

RAS 4434

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: Tennessee Valley Authority  
Watts Bar Nuclear Plant, Unit 1  
Sequoyah Nuclear Plant, Units 1 and 2  
Browns Ferry Nuclear Plant, Units 1,2,3

Docket Number: 50-390-CivP; ASLBP No.: 01-791-01-CivP

Location: Chattanooga, Tennessee

Date: Tuesday, May 7, 2002

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## UNITED STATES OF AMERICA

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## NUCLEAR REGULATORY COMMISSION

## ATOMIC SAFETY AND LICENSING BOARD

+ + + + +

## HEARING

+ + + + +

In the Matter of:

TENNESSEE VALLEY AUTHORITY

Watts Bar Nuclear Plant, Unit 1;  
Sequoyah Nuclear Plant, Units 1  
& 2; Browns Ferry Nuclear Plant,  
Units 1, 2 and 3.

Docket Nos:

50-390-CivP;

50-327-CivP;

50-328-CivP;

50-259-CivP;

50-296-CivP;

ASLBP No.:

01-791-01-CivP

EA 99-234

Tuesday,  
May 7, 2002

Courtroom B  
U.S. Bankruptcy Court  
31 E. 11th St.  
Chattanooga, TN

The above-entitled matter came on for Hearing,  
pursuant to notice, at 9:00 a.m.

BEFORE:

CHARLES BECHHOEFER, Chairman  
ANN MARSHALL YOUNG, Administrative Judge  
RICHARD F. COLE, Administrative Judge

PAGES: 2036-2267**NEAL R. GROSS**

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## I-N-D-E-X

| <u>WITNESS</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|----------------|---------------|--------------|-----------------|----------------|
| TESHA LANDERS  | 2039          | 2055         | 2090            | --             |
| RON GROVER     | --            | 2096         | --              | --             |

| <u>Exhibit No.</u> | <u>Mark</u> | <u>Recd</u> |
|--------------------|-------------|-------------|
| TVA 108            | Premarked   | 2079        |
| Joint Exhibit 55   | Premarked   | 2079        |
| TVA 116            | 2163        | --          |
| TVA 117            | 2169        | --          |
| TVA 82             | Premarked   | 2242        |
| TVA 99             | Premarked   | 2243        |
| TVA 100            | Premarked   | 2249        |
| TVA 98             | Premarked   | 2260        |

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P-R-O-C-E-E-D-I-N-G-S

9:00 a.m.

CHAIRMAN BECHHOEFER: Back on the record.  
Good morning, ladies and gentlemen. Before we begin  
are there any preliminary matters that the parties  
would wish to raise?

MS. EUCHNER: None for the Staff, Your  
Honor.

MR. MARQUAND: No, Your Honor.

CHAIRMAN BECHHOEFER: Ms. Euchner, or Mr.  
Dambly, take a pick.

MS. EUCHNER: Staff calls Tresha Landers.  
Whereupon,

TRESHA LANDERS  
was called as a witness by Counsel for the Staff and,  
having been duly sworn, assumed the witness stand, was  
examined and testified as follows:

DIRECT EXAMINATION

BY MS. EUCHNER:

Q Could you please state and spell your name  
for the record, please?

A Both?

Q Yes.

A Tresha Landers, T-R-E-S-H-A, L-A-N-D-E-R-  
S.

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1 Q What is your educational background, Ms.  
2 Landers?

3 A I have three Associate degrees, two  
4 engineering BS degrees, and I have a Masters in  
5 Business.

6 Q And where did you get those degrees?

7 A UTC. I got the two BS degrees and the  
8 Masters degree from UTC, and the Associate degrees  
9 from different colleges, primarily from Alabama.

10 Q When did you first start working for TVA?

11 A I think the end of '93 time frame.

12 Q And what was your position when you  
13 started?

14 A I was an intern.

15 Q An intern. Was that a part time or a full  
16 time position?

17 A It was part time while I was in school,  
18 and then full time during the summer.

19 Q What were your duties in that position?

20 A Basically just doing odd end things for  
21 the chemistry and environmental group, which consisted  
22 of reports, of presentation type materials, graphics,  
23 Excel spreadsheets.

24 Q Was that at the corporate offices?

25 A Yes.

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1 Q What was your next position at TVA?

2 A I was hired in as an entry level engineer.

3 ADMINISTRATIVE JUDGE YOUNG: As a what,  
4 environmental --

5 THE WITNESS: Yes, entry level.

6 ADMINISTRATIVE JUDGE YOUNG: Entry level.

7 BY MS. EUCHNER:

8 Q What year was that?

9 A I believe it was August of '95.

10 Q And was that also at the corporate  
11 chemistry and environmental group?

12 A That was with another group, but nuclear  
13 paid my salary, and I remained on loan with nuclear  
14 for about, I guess, six or seven months.

15 Q What were your duties during that time?

16 A To continue with the same stuff, but a  
17 little bit more advanced, like evaluate their chemical  
18 traffic control program, look at what was being  
19 purchased, and what was actually being needed and  
20 used. Kind of like a resource evaluation of fuel and  
21 what not.

22 Q In 1996 what was your position?

23 A I was an engineer for engineering  
24 services, and I did environmental stuff for chemistry  
25 and environmental in nuclear. And what that was is

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1 basically policy and procedures.

2 I traveled around to some of the plants,  
3 helped them with periodic needs.

4 Q Now, during this time were you also in  
5 school for any of your degrees?

6 A No, not in '96, no.

7 Q Okay. Do you know Sam Harvey?

8 A Yes.

9 Q When did you first meet him?

10 A Shortly after I became an intern, I guess  
11 the end of '93.

12 Q Was he your supervisor at all?

13 A No, not my direct supervisor, no.

14 Q Did you have to work with Mr. Harvey on a  
15 regular basis?

16 A Not for a long time.

17 Q When did you first start working with him  
18 on a regular basis?

19 A It was several months after I became an  
20 intern. He primarily had other interns that worked  
21 for him. But I guess it was when the organization  
22 kind of transitioned the environmental part out, and  
23 it became more chemistry.

24 And then at that point, when Ron Grover  
25 took over as supervisor, at that point my interaction

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1 was a little bit more with Sam, because it was more  
2 chemistry focused, the group where it was, and there  
3 were more activities.

4 Q Did you ever have any problems with Mr.  
5 Harvey?

6 A Pretty much from a, I guess, pretty much  
7 from the first month that I had to work for him.

8 Q What was the nature of these problems?

9 A Just -- well, he just was a crude type  
10 person. He had a chemistry background, and anybody  
11 that was going into chemical engineering, he just kind  
12 of had this thing that, you know, we weren't worth the  
13 money we were being paid, and you all think, you know,  
14 he was just always carrying on about trying to  
15 belittle chemical engineering versus chemistry itself.

16 And then he would just -- Sam had no level  
17 of authority there, he was like maybe a PG8, which is  
18 a, PG7 or 8, and that is just -- you work for  
19 somebody, you are just on a management scale.

20 And the interns, he enjoyed, I guess,  
21 quote, bossing us around, in a sense.

22 Q Now, I believe you used the word crude to  
23 describe his behavior?

24 A Yes, he was crude.

25 Q Any particular examples of his crude

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1 behavior?

2 A Yes, he had this thing about his body  
3 parts. He liked to scratch them, and stuff, in front  
4 of people. He would walk by you and do that, and  
5 burp, and expel gas, and whatever you would think that  
6 you would do behind closed doors he did openly.

7 Q And you said this behavior started almost  
8 as soon as you started working with him?

9 A Yes, it just seemed to get worse as time  
10 went on.

11 Q Did you ever tell him that you didn't like  
12 his behavior?

13 A Yes.

14 Q What was his reaction?

15 A Tough. I was told many times that I was  
16 an intern, I would not be hired there, and it didn't  
17 matter what I liked.

18 Q Did he change his behavior as a result of  
19 your telling him it made you uncomfortable?

20 A No. It probably got worse, in my opinion,  
21 after he knew that it bothered me.

22 Q After that did you ever complain to Mr.  
23 Harvey again?

24 A No.

25 Q Why not?

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1 A Because of his reaction the first time.

2 Q During this time period that Mr. Harvey's  
3 behavior was crude, who was your supervisor?

4 A Ron Grover.

5 Q Was he also Mr. Harvey's supervisor?

6 A Yes.

7 Q Did you ever discuss your problems with  
8 Mr. Harvey with Mr. Grover?

9 A Not with both of them together, no. I  
10 mentioned it to Sam one time, and then a while later  
11 I went to Ron.

12 Q And what did you talk to Ron about?

13 A I basically told Ron what had been going  
14 on, and I didn't like it, and Ron told me that he  
15 would go have a talk with Sam.

16 Q To your knowledge did he talk to Sam?

17 A I'm pretty sure. I mean, I didn't  
18 actually hear the conversation, but I'm pretty sure  
19 that he did, because Sam came back to me and made a  
20 comment like, Ron is not going to be able to help you.  
21 And so I kept open communication with management.

22 Q As a result of your talking to Ron --

23 ADMINISTRATIVE JUDGE YOUNG: When you say  
24 with management, who do you mean?

25 THE WITNESS: Ron.

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1 ADMINISTRATIVE JUDGE YOUNG: Okay.

2 BY MS. EUCHNER:

3 Q As a result of your discussing this with  
4 Mr. Grover, did Mr. Harvey change his behavior?

5 A He would change it temporarily. When Ron  
6 got on him, like that first time it didn't change, but  
7 as Ron started talking to him, I assume more, maybe  
8 more seriously, you know, more focused on the issue,  
9 he began -- yes, it would last for a couple of weeks,  
10 he would be pretty nice.

11 Or yet he would go to Sequoyah, or one of  
12 the other plants, and he would be gone for two or  
13 three weeks, and that seemed like a nice little break.

14 Q Did you talk to Mr. Grover more than once  
15 about Mr. Harvey's behavior?

16 A Yes.

17 Q Do you know approximately how many times  
18 you would have talked to him?

19 A Probably, from the time that I complained,  
20 it was pretty much opened, it pretty much was  
21 discussed periodically from the time that I departed  
22 from that department, in one aspect or another,  
23 whether it would be with him, with human resources,  
24 and everybody together.

25 Q Did you ever discuss your problems with

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1 Mr. Harvey's behavior with anyone else?

2 A Yes, later on, about two or three months  
3 prior to me leaving the department, yes.

4 Q Who did you talk to?

5 A That was Gary Fiser.

6 Q And what did you and Mr. Fiser discuss?

7 A I was either gone, I think I had come from  
8 human resources, and I was in a conference room, and  
9 I was very upset, because I had just had all that I  
10 could take. And Gary is a big coffee drinker, and he  
11 was always going to get coffee.

12 And that conference room was -- I mean, he  
13 had a reason to be going down that hallway. And I  
14 assume he just saw me there. And he came in and asked  
15 me what was wrong. And basically I just told him that  
16 I had a lot of problems with Sam, and I told him some  
17 of the things that he had been doing, and what not.

18 And Gary listened, and then he asked, he  
19 said, did you tell Ron about this stuff? And I said,  
20 yes, and I also told human resources.

21 Q Who in human resources did you talk to?

22 A Ben Easley.

23 Q Ben Easley. Did Mr. Easley give you any  
24 advice about what you could do?

25 A He told me, basically, I talked with Ben

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1 on a couple of different occasions. He listened to  
2 what I was saying, he seemed to be very understanding.  
3 And basically from talking with Ben, Ben told me, he  
4 asked me, he said, is it harassment, or sexual  
5 harassment?

6 Because I was claiming intimidation and  
7 harassment. And then we talked for a little while  
8 about the differences in those two. And then I told  
9 him, you know, what I thought it was.

10 And then Ben said, I need to talk with Ron  
11 and let's see what we need to do about this, but let's  
12 not be hasty, we need to make sure that we have, you  
13 know, something to actually complain about, that it is  
14 not my imagination.

15 At that point he went and talked to Ron.

16 Q Now, you mentioned that you sort of  
17 distinguish between harassment and intimidation, and  
18 sexual harassment. What was that distinction?

19 A Well, I explained to Ben I did not feel  
20 Sam was looking at me in a sexual way at all. He was  
21 just fooling with himself, and he was just gross. And  
22 to me that is harassment and intimidation.

23 Q Did you ever file a formal complaint based  
24 on Mr. Harvey's behavior?

25 A I filed a complaint, I later dropped the

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1 complaint, and then someone called me from, I guess  
2 the TVA attorney's office out of Knoxville. We had a  
3 phone interviews, Blake Edwards, or Blakely, or  
4 something, I forget.

5 Q From the Office of Inspector General?

6 A I think so, I think so. It has been a  
7 while. Anyway, I told him exactly, I think maybe you  
8 all even have a copy of what I stated. And by that  
9 time I was in my organization, and I just wanted him  
10 to leave me alone. And I dropped everything at that  
11 point because I didn't have to work with him anymore.

12 Q What was the reason why you decided to  
13 drop everything?

14 A Mainly because I was an intern, I was  
15 seeking employment with TVA, I felt for my own benefit  
16 it would probably be best. Because when you get out,  
17 and you to listening to folks that has been there for  
18 a long time, you hear kind of little stories that go  
19 on within a company about how somebody did this, or  
20 somebody did that.

21 And I honestly felt like I wouldn't have  
22 any chances of being hired because he was senior, he  
23 had been there 8 or 10 years, he was management level.  
24 Plus I was a lone ranger, I was the only one that  
25 seemed to have these problems with him.

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1 Others did, but they wouldn't come forth  
2 with them.

3 Q What others had problems with him?

4 A The other interns and co-ops.

5 ADMINISTRATIVE JUDGE YOUNG: The other  
6 interns and what?

7 THE WITNESS: Co-ops, co-op students.

8 BY MS. EUCHNER:

9 Q Do you know whether any other employees,  
10 either at the sites, or on corporate had problems with  
11 Mr. Harvey?

12 A I had heard that two ladies at Sequoyah  
13 had had problems with him, because he considered --  
14 Sam had a big old belly, and he considered that his  
15 tool shed, and he made comments about that at  
16 Sequoyah, which got back to corporate.

17 But I don't know what was filed. To my  
18 knowledge I was the only one that, you know, was  
19 really willing to complain.

20 Q Now, you mentioned before that one of the  
21 reasons you didn't file a complaint was that people  
22 talked.

23 A Yes.

24 Q What did you mean by that, people talked?

25 A Well, basically I didn't discuss my

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1 situation with other folks. But you would be around  
2 having lunch with people, or when I went to the plants  
3 talking about people, they were always saying, well  
4 you know, this lady filed a complaint, and then she is  
5 out the door.

6 Or this intern had a problem and she  
7 didn't get hired. Just nothing specific, just small  
8 little things that added up. But it seemed to always  
9 be when somebody had a problem they went out the door.

10 And at that point I just felt like, and I  
11 don't know any specifics about individuals. But it  
12 seemed to me at that point that it might be better for  
13 me to just decide to get away from him, and not work  
14 around him.

15 Because at that point I believe I probably  
16 was the only female in there, other than the  
17 secretary.

18 Q You mentioned an interview by somebody  
19 with the Office of Inspector General. Do you know,  
20 did the undertake a full investigation of this  
21 complaint?

22 A I don't know.

23 ADMINISTRATIVE JUDGE YOUNG: When you say  
24 when someone had a problem they were out the door, I  
25 understood you to be saying when someone said they had

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1 a problem?

2 THE WITNESS: Yes, yes, yes.

3 ADMINISTRATIVE JUDGE YOUNG: Not that they  
4 had a --

5 THE WITNESS: See, I know no specifics.  
6 I'm just listening to the plant gossip, in a sense.  
7 And then not telling what my experience has been, but  
8 just kind of put more of a fear factor in me that my  
9 chances for seeking employment after graduation would  
10 be slimmer if I continued through with this, being not  
11 a permanent employee, and also in a part time  
12 position.

13 BY MS. EUCHNER:

14 Q Do you know the approximate time frame  
15 when you had been talking to Ben Easley of human  
16 resources, and your TVA OIG interview?

17 A When I was talking with him about --

18 Q About Mr. Harvey's behavior, trying to get  
19 that resolved.

20 A I can't remember the date that I went back  
21 to engineering services, sometime in '96, I believe.  
22 But that probably went on for two to four months prior  
23 to me departing the --

24 Q When did you depart?

25 A It seems to me like maybe May or late

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1 summer of '96. It is hard to remember.

2 Q Now, after you talked to Mr. Easley and  
3 Mr. Grover about Mr. Harvey's behavior, do you know  
4 whether any of them took disciplinary or counseling  
5 action for Sam?

6 A Ron did, he sent, he gave Sam a letter,  
7 requested that he take sensitivity classes. He also  
8 requested that he be nicer to coworkers, and take an  
9 anger management type class, something of that nature.

10 And I'm not for sure at this point what  
11 Mr. Easley did.

12 Q Was Dr. McArthur involved in any way with  
13 your complaints about Mr. Harvey?

14 A Wilson? He was there, yes.

15 Q Was he aware of your problems with Mr.  
16 Harvey?

17 A It seems like one time I worked later in  
18 the afternoon, as well as he, and it seemed to me like  
19 one time he walked up and he said, Ron had mentioned  
20 something to me that you have problems with Sam?

21 And I said, well, yes I do. And I told  
22 him, I said, I've told Ron everything. And Wilson,  
23 you know, he -- Wilson is very, I don't know how can  
24 you say, kind of a -- just a real nice, very open type  
25 person.

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1 And he was saying, you know, maybe these  
2 classes will help him, that Ron has recommended. He  
3 didn't say that he believed me or not, he just said  
4 that maybe they will help him.

5 And it seems like, gosh, the conversation  
6 might have continued a little more. I think he was  
7 aware that Sam could be a nuisance. Because, you  
8 know, I'm sure that he had heard it before.

9 Q After you decided to drop your complaint,  
10 did Mr. Harvey say or do anything that was  
11 inappropriate?

12 A I heard, from Sequoyah, that he said that  
13 I knew to drop the complaint, because I had nothing on  
14 him, but he had lots of stuff on me that would prevent  
15 me from being hired at TVA.

16 ADMINISTRATIVE JUDGE YOUNG: And who said  
17 this?

18 THE WITNESS: Sam. I heard this from  
19 Sequoyah, from the environmental department, that he  
20 went out there, and it was the environmental  
21 technicians, and at that time one of the environmental  
22 engineers. But I didn't hear anything directly.

23 BY MS. EUCHNER:

24 Q Did you talk to anybody about this?

25 A About that?

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1 Q Yes.

2 A Seems like I might have said something,  
3 called Debbie Bodine, or said something to Debbie  
4 Bodine about it. And just to be honest I don't  
5 remember what she said.

6 But I do remember her saying that it is  
7 best, probably, if you just get away from the  
8 situation.

9 Q Do you recall whether you talked to Ben  
10 Easley or human resources, again, about this?

11 A Not that I remember, because that was  
12 after I had already gone back to my organization. And  
13 at that point it really didn't matter, anyway.

14 MS. EUCHNER: I have nothing further at  
15 this time.

16 CROSS EXAMINATION

17 BY MR. MARQUAND:

18 Q Good morning, Ms. Landers, thank you for  
19 coming down this morning.

20 Let me see if I cannot clarify some of  
21 these dates. You said that you began working with Sam  
22 Harvey about when?

23 A When Ron took over as supervisor, or  
24 shortly thereafter, because that is when our  
25 environmental portion kind of went to the plants.

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1           Q       The testimony in this case is that Ron  
2 Grover began managing the environmental section in the  
3 fall of 1994. Does that coincide with your memory?

4           A       That I don't remember. I remember working  
5 for David Sorrell, and --

6           Q       He was in the organization at that point,  
7 right?

8           A       David was, yes.

9           Q       And so you began working with Sam at about  
10 the time that Ron became the manager of chemistry  
11 environmental organization?

12          A       I started working for Sam more so, or had  
13 more interaction with Sam, when environmental phased  
14 out of the chemistry organization, which was around  
15 that time frame.

16          Q       Okay.

17          A       And I guess I relate that with Ron being  
18 manager, because the environmental manager was no  
19 more.

20          Q       When David Sorrell stopped being the  
21 environmental manager?

22          A       Yes.

23          Q       And David Sorrell began working for  
24 Grover?

25          A       Yes.

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1 Q That was in the fall of 1994.

2 A Okay.

3 Q And then at some point David Sorrell left,  
4 correct?

5 A Yes.

6 Q Is that when you began working with Sam on  
7 a more regular basis?

8 A Not immediately, it took a few months.

9 Q Sometime in the middle of '95, then?

10 A Yes.

11 Q Now, at some point in time didn't Sam have  
12 an assignment at Sequoyah that kept him out there  
13 pretty much full time?

14 A It seems like he did, because he was out  
15 there a whole lot.

16 Q And at that point in time did you have  
17 much interface with him?

18 A Not in the beginning, no. I didn't have  
19 a lot of interface with Sam until I complained about  
20 his conduct, and then it seemed like I had more stuff  
21 to do with Sam.

22 Q And, as I said, at some point in time Sam  
23 had an assignment at Sequoyah, and that was in the  
24 latter part of '95, the first part of '96, and then  
25 when that assignment was over he was downtown more

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1 often, right?

2 A Yes.

3 Q And so you had some interchanges with Sam  
4 in that time frame?

5 A Yes.

6 Q Previous to that had you, previous to Sam  
7 going to Sequoyah in the latter part of '95, had you  
8 had occasion to have these interactions with him,  
9 which he was, exhibited his crude behavior?

10 A Very rarely, he just sat near to me. And  
11 so whenever he passed by, that is when he would do  
12 these things. But another coop, or intern, Carl  
13 Cunningham worked for him, and did primarily most of  
14 his stuff.

15 Up until when I went, I guess a month  
16 after I started complaining it seemed like I started  
17 getting those chemical daily reports.

18 Q When did you formulate your opinion about  
19 him being a crude type person, was this before he went  
20 out to Sequoyah?

21 A Yes.

22 Q So that would have been some time in '95,  
23 then?

24 A Yes.

25 Q And then he went out to Sequoyah. Had you

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1 had occasion, early on, to complain to Ron Grover  
2 about Sam's crude behavior, before Sam went to  
3 Sequoyah?

4 A Not that I can remember, except for just  
5 I thought he was gross, and he was always making rude  
6 comments about interns and co-ops.

7 Q Now, as I understand it, you complained to  
8 Sam about his behavior one time?

9 A Yes.

10 Q And you didn't get any sort of favorable  
11 response from him?

12 A That is right.

13 Q And after that you didn't complain to him  
14 again?

15 A Not to Sam, no.

16 Q So when, if you can, you complained to Sam  
17 before or after he went out to Sequoyah?

18 A If I remember correctly it was before he  
19 went out to Sequoyah.

20 Q All right. And then you didn't get any  
21 satisfaction from telling Sam, or asking Sam to amend  
22 his behavior?

23 A Oh, yes, I received satisfaction.

24 Q How is that?

25 A Personally.

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1 Q Personally you did.

2 A No, but I --

3 Q Sam didn't respond in an appropriate  
4 fashion?

5 A No.

6 Q And so as a result you subsequently  
7 complained to Ron Grover?

8 A Yes.

9 Q All right. Now, what I'm trying to ask  
10 is, the first time you complained to Ron Grover, was  
11 that before or after he went out to Sequoyah?

12 A It was just like a day or two after I said  
13 something to Sam.

14 Q So it would have been before he went to  
15 Sequoyah?

16 A Yes.

17 Q So before Sam went out to Sequoyah, Ron  
18 Grover was on notice that you were offended by Sam's  
19 behavior?

20 A Yes.

21 Q And that would have been in '95?

22 A Yes.

23 Q Now, at some point did Ron assign you to  
24 work, to have some interactions with Sam?

25 A Very little until, I guess, I kept

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1 complaining. When I complained again. And then it  
2 was more, I guess maybe I was more aggressive in my  
3 complaint, or maybe more upset in my complaint.

4 And if I remember correctly, that was  
5 right before I went to human resources. Because I  
6 didn't tell Ron that I was going to human resources.

7 Q And when did you go to human resources?

8 A I guess in the neighborhood of about four  
9 months, or something like that, before I went, before  
10 I departed from the organization, four or five months.  
11 It wasn't an immediate thing. I mean, I waited.

12 Q Was there some point in time, while Sam  
13 was at Sequoyah, that Mr. Grover assigned you certain  
14 responsibilities that required you to interact with  
15 Sam?

16 A Yes.

17 Q And tell us what that assignment was.

18 A Only when the other intern was not  
19 available, or could not, or had other priorities for  
20 work, he did the daily chemical report.

21 Q Sam did?

22 A No, the other intern, Carl Cunningham.  
23 And that had been, and there were two others -- there  
24 were two more of us that kind of alternated doing  
25 them. But it seemed like right after that I ended up

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1 with the chore of doing these chemical daily reports,  
2 and Carl was doing other things.

3 Q And when did you --

4 A And that had nothing to do with Carl.

5 Q And how did doing the daily chemical  
6 report require you to interact with Sam?

7 A Because what you put on that daily  
8 chemical report depended on what Sam was supposed to  
9 fax in every day, every morning.

10 Q He faxed it from Sequoyah to you downtown?

11 A Yes.

12 Q All right.

13 A And what it had to do with, if I remember  
14 correctly, certain limits, dilution, and what not, at  
15 the plant. Well, he wouldn't fax them in, and I would  
16 wait, and wait. And they needed the report to go out  
17 by lunch.

18 And I would typically be late on the  
19 report because I didn't want to call him. And then  
20 Ron started making me beep him, and calling him.

21 Q So Ron asked you to page him, to beep him?

22 A Yes.

23 Q So he would call you back?

24 A Yes, and put the information on the  
25 report.

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1 Q And when did Ron give you this direction?

2 A Shortly after Sam went to Sequoyah.  
3 Actually I started doing them a little bit more right  
4 before he went, after I started complaining. And then  
5 right after he went to Sequoyah it seemed like I was  
6 doing them every day.

7 Q Do you recall if this assignment from Ron  
8 occurred after -- well, first of all, in 1996 you know  
9 there was a reorganization of the chemistry  
10 organization?

11 A Yes.

12 Q And that there was some talk in the air  
13 about the reorganization well before the  
14 reorganization was announced, correct?

15 A (No verbal response.)

16 Q You need to say yes or no so the Court  
17 Reporter can hear you.

18 A Yes, sorry, yes.

19 Q Do you recall if this assignment from Mr.  
20 Grover came to you during the time period that there  
21 was discussion about the reorganization?

22 A Yes, it would have had to, because I was  
23 actually gone prior to them actually making the final  
24 decisions, I believe.

25 Q Well, we will get to that. Actually the

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1 final decisions were announced in June 17th of '96.

2 A Okay.

3 Q And I think you were still there.

4 A Okay.

5 Q Now, counsel asked you, you mentioned that  
6 you had this discussion with Ben Easley, in which a  
7 distinction, you drew a distinction between harassment  
8 and sexual harassment.

9 Were you complaining about Sam sexually  
10 harassing you?

11 A No. I was complaining about just general  
12 harassment.

13 Q Just pestering.

14 A Pestering, yes, obnoxious behavior.

15 Q And as far as you know was that obnoxious  
16 behavior directed solely at you, or was it -- was he  
17 an equal opportunity pesterer?

18 A I think that Sam is so crude that he  
19 wouldn't care who was in here, if he needed, if he had  
20 an itch, I think he would scratch it. But when it  
21 became apparent to him that it bothered me, I think  
22 that he was satisfied with that, and that is why it  
23 continued more so.

24 Q Did anyone encourage you to file a  
25 complaint of sexual harassment against Sam?

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1           A       I'm not for sure if you would call it  
2           encouragement, but I was told, I was asked many times  
3           if it wasn't sexual harassment. And I was told that  
4           sexual harassment would carry more weight against  
5           someone than harassment and intimidation.

6           Q       And who told you that?

7           A       Ron, Gary, and Ben Easley.

8           ADMINISTRATIVE JUDGE YOUNG: What was your  
9           understanding of the difference between sexual  
10          harassment and harassment as you described it?

11          THE WITNESS: Sexual harassment, to me, is  
12          when someone is making unwanted or unwelcome advances  
13          towards me, as a person. And that was not happening.  
14          I mean, I would have just committed suicide right  
15          there.

16          I mean, that was not happening. This man  
17          was, he just -- he had no respect for anybody. And he  
18          would go around and just do the nastiest things to  
19          himself. Not, me, no.

20          And to me, if it was, if he was sexually  
21          attracted to me, walking by my cube, scratching his  
22          butt, is not getting him anywhere. And that is how I  
23          figured out. I mean, that was my interpretation of  
24          what sexual harassment is.

25          ADMINISTRATIVE JUDGE YOUNG: Thanks.

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1 BY MR. MARQUAND:

2 Q In your opinion was this behavior of his  
3 on account of your gender, or was it --

4 A No. As I said, he would do it here in  
5 front of everybody if he had an itch.

6 Q Male or female?

7 A Yes. My biggest complaint was that he  
8 didn't have respect for his coworkers.

9 Q Now, you said that you had discussions  
10 with Ben Easley about the distinction between  
11 harassment and sexual harassment. And you said  
12 ultimately you filed a complaint, and then dropped it.

13 What kind of complaint are you talking  
14 about?

15 A I filed an intimidation and harassment  
16 complaint against him.

17 Q You didn't file an EEO complaint, did you?

18 A No, I did not. When I say complaint, when  
19 I go and complain to human resources about this, and  
20 he ratcheted it up, in my eyes I filed a complaint  
21 with human resources.

22 Q You just registered your objection to  
23 human resources?

24 A Yes.

25 Q You didn't go through any formal EEO

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1 complaint process?

2 A No, I did not.

3 Q Now, you talked about this distinction  
4 between harassment and sexual harassment with Ben  
5 Easley, and did you clarify to him that you weren't  
6 talking about sexual harassment?

7 A Yes, yes. He asked me my interpretation  
8 of the difference. And I told him, and he kind of  
9 laughed. And he says, I tend to concur that there is  
10 a difference from the way that you are describing  
11 this.

12 But he said you just need to be sure, in  
13 your mind, that it is not one over the other. And he  
14 said, very honestly, he says, from my experience at  
15 TVA intimidation and harassment, you need a lot more,  
16 versus sexual harassment, which will carry a lot more  
17 weight.

18 Q When you say sexual harassment would carry  
19 a lot more weight, what did you understand him to  
20 mean?

21 A I understood it to mean dismissal,  
22 possible, maybe discipline.

23 ADMINISTRATIVE JUDGE YOUNG: Of the person  
24 who did it?

25 THE WITNESS: Excuse me?

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1 ADMINISTRATIVE JUDGE YOUNG: Of the person  
2 who did it?

3 THE WITNESS: Yes, yes.

4 BY MR. MARQUAND:

5 Q In other words the consequences would be  
6 greater to the perpetrator?

7 A Yes, that was my interpretation.

8 Q Right.

9 A And I put a lot of thought into it, you  
10 know, trying to figure out the difference.

11 CHAIRMAN BECHHOEFER: Did Ben Easley give  
12 you any advice?

13 THE WITNESS: No, he did not try to push  
14 me or persuade me one way or the other. You know, he  
15 just wanted to know what my definition was, and then  
16 he concurred with what I said.

17 BY MR. MARQUAND:

18 Q Now, you said that you also talked to Mr.  
19 Grover about the issue of whether or not to file a  
20 sexual harassment complaint?

21 A Yes.

22 Q Tell us about that.

23 A Well, I didn't talk to him about it, he  
24 mentioned it to me.

25 Q He mentioned it to you?

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1 A Yes.

2 Q What did he tell you about it?

3 A Basically the same thing that Ben did,  
4 that sexual harassment would carry more weight. And  
5 that with intimidation and harassment, that Sam might  
6 get a slap on the hand, or get some mild disciplinary  
7 action.

8 But because of his level of management he  
9 could only go so far. It would be up to Wilson and  
10 the higher ups.

11 Q Did he make any suggestion to you whether  
12 or not you should file a sexual harassment complaint?  
13 Let me rephrase that. Did you understand that he was  
14 suggesting that you file a sexual harassment  
15 complaint?

16 A I felt, and again I was very emotional.  
17 I felt at that time that I was trying to be persuaded  
18 that I was, indeed, being sexually harassed, because  
19 I was a female, not based on the actual act of sex,  
20 but based on the fact that I was just a female.

21 Q And so you felt that Mr. Grover was trying  
22 to persuade you?

23 A I felt so. I don't -- I mean, as I said,  
24 at that time it was a very emotional time, and I did  
25 feel that was the case.

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1 Q Now, you said you also had discussions  
2 with Mr. Fiser in which the issue of sexual harassment  
3 complaint was raised. Who raised the issue of filing  
4 a sexual harassment complaint, you or Mr. Fiser?

5 A It seemed to me, Gary was talking to me  
6 about it, he was well aware of the situation at that  
7 point. And if I remember correctly, I told him that  
8 Ron was, I felt like Ron was bending towards sexual  
9 harassment, based on me being a female, and all, the  
10 act of sex.

11 And then Gary kind of took it up and he  
12 said, well, that is what it is. I mean, I understood  
13 him to say to me, because you are a female, and he is  
14 pestering you, that is sexual harassment.

15 Q And did you, what was your understanding  
16 whether or not he was encouraging you or not to file  
17 a sexual harassment complaint against Sam?

18 A Well, my interpretation, and I don't know  
19 what anybody had in their minds, I don't know. But my  
20 interpretation is I was, you know, I could be gone.  
21 I mean, I was new, I was the female there in the group  
22 at that point. And at that point the only one left.

23 And I was the only one that seemed to have  
24 a problem with Sam. And because I was female, and I  
25 had a harassment problem with him, just put those two

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1 together.

2 I felt that, and I felt this more after I  
3 left than I did when I was right there caught up in  
4 the situation.

5 Q Right.

6 A That I might have been somewhat in a  
7 position to help them and not know that I was helping  
8 them, because at that point I understand that Gary was  
9 not favorable for a position.

10 Q What do you mean you were in a position to  
11 help them and not know it?

12 A If I filed a sexual harassment complaint  
13 against the other person who was in line for the same  
14 position then, I mean, that would be an open item, at  
15 the time when they were making those hiring decisions.

16 Q So you are saying that afterwards, when  
17 you thought about it, you felt that maybe they were  
18 using you to do that?

19 A I felt. Now, it was never mentioned, they  
20 were -- I mean, Gary and Ron were just as nice, and  
21 they were good mentors to me, I never had a problem  
22 with either one.

23 But now that I guess that I start putting  
24 things together I can see where that fit very well,  
25 but I don't know that that was the case. Because both

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1 of them went out of their way to help me with the  
2 situation, and Ron did address the situation from the  
3 beginning.

4 But it would have been a pretty thing, I  
5 guess.

6 Q Now, did Ron suggest to you, in 1995 when  
7 you complained to him, that you file a sexual  
8 harassment complaint against Sam, or did he wait until  
9 1996?

10 A No, that was -- after I talked to Ben  
11 Easley, Ben Easley talked with Ron, and then that is  
12 when Ron -- and I speculate that Ben was talking with  
13 Ron about my differences in the definitions.

14 And then that is when Ron said something  
15 to me about it.

16 Q So the first time Ron mentioned to you  
17 filing a sexual harassment complaint was later on?

18 A Yes.

19 Q And so that we can put the time frame on  
20 this, let me show you TVA exhibit 108.

21 I have put before you TVA exhibit 108. Is  
22 that a compilation of some pages from a planner that  
23 you kept?

24 A Yes.

25 Q If you would, turn to page 17.

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1 ADMINISTRATIVE JUDGE YOUNG: Did you say  
2 page 17?

3 MR. MARQUAND: Yes, it is dated June 12th,  
4 1996, and it has a bates stamp in the lower right hand  
5 corner, FE17.

6 Do you see on that entry, Ms. Landers,  
7 where it says, went to HR, Ben Easley, after  
8 confronting Sam with the fact that he stole the rack  
9 out of my cube. Do you see that?

10 A Uh hum.

11 Q Does that refresh your recollection when  
12 you first went to Ben Easley about your problems with  
13 Sam Harvey?

14 A And it might be listed in here, I don't  
15 remember. But I don't remember if that was the first  
16 or the second time that I went to Ben.

17 Q And when it says that he stole the rack  
18 out of your cube, what is that in reference to?

19 A The office was reorganizing, and I was  
20 given an opportunity to get as far away from Sam as I  
21 could, and still be within the area of nuclear. And  
22 I tried to do that.

23 And Sam was somewhat of a, a little bit  
24 lazy when it come to --

25 Q Decorating his cube?

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1           A       Yes. So what he would do is he would go  
2 around and whatever we salvaged up he would just go  
3 around and help himself to whatever we had in our  
4 cube. I mean, anything.

5           Q       You are talking about an office cubicle,  
6 as opposed to a hard walled office, you all had  
7 cubicles?

8           A       Yes. So he would just go and pick out  
9 what he wanted, and go put it in his cube, and then he  
10 would say he didn't know how it got there.

11          Q       And so he took some sort of book rack, or  
12 something like that?

13          A       Yes, all of them, actually.

14          Q       And you confronted him about it?

15          A       Yes.

16          Q       And then you complained to Ben Easley?

17          A       Yes.

18          Q       Okay. Now, if you will turn over a couple  
19 more pages to page FE19, which is for June 17th.

20          A       Got it.

21          Q       About nine lines down do you see the entry  
22 that says, talked with Ron about filing a complaint  
23 for harassment on Sam with HR?

24          A       Uh hum.

25          Q       Does that refresh your recollection that

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1 you had a discussion with Ron Grover on June 17th  
2 about filing a complaint with Sam?

3 A When I refer to filing a complaint, I mean  
4 me actually signing the complaint.

5 Q Right. Now, did you subsequently learn  
6 that June 17th was within a day or two of the posting  
7 of the job which Mr. Fiser was interested in?

8 A No, I wasn't aware that was the case.

9 Q Not at that time?

10 A No. I just knew that they were coming up.

11 Q Did you subsequently learn that?

12 A I knew that they were put on the board.  
13 When I say the board I mean our VPA listing.

14 Q Right.

15 A But I really didn't know the exact time  
16 frame that they were put on there, but I knew it was  
17 getting close, because everybody was getting kind of  
18 antsy around the office.

19 But, no, I didn't know that this -- I  
20 didn't know this was fixing to happen at this point.

21 Q And if you will turn over to page FE21,  
22 which is an entry for June 18th, is that another entry  
23 reflecting that Mr. Grover talked to you about filing  
24 a complaint against Sam for sexual harassment?

25 A Most likely, because that was mentioned

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1 many times after I talked with Ben. But nothing was  
2 ever mentioned like those positions on the board, or  
3 anything like that, when this conversation was taking  
4 place.

5 Q Ron didn't tell you that there is a  
6 position being posted?

7 A No, he did not.

8 Q Okay. If you would turn to page FE14,  
9 that is an entry for May 17th. Do you see that?

10 A Uh hum.

11 Q That reflects, it says: Gary says that  
12 Anne Harris contacted him and asked for coop names.  
13 Do you see that?

14 A Uh hum.

15 Q Gary, is that a reference to Gary Fiser?

16 A Uh hum.

17 Q And did he tell you that Anne Harris had  
18 asked for co-op, you were a co-op, right?

19 A Uh hum.

20 Q And why was, as you understood it from  
21 Gary, what was Anne Harris, what reason was she  
22 seeking co-op names, people with problems about Sam?

23 A Well, see, I didn't put all that together.

24 Q Right.

25 A Anne called me one day and said she worked

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1 with human resources, and she would like to talk with  
2 me about being a co-op/intern, and then about some  
3 things within the office.

4 Q Did she try to elicit from you, or did she  
5 elicit from you that you had problems with Sam Harvey?

6 A Yes, and also, too, when she called she  
7 asked me if I would come downstairs to the Blue Ridge  
8 cafeteria area. And I did, I thought she was human  
9 resources.

10 So I went down and she just started  
11 talking, and asking, is everything going okay, how is  
12 school, and commented that for ten or fifteen minutes,  
13 and then said: Are there any underlying issues up  
14 there?

15 And I said, well, what do you mean? She  
16 said, well I understand you have problems with Sam  
17 Harvey.

18 Q So Gary put you in touch with this woman?

19 A No, no, this woman called me, he didn't  
20 put me in touch with her.

21 Q But the entry that I just read you said  
22 that Gary gave her co-op names. He told you, oh by  
23 the way, I've given Anne Harris your name?

24 A Well, how that came up is I was sitting  
25 over there, after I got off the phone with her, and I

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1 turned around, and I said, it is funny, Anne Harris  
2 from human resources just called me. And he said,  
3 yes, she asked me the other day all the co-op names in  
4 the group, and I gave them to her.

5 Q Okay. Now, you said that you also heard,  
6 at some point in time, that Ron Grover gave Sam Harvey  
7 a letter, and there was some discussion in it about  
8 sensitivity classes, or training.

9 Do you know what the timing of that letter  
10 that Ron Grover gave to Sam Harvey, vis a vis, the  
11 selections for this new job that Gary Fiser wanted?

12 A No. I know the letter didn't go out  
13 immediately after I complained. The letter went out  
14 later in the process of my complaining. But I did not  
15 -- if I received a copy of that letter, I don't  
16 remember it if I did.

17 And all I remember was that Sam was mad  
18 because he didn't want that to go on his permanent  
19 file.

20 Q Let me show you Staff exhibit 67.

21 MR. MARQUAND: Your Honors, before we  
22 leave the subject I would tender TVA exhibit 108 into  
23 evidence.

24 MS. EUCHNER: No objection.

25 CHAIRMAN BECHHOEFER: TVA 108 will be

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1 admitted.

2 (The document referred to,  
3 having been previously marked  
4 for identification as TVA  
5 Exhibit No. 108 was received in  
6 evidence.)

7 BY MR. MARQUAND:

8 Q If you would, you see Staff Exhibit 67,  
9 Ms. Landers, that shows, that is a letter apparently  
10 from Mr. Grover to Mr. Boyles dated June 24th of '96,  
11 it shows a CC to you.

12 A Okay.

13 Q Is that the letter that you mentioned,  
14 that Mr. Grover sent to Mr. Harvey?

15 A (No verbal response.)

16 Q You need to say yes or no so that they can  
17 get it in the record.

18 A Yes.

19 Q Does this letter, and the date of this  
20 letter, refresh your recollection that Mr. Grover sent  
21 a letter with respect to this issue, to Mr. Harvey's  
22 personnel file, in the same time frame as the  
23 selections were going on for this chemistry program  
24 manager position?

25 A I remember the letter. But see, because

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1 of my position there, I'm not sure when they actually  
2 were interviewing and going through the actual  
3 selection process.

4 Q Okay.

5 A But this is probably around the same time  
6 frame, because it got pretty bad there, the anxiety  
7 within the office.

8 Q The anxiety about finding a job?

9 A Yes, yes.

10 Q Everybody was scrambling looking for a  
11 job?

12 A Yes, Sam and Gary, and also Ron. They  
13 were all very concerned. And even Chandra had  
14 concerns about who would fall in what position, and  
15 who would be left out, because there was one head that  
16 would be cut.

17 Q At least one?

18 A At least one head. And everybody was  
19 looking at whose head would it be. And Sam and Gary,  
20 supposedly, I thought Gary was special projects. but  
21 evidently they both had similar job at the plants.

22 Q And so they were vying one against the  
23 other for a job?

24 A I think so, yes. And Gary and Ron seemed  
25 to be better, I don't know if you would call it

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1 friends, or have a better working relationship than  
2 Sam and Ron.

3 Q Let's talk about that. What did you  
4 observe about the relationship between Gary and Ron  
5 versus the relationship between Sam and Ron?

6 A Well, Sam did not act like he cared much  
7 for Ron, and he pretty much resented Ron as a  
8 supervisor.

9 Q And how did Ron react to that?

10 A Ron, from what I could see in the meetings  
11 and what not, Ron was very professional. But he told  
12 Sam that, you know, he would just have to do what he  
13 is asking him to do.

14 But, now, I didn't see him favoring Gary  
15 as in giving him better projects, or lesser time  
16 consumed.

17 Q What kind of relationship did Gary and Ron  
18 have?

19 A They seemed to enjoy each others company  
20 more.

21 Q Did they seem to confide in each other?

22 A They -- yes. Gary stayed in Ron's office  
23 some. I don't know if they were project related  
24 discussions, or not.

25 Q And how did Gary and Sam get along?

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1 A They were civil to each other.

2 Q Is that it?

3 A They did not spend much time discussing  
4 issues. And when they did it was usually because Ron  
5 had called a meeting, and these issues were brought  
6 out on the table like, you know, whatever, what  
7 projects he had, versus what projects Sam had.

8 And I do remember discussions about --  
9 poor old Sam, he was always really bad, too. If one of  
10 the plants had a chemical problem, Sam was really good  
11 to be able to just kind of talk it to death, but not  
12 really have a corrective solution, action solution.

13 Gary was more of a listener, and then  
14 after Sam finished, Gary would never be rude. After  
15 Sam finished, you know, he would tell what he thought  
16 it was. And then usually recommend a corrective  
17 action.

18 ADMINISTRATIVE JUDGE YOUNG: Now, who  
19 would tell what he thought it was and recommend a  
20 corrective action?

21 THE WITNESS: Gary, after Sam was finished  
22 explaining the problem, and what not, Gary would  
23 usually come up. Because he usually concurred that  
24 there was a situation, but not for all the reasoning.

25 BY MR. MARQUAND:

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1           Q       Now, when you saw this June 24th letter,  
2           which is Staff Exhibit 67, you said that at some point  
3           in time the Inspector General investigated the issues  
4           that you raised about Sam.

5                   At the point in time that Mr. Grover  
6           issued this memorandum, there had been no  
7           investigation by the Inspector General, isn't that  
8           correct?

9           A       I don't know that they actually had an  
10          investigation. All I know is that they called me.

11          Q

12                   MR. MARQUAND: I'm not sure I have an  
13          exhibit number for this document, but I want to show  
14          you the IG's record of their interview with you, and  
15          see if that refresh your recollection as to the date  
16          that the IG contacted you to investigate these  
17          concerns.

18                   Counsel tells me it is Joint Exhibit 55.

19                   (Pause.)

20                   BY MR. MARQUAND:

21          Q       Ms. Landers, I've put before you Joint  
22          Exhibit 55. That is a record of interview prepared,  
23          it says, from the office of Inspector General of TVA.  
24          And down at the bottom is a Blake Daniels.

25                   Is that the individual who interviewed you?

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1           A       I don't think I ever did understand how it  
2 got to him.

3           Q       A tortuous path. If you look at the  
4 bottom, well, the first line says: Landers  
5 telephonically contacted the agent at his office.

6           A       Yes, because he asked me to, or Ben Easley  
7 had left me his phone number to call him.

8           Q       So you were returning a telephone call?

9           A       Yes.

10          Q       And down at the bottom it says,  
11 investigation on September 25, 1996. Do you see that?

12          A       Yes.

13          Q       Is that the first time that anyone from  
14 the Inspector General's office contacted you to  
15 investigate this allegation that you raised to Ben?

16          A       Yes, and I was already over into the  
17 building, sitting in my cube, working on new, non-  
18 nuclear projects.

19          Q       You had already moved away from the  
20 corporate chemistry organization?

21          A       Yes, I had been gone for a couple of  
22 months, maybe, yes.

23          Q       All right. Now, if you would lay Joint  
24 Exhibit 55

25                   CHAIRMAN BECHHOEFER: Is there a date on

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1 it?

2 MR. MARQUAND: I was asking her to compare  
3 Joint Exhibit 55 with Staff exhibit --

4 THE WITNESS: The dates.

5 MR. MARQUAND: -- 85, 67.

6 ADMINISTRATIVE JUDGE YOUNG: Staff exhibit  
7 67?

8 MR. MARQUAND: Yes, that was the  
9 memorandum that Mr. Grover issued about harassment.

10 CHAIRMAN BECHHOEFER: Is there any  
11 indication of what the date of the interview of Joint  
12 Exhibit 55 was?

13 MR. MARQUAND: Yes, on the bottom it says,  
14 she has already identified the interview as occurring  
15 on September 25, '96.

16 BY MR. MARQUAND:

17 Q Ms. Landers, can you tell by looking at  
18 the IG's record of their interview to you, and  
19 comparing it with the memorandum that Mr. Grover sent  
20 to files regarding Mr. Harvey's behavior, whether or  
21 not this allegation need have been investigated at the  
22 time when Mr. Grover was documenting the fact?

23 A It doesn't appear as if it was, because  
24 we've got a June, July, August, three months, 90 day  
25 time frame almost to the exact --

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1           Q       So they didn't even begin their  
2 investigation and talk to you until three months after  
3 Mr. Grover had taken some sort of action with respect  
4 to Mr. Harvey?

5           A       It doesn't appear, no, it doesn't appear  
6 like it. I must say, too, that while I worked over  
7 there, that they were in need of having additional  
8 help over there, and when they -- the way that TVA  
9 works is, when they were cutting heads, and I had been  
10 over there for two or three years, if you rent  
11 somebody, so to say, out of another organization,  
12 because engineering services is a services  
13 organization --

14          Q       Right.

15          A       -- they can cough up the money, but I  
16 wouldn't go on their head count.

17          Q       Right.

18          A       Well, what happened was is they needed the  
19 additional help, but they didn't come to our  
20 organization to -- they didn't get any more interns or  
21 co-ops, and they did not come to our organization to  
22 ask about renewing my contract, or to get another  
23 employee in there.

24                   ADMINISTRATIVE JUDGE YOUNG: And who was,  
25 they, again?

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1 THE WITNESS: When I say they I mean  
2 corporate nuclear.

3 ADMINISTRATIVE JUDGE YOUNG: Needed --

4 THE WITNESS: No. What happens is, they  
5 can come up with the money to get somebody on loan  
6 from another organization by paying that certain  
7 person salary and benefits.

8 ADMINISTRATIVE JUDGE YOUNG: They being?

9 THE WITNESS: Corporate nuclear.

10 ADMINISTRATIVE JUDGE YOUNG: Corporate  
11 nuclear?

12 THE WITNESS: Yes.

13 ADMINISTRATIVE JUDGE YOUNG: And what was  
14 the other organization that --

15 THE WITNESS: Engineering services,  
16 resource group.

17 That is a common practice within TVA to  
18 say, you have ten heads in your group, but you  
19 actually have 20, because you are renting ten more  
20 from another group, and you are just paying their  
21 salary.

22 Up to that time I had been over there as  
23 a rented head, from my group.

24 BY MR. MARQUAND:

25 Q Let's make sure we have this clear. You

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1           were not officially assigned to the corporate  
2           chemistry organization, that wasn't your home  
3           organization?

4           A       Not after I was hired in as an entry level  
5           engineer.

6           Q       All right. And the organization you were  
7           in was?

8           A       Engineering services, resource group.

9           Q       Part of the resource group, which isn't  
10          even part of nuclear, right?

11          A       Exactly.

12          Q       All right. And engineering services  
13          basically loaned you out to TVA nuclear, and TVA  
14          nuclear --

15          A       Paid my salary.

16          Q       -- as though you were a contractor?

17          A       Yes, exactly, exactly.

18          Q       And so you said it is the common practice  
19          in TVA nuclear is, they might have a limitation on the  
20          head count they could actually have within the  
21          organization, but they might have some money in their  
22          budget with which they hire contractors?

23          A       Yes.

24          Q       All right. And were you aware that in the  
25          beginning of the new fiscal year they had, obviously,

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1 less money in their budget because they had to cut  
2 their budget, just like they had to cut their head  
3 count?

4 A Yes.

5 Q Okay, thank you.

6 MS. EUCHNER: Could I have five minutes,  
7 Your Honor?

8 CHAIRMAN BECHHOEFER: Let's take a short  
9 break, maybe ten minutes.

10 (Whereupon, the above-entitled matter  
11 went off the record at 10:00 a.m. and  
12 went back on the record at 10:21 a.m.)

13 CHAIRMAN BECHHOEFER: Back on the record.

14 MR. MARQUAND: Your Honor, before I tender  
15 the witness, I would like to tender Joint Exhibit 55  
16 into the record.

17 CHAIRMAN BECHHOEFER: 55?

18 MR. MARQUAND: Yes, Your Honor, Joint  
19 Exhibit 55.

20 MS. EUCHNER: No objection.

21 MR. MARQUAND: Your witness.

22 CHAIRMAN BECHHOEFER: Joint Exhibit 55  
23 will be entered into evidence.

24 (The document referred to,  
25 having been previously marked

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1 for identification as Joint  
2 Exhibit No. 55 was received in  
3 evidence.)

4 REDIRECT EXAMINATION

5 BY MS. EUCHNER:

6 Q In your testimony in response to Mr.  
7 Marquand's question you mentioned another intern named  
8 Kyle Cunningham, who worked with Mr. Harvey fairly  
9 often.

10 Do you know whether Mr. Cunningham ever  
11 had any problems with Mr. Harvey?

12 A He would get frustrated at him, and what  
13 not. I'm pretty sure he did the same type things, but  
14 I don't think Kyle was as offended with it. Plus he  
15 didn't take it to management. To my knowledge he  
16 didn't take it to management.

17 Q Did he have any problems with Mr. Harvey  
18 related to the use of the government credit card?

19 A Yes, he ultimately complained about that,  
20 because Sam would ask him to order stuff using the  
21 Visa, like software and stuff like that. And Kyle  
22 felt like Sam wasn't going through the proper  
23 protocol, in a sense, for getting approval to do this.

24 And because he was ordering them, he was  
25 very concerned.

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1 Q With regard to the cubicle rack that Mr.  
2 Harvey took out of your cube and brought into his, you  
3 stated that you confronted him about this. What was  
4 his reaction when you confronted him?

5 A I went over and said, why did you get the  
6 rack out of my cube? And he said, I didn't get it, it  
7 just -- somebody put it there, I don't know who it  
8 was.

9 Q So he denied taking the rack?

10 A Yes. To me he denied taking the rack.

11 Q Do you know whether later he admitted it?

12 A I think he did, and the reason why --

13 MR. MARQUAND: Objection, lack of  
14 foundation.

15 MS. EUCHNER: I asked if she knew.

16 MR. MARQUAND: Well, then that is not a  
17 responsive answer.

18 BY MS. EUCHNER:

19 Q Do you know whether he ever admitted it?

20 A I don't know, no.

21 Q Now, Mr. Marquand showed you some day  
22 planner notes dated June 12th and June 17th, about  
23 discussions you had with Ben Easley and Ron Grover.

24 While you were having these discussions  
25 with them, were you still having problems with Mr.

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1 Harvey's behavior?

2 A Yes.

3 Q Prior to your going to human resources to  
4 talk to Ben Easley about your problems with Mr.  
5 Harvey, did you tell either Mr. Grover or Mr. Fiser  
6 that you were going to go to HR?

7 A The first time I went I don't think that  
8 I did.

9 Q You testified that some of Mr. Harvey's  
10 behavior you found gross, that he would scratch and  
11 grope himself. Could you be a little more detailed as  
12 to what you meant by that?

13 A He would just always -- Sam was a short,  
14 heavy set guy, and he would just always sit around,  
15 and his stomach was just really a big stomach, and he  
16 would just sit around with his hand on his crotch all  
17 the time.

18 And I think that was just a convenient  
19 place to put his hand.

20 Q Okay. And I believe you stated that he  
21 would refer to his stomach as his tool shed?

22 A Yes.

23 Q What did that mean?

24 MR. MARQUAND: Objection, lack of  
25 foundation. Unless Mr. Harvey explained to her, I

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1 don't think there was a foundation laid.

2 BY MS. EUCHNER:

3 Q What did you take that to mean, as he made  
4 the statement to me?

5 A The shed that covered his tool.

6 CHAIRMAN BECHHOEFER: Pardon, I didn't  
7 hear you.

8 THE WITNESS: A shed to cover his tools.

9 CHAIRMAN BECHHOEFER: Okay.

10 BY MS. EUCHNER:

11 Q Mr. Marquand also showed you a letter from  
12 Ron Grover to Mr. Harvey's personnel file detailing a  
13 meeting.

14 Did that letter satisfy you that Mr.  
15 Harvey's behavior would stop?

16 A It satisfied me that something was done.  
17 But, no, I did not think that the behavior would stop  
18 at all because of -- I didn't think that management  
19 was being aggressive enough with him.

20 Q For the TVA IG investigation, Mr. Marquand  
21 pointed out to you that you were interviewed in  
22 September of 1996. Do you know when the Inspector  
23 General initiated this investigation?

24 A I wasn't even aware an investigation was  
25 still current. From my understanding, after I talked

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1 with Ben, and after I was moved, to my knowledge it  
2 was over. I just wasn't working with him any more.

3 Q Did you ever go to employee concerns and  
4 raise a complaint against Mr. Harvey?

5 A Not that I remember. I don't remember  
6 calling anybody in EAP, or anything like that. I just  
7 remember talking with Ben. And then when that man  
8 called.

9 MS. EUCHNER: I believe I'm done, Your  
10 Honors.

11 ADMINISTRATIVE JUDGE YOUNG: Anything  
12 further from you, Mr. Marquand?

13 MR. MARQUAND: No, Your Honor, the witness  
14 is excused.

15 CHAIRMAN BECHHOEFER: You are excused.

16 THE WITNESS: Thank you.

17 ADMINISTRATIVE JUDGE YOUNG: Are we  
18 waiting for Mr. Grover, or --

19 MS. EUCHNER: I believe Mr. Grover is  
20 going to be here at noon today, so we can resume.

21 ADMINISTRATIVE JUDGE YOUNG: Then we will  
22 really have an early lunch.

23 Is there anything else that we can take up  
24 at this point?

25 MR. MARQUAND: No, Your Honor.

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1 MS. EUCHNER: No, Your Honor.

2 CHAIRMAN BECHHOEFER: We will take a  
3 break.

4 (Whereupon, at 10:22 a.m. the above-  
5 entitled matter was recessed for lunch.)  
6  
7  
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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

12:32 a.m.

CHAIRMAN BECHHOEFER: Back on the record.

Mr. Grover has resumed, he is in the witness stand, ready for you.

Whereupon,

RON GROVER

was recalled as a witness by Counsel for the Staff and, having been previously duly sworn, assumed the witness stand, was examined and testified as follows:

CROSS EXAMINATION

BY MR. MARQUAND:

Q Good afternoon, Mr. Grover. I would like to return, if we could, to the reorganization that occurred in 1994.

At that point in time the chemistry and environmental program manager jobs were posted for competition, correct?

A As far as I recall, yes.

Q All right. And you were informed by human resources that those had to be posted because the functions in the position descriptions were combined, the functions of the chemistry, previous chemistry jobs, and the functions of the previous environmental jobs, correct?

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1           A       I was informed by John Maciejewski, at the  
2           time he was my direct --

3           Q       Well, that is not my question.    My  
4           question is, they took the previous chemistry  
5           positions, and they took the previous environmental  
6           protection positions.   Those position descriptions,  
7           those were eliminated, new positions were written, and  
8           the functions of the previous chemistry jobs, and the  
9           functions of the previous environmental jobs were  
10          written into one new position description for  
11          chemistry and environmental protection, correct?

12          A       That is correct.   I was just correcting  
13          the fact that I wasn't informed by HR of that decision  
14          to post, it was a direction from John Maciejewski.

15          Q       Okay.   That is what you -- you were told  
16          that by John Maciejewski?

17          A       Right.   Obviously I had to work with HR  
18          with it, but the initial direction came from John  
19          Maciejewski.   We did have discussions with HR in  
20          working through the process.   But HR may have  
21          discussed it as well.   But the initial, as I recall,  
22          the initial direction came from John Maciejewski.

23          Q       Let me -- do you recall being interviewed  
24          by Dianne Benson from the Office of Investigations on  
25          December 18th, 1998?

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1 A Yes.

2 Q And let me ask you, referring to page 11,  
3 let's begin at page 10, page 10 says --

4 ADMINISTRATIVE JUDGE YOUNG: Do you want  
5 us to be looking at this?

6 MR. MARQUAND: I'm just going to read this  
7 to see if this refreshes his recollection.

8 BY MR. MARQUAND:

9 Q At the beginning of page 10 the question  
10 was --

11 MS. EUCHNER: Excuse me, can you show him  
12 the document, rather than read it, so that he can --

13 MR. MARQUAND: Excuse me, I'm not required  
14 to do so. I'm going to read the document and ask him  
15 if it refreshes his recollection. If counsel has an  
16 objection, object. If not, sit down.

17 ADMINISTRATIVE JUDGE YOUNG: Do you know  
18 where he is reading from?

19 MR. MARQUAND: I'm reading from page 10.

20 MS. EUCHNER: I do know where he is  
21 reading from, and I believe he should show the witness  
22 his statement rather than read excerpts from it, so  
23 that the witness can see the context in which the  
24 statement is.

25 ADMINISTRATIVE JUDGE YOUNG: You can read

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1 it, and then if he needs to see the context --

2 MR. MARQUAND: Thank you, Your Honor.

3 BY MR. MARQUAND:

4 Q Beginning at page 10 there was a question  
5 asked. So, anyway, you were selected for the new  
6 position as the RADCHEM environmental, interruption,  
7 answer: CHEM environmental, right. Question: CHEM  
8 environmental manager, and that was like August time  
9 frame of 1994?

10 Answer: Yes, July to September, that  
11 window there. Question: And Mr. Fiser was also bid  
12 for and was selected for one of the positions. Did he  
13 have to interview for his position also? Answer:  
14 Yes.

15 Question: And basically in those  
16 chemistry positions the functions of the environmental  
17 functions were just combined and I note you talked in  
18 depth in your deposition about, you know, the  
19 percentage that was being done. Answer: Right.

20 Question: And you know basically my  
21 interview with Mr. Easley he indicated that he was the  
22 one that had done the comparison of the position, and  
23 he felt that the job should have been posted, because  
24 there was a change in the job description. Do you  
25 recall anything different about, you know, the

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1 position that Mr. Easley took at that time?

2 Answer: No. I mean, there was consistent  
3 -- I mean, it was consistent with, you know, as I  
4 understand it, the HR policy that was established.

5 Does that refresh your recollection that  
6 you were told that Mr. Easley had made the  
7 determination that the position descriptions were  
8 dissimilar, and that they needed to be advertised?

9 A Yes, I never disagreed that the decision  
10 ultimately was made with HR. I just stated that the,  
11 and John Maciejewski worked with HR, and we all were,  
12 I was obviously involved, once I was selected for the  
13 position, worked with HR.

14 But it is not, I don't understand your  
15 question. I'm not objecting to the fact that HR made  
16 the decision to post. I just mentioned, stated that  
17 I know initially we -- it was discussed with John  
18 Maciejewski, and he was in conversation with HR, too,  
19 and we could have had, I've had several discussions  
20 with HR during that time frame about it.

21 Q So there is no doubt in your mind that HR  
22 is the ones that made that determination, is that  
23 right?

24 A Yes.

25 Q You understand that what they did, HR

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1 compared compared position descriptions to determine  
2 if they were similar or dissimilar, is that right?

3 A They may have, I don't know what HR's  
4 approach was in that particular case. That would be  
5 what I would believe that they did.

6 Q You don't know what HR did?

7 A I wasn't with HR with however they  
8 processed their documents, this, that, and the other.  
9 I mean, I wasn't there when they made the  
10 determination. But they had to have compared the old  
11 and the new and made a resulting determination based  
12 on that comparison.

13 Q Well, yesterday you talked about your job  
14 history. And as I recall your job history you never  
15 worked in human resources, is that right?

16 A That is correct.

17 Q You came to TVA in February of '94. Is  
18 that also correct?

19 A That is correct.

20 Q So by the fall of '94 you had worked as a  
21 corporate chemistry manager for about six months prior  
22 to these selections taking place, correct?

23 A That is correct.

24 Q With no previous TVA HR background?

25 A That is correct.

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1 Q My question to you is, at this point in  
2 time how did you have any understanding of how the  
3 determination would be made if you didn't talk to HR  
4 about how it was done?

5 A Well, I did talk with HR, but I wasn't  
6 there when they made their determination. You are  
7 asking me is this what they did. I can only tell you  
8 that this is what I believe they did, I wasn't there.

9 Q Did they not explain to you how they made  
10 the determination why the jobs had to be posted and  
11 advertised for competition?

12 A It was a verbal, yes. A certain  
13 percentage, if it was a certain percentage change,  
14 then it constitutes posting the job versus going by  
15 seniority. That is what they verbally communicated to  
16 me, and that is what I understood to be the policy.

17 Q Human resources did communicate, then, to  
18 you that they had made a comparison of the position  
19 descriptions, and had made a determination that they  
20 were dissimilar enough that they had to be posted?

21 A Yes, they made that determination, they  
22 said that they made that determination that that is  
23 what had to be done. That was communicated to John  
24 Maciejewski, and ultimately to me.

25 I had several discussions, follow-up

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1 discussions with HR.

2 Q Now, as I understand it, the objective of  
3 this 1994 reorganization was in order to allow a  
4 downsizing, was that they were going to combine  
5 chemistry and environmental functions into one group,  
6 and similarly combine chemistry and environmental  
7 positions into one job, so that you would have -- you  
8 could do more with fewer people by using generalists,  
9 chemistry and environmental protection specialists.  
10 Is that correct?

11 A Can you repeat your question?

12 Q In 1994 there was intended to be a  
13 downsizing, is that right?

14 A That is correct.

15 Q And there was an intent to combine the  
16 chemistry and environmental organizations?

17 A Yes.

18 Q And there was an intent to combine the  
19 functions of the chemistry program managers and the  
20 environmental protection program managers into one  
21 job?

22 A Yes.

23 Q And part of the rationale for that was to  
24 create generalists positions, so that you could do the  
25 same amount of work with fewer people?

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1           A       Somewhat, yes.       But it wasn't a  
2 generalist. I don't understand what you mean by  
3 generalist. But we can move forward, go ahead.

4           Q       Well, would not somebody who has a  
5 chemistry and an environmental protection position  
6 description be more of a generalist, than somebody who  
7 simply had functions in the chemistry area only? They  
8 have broader duties?

9           A       Not necessarily.       You have some  
10 individuals that --

11          Q       I'm not talking about the individuals, I'm  
12 talking about the position descriptions.

13          A       Well, the description wasn't general. I  
14 don't understand your question.

15          Q       Now, in this 1994 reorganization, when you  
16 conducted the selections for the chemistry and the  
17 environmental protection specialists, did you expect  
18 that the people who had a chemistry background would  
19 be one hundred percent up to speed on all the  
20 environmental issues at the time they were selected  
21 for the jobs?

22          A       No.

23          Q       Did you expect that the people who had the  
24 environmental backgrounds would be one hundred percent  
25 up to speed on the chemical issues?

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1 A No.

2 Q What did you anticipate happening?

3 A Well, as I discussed several times  
4 yesterday, the plan was to pick your best people, and  
5 to have expertise in both areas, and eventually you  
6 would cross-fertilize and get everyone up to a level  
7 that you are trying to achieve, where they could work  
8 in a significant manner in the chemistry area, and  
9 also in the environmental area.

10 Q So, for example, Chandra, Sam Harvey and  
11 Gary Fiser had previously been on the chemistry area?

12 A That is correct.

13 Q And they weren't up to speed at the time  
14 of the selection on environmental issues?

15 A That is correct.

16 Q And, similarly, David Sorrell had been the  
17 manager over environmental, and he was an  
18 environmentalist, correct?

19 A That is correct.

20 Q And he was selected, and he was not up to  
21 speed at the outset on all the chemistry issues?

22 A That is correct.

23 Q So you expected all these people,  
24 ultimately, to assume all of the chemistry and  
25 environmental responsibilities?

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1 A Not the next day that they are selected.

2 Q Ultimately.

3 A Yes, over a time. It is a long term  
4 process. And it wasn't the fact that they were going  
5 to be on an in-depth basis, you know, totally up to  
6 speed on all the issues that were going to be going on  
7 at the time.

8 You still, you had so much workload, and  
9 you had so many people, so you still had to divide  
10 that up. So you were going to focus on different  
11 things. But to handle chemistry issues from a generic  
12 standpoint, and also environmental, that was what the  
13 ultimate goal was.

14 Q Jim Mantooth, he was another  
15 environmentalist who was selected for a chemistry  
16 environmental protection specialist job, is that  
17 correct?

18 A That is correct.

19 Q So you ended up with three people who had  
20 done chemistry and two people who had done  
21 environmental, all being selected as chemistry  
22 environmental specialists, right?

23 A That is correct.

24 Q And then you said over time that the  
25 employees changed, but the mix of them didn't. That

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1 is, is that correct?

2 A I don't understand.

3 Q Over time, for instance, Sorrell and  
4 Mantooth left?

5 A That is correct.

6 Q But you still had some other people there  
7 who had done environmental work in the past, that came  
8 in to do the same jobs?

9 A No, one job remained vacant.

10 Q Deborah Nida?

11 A That was one that was filled.

12 Q That is Deidra Nida, I believe.

13 A Deidra Nida.

14 Q She was an environmental person working as  
15 a chemistry environmental specialist, right?

16 A No, she had -- the majority of her  
17 background was chemistry, but she has had significant,  
18 at that time, relative to what she was doing, she has  
19 had good environmental experience, and so she was put  
20 into that position, and it was more of a  
21 developmental, you know, part of the goal with her was  
22 developmental as well.

23 Q So did she do the environmental work?

24 A Yes.

25 Q And Tresha Landers testified this morning

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1 that she did some environmental work as well?

2 A Yes.

3 Q Did some of the other interns also do  
4 environmental work?

5 A Tresha was the primary one. She was the  
6 primary one as far as the environmental was concerned.  
7 I don't recall, we've had some other interns come in  
8 and out, but the ones that I recall worked on  
9 chemistry issues.

10 Q Now, as I recall her testimony this  
11 morning, she worked as an intern while she was in  
12 school, and in August of '95 I think she said she  
13 became a full time TVA employee as an engineer?

14 A Right.

15 Q So as a full time TVA employee she was  
16 working in the environmental arena?

17 A She wasn't in that -- she was somewhat in  
18 a unique, if I recall correctly --

19 Q She was on loan to you?

20 A Yes, and she was, she was in the  
21 environmental, a different environmental organization,  
22 and somewhat on loan to us. But she wasn't hired into  
23 that vacant position. So she still functions,  
24 basically, in a quasi-loan capacity.

25 Q And in 1994, when you were told that human

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1 resources had made a determination that these jobs  
2 should be posted, you didn't disagree with that, did  
3 you?

4 A No.

5 Q And Gary Fiser didn't raise any issue, in  
6 1994, any claim in 1994, that the elimination of his  
7 chemistry program manager job was a violation of his  
8 settlement agreement, or discrimination against him  
9 either, did he?

10 A No, not to my knowledge.

11 Q Now, yesterday you testified that TVA has  
12 a policy if the position descriptions change by 15 to  
13 20 percent it was required to be posted?

14 A I don't remember the exact percentage.

15 Q That is what you said yesterday. I'm just  
16 going to return to that subject. What is that policy,  
17 is that a written policy?

18 A This was what was communicated to me by  
19 human resources. As I mentioned before, I haven't  
20 seen --

21 Q You haven't seen it?

22 A I don't recall seeing that in writing, I  
23 didn't ask HR for their rules and regulations to  
24 review. I basically worked with our specialist, and  
25 I take the position if they tell me that is the

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1 policy, that is the policy.

2 Q And who at human resources told you that  
3 is the policy?

4 A Ben Easley.

5 Q Did he tell you what that policy was  
6 contained in, is that just a general --

7 A I don't recall.

8 Q -- policy, or part of some bigger policy,  
9 or what did he tell you?

10 A No, he said that was the standard policy  
11 that was used in these situations.

12 Q He didn't elaborate any further and tell  
13 you what that policy was a part of, or --

14 A No, I didn't ask.

15 Q -- whether it was a requirement, or found  
16 anywhere?

17 A I did not ask. I did not ask, he worked  
18 closely with John Maciejewski on this reorganization,  
19 and it was not brought up as a question, or being  
20 challenged. I took it as that is what the regulations  
21 were, the policy is.

22 Q Do you recall when I took your deposition,  
23 last fall, I guess it was last winter, on December  
24 14th, 2001?

25 A I recall the time frame, I don't remember

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1 the date.

2 Q Do you remember me taking your deposition?

3 A You said -- what was the time frame?

4 Q The date was December 14, 2001. It was  
5 taken over at the Chattanooga office complex.

6 A Yes, okay. I don't remember the date.

7 Q And Mr. Dambly and Ms. Euchner were both  
8 present?

9 A Yes, I didn't remember the date.

10 Q All right. Now, referring to page 20, I'm  
11 not tendering this exhibit at this point, Your Honor.

12 Referring to page 20, line 22: Question:  
13 Did anyone explain to you why these jobs were posted  
14 and advertised for competition? Answer: Well, I just  
15 understood that was HR policy. It was a significant  
16 change in the position description. At the time HR  
17 had a policy of using a certain percentage. I believe  
18 it was 30, 35 percent.

19 If the job description changed by more  
20 than that then the requirement was, or the policy was  
21 that it had to be posted and advertised.

22 Do you recall that question and answer  
23 being asked and answered?

24 A I recall the question coming up, yes.

25 Q Well, that is not what you testified to

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1 yesterday and today. You said that you recall the  
2 policy was 15 to 20 percent.

3 A Well, as I said yesterday, I said I don't  
4 remember the exact percentage. It could have been 15,  
5 20, 30 percent, I don't remember exactly. It is in my  
6 deposition, whatever that percentage was, that is what  
7 I recalled at the time.

8 I don't remember the exact percentage, but  
9 it was a significant percent. Whatever that  
10 percentage was that HR used, that is what it was. I  
11 don't recall the exact percentage.

12 Q Have you talked, at all, since the date of  
13 your deposition, with Ms. Euchner, or Mr. Dambly?

14 A Have I talked with --

15 Q Have you had any discussions with them  
16 since the day of your deposition?

17 A No, they -- we just -- the only  
18 conversation we had was they contacted me about the  
19 trial hearing, and that sort of thing, but we haven't  
20 had any discussions on the case.

21 Q Did they provide you a copy of your  
22 deposition to review?

23 A No, I haven't seen a copy.

24 Q You have not seen it. And do you recall  
25 that during your deposition I asked you those same

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1 questions and you said, yes, I sat down on December,  
2 2, 2001, and I had discussions with Ms. Euchner, and  
3 Mr. Dambly, about the significance of position  
4 descriptions, and we did talk about the standard that  
5 HR used for changing position descriptions.

6 Do you recall that?

7 A Wait a minute, I'm confused, because you  
8 asked me, as I understand the question you asked me,  
9 you said have I had discussions with them since the  
10 deposition I had with you.

11 Q Yes. And you said no, you have not.

12 A We've had some conversations, but we  
13 haven't gone into an in-depth discussion about the  
14 case.

15 Q Now my question is --

16 A But that date that you are giving me is  
17 before, I had an interview with them before I met with  
18 you.

19 Q Listen to the question, at your deposition  
20 I asked you the same question. I asked you, had you  
21 talked with them about the subject of the significance  
22 of changing position descriptions, and I asked you  
23 about the standard that HR used for changing the  
24 position descriptions, and you said yes, you had  
25 discussed it with them.

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1 Do you recall that?

2 A Yes.

3 Q And at that time, then, you changed your  
4 testimony in your December deposition and you said,  
5 well now I remember it was a different number, 15 to  
6 20 percent. Do you recall that?

7 A No, I stated all along that, maybe you  
8 didn't record it in your notes, I don't remember the  
9 exact percentage. Here is 15, 20, 30 percent, I don't  
10 remember the exact percentage.

11 I told you, when you brought that up, that  
12 you need to contact HR, talk to Ben Easley and see  
13 what the exact percentage was. I don't remember what  
14 the exact percentage was.

15 Q Mr. Grover, I'm going to read from page 22  
16 of your deposition.

17 We were talking about the range of the  
18 percentage change, and I asked you, at page 22: Was  
19 that a subject of discussion between you and Ms.  
20 Euchner, and Mr. Dambly, on December 2nd, was the  
21 significance of changing position descriptions?  
22 Answer: That was one of the questions they brought  
23 up.

24 Question: Did you discuss with them the  
25 standard that HR used for changing position

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1 descriptions as to whether or not they needed to be  
2 advertised? Yes.

3 Question: Was there discussion about the  
4 percentage? Yes.

5 Does that refresh your recollection that  
6 you --

7 A Yes, I'm not denying that, I'm not denying  
8 that.

9 Q Then I asked you, and I read to you from  
10 your January 29th, 1998 deposition.

11 CHAIRMAN BECHHOEFER: What was that date?

12 MR. MARQUAND: January 29th, 1998.

13 BY MR. MARQUAND:

14 Q And we went back to page 59, where you  
15 were talking about combining functions. In the middle  
16 of page 59, at line 9, you said: You know there is a  
17 certain percentage, if you are creating new position,  
18 there is a basis for saying, okay, we are going to  
19 reorganize, and we are going to change some functions  
20 around.

21 There is a basis for when you have to  
22 create a new position description, when you don't have  
23 to create a new position description. And then we  
24 went to, after we got the sense of the conversation,  
25 we went to the bottom of page 59, at line 25.

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1                   Where you said: As I understand it, the  
2 way it is supposed to work is if you are not changing  
3 the position description, you don't go through a  
4 reposting, or this, and that, and the other, you go on  
5 seniority, okay?

6                   And then further down you said, based on  
7 seniority because you didn't change the, you didn't  
8 change the job. You didn't change the job function,  
9 this, that and the other.

10                  Now if you combine several functions, and  
11 you redid the job description, and if it changed by,  
12 I believe, 15 percent or so, which is considered a  
13 significant amount, or whatever, then it is changed by  
14 a significant amount now, they may be able to correct  
15 me on the percentage, I believe it was 15 percent of  
16 the original position, then you are required to post  
17 the position.

18                  Does that refresh your recollection that  
19 I asked you about your earlier deposition, in December  
20 of 2001?

21                  A       You've asked me, we've gone through  
22 several different depositions, I have been through  
23 five or ten. As I stated there, that what you read,  
24 I don't recall the exact percentage, you just read it.

25                  I believe it was this percentage, but the

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1 bottom line, counselor, is that the hiring manager  
2 doesn't make the final -- I didn't make the final  
3 determination. HR made the final determination based  
4 on the criteria.

5 Now, I apologize, I don't remember what  
6 the criteria was, what the exact percentage was from  
7 eight years ago, I apologize. But I don't make that  
8 determination. I didn't make that determination,  
9 human resources made that determination.

10 I didn't have the authority to set HR  
11 policy in this matter. I followed what direction they  
12 provided that we should do.

13 Q And so if HR made the determination you  
14 followed that determination?

15 A That was what was explained to me as what  
16 to do. We worked with HR, they would guide us through  
17 the process, whatever the rules and regulations were,  
18 we were to follow those rules and regulations.

19 Q And you don't purport to have any  
20 expertise in HR functions?

21 A I wasn't hired in human resources, that  
22 wasn't my job description.

23 Q So your testimony yesterday all stands, I  
24 mean, as far as you know, it could be wrong, it  
25 depends on what HR said that they --

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1           A       What do you mean my testimony could be  
2 wrong? I'm not making up anything.

3           Q       You said, at one point yesterday you said  
4 15 percent, in your deposition in December you said 30  
5 percent, at another point, back in January --

6           A       If you read all those depositions, if you  
7 read the depositions, it is not gospel. You just read  
8 here an excerpt that says I'm not sure, you have to  
9 check on that, you can correct me on that, I believe  
10 it was this percentage.

11                   That is what I stated yesterday. That is  
12 what I told you December 14th. You asked me, I said I  
13 believe it is this. You brought up the fact that I  
14 told Ms. Euchner a different percentage. I said I  
15 wasn't sure what the exact percentage was, you have to  
16 check with HR, Mr. Easley if he remembered what the  
17 exact policy was, if it is written down somewhere in  
18 HR policy, that is what it was.

19                   I'm sorry, I don't remember the exact  
20 number.

21                   ADMINISTRATIVE JUDGE YOUNG: Mr. Marquand,  
22 I think we understand that he is not an expert.

23                   MR. MARQUAND: I understand that. But  
24 yesterday he testified, at length, about what the HR,  
25 not just the standard, but all the various HR

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1 policies. And I think we need to address that.

2 ADMINISTRATIVE JUDGE YOUNG: Okay.

3 BY MR. MARQUAND:

4 Q To the extent that you testified about  
5 what HR policy is, yesterday, then you could be wrong?

6 A Well, as far as the percentage?

7 Q Yes.

8 A Yes, because I don't recall the exact  
9 percentage. And I stated that yesterday, I stated  
10 that several years ago, and I stated that to you  
11 December 14th, 2001, and I'm stating that today.

12 Now, I don't know --

13 ADMINISTRATIVE JUDGE YOUNG: Are you going  
14 to get to some other areas beside the percentage?

15 MR. MARQUAND: Yes we are.

16 BY MR. MARQUAND:

17 Q Yesterday you said --

18 CHAIRMAN BECHHOEFER: Mr. Marquand, I have  
19 one question I would like to ask. Did HR have any  
20 sort of written guidance that they would refer to  
21 about when a job had to be reposted, or what the  
22 percentage was?

23 Sometimes organizations like NRC has  
24 manual chapters, for instance, which are informal  
25 guidance, and not rules and regulations. But are you

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1 familiar with any sort of policy statement of that  
2 sort?

3 THE WITNESS: Your Honor, the assumption  
4 I made was that they have policy, they have  
5 guidelines, and it was somewhere in writing. That was  
6 not, I don't recall that ever being shared with me.

7 We basically worked with the individual,  
8 and you know, I didn't make a practice, well, let me  
9 see what the HR policy is. This is a -- so  
10 identification the HR manager, at the time we worked  
11 with, they were sharing that with me, whatever, if he  
12 had anything in writing, if it was in writing, sharing  
13 it with me. It basically was done on a verbal basis.

14 CHAIRMAN BECHHOEFER: Thank you.

15 THE WITNESS: Yes, sir.

16 BY MR. MARQUAND:

17 Q Yesterday you said that as you understood  
18 the policies, HR would compare the position  
19 descriptions to see how the duties matched, and make  
20 a comparison of the positions, written position  
21 descriptions to determine whether the jobs were  
22 similar or not.

23 Do you remember that?

24 A Yes.

25 Q And then I think, if I understood your

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1 testimony right, you said after you've looked at the  
2 position descriptions, then you actually looked to see  
3 what the employees are doing, what they are actually  
4 doing in the field, to make a comparison there.

5 Do you recall that?

6 A That comment wasn't associated with the  
7 1994 selection, which where are we now, are we still  
8 in '94?

9 Q Well, I'm just asking about your  
10 understanding of the policy. Did you understand --

11 A No, the question was, what was different,  
12 in your opinion what was different in '96 with the old  
13 job description and the new one that was proposed.  
14 And I was asked, well, what would the employee be  
15 doing differently?

16 And I said, based from a chemistry  
17 standpoint, the individual was doing the same thing.

18 Q Back up, I just want to talk about the  
19 policy. The policy to determine whether or not to  
20 post the jobs, was it the same in '94, to your  
21 knowledge, as it was in '96?

22 A To my knowledge it was, unless a change  
23 was made by human resources.

24 Q With respect to that policy that was  
25 applied in both '94 and '96, is it your understanding

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1 that human resources would compare the written  
2 position descriptions to determine whether the  
3 position descriptions were similar, or dissimilar, in  
4 order to make a determination whether they should be  
5 posted?

6 A If the policy didn't change they would  
7 make that determination.

8 Q All right. Did they look, did the policy  
9 require them to look at what the employees were doing  
10 to make such a determination?

11 A You have to talk with them about the  
12 policy. I'm not --

13 Q So you don't know?

14 A -- an expert on the policy, what was  
15 written. I don't know, again, they make that final  
16 determination. I don't know what criteria they used,  
17 I don't know who, when they sat down and compared the  
18 position descriptions, they came to me, asked me for  
19 information.

20 They explained, here is what the policy  
21 is, they make the determination. They talked with my  
22 senior manager, you know, but you are asking me what,  
23 whether I was there or not when they made that  
24 determination, when they physically made that  
25 comparison? No, I was not present.

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1 Q Now, in 1994, on paper at least you were  
2 combining the chemistry and environmental functions  
3 into a new position description, correct?

4 A That is correct.

5 Q So on paper the position description, the  
6 new position description, 1994, captured both  
7 chemistry and environmental functions, right?

8 A Right, as I recall, yes.

9 Q So on paper Mr. Fiser, Chandra, and Sam  
10 Harvey's jobs changed because they added, on paper,  
11 the environmental functions in 1994?

12 A That is correct.

13 Q But from a functionality standpoint, you  
14 said yesterday, they continued to do mostly chemistry  
15 work?

16 A That is correct.

17 Q And the same is true with Mr. Sorrell, his  
18 position description changed at chemistry functions,  
19 on paper, correct?

20 A That is correct.

21 Q But from a functionality standpoint, what  
22 he is doing in the field, he continued to do mostly  
23 environmental work, correct?

24 A Correct. And I emphasize mostly, and not  
25 exclusively.

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1 Q Okay. Now, in 1996 the chemistry and  
2 environmental position descriptions were eliminated,  
3 those positions were eliminated, correct?

4 A Say that again?

5 Q The chemistry and environmental program  
6 manager jobs were eliminated in 1996, the position  
7 descriptions?

8 A Yes.

9 Q And in their place were chemistry program  
10 manager position descriptions?

11 A Yes.

12 Q On paper there was, once again, a change  
13 in the functions of the job, isn't that correct?

14 A Yes.

15 Q You split out the environmental functions?

16 A Yes.

17 Q That you added in, in 1994?

18 A Yes.

19 Q You essentially reversed the course that  
20 you had set out in 1994?

21 A You can look at it that way, yes. Not a  
22 direct reversal, because you eliminated environmental.

23 Q Pardon me? But environmental function was  
24 split out?

25 A Yes, but --

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1 Q You didn't create an environmental job,  
2 but you split the functions --

3 A So it wasn't a direct reversal, that is  
4 what I'm saying.

5 Q All right. Now, in 1994 you had to  
6 interview for the chemistry environmental position  
7 with John Maciejewski, correct?

8 A That is correct.

9 Q And it is your understanding that Wilson  
10 McArthur assumed the RADCON manager job?

11 A Pardon me?

12 Q It is your understanding, we understand  
13 that Wilson McArthur assumed responsibilities for  
14 RADCON manager, correct?

15 A I didn't assume anything. I don't  
16 understand your question.

17 Q You became the chemistry environmental  
18 manager?

19 A Right.

20 Q Wilson McArthur --

21 A Through the selection process.

22 Q Wilson McArthur had been your manager?

23 A Right.

24 Q He became the RADCON manager?

25 A That is correct.

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1 Q And Allen Sorrell became the acting  
2 manager, or at least for a time, the manager over  
3 radiological control and chemistry?

4 A That was at a later time frame.

5 Q All right. But you said that he only  
6 assumed that position for a very short period of time.

7 A Who is he?

8 Q Allen Sorrell.

9 A That is correct. I mean, it was done, it  
10 was just done very informally.

11 Q And he only acted in that position for a  
12 few weeks, or a few months at most?

13 A I don't know. I mean, he showed up one  
14 day, and then we didn't see him any more. You know,  
15 he was around a couple of times, and --

16 Q Then he disappeared?

17 A Yes, disappeared. So I don't remember how  
18 long he functioned --

19 Q On a day to day basis, did anyone perform  
20 the responsibilities of the RADCON and chemistry  
21 manager?

22 A What time frame are you talking about,  
23 what organization are you talking about, what time  
24 frame?

25 Q You said Sorrell showed up, but then he

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1 was gone?

2 A That is correct.

3 Q When he was gone, after he was gone, did  
4 anybody assume the day to day responsibilities for  
5 radiological control and chemistry organization?

6 A Not to my knowledge, unless someone was  
7 there and I didn't know about it.

8 Q Yesterday counsel asked you about Staff  
9 Exhibit 67. Staff Exhibit 67 is the June 24th, 1996  
10 memo you sent to James Boyles regarding a meeting you  
11 had of allegations of harassment by Sam Harvey,  
12 correct?

13 A That is correct.

14 Q Had any investigation of Ms. Landers'  
15 allegations been conducted at the time you issued this  
16 memorandum?

17 A I -- you have to talk with human resources  
18 if they did any, I did my own review prior to writing  
19 this memorandum.

20 Q So you investigated the circumstances of  
21 her allegations?

22 A I talked to the parties involved, and  
23 talked with HR.

24 Q Did Sam Harvey admit or deny the  
25 allegations?

1 A He didn't deny the allegations with me.

2 Q Did he tell you, didn't he tell you that  
3 he denied them vehemently, and he was willing to take  
4 a lie detector test?

5 A No, he didn't tell me that.

6 Q Okay.

7 A And the reason why we wrote the memo, we  
8 tried to resolve the issue short of a complaint being  
9 filed.

10 Q Now this is a personnel matter, correct?  
11 Clearly it is a personnel matter, it is not a  
12 chemistry issue?

13 A Yes.

14 Q And did you treat this as administratively  
15 confidential?

16 A Yes, I didn't put it on the bulletin  
17 board, if that is what you are asking me. I handled  
18 it the way Mr. Ben Easley directed it to be handled.  
19 It was not publicized, it was forwarded to them, this  
20 was the way I was directed to handle it, you know,  
21 from a written standpoint.

22 Q Are you aware that Mr. Harvey filed  
23 allegations of discrimination and harassment against  
24 you?

25 A No.

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1 Q You are not aware of that?

2 A No.

3 Q No one ever told you?

4 A No.

5 Q Let me show you TVA exhibit 27.

6 ADMINISTRATIVE JUDGE YOUNG: 27?

7 MR. MARQUAND: Yes, Your Honor.

8 BY MR. MARQUAND:

9 Q TVA exhibit 27 is a memorandum from Mr.  
10 Harvey to Wilson McArthur dated November 27th, 1997.  
11 In which he makes a number of accusations.

12 If you will turn to the bottom of page,  
13 the top of page 3?

14 MS. EUCHNER: Your Honors, I'm going to  
15 object unless Mr. Marquand gives Mr. Grover the  
16 opportunity to read the entire complaint, being that  
17 he indicated that he never saw it before.

18 MR. MARQUAND: Well, I don't know that it  
19 is necessary to go into the whole thing. There is a  
20 number of allegations in this, and we will cover them.

21 But I just want to, right now, to discuss  
22 with him one particular allegation here regarding Ms.  
23 Landers, which is the subject we've been discussing.

24 ADMINISTRATIVE JUDGE YOUNG: Well, I think  
25 it is proper to let him read it.

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1 MR. MARQUAND: Okay.

2 THE WITNESS: So what am I supposed to do,  
3 read the whole thing?

4 BY MR. MARQUAND:

5 Q Yes, Counsel wants you to read the whole  
6 thing.

7 A Okay.

8 (Witness reviews document.)

9 ADMINISTRATIVE JUDGE YOUNG: We are going  
10 to step into the next room, we are going to be right  
11 back.

12 (Whereupon, the above-entitled matter  
13 went off the record at 1:17 p.m. and  
14 went back on the record at 1:24 p.m.)

15 THE WITNESS: I'm done.

16 BY MR. MARQUAND:

17 Q Mr. Grover, in the spring of 1996 new  
18 position descriptions were being prepared for the  
19 proposed PWR chemistry program manager, and BWR  
20 program manager jobs, weren't they?

21 A Yes.

22 Q And do you recall that at some point in  
23 time Mr. Harvey complained that you and Chandra, and  
24 Gary Fiser, were preparing the position descriptions,  
25 and that they had been written in such a way to give

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1 preferential treatment to other employees, and to  
2 exclude him?

3 A He made that allegation, he didn't make it  
4 to me.

5 Q And what was your response?

6 A The response was he was sent -- I  
7 communicated with him almost on a daily basis. He was  
8 given the draft copies, like all the other  
9 individuals, requested for input. He did not respond.

10 And then he complained, when we were about  
11 ready to wrap up all the inputs, and come up with the  
12 final draft, okay? I specifically went out, gave him  
13 another draft, and put it in writing, called him into  
14 the office, so we well-documented that he did give a  
15 copy, and he did provide his comments, okay?

16 So it wasn't a matter of trying to exclude  
17 anyone from the process.

18 Q If you will look at page 2 of TVA exhibit  
19 27, in the second paragraph. In the 12th line down,  
20 do you see the sentence that says: Ben then informed  
21 Mr. Grover, who called me into the office, and jumped  
22 all over me for raising this issue.

23 Do you see that sentence?

24 A Yes, I see it.

25 Q Do you recall that Mr. Harvey's

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1       allegations against you also included the fact that  
2       when he raised the issue, that he was alleging that  
3       you called him into your office and jumped all over  
4       him for raising that issue?

5           A       I called him in, we talked about it, and  
6       he acknowledged that he knew he had gotten the copies.  
7       I physically took copies out there to the site, to  
8       him.

9           Q       Let me ask you to look at the next  
10      sentence. Do you see the sentence that says: I told  
11      Mr. Grover that I felt that he had misrepresented the  
12      facts intentionally, and was giving preferential  
13      treatment to certain employees.

14                  Did Mr. Harvey, in this meeting with you,  
15      in your office, tell you that he felt that you had  
16      misrepresented the facts to HR?

17           A       No, his complaint was, I didn't get a  
18      chance to comment, to give my input on the position  
19      description.

20           Q       Let me ask you to look at the next  
21      sentence. The next sentence says: The next day, A,  
22      I think it means I, received a copy of the memo sent  
23      to Tom McGrath that I had ample opportunity (over a  
24      month when in fact the fax I received to the date of  
25      this memo, was 12 days) to review and comment on the

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1 job descriptions that I had no comment.

2 Do you see that sentence?

3 A Yes.

4 Q Did Mr. Harvey object that, in fact, that  
5 you claimed that he had 30 days to review the position  
6 description when your fax was only received by him 12  
7 days before?

8 A No, that was several copies he received.  
9 It wasn't just that one faxed copy. He received  
10 several copies. When I sent the copies out, I sent  
11 them out to everyone. Everyone had ample -- and you  
12 have to understand, this was an evolving process.

13 I mean, we had comments, we would do  
14 revisions, we sent it back out to everybody. One  
15 other individual may have some input, we update that,  
16 and send it back. So it is an interactive type  
17 process.

18 So he was well informed, and had ample  
19 input into the process.

20 Q In the next several sentences it discusses  
21 an interchange between Gary Fiser and Sam Harvey on  
22 June 17th, '96. And in that interchange, at the  
23 conclusion of reporting to Sam Harvey, he says that  
24 Gary Fiser says, according to him, he said that Harvey  
25 said that it sounded like he, and Ron, and Chandra,

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1 had things all planned out.

2 And, again that he, Fiser, indicated the  
3 affirmative, and stated that he knew how to fix this  
4 situation.

5 Do you recall that allegation, that charge  
6 being made against you and Fiser, about planning to  
7 remove Sam Harvey from the competition for the new  
8 job?

9 A No.

10 Q Now, then we get to the next sentence.  
11 About a week later Grover called me in his office and  
12 told me that accusations had been made by an office  
13 worker, Ms. Landers, that I was harassing her.

14 It says, then, I told -- Sam says, I told  
15 him that it was not true, and I would take a polygraph  
16 test to that effect, since I did not interface with  
17 Ms. Landers, and how could I harass her, since I had  
18 been out of the office on assignment to Sequoyah?

19 Do you see that sentence?

20 A Yes, I see that sentence.

21 Q Does that refresh your recollection that  
22 Sam Harvey denied the truth of the allegations to you?

23 A No, he did not deny it to me. He did not  
24 deny the truth, okay?

25 Q Does it refresh your recollection that he

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1 told you he would take a polygraph test to that  
2 effect?

3 A He never acknowledged, he could help  
4 himself by taking a polygraph test, I didn't have  
5 anything to do with it.

6 Q Do you see the next sentence it says, he,  
7 referring --

8 ADMINISTRATIVE JUDGE YOUNG: Old on just  
9 a second. What did you say, he never --

10 THE WITNESS: I said he could have taken  
11 a poly, he could have --

12 ADMINISTRATIVE JUDGE COLE: Did he say  
13 that?

14 THE WITNESS: No, not to me. No, he never  
15 said it to me. No, he never acknowledged to me, and  
16 that was really out of my arena, anyway. That was  
17 between him and human resources.

18 ADMINISTRATIVE JUDGE YOUNG: He never said  
19 anything about I will take a polygraph test?

20 THE WITNESS: No, he acknowledged it, he  
21 apologized to me, yes.

22 BY MR. MARQUAND:

23 Q You see the next sentence --

24 MS. EUCHNER: I have an objection, Your  
25 Honors. I'm going to object to Mr. Marquand's

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1 continuing to read from a document that is not in  
2 evidence and that, as far as I can tell, isn't going  
3 to be admitted into evidence.

4 MR. MARQUAND: We are going to offer it  
5 through Mr. Harvey, who will be here to testify. He  
6 made these charges, and I think it is pertinent, and  
7 we will offer it through Mr. Harvey. I'm sorry he is  
8 not here today to authenticate it, but we will just  
9 have to take it out of order.

10 MS. EUCHNER: Okay, so long as we have the  
11 opportunity to cross examine Mr. Harvey. But I would  
12 say that we should only let him read it to the extent  
13 that Mr. Harvey does actually show up to authenticate  
14 this document.

15 MR. MARQUAND: Mr. Harvey is under  
16 selection board.

17 ADMINISTRATIVE JUDGE YOUNG: Okay. You  
18 will tie it, later, through Mr. Harvey.

19 BY MR. MARQUAND:

20 Q The next sentence, Mr. Grover, let me ask  
21 you, do you see the sentence that says, he stated that  
22 this was not necessary, referring to the polygraph  
23 test, since the issue had been dropped, and it was  
24 better just to let it go, and we would just review the  
25 issue with HR and let it drop.

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1 Did you tell Mr. Harvey that?

2 A I'm trying to follow where you are.

3 Q The sentence that says: He stated that  
4 this was not necessary.

5 A I see it now.

6 Q Did you tell Mr. Harvey it wasn't  
7 necessary for him to take a polygraph test?

8 A No.

9 Q Did you tell him that Tresha Landers had  
10 dropped the issue?

11 A No, I didn't tell him Tresha Landers had  
12 dropped the issue.

13 Q Now, the next sentence refers to a meeting  
14 on June 21, '96, between yourself, Sam Harvey, Wilson  
15 McArthur, and Ben Easley.

16 Do you recall such a meeting?

17 A No.

18 Q Do you recall a meeting at any time  
19 between Harvey, McArthur, yourself and Ben Easley?

20 A Not us four, no.

21 Q Pardon me?

22 A Not the four individuals he cites there.

23 ADMINISTRATIVE JUDGE YOUNG: Any other  
24 meetings with those four, and someone else, or a  
25 different combination?

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1 THE WITNESS: No, it was just myself, Ben  
2 Easley, and Sam Harvey met, regarding the issue.

3 ADMINISTRATIVE JUDGE YOUNG: On June 21st?

4 THE WITNESS: Yes. Whatever the date was  
5 of that memo, is that June -- whatever the date was of  
6 the memo I had written to human resources.

7 BY MR. MARQUAND:

8 Q The memo you wrote, the memo dated June  
9 24th says: This memorandum serves to document a  
10 meeting between Wilson McArthur, Ben Easley, Sam  
11 Harvey, and myself, regarding the alleged harassment,  
12 intimidation of --

13 A Okay, Wilson --

14 Q Does that refresh your recollection, at  
15 all, of the --

16 A Yes, if I addressed Wilson McArthur was  
17 there, yes.

18 Q So you agree, then, with Sam's statement  
19 that there was a meeting between Sam Harvey, McArthur,  
20 yourself, and Ben Easley to discuss the alleged --

21 A Yes, if the memo says that, I didn't  
22 recall Mr. McArthur being there, but if it said that,  
23 then that is what we did.

24 Q Now, the next sentence says: Ben stated  
25 that it was an alleged event, and it would go no

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1 further, because Ms. Landers had dropped the issue.

2 Do you see that sentence?

3 A Yes.

4 Q Did, in fact, Ben Easley say that it had  
5 been dropped, and it would go no further, because she  
6 had dropped it?

7 A I don't recall specifically what he said.  
8 I know how we handled the situation. She was in  
9 agreement --

10 Q That is not my question. My question is  
11 that --

12 A I don't recall what he specifically said.

13 Q At that point in time had Ms. Landers  
14 dropped the issue?

15 A As far as my involvement was concerned she  
16 had not, she agreed to drop the issue, we had  
17 discussed with her, here was our approach to address  
18 the issue.

19 Q Prior to the meeting she agreed to --

20 A I don't know, you will have to ask Ms.  
21 Landers what point in time, what date she specifically  
22 dropped it. I can only tell you, from my perspective,  
23 how it was handled.

24 Q Well, my question is, I think it depends  
25 on your perspective, if she had already agreed to drop

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1 the issue prior to the meeting, the appropriateness of  
2 you documenting this incident, and putting it in Mr.  
3 Harvey's file, I think it is sort of --

4 A I'm trying to explain to you how it was  
5 handled, from my perspective, okay?

6 Q You see the next sentence that says: I  
7 stated --

8 A Do you want me to explain that, or do you  
9 want to go forward?

10 Q I asked you, do you --

11 A Well, I'm trying to, I'm trying to.

12 ADMINISTRATIVE JUDGE YOUNG: Go ahead and  
13 explain.

14 THE WITNESS: Yes. We talked with Ms.  
15 Landers, we talked with Sam Harvey, we talked with Ben  
16 Easley. Ben Easley had several conversations with Ms.  
17 Landers.

18 Ms. Landers' initial intent was to go  
19 ahead and file a complaint, a formal complaint, a  
20 harassment complaint against Sam Harvey, okay?

21 I had conversations with Sam Harvey, and  
22 we met again with Ms. Landers. She was in agreement  
23 that if we discussed how we were going to try to  
24 handle this to reconcile the situation. We wanted to  
25 address this with a letter to Mr. Harvey, discuss this

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1 issue with him, the severity of it, we recommended  
2 that he take sensitivity training, and we would -- and  
3 she agreed, if we proceeded.

4 That is what she communicated to me, that  
5 she would agree to not pursue an harassment case if we  
6 took these steps, okay? And that is the reason why we  
7 had the meeting with him, and we wrote the letter.

8 At the meeting he was in agreement with  
9 that process.

10 BY MR. MARQUAND:

11 Q Do you see the next sentence of this  
12 memorandum that says: I stated that I did not believe  
13 it to be truth, and would take a polygraph test to  
14 that effect; does that refresh your recollection that  
15 at this meeting, between yourself, and Wilson  
16 McArthur, and Ben Easley, and Harvey, that Harvey  
17 denied the truth of the allegations, and again stated  
18 that he would take a polygraph test?

19 A I don't recall him stating that.

20 Q You don't recall that?

21 A I don't recall that.

22 Q It could have happened?

23 A What do you mean, it --

24 Q It could have happened, you just don't  
25 recall it?

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1 A I don't recall it.

2 Q Do you see the next sentence that says:  
3 I also stated that I thought the timing of the  
4 allegation was intending to discredit me before the  
5 job selections were made on the new positions. And  
6 that if I had done anything wrong, I was man enough to  
7 admit it, and correct the injustice.

8 Do you see that?

9 A Yes.

10 Q Did -- do you recall that at the meeting  
11 Mr. Harvey said that he thought the timing of the  
12 allegation was intended to discredit him before the  
13 job selections?

14 A No. Because with my meeting with him he  
15 acknowledged that he did it. So it was independent, it  
16 didn't have anything to do with the timing of the, of  
17 this, you know, job selection and etcetera.

18 Q Are you aware whether or not Sam Harvey  
19 made any sorts of allegations, or charges, at any time  
20 against you?

21 A No.

22 Q Let me refer you to TVA exhibit 27, to the  
23 bottom of page 3, in the complete paragraph down  
24 there. Do you see in the 11th line of that first  
25 complete paragraph on page 3, the sentence that says:

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1 Mr. Grover continually used and abused TVA resources  
2 for personal business, such as conducting outside  
3 business using a TVA issued cellular phone, and TVA  
4 pool vehicle?

5 A I see that statement.

6 Q Are you aware that you were subsequently  
7 investigated by the TVA Inspector General for those,  
8 on those issues?

9 A I was aware of that, yes.

10 Q You are not aware that Sam Harvey ever  
11 made those allegations against you?

12 A No, no.

13 Q The date of this memo, if you look at the  
14 first page, is November 27th, 1997. Isn't that right?

15 A Yes.

16 Q And that, in fact, predates the beginning  
17 of the IG investigation of you in this issues?

18 ADMINISTRATIVE JUDGE YOUNG: That what?

19 BY MR. MARQUAND:

20 Q That predates the investigation by the IG?

21 A I don't know when they started their  
22 investigation.

23 Q And you've never learned that Mr. Harvey  
24 made those allegations against you?

25 A No, this is the first time I've seen this

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1 memorandum.

2 ADMINISTRATIVE JUDGE YOUNG: Mr. Grover,  
3 Mr. Marquand asked you, had anyone raised any  
4 concerns, I can't recall the exact phrasing of that.

5 After you wrote your June 24th, 1996 memo,  
6 did anybody, Mr. Harvey, or Ben Easley, or Wilson  
7 McArthur, anybody ever raise any -- I think you said  
8 Harvey had not. But did anyone raise any concerns  
9 about whether your memo was correct?

10 THE WITNESS: No, it was in agreement, at  
11 the meeting. That is the reason why the memorandum  
12 was written, because we were in agreement, it was  
13 agreed at that meeting, this was how we were going to  
14 handle the situation.

15 My whole intent, along with HR, was to try  
16 to defuse the situation, not to escalate it. How could  
17 we resolve what had happened. So that is the reason  
18 why this approach was taken.

19 I could have very well just said, okay, it  
20 is out of my hands, human resources.

21 ADMINISTRATIVE JUDGE YOUNG: But  
22 basically, were you aware in any way that there was  
23 some concern about it? I mean, whether stated in  
24 specific words or not?

25 THE WITNESS: No, there was no concerns,

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1 this was agreed to do, to follow this approach.

2 BY MR. MARQUAND:

3 Q Well, since you are talking about that it  
4 was agreed to follow that approach, on page 3 of TVA  
5 exhibit 27, reading further down on that first  
6 paragraph, at the top of the page, do you see the  
7 sentence that says: Ben stated that it was better to  
8 not pursue this, since these allegations were no win  
9 situations for everyone?

10 Do you see that?

11 A Yes.

12 Q Was that said at the meeting?

13 A He could have very well said that. Now,  
14 you have to decipher what he meant by not pursue this.  
15 By not pursue this he means we do not like to see this  
16 allegation taken to the level of a formal complaint  
17 being filed, and subsequent investigations, and  
18 etcetera, whatever that process is.

19 Q So in order to avoid taking it further,  
20 and filing a formal complaint, and conducting an  
21 investigation to see whether it is true, it is better  
22 to document and put in the man's personnel record,  
23 that he has admitted these allegations, when he is  
24 telling you he has denied it, offered to take a  
25 polygraph test?

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1           A       Well, I can only go on what he said at the  
2           time. He admitted, he acknowledged that the incident  
3           did occur at the time. That is the reason why he  
4           proceeded with this.

5                   My position, --

6                   ADMINISTRATIVE JUDGE YOUNG: Was that  
7           letter put in the personnel file?

8                   THE WITNESS: I don't know what they did  
9           with the letter, you have to talk with human resources  
10          whether they put it in his file, you have to talk with  
11          them.

12                   BY MR. MARQUAND:

13                  Q       Well, you certainly sent it both to Ben  
14          Easley and James E. Boyles, both of who --

15                  A       That is what I was directed by human  
16          resources to do.

17                  Q       To human resources officers?

18                  A       Well, Ben Easley was a part of, that is  
19          what he directed to be done.

20                   ADMINISTRATIVE JUDGE YOUNG: Ben Easley or  
21          Boyles?

22                   THE WITNESS: Ben Easley, we worked with  
23          him on this matter.

24                   BY MR. MARQUAND:

25                  Q       So you went ahead and documented this, and

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1 put it in his file, even though there was no  
2 investigation?

3 A This was what the agreement of the group  
4 was to do, at that time, and to resolve the matter.

5 Q Well, when you read through this --

6 ADMINISTRATIVE JUDGE YOUNG: Stop, stop  
7 one second.

8 So you went and put it in his file?

9 THE WITNESS: I --

10 ADMINISTRATIVE JUDGE YOUNG: Hold on.

11 THE WITNESS: Okay.

12 ADMINISTRATIVE JUDGE YOUNG: Try to listen  
13 to the question, and first answer the question, and  
14 then if you have explanation, give explanation  
15 afterwards.

16 The question started by saying, so you put  
17 it in his file. Did you put it in his file?

18 THE WITNESS: I did not officially put it  
19 in his file.

20 ADMINISTRATIVE JUDGE YOUNG: Did you do it  
21 in any other way?

22 THE WITNESS: No.

23 ADMINISTRATIVE JUDGE YOUNG: Did you  
24 understand that your sending it to personnel would  
25 result in it being put in his file?

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1 THE WITNESS: It could result in putting  
2 it in his file, yes.

3 ADMINISTRATIVE JUDGE YOUNG: So your  
4 understanding was that it would be put in his file?

5 THE WITNESS: It could be put in his file.  
6 I didn't know how the human resources manager was  
7 going to --

8 ADMINISTRATIVE JUDGE YOUNG: Did you have  
9 any understanding, or expectation that --

10 THE WITNESS: I --

11 ADMINISTRATIVE JUDGE YOUNG: Let me finish  
12 my question.

13 THE WITNESS: Yes, okay.

14 ADMINISTRATIVE JUDGE YOUNG: And then try,  
15 let's try to just first answer questions, and then  
16 explain.

17 Did you have any understanding, or  
18 expectation, that the likelihood was that if you sent  
19 it to personnel, or human resources, that it would be  
20 put in his file?

21 THE WITNESS: Yes?

22 ADMINISTRATIVE JUDGE YOUNG: Yes, okay,  
23 thanks.

24 CHAIRMAN BECHHOEFER: Mr. Grover, I have  
25 just a slight follow-up. Did you write any memorandum

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1 following the June 21 meeting, prior to your writing  
2 the June 24th, I believe it was, letter to Mr. Boyles,  
3 or memo to Mr. Boyles?

4 Did you write a memo for you to better  
5 recollect what happened at the June 21, '96 meeting,  
6 for your own files?

7 THE WITNESS: Did I write another  
8 document?

9 CHAIRMAN BECHHOEFER: Memo to files, or  
10 something like that?

11 THE WITNESS: No.

12 CHAIRMAN BECHHOEFER: Prior to your  
13 sending the memo to Mr. Boyles?

14 THE WITNESS: No, sir.

15 ADMINISTRATIVE JUDGE YOUNG: Did you take  
16 notes?

17 THE WITNESS: I may have, I mean, it was  
18 all done in a short period of time, it wasn't a gap.  
19 We had the meetings with the individuals, we sat down  
20 and decided to try to work out here is what we can do  
21 to rectify the situation.

22 And then we subsequently had the meeting  
23 and I wrote, you know, wrote the memorandum that  
24 everyone in that group agreed to do.

25 CHAIRMAN BECHHOEFER: Okay, thank you.

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1 BY MR. MARQUAND:

2 Q Well, in your memorandum you state that  
3 Mr. Harvey acknowledged these incidents did occur, and  
4 today you are telling us that he admitted that they  
5 happened. Is that right?

6 ADMINISTRATIVE JUDGE YOUNG: That he  
7 admitted?

8 BY MR. MARQUAND:

9 Q That he admitted that he did harass Ms.  
10 Landers?

11 A He acknowledged that the incident took  
12 place, the same way I stated in the memorandum.

13 Q Do you have any explanation for why in Mr.  
14 Harvey's charges against you he denies that they  
15 occurred, and stated that he offered to take a  
16 polygraph test?

17 A I don't know why he stated that, you would  
18 have to ask him.

19 Q Now, referring you to Joint Exhibit 22,  
20 that has been identified, of course, and we talked  
21 about it yesterday, as the -- one of the booklets  
22 provided to the selection review board.

23 And I turn to page GG563, and that is of  
24 course the vacant position announcement for the PWR  
25 program manager job. And it shows that the posting

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1 date, that is the date that the job was advertised,  
2 was June 13, '96.

3 Mr. Grover, you were aware, when you  
4 issued your memorandum on June 24th, that this job had  
5 been posted for people to compete on, is that correct?

6 A Yes.

7 Q And you were also aware that the selection  
8 review board had not convened yet to conduct its  
9 proceedings to make the recommendation for that job;  
10 isn't that also correct?

11 A Yes.

12 Q Let's see, you came to TVA in, let's  
13 change the subject. You came to TVA in February of  
14 '94, right?

15 A That is correct.

16 Q As the corporate chemistry manager. What  
17 did you do to try to come up to speed on the chemistry  
18 programs at the three nuclear sites?

19 A What do you mean?

20 Q Well, you didn't come in with a working  
21 knowledge of what was going on at the sites, did you?

22 A No.

23 Q Did you review --

24 A It was several things that I personally  
25 did.

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1 Q Okay.

2 A Talked with the existing staff personnel,  
3 talk with the site staffs, chemistry managers,  
4 reviewed existing documents that existed on current  
5 issues; files, just several things that I looked at  
6 and pursued to get up to speed.

7 Q When you say you reviewed existing  
8 documents on issues at the plant, did you review prior  
9 minutes of the nuclear safety review board regarding  
10 the chemistry program at the sites?

11 A Yes, at times. I don't remember  
12 specifically when. But, yes, I've looked at what was  
13 documented. I don't recall which documents that I  
14 reviewed.

15 Q By the way, when you were at the New York  
16 Power Authority, did they have an organization similar  
17 to TVA's nuclear safety review board?

18 A Yes.

19 Q What did they call it?

20 A It, I don't remember the exact name. It  
21 was --

22 Q Well, it was similar?

23 A Yes, it was similar. Safety review  
24 committee, I can't remember the exact name.

25 Q And what did you understand the function

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1 to be of the nuclear safety review board?

2 A That the --

3 Q TVA's nuclear safety review board.

4 A One of the functions that, I guess, was  
5 related to our interface with them, it involved doing  
6 assessments. I believe they did them on a quarterly  
7 basis, and they would asses the various areas at the  
8 nuclear sites, primarily, the functional areas.

9 Q What is the bottom line rationale for the  
10 existence of a nuclear safety review board, in your  
11 mind?

12 A To review the existing programs and  
13 practices at the various nuclear facilities in  
14 comparison to industry standards, NRC regulations, and  
15 to determine, from a performance standpoint, how well  
16 they were functioning, identifying areas of  
17 deficiencies, and communicating that to the staff of  
18 the responsible organization so that those things can  
19 be corrected.

20 Q And so you did, you would feel it was  
21 important to come up to speed in your new corporate  
22 chemistry job to review the NSRB minutes about the  
23 findings with respect to the various site chemistry  
24 programs?

25 A Yes.

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1 Q Let me show you Joint Exhibits 3 and 4.

2 Do you see that Joint Exhibit 3 is NSRB  
3 minutes for November 20 and 21, 1991 meeting for the  
4 Sequoyah NSRB, do you see that?

5 A Yes.

6 Q Do you see, in the first pages of the  
7 executive summary, of issues, the key issues that the  
8 NSRB found at that meeting, do you see that? The  
9 third paragraph it says, discuss blower key times from  
10 the meeting?

11 A Yes.

12 Q And the very first key item is site  
13 chemistry program. And do you see where it says,  
14 recent findings by site quality assurance, and  
15 corporate chemistry, indicated that significant  
16 problems existed in the Sequoyah chemistry program,  
17 which if not promptly corrected could impact plant  
18 chemistry control. Do you see that?

19 The first sentence under site chemistry  
20 program.

21 A Okay.

22 Q Do you see that?

23 A Yes.

24 Q As you read that, is it apparent that  
25 there are some programmatic deficiencies, or at least

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1 NSRB thought there were programmatic deficiencies in  
2 the Sequoyah chemistry program?

3 A Yes.

4 Q All right. Now, in your review of, and  
5 when you came up to speed as corporate chemistry  
6 manager, did you learn that, in fact, NSRB had  
7 believed there to be some serious programmatic  
8 deficiencies in 1991 at Sequoyah chemistry program?

9 A There were long standing issues, the  
10 minutes that I did review.

11 Q And if you look at Joint Exhibit 4, turn  
12 to the next tab, if you look at Joint Exhibit 4, do  
13 you see that that that is the minutes of the NSRB  
14 meeting for February 19th and 20th of 1992?

15 A Yes.

16 Q And do you see the second paragraph where  
17 it says, discussed below are key items from the  
18 meeting?

19 A Yes.

20 Q And the very first item beneath that it  
21 says: Site chemistry program. Do you see that?

22 A Yes.

23 Q And, again, is it not fair to say that the  
24 NSRB determined that the site chemistry program at  
25 Sequoyah had some long-standing issues, which if not

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1 corrected, could impact chemistry control?

2 A Yes.

3 Q All right. And you learned that, again,  
4 you learned that in your review, in order to come up  
5 to speed as corporate chemistry manager?

6 A Yes.

7 Q All right. Now, if you will turn to Joint  
8 Exhibit 5. Do you see that that is the minutes of the  
9 May 21, and 22 1992 NSRB meeting for Sequoyah?

10 A Yes.

11 Q Again, the first page is an executive  
12 summary, and the first page contains key items from  
13 the meeting. If you will move down the page to the  
14 paragraph headed site chemistry program, do you see in  
15 the fourth line, fourth line of that paragraph where  
16 it says:

17 The corporate chemistry manager was  
18 assigned as a site chemistry manager at Sequoyah to  
19 manage daily activities and implement the chemistry  
20 improvement program. Do you see that?

21 A Yes.

22 Q All right. Did you also learn that in  
23 your review, when you came up to speed on the -- as  
24 the corporate chemistry manager?

25 A I didn't single that out as an item.

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1 Q But you learned that there had been long  
2 standing issues at Sequoyah chemistry, and that TVA  
3 management had taken action to correct those problems?

4 A That is correct.

5 Q Did you not learn that one of the actions  
6 had been to replace Mr. Fiser as a site chemistry  
7 manager?

8 A Not specifically, no. I had seen this  
9 written several times. I mean, we went -- several of  
10 the plants, particular Sequoyah, had went through  
11 several site chemistry managers. I didn't single out  
12 to an individual.

13 Q But when you read this apparently it  
14 didn't make an impression on you that the chemistry  
15 manager had been replaced in order to address those  
16 longstanding problems?

17 MS. EUCHNER: I'm going to object to the  
18 mischaracterization of what the minutes say. They do  
19 not say that he was replaced for that reason. They  
20 say that the chem manager was assigned as the site  
21 chemistry manager to manage daily activities and  
22 implement a program.

23 MR. MARQUAND: Well, thanks, counsel.

24 MS. EUCHNER: Not because the site manager  
25 was not performing well.

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1 MR. MARQUAND: I thank counsel for that,  
2 but that wasn't my question, and I wasn't quoting the  
3 document.

4 ADMINISTRATIVE JUDGE YOUNG: But you were  
5 relying on it for --

6 MR. MARQUAND: I think that is a fair  
7 reading of it, and we've heard an interpretation by  
8 the people to say that is in fact what happened. And  
9 I asked the witness if he didn't gain that  
10 understanding.

11 CHAIRMAN BECHHOEFER: Well, the witness  
12 was not here when the --

13 MR. MARQUAND: I understand that, but we  
14 have to take that into account as well.

15 BY MR. MARQUAND:

16 Q Did you not learn, Mr. Grover, that Mr.  
17 Fiser had been replaced as the site chemistry manager,  
18 in order to fix the longstanding chemistry problems?

19 A No.

20 Q You never learned that?

21 A No.

22 Q Okay. In yesterday's testimony --  
23 referring to yesterday's testimony where you were  
24 asked about a conversation between Dave Voeller, and  
25 Sam Harvey, in which Sam Harvey made a statement to

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1 the effect that he might be working more closely with  
2 Mr. Voeller in the future, do you recall our  
3 discussion about that?

4 A Yes.

5 Q And in your testimony, your direct  
6 testimony, you said that you were, page 1926, you were  
7 disappointed by the conversation, that it complicated  
8 a delicate situation, that in dealing with people's  
9 lives, and their livelihood it is not comfortable,  
10 that it is difficult enough for the process to take  
11 its course.

12 That it further throws a wrench into the  
13 process, and it just makes it more difficult to deal  
14 with.

15 And then at page 1927 you said it was kind  
16 of surprising that he, Sam Harvey, would say something  
17 like that, unless he knew something that we didn't  
18 know, and that you were disappointed that that took  
19 place.

20 That was your testimony yesterday?

21 A Yes.

22 Q In fact, in 1994, no, 1996 when this  
23 reorganization was beginning to take shape --

24 (Pause.P

25 ADMINISTRATIVE JUDGE YOUNG: Do you need

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1 a few minutes? This might be a good time to take a  
2 break.

3 MR. MARQUAND: No, I just need to find the  
4 right piece of paper here.

5 BY MR. MARQUAND:

6 Q March 29th, 1996, did you -- that was the  
7 reorganization in 1996 was under consideration for  
8 some period of time, and everybody was working towards  
9 it, is that right?

10 A I don't understand the time frame that you  
11 are referring to.

12 Q There was a reorganization in 1996,  
13 correct?

14 A That is correct.

15 Q And that reorganization went through three  
16 chemistry and environmental program managers to two  
17 chemistry program managers, correct?

18 A Yes.

19 Q And in fact we saw, a few minutes ago, the  
20 vacant position announcement was posted in June for  
21 that job, correct?

22 A Correct.

23 Q But prior to posting that job, everybody  
24 knew that this reorganization was coming down the  
25 pike, and that there was planning for it, and the

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1 question was, how do we reorganize and reshape the  
2 organization, correct?

3 A Correct.

4 Q And it was up in the air for a long period  
5 of time how many positions there was going to be.  
6 Nobody really knew whether they were going to have a  
7 job or not, right?

8 A Restate your statement, it was up in the  
9 air for a while how many positions were --

10 Q Until June of 1996 nobody really knew what  
11 the new organization was going to look like, correct?

12 A No, that determination to go down to two  
13 chemistry program managers was made before June of  
14 1996.

15 Q When was it made?

16 A I don't recall the exact time, it was made  
17 prior to that, because the PDs had to be put together,  
18 and the posting, and all of that. So it had to be  
19 made before then, because you wouldn't post jobs that  
20 you didn't know how many you were going to fill.

21 Q In March of 1996 the reorganization was  
22 under consideration, wasn't it?

23 A Yes, I don't know when it was initially  
24 announced. That sounds like the time frame.

25 Q Did you have a discussion with Gary Fiser,

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1 on March 29th, a private discussion with him, in which  
2 you said that it was planned now that they would keep  
3 two in our group, but it would be, Ron Grover, and  
4 Chandra?

5 A No.

6 Q You deny it?

7 A Yes. There was no discussion that it  
8 would be -- that I would be kept, and Chandra.

9 CHAIRMAN BECHHOEFER: Would this be a good  
10 break point?

11 MR. MARQUAND: Let me finish with this  
12 document, Your Honor.

13 CHAIRMAN BECHHOEFER: Okay, fine.

14 ADMINISTRATIVE JUDGE YOUNG: This is  
15 something we don't have yet.

16 ADMINISTRATIVE JUDGE COLE: Is that  
17 possible?

18 MR. MARQUAND: There are some pieces of  
19 paper that you don't have.

20 Your Honors, I'm going to have the witness  
21 the document, which we are going to ask everybody to  
22 mark as TVA exhibit 116, TVA 116.

23  
24  
25  
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(Whereupon, the above-referenced to document was marked as TVA Exhibit No. 116 for identification.)

ADMINISTRATIVE JUDGE YOUNG: What were TVA 114 and 115?

MR. MARQUAND: I have premarked those documents, which I anticipate using later, as 114 and 115.

ADMINISTRATIVE JUDGE YOUNG: So the last one was 113?

MR. MARQUAND: Yes.

ADMINISTRATIVE JUDGE YOUNG: I'm not missing any. So this is TVA 116.

BY MR. MARQUAND:

Q Mr. Grover, I have handed you what has been marked as TVA exhibit 116, and I will represent to you that this is a page of Mr. Fiser's planner, from March 29th, 1996.

Do you see the entry under paragraph 5 that says: Ron Grover met with us privately (Chandra joined us later). Ron said that it was planned now that they would keep two in our group, but it would be him and Chandra.

Do you see that?

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1 A I see that written, I didn't state that.

2 Q Do you have any explanation for why Mr.  
3 Fiser would write that?

4 A Well, maybe he misunderstood what was  
5 said. It was always that there would be two left. I  
6 mean, I don't know. If this is his notes, I don't  
7 know.

8 Q If Mr. Fiser perceived that you were  
9 telling him, way in advance, as to who was going to be  
10 selected for the two remaining jobs, is that any  
11 dissimilar, is that any different than Mr. Harvey  
12 prognosticating that he would be selected for the job,  
13 when he told Dave Voeller that he might be working  
14 with him more closely in the future?

15 A I cannot speak for Mr. Fiser, you will  
16 have to discuss that with him. I know what I said,  
17 and I never told him that we were selected for any  
18 jobs.

19 Q I didn't ask you if you said it. I said,  
20 if he had perceived that, that is what he thought was  
21 said, is that any different than what he thought that  
22 Sam Harvey told Dave Voeller about being selected?

23 A I don't know, I can't answer that, you  
24 will have to talk with those parties.

25 MR. MARQUAND: This would be a good time

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1 for a break, Your Honor.

2 CHAIRMAN BECHHOEFER: Ten minutes,  
3 approximately.

4 (Whereupon, the above-entitled matter  
5 went off the record at 2:08 p.m. and  
6 went back on the record at 2:24 p.m.)

7 CHAIRMAN BECHHOEFER: Back on the record.

8 BY MR. MARQUAND:

9 Q Mr. Grover, changing the subject, to an  
10 area that you talked about yesterday, in which you  
11 said that Tom McGrath made a comment about Gary Fiser  
12 to the effect that he didn't think too highly of Gary  
13 Fiser, and then asked you your opinion.

14 Do you recall that subject matter?

15 A Yes.

16 ADMINISTRATIVE JUDGE YOUNG: Could you  
17 give us a little bit of context in terms of the date?

18 MR. MARQUAND: Well, as I recall the  
19 testimony yesterday, it was some time between, I guess  
20 it had to be after Mr. McGrath came into the role of  
21 acting general manager for operations support.

22 BY MR. MARQUAND:

23 Q Would that be correct, Mr. Grover?

24 A Yes.

25 Q And that was in October of '95. Do you

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1 recall any more specifically when he would have made  
2 that comment to you?

3 A No, I do not. And it would seem to me,  
4 I'm not sure, but I thought he was, he didn't come in  
5 until later, the November/December time frame.

6 Q Well, actually his testimony, and it was  
7 a memo from Oliver Kingsley indicating that he was, in  
8 fact, assuming that position in October.

9 A Okay, that is fine, I just didn't recall.

10 Q At some point in time Gary Fiser told you  
11 about the fact that he had a 1993 Department of Labor  
12 complaint, correct?

13 A Pardon me?

14 Q At some point in time Gary Fiser told you  
15 that he had had a 1993 Department of Labor complaint,  
16 correct?

17 A Yes.

18 Q But, in fact, Tom McGrath never informed  
19 you one way or the other, he never indicated to you  
20 whether he was aware that Gary Fiser had had a  
21 Department of Labor complaint, correct?

22 A No.

23 Q No, it is not --

24 A No, he did not mention to me that he had  
25 a Department of Labor complaint.

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1 Q Okay. So all he said to you was, and this  
2 is your, is this your paraphrasing? He didn't think  
3 highly of Gary Fiser.

4 A That is correct.

5 Q Was he referring to his technical  
6 abilities, or him as an individual?

7 A No, he referred to some issues at  
8 Sequoyah, he just made a general statement regarding  
9 his interface with Gary Fiser at Sequoyah.

10 Q Did Tom McGrath ever refer to the fact  
11 that he had asked Gary Fiser to report back on a  
12 matter to him, and that he had not done so?

13 A No.

14 Q But you don't know, when you say that this  
15 conversation with Tom McGrath, referring back to  
16 something at Sequoyah, you don't know what that  
17 situation was at Sequoyah, that he was referring to?

18 A No, I do not.

19 Q And you don't know of any specifics?

20 A No.

21 Q And that is the only time that Tom McGrath  
22 made such a comment to you?

23 A That is correct.

24 Q All right.

25 A As far as I can recall.

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1 Q Is it possible that your recollection,  
2 let's see, Tom McGrath was the acting general manager  
3 of operation support, correct?

4 A That is correct.

5 Q And at some point in time, before Tom  
6 McGrath, John Maciejewski had been the general manager  
7 of operation support, correct?

8 A Yes.

9 Q Is it possible that you are confusing the  
10 two gentlemen, and that at some point in time John  
11 Maciejewski had expressed misgivings about Gary Fiser  
12 to you?

13 A No.

14 Q It is not?

15 A No.

16 Q We will have to return to that subject, I  
17 thought that I had a copy of that document.

18 MR. MARQUAND: Could we go off the record  
19 for a minute, please?

20 CHAIRMAN BECHHOEFER: Off the record.

21 (Whereupon, the above-entitled matter  
22 went off the record at 2:32 p.m. and  
23 went back on the record at 2:33 p.m.)

24 CHAIRMAN BECHHOEFER: Back on.

25

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1 BY MR. MARQUAND:

2 Q I'm going to hand you a page from Mr.  
3 Fiser's planner, which we are going to mark as TVA  
4 exhibit 116.

5 CHAIRMAN BECHHOEFER: We just did.

6 ADMINISTRATIVE JUDGE YOUNG: It is 117.

7 MR. MARQUAND: 117, I'm sorry.

8 (Whereupon, the above-  
9 referenced to document was  
10 marked as TVA Exhibit No. 117  
11 for identification.)

12 ADMINISTRATIVE JUDGE YOUNG: Had you  
13 intended to offer 116 into evidence?

14 MR. MARQUAND: Not through this witness,  
15 I'm not sure he is the right person to authenticate  
16 it. Mr. Fiser will be here, and we will offer it  
17 then.

18 BY MR. MARQUAND:

19 Q Mr. Grover, I've handed you TVA exhibit  
20 117. This is, as I said, a sheet from, a copy of two  
21 pages from Mr. Fiser's June 16th, 1994 planner.

22 I would like to refer you to the right-  
23 hand side, paragraph 2. Do you see where it says, Ron  
24 Grover, reductions are coming, going to lose one guy  
25 now, engineering going down to two chemistry, RADCON

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1 numbers 3, includes WCM, 3 RC, 4 (chem and  
2 environmental).

3 Ron expressed concerns that if I  
4 participate in the interviews, that someone may tell  
5 him not to keep me in the reorg. He said nothing had  
6 come down like that, yet, but it could happen. He  
7 asked for my objective in the article, and said it was  
8 purely, and I said it was purely to ensure that the  
9 article was accurate. He advised me to stay out of  
10 it.

11 Do you see that?

12 A I see it.

13 Q Did you have a conversation with Mr. Fiser  
14 on June 16th, 1994 in which you said, I don't know  
15 anything that is going to be happening in these  
16 reorganizations, but gee, somebody may tell me not to  
17 keep you in the reorganization?

18 A I don't recall the discussion.

19 Q Does this refresh your recollection that  
20 it may have happened?

21 A No. I can't speak for the notes that were  
22 taken here.

23 Q Do you deny that you told him that?

24 A Told him what?

25 Q That this reorganization was coming, and

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1 that you didn't have anything, nobody told anything  
2 like this yet, but somebody may tell him not to keep  
3 him in the reorganization.

4 A No, I didn't specifically state that. I  
5 discussed reorganization with everyone.

6 Q You deny telling Mr. Fiser what he has  
7 written down here?

8 A You will have to ask him. I don't  
9 understand his intent. He would have to explain what  
10 his intent was.

11 Q There was a --

12 ADMINISTRATIVE JUDGE YOUNG: You said you  
13 didn't say anything --

14 THE WITNESS: I did --

15 ADMINISTRATIVE JUDGE YOUNG: Listen. You  
16 said you didn't say anything specifically. Did you  
17 say anything generally, like what this describes?

18 THE WITNESS: Well, first of all I don't  
19 recall this specific discussion. Through all the  
20 reorganization, when I met with everyone I explained  
21 to them, here is what I was told, here is what is --  
22 if one day --

23 ADMINISTRATIVE JUDGE YOUNG: Okay. Does  
24 this ring a bell, in terms of --

25 THE WITNESS: No.

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1 ADMINISTRATIVE JUDGE YOUNG: -- any  
2 discussion at all, like this, in any way?

3 THE WITNESS: No.

4 ADMINISTRATIVE JUDGE YOUNG: Okay.

5 BY MR. MARQUAND:

6 Q So you just don't recall it?

7 A No.

8 Q But it could have happened?

9 A What?

10 Q This conversation.

11 A We could have had a discussion, but I  
12 don't recall these statements being made.

13 Q Mr. Grover, there is a distinction saying  
14 I just don't remember, and it could have happened. Or  
15 just saying, flat out, I deny that it ever happened.

16 My question to you is, you say I don't  
17 remember this. But my question then is, but it could  
18 have happened, as Mr. Fiser documented on June 16th of  
19 '94? I mean, that is eight years ago, I don't expect  
20 you to remember everything he said, or that you said.

21 But my question is, isn't it possible that  
22 you could have told him this?

23 A No.

24 Q You don't think it is possible?

25 A No.

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1 Q Do you have any idea why Mr. Fiser would,  
2 in fact, write this down in his planner, if it is not  
3 true?

4 A Well, you will have to ask him, maybe he  
5 interpreted it that way. I know, for a fact, that  
6 there was a lot of discussions about the reduction, it  
7 went back and forth, we were going to keep three, we  
8 were going to keep one, we are going to get rid of  
9 chemistry altogether.

10 That went on. And as I got information  
11 back from my superiors, I communicated that to the  
12 individuals. I had no information that says that I  
13 could not keep one individual versus the other.

14 Q So it is your testimony that you think  
15 that Mr. Fiser is not an accurate note taker?

16 A I can't tell you what his -- I did not  
17 communicate that specific statement. Now, you will  
18 have to discuss that with him, and get his own  
19 understanding of what was said, if that is what was  
20 said, or whatever he said in this statement, what his  
21 intent was. I didn't communicate that.

22 Q There is a reference in here to an  
23 article. Do you know what this article, what this  
24 refers to?

25 A What article?

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1           Q       In this paragraph 2, that I read you, from  
2           Mr. Fiser's entry on June 16th, '94, it says: He  
3           asked my objective, for my objective in the article.  
4           Do you see that? There is a reference to an article.

5           A       I don't know what article.

6           Q       If I told you that there had been some  
7           articles in the newspaper referencing his prior  
8           Department of Labor complaint, would that refresh your  
9           recollection that you had a discussion with him about  
10          some statement he made that appeared in a newspaper  
11          article?

12          A       No, I never seen any articles regarding  
13          his case.

14                   ADMINISTRATIVE JUDGE YOUNG: Did you  
15          expect that one was going to come out in the paper?

16                   THE WITNESS: Well, I don't understand  
17          your question. Do you mean --

18                   ADMINISTRATIVE JUDGE YOUNG: Did you have  
19          any expectation that there might be an article in the  
20          paper?

21                   THE WITNESS: During this time frame?

22                   ADMINISTRATIVE JUDGE YOUNG: Right.

23                   THE WITNESS: No.

24                   ADMINISTRATIVE JUDGE YOUNG: So when he is  
25          talking about an article, you have no idea what that

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1 means?

2 THE WITNESS: I don't know what article  
3 they are referring to, that he is referring to in this  
4 discussion.

5 ADMINISTRATIVE JUDGE YOUNG: Do you know  
6 of any articles?

7 THE WITNESS: No, I never read any  
8 articles on Gary Fiser.

9 BY MR. MARQUAND:

10 Q And where it says, the very last entry on  
11 paragraph 2, he advised me to stay out of it,  
12 referring to the articles, you deny that you told him  
13 to stay out of the newspaper, or any issues regarding  
14 any articles that came up about him?

15 A I didn't recall any discussion on any  
16 articles. I never reviewed any articles on Mr. Fiser.  
17 So I don't understand this statement.

18 Q Fine. I would like to -- I have my  
19 documents now that I have copied, Your Honor, and I  
20 want to turn your attention back to -- I had started  
21 to ask you about John Maciejewski.

22 I'm going to hand you a document marked  
23 TVA exhibit 118. Mr. Grover, TVA exhibit 118 is a  
24 copy of Mr. Fiser's planner pages for June 30th, 1994.  
25 And I would like to direct your attention to the

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1 right-hand column, paragraph 1.

2 Do you see where it says, Ron said my name  
3 came up in a meeting with J and John Maciejewski. He  
4 said that he expressed misgivings about me, and that  
5 he had turned it around by telling him how hard I had  
6 been working, about turning around Watts Bar chemistry  
7 image, with NRC, and SRB, etcetera.

8 That I was working long, hard hours, and  
9 that the people at Watts Bar were very pleased with  
10 the work that I had been doing.

11 Do you see that?

12 A Yes.

13 Q Does this refresh your recollection that  
14 you had a discussion with John Maciejewski in which he  
15 had expressed misgivings about Gary Fiser?

16 A This, I don't recall the specific  
17 conversation. But we had frequent conversations about  
18 our groups and the individual program manager's  
19 performance at the sites, based on where we were with  
20 the programs, and the problems we were having at  
21 Sequoyah and Watts Bar.

22 So it could have very well have been  
23 discussed.

24 Q When John Maciejewski expressed misgivings  
25 to you about Gary Fiser, he was acting, he was in the

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1 position of manager of operations support?

2 A That is correct.

3 Q And that is the same position that Tom  
4 McGrath held, when you claimed that Tom McGrath made  
5 a similar statement about Gary Fiser?

6 A Well, it wasn't a similar statement.

7 Q Well, it was expressing -- in one case  
8 John Maciejewski said he had misgivings about Gary  
9 Fiser, and in another situation you said, you claimed  
10 that Tom McGrath said that he didn't think too highly  
11 of Gary Fiser.

12 A Well, I don't --

13 Q Those are similar, aren't they?

14 A You are making the assumption that these  
15 exact words were said. John Maciejewski and I had  
16 several discussions because of the fact that we had a  
17 number of problems at Watts Bar, they were under  
18 scrutiny, they had a lot of assessments being  
19 performed, there was a lot of pressure to get that  
20 site up, and get initial, get it initially licensed to  
21 get it up, okay?

22 So comments were made frequently as to our  
23 involvement, as far as helping turn around the  
24 program. So in this context, that is the way that --  
25 now, it may be personalized because Gary Fiser is the

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1 lead at Watts Bar.

2 It may be personalized because Sam Harvey  
3 is the lead at Sequoyah. But I had responded by here  
4 is what we are doing, here is where we are, and our  
5 involvement in helping to try to turn that situation  
6 around.

7 To me that is not the same as the comment  
8 that was made by Tom McGrath.

9 Q In the 1996 time frame was there some  
10 project that your group was working on called COM, an  
11 acronym?

12 A COM?

13 Q COM.

14 A I don't recall that acronym.

15 Q Yesterday you testified that Gary Fiser  
16 told you at one point in time that he had been asked  
17 to leave the RADCHEM, radiological control and  
18 chemistry group manager peer group meeting, where he  
19 was serving in your stead.

20 Do you recall that?

21 A Yes.

22 Q And you later asked about, I don't know  
23 who you said you asked, but you said that you were  
24 told that these managers were getting ready to discuss  
25 sensitive personnel issues.

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1 Do you recall that?

2 A Yes.

3 Q And these managers, let's see, these  
4 individuals were John Corey, Jack Cox, Charles Kent,  
5 and Wilson McArthur, correct?

6 A I don't know who attended the meeting.

7 Q But the RADCHEM peer group consists of  
8 those individuals, is that correct?

9 A That is correct.

10 Q And you are not a member of that group,  
11 correct? You were not a member?

12 A Yes, I was a member.

13 Q Of the RADCHEM, not the CHEM peer group.

14 A No, the RADCHEM meeting.

15 Q You were the chemistry control manager,  
16 not the RADCHEM manager.

17 A That is true, but I was a part of, that is  
18 the reason why Mr. Fiser went in my stead, because I  
19 couldn't make the meeting.

20 Q All right. Those individuals are senior  
21 managers, correct?

22 A That is correct.

23 Q And Mr. Fiser was a PG8?

24 A That is correct.

25 Q They, from time to time, they would

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1 discuss staffing, or prospective personnel matters,  
2 wouldn't they?

3 A That is correct.

4 Q Matters which were still not publicly  
5 announced?

6 A That is correct.

7 Q And those points in time, from time to  
8 time, those would be confidential discussions, limited  
9 to the RADCHEM managers?

10 A Or his representative. All the members  
11 had other individuals attend in their stead in various  
12 occasions. Mr. McArthur had Jim Flannigan, say for  
13 example, attend in his stead. Or they may have the  
14 chemistry managers stand, or the RADCON manager from  
15 their site, on their staff, attend.

16 So they would be a part of whatever was  
17 being discussed, they would be a part of that  
18 discussion.

19 Q Do you know if the RADCHEM managers had  
20 ever before had a peer group meeting in which they  
21 discussed confidential personnel issues, and they  
22 asked some substitute to leave the room while they had  
23 such a discussion?

24 A I'm not aware of that.

25 Q It could have happened and you don't know?

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1           A       It could have been, if I wasn't at a  
2 meeting, and it could have happened.

3           Q       Now, let's turn to the 1996  
4 reorganization. In 1996 you were initially told of  
5 the reorganization, you were told by Tom McGrath?

6           A       Could you repeat the question?

7           Q       The 1996 reorganization, before it first  
8 happened, were you told it was going to happen, and  
9 given directions by Tom McGrath?

10          A       I was told by Tom McGrath, not personally,  
11 it was in a staff meeting.

12          Q       A staff meeting. Did he give, in that  
13 staff meeting, did he give directions as to how he  
14 wanted his staff to assist him in putting together  
15 this reorganization?

16          A       Yes, he gave some initial directions on  
17 how to proceed.

18          Q       At the outset he didn't give you a short  
19 term goal, did he?

20          A       Well, as I recall he announced a short  
21 term goal. Whether it was in the first meeting, or  
22 the second meeting, but the initial meeting he  
23 announced the goal. Because his goal was established  
24 by his superior, it filtered down.

25                   I don't know who originated it, but he did

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1 specify a goal, as I recall.

2 Q Did he lay out criteria, besides budgetary  
3 criteria?

4 A Well, when you say other than budget, what  
5 do you -- basically all the criteria is tied to the  
6 budget.

7 Q Didn't have any criteria about anything  
8 else?

9 A I don't recall the documents that he, I  
10 don't -- the main focus was budget and head count.  
11 Now, if you've got a copy of the document that he  
12 issued in that initial meeting, I don't know.

13 ADMINISTRATIVE JUDGE YOUNG: What was the  
14 second, budget and --

15 THE WITNESS: Head count, or personnel,  
16 which ties to the budget.

17 BY MR. MARQUAND:

18 Q Do you recall when Diane Benson  
19 interviewed you on December 18th, 1998?

20 A Yes.

21 Q And referring to page 33 of the transcript  
22 of that interview, do you recall this question being  
23 asked, and this answer being given? And this is  
24 talking about the selection of Wilson McArthur.

25 Before he was selected for this position,

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1           how did you find out that this position was going to  
2           be combined? Answer: At the -- Tom McGrath called a  
3           series of meetings up front to talk about, well, we've  
4           got reorganization, reorganize.

5                       He laid out some criteria initially. Here  
6           is what I'm looking at, and the way functions, this,  
7           that, and the other.

8                       One of the things, one of his criteria was  
9           that we were going to combine these two groups to come  
10          up, and then just have one manager for these two  
11          groups. That was known up front at one of his, put  
12          out from one of his meetings.

13                      Do you recall that question being asked,  
14          and that answer being given?

15                      A       Yes, if it was stated there, yes.

16                      Q       Does that refresh your recollection that  
17          Mr. McGrath had criteria, other than budget and head  
18          count, such as functions, that he wanted the  
19          organization to perform?

20                      A       That he wanted, what functions did he?

21                      Q       He wanted the reorganization to be shaped  
22          around the functions that the organization had to  
23          perform.

24                      A       Yes.

25                      Q       Now, initially Mr. McGrath, at some point

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1 Mr. McGrath indicated that overall the organization,  
2 and that is corporate had to reduce by 40 percent over  
3 a period of years, isn't that correct?

4 A Yes.

5 Q And that overall, that it had to be, could  
6 be approached with a certain minimum being met in  
7 1997, isn't that also correct?

8 A That is what I recall.

9 Q Did he ever indicate to you that each  
10 component organization, though, had to follow that  
11 plan in lockstep, but rather that it was meant to be  
12 a measurement for the entire organization?

13 A It was communicated that each individual  
14 organization go back and individually lay out a plan  
15 to meet that objective.

16 ADMINISTRATIVE JUDGE YOUNG: So by that do  
17 you mean that he said each individual group would try  
18 to aim for a certain percentage the first year, a  
19 certain identical -- well, the same percentage as each  
20 other, each year, leading up to 40 percent in three  
21 years, was it?

22 THE WITNESS: I don't remember the time  
23 frame, three to five years, I can't remember the  
24 exact.

25 ADMINISTRATIVE JUDGE YOUNG: But was your

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1 answer intended to say that he told the people in the  
2 meeting that each group was to cut back by so much,  
3 like 17 percent the first year?

4 THE WITNESS: No, ma'am.

5 ADMINISTRATIVE JUDGE YOUNG: Or that it  
6 was an overall 17 percent?

7 THE WITNESS: That is right. Here is the  
8 objective for the multi-year goal. We had to reach 40  
9 percent, let's use four years. I don't remember the  
10 exact --

11 ADMINISTRATIVE JUDGE YOUNG: So what Mr.  
12 Marquand said about the, it was an overall objective,  
13 and each group was not expected to approach it  
14 identically?

15 THE WITNESS: No, well, it was --

16 ADMINISTRATIVE JUDGE YOUNG: Is that right  
17 or not?

18 THE WITNESS: No. Yes, I understand your  
19 question. Each group had a mandate to achieve the 40  
20 percent over that specified period of time. Let's use  
21 four years, for example.

22 Now, how each --

23 ADMINISTRATIVE JUDGE YOUNG: But they were  
24 not expected to do it the same way?

25 THE WITNESS: No. Now, how you got there,

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1 you had to lay that out yourself. You may get there  
2 in one year.

3 ADMINISTRATIVE JUDGE YOUNG: So they were  
4 not expected to do it the same way?

5 THE WITNESS: That is correct.

6 ADMINISTRATIVE JUDGE YOUNG: Okay.

7 THE WITNESS: But you had, the initial  
8 plan was to do it, everybody had to have the same  
9 endpoint when you came to the end of the period.

10 ADMINISTRATIVE JUDGE YOUNG: Right.

11 THE WITNESS: You may have said, I will do  
12 it in year 2, 3, 4, or I will do it all initially.  
13 That was the way it was set up.

14 BY MR. MARQUAND:

15 Q I want to make sure that I understand  
16 this. He wasn't telling you that chemistry has to  
17 reduce by 17 percent, just to pick an arbitrary  
18 number, and that RADCON has to reduce by 17 percent,  
19 and that steam generators has to be reduced by 17  
20 percent, was he?

21 A When you say 17 percent, are you saying  
22 for that one year?

23 Q Yes, just accept that as an arbitrary  
24 number for the first year.

25 A No. Here is the objective, 40 percent in

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1 say, 4 years.

2 Q For all of TVA Nuclear Corp?

3 A No, he -- yes, that was for all, but he --  
4 it was communicated that each group, now to meet the  
5 40 percent, you had to get to 40 percent, RADCON had  
6 to get to 40 percent, training had to get to 40  
7 percent, in that specified period of time.

8 That is the way it was initially  
9 communicated.

10 Q So you understood that each component  
11 organization had to meet those goals, not that just  
12 the overall organization had to meet those goals?

13 A That is right, that is how it was  
14 originally communicated, as I understood it.

15 Q Did you later understand, or was your  
16 understanding later corrected that what he intended  
17 was to say that the entire organization had to be  
18 reduced by a certain amount, and some organizations  
19 might be reduced by more than others?

20 A No, that was changed after we got into it,  
21 after we had the first round of submittals, then his  
22 direction changed. And, well, I don't, you know, I  
23 want this group more than 40 percent, I want to keep  
24 this organization intact, and so that was his, you  
25 know, that was his prerogative, that was his

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1 direction.

2 He was always --

3 ADMINISTRATIVE JUDGE YOUNG: You are  
4 saying that is not the way he was going, or that was  
5 the way he was going?

6 THE WITNESS: No, after the first  
7 iteration --

8 ADMINISTRATIVE JUDGE YOUNG: Did you say  
9 the word not in what you just said?

10 THE WITNESS: I don't understand.

11 ADMINISTRATIVE JUDGE YOUNG: Can you read  
12 back what he just said? I didn't understand whether  
13 there was a not in there.

14 (Whereupon, the requested portion of the  
15 tape was played back.)

16 ADMINISTRATIVE JUDGE YOUNG: Okay, so in  
17 that description you gave, you were saying that that  
18 was what he was directing you to do?

19 THE WITNESS: The initial direction was 40  
20 percent.

21 ADMINISTRATIVE JUDGE YOUNG: No, I'm  
22 talking about your answer, just now, that we played  
23 back. You gave a description, this group was supposed  
24 to do so much, this group -- were you describing what  
25 Mr. McGrath told you to do?

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1 THE WITNESS: No, I'm saying once we  
2 submitted our initial submittals, we had an initial  
3 round, here is how our initial submittal, how we were  
4 going to reach that objective of 40 percent within,  
5 say, that four years.

6 Then once Mr. McGrath reviewed those  
7 submittals we had follow-up meeting. The next follow-  
8 up meeting was, well, I want to change, instead of you  
9 achieving 40 percent in this period of time, I want  
10 you to meet this percentage, or maybe, here is where  
11 I want you to get to.

12 And recognize, with these submittals, we  
13 had to justify, it was a package, you had to justify  
14 what you did, what each job function did, that sort of  
15 thing.

16 So he made a determination, once he got  
17 the original submittals, no, I think we can cut, I  
18 think we can achieve more of a cut in this group, but  
19 I want to keep this function. That was his decision  
20 to make.

21 So it was an evolving type process, but he  
22 made the determination. He may have felt that, well  
23 this is our department goal, division goal, but I see  
24 -- well, I think we can cut more than that, we can  
25 reduce more than that, based on my review of your

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1 package.

2 So he interjected what he wanted to see.  
3 And then he got group specific. I think -- is that  
4 what your question was? It got group specific after  
5 the first iteration.

6 ADMINISTRATIVE JUDGE YOUNG: Go ahead.  
7 Maybe it will clear itself up. Let me just see if I  
8 understood.

9 You said that after the first go-round  
10 there were additional meetings, and that those  
11 meetings he would give varied advice to different  
12 groups, or the same exact --

13 THE WITNESS: Yes, ma'am.

14 ADMINISTRATIVE JUDGE YOUNG: Ne would give  
15 varying advice to different groups?

16 THE WITNESS: Well, specific feedback on  
17 what he wanted to see. To give you an example,  
18 training, training stayed intact. Their corporate  
19 training organization stayed intact. I know they  
20 didn't have to experience little or no reduction in  
21 their budget or head count.

22 Other groups may have gotten reduced by 40  
23 percent, or 70 percent.

24 ADMINISTRATIVE JUDGE YOUNG: So in these  
25 meetings he was giving suggestions on how this group

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1 might proceed, how this group might proceed, how  
2 another group might proceed, and they weren't  
3 necessarily the same, they could be different?

4 THE WITNESS: That is correct, but he  
5 didn't necessarily do it in the full forum, he would  
6 give you your response back and say, here, here are  
7 some comments, I want you to change.

8 Then when we come back together, okay,  
9 let's present the next round. You may have gotten  
10 your input from a individual group basis, and not in  
11 the whole setting.

12 ADMINISTRATIVE JUDGE YOUNG: Okay.

13 THE WITNESS: Because typically we had  
14 settings where we were reviewing the next revision.  
15 Come with your latest revisions and we will look at  
16 them.

17 ADMINISTRATIVE JUDGE YOUNG: Okay.

18 BY MR. MARQUAND:

19 Q So based on your initial understanding,  
20 you decided, your initial understanding was, I only  
21 have to reduce my organization by 17 percent, and all  
22 I have to do is send him a proposal reducing my  
23 organization for next year by 17 percent, is that  
24 correct?

25 A No, my initial understanding was that 40

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1 percent was, that was the objective, over whatever  
2 that period was. So we were tasked with coming up  
3 with a plan to achieve that end.

4 Q Right.

5 A Now, whether it was 17 percent the first  
6 year, I don't recall what the intermediate steps were  
7 to get to that 40 percent. Now, it could have been 17  
8 percent, but it wasn't communicated to me, up front,  
9 that you have to shoot for 17 percent the first year.

10 Everyone was tasked with the same  
11 objective initially, when it was initially discussed.

12 Q Let me return to your deposition in  
13 January of 1998. And in that deposition, beginning at  
14 page 33, line 20. Do you recall these questions being  
15 asked, and this answer being given?

16 Under that first initial scenario how do  
17 you envision staff cuts or meeting those goals in your  
18 department? Answer: Well, as I recall the first  
19 submittal for 19, I know 19, you know, if we are  
20 looking through the year 1997, '98, we were able to  
21 meet, you know, a certain percent reduction.

22 You know, in my recollection we may have  
23 been given a certain percentage that we had to reduce  
24 by fiscal year 1997. It may have been like 17  
25 percent, or something like that.

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1 In fact, now that I remember it was some  
2 number, some intermediate number like we want to see  
3 a 17 percent for the first year, something like that.

4 Do you recall that question being asked,  
5 and that answer being given?

6 A I mean, it is there, I don't recall it  
7 specifically.

8 Q Does that refresh your recollection that  
9 at least in 1998 you were told that your initial  
10 target was to reduce by 17 percent?

11 A No, the first year?

12 Q Yes.

13 A Well, that may be what it -- that may be  
14 how it broke down. But that wasn't the overall  
15 objective.

16 ADMINISTRATIVE JUDGE YOUNG: He is asking  
17 about just the initial year.

18 THE WITNESS: The initial year?

19 ADMINISTRATIVE JUDGE YOUNG: Did he give  
20 you a specific year for the initial year?

21 THE WITNESS: I don't recall, it may have  
22 been given, it may have resulted in that when we did  
23 the first iteration, but I don't recall that. I don't  
24 recall a specific percentage for the first year.

25

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1 BY MR. MARQUAND:

2 Q Now, in reducing your budget would you  
3 agree that as a corporate organization you had very  
4 little capital expense in your organization, is that  
5 right?

6 A That is correct.

7 Q Little or none, is that right?

8 A Some, but other than using computers, that  
9 sort of thing, little or none.

10 Q And so your primary expense was salaries  
11 and benefits?

12 A Travel.

13 Q Travel for the individual employees?

14 A Right.

15 Q You don't have a lot of other expenses?

16 A That is correct.

17 Q And I mean, basically the corporate  
18 chemistry program is overhead to the sites, correct?

19 A State that again?

20 Q The corporate organization constitutes the  
21 overhead for the operation of the nuclear plants?

22 A That is correct.

23 CHAIRMAN BECHHOEFER: Are you referring to  
24 a functional analysis, or a budgetary analysis?

25 MR. MARQUAND: Well, I don't know, I'm not

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1 an accountant, I couldn't tell you, Your Honor. I  
2 guess it is budgetary, I don't know.

3 BY MR. MARQUAND:

4 Q I mean, the corporate organization doesn't  
5 produce any power, doesn't generate any electricity?

6 A That is correct.

7 Q All right. So other than some basic  
8 office expenses, as you said, travel and office  
9 support, and things like that, there is not a whole  
10 lot you can reduce in your budget without reducing  
11 personnel?

12 A That is correct.

13 Q Now, in your initial proposal to Mr. --

14 A Well, can I add to that?

15 Q Go ahead, yes.

16 A At the time we had a significant amount in  
17 the budget for studies that we had to have some  
18 consulting work. I don't have a copy of the budget at  
19 that time, but that could have been a significant  
20 piece of it, as well.

21 Q Now, your initial proposal to Mr. McGrath  
22 on how to accomplish the reorganization of chemistry,  
23 you didn't propose reducing any of your staff, isn't  
24 that correct?

25 A The initial proposal?

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1 Q Yes. The initial proposal for fiscal year  
2 '97.

3 A For fiscal year, for that part, portion of  
4 '97?

5 Q Your proposal didn't include the reduction  
6 of any personnel?

7 A If I recall correctly, it did not.

8 Q So your proposal to him was to do the bare  
9 minimum to reduce your budget, to meet whatever goal  
10 he had given you for the first fiscal year, is that  
11 right?

12 A The proposal was to meet the objective  
13 that was laid out. Now, we were, I submitted as  
14 proposal to achieve that, along with other managers in  
15 the organization.

16 Q Now, and my question is, you did the bare  
17 minimum to meet what you perceived to be the budgetary  
18 criteria for that first year, is that right?

19 A I don't -- what do you mean by bare  
20 minimum? Did we cut the budget down to --

21 Q You didn't propose to cut any personnel,  
22 and --

23 ADMINISTRATIVE JUDGE YOUNG: I think he  
24 agreed to that.

25 MR. MARQUAND: All right, Your Honor.

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1 BY MR. MARQUAND:

2 Q In connection with this, isn't it true  
3 that you also encouraged the people that worked for  
4 you to go to the sites and to get the RADCHEM  
5 managers, and their counterparts at the sites to lobby  
6 Tom McGrath to retain as many positions as possible in  
7 chemistry?

8 A Let me -- not exactly. What I asked the  
9 staff to do --

10 Q Can you answer that yes or no, and if you  
11 need to then explain it?

12 A No.

13 Q No, you did not do that?

14 A Well, yes. Now, you want me to explain?

15 Q Yes, you did do that?

16 A Yes. I asked them to go to the sites,  
17 yes.

18 Q Okay, go ahead and explain it.

19 A All right, and we've done this before, and  
20 this wasn't for this specific instance, I've always  
21 directed the program managers to communicate, or to  
22 stay in touch with their site counterparts and the  
23 RADCHEM managers, and I stated to them, as we've gone  
24 through reductions before, the final decision on  
25 positions and what the final organization that is

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1 left, and those positions associated, the sites will  
2 have the final say.

3 And your counterparts at the site, and  
4 your RADCHEM manager will have the input on that. So  
5 it is up to you to make sure that you are in touch  
6 with your counterpart, because it is going to be based  
7 on performance.

8 So it behooves you to communicate and keep  
9 him informed on what is going on, and the direction  
10 that we've been given as far as reorganization is  
11 concerned.

12 CHAIRMAN BECHHOEFER: Performance of what?

13 THE WITNESS: Of the individual, of how  
14 his performance relative to how he has provided  
15 support to his respective site in the program.

16 CHAIRMAN BECHHOEFER: I see, each  
17 individual?

18 THE WITNESS: That is correct, from my  
19 staff, you know, because they've got the ultimate say.

20 CHAIRMAN BECHHOEFER: By the way, when you  
21 set out your, when you referred to the first iteration  
22 of your plan, did that plan cover only the first  
23 fiscal year, or did it define any objectives for the  
24 second and the third fiscal years?

25 THE WITNESS: It included all that, you

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1 know, it included all the years involved, and the  
2 total percentage in reduction that we had to achieve.

3 And with that came, we had to justify what  
4 we did. So it was a package. You know, we had to go  
5 through, and we had to justify here is what we do. So  
6 the reviewer, the reviewing manager who has to make  
7 the decision on the package says, okay, he is going to  
8 have to make an assessment, here is what they are  
9 doing for the sites, and it was reviewed by the sites,  
10 and they concur with it.

11 We had to work with our counterparts to  
12 develop that. And based on what is left, you know,  
13 they justified, this work justifies these tasks that  
14 they perform, or have to perform, or are currently  
15 performing, justifies these many people.

16 CHAIRMAN BECHHOEFER: So did your first  
17 iteration of the plan envisage staff reductions for  
18 any of the forthcoming fiscal years?

19 THE WITNESS: Yes, sir.

20 CHAIRMAN BECHHOEFER: So you projected  
21 that eventually there would be?

22 THE WITNESS: Yes, sir. That was the only  
23 way we would be able to meet that objective, we had to  
24 reduce staff.

25 CHAIRMAN BECHHOEFER: All right. But just

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1 ont the first year?

2 THE WITNESS: Not the first year.

3 CHAIRMAN BECHHOEFER: All right, thank  
4 you.

5 THE WITNESS: Can I add to that?

6 CHAIRMAN BECHHOEFER: Certainly.

7 THE WITNESS: If we had an individual in  
8 that vacant position, then we would have lost a  
9 physical person. We lost a physical position, but not  
10 a physical person.

11 CHAIRMAN BECHHOEFER: To go one step  
12 further, if the position was filled at the time with  
13 an acting, whatever it would be, would that position  
14 then be lost, or would that be considered filled?

15 THE WITNESS: If it was, the positions is  
16 an approved position in the budget with dollars  
17 associated with it. Now, if someone is acting in that  
18 position, and that position was determined to be lost,  
19 and that individual would physically be removed from  
20 that, you know, as far as the budget process was  
21 concerned.

22 So you actually look at what was approved,  
23 and what is physical in your budget. So whether  
24 someone is in there on an acting basis, or not, you  
25 can't -- unless that position could have stayed,

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1 because that wasn't one that was targeted. Maybe you  
2 targeted another position versus that one, because you  
3 want to keep that particular position.

4 BY MR. MARQUAND:

5 Q Mr. Grover, I've handed you a document  
6 which is marked TVA exhibit 119, and it is a copy of  
7 Mr. Fiser's March 25, 1996 planner. If you will refer  
8 to the second paragraph.

9 Do you see where it says Ron's staff  
10 meeting, and then it talks about, about the second  
11 line it says: We have to cut budget fiscal year '97  
12 15 percent down to 17 percent down; 2001 40 percent  
13 down. He wants two summary plans for 17 percent down  
14 in '97, 40 percent down for 2001.

15 Summarize first cut by Monday, identify  
16 our mission, primary function, what we must do as a  
17 minimum number if people and their level they should  
18 be at. All something, bullets address safety --

19 Address safety, reliability, regulatory,  
20 maintain proper, I can't read that, establish  
21 developmental positions in the org. We are not  
22 policemen, don't do their -- combine Wilson and Ron,  
23 combine RADCON and chem, separate SG organization.

24 Do you recall a staff meeting in March 25  
25 of 1996 in which you informed your staff of the

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1 upcoming reorganization and the budgetary cuts, and  
2 that identifying the mission and the primary  
3 functions, and the criteria, that the mission should  
4 address?

5 A I recall having several meetings. I don't  
6 recall this specific meeting on this specific date.

7 Q Do these items sound familiar to you?

8 A Yes.

9 Q And then a few days later, we've already  
10 talked about this document, March 29th, TVA exhibit  
11 116, you should have it there. If you look at  
12 paragraph 3, do you see where it says: Ron Grover met  
13 with Chandra, Sam, Deidra, Tresh and me.

14 He said everything budget wise was up in  
15 the air, he advised Chandra, Gary, and me, to get in  
16 touch with, I can't read that, their RADCHEM managers,  
17 and have them talk with the VP (Ike) and have the VPs  
18 call McGrath and help us keep McGrath from slashing  
19 our group.

20 Do you see that?

21 A I don't know where you --

22 Q Paragraph 3, TVA exhibit 116, March 29th.

23 A I don't have that, I don't think I have  
24 that exhibit. I have 117.

25 ADMINISTRATIVE JUDGE COLE: Is this

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1 exhibit 116?

2 THE WITNESS: I have 118 and 119.

3 ADMINISTRATIVE JUDGE YOUNG: It is March  
4 29th.

5 THE WITNESS: Oh, here it is, okay.

6 BY MR. MARQUAND:

7 Q You see that under paragraph 3?

8 A Yes.

9 Q All right. And, in fact, you were  
10 encouraging your employees to solicit the chem  
11 managers, and the other vice presidents to pressure  
12 McGrath into not, quote, slashing the chemistry group?

13 A I did not communicate that in that way.

14 Q Do you watch --

15 A You want me to respond? I can.

16 Q Do you watch the television show survivor?

17 A No. May I make a statement to correct --

18 CHAIRMAN BECHHOEFER: Yes, please, do.

19 THE WITNESS: What I communicated was,  
20 what I tried to allude to before, it is important for  
21 what we want, what I ultimately wanted to happen was  
22 for our group, and specifically the program managers,  
23 to get the proper credit for what they had done.

24 If they've done a good job, then that  
25 needs to be communicated back through the organization

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1 to corporate. This has been done through several  
2 reorganizations. They routinely solicit the sites to  
3 identify what type of support they are getting from  
4 corporate.

5 So I impressed upon them to make sure that  
6 you are well represented. If you are doing a good job  
7 you need to make sure that your site counterparts  
8 communicate that, because as these discussions go on,  
9 the ultimate question comes up, well what kind of  
10 support are you getting from this individual, or this  
11 organization?

12 That is what serves as a basis for making  
13 the ultimate cut. So I just said, make sure you  
14 communicate that. That was my whole intent of asking  
15 them to make sure they are in touch, and they  
16 communicate, if they are doing a good job, whatever  
17 their performance level is, make sure it is  
18 communicated to them, so that they will be up to speed  
19 on what they are responding to.

20 BY MR. MARQUAND:

21 Q Well, now, when you tell these people go  
22 out and make sure you are getting credit, for the  
23 people you work with, for your accomplishments, that  
24 is something that would be pertinent if, in fact, they  
25 are having to apply on jobs, and they want to be

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1 credited for the work that they had done.

2 Whether they get credit for that work  
3 could also be pertinent to whether the chemistry  
4 organization serves a necessary function to the sites.

5 And my question to you was, you were  
6 asking them to lobby management at the sites, and the  
7 VPs, so that the chemistry organization wouldn't be  
8 cut?

9 A No, I said to lobby to make sure it is  
10 communicated -- okay, you are taking what was said  
11 here as those are my works, okay? That is the way Mr.  
12 Fiser had put it.

13 But I've always stated to them to make  
14 sure your counterparts know what you are doing, what  
15 contribution you are making, okay? And that should be  
16 communicated because the question is going to come, to  
17 them ultimately, what is the chemistry organization,  
18 what type of support are you getting from them?

19 So you want to make sure they fully  
20 understand what you are doing, and let them know that  
21 we are going through a reduction process, and these  
22 questions are going to come up.

23 ADMINISTRATIVE JUDGE YOUNG: Let me just  
24 interject something and try to clarify. I think we  
25 are sort of going in circles, and am not, myself, real

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1 clear on what additional point you are trying to make  
2 on this line of questioning.

3 MR. MARQUAND: I think the point is that  
4 the Staff's position is, well, Mr. McGrath didn't have  
5 to cut the organization the way he did it. That he  
6 could have done something else, that management could  
7 have made some other management decision.

8 And they are saying, well, he didn't have  
9 to cut anybody the first year. Or maybe he didn't  
10 have to cut it the way he did it. Well, first of all,  
11 there is a legal argument involved as to somebody  
12 second-guessing what management does. We can address  
13 that later.

14 But the second point is, as Mr. McGrath's  
15 already testified, and he has testified what he was  
16 seeking to achieve. And all we are trying to elicit  
17 from Mr. Grover is the fact that he was only proposing  
18 to do the bare minimum.

19 He wasn't proposing to cut any budgets in  
20 an organization that is driven, he wasn't proposing to  
21 cut head count in an organization's budget that is  
22 driven solely by salaries and benefits.

23 And that --

24 ADMINISTRATIVE JUDGE YOUNG: I think it is  
25 clear that he was trying to save as much, in terms of

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1 money and positions, in his group.

2 MR. MARQUAND: Well, that wasn't his job.

3 ADMINISTRATIVE JUDGE YOUNG: That is an  
4 argument, though. Don't you think you've gotten that  
5 point out?

6 MR. MARQUAND: Thank you.

7 ADMINISTRATIVE JUDGE YOUNG: We understand  
8 that he was trying to save as many positions, and as  
9 much money as he could in his group?

10 MR. MARQUAND: Thank you.

11 ADMINISTRATIVE JUDGE YOUNG: And he has  
12 admitted that.

13 MR. MARQUAND: I understand that, Your  
14 Honor.

15 CHAIRMAN BECHHOEFER: And beyond that, at  
16 least I understand, he had a multi-year plan in which  
17 eventually he did anticipate some reductions.

18 MR. MARQUAND: Well, I understand that he  
19 had that plan, but I'm not sure that that plan  
20 coincided with what Mr. McGrath had in mind for the  
21 organization. Whether that multi-year plan met the  
22 criteria that Mr. McGrath wanted to have in place.

23 ADMINISTRATIVE JUDGE YOUNG: Since I  
24 started this, let me clarify something.

25 I am not intending to encourage you or

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1 anyone else to engage in argument over what should, or  
2 should not be. All I was asking was, are you trying  
3 to establish anything other than Mr. Grover tried to  
4 save as much money, and as many positions as he could  
5 in his division?

6 And that has been pretty clearly  
7 established several times over. And if we need to go  
8 through it more, I'm failing to understand why,  
9 because we do sort of want to move on as efficiently  
10 as possible.

11 MR. MARQUAND: Yes, Your Honor.

12 BY MR. MARQUAND:

13 Q Turning to the subject you discussed  
14 yesterday about the possibility of Sam Harvey  
15 transferring to Sequoyah, do you recall that subject?

16 A Yes.

17 Q All right. It is true, is it not, that  
18 you went -- we established yesterday that you went and  
19 talked to Ben Easley, and he told you there were two  
20 ways an individual could be moved from corporate  
21 organization to the site organization, isn't that  
22 correct?

23 A Yes.

24 Q And in fact the two ways were the position  
25 could be transferred out there, in which case the

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1 individual could be transferred with the job, if it  
2 meant certain criteria, isn't that correct?

3 A That is correct.

4 Q And the other way is if the site had a  
5 vacancy the site could post the vacancy and advertise  
6 the job for competition, isn't that correct?

7 A Well, yes, but that didn't have anything  
8 to do with the transfer. I mean, the site could have  
9 done that at any time.

10 Q Correct, but the site chose not to  
11 advertise any vacancies, didn't it?

12 A That is correct. But let me try to  
13 clarify.

14 Q I haven't asked a question.

15 A Oh, okay.

16 Q My next question is, you were informed  
17 that Mr. Harvey, and his position, could not be  
18 transferred from corporate, because it was a corporate  
19 position, to the site, consistent with the regulations  
20 that TVA follows, weren't you?

21 A No.

22 ADMINISTRATIVE JUDGE YOUNG: Informed by  
23 whom, did you ask?

24 MR. MARQUAND: I didn't ask him by who.

25 ADMINISTRATIVE JUDGE YOUNG: Okay.

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1 BY MR. MARQUAND:

2 Q Mr. McGrath never told you that that could  
3 not be done consistent with applicable regulations?

4 A No.

5 Q And Mr. Easley never told you it couldn't  
6 be done, is that correct?

7 A No.

8 ADMINISTRATIVE JUDGE YOUNG: Your answer  
9 is no, it is not correct?

10 THE WITNESS: No, I was no, no to I was  
11 told that it couldn't be done.

12 ADMINISTRATIVE JUDGE YOUNG: You were not  
13 told by either Mr. McGrath, or Mr. Easley, that that  
14 could not be done?

15 THE WITNESS: That is correct.

16 ADMINISTRATIVE JUDGE YOUNG: Okay.

17 BY MR. MARQUAND:

18 Q And they never, neither one told you that  
19 that could not legally be done?

20 A No.

21 ADMINISTRATIVE JUDGE YOUNG: Neither one  
22 told you that that could not be legally done, that is  
23 correct, right?

24 THE WITNESS: From a human resources  
25 standpoint, yes, ma'am.

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1 BY MR. MARQUAND:

2 Q Mr. Grover, I've handed you a copy of a  
3 page of Mr. Fiser's planner dated May 7, 1996. Let me  
4 direct your attention to paragraph 2.

5 Do you see where it says: Ron Grover told  
6 me that he had visited with Sam out at Sequoyah  
7 yesterday. He said Sam's job was up in the air, they  
8 were probably trying to do something illegal.

9 He said Sam may not have a job, and that  
10 they would have to post the one he is interested in.  
11 Do you see that?

12 A Yes.

13 Q Does that refresh your recollection that  
14 you at least told Gary Fiser that the attempt to  
15 transfer Sam to Sequoyah was probably illegal?

16 A No.

17 Q Further on down in the page, further on  
18 down at the same paragraph, do you see where it says  
19 he also said McGrath was probably going to use this  
20 opportunity to rewrite the PDs, such that he could  
21 keep Sam and get rid of me. He wants to do this  
22 because of the NRC concerns I raised in the past. He  
23 said McGrath had a very low opinion of me, I told him  
24 the feeling was mutual.

25 Do you recall telling, speculating to Gary

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1 Fiser that McGrath was probably going to use this  
2 opportunity to rewrite PDs and get rid of Gary, and  
3 keep Sam?

4 A I did not specifically say that, I don't  
5 recall this particular conversation. But it was known  
6 that when Mr. McGrath didn't agree with moving, or  
7 proceeding on with that job transfer, if you will, of  
8 Mr. Harvey going out to Sequoyah, I mean we all  
9 discussed, there was discussion about they've talked  
10 to each other.

11 So I don't know what was actually said  
12 amongst individuals, but it wasn't a secret of what  
13 went on.

14 Q It wasn't a secret --

15 A Of how this transpired, because Sam would  
16 openly discuss it with other people as well. So I  
17 don't know who discussed what, or when, or where.

18 Q As far as you know Sam wasn't privy to the  
19 decision Mr. McGrath made about not transferring him  
20 to Sequoyah, correct?

21 A Well, yes, he was.

22 Q He was present?

23 A No, he wasn't present, but I communicated,  
24 I had to communicate to the parties involved that Mr.  
25 McGrath didn't approve proceeding forward with that

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1 particular transfer.

2 Q The discussion was between you and McGrath  
3 about Sam transferring to Sequoyah, right?

4 A Pardon me?

5 Q Just you and McGrath were present when  
6 McGrath --

7 A That is correct.

8 Q Nobody else was present?

9 A That is correct.

10 Q So to the extent that anybody has  
11 knowledge of that, it is you telling Sam, or you  
12 telling Grover, or you telling Kent and Rich, that Sam  
13 is not going to transfer to Sequoyah, correct?

14 A That is correct.

15 Q So if Gary Fiser has this impression, that  
16 McGrath was probably going to use this opportunity to  
17 rewrite the position descriptions, to get rid of Fiser  
18 and to keep Harvey, somehow it came through you,  
19 didn't it?

20 A Not necessarily, no. I mean, I --

21 ADMINISTRATIVE JUDGE YOUNG: Is it  
22 possible that Mr. Fiser in writing this down,  
23 characterized maybe not your exact specific words, but  
24 the general tenor of a conversation between you and  
25 him?

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1 THE WITNESS: Yes ma'am.

2 ADMINISTRATIVE JUDGE YOUNG: Okay.

3 THE WITNESS: No question about that at  
4 all.

5 ADMINISTRATIVE JUDGE YOUNG: Okay.

6 THE WITNESS: And I did not deny  
7 communicating this couldn't happen, and it was  
8 approved. So I communicated that to him.

9 BY MR. MARQUAND:

10 Q In this sentence, in this entry it says:  
11 He, McGrath, wants to do this because of the NRC  
12 charges I raised in the past. Do you see that?

13 A (No verbal response.)

14 Q You told us earlier that McGrath never  
15 told you that he was aware of Fiser's Department of  
16 Labor complaint, correct?

17 A Wait a minute, this statement, if I  
18 understand it correctly --

19 Q He wants to do this because of the NRC  
20 charges I raised in the past. Do you see that?

21 A Yes, I see that.

22 Q All right. As far as you knew McGrath had  
23 no knowledge of any charges Fiser had ever raised in  
24 the past?

25 A I didn't state that. I didn't know what

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1 Mr. McGrath knew, I just --

2 Q That is fine, as far as you knew, you  
3 didn't know one way or the other, you didn't know what  
4 McGrath knew?

5 A Well, I can only go on what Mr. McGrath  
6 stated to me.

7 Q Well, did he say that he knew of any NRC  
8 charges?

9 A No, he alluded to the issues that were  
10 raised out at Sequoyah when he was with the NSRB.  
11 Now, that could encompass NRC, I don't know what all  
12 that was involved with that.

13 Q But you did not --

14 A But typically if it is NSRB, it is usually  
15 NRC issues related to it, because they addressed all  
16 those issues, INPO, NRC, their own findings.

17 ADMINISTRATIVE JUDGE YOUNG: When I asked  
18 my question before --

19 THE WITNESS: Yes, ma'am?

20 ADMINISTRATIVE JUDGE YOUNG: -- I want to  
21 clarify something. I was referring to everything that  
22 was written here. Was your answer intended to  
23 encompass everything that is written on this TVA  
24 exhibit 120?

25 THE WITNESS: As far as his interpretation

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1 of what I may have responded?

2 ADMINISTRATIVE JUDGE YOUNG: As far as  
3 your having a discussion with Mr. Fiser that imparted  
4 this general information, all of it that is written  
5 down here.

6 And your answer was, yes. Did you  
7 understand, when you said yes, that I was talking  
8 about everything that is written here, not just one  
9 sentence?

10 THE WITNESS: Well, I --

11 ADMINISTRATIVE JUDGE YOUNG: I just want  
12 to make sure what you meant when you said yes.

13 THE WITNESS: Well, when you explained it,  
14 you mentioned that he -- what you -- he may have  
15 interpreted what you said because of all that was  
16 going on, and he categorized it in this way, but not  
17 necessarily I stated it exactly this way?

18 ADMINISTRATIVE JUDGE YOUNG: Right.

19 THE WITNESS: And I said yes. You know,  
20 I did go back, and I did have discussions with all of  
21 the individuals, and informed them of where we were.  
22 I always tried to keep them informed what was taking  
23 place.

24 ADMINISTRATIVE JUDGE YOUNG: Okay. And so  
25 with regard to your discussion, or discussions with

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1 Mr. Fiser, even though you don't remember the exact  
2 words, and what is written here may not reflect your  
3 exact specific words --

4 THE WITNESS: Right.

5 ADMINISTRATIVE JUDGE YOUNG: -- that all  
6 of what is written here is something that he  
7 reasonably could have drawn from your discussion with  
8 him.

9 When I asked that before I meant  
10 everything that was written there, and then  
11 subsequently individual sentences were referenced, and  
12 so I just wanted to make sure what your answer to me,  
13 earlier, meant.

14 Did it encompass all of that, or just part  
15 of that?

16 THE WITNESS: It would encompass all of  
17 it, except for the NRP issue about the NRC. I didn't  
18 -- I know there was concerns, but with him writing it,  
19 and he knows it was NRC concerns, he may have -- that  
20 is the way he characterized it.

21 ADMINISTRATIVE JUDGE YOUNG: Okay.

22 BY MR. MARQUAND:

23 Q Let me change the subject to the issue of  
24 the selection review board that met in 1996. And  
25 yesterday we were talking about the various questions

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1 that the SRB posed to the candidates.

2 And one of the questions was whether or  
3 not the SRB should ask questions that cover the  
4 breadth of the area of expertise a chemistry program  
5 manager would need, okay?

6 In your opinion should the SRB ask  
7 technical questions that cover all those areas of  
8 expertise?

9 A In my opinion, what do you --

10 Q Yes.

11 A I would say you can't ask questions to  
12 cover every specific technical area. You try to ask  
13 those key ones so that you are covering the main  
14 areas, okay?

15 But, I mean, you can stay in one area and  
16 ask a bunch of technical questions, but you try to at  
17 least cover all the bases, the main functional areas  
18 that they are going to be responsible to provide the  
19 support, and technical expertise to the site.

20 And generally align with the plant, and  
21 the plant systems, the type chemistry you have. You  
22 have primary chemistry, you have secondary chemistry,  
23 you have feedwater chemistry, raw water chemistry.

24 But you try to ask those key questions,  
25 and then you ask questions associated with current

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1 issues, the current problems that you are working on.

2 Q I'm going to show you Joint Exhibit -- TVA  
3 exhibit 24 in volume 1.

4 ADMINISTRATIVE JUDGE YOUNG: Is this the  
5 same as another one, or --

6 MR. MARQUAND: This is the one we've  
7 talked about. I just have a brief question on it.

8 ADMINISTRATIVE JUDGE YOUNG: Is this  
9 similar to Joint Exhibit 22?

10 MR. MARQUAND: No. This is the 1994  
11 selection package for the chemistry environmental  
12 program managers, when they were --

13 ADMINISTRATIVE JUDGE YOUNG: Okay.

14 MR. MARQUAND: The one that Mr. Grover --

15 BY MR. MARQUAND:

16 Q Mr. Grover, you were the selecting  
17 official for this particular selection, weren't you?

18 A Yes.

19 ADMINISTRATIVE JUDGE YOUNG: This is the  
20 one you referred to earlier?

21 MR. MARQUAND: We talked about this  
22 yesterday.

23 ADMINISTRATIVE JUDGE YOUNG: All right.

24

25 BY MR. MARQUAND:

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1 Q If you will turn to page HH9.

2 A HH9?

3 Q Yes.

4 A Do you know what tab that is under?

5 Q Look under tab 24, TVA exhibit 24.

6 A Okay.

7 ADMINISTRATIVE JUDGE YOUNG: Bottom right  
8 hand side.

9 THE WITNESS: I didn't know what tab it  
10 was in. Okay, all right.

11 BY MR. MARQUAND:

12 Q Are you at page HH9?

13 A Yes.

14 Q Are those the questions that you put  
15 together for the selection review board to ask the  
16 candidates?

17 A We collectively put those together. Let  
18 me say, I specifically made the final list up, but I  
19 got input from the sites.

20 Q Which of those questions cover key  
21 technical areas a program manager would need to know?

22 (Witness reviews document.)

23 BY MR. MARQUAND:

24 Q Would you agree there are no technically  
25 oriented questions in that list?

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1           A       Well, there are, but it is somewhat  
2 indirect.

3           Q       They are no different than the ones in  
4 1996 that asked people to describe their strengths, or  
5 what particular projects they worked on, are they? Is  
6 that right?

7           A       What was your question again? I was just  
8 reading the questions.

9           Q       These questions are no different in nature  
10 than the questions asked in -- that we looked at in  
11 1996?

12          A       Yes, they are similar questions.

13          Q       But there is none that are specifically  
14 directed at any areas, key areas of technical  
15 expertise, are there?

16          A       A specific question on primary chemistry,  
17 secondary chemistry, no. Unless question 8 -- well,  
18 8 would be.

19          Q       It kind of depends on how you answer it,  
20 doesn't it?

21          A       Well, it would have to be in one specific  
22 area. I mean, it does indirectly, but it is not a  
23 pointed for a specific technical area. And really  
24 question number one was intended for that same  
25 purpose, because you are discussing your background.

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1 Q So those are general questions that could  
2 get into key areas of technical expertise, is that  
3 right?

4 A They would definitely get into key areas,  
5 particularly question one.

6 Q Background and work experience?

7 A Right. Yes, that is what I'm saying. So  
8 instead of asking you would say, okay, here is what my  
9 background is, so you would talk what your background  
10 is, what your work experience, and you would get into  
11 those areas where you have expertise.

12 Q So if you've got expertise in primary  
13 chemistry, radio chemistry, or secondary chemistry --

14 A Right.

15 Q -- those would come out in number 1?

16 A Yes, I would expect that they would come  
17 out in number one, and it would come out in number 8.

18 Q Would they come out in number 2?

19 A It could.

20 Q -- projects and --

21 A It could, it could. But they are not  
22 pointed questions, if that is what you are asking.

23 Q They are not pointed questions, but they  
24 certainly --

25 A -- would come out.

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1 Q -- candidate raise those --

2 A It would have to come out based on the way  
3 the questions are worded.

4 Q Now, if you would look at Joint Exhibit  
5 22. If you would turn to page GG422. Those are the  
6 questions that were asked in 1996 for the PWR program  
7 manager job chemistry.

8 Would you agree that similarly questions  
9 1, 3, 11, certainly allowed a candidate to discuss  
10 their background in the area of primary chemistry and  
11 radio chemistry?

12 A If he brought that up, yes.

13 Q All right.

14 A If that was one of the items that he, like  
15 11, if that was one of the concerns he wanted to talk  
16 about.

17 Q Number 16 would discuss specific  
18 management experience and training in that area as  
19 well?

20 A Yes, he could touch on that.

21 Q So yesterday, turning the subject again to  
22 the issue of Jack Cox's availability to sit on the  
23 SRB, you said yesterday you made a strong  
24 recommendation to McArthur to have equal  
25 representation because each of the candidates had

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1 worked primarily with a different site, who would be  
2 supporting those individuals.

3 Were you aware that Charles Kent had  
4 worked with Gary Fiser in the past?

5 A No.

6 Q Were you aware that Charles Kent had even  
7 sought Gary Fiser out to consider him for a job in the  
8 chemistry Sequoyah organization?

9 A I had heard some conversation about that.  
10 I don't -- I know they were here at TVA together, and  
11 he worked at Sequoyah, I know there was --

12 Q Were you aware that Rick Rogers had worked  
13 as a peer with Gary Fiser and thought highly of Gary  
14 Fiser when he was at Sequoyah chemistry?

15 A I know that Gary had worked with Rogers.  
16 I don't know the relationship.

17 Q Yesterday there was a discussion about  
18 whether or not the position description for, in 1996  
19 for the radiological control and chemistry manager  
20 job, the job that Wilson McArthur was installed in,  
21 should have been posted.

22 And you went, and correct me if I'm wrong,  
23 you went and talked to Ed Boyles and ultimately Phil  
24 Reynolds about the situation, correct?

25 A That is correct.

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1 Q And they told you that they had done it  
2 correctly, that they didn't think they had done  
3 anything wrong, is that right?

4 A That was the initial response.

5 Q All right. And that they then tell you --  
6 that they had made the determination, that HR had made  
7 the determination to put Wilson McArthur in the job;  
8 that they felt that his job, that he had a right to  
9 the job?

10 A Ed Boyles stated that he made the  
11 decision.

12 Q All right. And did they also tell you  
13 that he held a similar job in the past, or had held  
14 that job in the past as a technical programs manager,  
15 and that because of that they felt that he should be  
16 placed in the job?

17 A They may have mentioned that, I don't  
18 recall that specific statement.

19 Q You don't recall that specific statement?

20 A It may have been mentioned, there were a  
21 lot of reasons mentioned, it may have been mentioned.

22 Q In your interview with the Office of  
23 Investigations, December 18th, 1998, do you recall  
24 this question being asked, and this answer being  
25 given?

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1 Did they have any other explanation to  
2 you, other than, well, we thought that if you didn't  
3 get selected that you would file a complaint? Answer,  
4 well, he sort -- another reason was, well, Wilson was  
5 in the capacity where he had those groups reporting to  
6 him, anyway, before hand. And this was taken away, so  
7 we feel that it was okay to put him in that position.

8 Do you recall that question being asked,  
9 and that answer being given?

10 A I don't recall the question being asked,  
11 but it was documented, and whatever my response was.  
12 Like I said, I don't remember every little excuse, I  
13 mean, it was a number of excuses given, so like I said  
14 before, it could very well have been asked, or  
15 provided as a reason.

16 Q Okay. Yesterday I asked you about the  
17 sequence, and the timing in which you learned that  
18 Wilson McArthur was going to be placed in that RADCHEM  
19 manager's position.

20 And I showed you your request to go to  
21 INPO. And I asked you, in fact, didn't you learn,  
22 prior to your request to go to INPO, that McArthur was  
23 going to be put in that position.

24 Do you recall me asking you that question?

25 A Yes. I recall you asking me that

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1 question.

2 Q And let me again return to the interview  
3 by the Office of investigations, page 16.

4 Question, I do have some specific  
5 questions to ask you about that. But, anyway, so  
6 Wilson McArthur was selected for this new position  
7 with RADCON chemistry environmental. And what did you  
8 get, what were you selected for?

9 Answer: Nothing, no position. Question:  
10 Well, what happened to you at that point? Answer:  
11 Well, what happened, I looked at, started looking at,  
12 you know, some other possible options. I continued to  
13 work along with Wilson, and with the organization, you  
14 know, to help out as much as I could.

15 Plus I was still in support of the plants  
16 and the chemistry organization. I initiated a request  
17 to INPO, the Institute of Nuclear Power Operations, to  
18 go there for a tour as a company representative.

19 Does that refresh your recollection that  
20 at the time that you had initiated the request to go  
21 to INPO, that you already knew that Wilson McArthur  
22 had been selected for the position of radiological  
23 control chemistry environmental manager?

24 A No, because that statement was in context  
25 with a response to what did I do. And I just told him

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1 here are some things I've done.

2 Q The question was, what happened to you at  
3 that point, and you said -- the question in this  
4 interview was, what happened to you at that point.  
5 And you said, I started looking at options, and I  
6 initiated a request to go to INPO.

7 And my question is, doesn't that refresh  
8 your recollection that prior to your request to go to  
9 INPO, that you knew that Wilson McArthur was installed  
10 as a --

11 A When he said, if that is what he worded it  
12 at that point --

13 Q He is you, this is your wording.

14 A No, you said what happened at that point.  
15 That means -- I'm understanding that that is what the  
16 IG was asking me.

17 Q Not the IG, it is the NRC's Office of  
18 Investigations.

19 A Well, whatever group it is or was at the  
20 time, okay? I tried to lay out all the things that  
21 were going on at that time, not -- I wasn't specific  
22 on this date that is what I knew, when he was  
23 selected, that is when I initiated the request to go  
24 to INPO, you can see that the dates don't jive.

25 And I can tell you, for a fact, whenever

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1 he was selected, that was when I was responding, and  
2 challenging HR with that request, or with that  
3 complaint.

4 So I wouldn't wait, I wouldn't have waited  
5 three or four months afterwards, and then made an  
6 issue of it.

7 Q I would like to change the subject to the  
8 issue of Wilson McArthur's mention to you that in the  
9 past Gary Fiser had done some surreptitious tape  
10 recording.

11 When Wilson McArthur told you that, he  
12 didn't suggest that you take any sort of plant action  
13 against Gary for that, did he?

14 A No.

15 Q And he didn't suggest any sort of punitive  
16 action against him for that, did he?

17 A No.

18 Q You didn't take any personnel actions  
19 against him for that, did you?

20 A No.

21 Q Or any sort of other punitive action?

22 A No.

23 Q Now, we are just about done.

24 Did you have discussions with Gary about  
25 whether or not Dave Goetcheus might have an effect on

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1 Gary --

2 ADMINISTRATIVE JUDGE COLE: I'm sorry, I  
3 didn't get the name, sir.

4 MR. MARQUAND: David Goetcheus.

5 ADMINISTRATIVE JUDGE COLE: Okay.

6 BY MR. MARQUAND:

7 Q The impact Dave Goetcheus might have on  
8 his ability to be selected for a job?

9 A I don't recall a specific discussion. We  
10 may have, we discussed issues all the time. I don't  
11 know.

12 Q And, for the record, Dave Goetcheus was,  
13 had an interest in, we talked yesterday about steam  
14 generators at Sequoyah and Watts Bar, correct?

15 A That is correct.

16 Q And one of his interest was in the proper  
17 maintenance of them, and the proper operation of the  
18 plant to prevent corrosion and degradation of steam  
19 generators?

20 A That is correct.

21 Q And in your estimation did Dave Goetcheus  
22 think that any particular, that people in chemistry  
23 provided proper support to the maintenance of steam  
24 generators?

25 A Can you repeat the question? I don't

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1 understand the question.

2 Q Well, maybe I didn't word it properly.  
3 From your observations did Dave Goetcheus seem to  
4 think that certain individuals, or individual in  
5 chemistry was of assistance to the maintenance and  
6 preservation of steam generators?

7 A Did he think that a certain individual was  
8 -- what did you say, again?

9 Q Did he favor somebody in chemistry with  
10 respect to the way that they assisted in the chemistry  
11 program with respect to steam generators?

12 A He favored Sam Harvey, if that is what you  
13 mean.

14 Q Okay. In your estimation did Dave  
15 Goetcheus favor Sam Harvey because he believed that  
16 Sam Harvey had some expertise in the area of secondary  
17 chemistry?

18 A Say that again, I couldn't understand the  
19 question.

20 Q In your estimation did Dave Goetcheus  
21 favor Sam Harvey because he thought that Sam knew what  
22 he was doing in secondary chemistry?

23 A In my estimation he favored Sam Harvey  
24 because he liked him.

25 Q It had nothing to do with Sam's abilities

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1 in secondary chemistry?

2 A He may have felt that he was, because he  
3 worked in the EPRI representative, and that he was the  
4 main guy, or knew the most, so he could work best with  
5 him. I don't know all his reasoning. But he just  
6 liked Sam.

7 Him and Sam were buddies, and they got  
8 along together.

9 Q I've handed you TVA exhibit 121, it is  
10 also a note out of Gary Fiser's planner dated June 29,  
11 1994.

12 Do you see where it says: Ron said  
13 Goetcheus talked to him today about the  
14 reorganization. And the importance of saving, quote,  
15 his favorite employee (Sam).

16 Do you see that?

17 A Yes.

18 Q This refers to the 1994 selection which  
19 Sam, and Gary, and Chandra all had to bid on the new  
20 chemistry and environmental protection manager jobs,  
21 doesn't it?

22 A Yes.

23 Q And was Dave Goetcheus at that point in  
24 time that Sam might lose his job in chemistry?

25 A I don't see, he never communicated that to

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1 me, he just stated that that is -- any time you have  
2 a reorganization everybody is afraid that they are  
3 going to lose their job, if their organization is  
4 affected.

5 So, you know, that is a given.

6 Q Well, Gary's comment is not that you said  
7 you were afraid you were going to lose this job, but  
8 that Dave Goetcheus, the steam generator manager, was  
9 concerned that Sam might lose his job. Is that right?

10 A It very well could be. That was widely  
11 communicated, it wasn't no secret. I mean, Sam was  
12 his guy, and that was his favorite guy. So obviously  
13 there is a concern.

14 ADMINISTRATIVE JUDGE YOUNG: Have you got  
15 much more on cross?

16 MR. MARQUAND: No.

17 (Pause.)

18 ADMINISTRATIVE JUDGE YOUNG: Do you want  
19 to take a few minutes?

20 MR. MARQUAND: No, I don't think I need  
21 to.

22 BY MR. MARQUAND:

23 Q Last subject. Mr. Grover, you are not  
24 employed by TVA any more, is that right?

25 A That is correct.

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1 (Pause.)

2 ADMINISTRATIVE JUDGE YOUNG: If this is  
3 going to take a while, you need to find a lot of  
4 papers, it might be a good time to take a break.

5 MR. MARQUAND: No, I don't, I've got it.

6 BY MR. MARQUAND:

7 Q Mr. Grover, you are aware that the TVA  
8 Inspector General investigated allegations of  
9 misconduct by you, is that correct?

10 A That is correct.

11 Q And that they issued a report in January  
12 25 of 2001, is that correct?

13 A That is correct.

14 Q And that report concluded that you engaged  
15 in misconduct over the course of your employment, is  
16 that correct?

17 A That is correct.

18 Q Did it conclude that you made more than  
19 2,500 unauthorized personal long distance phone calls  
20 from your TVA telephone?

21 A I don't have the report, I don't recall  
22 what the number was.

23 Q But it did conclude that you made a large  
24 number of unauthorized personal long distance  
25 telephone calls?

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1           A       It concluded that I made personal calls on  
2 my TVA phone during business, while I was on business  
3 trips, that sort of thing.

4           Q       And it also concluded that you made a  
5 large number of unauthorized personal calls using a  
6 TVA calling card?

7           A       Yes.

8           Q       Is that correct?

9           A       Well, it was -- that I made calls, it  
10 didn't say that it was unauthorized. That is what  
11 their categorization was.

12          Q       Did it conclude that you engaged in a  
13 pattern of leave abuse in connection with your outside  
14 business activities, and that you were not in leave  
15 status on more than 100 days, while you were traveling  
16 out of state in connection --

17                   ADMINISTRATIVE JUDGE YOUNG: What status?

18                   BY MR. MARQUAND:

19          Q       That you were not in leave status on more  
20 than 100 days while you were traveling out of state on  
21 personal business, or other non-TVA matters?

22          A       It specified a number of days, it alleged  
23 a number of days. I don't know, I don't have the  
24 report, I don't know what the number --

25          Q       Did it conclude that you conducted

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1 personal business during TVA time?

2 A I don't have the report, you would have to  
3 show me the report.

4 Q You don't remember?

5 A It had a lot of allegations. I don't  
6 remember all the allegations that were stated. I  
7 responded to those allegations. Whether they accepted  
8 them or not, that is, you know --

9 Q Did the report find evidence that you  
10 submitted falsified leave slips in the year 2000,  
11 after being questioned by the Office of Inspector  
12 General, about your use of leave during 1998?

13 A Did it say what, again?

14 Q Did the report find evidence that you  
15 submitted falsified leave slips in the year 2000,  
16 after being questioned by the Office of Inspector  
17 General?

18 A No, they made allegations that I did, but  
19 they didn't have evidence.

20 Q Did the report state that you never  
21 submitted a request to TVA management to engage in  
22 outside work activities?

23 A That is what the report stated.

24 Q Did it state --

25 A But there was documentation, multiple

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1 documentation submitted that I was involved.

2 Q Did the report state that you failed to  
3 fully disclose your outside income?

4 A I don't have the report here, I don't know  
5 what the statement said.

6 Q Did the report state that you failed to  
7 disclose outside work activities, liabilities,  
8 transactions, and partnership interests on your  
9 federal financial disclosure forms?

10 A I don't have the report here. They had  
11 the federal financial -- they got the form every year,  
12 everything was fully reported.

13 Q Was the report based on --

14 ADMINISTRATIVE JUDGE YOUNG: Mr. Marquand,  
15 I'm sorry, but I'm going to interrupt you again. I've  
16 got a doctor's appointment today, and I need a break  
17 so that I can move, so that I can pay better attention  
18 to what you are doing.

19 And I keep getting indications from you  
20 that you are almost finished. And it seems that  
21 you've opened up a very big new area. So I'm going to  
22 ask you, again, would now be a good time to break?  
23 Because we need to take a break.

24 MR. MARQUAND: We can take a break.

25 ADMINISTRATIVE JUDGE YOUNG: I want to

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1 hear what you have to say.

2 MR. MARQUAND: That is fine.

3 ADMINISTRATIVE JUDGE YOUNG: Okay, then  
4 let's take a ten minute break.

5 (Whereupon, the above-entitled matter  
6 went off the record at 4:08 p.m., and  
7 went back on the record at 4:21 p.m.)

8 CHAIRMAN BECHHOEFER: Back on the record.

9 BY MR. MARQUAND:

10 Q Before we broke, Mr. Grover, we were  
11 talking about the Inspector General's report, and the  
12 conclusions in the report, the conclusions regarding  
13 the --

14 CHAIRMAN BECHHOEFER: Was that OIG?

15 MR. MARQUAND: TVA Inspector General.

16 CHAIRMAN BECHHOEFER: Yes, TVA.

17 BY MR. MARQUAND:

18 Q The conclusions in the Inspector General's  
19 report regarding your use of TVA telephone, and TVA  
20 calling card, as well as the fact that you were out of  
21 state on a number of days, while you were not on leave  
22 status, was based upon their examination of telephone  
23 records, and the documents of your leave records.

24 Is that not correct?

25 A I don't know, you would have to ask them.

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1 I don't know what their basis was.

2 Q Now, let me -- I put some documents in  
3 front of you. If you would pull the volume that has  
4 TVA exhibit 82 out, and turn to tab 82, please.

5 Tab 82 is an October 6, 2000 memorandum  
6 from Jack Bailey to you, is it not?

7 A Yes.

8 Q And in that memorandum Mr. Bailey placed  
9 you in a non-work pay status after having received a  
10 draft report from the Office of the Inspector General  
11 regarding potential misconduct by you. Is that  
12 correct?

13 A Yes.

14 MR. MARQUAND: Your Honors, I tender TVA  
15 exhibit 82.

16 MS. EUCHNER: Objection, Your Honor. I  
17 don't personally see what the relevance is. And,  
18 second of all, I believe we pointed out in our Motion  
19 to Eliminate, that extrinsic evidence introduced to  
20 prove that Mr. Grover did engage in this behavior is  
21 not admissible.

22 That he could ask him if he did engage in  
23 the behavior, but he couldn't admit any evidence for  
24 it.

25 MR. MARQUAND: I'm not asking if he

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1 engaged in behavior, this just shows that TVA placed  
2 him, took punitive action against him, and this goes  
3 to show his potential bias in this case. And bias is  
4 always admissible and relevant in a case.

5 Whether or not he engaged in the behavior,  
6 this is a punitive action TVA took against him, it  
7 shows that he would have a bias against TVA.

8 ADMINISTRATIVE JUDGE YOUNG: Question. At  
9 the beginning of this hearing I believe that you all  
10 announced that you were going to enter into a  
11 stipulation.

12 MR. MARQUAND: We did.

13 ADMINISTRATIVE JUDGE YOUNG: That is what,  
14 and that is what we had provided in our Order entered  
15 April 17th. And so do you -- are you or are you not  
16 going to enter into a stipulation?

17 MR. MARQUAND: We already did enter the  
18 stipulation.

19 ADMINISTRATIVE JUDGE YOUNG: Well, you  
20 haven't presented it to us.

21 MR. MARQUAND: I believe we did the first  
22 or second day of the Hearing.

23 ADMINISTRATIVE JUDGE YOUNG: Did you?

24 MR. MARQUAND: And it had to do with the  
25 Inspector General's report. This has to do with the

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1 personnel action TVA took against him, and the fact  
2 that they suspended him from work.

3 It goes to affect his bias. We provided  
4 you a Brief on this, and Your Honors ruled that bias  
5 was always relevant, it is always admissible. And  
6 this simply goes to show his bias. Not the fact that  
7 he engaged in the activity, but that TVA took punitive  
8 action against him.

9 ADMINISTRATIVE JUDGE YOUNG: My only  
10 question was, I thought you were going to enter into  
11 a stipulation with regard to all issues relating to  
12 that?

13 MR. MARQUAND: Not with respect to this.  
14 This has to do with the personnel actions TVA took  
15 against him. I don't intend to ask him, did you do  
16 it, or did you not. This simply is, TVA did this to  
17 you, and he has admitted it. I want to put it on the  
18 record, it is there. That is the end of this issue.

19 ADMINISTRATIVE JUDGE YOUNG: Any further  
20 argument?

21 MS. EUCHNER: I will withdraw the  
22 objection so long as he doesn't take it any further  
23 than that.

24 CHAIRMAN BECHHOEFER: TVA 82 is admitted.  
25

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1 (The document referred to,  
2 having been previously marked  
3 for identification as TVA  
4 exhibit no. 82 was received in  
5 evidence.)

6 BY MR. MARQUAND:

7 Q Now, if you would set that exhibit aside,  
8 and turn to the next volume, Mr. Grover. And turn to  
9 TVA exhibit 99.

10 Now, Mr. Grover, this is an October 4,  
11 2000 letter from an attorney employed by you to the  
12 Department of Labor. Is that not correct?

13 A That is correct.

14 Q And attached to his letter is an affidavit  
15 from you. Is that also correct?

16 A Yes.

17 Q This is a complaint you filed against TVA  
18 after having been informed of the draft report by the  
19 TVA Office of Inspector General, is that not correct?

20 A I don't know what the date was of the  
21 draft report. And there was a complaint filed before  
22 that report ever came out, with EEO.

23 Q You filed this -- my question wasn't about  
24 EEO. This is a Department of Labor Energy  
25 Reorganization Act complaint you filed after -- well,

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1 we can --

2 A I don't know the date of --

3 Q You don't know the sequence, all right.  
4 This was one your attorney filed October 4, 2000,  
5 correct?

6 A That was the date of the letter, yes.

7 Q All right.

8 MR. MARQUAND: Your Honor, we tender TVA  
9 exhibit 99.

10 MS. EUCHNER: No objection.

11 CHAIRMAN BECHHOEFER: Without objection,  
12 TVA 99 will be admitted.

13 (The document referred to,  
14 having been previously marked  
15 for identification as TVA  
16 exhibit no. 99 was received in  
17 evidence.)

18 BY MR. MARQUAND:

19 Q Mr. Grover, how long did you know, for how  
20 long a period of time did you know that the IG had you  
21 under investigation?

22 A For what period of time?

23 Q Yes, when did you first learn that they  
24 were investigating you?

25 A If I recall correctly the April time frame

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1 of 1999.

2 Q All right. And at some point they met  
3 with you, and they read you your Miranda rights, and  
4 continued with the investigation, didn't they?

5 A Say that again?

6 Q At some point in time someone from the  
7 Inspector General's office met with you to interview  
8 you, and read you your Miranda Rights.

9 A I don't recall them, unless it is in the  
10 documents, they could have read some rights.

11 Q Mr. Grover, I'm going to share with you my  
12 copy of a Record of Interview that the Inspector  
13 General conducted with you on August 15th, 2000.

14 Do you recall Beth Thomas and Andrew  
15 Derryberry meeting with you at the office of your  
16 attorney, Charles Dupree, here in Chattanooga, on that  
17 date?

18 A Yes.

19 Q And do you see, in the first paragraph  
20 where it says, prior to being interviewed, Grover was  
21 given the Miranda/Garrety warning after which Grover  
22 consented to continue with the interview?

23 A Yes.

24 Q All right. Does that refresh your  
25 recollection that the IG read you your Miranda rights

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1 prior to one of the last interviews with you?

2 A Yes.

3 Q All right. Now, if you would turn to, and  
4 the date of this interview was August 15th, 2000, that  
5 I showed you, is that correct?

6 A If that is what the date -- I don't have  
7 the date, that is what the report said. I didn't write  
8 it, so they wrote it.

9 Q Do you have any reason to disagree with  
10 that?

11 A I would have to go back to my records and  
12 verify that that is the date. That is all I'm saying.

13 Q Now, if you will turn to TVA exhibit 100.  
14 TVA exhibit 100 is an Equal Opportunity Complaint that  
15 you filed with TVA's Equal Opportunity Office, is it  
16 not?

17 A Yes.

18 Q And if you see on the second page, it has  
19 your signature, it is dated December 3, 2000. Is that  
20 correct?

21 Q Yes.

22 Q And if you look at the first page, you  
23 will see where towards the bottom section of the page,  
24 you see where it says: First contact date with EEOC  
25 counselor, or EEOC staff August 23, 2000. Do you see

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1 that?

2 A Yes.

3 Q Is this the complaint you filed, Equal  
4 Employment Opportunity complaint you filed in December  
5 of 2000?

6 A In December of 2000?

7 Q Right. We looked at page 2 where you  
8 signed it --

9 ADMINISTRATIVE JUDGE YOUNG: You don't  
10 mean 2000, do you?

11 MR. MARQUAND: Pardon me?

12 ADMINISTRATIVE JUDGE YOUNG: December of  
13 2000?

14 MR. MARQUAND: December 3, 2000.

15 ADMINISTRATIVE JUDGE YOUNG: Maybe I'm  
16 confused. You just referred to the initial contact to  
17 be August of 2000?

18 MR. MARQUAND: Yes, the process is you  
19 talk to a counselor, and I established the first day  
20 that he has talked to a counselor was August 23, 2000.

21 The complaint itself --

22 ADMINISTRATIVE JUDGE YOUNG: The formal  
23 complaint?

24 MR. MARQUAND: The form complaint is dated  
25 December 3, 2000. But the first contact he ever made

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1 with the EEO office was August 23, 2000.

2 BY MR. MARQUAND:

3 Q Is that correct, Mr. Grover?

4 A I don't --

5 ADMINISTRATIVE JUDGE YOUNG: Where is the  
6 reference to the December date?

7 MR. MARQUAND: The December date is on  
8 page 2, and it is next to his signature where he  
9 signed the complaint. A certified statement is  
10 included in his complaint, true to the best of my  
11 knowledge and belief.

12 ADMINISTRATIVE JUDGE YOUNG: Okay.

13 THE WITNESS: But I initiated the written  
14 complaint back in that initial, during the August time  
15 frame.

16 BY MR. MARQUAND:

17 Q Right. And if you look at page 3 of this  
18 document, which has the letters at the bottom GB1562,  
19 that is called a pre-complaint counseling report.

20 A So what is your -- I don't understand your  
21 question.

22 Q My question is, first of all, since you  
23 apparently don't understand the process, the process  
24 is, for any EEO complaint in a federal sector, is that  
25 you initiate counseling. And the counseling report

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1 begins at page 3 of this exhibit, page GB562. That is  
2 the pre-complaint counseling report.

3 And if you look on that it is dated, it  
4 says date of initial contact August 23, 2000. Do you  
5 see that?

6 A Yes.

7 Q All right. Then the first two pages of  
8 this are the complaint itself. At the conclusion of  
9 counseling an employee is entitled to file a  
10 complaint.

11 And the complaint, the first two pages, is  
12 dated December 3, 2000. Do you see the date on page  
13 2?

14 A Yes.

15 Q All right. And your signature?

16 A Yes.

17 MR. MARQUAND: Your Honors, I tender TVA  
18 exhibit 100.

19 MS. EUCHNER: No objection, Your Honor.

20 CHAIRMAN BECHHOEFER: TVA 100 will be  
21 admitted.

22

23

24

25

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1 (The document referred to,  
2 having been previously marked  
3 for identification as TVA  
4 exhibit No. 100 was received in  
5 evidence.)

6 BY MR. MARQUAND:

7 Q And just to make it clear, a while ago  
8 you, when we talked about your Department of Labor  
9 complaint, you said, well I filed an EEO complaint  
10 before receiving the IG report.

11 In fact, Mr. Grover, that may be true.  
12 However, with respect to TVA exhibit 100 it shows,  
13 does it not, that you initiated counseling, EEO  
14 counseling, 8 days after being read your Miranda  
15 rights by the Inspector General?

16 A If those dates correspond, then that is  
17 fine. But that didn't have anything to do with rights  
18 or no rights.

19 Q We are just establishing the time frame  
20 and the sequence.

21 Now, I would like to show you a document  
22 which I've marked as TVA exhibit 114.

23 Mr. Grover, TVA exhibit 114 is a March 5,  
24 2001 letter from Philip L. Reynolds to you, is it not?

25 A Yes.

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1 Q And it is titled Notice of Proposed  
2 Termination?

3 A Yes.

4 Q In that letter Mr. Reynolds states that he  
5 is proposing your termination after having reviewed  
6 the Office of Inspector General's final report of  
7 misconduct charges against you, doesn't he?

8 A Yes.

9 Q And then he goes through and specifies the  
10 specific findings of misconduct that he is basing his  
11 proposal on, doesn't he?

12 A Yes.

13 MR. MARQUAND: Your Honors, I tender TVA  
14 exhibit 114.

15 MS. EUCHNER: I object to the admission of  
16 this document. This specifically cites, in detail,  
17 what the OIG report found. And that is why the Staff  
18 entered into the stipulation on the OIG report.

19 This basically is a little summary of the  
20 OIG report, and as such the Staff is going to object.  
21 Most of these have already been stipulated to, there  
22 is no need to admit it into evidence.

23 MR. MARQUAND: This, again, goes to show  
24 the personnel action, adverse personnel action that  
25 TVA took against Mr. Grover for his misconduct. It

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1 goes to show bias. We are not proposing to submit it  
2 for credibility.

3 It does make, it says based on the IG  
4 investigation, I find that you engaged in the  
5 following misconduct. These are the findings that  
6 management was accusing him of, reflective on his bias  
7 in this case, and bias is always admissible, and it is  
8 always relevant.

9 (Pause.)

10 MR. MARQUAND: Your Honor, I do not intend  
11 to dwell on this, or even ask any further questions  
12 about it. I simply wanted the record to show his  
13 proposed termination, and the basis for it.

14 It also reflects, it shows misuse of long  
15 distance calling cards, phones, and conduct of  
16 business on personal time. As you recall, we earlier  
17 today discussed TVA exhibit 27, Mr. Harvey's  
18 allegations against Mr. Grover for conducting personal  
19 business on TVA time, and misuse of cellular phones.

20 It goes not only to his bias against TVA,  
21 but his bias against Sam Harvey.

22 MS. EUCHNER: Well, first of all, Your  
23 Honor, I have a proposed stipulation that may assist.  
24 The staff is willing --

25 CHAIRMAN BECHHOEFER: I have one enquiry

1 why this particular exhibit is, would be needed, in  
2 addition to TVA 82, which we did admit.

3 MR. MARQUAND: TVA 82 only deals with his  
4 suspension from work, it didn't deal with his  
5 termination from work.

6 CHAIRMAN BECHHOEFER: But it dealt with  
7 the reasons, and --

8 MR. MARQUAND: Well, 82 doesn't even -- I  
9 mean, 98 -- let's see, this is number 114. This is  
10 a much more severe action TVA was accusing him of.  
11 And it specifically links back to the allegations that  
12 Sam Harvey made against him.

13 ADMINISTRATIVE JUDGE YOUNG: We will allow  
14 it.

15 CHAIRMAN BECHHOEFER: We will let it in,  
16 not necessarily for the truth of the matters, but --

17 MR. MARQUAND: The truth of the matter  
18 that he received a Notice of Termination.

19 MS. EUCHNER: Your Honors, while we are  
20 discussing this, I would just like a clarification  
21 point about what Mr. Marquand is saying about the  
22 complaints that Sam Harvey alleged.

23 Mr. Marquand are you stating that Sam  
24 Harvey was the person who raised this to the IG?

25 MR. MARQUAND: I am not on the witness

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1 stand.

2 ADMINISTRATIVE JUDGE YOUNG: I think that  
3 came out earlier. Is there anything further that you  
4 want to argue with regard to this?

5 MS. EUCHNER: This is of concern to me  
6 because in our interrogatories they didn't respond to  
7 that, they said it was an anonymous concern. So if  
8 they are now going to go ahead and change their story,  
9 and say it was Mr. Harvey, that is a concern to the  
10 Staff.

11 ADMINISTRATIVE JUDGE YOUNG: Well, this  
12 was mentioned earlier, and I can't remember the exact  
13 context, but sometime earlier this afternoon there was  
14 a reference to that.

15 MR. MARQUAND: There was TVA exhibit 27,  
16 where Mr. Harvey made that statement. But to respond  
17 to counsel, as far as I know, I don't know that Mr.  
18 Harvey ever said anything to the IG. He could have  
19 done it anonymously, I don't know the source of the  
20 IG's --

21 ADMINISTRATIVE JUDGE YOUNG: What did you  
22 mean when you said that this shows his bias against  
23 Sam Harvey?

24 MR. MARQUAND: Sam Harvey made this  
25 allegation, raised this allegation against him, which

1 ultimately -- and that same allegation, I don't know  
2 if it was made by Sam, or not.

3 Somebody called into the IG, I don't know  
4 if it was on the hot line, or what.

5 ADMINISTRATIVE JUDGE YOUNG: But what --

6 MR. MARQUAND: And made the allegation --

7 ADMINISTRATIVE JUDGE YOUNG: -- Ms.  
8 Euchner is saying is that they asked you where the  
9 allegation came from, and you said you didn't respond  
10 to that.

11 MR. MARQUAND: That is a totally  
12 extraneous issue. They sent interrogatories to us in  
13 which they wanted to know how the IG, why the IG began  
14 investigating Mr. Grover.

15 And we told them that as far as we knew  
16 the matters that turned the IG on to those  
17 allegations.

18 MS. EUCHNER: And the reason this came up  
19 for the Staff was because of cross examining Mr.  
20 Grover he said, weren't you aware that Mr. Harvey had  
21 complained to the IG?

22 MR. MARQUAND: I did not say that. That  
23 is a misstatement. I said, weren't you aware he had  
24 raised these allegations, in this document to Wilson  
25 McArthur?

1 MS. EUCHNER: And you used the term IG in  
2 that same vein, which is why --

3 MR. MARQUAND: I did not say that Harvey  
4 said it to the IG.

5 MS. EUCHNER: You inferred that --

6 ADMINISTRATIVE JUDGE YOUNG: Okay, okay.  
7 The relevance of the question is, if you were asked a  
8 question on discovery, and you did not provide the  
9 response, then there are potential sanctions for that,  
10 including not allowing the evidence.

11 MR. MARQUAND: We responded to --

12 ADMINISTRATIVE JUDGE YOUNG: Mr. Marquand,  
13 let me finish my sentence.

14 MR. MARQUAND: Yes, Your Honor. I  
15 apologize.

16 ADMINISTRATIVE JUDGE YOUNG: Including not  
17 allowing the evidence that contains the information  
18 that you did not provide.

19 Now, that makes it something that we may  
20 need to look at. If your stipulation covers this,  
21 that is another thing. Obviously I agree with you  
22 that this document is relevant on the issue of bias.

23 I don't think that we should let it in for  
24 the truth of the matters. I think we can probably  
25 move on. But not responding, and supplementing

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1 discovery responses is a problem that counsel can  
2 raise, it is not extraneous.

3 MR. MARQUAND: I understand that, but it  
4 is a misstatement by counsel to say that we didn't  
5 respond. We fully responded. The question to TVA in  
6 the interrogatory answers was, what was the basis.

7 And we provided the entire Inspector  
8 General's file to them, in discovery. And the  
9 Inspector General's file indicates the source of the  
10 allegations that came to the IG, and that began the  
11 IG's investigation.

12 And it indicates we fully responded to  
13 them, which was what turned on the IG. We responded  
14 fully. I don't know that Sam Harvey told, as I said,  
15 it was an anonymous allegation that came to the IG.  
16 I don't know who it was, and I cannot say whether it  
17 was Sam Harvey or not.

18 ADMINISTRATIVE JUDGE YOUNG: I guess that  
19 inference may have been drawn from the earlier  
20 discussion with Mr. Harvey?

21 MR. MARQUAND: Counsel apparently inferred  
22 something that wasn't necessarily intended.

23 MS. EUCHNER: Well, we will be more than  
24 happy to check the transcript tomorrow, when we get  
25 it. But I was fairly certain that he linked Sam

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1 Harvey raising this complaint, and the IG  
2 investigation of Mr. Grover in the same question.

3 And specifically what we asked him on  
4 interrogatory number 4 of our third set, was identify  
5 the individuals who raised the concerns about Ronald  
6 Grover that resulted in the TVA OIG investigation of  
7 Mr. Grover, including but not limited to the  
8 individual who made an anonymous complaint to the OIG  
9 hotline on May 1, 1997.

10 Their response was the anonymous complaint  
11 was made anonymously. In addition Emily Ellison,  
12 former manager of TVA travel and benefits raised a  
13 concern to the OIG that Grover may have received  
14 payments for travel expenses not incurred.

15 Now, yes, they did provide us with the  
16 documents. That doesn't mean that neither Mr.  
17 Marquand or any of the other people who signed didn't  
18 know whether Mr. Harvey was the one who made the  
19 complaint. That simply means that he made the  
20 complaint anonymously.

21 ADMINISTRATIVE JUDGE YOUNG: Well, your  
22 statement that the transcript when we get it tomorrow  
23 will show what was said earlier today, is well taken.  
24 It may be that we could defer ultimate ruling on this  
25 until tomorrow.

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1 Well, we did let it in already, and then  
2 this additional argument was made, I think. Are you  
3 asking us to reconsider?

4 MS. EUCHNER: I'm willing to read and give  
5 Mr. Marquand the benefit of the doubt that he didn't  
6 say it. But us sitting here, we thought he said that  
7 Harvey's complaint resulted in the IG investigation.

8 ADMINISTRATIVE JUDGE COLE: I think that  
9 is what I heard, too.

10 MR. MARQUAND: Well, what I meant to say,  
11 if I didn't say it was, Harvey made those allegations,  
12 and they are the same allegations that were  
13 investigated by the IG. I didn't mean to suggest that  
14 he, because I don't know, that he was Mr. Anonymous  
15 that called the IG anonymously.

16 I don't know that anybody knows that,  
17 other than the person who called.

18 ADMINISTRATIVE JUDGE YOUNG: Are either of  
19 you calling on us to do anything at this point?

20 MS. EUCHNER: No, I just wanted to raise  
21 the point that based on his questioning, he didn't  
22 give us a complete answer to one of our  
23 interrogatories.

24 ADMINISTRATIVE JUDGE YOUNG: All right.  
25 So you are not asking us to do anything with regard to

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1 our last ruling?

2 MS. EUCHNER: No.

3 ADMINISTRATIVE JUDGE YOUNG: Okay.

4 BY MR. MARQUAND:

5 Q Lastly, Mr. Grover, turn to TVA exhibit 98  
6 in that book, please. It is under tab 98.

7 ADMINISTRATIVE JUDGE YOUNG: And you are  
8 going to have to be quick now.

9 MR. MARQUAND: Yes, Your Honor. I think my  
10 questions have been shorter than the objections.

11 BY MR. MARQUAND:

12 Q Mr. Grover, is exhibit, TVA exhibit 98 a  
13 certified letter that was sent to you, dated April  
14 26th, 2001, by Jack Bailey?

15 A Yes.

16 Q In that letter does he indicate that he is  
17 terminating your TVA employment?

18 A Yes, that is what the letter says.

19 Q And in it he terminates your employment  
20 stating that he has reviewed the OIG investigation  
21 file, the information you provided in response, and  
22 then concludes to terminate your employment for a  
23 number of factors, including those outlined in the  
24 Notice of Proposed Termination. Is that correct?

25 A Yes.

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1 MR. MARQUAND: Your Honors, I tender TVA  
2 exhibit 98.

3 MS. EUCHNER: The Staff has no objection  
4 as long as this document is limited to proof of Mr.  
5 Grover's bias, instead of for the truth of the matter  
6 contained in it.

7 CHAIRMAN BECHHOEFER: The board will admit  
8 TVA 98, but not for the truth of the matter stated.

9 (The document referred to,  
10 having been previously marked  
11 for identification as TVA  
12 exhibit No. 98 was received in  
13 evidence.)

14 MR. MARQUAND: Your Honors, I would like  
15 to address that briefly. The caveat that counsel  
16 wants to place on it, not for the truth of the matters  
17 asserted in it, is a hearsay objection.

18 And throughout this proceeding Your Honors  
19 have indicated that hearsay objections are not a valid  
20 basis for exclusion. And when evidence is admitted  
21 into the record, it clearly is admissible for all  
22 relevant purposes.

23 I don't understand the basis for limiting  
24 it, based on a hearsay objection.

25 ADMINISTRATIVE JUDGE YOUNG: Well, before

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1 you say anything further, this is something that we  
2 discussed fairly extensively in the last pre-hearing  
3 conference.

4 And the stipulation was to address all the  
5 factual matters. This is not something that is first  
6 impression in this case. So it sounds as though you  
7 are wanting to go beyond, it is arguable that you are  
8 wanting to go beyond what the stipulation says.

9 And my understanding was that the  
10 stipulation was to take care of all of the factual  
11 matters related to that, the bare factual matters.

12 So correct me if my memory is incorrect.

13 MR. MARQUAND: The stipulation that we  
14 entered into dealt with the report and the matters  
15 contained in the report.

16 MS. EUCHNER: And my objection goes to  
17 relevance. As we noted when we discussed this in the  
18 pre-hearing conference, one of the things we like to  
19 avoid is having a little mini trial on Mr. Grover's  
20 case, which is why we would want it limited.

21 Because I'm sure Mr. Grover, if we asked  
22 him, would probably contest that he should have been  
23 terminated for the reasons stated on the OIG report.  
24 That is the reason why I believe it should be limited,  
25 not because it is hearsay.

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1 ADMINISTRATIVE JUDGE YOUNG: And didn't we  
2 basically discuss that, Mr. Marquand?

3 MR. MARQUAND: I don't know that we  
4 linked, I'm not sure that we really were talking about  
5 the termination versus the issue of the admissibility  
6 of the IG report.

7 Because we, all along, made it very clear  
8 that we thought that his termination from TVA was  
9 relevant and admissible with respect to the issue of  
10 bias. We recognize the objection that they had to the  
11 IG report on the issue of credibility.

12 This isn't the IG report, this is a  
13 termination letter.

14 ADMINISTRATIVE JUDGE YOUNG: All right,  
15 but the termination is based on the IG report. The IG  
16 investigation?

17 MR. MARQUAND: Correct.

18 ADMINISTRATIVE JUDGE YOUNG: So it seems  
19 like you are spiting some pretty fine hairs here, that  
20 as far as this credibility, you were to enter into a  
21 stipulation which you apparently did.

22 And so I guess I'm wanting to hear why do  
23 you want to add that, since you've already stipulated  
24 to?

25 MR. MARQUAND: I'll let it go.

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1 ADMINISTRATIVE JUDGE YOUNG: Okay.

2 BY MR. MARQUAND:

3 Q Mr. Grover, we earlier asked you about the  
4 IG report in which it concluded that you made large  
5 numbers of unauthorized personal long distance phone  
6 calls from your TVA phone.

7 Did you in fact make large numbers of  
8 unauthorized personal long distance phone calls from  
9 your TVA phone?

10 A I made personal calls from the TVA phones.

11 Q Large numbers.

12 Q Well, what do you consider large? Over a  
13 six year period, I don't know what the --

14 Q Over a six year period did you make any --

15 A -- a couple hundred calls a year? I mean,  
16 if you want to get into that, let's pull out the  
17 report and show me the numbers, and we can go line by  
18 line. I don't --

19 Q Did you make a large number of  
20 unauthorized personal calls using your TVA calling  
21 card?

22 A I made personal calls using the TVA card.

23 Q Several hundred per year?

24 A These calls, a large portion of them were  
25 authorized because I was, per TVA policy, I was on

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1 business travel. If you want to get into the  
2 specifics of it, we can.

3 I also, if you recall, since you are well  
4 versed on the report, I made a significant number of  
5 business calls on my personal phone, that was not  
6 accounted for, I did not claim, okay?

7 And that was reflected in my response.  
8 Also in my response was documentation from TVA  
9 allowing personal calls to be made, and the employee  
10 to pay for those calls.

11 This has been a practice since I've been  
12 at TVA. It is documented, you allow that to happen,  
13 to occur. I wasn't aware of the number of calls I  
14 made on my calling card, because we never get the  
15 reports.

16 If I would have got the reports, I would  
17 have rectified the situation, just as if, just as TVA  
18 issues reports for your TVA office phone,  
19 periodically, so people can take care of those  
20 personal matters.

21 If I would have been aware of them, I did  
22 not get -- all my time at TVA I have not received one  
23 report on a personal calling card account. If I had  
24 received that, I would have paid that, corrected that  
25 situation.

1 Q Mr. Grover --

2 A But it does not preclude documented  
3 allowance for people to make personal calls by TVA.

4 Q Were you also --

5 A -- on TVA equipment.

6 Q You also were not on leave status on a  
7 large number of days while you traveled out of state  
8 in connection with your personal business, is that  
9 also true?

10 MS. EUCHNER: Your Honor, I'm going to  
11 object to this, because this is exactly what we did  
12 stipulate to, that was in the OIG report.

13 CHAIRMAN BECHHOEFER: We will take this up  
14 tomorrow morning.

15 MR. MARQUAND: I have this last question.

16 ADMINISTRATIVE JUDGE YOUNG: Pardon me?

17 MS. EUCHNER: Mr. Grover can't be here  
18 tomorrow morning.

19 MR. MARQUAND: Your Honor, I just needed  
20 him to answer that one --

21 ADMINISTRATIVE JUDGE YOUNG: What exhibit  
22 number is the stipulation?

23 MR. MARQUAND: We didn't put a number to  
24 it, that was our fault. But, Your Honor, the  
25 stipulation, that wasn't the point, the point was we

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1 wouldn't be allowed to go into. We could ask him if  
2 he engaged in that conduct. If he said no, that was  
3 the end of it.

4 My question to him is, did you engage in  
5 that conduct, and I want a yes or no answer. That is  
6 all I need, and then I can quit.

7 ADMINISTRATIVE JUDGE YOUNG: You are not  
8 going to get a yes or no answer, Mr. Marquand.

9 MR. MARQUAND: Well, he has already said  
10 that he made unauthorized phone calls.

11 MS. EUCHNER: That is a  
12 mischaracterization. He said he made phone calls, he  
13 also said that they were authorized.

14 MR. MARQUAND: Those were the ones on his  
15 TVA calling cards. The question I asked was from his  
16 TVA telephone, and he said yes, he did, several  
17 hundred a year.

18 THE WITNESS: I didn't say they were  
19 unauthorized.

20 MR. MARQUAND: The last question I have  
21 is, isn't it true that he was not on leave on work  
22 time, while, on a large number of days, while  
23 traveling out of state, in connection with his  
24 personal business, or other non-TVA --

25 THE WITNESS: And that is not true.



1 MR. MARQUAND: Okay, that is all I have.

2 Can Mr. Grover be excused?

3 CHAIRMAN BECHHOEFER: Well, at the moment.

4 I assume that the staff has further questions, follow-

5 up questions.

6 MS. EUCHNER: The Staff has a number of

7 questions, and we've already discussed it with Mr.

8 Grover. I believe he has to go out of town for the

9 rest of the week, so we are going to recall him when

10 we resume in June, so that we can finish with

11 redirect.

12 CHAIRMAN BECHHOEFER: The Board may have

13 a few questions. We are adjourned.

14 (Whereupon, at 4:59 p.m. the above-

15 entitled matter was adjourned, to be reconvened May

16 8th, 9:00 a.m.)

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Watts Bar Nuclear Plant,  
Unit 1, Sequoyah Nuclear  
Plant, Units 1 and 2, Brown  
ferry Nuclear Plant, Units  
1,2,3

Docket Number: 50-390-CivP;  
ASLBP No. 01-791-01-CivP

Location: Chattanooga, Tennessee

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