the subject NOV. Identify all information and documents in the DOL investigative file on Fiser's 1993 complaint considered by the staff in issuing the NOV.

RESPONSE

The question regarding when the staff first reviewed the DOL investigative file on Mr. Fiser's 1993 complaint is irrelevant to the matters at issue in this proceeding. The actions by the staff, the Office of Investigations, and the Office of Enforcement are not relevant in this proceeding. See Statement by Judge Young, Prehearing Conference Transcript, July 19, 2001 p. 45-46.

INTERROGATORY 6

State when the TVA Inspector General's file on Fiser's 1993 complaint was first reviewed by the NRC staff involved in issuing the subject NOV. Identify all information and documents in the Inspector General's investigative file on Fiser's 1993 complaint considered by the NRC staff in issuing the NOV.

RESPONSE

The question regarding when the staff first reviewed the TVA Inspector General's file on Mr. Fiser's 1993 complaint is irrelevant to the matters at issue in this proceeding. The actions by the staff, the Office of Investigations, and the Office of Enforcement are not relevant in this proceeding. See Statement by Judge Young, Prehearing Conference Transcript, July 19, 2001 p. 45-46.

INTERROGATORY 7

State the factual basis for the conclusion in the NOV at 2-3 that the reorganization of Operations Support was motivated by a retaliatory animus by McGrath. Identify all pertinent documents, identify each person with information regarding such conclusion and state the information you impute to each such person.

RESPONSE

The February 7, 2000, NOV does not contain a conclusion that "the reorganization of Operations Support was motivated by a retaliatory animus by McGrath." Page 2 of the NOV states that "the NRC does not agree with TVA that the actions which ultimately resulted in Mr. Fiser's non-selection to the Chemistry Program Manager position were based solely on non-discriminatory business reasons." The NRC Staff contends that the manner in which the reorganization was carried out by McGrath and McArthur was motivated by a retaliatory animus. The basis for this conclusion is the information provided in response to Interrogatories 1 and 2, coupled with the temporal proximity between when McGrath and McArthur again became part of Fiser's chain of command and when Fiser's position was reorganized out of existence by McGrath. The disparate treatment of Fiser in requiring him to compete for one of the Chemistry Manager positions, but not requiring McArthur to compete for the RadChem Manager position under similar circumstances also evinces a retaliatory animus. In addition, McGrath was not required to reduce the Chemistry Department by 40% within the first year, but had five years to make this cut. McGrath could have

avoided eliminating one of the positions by only cutting the Chemistry department by 17%, which was the goal for FY 1997.

INTERROGATORY 8

Do you contend that McGrath ever made any statements evidencing such animus? If so, state the substance of such statements and identify the time, date, and place such statements were made and all persons present when such statements were made.

RESPONSE

See response to Interrogatory 7.

INTERROGATORY 9

State whether you contend that the newly created position of Chemistry Program Manager (PWR) was interchangeable under OPM regulations with the Chemistry and Environmental Program Manager position held by Fiser so that the new position did not require posting, and if so, state the basis for your contention. Identify all pertinent documents, identify each person with information regarding such conclusion, and state the information you impute to each such person.

RESPONSE

The staff has made no contentions regarding the interchangeability of these two positions. In addition, the staff objects to further response to this interrogatory on the ground that it requests a legal conclusion that constitutes attorney-work product.

INTERROGATORY 11

State the factual basis for the conclusion on page 3 of the NOV that it is "likely that an individual was preselected for one of the Chemistry Program Manager positions."

RESPONSE

David Voeller stated that he received a call from Sam Harvey the week of June 3, 1996. During this conversation, Voeller stated that Harvey told him that he would be working more closely with him as the PWR Chemistry Manager. Harvey also stated that the reason he was not transferred out to Sequoyah was because he was wanted at corporate for the PWR position. Voeller stated that Harvey told him that it was a done deal, that they would post the position as a formality in order to keep it legal, and that he felt sorry for Fiser as the odd man out. Voeller statement, OI Exhibit 4, and Voeller deposition, OI Exhibit 16. Voeller told Fiser, Grover, and Cox about these statements by Harvey. Fiser Interview, OI Exhibit 3; Grover Interview, OI Exhibit 8; and Cox Interview, OI Exhibit 19. Grover stated that McGrath did not want Harvey transferred to Sequoyah because he wanted Harvey in the PWR position. Grover statement, OI Exhibit 4 and Grover Interview, OI Exhibit 8. Dave Goetcheus told Voeller that Harvey would get the PWR position. OI Exhibit 5.

INTERROGATORY 12

State the basis for your contention on page 3 of the NOV that the conversation among certain members of the Selection Review Board (SRB) prior to the interviews for the Chemistry Program Manager positions was “[o]f particular relevance” to your determination that Fiser was discriminated against.

RESPONSE

Prior to starting the interviews, Kent, one of the members of the SRB, stated in front of McArthur and John Corey that Fiser had filed a DOL complaint. Corey statement, McArthur statement, OI Exhibit 4; McArthur Interview, OI Exhibit 10; Corey Interview, OI Exhibit 11; McArthur Predecisional Enforcement Conference Transcript, November 22, 1999. Kent stated that he mentioned the DOL complaint to McArthur and said that McArthur should not participate in the SRB

because of the DOL issue. TVA Predecisional Enforcement Conference Transcript, December 10, 1999.

INTERROGATORY 13

State whether you contend that an SRB was a required element of the selection process for the Chemistry Program Manager positions and, if so, state the basis for your contention.

RESPONSE

The staff has no knowledge as to whether an SRB was a required element of the selection process for the Chemistry Manager positions.

INTERROGATORY 14

Identify all of the "other reasons" which were relied upon, as stated on page 3 of the NOV, in "conclud[ing] that discrimination was at least a factor in Mr. Fiser's non-selection." Separately state the detailed factual basis which you contend supports such "other reasons." Identify all pertinent documents, identify each person with information regarding such conclusion, and state the information you impute to each such person.

RESPONSE

The "other reasons" for concluding that discrimination was a factor in Fiser's non-selection include: (1) Easley was removed from the SRB as a facilitator (a non-voting member) because of his knowledge of Fiser's DOL activity, but Corey and Kent were permitted to participate as voting members despite having knowledge of Fiser's DOL activities and having on a prior occasion asked Fiser to leave a meeting while they discussed sensitive issues. This contradicts McGrath and McArthur's repeated statements that they were trying to have a fair and impartial SRB. Fiser Interview, OI Exhibit 3; McGrath statement, OI Exhibit 4; DOL Summary Disposition Opinion, OI Exhibit 5. (2) McArthur did not report Kent's statement about Fiser's DOL activity, which could have impacted the impartiality of the members of the SRB, to Human Resources or to McGrath, yet he

reported Jack Cox's statement in favor of Fiser to Human Resources and McGrath and stated that Cox was biased in favor of Fiser. McArthur statement and McGrath statement, OI Exhibit 4; McGrath Interview, OI Exhibit 9; McArthur Interview, OI Exhibit 10. (3) Approximately three months after McGrath and McArthur became Fiser's supervisors, his position was posted and he was not selected for the position. This temporal proximity results in an inference of retaliatory intent. (4) The performance appraisals of the candidates for the PWR position were not included in the interview packages provided to the SRB members. Fiser Interview, OI Exhibit 3. A review of Fiser's performance appraisals demonstrated that he consistently received higher ratings than Harvey. (5) McGrath was only required to cut 17% of the Chemistry budget for FY 1997, and had five years to complete the 40% budget reduction, but he decided that the Chemistry department should complete the entire budget cut in one year. (6) Cox was considered biased in favor of Fiser because of his statement about Fiser's work at Watts Bar, and therefore McArthur and McGrath felt he should be excluded from the SRB. McGrath Interview, OI Exhibit 9, and McArthur Interview, OI Exhibit 10. However, McArthur and McGrath did not feel that Kent should be excluded from the SRB as a result of his attempts to get Harvey transferred to Sequoyah.

INTERROGATORY 15

State whether you contend as stated on page 3 of the NOV that "TVA's explanations with respect to the decision making process for filling the RadCon Chemistry Manager position changed over time," and if so, state the basis for your contention. Identify the decision making process which is referred to, each individual you contend was part of that decision making process, the explanation which you contend changes, and the times at which you contend they changed. Identify all pertinent documents, identify each person with information regarding such conclusion, and state the information you impute to each such person.

RESPONSE

The staff does contend that TVA's explanations with respect to the decision making process for filling the RadCon Chemistry Manager position changed over time. During interviews with DOL

and NRC OI, a number of individuals stated that the RadChem Manager position was created by combining the RadCon Manager position held by McArthur and the Chemistry/Environmental Manager position held by Grover into one position. McArthur was transferred into this new position because Human Resources compared his position description of record (which was out of date) with the position description of the new position. Because the majority of the functions in these position descriptions overlapped, McArthur could be transferred into the new position without posting it. Boyles statement, McGrath statement, OI Exhibit 4; McGrath Interview, OI Exhibit 9; Easley Interview, OI Exhibit 20; Reynolds Interview, OI Exhibit 25. However, during his interview with NRC OI, Boyles gave a different reason transferring McArthur into the RadChem Manager position without posting it. Boyles stated that he had more discretion under TVA policy as to whether senior level positions were required to be posted. He stated that he had the ability to give McArthur the position without posting it and without comparing the position descriptions because it was an executive-level position, not a mid-level management position. Boyles Interview, OI Exhibit 24. At the Predecisional Enforcement Conferences on November 22, 1999 and December 10, 1999, McGrath and Boyles stated a new reason why McArthur was given the position without posting it for competition. At these conferences, McGrath and Boyles stated that the RadChem Manager position was not created as a result of the 1996 reorganization, but had been recreated in 1995 and given to another individual. When that individual retired, then it was determined that, since McArthur had held the position before, that he was entitled to the position. McGrath Predecisional Enforcement Conference Transcript, November 22, 1999 and TVA Predecisional Enforcement Conference Transcript, December 10, 1999.

INTERROGATORY 16

State whether you contend as stated on page 17 of the July 30, 1999, Office of Investigations (OI) [R]eport No. 2-1998-013 that "McGrath decided that the new positions needed to be advertised." If so, state the details and factual basis for your contention.

RESPONSE

The Staff contends that McGrath and Ed Boyles decided that the new Chemistry Manager positions had to be advertised. McGrath Interview, OI Exhibit 9; Boyles Interview, OI Exhibit 24; McGrath Predecisional Enforcement Conference Transcript, November 22, 1999, and TVA Predecisional Enforcement Conference Transcript., December 10, 1999.

INTERROGATORY 17

State the factual basis for your contention that retaliatory animus played a part in the decision to post the new PWR position. Identify each person with knowledge of such information, identify the information you attribute to each such person, and identify all documents pertinent to this contention.

RESPONSE

On prior occasions before McGrath and McArthur became Fiser's supervisors, individuals testified that each of them had stated that Fiser should be removed from TVA. Grover stated that McGrath made negative comments about Fiser. Jocher stated that McGrath's attitude toward Fiser was volatile and that McGrath was upset with Fiser for having brought problems with the Chemistry program to the attention of the NSRB. Grover statement, Jocher statement, OI Exhibit 4. Beecken told Fiser that McGrath wanted him removed from TVA. Fiser interview, OI Exhibit 3. Grover stated that McArthur distrusted Fiser because he had taped conversations with him previously. Grover statement, OI Exhibit 4. Jocher stated that McArthur told him that Sequoyah wanted Fiser fired and that McArthur directed him to RIF Fiser. Jocher Interview, OI Exhibit 15. Then, approximately three months after McArthur and McGrath became Fiser's first and second line supervisors, Fiser's position was posted and he was not selected for a position. In addition, McGrath decided to cut the Chemistry department by the entire 40% in one year, when he could

have waited until FY 2001 to determine whether the budget cuts would require cutting a position or whether the cuts could be made through attrition.

INTERROGATORY 18

Do you contend that the position which was filled by McArthur should have been posted. If so, identify each person with knowledge of such information, identify the information you attribute to each such person, and identify all documents pertinent to this contention.

RESPONSE

The staff objects to this interrogatory on the ground that it calls for a legal conclusion that constitutes attorney work product.

INTERROGATORY 19

State your contention as to the significance of Jack W. Cox, Jr.'s inability to remember the reason he declined to serve on the SRB.

RESPONSE

The Staff does not contend that Cox's inability to remember the reason he declined to serve on the SRB has any particular significance.

INTERROGATORY 20

State your contention as to the reason or reasons Cox declined to serve on the SRB. Identify each fact and document pertinent to that contention. Identify each person who has knowledge or information regarding the reason Cox declined to serve on the SRB.

RESPONSE

Cox was unable to serve on the SRB because he had a scheduling conflict on the evening of the interviews. McArthur statement, McGrath statement, OI Exhibit 4; McGrath Interview, OI

Exhibit 9; Corey Interview, OI Exhibit 11; Kent Interview, OI Exhibit 12; Cox Interview, OI Exhibit 19; Easley Interview, OI Exhibit 20; Transcripts from the Predecisional Enforcement Conferences, November 22, 1999 and December 10, 1999.

INTERROGATORY 21

State whether you contend that the rankings by the SRB in which Fiser was ranked lowest of all three members of the Board should be disregarded in determining if there was a pre-selection. If so, state the detailed factual basis for such contention. Identify each and every fact and document pertinent to such contention, identify each individual who[m] you contend has information pertinent to such contention and identify the information which you impute to each individual.

RESPONSE

The staff has made no contention regarding the SRB's ranking of applicants for the Program Manager positions. The staff objects to further response to this interrogatory on the ground that it calls for a legal conclusion that constitutes attorney work product.

INTERROGATORY 22

State whether you contend as stated on page 17 of the OI [R]eport No. 2-1998-013 that Cox was eliminated from participating on the SRB, and if so, state the detailed factual basis for your contention. Identify all pertinent documents, identify each person with information regarding such conclusion, and state the information you impute to each such person.

RESPONSE

The Staff contends that Jack Cox was unable to participate in the SRB because of a scheduling conflict. However, the Staff also contends that had Cox been available to serve on the SRB, then McArthur and McGrath would have excluded him from participating in the SRB based on his statement in favor of Fiser. McGrath Interview, OI Exhibit 9 and McArthur Interview, OI Exhibit 10.

INTERROGATORY 23

State whether you contend as stated on page 17 of OI [R]eport No. 2-1998-013 that “McGrath indicated that the intent of the SRB was to have a fair selection process, in which no one had past knowledge or involvement with Fiser’s DOL complaints,” and, if so, state the detailed factual basis of your contention.

RESPONSE

McGrath has stated on a number of occasions that the intent of the SRB was to have a fair selection process. In addition, he agreed that Easley should not participate in the SRB because of his knowledge of Fiser’s DOL activities. McGrath Interview, OI Exhibit 9 and McGrath Predecisional Enforcement Conference, November 22, 1999.

INTERROGATORY 24

State whether you contend as stated on page 17 of OI [R]eport No. 1-1998-013 that “McGrath prevented the transfer of Harvey from a Corporate Chemistry position to a Sequoyah Chemistry position,” and if so, state the detailed factual basis for your contention. Identify all pertinent documents, identify each person with information regarding such conclusion and state the information you impute to each such person.

RESPONSE

Grover stated that McGrath prevented Harvey’s transfer to Sequoyah because he wanted to keep Harvey’s experience in Corporate and because he thought of Harvey as the PWR Chemistry person. Grover statement, OI Exhibit 4 and Grover Interview, OI Exhibit 8.

INTERROGATORY 25

State whether you contend that a Sequoyah Chemistry position existed at the time McGrath allegedly prevented Harvey from taking such a position, and if so, state the detailed factual basis for your contention.

RESPONSE

The Staff contends that it is more likely than not that a chemistry position existed or could have been created at Sequoyah for Harvey. Grover stated that Kent and Gordon Rich requested that Harvey be transferred to Sequoyah. Easley stated that Grover contacted him about transferring Harvey to Sequoyah and that Easley advised that they could advertise the position, seek a waiver of the posting requirements, or do a direct transfer. Grover statement, Easley statement, OI Exhibit 4; Grover Interview, OI Exhibit 8; Easley Interview, OI Exhibit 20. Kent stated that he had a vacant Technical Support Supervisor position that he wanted Harvey to fill. Kent statement, OI Exhibit 4; Kent Interview, OI Exhibit 12.

INTERROGATORY 26

Do you contend that McGrath could have transferred Harvey, or allowed Harvey to transfer to Sequoyah consistent with TVA and Federal regulations, and authorized headcounts and budgets. If so, state the basis of your contention and identify all pertinent documents, identify each person with information regarding such conclusion, and state the information you impute to each such person.

RESPONSE

The staff does not have sufficient information for answering this question. In addition, the staff objects to further response to this interrogatory on the ground that it calls for a legal conclusion that constitutes attorney work product.

INTERROGATORY 27

Identify all documents in the custody of the NRC, including OI or elsewhere, which refer or relate to OI Case No. 2-93-068 and/or Fiser's 1993 DOL complaint.

RESPONSE

DOL Investigative Case File on Mr. Fiser's 1993 DOL Complaint and associated Exhibits; OI Investigative Case File (No. 2-93-068) and associated Exhibits; 1993 TVA-OIG Report with Interview Summaries.

INTERROGATORY 28

Identify all documents in the custody of the NRC, including OI, or elsewhere, which refer or relate to OI Case No. 2-1998-013 and/or Fiser's 1996 DOL complaint. To the extent not previously identified, identify all documents pertinent to the NRC staff's contentions in this proceeding or the contentions of TVA's defenses and identify all documents the NRC staff intends to rely on in this case.

RESPONSE

Enforcement records EA-99-235, EA-99-236, EA-97-456; Allegations records RII-1996-A-0148; OI Report No. 2-1998-013 and associated Exhibits; DOL case File on Fiser's 1996 Complaint and associated Exhibits.

INTERROGATORY 29

Identify each individual with knowledge or information on which the NRC staff will rely in this case, particularly noting those individuals the NRC staff intends to call as witnesses at the hearing before the Atomic Safety and Licensing Board.

RESPONSE

The staff intends to rely upon information received from all individuals interviewed by DOL, OI, and TVA-OIG. The Staff has not yet identified who it intends to call as witnesses at the hearing before the Atomic Safety and Licensing Board.

INTERROGATORY 30

Identify the legal standard which you believe applies to actions under 10 C.F.R. 50.7 (2001). Specifically, state the legal standard the NRC applies to result in a finding of discrimination. Identify all documents in the custody of the NRC, including the Office of the General Counsel, or elsewhere which discuss or analyze the legal standard being applied in the past, in making a determination under 10 C.F.R. 50.7.

RESPONSE

The staff objects to this interrogatory on the ground that it calls for a legal conclusion that constitutes attorney work product.

Respectfully submitted,

/RA/

Jennifer M. Euchner
Counsel for NRC Staff

Dated at Rockville, Maryland
this 4th day of September, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Sequoyah Nuclear Plant, Units 1 & 2) ASLBP No. 01-791-01-CivP
Browns Ferry Nuclear Plant, Units 1, 2, 3))
) EA 99-234

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO TENNESSEE VALLEY AUTHORITY'S FIRST SET OF INTERROGATORIES" and "NOTICE OF APPEARANCE" for Jennifer M. Euchner in the above-captioned proceeding have been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (*), or by electronic mail as indicated by a double asterisk (**) on this 4th day of September, 2001.

Administrative Judge **
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Administrative Judge **
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NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with 10 C.F.R. § 2.713(b) the following information is provided.

Name of Attorney: Jennifer M. Euchner
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Admissions: Court of Appeals of Maryland
Name of Party: NRC Staff

Respectfully submitted,

/RA/

Jennifer M. Euchner
Counsel for NRC Staff

Dated at Rockville, Maryland
this 4th day of September, 2001