

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'S RESPONSE TO TENNESSEE VALLEY AUTHORITY'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

I. INTRODUCTION

The Nuclear Regulatory Commission (NRC) Staff (Staff) hereby responds to Tennessee Valley Authority's (TVA) First Request for Production of Documents, filed August 3, 2001. The Staff is identifying and providing copies of responsive documents within the possession, custody, and control of the NRC to TVA. For those documents which the Staff believes are currently in the possession of TVA and which are responsive to the document requests, the Staff is only identifying the documents and not providing copies.

II. GENERAL OBJECTIONS

1. The Staff objects to TVA's document requests to the extent that they call for disclosure of litigation strategy and other material protected under 10 C.F.R. § 2.740 or other protection provided by law, attorney work product, privileged attorney-client materials, and other privileged materials such as draft agency documents protected by executive privilege.

2. The Staff objects to TVA's document requests to the extent that they seek documents which are beyond the scope of the matters at issue in this proceeding. TVA is only permitted to obtain documents that pertain to the subject matter within the scope of this proceeding, as outlined in the Prehearing Conference, July 19, 2001.

### III. DOCUMENTS PROVIDED

The Staff is identifying and providing copies of the following documents that are responsive to TVA's document requests. These documents include the documents identified in the "NRC Staff's Response to Tennessee Valley Authority's First Set of Interrogatories."

1. U.S. NRC Office of Investigations Report of Investigation, Sequoyah Nuclear Plant: Discrimination Against Former Chemistry Manager for Raising Safety Concerns Re: Chemistry Procedures, Case No. 2-1998-013 (hereinafter "OI Report").
2. OI Report Exhibit 1: Investigation Status Record, April 29, 1998.
3. OI Report Exhibit 2: DOL Complaint Letter from Fiser, June 26, 1996.
4. OI Report Exhibit 3: Transcript of OI Interview of Fiser, August 6, 1998.
5. OI Report Exhibit 4: DOL Report of Investigation, March 27, 1998.
6. OI Report Exhibit 5: DOL Order Denying Motion for Summary Decision, April 21, 1998.
7. OI Report Exhibit 6: TVA-OIG Report of Administrative Inquiry, November 25, 1996.
8. OI Report Exhibit 7: Fiser's Resignation Form, September 5, 1996.
9. OI Report Exhibit 8: Transcript of OI Interview of Grover, December 18, 1998.
10. OI Report Exhibit 9: Transcript of OI Interview of McGrath, April 20, 1999.
11. OI Report Exhibit 10: Transcript of OI Interview of McArthur, April 20, 1999.
12. OI Report Exhibit 11: Transcript of OI Interview of Corey, October 22, 1998.
13. OI Report Exhibit 12: Transcript of OI Interview of Kent, October 22, 1998.
14. OI Report Exhibit 13: Transcript of OI Interview of Rogers, April 20, 1999.
15. OI Report Exhibit 14: DOL Interview Statement by Grover, September 27, 1996.

16. OI Report Exhibit 15: Transcript of OI Interview of Jocher, September 11, 1998.
17. OI Report Exhibit 16: DOL Deposition of Voeller, January 30, 1998.
18. OI Report Exhibit 17: DOL Interview Statement by Harvey, March 27, 1997.
19. OI Report Exhibit 18: TVA-OIG Record of Interview of Harvey, July 12, 1996.
20. OI Report Exhibit 19: Transcript of OI Interview of Cox, October 22, 1998.
21. OI Report Exhibit 20: Transcript of OI Interview of Easley, October 29, 1998.
22. OI Report Exhibit 21: Letter from TVA Senior Litigation Attorney, November 6, 1998.
23. OI Report Exhibit 22: TVA Memorandum, March 23, 1993.
24. OI Report Exhibit 23: TVA NP Business Practice, September 30, 1993.
25. OI Report Exhibit 24: Transcript of OI Interview of Boyles, October 22, 1998.
26. OI Report Exhibit 25: Transcript of OI Interview of Reynolds, December 18, 1998.
27. OI Report Exhibit 26: TVA Memorandum to Grover, August 5, 1996.
28. OI Report Exhibit 27: Transcript of OI Interview of Long, December 17, 1998.
29. OI Report Exhibit 28: Vacant Position Announcement, August 31, 1994.
30. OI Report Exhibit 29: Declaration of Howard Cutshaw, February 26, 1999.
31. OI Report Exhibit 30: Review of Performance Evaluations, July 16, 1999.
32. OI Report Exhibit 31: Transcript of OI Interview of Westbrook, December 18, 1998.
33. Official Case File for OI 2-1998-013.

#### IV. DOCUMENTS IDENTIFIED

The NRC is identifying the following documents which are responsive to TVA's document requests but of which the Staff believes TVA already possesses copies. The Staff will provide copies of these documents upon the request of TVA.

34. Declaration of James E. Boyles before the NRC, March 1, 1999.
35. Exhibit B to Boyles Declaration, TVA Field File of Gary L. Fiser.

36. Exhibit C to Boyles Declaration, TVA Field File of Sam L. Harvey III.
37. Exhibit D to Boyles Declaration, TVA Field File of Ronald O. Grover.
38. Declaration of Elizabeth M. Nickle before the NRC, February 26, 1999.
39. Exhibit A to Nickle Declaration, Employee Action Sequence of Wilson McArthur.
40. Exhibit B to Nickle Declaration, Employee Action Sequence of Gary Fiser.
41. Exhibit C to Nickle Declaration, Employee Action Sequence of Sam Harvey, III.
42. Exhibit D to Nickle Declaration, Employee Action Sequence of Ronald Grover.
43. Declaration of Alice L. Greene before the NRC, February 26, 1999.
44. Exhibit A to Greene Declaration, Personal History Record of Wilson McArthur.
45. Exhibit B to Greene Declaration, Personal History Record of Gary Fiser.
46. Exhibit C to Greene Declaration, Personal History Record of Sam Harvey III.
47. Exhibit D to Greene Declaration, Personal History Record of Ronald Grover.
48. Declaration of Howard H. Cutshaw before the NRC, February 26, 1999.
49. Exhibit A to Cutshaw Declaration, Position Descriptions for Wilson McArthur.
50. Exhibit B to Cutshaw Declaration, Performance Evaluations for Wilson McArthur.
51. Department of Labor Recommended Decision and Order, September 25, 1998.
52. TVA-OIG Record of Interview of Ben Easley, July 10, 1996.
53. TVA-OIG Record of Interview of James Boyles, July 10, 1996.
54. TVA-OIG Record of Interview of David Voeller, July 16, 1996.
55. TVA-OIG Record of Interview of David Goetcheus, July 23, 1996.
56. TVA-OIG Record of Interview of Thomas McGrath, July 23, 1996.
57. TVA-OIG Record of Interview of Katherine Welch, July 29, 1996.
58. TVA-OIG Record of Interview with Abridged Transcript of Gary Fiser, July 17, 1996.
59. TVA-OIG Record of Interview of John Corey, August 21, 1996.

60. TVA-OIG Record of Interview of Heyward Rogers, August 23, 1996.
61. TVA-OIG Record of Interview with Wilson McArthur, October 29, 1996.
62. Letter to Oliver Kingsley from Thomas Fine with Fiser DOL complaint, July 17, 1996.
63. Letter to G.T. Prosser from Oliver Kingsley requesting investigation of Fiser complaint with complaint attached, July 10, 1996.
64. Position Description for Fiser, Chemistry and Environmental Protection Program Manager, July 24, 1995 with organizational chart and PWR Chemistry Program Manager Position Description attached.
65. Declaration of Sam Harvey before the Department of Labor.
66. TVA-OIG internal documents and handwritten notes regarding the Fiser DOL complaint investigation.
67. Facsimile from Ben Easley to David VanBockern with decision letters for the positions selected by the Selection Review Board, August 2, 1996.
68. Facsimile from Gary Fiser to David VanBockern with attached documents, July 18, 1996.
69. Declaration of Milissa W. Westbrook before the Department of Labor, with exhibits, January 13, 1998.
70. Declaration of Frederick M. Anderson before the Department of Labor, January 15, 1998.
71. Letter to Judge Thomas Phalen, Department of Labor, from Thomas Fine, January 15, 1998.
72. Respondent's Motion for Summary Decision before the Department of Labor, January 15, 1998.
73. Confidentiality Order before the Department of Labor.
74. Letter to Judge Phalen, Department of Labor, from Collette Jones, attorney for Gary Fiser, February 9, 1998.
75. Letter from TVA to Carol Merchant, Department of Labor, regarding complaint by Gary Fiser, November 4, 1996.
76. Declaration of Wilson McArthur before the Department of Labor, January 15, 1998.
77. Sequoyah Nuclear Safety Review Board (NSRB) Minutes of Meeting No. 132, May 22-23, 1991.
78. Sequoyah NSRB Minutes of Meeting No. 133, August 21-22, 1991.

79. Sequoyah NSRB Minutes of Meeting No. 136, November 20-21, 1991.
80. Sequoyah NSRB Minutes of Meeting No. 137, February 19-20, 1992.
81. Sequoyah NSRB Minutes of Meeting no. 138, May 21-22, 1992.
82. Milissa Westbrook interview notes on Gary Fiser, July 18, 1996.
83. Department of Labor Personal Interview Statement of William Jocher, April 22, 1997.
84. John Lobdell application for Program Manager, RAD Control position, Announcement Number 10705.
85. John Lobdell application for Program Manager, RAD Control position, Announcement Number 10706.
86. Handwritten and typewritten notes and questions for Lobdell interview, unknown author.
87. Regis Nicoll application for Program Manager, Tech Support position, Announcement Number 10706.
88. Handwritten and typewritten notes and questions for Nicoll interview, unknown author.
89. Documents related to Vacancy Number 10703, Program Manager Chemistry (PWR).
90. Documents related to Vacancy Number 10702, Program Manager Chemistry (BWR).
91. Documents related to Vacancy Number 10707, Program Manager RadWaste/ Environmental Protection.
92. Documents related to Vacancy Number 10705, Program Manager, Rad Control (Programmatic).
93. Documents related to Vacancy Number 10706, Program Manager Rad Control (Tech Support).
94. Documents related to the personnel actions that resulted from the Selection Review Board selections for the positions advertised in summer 1996.
95. E.S. Chandrasekaran application for Program Manager Chemistry (PWR) position, Announcement Number 10703.
96. E.S. Chandrasekaran application for Program Manager Chemistry (BWR) position, Announcement Number 10702.
97. Selection documents for the Program Manager Chemistry (PWR) position.
98. Notes by Westbrook on Sam Harvey's interview.

99. Notes by Westbrook on Chandrasekaran's interview.
100. Handwritten and typewritten notes from the Selection Review Board, unknown handwriting.
101. Sam Harvey's application for the Program Manager Chemistry (PWR) position, Announcement Number 10703.
102. Letter from Carol Merchant, Department of Labor, to Oliver Kingsley regarding extension of decision date, October 29, 1996.
103. Letter from Ron Taylor to Kenneth Stripling, Department of Labor regarding TVA-OIG documents, October 24, 1996.
104. John Traynor application for Program Manager Chemistry (BWR) position, Announcement Number 10702.
105. John Traynor application for Program Manager, RadWaste/Environmental Protection, Announcement Number 10707.
106. Handwritten notes from John Traynor interview, unknown author.
107. Diedre Nida application for Program Manager, RadWaste/Environmental Protection, Announcement Number 10707.
108. Sam Harvey application for Program Manager Chemistry (BWR) position, Announcement Number 10702.
109. Gary Fiser application for Program Manager Chemistry (PWR) position, Announcement Number 10703.
110. Handwritten notes from Fiser interview, unknown author.
111. Questions with handwritten notes for Selection Review Board interviewees.
112. Position descriptions, assignment to TVA Services, and resignation letter of Gary Fiser.
113. Letter from Ron Taylor to James Vorse, NRCOI, April 7, 1998.
114. Hubert Huie application for Program Manager Chemistry (BWR) position, Announcement Number 10702.
115. Handwritten notes from Huie interview, unknown author.
116. Gary Fiser performance appraisal for 1992.
117. 1994 Memorandum and Understanding of Agreement between TVA and Gary Fiser.

118. Lenon Riales application for Program Manager, Rad Control (Programmatic) position, Announcement Number 10705.
119. Lenon Riales application for Program Manager, RadWaste/Environmental Protection, Announcement Number 10707.
120. Handwritten notes from Riales interview, unknown author.
121. Excerpt from employee appraisal for Gary Fiser.
122. Exhibits to TVA's November 4, 1996 Response to Complaint.
123. Handwritten notes on Nida interview, unknown author.
124. Letter from TVA to William McNulty, NRCOI, December 20, 1999.
125. Letter from TVA to Diana Benson, NRCOI, March 2, 1999.
126. Performance appraisal for Gary Fiser for October, 1994 through September, 1995.
127. Performance appraisal for Sam Harvey for October, 1994 through September, 1995.
128. Performance appraisal for Gary Fiser for October, 1993 through September, 1994.
129. Performance appraisal for Sam Harvey for October, 1993 through September, 1994.
130. Letter to Judge Phalen, Department of Labor, from Collette Jones, February 10, 1998.
131. TVA-OIG Record of Interview of Ronald Grover, July 11, 1996.
132. Daily Record of Events with handwritten notes by Sam Harvey, June 17, 1996.
133. TVA-OIG Record of Interview of Charles Kent, August 15, 1996.
134. Declaration of Heyward R. Rogers before the Department of Labor, January 15, 1998.
135. Letter from Ron Taylor to Gary Fiser regarding TVA-OIG investigation of Fiser's complaint, July 9, 1996.
136. Declaration of Gary L. Fiser before the Department of Labor.
137. Excerpts from the deposition of David J. Voeller before the Department of Labor, January 30, 1998.
138. Letter from TVA to Diana Benson, NRCOI, with documents requested during OI interviews, November 6, 1998.
139. Declaration of Phillip L. Reynolds before the Department of Labor.

- 140. Letter from Gary Fiser to Phillip Reynolds, September 30, 1996.
- 141. Declaration of James E. Boyles before the Department of Labor.

IV. CONCLUSION

In addition to the documents identified above, the NRC Staff expects to identify and provide copies of additional documents which are responsive to TVA's First Set of Document Requests.

Respectfully submitted,

**/RA/**

Jennifer M. Euchner  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 20<sup>th</sup> day of September, 2001

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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) 50-260-CivP; 50-296-CivP  
(Watts Bar Nuclear Plant, Unit 1; )  
) 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'S RESPONSE TO TENNESSEE VALLEY AUTHORITY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS" in the above-captioned proceeding has been served on the following persons by express overnight 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 20<sup>th</sup> day of September, 2001.

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**/RA/**

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