

March 29, 2002

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

NRC STAFF PROPOSED DOCUMENT LIST

Pursuant to the Atomic Safety and Licensing Board's (Board) Third Prehearing Conference Order, dated January 30, 2002, the Nuclear Regulatory Commission (NRC) Staff hereby notifies the Board and the Tennessee Valley Authority (TVA) that it proposes to use the following documents during direct and cross examination of witnesses. This list of documents includes both documents that the Staff intends to introduce as evidence at the evidentiary hearing and documents that the Staff intends to use for impeachment or other cross examination purposes.

1. TVA Office of Inspector General (OIG) Record of Interview of Robert Beecken, February 3, 1994.
2. TVA OIG Record of Interview of Albert Black, January 11, 1994.
3. TVA OIG Record of Interview of James E. Boyles, July 10, 1996.
4. Interview transcript of TVA OIG Record of Interview of James E. Boyles, July 10, 1996.
5. Department of Labor (DOL) Personal Interview Statement of James E. Boyles, May 22, 1997.
6. DOL Declaration of James E. Boyles, filed January 20, 1998.
7. NRC Office of Investigations (OI) Interview of James E. Boyles, October 22, 1998.
8. Deposition of James E. Boyles, November 9, 2001.

9. TVA OIG Record of Interview of Ronald Brock, January 12, 1994.
10. Interview transcript of TVA OIG Record of Interview of Joseph Bynum, August 12, 1993.
11. TVA OIG Record of Interview of Joseph Bynum, March 3, 1994.
12. Joseph Bynum, "Order Prohibiting Involvement in NRC-Licensed Activities," January 27, 1997.
13. Memorandum from Joseph Bynum regarding RadCon/Chemistry/Environmental Organization at Sequoyah and Browns Ferry, with organizational chart.
14. TVA OIG Record of Interview of John Corey, August 21, 1996.
15. DOL Personal Interview Statement of John Corey, April 16, 1997 (handwritten version).
16. DOL Personal Interview Statement of John Corey, April 16, 1997 (typed version).
17. NRC OI Interview of John Corey, October 22, 1998.
18. Deposition of John Corey, November 28, 2001.
19. NRC OI Interview of Jack Cox, October 22, 1998.
20. Deposition of Jack Cox, November 28, 2001.
21. TVA OIG Record of Interview of Kyle R. Cunningham, September 10, 1996.
22. TVA OIG Record of Interview of Ben Easley, October 25, 1993.
23. TVA OIG Record of Interview of Ben Easley, July 10, 1996.
24. Interview transcript of TVA OIG Record of Interview of Ben Easley, July 10, 1996.
25. TVA OIG Record of Interview of Ben Easley, September 24, 1996.
26. TVA OIG Record of Interview of Ben Easley, October 29, 1996.
27. Interview transcript of TVA OIG Record of Interview of Ben Easley, October 29, 1996.
28. DOL Personal Interview Statement of Ben Easley, December 10, 1996.
29. NRC OI Interview of Ben Easley, October 29, 1998.
30. Deposition of Ben Easley, November 29, 2001.
31. TVA OIG Record of Interview of Dana Eckard, September 23, 1996.
32. TVA OIG Record of Interview of Robert Fenech, March 2, 1994.

33. Gary Fiser Sequence of Events from April 15, 1991 to August 13, 1993.
34. Notice of Transfer to Employee Transition Program, April 2, 1993.
35. Letter from Ron Eytchison to Gary Fiser regarding termination of Fiser's position, August 13, 1993.
36. Letter to Senator James Sasser from Gary Fiser, William, Jocher, and D.R. Matthews, August 16, 1993.
37. Letter to Senator Sasser from William Hinshaw, II, Inspector General, September 9, 1993.
38. Memorandum from E.B. Ditto to Wilson McArthur regarding a response to Senator Sasser's letter, September 22, 1993.
39. Letter to Senator Sasser from William Hinshaw, II, Inspector General, October 22, 1993.
40. Letter to Senator Sasser from George Prosser, Inspector General, April 22, 1994.
41. Gary Fiser DOL complaint, letter to Carol Merchant, September 23, 1993.
42. TVA OIG Record of Interview of Gary Fiser, December 14, 1993.
43. Interview transcript of TVA OIG Record of Interview of Gary Fiser, December 14, 1993.
44. Memorandum of Understanding and Agreement signed by Gary Fiser.
45. Gary Fiser DOL complaint, letter to Carol Merchant, June 25, 1996.
46. TVA OIG Record of Interview of Gary Fiser, July 17, 1996.
47. Gary Fiser assignment to TVA Services, August 30, 1996.
48. Gary Fiser Fiscal Year 1997 Employee Resignation Option Form, September 5, 1996.
49. NRC OI Interview of Gary Fiser, August 6, 1998.
50. Deposition of Gary Fiser, December 11-12, 2001.
51. Transcript of conversation between Gary Fiser and Wilson McArthur, March 16, 1993.
52. Transcript of conversation between Gary Fiser and Ben Easley, March 16, 1993.
53. Position Description for Gary Fiser, Chemistry and Environmental Protection Senior Program Manager, October 17, 1994.
54. Position Description for Gary Fiser, Chemistry and Environmental Protection Program Manager, July 24, 1995.

55. Performance Planning and Evaluation for Managers for Gary Fiser, January 6, 1989.
56. TVA Employee Appraisal for Manager and Specialist Employees for Gary Fiser, September 26, 1989.
57. TVA Employee Appraisal for Manager and Specialist Employees for Gary Fiser, November 7, 1990.
58. TVA Employee Appraisal for Manager and Specialist Employees for Gary Fiser, January 29, 1991.
59. TVA Employee Appraisal for Manager and Specialist Employees for Gary Fiser, October 3, 1991.
60. Employee Appraisal for Gary Fiser for Fiscal year ending September 30, 1992, signed September 8, 1992.
61. Performance Review and Development Plan for Gary Fiser, October 1, 1993 to September 30, 1994.
62. Performance Review and Development Plan for Gary Fiser, October 1, 1994 to September 30, 1995.
63. Employee Status and Information Record for Gary Fiser, March 9, 1992.
64. Temporary Transfer Agreement between Operations Service Managers and Gary Fiser, signed by Joseph Bynum, March 16, 1992.
65. TVA OIG Record of Interview of Ronald Grover, July 11, 1996.
66. Interview transcript of TVA OIG Record of Interview of Ronald Grover, July 11, 1996.
67. DOL Personal Interview Statement of Ronald Grover, September 27, 1996.
68. DOL Deposition of Ronald Grover, January 29, 1998.
69. NRC OI Interview of Ronald Grover, December 18, 1998.
70. Deposition of Ronald Grover, December 14, 2001.
71. Employee Action Reasons for Ronald Grover.
72. Position Description for Ronald Grover, Chemistry and Environmental Protection Manager, July 24, 1995.
73. Position Description for Ronald Grover, Manager (Development Program), September 27, 1996.

74. TVA OIG Record of Interview of Sam Harvey, August 11, 1993.
75. TVA OIG Record of Interview of Sam Harvey, July 12, 1996.
76. Interview Transcript of TVA OIG Record of Interview of Sam Harvey, July 12, 1996.
77. DOL Personal Interview Statement of Sam Harvey, March 27, 1997.
78. DOL Declaration of Sam Harvey, undated.
79. NRC Declaration of Sam Harvey, November 19, 1999.
80. Deposition of Sam Harvey, December 7, 2001.
81. Position Description for Sam Harvey, Chemistry Program Manager (PWR), August 5, 1996.
82. Performance Review and Development Plan for Sam Harvey, October 1, 1994 to September 30, 1995.
83. Memorandum from William Osteen to Donald Hickman regarding the referral of a potential ethics issues, October 30, 1996.
84. Memorandum from R. Grover to James Boyles regarding employee harassment and intimidation by Sam Harvey, June 24, 1996.
85. DOL Personal Interview Statement of William Jocher, April 22, 1997.
86. TVA OIG Record of Interview of Charles Kent, August 11, 1993.
87. TVA OIG Record of Interview of Charles Kent, January 11, 1994.
88. TVA OIG Record of Interview of Charles Kent, August 15, 1996.
89. Interview transcript of TVA OIG Record of Interview of Charles Kent, August 15, 1996.
90. DOL Personal Interview Statement of Charles Kent, April 18, 1997.
91. NRC OI Interview of Charles Kent, October 22, 1998.
92. Deposition of Charles Kent, November 28-29, 2001.
93. Memorandum from Charles Kent to Radiological Control and Chemistry Personnel, February 26, 1993, with organizational chart.
94. Nuclear Power Position Description for Chemistry and Environmental Superintendent, January 20, 1989.
95. Position Description for Manager Chemistry Control.

96. TVA OIG Record of Interview of Dan Keuter, August 23, 1993.
97. Interview transcript of TVA OIG Record of Interview of Dan Keuter, August 24, 1993.
98. Interview transcript of TVA OIG Record of Interview of Dan Keuter, September 1, 1993.
99. TVA OIG Record of Interview of Dan Keuter, January 11, 1994.
100. TVA OIG Record of Interview of Dan Keuter, April 4, 1994.
101. TVA OIG Record of Interview of Tresha Landers, September 25, 1996.
102. Deposition of Tresha Landers, December 3, 2001.
103. TVA OIG Record of Interview of James Manis, January 12, 1994.
104. TVA OIG Record of Interview of Wilson McArthur, July 26, 1993.
105. TVA OIG Record of Interview of Wilson McArthur, August 31, 1993.
106. Interview transcript of TVA OIG Record of Interview of Wilson McArthur, August 31, 1993.
107. TVA OIG Record of Interview of Wilson McArthur, October 1, 1993.
108. TVA OIG Record of Interview of Wilson McArthur, January 10, 1994.
109. TVA OIG Record of Interview of Wilson McArthur, February 24, 1994.
110. TVA OIG Record of Interview of Wilson McArthur, July 24, 1996.
111. Interview transcript of TVA OIG Record of Interview of Wilson McArthur, July 24, 1996.
112. Notice of Sam Harvey's reassignment as Acting Corporate Chemistry Manager and Gary Fiser's reassignment to Program Manager in Corporate Chemistry, from Wilson McArthur, November 18, 1992.
113. Letter to Wilson McArthur from O.J. Zeringue, September 6, 1996.
114. TVA OIG Record of Interview of Wilson McArthur, September 24, 1996.
115. TVA OIG Record of Interview of Wilson McArthur, October 29, 1996.
116. Interview transcript of TVA OIG Record of Interview of Wilson McArthur, October 29, 1996.
117. DOL Personal Interview Statement of Wilson McArthur, April 24, 1997.
118. DOL Declaration of Wilson McArthur, January 15, 1998.

119. NRC OI Interview of Wilson McArthur, April 20, 1999.
120. Reply to Notice of Violation by Wilson McArthur, January 22, 2001.
121. Deposition of Wilson McArthur, December 13, 2001.
122. Employee Action Reasons for Wilson McArthur.
123. Position Description for Wilson McArthur, Manager, Technical Programs, April 2, 1990.
124. Position Description for Wilson McArthur, Corporate Radiological and Chemistry Control Manager, June 17, 1996.
125. Performance Review and Development Plan for Wilson McArthur, October 1, 1994 to September 30, 1995.
126. TVA OIG Record of Interview of Thomas McGrath, July 23, 1996.
127. Interview transcript of TVA OIG Record of Interview of Thomas McGrath, July 23, 1996.
128. DOL Personal Interview Statement of Thomas McGrath, April 17, 1997.
129. NRC OI Interview of Thomas McGrath, April 20, 1999.
130. Reply to Notice of Violation by Thomas McGrath, January 22, 2001.
131. Deposition of Thomas McGrath, November 30, 2001.
132. Dayton Herald News Article, "SQN chemistry problems were well known," June 12, 1994.
133. Interview Transcript of TVA OIG Record of Interview of Mike Pope, August 12, 1993.
134. TVA OIG Record of Interview of Mike Pope, April 8, 1994.
135. DOL Declaration of Phillip Reynolds, January 20, 1998.
136. NRC OI Interview of Phillip Reynolds, December 18, 1998.
137. Deposition of Phillip Reynolds, November 8, 2001.
138. TVA OIG Record of Interview of Heyward (Rick) Rogers, August 23, 1996.
139. NRC OI Interview of Heyward (Rick) Rogers, April 20, 1999.
140. Deposition of Heyward (Rick) Rogers, November 30, 2001.
141. TVA OIG Record of Interview of David Voeller, July 16, 1996.

142. DOL Personal Interview Statement of David Voeller, March 25, 1997.
143. DOL Deposition of David Voeller, January 30, 1998.
144. Deposition of David Voeller, November 29, 2001.
145. Day Planner Notes of David Voeller, June, 1996.
146. DOL Declaration of Milissa Westbrook, January 20, 1998.
147. NRC OI Interview of Milissa Westbrook, December 18, 1998.
148. Deposition of Milissa Westbrook, November 8, 2001.
149. Position Description for Program Manager, Chemistry (PWR), undated.
150. Position Description for Radiological Control Manager, undated.
151. Vacant Position Announcement for Manager, Radiological Control, closing date May 25, 1994.
152. Vacant Position Announcement for Manager, Radiological Control, closing date August 31, 1994.
153. Interview Schedule - Chemistry and Environmental Protection Specialists, September 14, 1994.
154. Organizational Chart for Nuclear Power, Technical Support, Operations Support, Technical Programs, 1993.
155. Organizational Chart for Current RADCHEM Organization, FY96 Budget.
156. TVA Nuclear Corporate 1996 Re-Organization Impact on Headcount.
157. Organizational Chart for OPS Services with RadCon Manager and Chemistry and Environmental Protection Manager positions.
158. Organizational Chart for Nuclear Operations, Operations Support, Radiology and Chemistry Control, February 13, 1995.
159. Organizational Chart, Nuclear Operations, Operations Support, Radiology and Chemistry Control, September 17, 1996.
160. Operations Support Organization Changes, All-Hands Meeting, June 17, 1996.
 - A. Setting the Stage - FY97 & Beyond.
 - B. OPS Support - Alignment.

- C. OPS Support - The Plan.
 - D. Organizational Chart, General Manager Operations Support and Direct Reports, June 12, 1996.
 - E. Organizational Chart, Maintenance Support, April 12, 1996.
 - F. Organizational Chart, Radiological and Chemistry Control.
 - G. The Plan - Schedule.
 - H. Organizational Chart, September 13, 1995.
 - I. Organizational Chart, General Manager, Operations Support and Direct Reports, April 24, 1996.
 - J. Operations Support FY 1996 vs. FY 1997 Summary Comparison.
- 161. Predecisional Enforcement Conference for Thomas McGrath, November 22, 1999.
 - 162. Predecisional Enforcement Conference for Wilson McArthur, November 22, 1999.
 - 163. Predecisional Enforcement Conference for TVA, December 10, 1999.
 - 164. Letter from John Waters to W.F. Willis, Oliver Kingsley, and W.R. Cobean regarding Chemistry at SQN and BFN, November 27, 1990.
 - 165. Note from W.C. McArthur to O.D. Kingsley regarding a response to the Waters letter, December 3, 1990.
 - 166. Memorandum from O.D. Kingsley to John Waters regarding Chemistry at SQN and BFN, with attached report, "SQN/BFN Chemistry Status," January 16, 1991.
 - 167. Prehearing Conference Transcript, July 19, 2001.
 - 168. Prehearing Conference Transcript, November 14, 2001.
 - 169. Prehearing Conference Transcript, January 9, 2002.
 - 170. Prehearing Conference Transcript, February 5, 2002.
 - 171. Letter from G. Donald Hickman, Assistant Inspector General, to Oswald J. Zeringue, regarding the completion of the investigation of Gary Fiser's 1993 DOL complaint with attached investigative report.
 - 172. Report of Administrative Inquiry, TVA OIG, regarding Gary Fiser's 1993 DOL complaint.
 - 173. Report of Administrative Inquiry, TVA OIG, regarding Gary Fiser's 1996 DOL complaint.

174. Gary Fiser v. Tennessee Valley Authority Investigation Report by DOL, Kenneth Stripling, March 27, 1998.
175. Department of Labor Brief in Support of Respondents Motion for Summary Decision.
176. DOL Order Denying Motion for Summary Decision in Gary Fiser v. Tennessee Valley Authority, April 21, 1998.
177. Personnel Manual Instruction, "Reduction," PM Chapter 7, May 6, 1987.
178. BP-102, Management and Specialist Selection Process, September 30, 1993.
179. Performance Review and Development Process Instruction Guide.
180. TVA's Practice of Declaring Positions to be Surplus.
181. BP-101, Employee Conduct and Disciplinary Guidelines, December 20, 1993.
182. Posting - TOF- Grievance Arguments.
183. Announcement of Vacancies in the Manager and Specialist Pay Schedule - Revised Selection/Waiver Policy, March 23, 1993.
184. New Posting System for Managers and Specialist Pay Schedule - Revised Selection/Waiver Policy, April 14, 1993.
185. Revision to Selection/Waiver Policy - Selecting Career Skills Center Employees to Fill Management and Specialist Positions, July 7, 1994.
186. BP-103, Succession Planning, September 23, 1993.
187. Employment Selection of Outside Candidates for Salary Policy Positions, May 1997.
188. BP-104, Employee Evaluation, September 23, 1993.
189. Updated Reduction-in-Force (RIF) Instructions, May 20, 1997.
190. Minutes of Meeting No. 132 of the Sequoyah Nuclear Safety Review Board, May 22-23, 1991.
191. Minutes of Meeting No. 133 of the Sequoyah Nuclear Safety Review Board, August 21-22, 1991.
192. Minutes of Meeting No. 136 of the Sequoyah Nuclear Safety Review Board, November 20-21, 1991.
193. Minutes of Meeting No. 137 of the Sequoyah Nuclear Safety Review Board, February 19-20, 1992.

194. Minutes of Meeting No. 138 of the Sequoyah Nuclear Safety Review Board, May 21-22, 1992.
195. Selection Review Board Notebook for H.R. (Rick) Rogers
 - A. Food and Drink for Thursday, July 18.
 - B. July 12, 1996 memorandum re: RAD/CHEM Peer Group Meeting on July 18, 1996, with draft agenda and interview schedule.
 - C. Organizational Charts for Environmental Radiological Monitoring and Instrumentation, Emergency Preparedness, Radiological Control, Fire Protection Services, Nuclear Chemistry, and Nuclear Security.
 - D. Organizational Charts for Radiological and Chemistry Control, Technical Support, Operations Services, Technical Programs, Environmental Protection, Nuclear Chemistry, and Radiological Control.
 - E. Discussion notes on Wilson McArthur's Technical Programs Manager and Radiological Control and Chemistry Manager positions.
 - F. Page with handwritten phone number.
 - G. Page with scores for Harvey and Chandra.
 - H. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (BWR).
 - I. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (PWR).
 - J. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, RadWaste/Environmental.
 - K. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control.
 - L. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control (Technical Support).
 - M. Chemistry Program Manager Selection Worksheet.
 - N. RadWaste/Environmental Manager Selection Worksheet.
 - O. RadCon Program Manager (Technical Support) Selection Worksheet.
 - P. RadCon Program Manager (Program Support) Selection Worksheet.
 - Q. Interview schedule with handwritten notes.

- R. Evaluation Committee for Corporate RadCon, Chemistry, and RadWaste/Environmental.
- S. Corporate Radiological and Chemistry Control, Candidates Being Interviewed for Program Manager positions.
- T. Interview Schedule.
- U. Employee Application for Announced Vacant Position for Gary Fiser, VPA 10703.
- V. Resume of Gary Lynn Fiser.
- W. Blank page.
- X. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- Y. PWR score sheet for Gary Fiser.
- Z. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10703.
- AA. Resume of Sam L. Harvey III.
- BB. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10702.
- CC. Resume of Sam L. Harvey III.
- DD. Blank page.
- EE. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- FF. PWR score sheet for Sam Harvey.
- GG. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- HH. BWR score sheet for Sam Harvey.
- II. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10703.
- JJ. Resume of E.S. Chandrasekaran.
- KK. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10702.
- LL. Resume of E.S. Chandrasekaran.
- MM. Questions for Program Manager Chemistry, PWR, with handwritten notes.

- NN. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- OO. PWR score sheet for E.S. Chandrasekaran.
- PP. BWR score sheet for E.S. Chandrasekaran.
- QQ. Employee Application for Announced Vacant position for Hubert Huie, VPA 10702.
- RR. Resume of Hubert Huie.
- SS. Blank page.
- TT. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- UU. BWR score sheet for Hubert Huie.
- VV. Employee Application for Announced Vacant position for John Traynor, VPA 10702.
- WW. Resume of John Traynor.
- XX. Employee Application for Announced Vacant position for John Traynor, VPA 10707.
- YY. Resume of John Traynor.
- ZZ. Blank page.
- AAA. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- BBB. BWR score sheet for John Traynor.
- CCC. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- DDD. RadWaste score sheet for John Traynor.
- EEE. Employee Application for Announced Vacant position for Diedre Nida, VPA 10707.
- FFF. Resume of Diedre Nida.
- GGG. Blank page.
- HHH. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- III. RadWaste score sheet for Diedre Nida.

- JJJ. Employee Application for Announced Vacant position for Lenon Riales, VPA 10705.
- KKK. Resume of Lenon Riales.
- LLL. Employee Application for Announced Vacant position for Lenon Riales, VPA 10707.
- MMM. Resume of Lenon Riales.
- NNN. Blank page.
- OOO. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- PPP. RadCon Programmatic score sheet for Lenon Riales.
- QQQ. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- RRR. RadWaste score sheet for Lenon Riales.
- SSS. Employee Application for Announced Vacant position for John Lobdell, VPA 10705.
- TTT. Resume of John L. Lobdell.
- UUU. Employee Application for Announced Vacant position for John Lobdell, VPA 10706.
- VVV. Resume of John L. Lobdell.
- WWW. Blank sheet.
- XXX. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- YYY. RadCon Programmatic score sheet for John Lobdell.
- ZZZ. Questions for Program Manager, Radiological Control (Technical Support) with handwritten notes.
- AAAA. Technical Support score sheet fr John Lobdell.
- BBBB. Employee Application for Announced Vacant position for James Flanigan, VPA 10705.
- CCCC. Resume of James Flanigan.

- DDDD. Blank page.
 - EEEE. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
 - FFFF. RadCon Programmatic score sheet for James Flanigan.
 - GGGG. Employee Application for Announced Vacant position for Regis Nicoll, VPA 10706.
 - HHHH. Resume of Regis M. Nicoll.
 - IIII. Blank page.
 - JJJJ. Questions for Program Manager, Radiological Control (Technical Support) with handwritten notes.
 - KKKK. Technical support score sheet for Regis Nicoll.
 - LLLL. VPA 10702, Program Manager Chemistry, BWR Vacancy Selection Worksheets.
 - MMMM. VPA 10703, Program Manager Chemistry, PWR Vacancy Selection Worksheets.
 - NNNN. VPA 10705, Program Manager, Rad Control (Programmatic) Vacancy Selection Worksheets.
 - OOOO. VPA 10706, Program Manager, Rad Control (Tech Support) Vacancy Selection Worksheets.
 - PPPP. VPA 10707, Program Manager, RadWaste/Environmental Protections Vacancy Selection Worksheets.
129. Selection Review Board Notebook for John Corey
- A. Discussion notes on Wilson McArthur's Technical Programs Manager and Radiological Control and Chemistry Manager positions.
 - B. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (BWR).
 - C. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (PWR).
 - D. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, RadWaste/Environmental.
 - E. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control.

- F. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control (Technical Support).
- G. Chemistry Program Manager Selection Worksheet.
- H. RadWaste/Environmental Manager Selection Worksheet.
- I. RadCon Program Manager (Technical Support) Selection Worksheet.
- J. RadCon Program Manager (Program Support) Selection Worksheet.
- K. Interview schedule with handwritten notes.
- L. Evaluation Committee for Corporate RadCon, Chemistry, and RadWaste/Environmental.
- M. Corporate Radiological and Chemistry Control, Candidates Being Interviewed for Program Manager positions.
- N. Interview Schedule.
- O. Employee Application for Announced Vacant Position for Gary Fiser, VPA 10703.
- P. Resume of Gary Lynn Fiser.
- Q. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- R. Vacant Position Announcement, VPA 10703.
- S. PWR score sheet for Gary Fiser.
- T. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10703.
- U. Resume of Sam L. Harvey III.
- V. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10702.
- W. Resume of Sam L. Harvey III.
- X. Blank page.
- Y. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- Z. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- AA. PWR/BWR score sheet for Sam Harvey.

- BB. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10703.
- CC. Resume of E.S. Chandrasekaran.
- DD. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10702.
- EE. Resume of E.S. Chandrasekaran.
- FF. Blank page.
- GG. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- HH. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- II. Blank score sheet.
- JJ. PWR/BWR score sheet for E.S. Chandrasekaran.
- KK. Employee Application for Announced Vacant position for Hubert Huie, VPA 10702.
- LL. Resume of Hubert Huie.
- MM. Blank page.
- NN. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- OO. BWR score sheet for Hubert Huie.
- PP. Employee Application for Announced Vacant position for John Traynor, VPA 10702.
- QQ. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- RR. Resume of John Traynor.
- SS. Employee Application for Announced Vacant position for John Traynor, VPA 10707.
- TT. Resume of John Traynor.
- UU. Blank page.
- VV. BWR score sheet for John Traynor.
- WW. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.

- XX. RadWaste score sheet for John Traynor.
- YY. Employee Application for Announced Vacant position for Diedre Nida, VPA 10707.
- ZZ. Resume of Diedre Nida.
- AAA. Blank page.
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- FFF. Employee Application for Announced Vacant position for Lenon Riales, VPA 10707.
- GGG. Resume of Lenon Riales.
- HHH. Blank page.
- III. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- JJJ. RadCon Programmatic score sheet for Lenon Riales.
- KKK. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
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- SSS. RadCon Programmatic score sheet for John Lobdell.
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 - YYY. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
 - ZZZ. RadCon Programmatic score sheet for James Flanigan.
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 - FFFF. VPA 10702, Program Manager Chemistry, BWR Vacancy Selection Worksheets.
 - GGGG. VPA 10703, Program Manager Chemistry, PWR Vacancy Selection Worksheets.
 - HHHH. VPA 10705, Program Manager, Rad Control (Programmatic) Vacancy Selection Worksheets.
 - IIII. VPA 10706, Program Manager, Rad Control (Tech Support) Vacancy Selection Worksheets.
 - JJJJ. VPA 10707, Program Manager, RadWaste/Environmental Protections Vacancy Selection Worksheets.
130. Selection Review Board Notebook for Ben Easley/Milissa Westbrook
- A. Discussion notes on Wilson McArthur's Technical Programs Manager and Radiological Control and Chemistry Manager positions.

- B. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (BWR).
- C. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (PWR).
- D. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, RadWaste/Environmental.
- E. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control.
- F. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control (Technical Support).
- G. Chemistry Program Manager Selection Worksheet.
- H. RadWaste/Environmental Manager Selection Worksheet.
- I. RadCon Program Manager (Technical Support) Selection Worksheet.
- J. RadCon Program Manager (Program Support) Selection Worksheet.
- K. Interview schedule with handwritten notes.
- L. Evaluation Committee for Corporate RadCon, Chemistry, and RadWaste/Environmental.
- M. Corporate Radiological and Chemistry Control, Candidates Being Interviewed for Program Manager positions.
- N. Interview Schedule.
- O. Employee Application for Announced Vacant Position for Gary Fiser, VPA 10703.
- P. Resume of Gary Lynn Fiser.
- Q. Vacant Position Announcement, VPA 10703.
- R. Handwritten notes on Fiser.
- S. Blank page.
- T. PWR score sheet for Gary Fiser.
- U. Handwritten notes on Gary Fiser.
- V. Questions for Program Manager Chemistry, PWR, with handwritten notes.

- W. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- X. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10703.
- Y. Resume of Sam L. Harvey III.
- Z. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10702.
- AA Resume of Sam L. Harvey III.
- BB. Handwritten notes and scores for Sam Harvey.
- CC. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- DD. PWR score sheet for Sam Harvey.
- EE. BWR/PWR score sheet for Sam Harvey.
- FF. Questions for Program Manager Chemistry, with handwritten notes.
- GG. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10703.
- HH. Resume of E.S. Chandrasekaran.
- II. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10702.
- JJ. Resume of E.S. Chandrasekaran.
- KK. Handwritten notes on E.S. Chandrasekaran.
- LL. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- MM. PWR/BWR score sheet for E.S. Chandrasekaran.
- NN. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- OO. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- PP. BWR score sheet for E.S. Chandrasekaran.
- QQ. Employee Application for Announced Vacant position for Hubert Huie, VPA 10702.
- RR. Resume of Hubert Huie.

- SS. Handwritten notes on Hubert Huie.
- TT. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- UU. BWR score sheet for Hubert Huie.
- VV. Employee Application for Announced Vacant position for John Traynor, VPA 10702.
- WW. Resume of John Traynor.
- XX. Employee Application for Announced Vacant position for John Traynor, VPA 10707.
- YY. Resume of John Traynor.
- ZZ. Handwritten notes on John Traynor.
- AAA. BWR/RadWaste score sheet for John Traynor.
- BBB. RadWaste score sheet for John Traynor.
- CCC. Employee Application for Announced Vacant position for Diedre Nida, VPA 10707.
- DDD. Resume of Diedre Nida.
- EEE. Handwritten notes on Diedre Nida.
- FFF. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- GGG. Score sheet.
- HHH. Employee Application for Announced Vacant position for Lenon Riales, VPA 10705.
- III. Resume of Lenon Riales.
- JJJ. Employee Application for Announced Vacant position for Lenon Riales, VPA 10707.
- KKK. Resume of Lenon Riales.
- LLL. Handwritten notes on Lenon Riales.
- MMM. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- NNN. RadCon Programmatic score sheet.

- OOO. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- PPP. RadWaste score sheet.
- QQQ. Employee Application for Announced Vacant position for John Lobdell, VPA 10705.
- RRR. Resume of John L. Lobdell.
- SSS. Employee Application for Announced Vacant position for John Lobdell, VPA 10706.
- TTT. Resume of John L. Lobdell.
- UUU. Handwritten notes on John Lobdell.
- VVV. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- WWW. RadCon Programmatic score sheet.
- XXX. Questions for Program Manager, Radiological Control (Technical Support) with handwritten notes.
- YYY. Technical Support score sheet.
- ZZZ. Employee Application for Announced Vacant position for James Flanigan, VPA 10705.
- AAAA. Resume of James Flanigan.
- BBBB. Handwritten notes on James Flanigan.
- CCCC. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- DDDD. RadCon Programmatic score sheet for James Flanigan.
- EEEE. Employee Application for Announced Vacant position for Regis Nicoll, VPA 10706.
- FFFF. Resume of Regis M. Nicoll.
- GGGG. Handwritten notes on Regis Nicoll.
- HHHH. Questions for Program Manager, Radiological Control (Technical Support) with handwritten notes.

- IIII. Technical support score sheet.
 - JJJJ. VPA 10702, Program Manager Chemistry, BWR Vacancy Selection Worksheets.
 - KKKK. VPA 10703, Program Manager Chemistry, PWR Vacancy Selection Worksheets.
 - LLLL. VPA 10705, Program Manager, Rad Control (Programmatic) Vacancy Selection Worksheets.
 - MMMM. VPA 10706, Program Manager, Rad Control (Tech Support) Vacancy Selection Worksheets.
 - NNNN. VPA 10707, Program Manager, RadWaste/Environmental Protections Vacancy Selection Worksheets.
131. Selection Review Board Notebook for Charles Kent.
- A. Discussion notes on Wilson McArthur's Technical Programs Manager and Radiological Control and Chemistry Manager positions.
 - B. Handwritten notes on Sam Harvey.
 - C. Handwritten notes on E.S. Chandrasekaran.
 - D. Handwritten notes on Gary Fiser.
 - E. Handwritten notes on John Trainor, BWR.
 - F. Handwritten notes on John Trainor, Radwaste.
 - G. Handwritten notes on Diedre Nida.
 - H. Handwritten notes on Lenon Riales.
 - I. Handwritten notes on John Lobdell.
 - J. Handwritten notes on Regis Nicoll.
 - K. Handwritten notes on Jim Flanigan.
 - L. Questions for Program Manager, Chemistry, BWR.
 - M. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (BWR).
 - N. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager Chemistry (PWR).

- O. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, RadWaste/Environmental.
- P. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control.
- Q. July 31, 1996 memorandum from Wilson McArthur to Ben Easley re: selection for Program Manager, Radiological Control (Technical Support).
- R. Chemistry Program Manager Selection Worksheet.
- S. RadWaste/Environmental Manager Selection Worksheet.
- T. RadCon Program Manager (Technical Support) Selection Worksheet.
- U. RadCon Program Manager (Program Support) Selection Worksheet.
- V. Interview schedule with handwritten notes.
- W. Evaluation Committee for Corporate RadCon, Chemistry, and RadWaste/Environmental.
- X. Corporate Radiological and Chemistry Control, Candidates Being Interviewed for Program Manager positions.
- Y. Interview Schedule.
- Z. Employee Application for Announced Vacant Position for Gary Fiser, VPA 10703.
- AA. Vacant Position Announcement, VPA 10703.
- BB. Resume of Gary Lynn Fiser.
- CC. Blank page.
- DD. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- EE. Blank score sheet.
- FF. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10703.
- GG. Resume of Sam L. Harvey III.
- HH. Employee Application for Announced Vacant Position for Sam Harvey, VPA 10702.
- II. Resume of Sam L. Harvey III.

- JJ. Blank page.
- KK. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- LL. Blank score sheet.
- MM. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- NN. Blank score sheet.
- OO. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10703.
- PP. Resume of E.S. Chandrasekaran.
- QQ. Employee Application for Announced Vacant Position for E.S. Chandrasekaran, VPA 10702.
- RR. Resume of E.S. Chandrasekaran.
- SS. Questions for Program Manager Chemistry, PWR, with handwritten notes.
- TT. Blank score sheet.
- UU. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- VV. Blank score sheet.
- WW. Employee Application for Announced Vacant position for Hubert Huie, VPA 10702.
- XX. Resume of Hubert Huie.
- YY. Blank page.
- ZZ. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- AAA. Blank score sheet.
- BBB. Employee Application for Announced Vacant position for John Traynor, VPA 10702.
- CCC. Resume of John Traynor.
- DDD. Employee Application for Announced Vacant position for John Traynor, VPA 10707.
- EEE. Resume of John Traynor.

- FFF. Blank page.
- GGG. Questions for Program Manager Chemistry, BWR, with handwritten notes.
- HHH. Blank score sheet.
- III. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- JJJ. Blank score sheet.
- KKK. Employee Application for Announced Vacant position for Diedre Nida, VPA 10707.
- LLL. Resume of Diedre Nida.
- MMM. Blank page.
- NNN. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- OOO. Blank score sheet.
- PPP. Employee Application for Announced Vacant position for Lenon Riales, VPA 10705.
- QQQ. Resume of Lenon Riales.
- RRR. Employee Application for Announced Vacant position for Lenon Riales, VPA 10707.
- SSS. Resume of Lenon Riales.
- TTT. Blank page.
- UUU. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- VVV. Blank score sheet.
- WWW. Questions for Program Manager, RadWaste/Environmental Protection with handwritten notes.
- XXX. Blank score sheet.
- YYY. Employee Application for Announced Vacant position for John Lobdell, VPA 10705.
- ZZZ. Resume of John L. Lobdell.

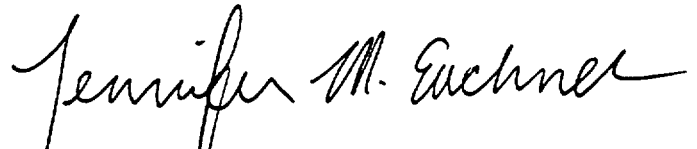
- AAAA. Employee Application for Announced Vacant position for John Lobdell, VPA 10706.
- BBBB. Resume of John L. Lobdell.
- CCCC. Blank sheet.
- DDDD. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- EEEE. Blank score sheet.
- FFFF. Questions for Program Manager, Radiological Control (Technical Support) with handwritten notes.
- GGGG. Blank score sheet.
- HHHH. Employee Application for Announced Vacant position for James Flanigan, VPA 10705.
- IIII. Resume of James Flanigan.
- JJJJ. Blank page.
- KKKK. Questions for Program Manager, Radiological Control (Programmatic) with handwritten notes.
- LLLL. Blank score sheet.
- MMMM. Employee Application for Announced Vacant position for Regis Nicoll, VPA 10706.
- NNNN. Resume of Regis M. Nicoll.
- OOOO. Blank page.
- PPPP. Questions for Program Manager, Radiological Control (Technical Support) with handwritten notes.
- QQQQ. Blank score sheet.
- RRRR. VPA 10702, Program Manager Chemistry, BWR Vacancy Selection Worksheets.
- SSSS. VPA 10703, Program Manager Chemistry, PWR Vacancy Selection Worksheets.
- TTTT. VPA 10705, Program Manager, Rad Control (Programmatic) Vacancy Selection Worksheets.

UUUU. VPA 10706, Program Manager, Rad Control (Tech Support) Vacancy Selection Worksheets.

VVVV. VPA 10707, Program Manager, RadWaste/Environmental Protections Vacancy Selection Worksheets.

In addition to these documents, the Staff proposes to use compact disk enhancements of conversations recorded by Gary Fiser on a cassette recorder. The Staff has included transcripts of the enhanced recordings in this document list, however the Staff has not yet received all of the enhanced recordings. Upon receipt of the enhanced recordings and any transcripts of those recordings, the Staff will supplement its document list. The Staff reserves the right to use documents not included on this document list at the evidentiary hearing to the extent the testimony requires it.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jennifer M. Euchner". The signature is written in black ink and is positioned above the typed name and title.

Jennifer M. Euchner
Counsel for NRC Staff

Dated at Rockville, Maryland
this 29th day of March, 2002.

March 29, 2002

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

NRC STAFF PROPOSED WITNESS LIST

Pursuant to the Atomic Safety and Licensing Board's (Board) Third Prehearing Conference Order, dated January 30, 2002, the Nuclear Regulatory Commission (NRC) Staff hereby notifies the Board and the Tennessee Valley Authority (TVA) that it proposes to call the following individual as witnesses. The Staff requests that the Board sign the attached subpoenas for the relevant witnesses based on the description of their intended testimony provided below. The Staff has not yet designated the order in which it intends to call these witnesses and identifies them below in alphabetical order.

1. James E. Boyles. Boyles is the Manager of Workforce Planning in TVA's Chief Operating Officer organization. During the time relevant to this proceeding, Boyles worked in Human Resources Operations and had responsibility for the Operations Support organization that was reorganizing in summer of 1996. Boyles was directly and intimately involved in the decisions to post the PWR Chemistry Program Manager position for which Gary Fiser was not selected and to not post the Corporate Radiological and Chemistry Control (RadChem) Manager position for which Wilson McArthur was selected without competition. Additionally, Boyles has information

relevant to the selection process used for the 1996 reorganization and to TVA's selection processes in general.

2. John Corey. Corey is the RadChem Manager at Browns Ferry Nuclear Plant. Corey was a member of the Selection Review Board (SRB) which made selection recommendations for the Chemistry Manager positions in the 1996 reorganization. In addition, Corey was present for and overheard part of a conversation between Charles Kent and Wilson McArthur just prior to the SRB interviews related to Gary Fiser's Department of Labor (DOL) activities.

3. Jack Cox. Cox is the RadChem Manager at Watts Bar Nuclear Plant. During the period leading up to the 1996 reorganization, Gary Fiser worked closely with the Chemistry program at Watts Bar. Cox thought highly of Fiser's work at Watts Bar and expressed his opinion regarding Fiser to John Corey and Charles Kent just prior to the SRB interviews. Cox was initially supposed to serve on the SRB, but was unable to serve due to a scheduling conflict. Cox was not contacted to determine if he was available to serve on the SRB at a different time.

4. Ben Easley. Easley was the Human Resources Consultant to Operations Support during the 1996 reorganization. Easley has stated that he disagreed with the decision to select Wilson McArthur for the Corporate RadChem Manager position without posting the position for competition. Easley has stated that the position could have been given to Ron Grover, an African-American male, under a selection policy adopted as a result of TVA's settlement of a race discrimination case. Easley has information relevant to the decision making process for both the RadChem Manager position and the Chemistry Manager positions. Additionally, Easley has information regarding the selection process used for the 1996 reorganization and TVA's selection processes in general. Easley has retired from TVA and the Staff has attached a subpoena requesting his appearance in this proceeding.

5. Gary Fiser. Fiser is the individual who TVA discriminated against in this case. Fiser was a former Corporate Chemistry Manager until he was not selected for a position in the 1996

reorganization. Fiser also filed a discrimination complaint with DOL in 1993, based on protected activities in which both Wilson McArthur and Thomas McGrath were involved. Fiser has information relevant to the protected activities in which he engaged that led to his 1993 DOL complaint. Additionally, Fiser can testify to the selection process used in the 1996 reorganization.

6. Ronald Grover. Grover was the Corporate Chemistry and Environmental Manager prior to the 1996 reorganization. Grover was the supervisor of Gary Fiser and Sam Harvey, the individual who was selected for the PWR Chemistry Program Manager position over Fiser. Grover has information regarding Fiser and Harvey's performance during their tenure under his supervision. Grover has testified that both Wilson McArthur and Thomas McGrath have made negative comments about Fiser in the past. Grover can testify to evidence suggesting that Harvey was preselected for the PWR Chemistry Manager position. Additionally, Grover has information related to the selection process, including information regarding the bias of the interview questions in favor of Harvey. Grover is no longer employed by TVA and the Staff has attached a subpoena requesting his appearance in this proceeding.

7. Charles Kent. Kent is the RadChem Manager at Sequoyah Nuclear Plant. Kent has knowledge and information about both Gary Fiser's 1993 DOL complaint and Fiser's 1996 nonselection for the PWR Chemistry position. In 1993, Kent offered Fiser his old position at Sequoyah, but he ultimately withdrew the offer due to resistance from upper management. In 1996, Kent sought to have Sam Harvey transferred to Sequoyah prior to the reorganization, which would have resulted in none of the Corporate Chemistry Managers losing their positions. Kent also served as the third member of the SRB. Kent added a question about molar ratio, a topic on which Harvey had worked at Sequoyah, to the list of interview questions. Additionally, Kent mentioned Fiser's DOL activities to Wilson McArthur and in the presence of John Corey just prior to the interviews for the PWR Chemistry position.

8. Dan Keuter. Keuter was involved in Gary Fiser's 1993 DOL complaint. Keuter has information regarding Thomas McGrath's opposition to Fiser being rotated to the Corporate Chemistry position in 1992 from his position at Sequoyah and McGrath's indication that Fiser was not working out as the Corporate Chemistry Manager. This is relevant to McGrath's animus toward Fiser for engaging in protected activities, and also contradicts McGrath's assertions that neither he, nor the NSRB as an entity, attempts to interfere in personnel decisions.

9. Tresha Landers. Landers was a co-worker of Gary Fiser and Sam Harvey at TVA's Corporate offices. Landers complained to her superiors and to Human Resources about inappropriate and boorish behavior by Harvey toward her and other cooperative student employees at TVA. Landers has also testified that she did not bring an official complaint against Harvey for his behavior because to file such a complaint would stigmatize her at TVA.

10. James Luehman. Luehman is the Deputy Director of the Office of Enforcement at the NRC. Luehman will testify as to the Staff's enforcement policy and the imposition of the Notice of Violation and the Civil Penalty to TVA under that policy.

11. Brent Marquand. Marquand has information relevant to TVA's decision to post the PWR Chemistry Program Manager position. During the McGrath Predecisional Enforcement Conference on November 22, 1999 and the TVA Predecisional Enforcement Conference on December 10, 1999, Marquand stated that he made the decision that the settlement of Gary Fiser's 1993 DOL complaint did not entitle him to transfer into the PWR Chemistry position. He made this decision based on the argument that Fiser had abandoned the position he was granted in the settlement when he applied and was selected for the Chemistry and Environmental Protection Program Manager position in 1994. Marquand also stated that he advised Human Resources that the PWR Chemistry position should be posted. Therefore, his testimony goes directly to one of the major issues in dispute in this proceeding, as he was one of the relevant decision makers in the determination to post the position rather than transfer Fiser into it without competition.

Additionally, Wilson McArthur has stated that Marquand provided him a transcript of Fiser's tape recorded conversations to read. The Staff asserts that Marquand poisoned the well for Fiser in future employment at TVA by sharing these tape recordings, which Fiser had provided to the TVA OIG as part of his DOL complaint, with individuals who would be working with Fiser in the Corporate office.

Neither of these areas of inquiry would result in a violation of the attorney work product doctrine or the attorney-client privilege. Attorney work product is defined as materials prepared by an attorney acting for his client in anticipation of litigation. *Hickman v. Taylor*, 329 U.S. 495, 508 (1947). Work product generally includes memoranda, mental impressions, notes, and personal beliefs of the attorney as he prepares for litigation on his client's behalf. *Id.* at 510-11. The Staff does not intend to question Marquand about any information, notes, documents, or mental impressions he has made about this or other TVA cases. Additionally, the Staff is not requesting Marquand to turn over any documents that would qualify as attorney work product. The Staff's questioning will be limited to the two areas described above, neither of which involves attorney work product.

The attorney-client privileges applies only in limited circumstances to communications of facts by a client to an attorney, without the presence of a third party and for the purpose of securing an opinion on the law, legal services, or assistance in a legal proceeding. The privilege does not apply to communications regarding the commission of a crime or tort or where the privilege has been waived by the client. *Houston Lighting and Power Co. (South Texas Project)*, CLI-87-08, 26 NRC 6 (1987). Neither of the above areas of proposed testimony by Marquand are covered by the attorney-client privilege.

TVA has waived the attorney-client privilege with regard to Marquand's advice to James Boyles of TVA Human Resources regarding the interpretation of the 1994 settlement agreement with Fiser and the decision to post the PWR Chemistry Program Manager position. Voluntary

disclosure of an alleged privileged communication to a third party waives the attorney-client privilege because such a disclosure runs counter to the notion of confidentiality. *See In re: Grand Jury Proceedings October 12, 1995*, 78 F.3d 251, 254 (6th Cir. 1996), and *Westinghouse Elec. Corp. v. Republic of the Phillipines*, 951 F.2d 1414, 1424 (3d Cir. 1991). In the *Grand Jury Proceedings* case, the court concluded that the clients' disclosure of the attorney's advice to government investigators constituted voluntary disclosure and thus the attorney-client privilege was waived. TVA has voluntarily disclosed information about Boyles' discussions with Marquand about the Fiser settlement and whether the PWR position should be posted to the NRC on a number of occasions. Therefore, the voluntary disclosure of this information waived the attorney-client privilege as to this information.

Marquand's providing copies of Fiser's tape recording transcripts to TVA employees is not a privileged communication. The privilege applies to communications from the client to the attorney, not communication from the attorney to employees of his client. Additionally, providing these transcripts to TVA employees did not involve any legal advice or opinions. Therefore, the attorney-client privilege does not apply to this area of inquiry.

12. Wilson McArthur. McArthur was involved with both Gary Fiser's 1993 DOL complaint and his nonselection in 1996. McArthur had been Fiser's supervisor in Corporate Chemistry at the time he was reduced in force in 1993. During that time frame, McArthur told Fiser that Thomas McGrath had made negative statements about him when Fiser had served as the Sequoyah Chemistry Manager. McArthur was the selecting official for the PWR Chemistry Program Manager position and decided to select Sam Harvey over Fiser. McArthur drafted the interview questions for that position and selected the members of the SRB. McArthur refused to reschedule the interviews so that Jack Cox could participate. McArthur has retired from TVA, and the Staff has attached a subpoena requesting his appearance in this proceeding.

13. Thomas McGrath. McGrath is the former Chairman of the Nuclear Safety Review Board (NSRB). In that role, McGrath, Wilson McArthur, and another member of the NSRB demanded that Gary Fiser implement daily chemistry trending procedures at Sequoyah in 1992. Fiser refused to implement the procedures, and McGrath later stated to McArthur that TVA needed to get rid of Fiser. In 1995, McGrath became Fiser's second line supervisor. During the reorganization, McGrath was involved in the decision to place McArthur in the Corporate RadChem Manager position without posting it, despite his knowledge that Grover had expressed an interest in applying for the position. McGrath insisted that the Chemistry organization cut positions, despite the fact that the organization could meet projected budget cuts without losing positions. Additionally, McGrath only required the Chemistry organization to meet the five year budget goal within the first fiscal year of the organizational plan.

14. Anthony Pellicano. Pellicano is President of Forensic Audio Lab in Los Angeles, California. Pursuant to a request from the Staff, Pellicano has enhanced the original microcassette recordings taken by Gary Fiser in support of his 1993 DOL complaint. The enhancements have been provided on compact discs, copies of which have been provided to TVA. The Staff only intends to call Pellicano if TVA objects to the introduction into evidence of the compact disc and the transcriptions of those discs. Pellicano would testify to his receipt of the tapes, the chain of custody established, and the procedures he used to enhance the tapes.

15. Phillip Reynolds. Reynolds was the General Manager of Nuclear Human Resources during the relevant time frame. He supervised James Boyles, who contacted him regarding whether the Corporate RadChem Manager and PWR Chemistry Program Manager positions should be posted for competition. Reynolds has information regarding the TVA selection and promotion policies that were in place during the 1996 reorganization.

16. Heyward "Rick" Rogers. Rogers was selected by Thomas McGrath and Wilson McArthur to serve on the SRB in place of Jack Cox. Rogers served on the SRB and has

information related to the questions asked during the interviews and the ratings system he used to evaluate the candidates.

17. Beth Thomas. Thomas is the agent of TVA's Office of Inspector General who conducted the investigation of Gary Fiser's 1993 DOL complaint. Thomas's investigation did not substantiate discrimination against Fiser. During depositions, some of TVA's witnesses indicated that the Record of Interview statements used by TVA OIG were not signed, word-for-word statements of their interviews with the OIG agent. Agent Thomas has information relevant to the investigation conducted, the individuals interviewed, and whether the Record of Interview statements provided by TVA during discovery are accurate representations of her interviews with the individuals involved in this case. The Staff only intends to call Agent Thomas as a witness if TVA objects to use of the Record of Interview statements prepared by her in the course of her investigation.

18. Edward Vigluicci. In a discussion with counsel to the Staff, Vigluicci represented that he had drafted a response to the letter Senator Sasser sent to TVA regarding a letter sent to him by Gary Fiser, William Jocher, and D.R. Matthews. The Staff asserts that the letter to Senator Sasser constitutes protected activity in itself and also identified other areas of protected activity in which Fiser engaged. Therefore, Vigluicci has testimony relevant to TVA's response to the issues raised in that letter and relevant to Fiser's protected activities, including what individuals he contacted to obtain the information required to respond to Senator Sasser's request.

Neither the attorney work product doctrine nor the attorney-client privilege apply to this information. In order to constitute work product, the documents involved or the information sought must have been prepared in anticipation of litigation. *Hickman v. Taylor*, 329 U.S. 495, 508 (1947). The response to Senator Sasser's request was not prepared in anticipation of litigation -- it was prepared in response to a request from a Senator that TVA address certain issues. Since the response was not prepared in anticipation of litigation, the response and any information related

to the response are not protected by the attorney work product doctrine. Additionally, neither the attorney work product doctrine nor the attorney-client privilege apply to communications or documents created for business reasons. *See McCook Metals L.L.C. v. Alcoa Inc.*, 192 F.R.D. 242, 252 (N.D.Ill. 2000) and *Allendale Mutual Insurance Co. v. Bull Data Systems, Inc.*, 145 F.R.D. 84, 87 (N.D.Ill. 1992). In *Allendale*, the court held that documents prepared in the course of business are not protected by the work product doctrine even if litigation is imminent or ongoing. *Id.* The response to Senator Sasser's request was prepared in the course of TVA's business, rather than in response to any litigation. Therefore, it is not protected by the work product doctrine.

The response to Senator Sasser's request is also not protected by the attorney-client privilege. That privilege protects only communications from a client to an attorney for the purposes of seeking legal advice or a legal opinion. Preparation of the response did not involve a client seeking legal advice from Viglucci, but instead involved the drafting of a business letter. Additionally, the Staff is not seeking any information from Viglucci which involves communications from a client to him regarding legal advice. For these reasons, the testimony the Staff seeks from Viglucci is not protected by the attorney-client privilege.

19. David Voeller. Voeller was the Chemistry Manager at Watts Bar prior to and during the 1996 reorganization. Voeller has testified that Sam Harvey called him before the PWR Chemistry Manager position was posted and said that he would be working with Voeller more closely at Watts Bar in that position. Harvey told Voeller that interviews would be done to keep it legal and that he felt sorry for Fiser as the odd man out. Voeller told both Fiser and Ronald Grover of this conversation, and a week later Harvey called and backtracked on his earlier statements.

The Staff does not anticipate calling any additional witnesses during the proceeding, but reserves the right to call rebuttal witnesses as necessary. Additionally, to the extent that TVA objects to any of the witnesses on this list, the Staff requests that the Board permit oral argument on those objections and the Staff's response to those objections during the telephone prehearing

conference scheduled for April 9, 2002. The Staff respectfully requests that the Board sign the attached subpoenas for witnesses Ben Easley, Ronald Grover, and Wilson McArthur and return the signed subpoenas to counsel for the Staff.

Respectfully submitted,



Jennifer M. Euchner
Counsel for NRC Staff

Dated at Rockville, Maryland
this 29th day of March, 2002

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 50-390-CivP; 50-327-CivP;
(Watts Bar Nuclear Plant, Unit 1;	)	50-328-CivP; 50-259-CivP;
Sequoyah Nuclear Plant, Units 1 & 2	)	50-260-CivP; 50-296-CivP
Browns Ferry Nuclear Plant, Units 1, 2, 3)	)	ASLBP No. 01-791-01-CivP
	)	EA 99-234

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF PROPOSED WITNESS LIST" and "NRC STAFF PROPOSED DOCUMENT LIST" 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 29th day of March, 2002.

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Atomic Safety and Licensing Board Panel
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Administrative Judge **
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