

Page 1

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION
 BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

APPEARANCES
 BRENT R. MARQUAND, ESQUIRE
 EDWARD J. VIGLIUCCI, ESQUIRE
 Attorneys for the Tennessee Valley Authority
 JENNIFER M. EUCHNER, ESQUIRE
 DENNIS C. DAMBLY, ESQUIRE
 Attorneys for the Nuclear Regulatory Commission

DEPOSITION OF GARY L. FISER
 December 11, 2001

Copyright Bonnie L. Smith, 2001

Page 4

1 The deposition of GARY L. FISER taken by agreement
 2 of counsel, for any and all purposes allowable under the
 3 Tennessee Rules of Civil Procedure, before BONNIE L.
 4 SMITH, Shorthand Reporter and Notary Public in and for the
 5 State of Tennessee at Large, on the 11th day of December,
 6 2001, at the offices of the Tennessee Valley Authority,
 7 Chattanooga, Tennessee.
 8 It is agreed that the reporter may swear the
 9 witness; that she may take the deposition in shorthand,
 10 reduce her notes to typewritten form and sign the name of
 11 the witness thereto.
 12 All objections except as to the form of the
 13 question are reserved until the time of hearing.
 14 Formalities as to caption, certificate and
 15 transmission are expressly waived.
 16 GARY L. FISER
 17 having been first duly sworn, was examined and
 18 deposed as follows:
 19 EXAMINATION
 20 BY MR. MARQUAND:
 21 Q State your name for the record, please.
 22 A Gary Fiser.
 23 Q What is your address?
 24 A [REDACTED]
 25 Q Any particular city?

Page 2

1	I N D E X	
2	WITNESS	PAGE
3	GARY L. FISER	
4	Examination by Mr. Marquand	4
5		
6		
7	EXHIBIT DESCRIPTION	PAGE
8	No. 1 Employee Status and Information	18
9	Record and Temporary Transfer	
	Agreement	
10	No. 2 Notice of Transfer to Employee	19
	Transition Program (ETP)	
11	No. 3 5/3/93 Letter from Ronald Eytchison	20
12	to D.E. Munn	
13	No. 4 9/6/94 Report from R.R. Baron	21
14	to O.J. Zerlingue	
15	No. 5 11/14/95 Fax from Gary Fiser	21
	to Jim Vorse	
16	No. 6 7/18/96 Memo from Gary Fiser	26
	to David VanBockern	
17	No. 7 8/30/96 Letter from T.J. McGrath	27
18	to Gary L. Fiser	
19	No. 8 9/5/96 Letter from Gary Fiser	27
	to Phillip Reynolds	
20	No. 9 9/5/96 Employee Resignation	27
21	Option Form	
22	No. 10 9/13/96 Letter from Gary Fiser	28
	to Phillip Reynolds	
23	No. 11 9/27/96 Letter from P.L. Reynolds	28
24	to Gary Fiser	
25		

Page 5

1 A [REDACTED]
 2 Q How long have you lived there?
 3 A Since about '89.
 4 Q Do you have any current plans to move?
 5 A Not right now.
 6 Q How are you employed?
 7 A I'm not.
 8 Q Where was your last employment?
 9 A D.C. Cook Nuclear Station.
 10 Q And what was the period of employment?
 11 A For approximately four weeks ending the
 12 week before Thanksgiving.
 13 Q When?
 14 A This year.
 15 Q What was your position there?
 16 A I was an auditor.
 17 Q What type of auditor?
 18 A Chemistry.
 19 Q How did you secure that position?
 20 A The people at D.C. Cook needed a little
 21 extra additional support in a chemistry audit, and so they
 22 looked for somebody that had a lot of experience and
 23 brought me in.
 24 Q Who?
 25 A A fellow by the name of Gupta, G-U-P-T-A,

Page 3

1	I N D E X (Continued)	
2	EXHIBIT DESCRIPTION	PAGE
3	No. 12 9/30/96 Letter from Gary Fiser	28
	to Phillip Reynolds	
4	No. 13 7/24/95 Position Description	29
5	No. 14 9/15/94 Letter from John Maciejewski	34
6	to Gary Fiser	
7	No. 15 7/24/95 Position Description	35
8	No. 16 10/17/94 Position Description	36
9	No. 17 8/16/93 Letter from G.L. Fiser	43
	to James Sasser	
10	No. 18 Report of Interview of Gary L. Fiser	43
11	with Transcript of Audio Tapes	
12	No. 19 6/29/93 Letter from Charles VanBeke	44
13	to Carol Merchant	
14	No. 20 12/3/90 Memo from W.C. McArthur	46
	to O.D. Kingsley	
15	No. 21 Memorandum of Understanding and	46
16	Agreement	
17	No. 22 5/24/93 Letter from Gary Fiser	46
	to Charles VanBeke	
18	No. 23 6/25/96 Letter from Gary Fiser	47
	to Carol Merchant	
19	No. 24 9/27/93 Letter from Charles VanBeke	138
20	to Carol Merchant	
21	No. 25 9/14/94 Interview Schedule, Employee	164
22	Application, Resume for Gary Fiser,	
	and Interview Sheets	
23		
24	NOTE: Unless provided by counsel to the reporter, all	
25	names are rendered as the best phonetic approximation.	

Page 6

1 Vic Gupta.
 2 Q And how did he know about you?
 3 A I had worked there before.
 4 Q Where did you know Mr. Gupta from?
 5 A I did not.
 6 Q You never knew him before?
 7 A No.
 8 Q Do you know who recommended you to them?
 9 A No.
 10 Q Do you have any idea who recommended you to
 11 them?
 12 A Yes.
 13 Q Who?
 14 A A fellow by the name of Benedict, Jeff
 15 Benedict. I worked with him last time. I assume he was
 16 the one, but I don't know that for sure.
 17 Q You were interviewed by the Nuclear
 18 Regulatory Commission, Office of Investigations. Do you
 19 remember that?
 20 A Yes.
 21 Q Do you remember who interviewed you?
 22 A Yes.
 23 Q Do you remember how that interview began?
 24 A Yes.
 25 Q How did it begin?

Page 7

1 A Ms. Benson needed to talk to me. I think
 2 she had already taken depositions and had a lot of the
 3 casework done. She just wanted to talk to me it seems
 4 like more or less informally, because she just said sort
 5 of shoot-from-the-hip type of thing. And I felt like it
 6 was very informal and more -- I was providing more
 7 supplemental information, I think, to the case that she
 8 was developing.
 9 Q Was a court reporter there?
 10 A Yes.
 11 Q Did she swear you in?
 12 A Yes.
 13 Q Do you remember her showing you a copy of
 14 United States Code 18-USC-1001?
 15 A No.
 16 Q I'm going to show you a portion of your
 17 August 6th, 1998, interview on the record with Ms. Benson.
 18 Beginning at page four, if you'll look at line fifteen.
 19 A Uh-huh. Yeah, I do not recall reading it.
 20 Q Does that refresh your recollection that
 21 she showed you a copy of 18-USC-1001?
 22 A Your question was do I remember it. My
 23 answer is no.
 24 Q My question is, does that refresh your
 25 recollection that she showed you a copy of United States

Page 8

1 Code, Title 18, Section 1001.
 2 A Yes, it does.
 3 Q All right. And what do you recall that
 4 that particular provision said?
 5 A I told you. I do not recall.
 6 Q All right.
 7 A I do not recall reading it. I'm sure that
 8 I did, but I just don't recall it.
 9 Q All right. If I told you that that
 10 particular code section dealt with making a false
 11 statement in the context of a United States proceeding,
 12 would that refresh your recollection?
 13 A No. I would not doubt it, but I do not
 14 recall.
 15 Q When were you first hired by TVA?
 16 A September of '87. I think that's -- it may
 17 have been August. I'm not sure.
 18 Q How did you come to be hired by TVA?
 19 A There was a fellow here in the Corporate
 20 chemistry group that needed some help, and he asked me to
 21 come and interview for the job.
 22 Q Did that fellow have a name?
 23 A Uh-huh. He did.
 24 Q Who was it?
 25 A Jim Bates.

Page 9

1 Q All right. How did you come to be hired by
 2 TVA in September of 1987?
 3 A They offered me a job.
 4 Q How did they know about you?
 5 A I'm sure through Jim Bates.
 6 Q And how did he know you?
 7 A We worked together before.
 8 Q Where?
 9 A Arkansas Nuclear One.
 10 Q And what job did they hire you for?
 11 A It seemed like it was called a program
 12 manager, chemistry. I don't know. That's a matter of
 13 record. You should be able to look it up.
 14 Q And what organization did you work in?
 15 A Corporate chemistry.
 16 Q How long did you hold that position?
 17 A Until approximately April/May of '88.
 18 Q What happened then?
 19 A I took a job at Sequoyah Nuclear Plant.
 20 Q What job did you take?
 21 A It was a chemistry superintendent.
 22 Chemistry and environmental superintendent I think it was
 23 called.
 24 Q And how did you obtain that job?
 25 A I think it was a direct transfer. I'm not

Page 10

1 sure. I don't recall interviewing for it or anything.
 2 Q You don't recall a vacancy being posted and
 3 applying to a vacancy?
 4 A I don't recall. But, gosh, that's been a
 5 long time ago.
 6 Q How long did you hold that position?
 7 A Until early 1992.
 8 Q Now, when you took the position as
 9 superintendent of chemistry at Sequoyah, were you issued a
 10 position description for that?
 11 A I'm certain I was.
 12 Q Did you get -- did they give you paperwork
 13 showing that your position had changed?
 14 A Paperwork showing my position had changed?
 15 I don't -- well, the PD itself would show that. I'm not
 16 sure what you're --
 17 Q So you were issued a PD?
 18 A Probably. Most likely I was. I don't
 19 recall. I'm sure I was, though.
 20 Q Do you recall what used to be called a form
 21 TVA 9880?
 22 A I do recall the title. I do not recall
 23 what it is.
 24 Q You held the chemistry superintendent
 25 position, you said, until '92. When in '92?

Page 11

1 A I don't recall. The January/February time
 2 frame.
 3 Q What happened then?
 4 A I was transferred to the corporate
 5 chemistry position downtown.
 6 Q What corporate chemistry position?
 7 A The one downtown. The only one.
 8 Q I thought there was a corporate chemistry
 9 organization with a number of positions.
 10 A I'm sorry. The Corporate chemist downtown.
 11 That's one position.
 12 Q Were you issued a position description for
 13 that?
 14 A Not that I recall. I'm sure there was one,
 15 but I don't recall getting it.
 16 Q Was that a permanent position or a
 17 temporary position?
 18 A Temporary.
 19 Q What was your permanent position?
 20 A Sequoyah chemistry superintendent.
 21 Q So you maintained the title of permanent --
 22 your permanent title was chemistry superintendent,
 23 Sequoyah, while you were on this temporary assignment as a
 24 corporate chemist?
 25 A I'm not sure if I maintained that. I think

Page 12

1 that is, in fact, what happened, but -- I'm not sure I
 2 understand that question. It was a temporary position for
 3 a year.
 4 Q For a year?
 5 A Correct.
 6 Q And how did you have that understanding?
 7 A It was written on a document by Bynum
 8 stating that this position would be for a year and then we
 9 would be transferred back.
 10 Q Were you given a copy of that?
 11 A Yes, I was.
 12 Q Do you have a copy of it?
 13 A No, I do not.
 14 Q Did you receive a subpoena to appear here
 15 today?
 16 A Yes, I did.
 17 Q Did that subpoena direct you to bring
 18 certain documents and things with you to this deposition?
 19 A Yes, it did.
 20 Q Did you do so?
 21 A I could not find everything. I'm certain
 22 it is in my basement. I'm certain I can find it, but I
 23 just not have been able to find it.
 24 Q What did you bring with you today --
 25 A What did I bring with me? I brought --

Page 13

1 Q -- pursuant to the subpoena?
 2 A I brought the document that you sent me. I
 3 also have a transcript of the predisciplinary enforcement
 4 conference. Let's see. I have a copy from the Tennessee
 5 Valley Authority, Office of Inspector General, record of
 6 interview between -- I guess this was -- oh, yeah -- this
 7 was between Ms. Thomas and me, dated October of '93.
 8 Q May I see that, please?
 9 A (Witness complied with request.)
 10 Q What else did you bring?
 11 MR. DAMBLY: Just so the record's clear, I
 12 think the date on there is December 14th.
 13 MR. MARQUAND: That's the date the document
 14 was typed. I think the interview was actually in
 15 October. No, you're correct. It says it was --
 16 MR. DAMBLY: I think that's the date they
 17 opened it.
 18 MR. MARQUAND: You're right. It was
 19 December 14th.
 20 BY MR. MARQUAND:
 21 Q What else did you bring with you?
 22 A The sequence of events from 1991.
 23 Q May I see that?
 24 A (Witness complied with request.)
 25 Q All right. What else did you bring?

Page 14

1 A A memo from Oliver Kingsley to John Waters
 2 --
 3 Q May I see that?
 4 A -- dated 12/3/1990.
 5 Q I'd like to keep that to one side and make
 6 a copy of that. What else did you bring?
 7 A When you make that copy, I want to be at
 8 the copy machine. I do not want you to take documents
 9 from me unless I am with you.
 10 Q That's fine.
 11 A A memorandum of understanding and agreement
 12 dated -- the only date I can see here is March of '94.
 13 The blank has not been filled in.
 14 Q Set that to the side and we'll make a copy
 15 of that as well.
 16 A I also have information sent to my previous
 17 attorney, Mr. Charles VanBeke. And I can't find a date on
 18 it. But it certainly pertained to the previous case, so
 19 it's some of the information you had requested that I
 20 bring.
 21 MS. EUCHNER: Do you need a copy of this?
 22 MR. MARQUAND: No.
 23 THE WITNESS: More information to Mr.
 24 VanBeke. This was dated May 24th, 1993.
 25 BY MR. MARQUAND:

Page 15

1 Q I'd like to make a copy of that.
 2 A I have a copy of the complaint that I sent
 3 to Ms. Carol Merchant.
 4 Q Is that the 1993 complaint?
 5 A That's correct.
 6 Q I don't need to see that.
 7 A Okay. I have my Franklin Planner storage
 8 file for 1995.
 9 Q Set that aside. We'll look through that
 10 during a break.
 11 A I have my Franklin Planner for 1994.
 12 Q We'll look at that during a break.
 13 A This is a notebook containing information
 14 about the 1993 complaint, the 1996 complaint, personnel
 15 appraisals. I would think most of this information you
 16 already have, but I brought it with me since you --
 17 Q Can I see it?
 18 A (Witness complied with request.)
 19 Q One of the pages in this notebook is a memo
 20 to Dr. McArthur dated April 23rd, '96, dealing with
 21 particularly pages that were stored in the memory of your
 22 beeper.
 23 A Uh-huh.
 24 Q Why did you write him that memorandum?
 25 A I would have to refer to my notes. I am

Page 16

1 sure it was to document either I was trying to call him or
 2 he was trying to call me or something. I don't know. I
 3 would have to -- I would have to do a little research
 4 there. But I felt it was important to keep them for some
 5 reason obviously.
 6 Q This document is what used to be called TVA
 7 9880.
 8 A Okay.
 9 Q All right. This particular document -- let
 10 me see -- I'd like a copy of it.
 11 A Okay. If I might ask, which one is that?
 12 Q I'll show it to you in a second.
 13 A Okay.
 14 Q Would you agree that this document reflects
 15 your transfer from Sequoyah Nuclear Plant to downtown
 16 Chattanooga, that you had -- and it was effective March
 17 9th of '92?
 18 A Hold on just a second. I need to see that,
 19 too. Yes, that's what it --
 20 Q And the next page is the agreement that's
 21 referred to?
 22 A Yes. Yes, that's correct.
 23 Q What's correct? I had two questions
 24 pending.
 25 A Okay. Let's --

Page 17

1 Q Let's back up.
 2 A Okay.
 3 Q The 9880, does that -- is that the document
 4 that reflects your transfer from Sequoyah to downtown
 5 Chattanooga in March of 1993?
 6 A That's correct.
 7 Q And the second page is the transfer
 8 agreement that was reflected in that 9880?
 9 A That's correct. And this is the document
 10 that says I was to return to my original official station,
 11 classification, schedule and pay rate on or before the
 12 appointment date of March 4th, 1993. That's why I said it
 13 was temporary.
 14 Q Okay. It reflects -- the memorandum
 15 reflects your entitlement to return to the original
 16 official position?
 17 A Correct.
 18 Q And then it also refers to the fact that --
 19 of a decision to place you permanently in operation
 20 services, technical programs, downtown?
 21 A That's correct, for a year.
 22 Q No.
 23 A No, for a year. Because it says --
 24 Q This part here -- the second paragraph says
 25 -- and tell me if I'm reading this correctly -- a decision

Page 18

1 to place him permanently in operation services, technical
 2 programs, Chattanooga, shall be agreed upon by the
 3 above-mentioned parties.
 4 A Oh. That's correct.
 5 Q So it apparently is referring to any future
 6 decision to place you in that organization will have to be
 7 agreed to by the parties.
 8 A That's correct.
 9 MR. MARQUAND: All right. We'll make a
 10 copy of this and we will have this marked as Fiser
 11 deposition exhibit one, both pages. We'll mark
 12 the copy.
 13 (Exhibit No. 1 was filed.)
 14 BY MR. MARQUAND:
 15 Q There's some handwriting on the front of
 16 the 9880 --
 17 A Uh-huh.
 18 Q -- in blue ink. I assume that was added by
 19 you sometime later; is that correct?
 20 A That's correct.
 21 Q In 1996?
 22 A That's correct.
 23 Q Read your handwriting to us, please.
 24 A I stated that this package presented to
 25 David VanBrockern I think is the way you pronounce it.

Page 19

1 Q VanBockern, B-O-C-K-E-R-N.
 2 A B-O-C-K. Okay. VanBockern on 7/17/96
 3 during an interview, signed by me.
 4 Q All right. And when it says this package,
 5 does it just mean these two pages or does it mean that
 6 whole section of your notebook?
 7 A I am assuming it was those two pages.
 8 Q The next document is entitled notice of
 9 transfer to employee transition program dated April 2nd,
 10 1993. Do you see that?
 11 A Correct.
 12 Q Did you receive that on or about April 2nd
 13 of 1993?
 14 A Yes, sir.
 15 MR. MARQUAND: All right. I'll have that
 16 marked as -- a copy of that marked as Fiser
 17 exhibit two.
 18 (Exhibit No. 2 was filed.)
 19 MS. EUCHNER: What's the date on that
 20 document?
 21 MR. MARQUAND: 4/2/93.
 22 BY MR. MARQUAND:
 23 Q And it does have your name misspelled; is
 24 that right?
 25 A I think that's correct.

Page 20

1 Q F-I-Z?
 2 A Yes. That's correct. It is correct that
 3 it is misspelled.
 4 MS. EUCHNER: And you're going to mark that
 5 as exhibit two?
 6 MR. MARQUAND: TWO.
 7 BY MR. MARQUAND:
 8 Q The next document is dated May 3rd, '93.
 9 It's from Ron Eytchison to D.E. Nunn, and apparently
 10 there's an attachment to it of an April 27th, '97,
 11 memorandum of an organizational chart; is that correct?
 12 A That's correct.
 13 MR. MARQUAND: We'll have that marked as
 14 exhibit three.
 15 (Exhibit No. 3 was filed.)
 16 BY MR. MARQUAND:
 17 Q The next document is dated September 6th,
 18 '94, from R.R. Baron to O.J. Zeringue. And the subject is
 19 corporate and Sequoyah Nuclear Plant chemistry programs
 20 review. And there's an apparent attachment to that. What
 21 is that document?
 22 A It looks like it is a review of the
 23 corporate and Sequoyah chemistry programs.
 24 Q Did that review indicate any long-standing
 25 problems --

Page 21

1 A Yes, sir.
 2 Q -- in the chemistry program?
 3 A Yes, sir. It did.
 4 Q How did you come to be in possession of
 5 that document?
 6 A I cannot recall.
 7 MR. MARQUAND: I'm going to ask to have a
 8 copy of that document marked as exhibit four to
 9 Mr. Fiser's deposition.
 10 (Exhibit No. 4 was filed.)
 11 BY MR. MARQUAND:
 12 Q Let me show you what's dated November 14th,
 13 1995, a memorandum from you to Jim Vorse. And there is
 14 apparently a three-paged attachment.
 15 A Uh-huh.
 16 MR. MARQUAND: We're going to mark that as
 17 Fiser deposition exhibit five.
 18 (Exhibit No. 5 was filed.)
 19 BY MR. MARQUAND:
 20 Q Can you tell us what that is?
 21 A Let's see. Well, it appears to be
 22 documents that would be in support of my previous case
 23 against TVA. Mr. Vorse was supposed to have been
 24 investigating the case.
 25 Q Was that, in fact, a document you sent to

Page 22

1 Mr. Vorse?
 2 MR. DAMBLY: Are you talking about the
 3 cover or the underlying?
 4 MR. MARQUAND: The whole thing.
 5 BY MR. MARQUAND:
 6 Q I'm not assuming that you sent the cover.
 7 Did you, in fact, author and send the cover to Mr. Vorse?
 8 A The cover?
 9 Q Yes.
 10 A Apparently.
 11 Q It was in your notebook; right?
 12 A That's correct.
 13 Q You have no reason to think that you didn't
 14 send it to him?
 15 A That's correct. I have no reason to think
 16 that I did not.
 17 Q And the attached --
 18 A I have no verification that it got to him
 19 because he never called and he never wrote to me --
 20 Q All right.
 21 A -- as I have stated before. So I assume
 22 that --
 23 Q You intended -- you intended to send it to
 24 him?
 25 A I assume that I faxed this to him and I

Page 23

1 assume that he received it.
 2 Q You authored the first page?
 3 A That is correct.
 4 Q And the three-paged record of interview of
 5 Mr. Pat Lydon was, in fact, what you intended to send to
 6 Mr. Vorse?
 7 A It appears that way, yes.
 8 Q All right. Did you read it?
 9 A No.
 10 Q You've never read it?
 11 A Oh, I'm certain I have read it. Let's see.
 12 Do you mean recently?
 13 Q No. Before you sent it to him you read it?
 14 A Like, in the last five or six years?
 15 Q Yes.
 16 A I feel certain I did, yes.
 17 Q Okay. In fact, let's add this to the
 18 front. This is a fax cover sheet, isn't it?
 19 A Yes, it is.
 20 Q Is that the fax cover sheet that would have
 21 been --
 22 A It appears to be, yes.
 23 Q For the record, who is Pat Lydon?
 24 A At the time I was transferred downtown for
 25 the one-year assignment at corporate chemistry, he was my

Page 24

1 manager -- operations manager at Sequoyah Nuclear Plant.
 2 I reported directly to him.
 3 Q You reported to the operations manager?
 4 A That's correct.
 5 Q And who did the operations manager report
 6 to?
 7 A The plant manager.
 8 Q Let me show you the next document in your
 9 notebook. It's dated July 18th, 1996. It purports to be
 10 a memorandum from you to David VanBockern. And it
 11 indicates that there was a copy of a position description
 12 and memorandum from Ron Grover to Ben Easley attached.
 13 Can you identify this document?
 14 A This appears to be the PD that was
 15 describing the position for the job we were applying on
 16 back in '96.
 17 Q What else is in that collection of
 18 documents?
 19 A There is a memo, it looks like, from Ron
 20 Grover to Ben Easley discussing chemistry position
 21 descriptions for fiscal year '97 RadChem organization.
 22 Q What's the date of the memo?
 23 A June the 17th, 1996.
 24 Q How did you come to be in possession of
 25 that memo?

Page 25

1 A I do not know.
 2 Q And what's the first page of this document?
 3 A You say of the document?
 4 Q Yes, what is going to be exhibit six.
 5 A It's a memo from me to David VanBockern
 6 dated July 18th --
 7 Q What was the purpose --
 8 A -- 1996.
 9 Q What was the purpose of your memorandum?
 10 A I'm sure during the deposition -- it was
 11 the preceding day. He probably asked for this. I'm not
 12 absolutely sure of that, but I would assume that's the
 13 case.
 14 Q Well, your memorandum to Mr. VanBockern
 15 said Sam had an opportunity to review and agree with the
 16 PWR position description.
 17 A Uh-huh.
 18 Q Why -- what did you understand and why did
 19 you understand that to be something he was interested in?
 20 A I think he was disputing that.
 21 Q Who?
 22 A Sam was, at the time.
 23 Q Also included as the third page of what
 24 we're going to have marked as exhibit six is a printout
 25 showing some properties with respect to a particular

Page 26

1 document.
 2 (Exhibit No. 6 was filed.)
 3 BY MR. MARQUAND:
 4 Q Why did you send that to Mr. VanBockern?
 5 A I don't know. I would have to really refer
 6 to my notes to find out.
 7 Q Do you have notes reflecting that?
 8 A It's possible.
 9 Q Where would they be?
 10 A Possibly in this 1995 -- is that five or
 11 six?
 12 Q This is dated 1996.
 13 A It would be in my '96 planner.
 14 Q Did you bring that with you?
 15 A Yeah.
 16 Q You did?
 17 A I may have left it at home. I can get it
 18 for you. I certainly meant to.
 19 Q We'll ask that during a break that you
 20 retrieve that for us.
 21 A As a matter of fact, here it is.
 22 Q Oh, good. Let's put that with the '94 and
 23 '95 ones then.
 24 A (Witness complied with request.)
 25 Q I'm going to have marked as exhibit seven a

Page 27

1 document from your notebook entitled August 30th, 1996.
 2 It's a memorandum from Tom McGrath to you.
 3 (Exhibit No. 7 was filed.)
 4 BY MR. MARQUAND:
 5 Q Do you recognize that?
 6 A Yes, I do.
 7 Q Did you receive that on or about the date
 8 stated on that document?
 9 A I am certain I did.
 10 (Exhibit No. 8 was filed.)
 11 BY MR. MARQUAND:
 12 Q I show you a document -- a letter which
 13 purports to be from you to Phil Reynolds dated September
 14 5th, 1996, which I've marked as Fiser exhibit eight. Do
 15 you recognize that?
 16 A That is correct. I do.
 17 Q Is that, in fact, the letter you sent to
 18 Phil Reynolds on or about September 5th, '96?
 19 A This is a copy of a letter that I would
 20 have sent him.
 21 Q Okay. I'm going to have marked as exhibit
 22 nine a form entitled FY 1997 employee resignation option
 23 form which purports to be signed by you on September 5th,
 24 '96, and we'll have that marked as exhibit nine.
 25 (Exhibit No. 9 was filed.)

Page 28

1 BY MR. MARQUAND:
 2 Q Do you recognize that as a document which
 3 you signed on or about that date?
 4 A Yes, sir. I do.
 5 Q Okay. I will mark as exhibit ten a
 6 document which purports to be from you to Phil Reynolds
 7 dated September 13th, '96.
 8 (Exhibit No. 10 was filed.)
 9 BY MR. MARQUAND:
 10 Q Did you, in fact, send a copy of that
 11 letter to Mr. Reynolds?
 12 A This appears to be a copy of a letter that
 13 I sent to Phil, yes.
 14 Q I will mark as exhibit eleven a memorandum
 15 from Phil Reynolds to you dated September 27th, 1996.
 16 (Exhibit No. 11 was filed.)
 17 BY MR. MARQUAND:
 18 Q Did you receive that document on or about
 19 that date?
 20 A Yes, I did.
 21 Q I will show you a letter that purports to
 22 be from you to Phil Reynolds which I've marked as exhibit
 23 twelve.
 24 (Exhibit No. 12 was filed.)
 25 BY MR. MARQUAND:

Page 29

1 Q Did you send that to Mr. Reynolds on or
 2 about September 30th, 1996?
 3 A As I recall.
 4 Q Does that mean yes?
 5 A As I recall.
 6 Q As you recall what? As you recall, you did
 7 or didn't send it?
 8 A As I recall, I did. That was your
 9 question.
 10 Q I show you a copy of a document which I'll
 11 mark as exhibit number -- I believe it's thirteen.
 12 (Exhibit No. 13 was filed.)
 13 BY MR. MARQUAND:
 14 Q It's a position description with your name
 15 on it with an effective date of July 24th, 1995, and it
 16 was signed by Ed Boyles. Do you recognize that document?
 17 A I think I do.
 18 Q What do you think it is?
 19 A I think that -- I think that is the
 20 position description that was modified after I took a
 21 settlement job with Ron Grover, and then we went back and
 22 added environmental functions to the PD and then had to
 23 bid on our jobs. I'm pretty sure that's the job
 24 mentioned.
 25 Q Now, you mentioned a settlement you took.

Page 30

1 A Uh-huh.
 2 Q And you mentioned Ron Grover in connection
 3 with that.
 4 A Uh-huh.
 5 Q You didn't negotiate that settlement with
 6 Ron Grover, did you?
 7 A No.
 8 Q Did Ron Grover play any part in that
 9 settlement?
 10 A Yes.
 11 Q What part did he play?
 12 A He hired me.
 13 Q He hired you?
 14 A Yes, he did.
 15 Q What do you mean, he hired you?
 16 A I went to work for him. I went to ETP, the
 17 employee transition program, into Ron Grover's group.
 18 Q All right. You were in the employee
 19 transition program; correct?
 20 A That's correct.
 21 Q And that's when you had -- during that time
 22 you had a pending Department of Labor complaint that you
 23 filed in '93?
 24 A That is correct.
 25 Q And as a result of that settlement, the

Page 31

1 settlement provided for you to have a job in Ron Grover's
 2 organization; correct?
 3 A That is correct.
 4 MR. MARQUAND: Let's go off the record.
 5 (A break was taken.)
 6 BY MR. MARQUAND:
 7 Q Okay. We were looking at a position
 8 description. Is that what --
 9 A I think you had just asked me the question
 10 did I recognize it. And I think --
 11 Q You said you did.
 12 A -- it was the one that was revised to
 13 include the environmental position task.
 14 Q Oh. We were talking about your '93
 15 settlement and Grover's involvement.
 16 A Oh, yes. Okay. I'm sorry.
 17 Q Do you know when Grover was first employed
 18 by TVA? Sometime in '94? Does that refresh your
 19 recollection?
 20 A I guess. That's about right.
 21 Q All right. When you were sent to the
 22 employee transition program, he was not employed by TVA?
 23 A No, sir.
 24 Q And he didn't come into TVA until some
 25 point in time after you were sent to the employee

Page 32

1 transition program?
 2 A That's correct.
 3 Q After all of the events that gave rise to
 4 your 1993 DOL complaint?
 5 A Yes, sir. Are we back on the record?
 6 Q Yes.
 7 A Okay. We didn't say that.
 8 MR. DAMBLY: She's typing.
 9 MR. MARQUAND: She took a cue from us.
 10 THE WITNESS: Hand signals from attorneys.
 11 BY MR. MARQUAND:
 12 Q And as far as you know, Mr. Grover wasn't
 13 involved in any of the negotiations leading up to the
 14 settlement of your '93 Department of Labor complaint?
 15 A No, sir.
 16 Q And as far as you know, as far as he knew
 17 you came into his organization as a result of the
 18 settlement being negotiated at higher levels than himself?
 19 A That's correct. But I do not mean to imply
 20 that he had no choice in the matter. I think he did.
 21 Q And what makes you think that?
 22 A Of course, this was seven years ago. I
 23 seem to recall that my date to report to his organization
 24 was protracted some due to negotiations between my
 25 attorney and you guys. And if I recall, he made some

Page 33

1 statement, like, you know, is he or isn't he, you know;
 2 it's time to do your business or -- or get off the pot.
 3 Q You mean he was talking about you --
 4 A Yes.
 5 Q -- in terms of are you or are you not
 6 coming in to work for him?
 7 A Right. Because he wanted to get going. He
 8 was ready to get started. He had a lot of work to do.
 9 And I got the impression that he wanted me in his
 10 organization. I don't know why, but -- therefore, I would
 11 assume that he could have said, no, I don't want him in my
 12 organization.
 13 Q These aren't comments he made to you, are
 14 they?
 15 A I think I got those through either my
 16 attorney or something. I don't know. No, they were not
 17 to me. I never met him, I don't think, until the day I
 18 went to work for him. I'm not absolutely sure of that,
 19 but that's as I recall.
 20 MR. MARQUAND: where are the documents we
 21 said we wanted copied?
 22 MS. EUCHNER: Here.
 23 BY MR. MARQUAND:
 24 Q I'll show you a document which is a
 25 memorandum from John Maciejewski, M-A-C-I-E-J-E-W-S-K-I,

Page 34

1 to you dated September 15th, 1994. I'll have it marked as
 2 exhibit fourteen to your deposition.
 3 (Exhibit No. 14 was filed.)
 4 BY MR. MARQUAND:
 5 Q Can you tell us what that document is?
 6 A It is written notification that my position
 7 that I was -- where I was working in September of '94 was
 8 at risk.
 9 Q And why did you receive that notification?
 10 A I am fairly certain that it is because we
 11 were redoing the position descriptions at that time.
 12 Q And?
 13 A That's a pretty good guess. I mean --
 14 Q Do you have any more knowledge about it
 15 than that?
 16 A I think this is the time when we were
 17 adding the environmental functions to the job description.
 18 Q Okay. The job descriptions had been
 19 chemistry program manager and they changed to become
 20 chemistry and environmental program -- chemistry and
 21 environmental protection program managers?
 22 A I think that is correct.
 23 Q And those jobs were advertised?
 24 A That is correct.
 25 Q And you went through a selection process

Page 35

1 and you were selected?
 2 A That is correct.
 3 Q And during the time period that they were
 4 considering adding the environmental protection function,
 5 those jobs were advertised and the old chemistry program
 6 manager jobs were eliminated?
 7 A That's correct.
 8 Q And so as a consequence, you received an
 9 at-risk notice?
 10 A That's correct.
 11 Q All right. What would have -- to your
 12 knowledge, what would have happened had you not been
 13 selected for one of the new chemistry and environmental
 14 protection program manager positions?
 15 A I think I would have been placed in the
 16 services organization as I recall.
 17 Q Okay.
 18 A I think that's what the letter said.
 19 Q All right. Let me show you a document
 20 which purports to be a position description with an
 21 effective date of July 24th, '95, issued to you. And I'll
 22 mark it as exhibit fifteen, less the post-it that's on the
 23 front.
 24 A Okay.
 25 (Exhibit No. 15 was filed.)

Page 36

1 BY MR. MARQUAND:
 2 Q Is that the -- what does it say the
 3 effective date is?
 4 A 7/24/95.
 5 Q Is that a completed version of Fiser
 6 exhibit thirteen?
 7 A Is this?
 8 Q Yes. Is Fiser exhibit fifteen a completed
 9 and filled in and signed version of Fiser exhibit
 10 thirteen?
 11 A Oh. Yes. That appears to be the case.
 12 Yes, sir.
 13 Q Okay. And that was a position description
 14 that was issued to you and you signed in 1995?
 15 A That is the case, yes.
 16 Q Okay. I show you another position
 17 description which we'll have marked as exhibit sixteen
 18 with an effective date of October 17th, '94, and it's
 19 signed by you, Mr. Grover, and Mr. Easley. And we will
 20 make a copy of that less the post-it on the front.
 21 (Exhibit No. 16 was filed.)
 22 BY MR. MARQUAND:
 23 Q Is that the position description that was
 24 issued to you after the selection process in 1994 after
 25 you were selected for the new chemistry and environmental

Page 37

1 program manager position?
 2 A I have to ask a question. What was my
 3 start date for working for Ron Grover, do you recall,
 4 approximately? It was a lot earlier than that, was it
 5 not?
 6 Q Approximately sometime in March/April of
 7 '94.
 8 A I can't --
 9 Q That's the position --
 10 A The thing that concerns me about that is I
 11 went to work in March --
 12 Q Let me shorten my question.
 13 A -- and this is in October.
 14 Q Right.
 15 A And your question is was this the one that
 16 I agreed to. And that --
 17 Q All right. Let's back up. Do you
 18 recognize this document? Do you recognize your signature
 19 on the document?
 20 A Yes, sir. I do.
 21 Q All right. Is that a position description
 22 that was issued to you in September of '94?
 23 A Yes.
 24 Q Okay. And it's for chemistry and
 25 environmental protection program manager?

Page 38

1 A Yes.
 2 Q All right. And it was issued to you after
 3 you had received written notification of potential at-risk
 4 status as reflected in Fiser exhibit fourteen?
 5 A Let's see. Well, this is dated the 15th of
 6 '94 --
 7 Q Right.
 8 A -- and this is -- September 15th of '94.
 9 Q We don't know when this one was actually
 10 issued, but the effective date is September 17th.
 11 A That's what it says.
 12 Q All right. I'm going to show you a
 13 memorandum dated February 19th, '92, from Wilson McArthur
 14 to R.J. Beecken, B-E-E-C-K-E-N, regarding the Sequoyah
 15 Nuclear Plant chemistry shutdown requirements. Why is
 16 that in this notebook?
 17 A I don't know. Just a convenient place to
 18 store Sequoyah information I guess.
 19 Q Does it have any pertinence to your '93
 20 complaint or your '96 complaint?
 21 A No, sir. Nor does the one you're holding I
 22 think.
 23 Q You're referring to the June 6th, '91, memo
 24 from CP&L to Sam Harvey?
 25 A That's correct.

Page 39

1 Q What do you know regarding an allegation
 2 that Sam Harvey represented that a report was his work
 3 product when he had not written the report or that Sam
 4 Harvey was alleged to have plagiarized work of others
 5 regarding controlled shutdown of steam generators?
 6 A Very little.
 7 Q Tell me what you know.
 8 A I know that there were some people that
 9 were concerned. Bill Jocher chiefly was concerned about
 10 the fact that he felt Sam had plagiarized some work.
 11 Q Did you receive such a paper?
 12 A I think that's what you just had in your
 13 hand.
 14 Q Oh. Okay.
 15 A I think.
 16 Q You're not talking about the February memo
 17 from McArthur to Beecken, are you? You're talking about
 18 instead the June 6th, '91, letter from CP&L to Sam Harvey?
 19 A I really can't answer that because I had no
 20 involvement in it.
 21 Q Well, take your time to review that.
 22 A Okay. Let me see the other one too.
 23 Q All right.
 24 A Just glancing at it -- and I have never
 25 read these reports before ever -- it does appear that

Page 40

1 that's what Bill was talking about.
 2 Q When was he talking about it?
 3 A This would have been back in the '94/'95
 4 time frame.
 5 Q Bill wasn't employed by TV after '93. So
 6 he was raising these issues -- where was he raising these
 7 issues in '94 and '95?
 8 MR. DAMBLY: Could you identify Bill for
 9 the record?
 10 THE WITNESS: I'm sorry. Bill Jocher. You
 11 know him.
 12 BY MR. MARQUAND:
 13 Q I know who you're talking about. Who was
 14 he raising these issues to in 1994 and '95?
 15 A Me.
 16 Q Did you raise them any further?
 17 A No.
 18 Q Did you carry them any further?
 19 A No.
 20 Q As far as you know, Bill expressed those
 21 concerns to you and no one else?
 22 A Oh, I'm certain he expressed it to the
 23 world.
 24 Q You're certain he did or you know he did?
 25 A I would -- knowing Bill Jocher, I would be

Page 41

1 fairly certain that he expressed these views to anyone.
 2 Q You're saying knowing Bill Jocher, you
 3 assume he expressed them to other people?
 4 A Uh-huh.
 5 Q But you don't know that for a certainty?
 6 A No, sir.
 7 Q Okay. What other documents did you bring
 8 with you pursuant to subpoena?
 9 A Let's see. Where are we? I have a copy of
 10 the transcript.
 11 Q Of what?
 12 A From the interview I had with Ms. Benson.
 13 Q Okay. What else did you bring with you?
 14 A I have a letter to the Honorable James
 15 Sasser dated August 16th, '93, with certain aspects of my
 16 case, Jocher's case and Dr. Matthews'.
 17 Q What's the date of the letter? August
 18 16th, '93?
 19 A August 16th.
 20 Q May I see it?
 21 A You probably have a copy of it.
 22 Q Where did you get that document?
 23 A This document?
 24 Q Uh-huh.
 25 A As I recall, I typed it.

Page 42

1 Q All right. Did you --
 2 A So I would have had a copy of it.
 3 Q Okay. Is that the copy that you kept for
 4 your record purposes?
 5 A I feel certain it is.
 6 Q Let me --
 7 MS. EUCHNER: We gave you that copy.
 8 THE WITNESS: Oh. Did you give it?
 9 MR. MARQUAND: Let the record reflect that
 10 counsel for NRC is showing the witness certain --
 11 THE WITNESS: Oh. Okay.
 12 MR. MARQUAND: -- writings on the document.
 13 THE WITNESS: I stand corrected. This
 14 letter was provided to me by counsel for NRC.
 15 BY MR. MARQUAND:
 16 Q And when was that?
 17 A Saturday a week ago.
 18 MS. EUCHNER: December 1st.
 19 MR. MARQUAND: Okay. December 1st.
 20 BY MR. MARQUAND:
 21 Q Did you keep a record copy of that letter?
 22 A I feel certain I did. You should see my
 23 basement. It's a mess. If I ever clean it up, I think
 24 I'll find some of these.
 25 MR. MARQUAND: I'd like to have a copy of

Page 43

1 that letter marked as exhibit seventeen.
 2 (Exhibit No. 17 was filed.)
 3 BY MR. MARQUAND:
 4 Q What else did you bring with you to the
 5 deposition?
 6 A I have a report of interview of Gary L.
 7 Fiser with a place for Mr. Vorse to sign.
 8 Q Let me see that.
 9 A It appears to be incomplete. But I had it,
 10 so I brought it.
 11 Q In the middle of the second paragraph on
 12 this document, it says Fiser provided an eighty-five-paged
 13 document entitled sequence of events.
 14 A Uh-huh.
 15 Q Is that the same document that you showed
 16 us earlier that you brought with you?
 17 A I feel certain it is.
 18 Q In this -- we'll make a copy of this report
 19 of interview and the sequence of events and have it marked
 20 as exhibit eighteen to your deposition.
 21 (Exhibit No. 18 was filed.)
 22 MR. DAMBLY: Do you intend to have this
 23 bound into the record?
 24 MR. MARQUAND: I don't know. We'll cross
 25 that bridge later.

Page 44

1 BY MR. MARQUAND:
 2 Q What else did you bring with you to the --
 3 how did you obtain exhibit eighteen?
 4 A I don't have a clue.
 5 Q Okay. Do you know how long you've had
 6 them?
 7 A No, sir.
 8 Q What else did you bring pursuant to
 9 subpoena?
 10 A I have a copy of the Department of Labor
 11 case provided by Mr. Jocher to Mr. -- to Ms. Carol
 12 Merchant. The only reason I kept this in the file was
 13 because --
 14 Q Let me see --
 15 A -- was because of the litany of problems
 16 discussed. I'm not sure it relates at all.
 17 Q What litany of problems are you referring
 18 to? What types of problems?
 19 A Problems in the chemistry program at the
 20 sites, sites being Watts Bar, Sequoyah and Browns Ferry,
 21 and at corporate.
 22 MR. MARQUAND: I'll have a copy of that
 23 marked as exhibit nineteen.
 24 (Exhibit No. 19 was filed.)
 25 BY MR. MARQUAND:

Page 45

1 Q What else did you bring with you pursuant
 2 to subpoena?
 3 A I have a copy of the interview that took
 4 place between Mr. VanBockern and me on -- there's a date
 5 here somewhere, let me see -- July 17th. Have I already
 6 provided you with this?
 7 Q I've seen that.
 8 A I thought so.
 9 Q I believe that's from our files if you'll
 10 see the number at the bottom of the page.
 11 A Okay.
 12 Q Was that provided to you by the NRC
 13 attorney on December 1st?
 14 A Yes, sir.
 15 Q What else did you bring with you pursuant
 16 to the subpoena?
 17 A I have several letters to me from NRC where
 18 they were, I think, extending the date on the --
 19 Q May I see them?
 20 A -- interview.
 21 Q What else did you bring?
 22 MS. EUCHNER: Do you want copies of these,
 23 counsel?
 24 MR. MARQUAND: No.
 25 THE WITNESS: I have a -- I think I've

Page 46

1 already provided this to you -- it appears to be a
 2 copy of the complaint that I filed in '93 to Ms.
 3 Merchant again. It appears I had several copies
 4 in the file, so I brought the whole file.
 5 I have a copy of a letter from Mr. Kingsley
 6 to Director Waters dated January the 16th, 1991.
 7 This appears to be reporting the status of the
 8 chemistry programs at Sequoyah and Browns Ferry in
 9 the areas of training and quality control,
 10 condition of online chemistry monitoring, et
 11 cetera.
 12 BY MR. MARQUAND:
 13 Q Where were those earlier documents we
 14 pulled out? That's essentially the same as this earlier
 15 fax that you showed us, isn't it? The fax also has a
 16 December 3rd, 1990, memorandum on the top of it from Mr.
 17 McArthur to Mr. Kingsley.
 18 A Yes, sir.
 19 Q Okay. Let's make the fax document exhibit
 20 number twenty. And for clarification of the record, we'll
 21 make the memorandum of understanding and agreement that
 22 you showed to us earlier as exhibit twenty one, and the
 23 May 24th, 1993, memorandum from you to Mr. VanBeke with
 24 attachments as exhibit twenty two.
 25 (Exhibits No. 20, 21 and 22 were filed.)

Page 47

1 BY MR. MARQUAND:
 2 Q What else did you bring with you?
 3 A This is a copy of my 1996 Department of
 4 Labor complaint, the letter I wrote to Ms. Merchant and
 5 with attachment of the sequence of events. And I think
 6 you already have this. Don't we already have this in the
 7 record? This may be just a copy.
 8 Q I think we made the '93 complaint --
 9 A Okay.
 10 Q You've already provided it to us, but for
 11 completeness of the record, we'll make that exhibit twenty
 12 three.
 13 (Exhibit No. 23 was filed.)
 14 THE WITNESS: I'm a little concerned that
 15 that was not stapled or bound together. I assume
 16 it's in order, but --
 17 MR. MARQUAND: We'll double-check. Okay?
 18 THE WITNESS: Again, this just came flying
 19 out of my basement the other day.
 20 BY MR. MARQUAND:
 21 Q Did you bring any other documents with you?
 22 A I brought --
 23 Q I've got that.
 24 A -- the document you gave me. These you
 25 already have.

Page 48

1 Q Right.
 2 A This is the 1993 letter, again, that I sent
 3 to Ms. Merchant. You've already got that.
 4 Q Right. And you brought your '94, '95 and
 5 '96 Franklin Planner notes; right?
 6 A That is correct. And 2001 or thereabouts,
 7 some of it.
 8 Q So you didn't bring any 1992 or 1993
 9 Franklin Planner notes, any journal notes, ledger notes?
 10 A No, I did not. I have those. They're in
 11 my basement. I should have brought them.
 12 Q How far do you live from here?
 13 A Signal Mountain.
 14 Q I don't have any idea how far that is. How
 15 long would it take you to go there and retrieve them and
 16 return?
 17 A Probably forty minutes.
 18 Q Okay.
 19 A Unless there was a wreck.
 20 MR. MARQUAND: I think this would be a good
 21 time to break, make copies of these documents, and
 22 reconvene after we've got these documents copied
 23 to ask questions about them. And you indicated
 24 you wanted to be present when they were copied.
 25 MS. EUCHNER: One of us will be present.

Page 49

1 THE WITNESS: Yeah. I just want to make
 2 sure -- a lot of these are the only copies I have,
 3 and I want to make sure I get them back.
 4 MR. MARQUAND: I understand. I have no
 5 problem with that.
 6 (A break was taken.)
 7 BY MR. MARQUAND:
 8 Q I'm going to ask you to look first at
 9 exhibit -- Fiser exhibit number twenty. Those are in
 10 sequence there, so it's towards the bottom.
 11 A Okay.
 12 Q What relevance does this have to your 1993
 13 complaint?
 14 A I think it's just supportive information
 15 from Mr. Kingsley -- actually, from Wilson McArthur to Mr.
 16 Kingsley about the status of some of the training issues
 17 at Browns Ferry and Sequoyah and chemistry issues.
 18 Q Were you involved in the preparation of any
 19 of the pages or any of the information that is in exhibit
 20 number twenty?
 21 A Oh, I would -- I would think so. I'm sure
 22 that -- I would be surprised if Wilson or Jim Bates -- I
 23 can't remember if he was gone by that time -- or Bill
 24 Jocher, if he was on board at that time -- would have
 25 asked for my input. I'd be surprised if that did not

Page 50

1 occur. But it's just been -- my gosh, it's over ten years
 2 ago.
 3 Q So you can't tell us with any certainty you
 4 had any input into this document?
 5 A I can't tell you with any certainty that I
 6 did not.
 7 Q If you'll look at the first page, does it
 8 not indicate that Jim Barker and Wilson McArthur were
 9 involved in the preparation of this document?
 10 A I see Wilson. I do not see Barker.
 11 Q Do you see the initials JHB in the lower,
 12 left-hand corner?
 13 A Yes, I do.
 14 Q Is that Jim Barker?
 15 A I don't know his initials. It very well
 16 could be.
 17 Q Well, if you look at the last sentence,
 18 does it say Jim Barker and I?
 19 A Oh. Yes.
 20 Q Would that not indicate to you that Jim
 21 Barker was involved in the preparation of this document?
 22 A Yes. It certainly would.
 23 Q Did you work for either Jim Barker or
 24 Wilson McArthur at that time?
 25 A No, I did not.

Page 51

1 Q They were on corporate staff?
 2 A That's correct.
 3 Q And the first page indicates that this is a
 4 draft -- that they've prepared a draft response for Mr.
 5 Kingsley to send to John Waters; right?
 6 A Yes.
 7 Q Did you ever talk to Mr. Kingsley about
 8 what he wanted to have included in this particular
 9 response?
 10 A No, sir.
 11 Q Did you ever talk to Wilson McArthur about
 12 it?
 13 A Very likely.
 14 Q Do you recall talking to him about it?
 15 A I have vague recollections.
 16 Q And what do you recall that you talked to
 17 him about?
 18 A Just the fact he was helping develop this
 19 response. And I'm sure that we probably discussed some of
 20 the bullet items, if not all of them. But I cannot -- I
 21 mean, that's over ten years ago, so -- it was customary in
 22 those days for corporate chemistry and chemistry groups at
 23 the site to work closely together, and I would be very
 24 surprised if we did not discuss this.
 25 Q Now, the second page of that -- of this

Page 52

1 exhibit indicates, does it not, that Mr. Kingsley,
 2 speaking on behalf of TVA nuclear, was of the opinion that
 3 the chemistry programs had the necessary attention to
 4 improve performance; correct?
 5 A Yes, that is correct.
 6 Q And he was further of the opinion that
 7 there were some hardware problems with some of the
 8 equipment at Sequoyah?
 9 A That is correct.
 10 Q All right. The purpose of this, is it not
 11 also reflected, that it was to provide a status with
 12 respect to training, quality control, and condition of
 13 online chemistry monitoring at the various plants,
 14 including Sequoyah?
 15 A That is correct.
 16 Q Now, on the next page, which is the SQN/BFN
 17 chemistry status -- let me ask you. It refers to
 18 radiochemical laboratory analysts. Who would those types
 19 of people work for? What organization would they be
 20 assigned to?
 21 A The chemistry organization.
 22 Q So with respect to chemistry at that
 23 particular time, any radiochemical laboratory analyst or
 24 RLAS would have worked for you?
 25 A That is correct.

Page 53

1 Q All right. Are these bullets with respect
 2 to training of RLAS correct or were they correct at that
 3 time?
 4 A Were they correct? I have no idea. I
 5 mean, I would have to go back and research all of the
 6 documents back over ten years ago. I can't say.
 7 Q In providing information for Mr. McArthur
 8 to provide to Mr. Kingsley who, in turn, was to provide it
 9 to the TVA board of directors, would you have provided
 10 incorrect information?
 11 A Oh, no. I would have provided correct
 12 information.
 13 Q And when you were afforded an opportunity
 14 to review this and coordinate with Mr. McArthur, if it was
 15 incorrect would you have corrected it?
 16 A If I was afforded an opportunity to review
 17 it, that is correct. I would have. It doesn't mean that
 18 my corrections would have been included.
 19 Q But you don't know as you sit here whether
 20 this information was correct at that time?
 21 A I would have to look at it and go back and
 22 evaluate that against my notes.
 23 Q Do you know if in 1991, January of 1991
 24 when Mr. Kingsley provided this to Mr. Waters, were there
 25 problems with state of knowledge of the RLAS at Sequoyah?

Page 54

1 A I would have to go back and look at my
 2 notes.
 3 Q You don't know?
 4 A I would have to go back and look look at my
 5 notes to find out for sure if at that time there were. As
 6 I recall -- see, I cannot remember the exact date that we
 7 got rid of all the degreed chemistry trainers. So I can't
 8 answer that question until I go back and look at my notes.
 9 Q Were you aware at some point in time that
 10 there were problems with lack of knowledge of the RLAS at
 11 Sequoyah?
 12 A Yes, I am.
 13 Q And when did those problems surface?
 14 A They were very early on. When I took the
 15 job, as a matter of fact, there were problems. And then I
 16 know that during the INPO evaluation when I was on loan to
 17 corporate chemistry downtown, the RLAS did not do well in
 18 the Institute of Nuclear Power assessment of the chemistry
 19 training program and knowledge level for RLAS.
 20 Q All right.
 21 A I know that for a fact.
 22 Q So you were aware when you came in to
 23 Sequoyah as the Sequoyah chemistry superintendent there
 24 were problems, and there were problems later on when you
 25 were downtown?

Page 55

1 A That's correct.
 2 Q Did those problems continue unabated from
 3 the time that you took the position until you left
 4 Sequoyah?
 5 A No.
 6 Q And why not?
 7 A I know that we had two INPO assessments
 8 while I was in charge of chemistry where they did -- INPO
 9 did evaluations of RLA training, knowledge -- and knowledge
 10 level, and they had no findings or concerns at that time.
 11 Q Aside from whether or not there were INPO
 12 findings, my question goes to the RLA knowledge level.
 13 The question is, did the knowledge-level problems continue
 14 unabated from the time you came in until you left
 15 Sequoyah?
 16 A No.
 17 Q Okay. Why not?
 18 A Obviously we took some steps to bolster the
 19 training program. We formulated a peer-review team for
 20 the chemistry RLAS. I can't remember the name of the
 21 team. They had a lot of input into the training program.
 22 I know I did some training for the RLAS. And for a while
 23 it improved.
 24 Q Why is it that, if it had improved while
 25 you were at Sequoyah, all of the sudden when INPO came

Page 56

1 back in when you were downtown INPO found problems with
 2 the knowledge level of the RLAS?
 3 A I would have to have the INPO report to
 4 answer that question. I don't. I don't even know that
 5 I've ever seen it. I would have to know the types of
 6 questions they asked, what they knew, what they did not
 7 know. I don't have enough information to answer that
 8 question. I know that there was knowledge decay.
 9 Q If you know, how is it that INPO did not --
 10 when you were the chemistry superintendent, how is it that
 11 INPO did not detect any knowledge-level decay or
 12 knowledge-level problems with the RLAS?
 13 A They did.
 14 Q While you were chemistry superintendent?
 15 A No. After I was gone.
 16 Q Okay. How is it, if you know, that they
 17 didn't?
 18 A They had no findings.
 19 Q Why?
 20 A Evidently the RLAS did okay on the
 21 questions asked.
 22 Q Do you know why?
 23 A Obviously, at that time, they were better
 24 prepared. I know there was knowledge decay. But if
 25 you're asking when it started, I can't tell you. But I

Page 57

1 know there was.
 2 Q Were they well prepared for the INPO visit
 3 or were they simply well trained?
 4 A I think perhaps both.
 5 Q Okay. Let's address the first. How is it
 6 that they were well prepared for the INPO visit?
 7 A As I have already stated -- oh, you said
 8 well prepared for the INPO visit.
 9 Q Yes.
 10 A There is something that I did that Bill
 11 Jocher did not do, and that would be to put them in front
 12 of a mock INPO evaluation where you ask them questions,
 13 typical questions. You don't know what INPO is going to
 14 ask, but just to get them comfortable with the process and
 15 on what types of questions they ask. And I felt like they
 16 just felt more comfortable going in and were less likely
 17 to just, I guess, cave in to the stress of the moment.
 18 Q Have you ever heard the term pump up with
 19 respect to getting people ready just for the INPO
 20 evaluation as opposed to having them receive complete
 21 training?
 22 A It seems like I have.
 23 Q Have you ever used it yourself?
 24 A It is possible.
 25 Q Were you ever criticized for doing that,

Page 58

1 for pumping up your RLAS for the INPO visit as opposed to
 2 providing them complete training?
 3 A I think so.
 4 Q And who criticized you?
 5 A I think that was Rob Beecken.
 6 Q And who is he? What was his position?
 7 A He was the plant manager.
 8 Q The plant manager where?
 9 A Sequoyah Nuclear Plant.
 10 Q If you will look at exhibit twenty, I
 11 believe it's the third page, under item number three. The
 12 fourth bullet, online sampling system does not meet
 13 current industry standards, do you see that?
 14 A Item number three?
 15 Q Item number three, which is SQN, Sequoyah
 16 --
 17 A Okay.
 18 Q -- fourth bullet. Do you see where it says
 19 online sampling system does not meet current industry
 20 standards?
 21 A That's correct.
 22 Q What does that refer to?
 23 A The online sampling system that we were
 24 using at Sequoyah was out of date. The instruments were
 25 old. They were not capable of seeing down in the ranges

Page 59

1 that the industry had grown accustomed to. A lot of
 2 equipment was actually broken down and we could not get
 3 spare parts because the instruments were so old.
 4 Q What's the purpose of online sampling?
 5 A To evaluate system conditions immediately
 6 or online, get an accurate, up-to-date assessment, rather
 7 than relying on grab samples once a day, three times a
 8 day, whatever.
 9 Q What do you use those samples for?
 10 A To see if you have problems in the system,
 11 to see if you have a demineralizer that needs to be
 12 regenerated, to see if you have a breakdown somewhere in a
 13 system component.
 14 Q And are those samples important?
 15 A Yes, they are.
 16 Q Were you ever criticized for not providing
 17 samples to the operators of the plant?
 18 A No.
 19 Q Were you ever criticized for not providing
 20 adequate sampling parameters to anyone?
 21 A (No verbal response.)
 22 Q Let me rephrase that. Did anyone ever
 23 suggest to you that you should be providing more
 24 information from the chemistry department?
 25 A Let's see. We were taking a lot of grab

Page 60

1 samples, if that's what you mean. I can't remember
 2 anybody criticizing the amount of grab samples, no.
 3 Q Did anyone ever suggest you should be
 4 providing more information or more parameters?
 5 A Not that I recall.
 6 Q So then if the online sampling system
 7 didn't meet current industry standards, that wasn't a
 8 problem; is that right?
 9 A That was a problem.
 10 Q Why was it a problem?
 11 A Because we didn't have the equipment in
 12 place to meet current industry standards.
 13 Q And the industry standards provide for
 14 what?
 15 A For the various analytical instruments
 16 needed in various places at the plant and the level of
 17 sensitivity they would be able to read down to. And we
 18 did not have that in place.
 19 Q So people wanted that information and you
 20 couldn't provide it?
 21 A I could not provide the online, no. We did
 22 the grab samples, though.
 23 Q Did that provide the amount of information
 24 that the current industry standard dictated?
 25 A No.

Page 61

1 Q Look at the next bullet on SQN.
 2 A Uh-huh.
 3 Q Do you see where it says due to the age and
 4 lack of replacement parts, maintenance on the chemistry
 5 monitors is a problem and many instruments remain out of
 6 service for long periods of time?
 7 A That's correct.
 8 Q What were you doing to address the problems
 9 with the maintenance on the chemistry monitors and the
 10 fact that instruments were out of service?
 11 A We had to fill out trouble tickets. I
 12 think that's what you call them. You know, at various
 13 plants the name is different. But if you have a piece of
 14 analytical equipment that's out of service, you have to
 15 then submit a trouble ticket which identifies the
 16 instrument and the problem, and it goes into the work
 17 control process.
 18 Q How long had that been a problem?
 19 A For years.
 20 Q And it was still a problem when you were at
 21 Sequoyah?
 22 A That's correct.
 23 Q And remained a problem the entire time you
 24 were there?
 25 A That's correct.

Page 64

1 A Yes.
 2 Q When were the criticisms by Beecken made of
 3 you?
 4 A In December of '92.
 5 Q And those criticisms, again, were what?
 6 A Well, I don't recall. I would have to
 7 refer to my notes.
 8 Q We talked about --
 9 A That conversation was --
 10 Q -- the RLA knowledge; right?
 11 A Uh-huh.
 12 Q And is that when he related those
 13 criticisms to you?
 14 A Yes.
 15 Q Do you know what time period those
 16 criticisms of his related to?
 17 A Yes, the period of time I was downtown.
 18 Q All right. And when did Jack Wilson have
 19 his criticisms of you?
 20 A In December.
 21 Q Of '92?
 22 A That's correct.
 23 Q That's when he related them to you?
 24 A Yes.
 25 Q And so you're saying before you went

Page 62

1 Q Were you ever criticized about the fact
 2 that there's a problem with the maintenance of chemistry
 3 monitors?
 4 A No.
 5 Q Were you ever criticized about the fact
 6 that instruments remained out of service for long periods
 7 of time?
 8 A Yes.
 9 Q And who criticized you for that?
 10 A As I recall, it was Jack Wilson.
 11 Q And Jack Wilson was who?
 12 A The site vice president.
 13 Q Rob Beecken worked for him?
 14 A That's correct.
 15 Q So we have the site vice president
 16 criticizing you about the state of the chemistry program
 17 and --
 18 A No. No, you stated that incorrectly.
 19 Q He didn't criticize you about the state of
 20 the chemistry program?
 21 A No.
 22 Q What did he criticize you about?
 23 A About the fact that there were a lot of
 24 instruments that were out of service and had been out of
 25 service for a long time. That was your question, was it

Page 65

1 downtown there wasn't a problem with instruments remaining
 2 out of service for long periods of time?
 3 A I did not say that.
 4 Q My question is, for what period of time was
 5 Wilson -- Jack Wilson critical, not when did he tell you
 6 of his criticism. When did his criticism relate to?
 7 A He didn't specifically say.
 8 Q All right. What period of time did Mr.
 9 Beecken's criticism relate to?
 10 A For the most part, when I was rotated
 11 downtown to corporate chemistry. The last INPO evaluation
 12 was what he was most concerned about.
 13 Q You understand the problems with knowledge
 14 decay don't occur overnight; is that correct?
 15 A That's correct.
 16 Q When do you think this knowledge decay of
 17 the RLAS began?
 18 A Without having the specific information,
 19 the specific questions, knowing exactly what INPO asked
 20 these RLAS, I cannot tell you. I mean, what did they not
 21 know? Can you tell me what they did not know? Your
 22 answer is, no, you can't. How can I answer that question
 23 if I don't have the information?
 24 Q Well, you know it didn't occur overnight.
 25 A I didn't say it did.

Page 63

1 not.
 2 Q Right. And who was responsible for those
 3 instruments?
 4 A I am responsible for those instruments.
 5 Q So he was critical of you?
 6 A No, because I'm not the one that fixes the
 7 instruments.
 8 Q You weren't getting them fixed, were you?
 9 A I am not the one that fixes the
 10 instruments. I turn in a trouble ticket, and it goes to
 11 the work control process and then to the instrumentation
 12 and controls people who have the people that go and fix
 13 the equipment. I cannot fix it.
 14 Q So was somebody deliberately holding up
 15 fixing your equipment to get you in trouble?
 16 A Was that a question?
 17 Q Yes.
 18 A Not that I'm aware of.
 19 Q Okay.
 20 A The operative word there being deliberate.
 21 Q Oh. So you're saying that it was being
 22 held up?
 23 A Yes.
 24 Q And you were criticized by Jack Wilson for
 25 it?

Page 66

1 Q When did the INPO evaluation occur?
 2 A I don't recall. It's a matter of record.
 3 Look it up.
 4 Q Let me ask you to look at Fiser exhibit
 5 five.
 6 A Exhibit five?
 7 Q Yes.
 8 A (Witness complied with request.)
 9 Q Let me ask you. Beginning at the third
 10 page, do you see the record of interview of Patrick Lydon
 11 dated August 24th, 1993?
 12 A The third page?
 13 Q The third page of the exhibit is the first
 14 page of Patrick M. Lydon's record of interview. Do you
 15 see that?
 16 A Yes. I don't see that date.
 17 Q It's on the bottom of the page.
 18 A Okay. I see it.
 19 Q You worked for Mr. Lydon?
 20 A That's correct.
 21 Q This refers -- the first page refers to
 22 your transfer on a temporary basis to the corporate
 23 chemistry manager position and Bill Jocher's transfer on a
 24 temporary basis to fill the chemistry superintendent
 25 position at Sequoyah. Do you see that?

Page 67

1 A Uh-huh.
 2 Q Whose idea was that to have the two of you
 3 rotate between those two positions?
 4 A I'm not sure.
 5 Q It wasn't your idea?
 6 A No, it was not.
 7 Q Were you in agreement with it?
 8 A Not initially.
 9 Q Why not?
 10 A It was just so different, and it was for a
 11 year. I was not -- I was not enthusiastic about leaving
 12 Sequoyah at that time.
 13 Q Up until that time, had you had any very
 14 vocal critics?
 15 A Oh, yes.
 16 Q Who?
 17 A Bill Jocher.
 18 Q And he was serving as the corporate
 19 chemistry --
 20 A Yes, he was.
 21 Q And what was he critical of?
 22 A There was a litany of things that he was
 23 critical of.
 24 Q With respect to Sequoyah chemistry?
 25 A Sequoyah, Browns Ferry, Watts Bar, you name

Page 68

1 it.
 2 Q All right. Did anybody explain to you why
 3 you and Jocher were -- at the time, did anybody explain to
 4 you why you and Jocher were rotated?
 5 A Yes.
 6 Q Who explained it to you?
 7 A Pat Lydon.
 8 Q And what did he tell you?
 9 A I think it's a matter of record as well, so
 10 I would like to refer and read it. But as I recall --
 11 I'll just answer the question -- his feeling was Jocher
 12 was making lots of noise and writing lots of reports and
 13 complaining, and they wanted to get him to the site to see
 14 if he could perform. And they wanted to reward me for a
 15 job well done and send me downtown for a year.
 16 Q A job well done where?
 17 A At Sequoyah.
 18 Q In what position?
 19 A Chemistry superintendent.
 20 Q All right.
 21 A And also outage management.
 22 Q Did Lydon ever tell you what upper
 23 management's feelings were with respect to your
 24 performance in chemistry?
 25 A I would have to refer to my notes. I don't

Page 69

1 recall it, but I can't say it did not happen.
 2 Q Let me refer you to the fifth paragraph of
 3 this page we're looking at of Mr. Lydon's record of
 4 interview. Do you see where it says Bynum and Beecken
 5 wanted Lydon to fire Fiser because he was not competent?
 6 A Yes, I do.
 7 Q Did Mr. Lydon ever tell you that?
 8 A No.
 9 Q Did he ever suggest to you that anyone in
 10 upper management was unhappy with your performance?
 11 A At the time that I was rotated downtown, to
 12 my knowledge he had not. I was completely surprised.
 13 Q You say at the time you were rotated
 14 downtown you were not. Did he ever tell you that?
 15 A I would have to refer to my notes. Not
 16 that I recall.
 17 Q You don't have any recollection?
 18 A Not that I recall. But I cannot say that
 19 it didn't happen because obviously at some point that did
 20 become apparent. I can tell you the day that I got word
 21 of this I met Beecken and Jack Wilson in the stairwell at
 22 Sequoyah, and they both expressed to me profound
 23 appreciation for the job I had done in the chemistry and
 24 in outage management. And they wanted me to look at this
 25 rotation as an opportunity to broaden my horizons, enhance

Page 70

1 my career, and as a reward for what they considered to be
 2 a job well done.
 3 Q You say the day you got wind of this. The
 4 day you got wind of what?
 5 A Of the transfer. I think it was the day.
 6 It might have been the day after. It was within two or
 7 three days of that.
 8 Q Did Lydon ever tell you that he did not
 9 consider the chemistry program at Sequoyah to be in good
 10 shape, that he thought it was bad?
 11 A No, not that I recall.
 12 Q He never told you that?
 13 A Not that I recall. I would have to check
 14 my notes. I can't say it did not happen. That's what I'm
 15 saying.
 16 Q Let me refer you to the third page of Mr.
 17 Lydon's -- third paragraph of Mr. Lydon's record of
 18 interview. Do you see where it says, in the middle of the
 19 third paragraph, Lydon described the Sequoyah chemistry
 20 as, quote, unbelievably bad. Lydon advised that there
 21 were all kinds of long-standing problems with Sequoyah's
 22 chemistry program. Do you see that?
 23 A Yeah, I do.
 24 Q Did Lydon ever tell you that the Sequoyah
 25 chemistry program was unbelievably bad and that there were

Page 71

1 long-standing problems?
 2 A If he had, he would have been talking about
 3 the long-standing problems with the old and outdated
 4 equipment that we have already spoken of. That was in sad
 5 shape. That was terrible. The compensatory measures that
 6 we had put in place as a part of the chemistry program
 7 were in compliance with INPO standards for compensatory
 8 measures for sampling equipment that was out of service.
 9 Q So you're saying that the only
 10 long-standing problems that you knew about were with
 11 respect to the equipment that was out of service?
 12 A No. That's the only ones that I think he
 13 was referring to.
 14 Q Did he tell you that?
 15 A I would have to refer to my notes. You
 16 know, it's been ten years.
 17 Q What notes?
 18 A Any notes in my --
 19 Q Do you have any notes from 1993?
 20 A It's possible.
 21 Q When you get a chance when you go home to
 22 look for that, I'd request that you bring whatever notes
 23 you've got from 1992 and '93.
 24 A I understand.
 25 Q But you don't specifically recall talking

Page 72

1 to him in which he told you that Sequoyah chemistry
 2 program was unbelievably bad; is that right?
 3 A There are two aspects to this. There's the
 4 aspect of the equipment and the problems that was
 5 unbelievably bad. And then there was the program we were
 6 running with compensatory measures to shore up those
 7 inadequacies. Two different things. The program I was
 8 running was adequate.
 9 Q Okay. You're saying --
 10 A The sad state of the chemistry equipment
 11 was deplorable and the fact that it took forever and a day
 12 to get anything repaired.
 13 Q So you're saying there was -- the equipment
 14 was in a sad state and deplorable, but the program was
 15 not, the program was good; is that right?
 16 A The program was adequate for a program that
 17 was running compensatory measures to make up for equipment
 18 that was out of date --
 19 Q The program --
 20 A -- and deplorable.
 21 Q -- was adequate; is that your testimony?
 22 A Yeah.
 23 Q Referring back to the third paragraph of
 24 Mr. Lydon's record of interview, do you have any
 25 explanation why he told the agent from the Inspector

Page 73

1 General's office that the, quote, Sequoyah chemistry
 2 program, was, quote, unbelievably bad?
 3 A Very likely he was talking about the
 4 deplorable state of the equipment that we had for online
 5 monitors.
 6 Q It doesn't say equipment. It says program,
 7 doesn't it?
 8 A It does say program.
 9 Q And in the next paragraph, it says that
 10 there were long-standing problems with Sequoyah's chemistry
 11 program, doesn't it?
 12 A It sure does.
 13 Q It doesn't say equipment?
 14 A It does not.
 15 Q In the next -- the fourth paragraph, do you
 16 see where it says Lydon told Bynum and Beecken he had only
 17 been on board for a short time, and he could not fire
 18 Fiser because he did not have any documented justification
 19 to take such actions?
 20 A Yes.
 21 Q You see that? It doesn't say Lydon told
 22 Bynum and Beecken that you were doing a good job and you
 23 should be rewarded. It just says he didn't have
 24 documentation because he hasn't been there very long,
 25 doesn't it?

Page 74

1 A It says he didn't know.
 2 Q It says he doesn't have documentation.
 3 A It says he doesn't know.
 4 Q Do you see where it says he did not have
 5 any documented justification?
 6 A Which he means he didn't know. How would
 7 he know if he didn't have documentation?
 8 Q He hadn't written you up, is that right?
 9 A He was just there for a short period of
 10 time. He hadn't what?
 11 Q He hadn't written you up, is that right?
 12 A Written me up?
 13 Q You had never received any written
 14 criticisms from him or any written counseling?
 15 A No. No, huh-uh.
 16 Q In the fourth paragraph, do you see where
 17 it says Lydon opined Fiser was not competent to hold this
 18 position because he did not have any boiling water reactor
 19 experience? Do you see that, the last sentence in the
 20 fourth paragraph?
 21 A That's Jocher's position downtown we're
 22 talking about?
 23 Q Yes.
 24 A Yes, I see that.
 25 Q Do you disagree with that?

Page 75

1 A He never mentioned it to me.
 2 Q Do you disagree with that?
 3 A Yes.
 4 Q You think you were competent to hold that
 5 position because you had boiling water reactor experience?
 6 A No. But I had people on board that did.
 7 Q So you agree you didn't have any boiling
 8 water reactor experience?
 9 A I do.
 10 Q You do agree?
 11 A I do.
 12 Q All right. But, nevertheless, you felt you
 13 were competent to hold that position of chemistry --
 14 corporate chemistry manager despite your lack of BWR
 15 experience?
 16 A Sure, on an interim basis. I sure do. And
 17 the fact that I had very seasoned people working for me
 18 who did.
 19 Q All right. Who were those seasoned people
 20 who had BWR experience?
 21 A Chandra.
 22 Q Anybody else?
 23 A Mainly Chandra.
 24 Q Anybody else?
 25 A Mainly Chandra.

Page 76

1 Q Okay. Mainly. But is there anybody else?
 2 A That had a lot of BWR experience?
 3 Q Is there anybody else besides Chandra in
 4 the corporate chemistry department who was working under
 5 you who had BWR experience?
 6 A Sam.
 7 Q Sam?
 8 A Harvey.
 9 Q Okay. They both had BWR experience?
 10 A You know, I think that's true. I think Sam
 11 at one time worked at the Hatch plant as an RLA. I think
 12 that's true.
 13 Q What is -- what sort of plant is the South
 14 Texas project?
 15 A I'm not sure.
 16 Q Let me ask you to look at the second page
 17 of Mr. Lydon's record of interview.
 18 A Uh-huh.
 19 Q If you will, look at the sixth paragraph on
 20 page two, the second sentence of that paragraph. Do you
 21 see where it says INPO had conducted an audit of Sequoyah's
 22 chemistry program and documented several long-standing
 23 problems in their report?
 24 A Uh-huh.
 25 Q That refers to a September/November INPO

Page 77

1 evaluation. Do you know what long-standing problems were
 2 documented by INPO in that report?
 3 A I don't think I ever saw the report.
 4 Q You don't know what problems were addressed
 5 by INPO?
 6 A No, I do not. I would have to have that
 7 report.
 8 Q And if you would look at the top of page
 9 three of Mr. Lydon's record of interview, the first
 10 paragraph, you'll see in the second sentence it says
 11 specifically Lydon recalled a concern regarding the lack
 12 of training at Sequoyah. Lydon believed this concern was
 13 well documented at Sequoyah. Do you see that?
 14 A Uh-huh.
 15 Q Were you aware of a documented concern
 16 regarding the lack of training for RLAs at Sequoyah?
 17 A Yes.
 18 Q And when was that documented?
 19 A When Bill Jocher -- it was at about the
 20 time when we made the swap. He went out to Sequoyah and I
 21 went downtown. And as I recall, it had to do with
 22 post-accident sampling, some testing that we did where the
 23 RLAs were not able to perform the function within the
 24 three-hour time requirement, and some of them were not
 25 able to do it at all.

Page 78

1 Q Did you raise that concern?
 2 A I can't remember if I raised it or if Bill
 3 Jocher and I raised it together and then decided to do the
 4 test. It seems like that's the way it was.
 5 Q Isn't it, in fact, the case that Bill
 6 Jocher raised the concern and that you could not agree
 7 with Bill Jocher as to the proper way to conduct the test?
 8 A The way to conduct the test?
 9 Q As the way to measure the time to begin the
 10 conduct of the test.
 11 A I can remember a debate between Bill Jocher
 12 and Jack Wilson regarding that. In other words, it seemed
 13 like it was when does the clock start. But, again, I
 14 would have to refer to my notes. It's been too many
 15 years.
 16 Q Did anybody else ever -- did anyone else
 17 ever become concerned about the length of time that it
 18 took you to get this issue resolved?
 19 A Not that I'm aware of.
 20 Q Did you ever meet with the NSRB at TVA
 21 Sequoyah?
 22 A Yes.
 23 Q Did they ever concern themselves with how
 24 long it was taking you and Mr. Jocher to address the
 25 post-accident sampling issue?

Page 79

1 A It seems like that is the case.
 2 Q And you and Mr. Jocher, at least at one
 3 meeting of the Nuclear Safety Review Board, were in
 4 disagreement, and some months later they came back and the
 5 two of you were still in disagreement as to how to
 6 proceed?
 7 A I'd have to refer to my notes. That does
 8 seem plausible.
 9 Q If it's reflected in the NSRB minutes, you
 10 wouldn't disagree with them?
 11 A Well, I can't say that. I cannot say that.
 12 But certainly I would -- I would view that as a valuable
 13 piece of information.
 14 Q Let me refer you to Fiser exhibit eighteen.
 15 A Eighteen? Okay.
 16 Q This refers to an interview that James
 17 Vorse of the Office of Investigations conducted with you
 18 on February 1st of 1995; is that correct? James Vorse and
 19 Larry Robinson?
 20 A That's correct.
 21 Q All right. Now, it indicates that you gave
 22 them a document, which we've attached to this, entitled,
 23 quote, sequence of events. Do you see that?
 24 A Uh-huh.
 25 Q And you told them it was a compilation of

Page 80

1 notes, memory, and surreptitious tape-recordings that you
 2 took?
 3 A Uh-huh.
 4 Q All right. Now, there's eighty five pages
 5 that follow. Where are all of the notes that you prepared
 6 this document from?
 7 A These would have been prepared primarily
 8 from the recordings that I took.
 9 Q From the recordings? It refers to three
 10 things. It says tapes, notes and memory.
 11 A Uh-huh.
 12 Q My first question is, where are the notes
 13 that went into the production of this document?
 14 A They would be a part of my day planner, my
 15 --
 16 Q Franklin Planner?
 17 A -- Franklin Planner.
 18 Q All right. Do you see the first page of
 19 the sequence of events begins in -- it says April 15th to
 20 26th, 1991. Do you see that?
 21 A Yes.
 22 Q Does your planner go back that far?
 23 A I would have to look. If it does not,
 24 there are other notebooks that I kept as well.
 25 Q All right. We request that you produce,

Page 81

1 pursuant to the subpoena that was served upon you, all the
 2 notes that went into the production of this document
 3 entitled sequence of events.
 4 A From?
 5 Q It begins April 15th, '91.
 6 A I'm not absolutely sure I have them. I
 7 think I do.
 8 Q Now, it says some of it was also the result
 9 of your memory.
 10 A Uh-huh.
 11 Q For example, beginning on the first page of
 12 the sequence of events, April 15th to 26th, '91, how much
 13 of that is a result of your memory as opposed to notes or
 14 tapes?
 15 A Well, I don't know. I'm sure I have notes
 16 of it. So I really can't answer the question without
 17 reviewing the notes.
 18 Q So you think you've got notes of these
 19 various entries which are not based on tape-recordings?
 20 A The only thing in the April 15th to 26th
 21 that I see listed here is just a statement that apparently
 22 they performed an INPO evaluation in which they had no
 23 findings or concerns in the chemistry assessment -- in the
 24 chemistry area. Do you see that?
 25 Q In the first one?

Page 82

1 A Yes.
 2 Q Yes, I see that.
 3 A Was that your question?
 4 Q My question was, are all of these entries
 5 based upon some notes of yours.
 6 A Again, when we say all of these, are you
 7 saying April 29th, '91?
 8 Q Do you see any entries in here that are
 9 based strictly on your memory?
 10 A Quite possibly.
 11 Q Well, show me -- tell me -- show me one.
 12 A For example, April 29th, 1991, my direct
 13 supervisor, Mr. Bill Lagergren, in a private meeting with
 14 me asked if I would like to be temporarily reassigned to
 15 the outage management group for the unit cycle five
 16 outage. That may have been from memory. I would think,
 17 though, that I would have put a note down, but I can't
 18 answer that question for sure.
 19 Q When did you prepare this sequence of
 20 events?
 21 A Possibly some of it was as it was
 22 happening, as it was occurring. If I made a note of it in
 23 my Franklin Planner, it was an ongoing thing. If I took a
 24 tape-recorder, then it was not until later that I
 25 transcribed the tape.

Page 83

1 Q So you're telling me that you made some
 2 notes and then at some point in time you began preparing
 3 this documents entitled sequence of events in 1991?
 4 A No. I'm telling you that in '91 I may have
 5 written a note that I then captured into this document.
 6 Q All right. When did you initiate this
 7 document?
 8 A This document would have been initiated
 9 when I was in the employee transition program.
 10 Q In '93?
 11 A That's correct.
 12 Q And you were assigned the employee
 13 transition program in -- was it March of '93? April of
 14 '93?
 15 A You would think I would remember that, but
 16 I don't.
 17 Q April 2nd of '93? Does that sound right?
 18 A That sounds about right.
 19 Q Pardon?
 20 A That does sound about right.
 21 Q In fact, if you look at exhibit two, that's
 22 the date of your notice of transfer to ETP.
 23 A Okay. Yes.
 24 Q Okay.
 25 A April 2nd.

Page 84

1 Q All right. So sometime after April 2nd of
 2 1993, you initiated this sequence of events?
 3 A Uh-huh.
 4 Q All right. So that would have been about
 5 two years after, for example, the April 29th, 1991, entry
 6 --
 7 A That's correct.
 8 Q -- about the meeting with Bill Lagergren,
 9 right?
 10 A That's correct.
 11 Q When did you begin conducting what Mr.
 12 Vorse calls surreptitious tape-recordings?
 13 A It appears to be November of '92.
 14 Q Why did you begin initiating
 15 tape-recordings?
 16 A I was trying to get a clear understanding
 17 of why things were kind of going awry as far as my
 18 relationship with even the managers who had placed me into
 19 this temporary transition in the first place.
 20 I sensed that all was not well. And that was
 21 based on conversations I had had with various people. I
 22 was trying to understand that. And in discussions with
 23 Wilson McArthur, I would go back and try to write some
 24 notes down. And there were points that I could not
 25 remember. So I said, hey, I'm at least going to record it

Page 85

1 and then I will come back, write down the important points
 2 so that I don't miss any of the information.
 3 Q Well, what events had happened to give you
 4 this -- these misgivings in November of '92 about what was
 5 going on?
 6 A Feedback from Wilson that the sites were
 7 upset with me -- the site was upset with me, Beecken was
 8 upset with me, which I could not figure out based on the
 9 conversations we had had before.
 10 Q So when did Wilson tell that you Beecken
 11 was upset with you?
 12 A Well, I would have to refer to my notes.
 13 Q Would those be reflected in your daily
 14 planners?
 15 A Quite possibly. It would have been in the
 16 '92 time frame.
 17 Q After you rotated downtown?
 18 A Uh-huh.
 19 Q Now, when you went downtown, you went
 20 downtown as the corporate chemistry manager; correct?
 21 A Uh-huh.
 22 Q You called it corporate chemistry earlier.
 23 It was corporate chemistry manager; correct?
 24 A I'm not sure of the titles. They change.
 25 Q All right. How long did you remain in that

Page 86

1 position?
 2 A Until approximately November.
 3 Q And what happened then?
 4 A At that time, Sam Harvey was placed in that
 5 position, and I was placed in a position subordinate to
 6 Sam.
 7 Q Why? What were you told was the reason
 8 why?
 9 A That Bynum was not happy with me, that
 10 Beecken was not happy with me as I recall.
 11 Q Who told you that?
 12 A Wilson.
 13 Q Did Wilson ever express any displeasure
 14 about your performance?
 15 A No.
 16 Q He told you he was removing you from that
 17 position because Bynum and Beecken were unhappy with you?
 18 A Uh-huh.
 19 MS. EUCHNER: For the record, we're
 20 discussing Wilson McArthur, not Jack Wilson.
 21 MR. MARQUAND: Correct. Thank you.
 22 THE WITNESS: Good point.
 23 BY MR. MARQUAND:
 24 Q Did he ever express to you that Jack Wilson
 25 was unhappy with you?

Page 87

1 A I would have to refer to the notes.
 2 Q It doesn't ring a bell?
 3 A It sort of rings a bell, because I
 4 particularly singled Jack out to go talk to him at one
 5 time. So it would not surprise me. But, again, we're
 6 talking ten years worth of data. I would have to go back
 7 and review that for sure.
 8 Q Do you ever recall having related to you an
 9 incident in which Jack Wilson said that he had not been
 10 able to -- he had to go out and work all weekend on a
 11 problem with the chemistry program at the plant?
 12 A No, I don't recall that.
 13 Q It doesn't ring a bell?
 14 A Not right now. But, again, that was years
 15 ago. Do you have a specific reference to that maybe?
 16 Q No, I don't. What did -- did Dr. McArthur
 17 tell you why Bynum and Beecken were unhappy with you?
 18 A Yes. I think what Wilson explained to me
 19 was that the problems at Sequoyah chemistry were being
 20 blamed on me, something that he was quite a bit taken
 21 aback by. He could not understand it, at least at that
 22 time.
 23 Q So your understanding from Dr. McArthur was
 24 that Bynum and Beecken held you responsible for the
 25 problems with Sequoyah chemistry?

Page 88

1 A Yeah. I'm looking for a reference here. I
 2 think we can find that. I'm looking at page seven of my
 3 sequence of events. This is a tape-recording, by the way,
 4 where Wilson makes the statement --
 5 Q What page?
 6 A Page seven of the sequence of events.
 7 Q Okay. Page seven in the sequence of
 8 events.
 9 A Where we have McArthur where he talks about
 10 in the same vein, I was out to talking to Rob Beecken, and
 11 I said to Rob we've got this transition coming back here
 12 very shortly, maybe three months, maybe six months from
 13 now, we don't know, but at some point in time. And he
 14 just made it very clear that you are not going back to
 15 Sequoyah.
 16 Q All right. Now, when he's talking about
 17 the transition, he's talking about the fact that your
 18 one-year rotation downtown was coming up soon and that you
 19 would be going -- in accordance with that rotation, you
 20 were supposed to go back to Sequoyah. And you understood
 21 that Beecken was saying you weren't going to come back to
 22 Sequoyah?
 23 A Yes, sir.
 24 Q All right.
 25 MR. DAMBLY: He understood that McArthur

Page 89

1 was saying that.
 2 BY MR. MARQUAND:
 3 Q McArthur's telling you that's what Beecken
 4 said?
 5 A That's right. That's what this statement
 6 says. And also a little further down, McArthur says I
 7 can't tell you why. He did not elaborate. He did not get
 8 into a discussion. I really believe -- I'll give you my
 9 frank opinion based on nothing. And I said, yeah, go
 10 ahead.
 11 Okay. Just a gut feeling that the problems in the
 12 chemistry department are being blamed on Gary Fiser.
 13 That's my gut feeling. Boy, if you ask me to prove it, I
 14 have no basis for it.
 15 Then he goes on down on the next page and he says
 16 I talked to Joe about it -- that's Joe Bynum -- and I tell
 17 you, the feeling is just pretty well bound as far as
 18 Keuter and Joe is concerned. And I said, well, you know,
 19 we made a commitment to return this guy to the site. And
 20 I was first of all told, Wilson, you can't even talk about
 21 this to him. And I said, hey, I'm not going to play this
 22 kind of game. So, finally, Joe gave in and said, well --
 23 and he says I asked his permission this morning. I said
 24 this guy has to understand where he stands.
 25 I can go on and read, but you can read it.

Page 90

1 Q All right. I can read that. So you
 2 understood as of November of '92 that Bynum and Beecken at
 3 least were unhappy with you and they blamed you for the
 4 problems that Sequoyah chemistry was having, at least
 5 according to Dr. McArthur?
 6 A That's just a gut feeling from McArthur. I
 7 get the feeling that he did not have specifics. They
 8 didn't give him specifics.
 9 Q So did you tape-record this conversation
 10 with Dr. McArthur?
 11 A I sure did.
 12 Q All right. Now, what misgivings did you
 13 have prior to this conversation to make you think you
 14 needed to tape-record this conversation?
 15 A There again, I would have to look at my
 16 notes.
 17 Q So you had some misgivings prior to that
 18 about --
 19 A Very definitely.
 20 Q All right. Now, did you ever confront Mr.
 21 Beecken about why he might not want you to return to
 22 Sequoyah?
 23 A I sure did.
 24 Q All right. Is that reflected in your
 25 sequence of events?

Page 91

1 A Yes, it is.
 2 Q Where?
 3 A December. December -- the first week or
 4 two of December. Yeah, it looks like it starts on page
 5 fifty.
 6 Q And is this a conversation you had with Rob
 7 Beecken?
 8 A Uh-huh. Yes.
 9 Q December 9th, 1992?
 10 A That's correct.
 11 Q Did you tape-record it?
 12 A I did.
 13 Q Did he know you were tape-recording it?
 14 A No.
 15 Q Did anybody else know you were
 16 tape-recording it?
 17 A No.
 18 Q Tell us -- I don't want you to read this to
 19 us. I want you to tell us what impressions you had from
 20 Beecken as to why he didn't want you to come back to
 21 Sequoyah?
 22 A Well, you say don't read it. I mean, I
 23 would have to.
 24 Q I don't want you to read out loud. I just
 25 want you to tell me, if you know, why he said he didn't

Page 92

1 want you to come back.
 2 A There was a problem with a radiation
 3 monitor.
 4 Q Set points?
 5 A No.
 6 Q It didn't have to do with rad monitor set
 7 points?
 8 A This particular one I'm talking about had
 9 to do with an IE bulletin in 1982 issued by the NRC which
 10 dealt with a concern if you have a vacuum pump, a sample
 11 pump that draws a vacuum on the nerve gas chamber and an
 12 effluent radiation monitor and you're measuring a sample
 13 in that chamber that now has a vacuum, you could be
 14 nonconservative in your estimates of radioactive material
 15 leaving the site. Also flow instrumentation, the same
 16 thing was true.
 17 Q So what was the issue that Beecken had with
 18 that?
 19 A He was very upset that this problem was
 20 found and documented.
 21 Q Okay. That the NRC documented it?
 22 A No.
 23 Q The NRC had documented a possibility of a
 24 problem earlier; right?
 25 A Yes. In '82.

Page 93

1 Q And then that problem still surfaced again
 2 at Sequoyah later on; right?
 3 A That's correct.
 4 Q And when did it surface?
 5 A It surfaced in '93.
 6 Q Did he hold you responsible for it?
 7 A Yes.
 8 Q Did he hold you responsible for any other
 9 problems?
 10 A Yes.
 11 Q What else?
 12 A There was a sampling issue where one of the
 13 RLAS went up to take a sample, didn't get the valves
 14 realigned properly or the sampling apparatus assembled
 15 properly. I don't recall. This was while I was away in
 16 outage management. He held me responsible for that. He
 17 also held me responsible for the poor INPO showing that
 18 took place while I was gone.
 19 Q Did you explain to him what you had done on
 20 previous INPO evaluations?
 21 A I sure did.
 22 Q Is this where you told Mr. Beecken that you
 23 got sample questions and pumped your RLAS up?
 24 A That's correct.
 25 Q And was he critical of you for that?

Page 94

1 A I think he was, yes.
 2 Q Was he holding you responsible or being
 3 critical of you for anything else? What about filter
 4 change-outs?
 5 A That's the one I was just talking to you
 6 about.
 7 Q About the RLA taking the sample
 8 incorrectly?
 9 A Either not getting the thing reassembly
 10 properly or not opening the proper valve or something like
 11 that. That also happened while I was gone.
 12 Q Now, talking about these rad monitors, what
 13 we're talking about there is the rad monitor effluent
 14 calculations not being set properly to account for the
 15 fact that it was being done using a vacuum; correct?
 16 Inaccurate corrections for vacuum?
 17 A That's correct.
 18 Q And that was a chemistry procedure?
 19 A No.
 20 Q It wasn't?
 21 A No.
 22 Q Let me ask you to look at page fifty three
 23 of your sequence of events.
 24 A Uh-huh.
 25 Q Do you see where Beecken says, yeah, but it

Page 95

1 was a chemistry procedure, and you responded, yes, I know?
 2 It was a chemistry procedure, wasn't it?
 3 A The procedure to obtain the sample?
 4 Q Right.
 5 A It was an engineering function to make the
 6 corrections for the vacuum. That was not chemistry. So
 7 what was your question again?
 8 Q Did you -- did he hold you responsible for
 9 not making those corrections?
 10 A Yes.
 11 Q Were there any other problems that he held
 12 you accountable for? Training, wasn't it?
 13 A That would have been the poor INPO showing
 14 that I mentioned earlier, particularly in training. So,
 15 again, while I'm gone we have an assessment; they don't do
 16 well. My judgment is I don't think they were properly
 17 prepared for the INPO evaluation.
 18 I think they could have done better. But, again,
 19 I would have to get the list of questions, compare and see
 20 if there was really knowledge decay, if they didn't
 21 understand the question. I don't have a clue without
 22 having that report. I can't defend it.
 23 Q Did you ever talk with Jack Wilson about
 24 why -- the criticisms he leveled at you and why he didn't
 25 want you back at Sequoyah?

Page 96

1 A Yes, I did.
 2 Q And did he hold you accountable or
 3 responsible for any problems chemistry was having?
 4 A Yes, he did.
 5 Q What did he tell you?
 6 A I'm looking for it. I have that
 7 conversation taped as well.
 8 Q You taped that conversation with Jack
 9 Wilson?
 10 A Yes, I did. And it's in that document.
 11 Q And when was that conversation?
 12 A Let me see if I can find it here. Yes,
 13 here it is. If you will look at page thirty five,
 14 November the 21st, 1992.
 15 Q All right. What did he hold you
 16 responsible for to chemistry?
 17 A Without reading it -- and I would want to
 18 read it to answer that question completely -- basically
 19 what he was saying was, by gosh, you know, getting all
 20 these upgrades, you know, we just didn't pound our fist
 21 enough and all this kind of thing. And then he looked at
 22 me and says but, you know, I couldn't get it either. So
 23 on the one hand --
 24 Q He was critical of the chemistry
 25 performance in general; right?

Page 97

1 A No. He was critical of the fact that he
 2 did not feel like I had raised enough hell basically,
 3 stirred up enough trouble to get this chemistry
 4 improvement project funded. And then he says at the same
 5 time -- and I'm paraphrasing here -- he says but what the
 6 heck, you know; I couldn't do it either, so --
 7 Here he says on page thirty six, Jack Wilson --
 8 about the fifth paragraph down -- it says clearly it was
 9 recognized a long time ago that the chemistry systems were
 10 not right. Right might not be the right word, but were
 11 not optimum. Not good is probably better. And it kept
 12 getting held at arm's length. I kept pounding the table
 13 telling them, damn it, you people don't pick me for this
 14 -- for that. Finally, last year I made sure that the
 15 chemistry upgrade program stayed on and things happened.
 16 Because there was a lot of people saying don't you really
 17 have to do this.
 18 Q Do you really have to do this.
 19 A Yeah, do you really have to do this. I'm
 20 sorry.
 21 Q So he's saying that he finally pushed and
 22 got the funding for it. Is that what he's saying?
 23 A Well, I don't think that's what he said.
 24 He said finally last year I made sure that the chemistry
 25 upgrade program stayed on and things happened. I don't

Page 98

1 know how many things. I don't know. I was gone at the
 2 time.
 3 Q He's saying he got it done?
 4 A He's saying he -- no, he did not say he got
 5 it done, because he did not get it done.
 6 Q He said he made sure it stayed on and
 7 things happened?
 8 A He made sure it didn't get cut again. It
 9 did not get done under Jack Wilson.
 10 Q All right. So you had -- you tape-record a
 11 conversation with the site vice president, Jack Wilson.
 12 You tape-record a conversation with Rob Beecken, the plant
 13 manager.
 14 A Uh-huh.
 15 Q And they were taking responsibility in your
 16 eyes for telling people downtown they didn't want you
 17 back; is that right?
 18 A Uh-huh.
 19 Q Okay. And they were --
 20 A Well, I'm trying to find that with Jack. I
 21 don't recall.
 22 Q I mean, don't you get that impression from
 23 reading that conversation that he was making it clear he
 24 didn't want you back?
 25 A Yes.

Page 99

1 Q All right. And you got that impression
 2 from Beecken, that he didn't think you'd been effective
 3 and he didn't want you coming back at Sequoyah either?
 4 A Yes.
 5 Q And that they were taking the
 6 responsibility, at least as far as you knew, for being the
 7 people that told Bynum that they didn't want you coming
 8 back down to Sequoyah?
 9 A Yes.
 10 Q Did you ever have a conversation with Joe
 11 Bynum in which he told you the reasons that he didn't want
 12 you to return to Sequoyah?
 13 A No.
 14 Q Did you have conversations with any other
 15 persons in management as to the reasons that you weren't
 16 going to return to Sequoyah?
 17 A Any other management? That's your
 18 question?
 19 Q Sequoyah management.
 20 A I'm going to have to ask you to repeat that
 21 question.
 22 Q All right. Did anybody else in Sequoyah's
 23 management chain tell you reasons why they didn't want you
 24 to come back to Sequoyah? You had the two very top people
 25 tell you, Wilson -- Jack Wilson and Rob Beecken.

Page 100

1 A Uh-huh.
 2 Q Did anybody else in top operations
 3 management tell you why they didn't want you coming back
 4 to Sequoyah?
 5 A No. Now, after the fact, you know, I see a
 6 deposition here from Pat Lydon, you know. I must
 7 emphasize that was --
 8 Q He was in operations?
 9 A Yeah, which I reported to him.
 10 Q Okay. And you see that where apparently
 11 Mr. Lydon didn't think you were the right person for the
 12 job?
 13 A I saw that way after the fact.
 14 Q You saw that today?
 15 A I saw that way after the fact of me going
 16 downtown.
 17 Q Right. But it is dated in that time frame?
 18 A Yes, it is.
 19 Q All right.
 20 A He certainly never communicated that to me.
 21 His communication to me was we want to get Jocher out here
 22 and see if he can do anything besides talk. And that
 23 conversation was subsequently corroborated by the fact
 24 that Jack Wilson and Rob Beecken essentially said, hey,
 25 it's wonderful; it's great; go downtown; you deserve it;

Page 101

1 you've done a good job; broaden your horizons.
 2 Q Broaden your horizons? Find something else
 3 to do?
 4 A Broaden your horizons.
 5 Q By finding something else to do?
 6 A They did not say that. You did.
 7 Q Well, I mean, is that what that means to
 8 you?
 9 A Is that what that means to you?
 10 Q It could mean that.
 11 A Well, that's fine. That's fine if it means
 12 that to you, but that's not what I said. You don't need
 13 to say what I'm thinking and what I'm saying. I will say
 14 that.
 15 Q Did it ever cross your mind?
 16 A No.
 17 Q Did it cross your mind after November of
 18 '92?
 19 A After November of '92?
 20 Q After November of '92 when Wilson McArthur
 21 told you they didn't want you back at the plant, did it
 22 cross your mind that when they told you to broaden your
 23 horizons, expand your career, that they were suggesting
 24 that you might look for something else to do?
 25 A Absolutely not.

Page 102

1 Q Okay. Now, you made a number of
 2 tape-recordings. Did you ever tell any of these people
 3 you were tape-recording that, in fact, you were recording
 4 their conversation?
 5 A No.
 6 Q The sequence of events continues through
 7 August of '93. Did you continue tape-recording up through
 8 that date?
 9 A Let's see. That appears to be correct.
 10 Q Did you ever have a conversation with Bill
 11 Lagergren about why you weren't going to be coming back to
 12 Sequoyah?
 13 A I sure did.
 14 Q When was that?
 15 A It's in here. Oh, here it is. On November
 16 the 23rd, 1992. There may have been others. I'm not
 17 sure.
 18 Q What page is that on?
 19 A That is on page thirty nine.
 20 Q What was Mr. Lagergren's position?
 21 A Basically, he could not understand it.
 22 Q No. I mean, what was his position within
 23 the organization?
 24 A Oh, I'm sorry. Oh, gosh. I do not know.
 25 At that date, I don't know.

Page 103

1 Q Was he in operations?
 2 A At that date, I don't know. I know that
 3 there was a time -- you see, Pat Lydon replaced Bill, and
 4 I'm not sure what his position was.
 5 Q Did Mr. Lagergren ever express any
 6 disagreement with Mr. Beecken and Jack Wilson about their
 7 feelings that they didn't want you to come back to
 8 Sequoyah?
 9 A Yes, he did.
 10 Q He said he wanted you to come back to
 11 Sequoyah; is that right?
 12 A He said he could not understand why they
 13 would not want me back since I did a good job in his
 14 estimation. I got good reviews, bonuses, such as that.
 15 Q From Bill Lagergren?
 16 A That's correct. And Rob Beecken.
 17 Q What position was Bill Lagergren in when he
 18 gave you good reviews and told you that you were doing a
 19 good job?
 20 A Operations manager.
 21 Q All right. And when you had this
 22 conversation with him, you don't know what position he was
 23 in?
 24 A I do not. He was downtown. I know he was
 25 not at Sequoyah.

Page 104

1 Q All right. He wasn't in Sequoyah
 2 management?
 3 A That's correct.
 4 Q Okay. So the only people in Sequoyah
 5 management that you actually talked to who told you why
 6 you weren't coming back were Beecken and Jack Wilson?
 7 A And Wilson McArthur.
 8 Q Well, Wilson McArthur wasn't in Sequoyah
 9 management, was he?
 10 A Oh. Well, that's true.
 11 Q And ultimately we found out that Pat Lydon
 12 didn't think you should be in that position.
 13 A I know at the time things were occurring
 14 that he did not have a problem with it.
 15 Q Okay. But we know now, looking at his
 16 record of interview, that he didn't think you should be in
 17 that position.
 18 A That's what he said. That's correct.
 19 Q All right. Now, did you --
 20 A Of course, he was not in that position --
 21 MS. EUCHNER: Hold on a minute.
 22 MR. DAMBLY: Which position?
 23 MS. EUCHNER: Yeah. He said in his
 24 statement that he didn't think Fiser should be in
 25 the corporate chemistry position. He never said

Page 105

1 that he didn't think he should be in Sequoyah,
 2 unless it's a different quote than you quoted
 3 earlier.
 4 MR. DAMBLY: He had lack of BWR experience,
 5 but he didn't have --
 6 MR. MARQUAND: All right. I stand
 7 corrected.
 8 BY MR. MARQUAND:
 9 Q Lydon didn't think that the program was
 10 doing well, though, did he?
 11 A Again --
 12 Q He thought the program was unbelievably
 13 bad?
 14 A -- it depends on what you're talking about.
 15 And if you're talking about the equipment, it was a sad
 16 state of affairs.
 17 Q I'm not talking about the equipment. Lydon
 18 states the program was unbelievably bad and had
 19 long-standing problems; correct?
 20 A That is what Lydon's statement was. Now,
 21 if you want to get into what he was talking about, that's
 22 a different matter.
 23 Q Okay.
 24 MS. EUCHNER: Also, I'd like to note for
 25 the record that this is a record of interview and

Page 106

1 not Patrick Lydon's direct words except for the
 2 quote unbelievably bad.
 3 BY MR. MARQUAND:
 4 Q All right. Now, did you continue
 5 surreptitious tape-recordings after the events recorded in
 6 your sequence of events?
 7 A No.
 8 Q How come?
 9 A Basically, there were two reasons. I felt
 10 like I had all the information that I needed. The second
 11 thing is, you know, I guess they're not all that helpful.
 12 If you take -- if you can take good notes anyway and keep
 13 a good documented trail of evidence, you don't really need
 14 them. So I didn't feel like it was necessary.
 15 Q So you haven't conducted any
 16 tape-recordings after these events?
 17 A No, sir. None of nobody.
 18 Q Tell me how you operated this tape
 19 recorder.
 20 A Slip it into my pocket and punch record.
 21 Q Just a little hand-held recorder?
 22 A That's right.
 23 Q How were these purported transcripts of
 24 these tape-recorded conversations produced?
 25 A By listening to the tape and entering it

Page 107

1 into Microsoft Word I think it was.
 2 Q Have you done anything to verify the
 3 accuracy of these purported transcripts?
 4 A No.
 5 Q At some point in time, didn't Dr. McArthur
 6 become ill?
 7 A Yes.
 8 Q What happened to him?
 9 A Lung cancer.
 10 Q When was that?
 11 A That was -- you would have to check your
 12 records about that. I'm not sure. But as I recall, it
 13 was right about the time that I was going into the
 14 employee transition program. I'm not sure of that, but I
 15 think that's correct. Because I remember coming and
 16 talking to him at least early on in the employee
 17 transition program, and he alluded to the fact that -- I
 18 asked him if he had time to talk and he said, well, I'm
 19 fixing to have a lot more time or something. And I think
 20 that was in reference to the fact that he had cancer and
 21 he was fixing to go in for treatment.
 22 Q Do you recall when he was initially
 23 diagnosed with lung cancer?
 24 A No.
 25 Q Wasn't it around the holidays in 1992?

Page 108

1 A I don't recall.
 2 Q Did you ever visit him in the hospital?
 3 A No. We were told we should not do that.
 4 Q Did you ever visit him at home?
 5 A When he was ill?
 6 Q Uh-huh.
 7 A No.
 8 Q So you only saw him in the context of work
 9 space?
 10 A That's correct.
 11 Q Was he undergoing chemo or radiation
 12 treatment during this time period you were tape-recording?
 13 A Not that I'm aware of. I don't know.
 14 Q You just don't know at all?
 15 A I do not know at all.
 16 Q You --
 17 A I don't think that's the case, but I can't
 18 state for certain because I don't know.
 19 Q You worked for him, didn't you?
 20 A Oh, yes.
 21 Q He was the corporate manager over the
 22 technical programs in '93, and you worked in chemistry
 23 which reported directly to him?
 24 A That's right.
 25 Q And you traveled some with him?

Page 109

1 A Yes.
 2 Q You'd go by and pick him up or he'd come by
 3 your house and pick you up?
 4 A No.
 5 Q You never did? Did you meet for breakfast
 6 anywhere?
 7 A No.
 8 Q I thought one of these recordings reflected
 9 the two of you at a diner somewhere having a meal
 10 together.
 11 A It could have been. I don't -- I mean, we
 12 could have been out on a trip together or something and
 13 went by to get something to eat, yeah. That could have
 14 been.
 15 Q All right.
 16 A Has he ever been to my house? No.
 17 Q Now, you received a RIF notice in April of
 18 '93. Did you stop functioning in the corporate chemistry
 19 -- or, rather, a surplus notice -- did you stop
 20 functioning in the corporate chemistry job after you
 21 received that notice? You would have reported to ETP.
 22 A It seems like I got that notice on a Friday
 23 afternoon, and I was to report to ETP Monday. I think
 24 that's right. I'm not sure.
 25 Q And you did?

Page 110

1 A Oh, yes.
 2 Q So you stopped functioning in the corporate
 3 chemistry organization and went to ETP?
 4 A Yes.
 5 Q And what was your responsibility in ETP?
 6 A To come up with a way to either make a
 7 living for yourself, find a job, get a job within TVA,
 8 inside, outside. It didn't matter. We were afforded time
 9 to come up with a way to provide for our families.
 10 Q It was basically an organization that was
 11 designed to let you -- a placement organization; is that
 12 right?
 13 A Yes.
 14 Q Okay.
 15 A To a great extent. They would help you
 16 with resumes, et cetera.
 17 Q All right. While you were in that
 18 organization -- well, first of all, let's go back to the
 19 surplus notice. Why were you told that you were being
 20 surplus?
 21 A They said my job had been determined to be
 22 surplus or something like that.
 23 Q And what job was that?
 24 A That was the Sequoyah chemistry
 25 superintendent position as I recall.

Page 111

1 Q All right.
 2 A And it's -- that document is in here
 3 somewhere.
 4 Q All right, sir. If you'll look, I believe
 5 it's Fiser exhibit number two.
 6 A That's correct.
 7 Q All right. That's your notice of transfer
 8 to the employee transition program. And it says as a
 9 result of reorganization, your position of manager,
 10 chemistry, PG-9, Sequoyah Nuclear Plant, has been
 11 determined to be surplus.
 12 A Uh-huh.
 13 Q All right. Did you have any understanding
 14 as to what reorganization this refers to?
 15 A Not really. Now, I remember being totally
 16 shocked when I got it. I had no idea that the chemistry
 17 superintendent position at Sequoyah Nuclear Plant was
 18 going away. Totally.
 19 Q You hadn't heard this was coming up?
 20 A No.
 21 Q All right. Once you received this notice,
 22 did you have an understanding at some point in time as to
 23 what the reorganization was that they were talking about?
 24 A I think I do have some recollection that
 25 the changes were made to where this position was going to

Page 112

1 be reporting to the Rad-Con manager at the sites, and
 2 there was some discussion about how exactly it was going
 3 to work. I do recall that.
 4 Q All right. Your job had previously
 5 reported through operations; correct?
 6 A That's right.
 7 Q And you understood that chemistry was going
 8 to be realigned with Rad-Con?
 9 A Right.
 10 Q And it was no longer going to report as
 11 part of operations?
 12 A That's correct.
 13 Q And did you have an understanding that
 14 there was a manager now at that point in time who was
 15 going to manage Rad-Con chemistry and environmental
 16 protection?
 17 A That's right.
 18 Q Who did you understand that manager was
 19 going to be?
 20 A For Sequoyah?
 21 Q Uh-huh.
 22 A It would h
 23 recall.
 24 Q All right. What positions did you
 25 understand were going to report directly to him at that

Page 113

1 point in time?
 2 A Certainly I would have thought my position
 3 would have. I also know that there was talk of doing away
 4 with the superintendent level and just having the direct
 5 reports of Don Adams, people like that, which would have
 6 put an awful lot of direct reports to him for Rad-Con
 7 chemistry, but I know that was being discussed.
 8 Q Okay. You know there was a discussion
 9 about eliminating the chemistry manager position?
 10 A There was discussion.
 11 Q Don Adams and Rob Richie, they were
 12 technical support types of persons?
 13 A They would have reported to me.
 14 Q And their jobs were technical support?
 15 A Don Adams' job would have been technical
 16 support. Rob Richie's job would have been more a lab
 17 manager.
 18 Q Okay. And so the discussion was, okay,
 19 let's not have a chemistry manager; let's have these
 20 people directly report to Charles Kent?
 21 A There was discussion of that.
 22 Q And who was having those discussions?
 23 A I understood it was Charles Kent trying to
 24 sort out how his organization was going to look once he
 25 absorbed all of the chemistry, environmental, QC

Page 114

1 functions. That's what I understood. But I had no --
 2 Q So you understood --
 3 A I don't think I had any direct discussions
 4 about that.
 5 Q Okay. So initially you understood that
 6 Kent was proposing to eliminate the chemistry manager
 7 position and have those -- Adams and Richie report
 8 directly to him?
 9 A I don't say that he was proposing that. I
 10 do say he was considering that.
 11 Q Okay. And at least for a period of time
 12 there wasn't a chemistry manager position at Sequoyah;
 13 right?
 14 A For the period of time? What period?
 15 Q From April of '93 until sometime later.
 16 A Yes.
 17 MR. DAMBLY: Is your question was there a
 18 person or a slot?
 19 THE WITNESS: Bill Jocher was in that
 20 position.
 21 BY MR. MARQUAND:
 22 Q Didn't Jocher leave about April 7th of '93?
 23 A At the same time I did. We swapped
 24 positions.
 25 Q So from April of '93 until -- for several

Page 115

1 months --
 2 A Yes.
 3 Q -- there wasn't a chemistry manager
 4 position?
 5 A I don't recall exactly when Jocher came
 6 back.
 7 Q Okay.
 8 MS. EUCHNER: Counsel, why don't we take a
 9 break for a few minutes?
 10 MR. MARQUAND: Okay.
 11 (A break was taken.)
 12 BY MR. MARQUAND:
 13 Q You went to ETP in April of '93, and you
 14 began looking for another position; correct?
 15 A Uh-huh.
 16 Q At some point, did you consider a position
 17 -- taking a position at Sequoyah?
 18 A That's correct.
 19 Q What position was that?
 20 A The chemistry superintendent position.
 21 Q Working for who?
 22 A Charles Kent.
 23 Q That would have been a different position
 24 than the position you held before; right?
 25 A What do you mean, different?

Page 116

1 Q Well, it was a different reporting chain.
 2 A That's correct.
 3 Q Did you have an understanding it was going
 4 to be an identical job description?
 5 MR. DAMBLY: Identical to what?
 6 BY MR. MARQUAND:
 7 Q To the job you'd had.
 8 A To tell you the truth, that was so many
 9 years ago, I don't remember discussing it. But I don't
 10 deny that that was the case.
 11 Q It's possible it was a different job
 12 description, isn't it?
 13 A I reported to a different manager. Sure.
 14 Q And it was at a different grade level,
 15 wasn't it?
 16 A It was.
 17 Q Did you have discussions with Charles Kent
 18 about that job?
 19 A That's correct.
 20 Q Did you ever assume that position?
 21 A No, I did not.
 22 Q Why not?
 23 A I talked to Charles about the job. I
 24 talked to the new plant manager that replaced Beecken, Bob
 25 Finnig.

Page 117

1 Q Finnig or Ken Powers?
 2 A Ken Powers. I'm sorry. And things went
 3 pretty well. And, basically, I was told to be out at the
 4 plant the following Thursday with my tie on ready to go to
 5 work.
 6 Q Did you?
 7 A No.
 8 Q Why not?
 9 A In the process of assuming that job,
 10 Charles Kent talked to what he stated would be the right
 11 people to make sure the transition was going to go well or
 12 smoothly. One of those right people was Wilson McArthur.
 13 Q Do you know why he talked to Wilson?
 14 A He did not tell me.
 15 Q Did you ever suggest to him that he should
 16 do so?
 17 A I expressed to him that I had some concerns
 18 about the fact that it appeared I had a target on my back
 19 that I did not understand, and I did not want him to do
 20 something that would get him into trouble. So I wouldn't
 21 deny that I did that. I don't specifically explicitly
 22 recall it, but that would -- if I did, it should be a part
 23 of the record.
 24 Q If Charles Kent testified that you
 25 suggested to him that he should make sure that people

Page 118

1 weren't upset with you, would you disagree with that?
 2 A I would have to refer to my notes. I just
 3 --
 4 Q What notes?
 5 A -- don't recall. Any notes that might be
 6 in my Franklin Planner or perhaps even here. Let's see.
 7 That would have been around July of '93, because I seem to
 8 recall it was close to the July 4th holiday when he paged
 9 me. Yeah, July the 6th, 1993, page seventy four. Oh, you
 10 were already there. You could have told me.
 11 Q So you wouldn't disagree that you suggested
 12 to Charles that it might be wise for him to check and make
 13 sure no one had any objections to you having that
 14 position?
 15 A Let me check my notes. I don't see that in
 16 here, do you?
 17 Q I'm not suggesting it is in there. I'm
 18 just asking you if that's what happened.
 19 A I think it was more along this vein.
 20 Charles just wanted to keep everything hush-hush, talk to
 21 a couple of people, make it happen, have it over and done
 22 with, I'm sitting out there in the chair before certain
 23 people even knew about it. That's what I recall.
 24 Q And who were those certain people? Did he
 25 ever tell you?

Page 119

1 A He did not tell me.
 2 Q And what happened to his plan to put you in
 3 the position?
 4 A Let's see. I think I have notes of this on
 5 July the 9th where he says it was not going to work out.
 6 He would not go over the details with me over the phone.
 7 I told him that I would prefer to do it face to face. He
 8 then asked me to come out to Sequoyah and meet around 2:30
 9 in the afternoon. Let's see. Do you want me to just read
 10 this to you?
 11 Q No, I want you to tell me what -- you say
 12 you went back out. You talked to Ken. He told you that
 13 basically he had gotten some feedback that people didn't
 14 want you back out at the plant; is that right?
 15 A Right. He said it was like he had kicked a
 16 hornets' nest as I recall. And he felt like, you know,
 17 there were people that had it in for me and if he brought
 18 me back out there and placed in me that position that they
 19 would pick me to death, like picking up a baby bird that
 20 had fallen out of a nest and putting it back in the nest
 21 and the mama bird comes back and just picks it to death.
 22 And so he felt like that wouldn't be the right thing to
 23 do. Now, that's paraphrasing. You can read the whole
 24 thing.
 25 Q Now, is that based on a tape-recording you

Page 120

1 made of him?
 2 A Yes, it is.
 3 Q He doesn't identify who, but he just says
 4 that if you went out there people are going to be picking
 5 at you?
 6 A He did identify, as I recall, that he
 7 talked to Wilson, I think. I'm not sure.
 8 Q All right. So you didn't get put in that
 9 position?
 10 A That's correct.
 11 Q What happened then?
 12 A I went back to ETP.
 13 Q All right. Now, if you would, look at
 14 exhibit number three. It predates the situation with
 15 Kent. That's the memorandum from Eythchison to Dwight Nunn
 16 --
 17 A Uh-huh.
 18 Q -- saying that Joe Bynum wanted a
 19 standardization for the Rad-Con chemistry and
 20 environmental programs for Sequoyah and Browns Ferry. Do
 21 you see that?
 22 A Uh-huh.
 23 Q And that also Watts Bar had been requested
 24 to have a similar program prior to fuel load.
 25 A Uh-huh.

Page 121

1 Q And if you look, you'll see attached to
 2 that Joe Bynum's April 27th, '93, memorandum, in fact,
 3 requesting a similar organization be set up at each of the
 4 three plants. Do you see that?
 5 A Uh-huh.
 6 Q And then attached to his memorandum is a
 7 conceptual organizational chart?
 8 A That's correct.
 9 Q And that was the -- the Rad-Chem -- for
 10 example, as this applied to Sequoyah, the Rad-Chem manager
 11 would have been Charles Kent?
 12 A That is correct.
 13 Q The job that you were talking with him
 14 about later on was the chemistry manager position on the
 15 left-hand side of that page?
 16 A That is correct.
 17 Q Okay. Look at exhibit number four. Have
 18 you ever seen that before?
 19 A Yes, I have.
 20 Q And when have you seen it? It came out of
 21 your notebook.
 22 A Yes.
 23 Q So when did you get a copy of it?
 24 A I don't know. I don't recall.
 25 Q All right. But this is a review of the

Page 122

1 chemistry problems at Sequoyah Nuclear Plant; correct?
 2 A Yes.
 3 Q And, in fact, it focussed on determining
 4 why long-standing chemistry problems at Sequoyah had not
 5 been corrected?
 6 A That's correct.
 7 Q If you'll look at the executive summary,
 8 which is page two of the exhibit --
 9 A Page two?
 10 Q Of the exhibit.
 11 A Okay.
 12 Q -- the first bullet talks about
 13 instrumentation availability problems.
 14 A Uh-huh.
 15 Q That's what we talked about earlier --
 16 A Yes, it is.
 17 Q -- about instruments being out of service?
 18 A That is correct.
 19 Q And it talks about a chemistry upgrade
 20 program; right?
 21 A That is correct.
 22 Q Is that a program that was in place while
 23 you were there?
 24 A Yes. And before. It's changed names
 25 several times, but --

Page 123

1 Q All right. And it indicates that the
 2 chemistry upgrade program was over-scoped. I guess that
 3 means that it was a little too ambitious and, as a result,
 4 it kept getting deferred because of the expense.
 5 A That's what it infers.
 6 Q All right. Was that a problem when you
 7 were there?
 8 A What?
 9 Q The fact that there was a deferral from
 10 year to year of funding the chemistry upgrade program?
 11 A Yes, sir.
 12 Q Look at the second bullet. It indicates
 13 that there had been a problem with data analysis and
 14 trending.
 15 A Right.
 16 Q Was that a problem while you were chemistry
 17 manager at Sequoyah?
 18 A No.
 19 Q In your estimation, there was sufficient
 20 data analysis and trending taking place while you were at
 21 Sequoyah?
 22 A That is correct.
 23 Q Did anyone ever request that you provide
 24 more data analysis and trending?
 25 A No.

Page 124

1 Q Never?
 2 A No, not more.
 3 Q Of a different nature?
 4 A No.
 5 Q Anything else? Did anybody make any
 6 requests regarding data analysis and trending?
 7 A Just that we do it.
 8 Q And did you do it?
 9 A Yes, I did.
 10 Q You did what was requested?
 11 A Yes, sir.
 12 Q Did there ever come a time that the NSRB
 13 made a request with respect to data analysis and trending?
 14 A Yes, they did.
 15 Q And what did they request?
 16 A While I was gone to outage management, they
 17 placed a couple of guys in charge while I was in outage.
 18 Rob Richie was one and also Scott Watson. While I was
 19 away, they had some computer problems. They went down.
 20 They were not able to generate these trends for a period
 21 of time. That was a problem in the eyes of NSRB.
 22 Q Was that problem ever communicated to you?
 23 A Yes, sir. It was.
 24 Q When?
 25 A In an NSRB meeting.

Page 125

1 Q When?
 2 A I don't know the date. It would have been
 3 approximately --
 4 Q Prior to April -- prior to March '92?
 5 A Yes. Yes, it would have been. Because it
 6 was prior to me swapping out with Bill Jocher --
 7 Q All right.
 8 A -- and just after I got back from outage
 9 management. I think I got back in December of '91.
 10 Q Was this the -- okay. So you say it was
 11 while you were still in outage management --
 12 A Yes, it was.
 13 Q -- or after you got back from outage
 14 management?
 15 A It was while I was in outage management
 16 that this problem occurred.
 17 Q Was this communicated to you by the entire
 18 NSRB or by the chemistry subcommittee?
 19 A It was communicated to me by Wilson
 20 McArthur, Tom Peterson, and Tom McGrath.
 21 MR. DAMBLY: Just so it's clear, did you
 22 ask him -- because he just answered the problem
 23 arose while he was at outage management. Did you
 24 ask him about the NSRB meeting or when the problem
 25 was?

Page 126

1 MR. MARQUAND: I asked him when it was
 2 communicated.
 3 MR. DAMBLY: So were you back in your job
 4 when you had the NSRB meeting or were you in
 5 outage?
 6 THE WITNESS: I was in my job when I had the
 7 NSRB meeting where this was communicated to me.
 8 BY MR. MARQUAND:
 9 Q All right. So that was sometime after
 10 January of '91 and before March of '92. When did you come
 11 back from outage management?
 12 A I came back from outage management in,
 13 like, December of '91, I think.
 14 Q Okay. So between December '91 and
 15 March/April of --
 16 A We had the NSRB meeting. That's correct.
 17 Q Between March of '92. All right.
 18 A Yeah. That should be a matter of record.
 19 Q It should be, like, January 25th of '92;
 20 right?
 21 A It would be in that time frame, yes. I
 22 just can't remember the exact date.
 23 Q All right. And so you say it was three
 24 gentlemen, Wilson McArthur, Tom Peterson and Tom McGrath,
 25 who communicated it to you?

Page 127

1 A That's right.
 2 Q Was anybody else in the room?
 3 A Yes.
 4 Q Who?
 5 A A lot of my staff.
 6 Q A lot of people from chemistry?
 7 A Yes.
 8 Q Anybody else?
 9 A Yes.
 10 Q Who?
 11 A Bill Jocher.
 12 Q Who else?
 13 A That's all I recall.
 14 Q So it sounds like it was a meeting
 15 primarily of people on behalf of chemistry with the NSRB;
 16 is that right?
 17 A Yes.
 18 Q So was this a subcommittee of the NSRB,
 19 like the chemistry subcommittee?
 20 A Most likely, yes.
 21 Q And you're certain all three of those
 22 gentlemen were there --
 23 A Absolutely.
 24 Q -- McGrath, Wilson and Tom Peterson?
 25 A Without question.

Page 128

1 Q Who's Tom Peterson?
 2 A A contractor that they hired to come in and
 3 assess chemistry.
 4 Q And what did they communicate to you?
 5 A They were very upset about the fact that
 6 the chemistry trends -- there was a period of time while I
 7 was gone and maybe even right after I came back that the
 8 chemistry trends were not being generated and distributed
 9 to the site and various corporate offices.
 10 Q And you say they were upset about it.
 11 A Uh-huh.
 12 Q Did they have any recommendations?
 13 A Yes.
 14 Q And what were the recommendations?
 15 A Their recommendation was that I place in
 16 procedures where these trends are required to be generated
 17 every day.
 18 Q How did you respond to that?
 19 A I responded I could not put that in
 20 procedures.
 21 Q Did you tell them why?
 22 A Yes.
 23 Q Why?
 24 A Because I could not do -- I could not meet
 25 that requirement.

Page 129

1 Q Why?
 2 A Because it would have required work seven
 3 days a week, holidays, et cetera.
 4 Q How many days a week does the plant
 5 operate?
 6 A Seven.
 7 Q Does it operate on the holidays?
 8 A It sure does.
 9 Q And so you were saying, well, we can do it
 10 on the weekdays, but we can't do it on the weekends and
 11 holidays?
 12 A Uh-huh. That's correct.
 13 Q Why did they think that it was important to
 14 provide that data analysis and trending?
 15 A I think they had become very accustomed to
 16 it because we had always done it at Sequoyah. And when it
 17 was -- there was a period of time when it was not being
 18 done, people missed them, people from corporate, people on
 19 the site. I particularly was very upset about the fact
 20 they were not being generated.
 21 Q Why were you upset about it?
 22 A Because I felt like that was pretty much
 23 the -- really the flagship of the chemistry department,
 24 those color trends that we would generate every day. Now,
 25 when I say every day, even on Monday when we would get in,

Page 130

1 we couldn't generate them on Monday because we had all of
 2 Saturday, all of Sunday, and then we had Monday's data
 3 coming in. So it was really Tuesday before I could get
 4 them out. That's what people were accustomed to.
 5 Q So you were generating from Tuesday through
 6 Friday?
 7 A That's right.
 8 Q Four days a week?
 9 A That's right.
 10 Q What did people use the data analysis and
 11 trending for?
 12 A Evaluate chemistry -- radiochemistry
 13 parameters.
 14 Q Did it make a difference in how you operate
 15 the plant?
 16 A Sometimes.
 17 Q All right. So you told NSRB you couldn't
 18 and wouldn't generate the data analysis and trending they
 19 requested -- they suggested to you?
 20 A Every day I could not.
 21 Q How did they react to that?
 22 A Oh, they were very upset.
 23 Q Who was upset?
 24 A Peterson and McGrath.
 25 Q What did they do?

Page 131

1 A Got up and stormed out and said there's no
 2 reason for this meeting to continue.
 3 Q Did you do anything else?
 4 A I finished the day working.
 5 Q You didn't say anything in response to
 6 them? Did you have any further response to them?
 7 A Just the fact that -- I was very much a
 8 stickler about following the procedures. I could not live
 9 with putting something in a procedure that I knew I would
 10 violate the first week because we don't have the
 11 prerequisite staff there on Saturday and Sunday and
 12 holidays to do this job. So I was setting myself up for
 13 failure. Keep in mind, there were also certain trends
 14 that we generated every day, primary and secondary
 15 coolant, that did go out Monday through Friday.
 16 Q What about the weekends and holidays?
 17 A No. That would have been -- the plant
 18 manager was not there. I mean --
 19 Q So this was a meeting around January of
 20 '92. You continued to be employed by TVA through 1996.
 21 A Uh-huh.
 22 Q And at some point in time, Sequoyah got a
 23 new chemistry manager, Gordon Rich.
 24 A Uh-huh.
 25 Q Did they provide data analysis and trending

Page 132

1 on a daily basis under Gordon Rich?
 2 A Seven days a week?
 3 Q Yes.
 4 A I do not recall. I was not assigned to
 5 that plant.
 6 Q You don't know?
 7 A I do not know.
 8 Q Would it surprise you to know that they did?
 9 A That they generated fifty-some-odd trends
 10 seven days a week?
 11 Q Would it surprise you to know they generated
 12 --
 13 A That was not the request.
 14 Q -- data analysis and trending?
 15 A That was not the request. The request was
 16 that we generate and trend fifty-plus trends seven days a
 17 week, including holidays. Did they do that seven days a
 18 week?
 19 Q How many days a week did you --
 20 A Answer my question. Did they do that?
 21 Q I'm asking the questions. Did you generate
 22 data analysis and trending on fifty parameters four days a
 23 week?
 24 A Yes. Did they?
 25 Q So your answer is you don't know what

Page 133

1 Gordon Rich's organization did generate?
 2 A I would be very surprised if Gordon Rich's
 3 organization generated over fifty color trends a day,
 4 seven days a week, Christmas, Christmas Eve, New Year's
 5 Day.
 6 Q Do you know?
 7 A No, I do not.
 8 Q Okay.
 9 MR. DAMBLY: May I ask a question here?
 10 Because I'm not clear about one thing. When we're
 11 talking about seven days a week, did you plot
 12 seven days a week but you only did it Tuesday
 13 through Friday? Did you plot Saturday, Sunday,
 14 Monday? Or are we talking -- I mean, did you
 15 understand the request that they had to be plotted
 16 Saturday and Sunday and Monday?
 17 THE WITNESS: I understood the request that
 18 they had to be plotted Saturday, Sunday, Monday,
 19 Christmas, New Year's, July the 4th.
 20 MR. DAMBLY: But were you putting those --
 21 you said you got the data in Monday. Did you
 22 generate trends that included those?
 23 THE WITNESS: Oh, yes. Those were in
 24 there.
 25 MR. DAMBLY: You didn't skip three days?

Page 134

1 THE WITNESS: No, sir.
 2 MR. DAMBLY: That's what I didn't
 3 understand.
 4 THE WITNESS: When they came out Tuesday,
 5 they were completely up-to-date. And if we did it
 6 five times in one day, those five were in there.
 7 At the same time, I offered to allow
 8 McGrath and Peterson to call INPO on my speaker
 9 phone in front of my staff and ask INPO who in the
 10 country was generating fifty-plus color trends a
 11 day and generating them and delivering them to the
 12 control room, corporate chemistry, whoever the
 13 heck they were generated too just as we did, and
 14 they would not do that. Because nobody in the
 15 country was.
 16 BY MR. MARQUAND:
 17 Q Now, if you will look at exhibit nineteen,
 18 do you understand that that's the complaint that Mr.
 19 Jocher filed against TVA?
 20 A That is correct.
 21 Q Earlier you said that Jocher had been a
 22 very vocal critic of yours when you had been out at
 23 Sequoyah; is that right?
 24 A Yes, sir.
 25 Q If you'll turn to the -- I believe it's the

Page 135

1 sixth page of this document -- the sixth page of exhibit
 2 nineteen, which is the fourth page of the attached letter.
 3 Do you see in the -- there's a part of the paragraph at
 4 the top of the page. And then in the second full
 5 paragraph it states -- do you see where it states in the
 6 third sentence, Sequoyah -- SQN was subsequently verbally
 7 characterized as needing immediate attention for fixable
 8 problems. Follow-up evaluations conducted by me and the
 9 staff began to reveal significant programmatic,
 10 safety-related issues in the area of technician job
 11 knowledge, procedure deficiencies, and process instrument
 12 availability. Do you see that?
 13 A Uh-huh.
 14 Q These findings were reported to the NSRB in
 15 November 1991. Do you see that?
 16 A That's correct.
 17 Q Did you understand that Mr. Jocher was
 18 criticizing the Sequoyah chemistry department as having
 19 significant programmatic, safety-related issues?
 20 A Oh, yes. Significant programmatic,
 21 safety-related issues --
 22 Q In the area of technician job knowledge --
 23 that's RLA -- those are RLAS, aren't they, what we're
 24 referring to there?
 25 A Yes. Let's break this down just a little

Page 136

1 bit.
 2 Q Okay. You understood he was criticizing
 3 the RLA job knowledge?
 4 A That's right.
 5 Q You understood he was criticizing procedure
 6 deficiencies?
 7 A That's correct.
 8 Q And he was criticizing process instrument
 9 availability?
 10 A That's correct.
 11 Q Now, at the top of page five, do you see
 12 where he is referring to the fact -- he says after I
 13 assume my new duties. He's talking about the fact that he
 14 was rotated into the Sequoyah chemistry manager position.
 15 Do you see that?
 16 A Uh-huh.
 17 Q And he says he gathered more detailed
 18 information which he says he documented in the corrective
 19 action process. And do you see where he's referring to
 20 the fact that in his opinion Sequoyah technicians could
 21 not draw and analyze PASS samples, Post Accident System
 22 Samples, in under three hours as required by law?
 23 A Right.
 24 Q That's what we were talking about earlier
 25 --

Page 137

1 A That's right.
 2 Q -- the disagreements you had with Mr.
 3 Jocher as to when the clock started to run?
 4 A You keep saying a disagreement between
 5 Jocher and I. Do you have any documented evidence of a
 6 disagreement between Jocher and I?
 7 Q Isn't that reflected in the minutes of the
 8 NSRB that the two of you could not agree, and it occurred
 9 and it continued to occur from meeting to meeting as the
 10 NSRB was reviewing the PASS system at Sequoyah?
 11 A I would have to -- what I recall is us
 12 having questions, sorting this out, giving a test and
 13 documenting it. I don't have knowledge of an explicit
 14 disagreement between Jocher and I. I need to see that, I
 15 guess. I remember there was a significant disagreement
 16 between Bill Jocher and Jack Wilson, the site VP. That's
 17 what I recall.
 18 Q Let me ask you to look at -- I did not make
 19 this an exhibit. I'm going to show you --
 20 MR. MARQUAND: Counsel, did we not copy the
 21 1993 -- Mr. Fiser's '93 DOE complaint as an
 22 exhibit?
 23 MS. EUCHNER: If it wasn't included in the
 24 pile you gave me, then no.
 25 MR. MARQUAND: Okay. Well, then we'll just

Page 138

1 have to include it.
 2 (Exhibit No. 24 was filed.)
 3 BY MR. MARQUAND:
 4 Q Let me show you what we've marked as
 5 exhibit twenty four. It's a September 27th, 1993, letter
 6 from Charles VanBeke to Carol Merchant. And attached to
 7 it is a September 23rd, '93, letter from you to Carol
 8 Merchant. Do you see that?
 9 A Uh-huh.
 10 Q Is that the Department of Labor complaint
 11 you filed?
 12 A It certainly does appear to be.
 13 Q All right. I'd like to focus on the letter
 14 that you signed, the September 23rd, '93, letter.
 15 A Okay.
 16 Q In this letter in the first paragraph, you
 17 state that the reason TVA decided -- it's about two thirds
 18 of the way down -- do you see where it says TVA determined
 19 to surplus me because of the fact that I or people under
 20 my direction had found and/or documented and/or reported
 21 and/or corrected problems which affected plant safety at
 22 Sequoyah? Do you see that?
 23 A Uh-huh.
 24 Q Let me refer you to the second page of your
 25 letter. In the second complete paragraph, do you see

Page 139

1 where it says that Rob Beecken said one of the reasons he
 2 didn't want you back at Sequoyah was because of the
 3 radmonitor effluent calculations not accounting for the
 4 vacuum?
 5 A That's right.
 6 Q In the next paragraph, Mr. Beecken states
 7 -- it states that Mr. Beecken was not pleased with the
 8 fact that the issue was reported and documented.
 9 A Uh-huh
 10 MR. DAMBLY: You have to say yes or no.
 11 Uh-huh doesn't --
 12 BY MR. MARQUAND:
 13 Q We're trying to get this in black and
 14 white. We need a yes or a no. Do you see that?
 15 A That is correct.
 16 Q The next -- the last paragraph on page two
 17 states that Beecken also said one of the reasons he didn't
 18 want you back was the filter change-out scenario; is that
 19 correct?
 20 A Right.
 21 Q Now, we've already talked about in today's
 22 deposition in your conversation with Mr. Beecken he did
 23 tell you, in fact, that he was upset and he blamed you for
 24 the radmonitor effluent calculations not accounting for
 25 vacuum; right?

Page 140

1 A That is correct.
 2 Q And that he also told you in that same
 3 conversation that he was blaming you for the filter
 4 change-out scenario.
 5 A That is correct.
 6 Q Now, on the third page of your September
 7 23rd, 1993, letter, in the first full paragraph, do you
 8 see where it says, thus, even though I was not directly
 9 responsible for either of the underlying conditions
 10 leading to those situations, I was charged with them by
 11 Mr. Beecken?
 12 A I see that.
 13 Q All right. You disagreed with whether or
 14 not you were responsible for those actions?
 15 A That is correct.
 16 Q All right. You don't disagree that those
 17 were problems? You just disagree with whether or not you
 18 should have been held accountable?
 19 A I agree that those were problems.
 20 Q Right. But you didn't think that you
 21 should have been the person held responsible for those
 22 problems?
 23 A That's right.
 24 Q In the last full paragraph -- last
 25 paragraph on page three, it refers to post-accident

Page 141

1 sampling analysis and the three-hour requirement. Do you
 2 see that?
 3 A Yes, sir.
 4 Q All right. And further on down in that
 5 paragraph, it indicates that you and Mr. Jocher conducted
 6 exercises to test the training level of the staff and
 7 determined that seventy five percent of the chemistry
 8 technicians could not do the PASS samples within the
 9 three-hour requirement; is that right?
 10 A That's correct.
 11 Q Did that have to do with deficiency in
 12 training?
 13 A I would have to refer to my notes. I know
 14 there were also equipment problems. And I can't -- I
 15 can't tell you -- I can't tell you if this was only part
 16 of the problem or the whole problem. It's just been too
 17 long.
 18 Q Let me refer you to further down in that
 19 paragraph. Don't you, in fact, state these test results
 20 were anticipated and predictable in that management had
 21 previously surplused all degreed chemistry instructors and
 22 converted the training lab into a storage room?
 23 A Yes.
 24 Q And then further on, you say without
 25 recurring training to reinforce fundamental concepts.

Page 142

1 Aren't you saying in your letter that training was a root
 2 cause of the failure of these technicians to be able to
 3 conduct a PASS sample within three hours?
 4 A I did not see where it stated it was a root
 5 cause. I certainly would list it as a contributor.
 6 Q All right. But that's certainly the gist
 7 of your letter, isn't it?
 8 A That it is a contributor, not that it is a
 9 root cause.
 10 Q Do you list any other causes in this
 11 paragraph?
 12 A No, I do not. But your question leads one
 13 to believe there was a formal root cause analysis done on
 14 this and there was not.
 15 Q Well, I don't mean to suggest that. But it
 16 was a direct cause of their failure to be able to perform
 17 the PASS sample within three hours?
 18 A It was certainly a contributor.
 19 Q You said it was anticipated and
 20 predictable; right?
 21 A Uh-huh.
 22 MR. DAMBLY: You've got to say yes or no.
 23 THE WITNESS: But I cannot say that there
 24 were not equipment problems as well. As I recall,
 25 there were some equipment-problem issues as well.

Page 143

1 So I can't say that that is unequivocally the only
 2 cause. I just cannot remember.
 3 BY MR. MARQUAND:
 4 Q You didn't say that in your letter.
 5 A I did not say that in my letter.
 6 Q If you'll look at the first page of your
 7 April -- of your September 23rd letter, did Dr. McArthur
 8 -- did you in your letter indicate that Dr. McArthur was
 9 in agreement or disagreement about the decision to surplus
 10 you and send you to ETP?
 11 A In the first paragraph?
 12 Q I'm not asking if it's in the first
 13 paragraph. I'm saying in the letter itself did you
 14 indicate Dr. McArthur disagreed with the decision to
 15 surplus you and send you to ETP. Look at the last full
 16 paragraph on page one, the last paragraph.
 17 A Oh, wait a minute. There's something here.
 18 Yes, that is as I recall. Wilson was not happy with the
 19 fact I was being placed in ETP.
 20 Q He was supportive of you?
 21 A Yes, he was.
 22 Q All right. And if you'll look at page
 23 four, does it also indicate on the bottom of page four
 24 that Dr. McArthur rated you very high compared to his
 25 other direct reports?

Page 144

1 A That is correct.
 2 Q All right. Does it indicate anywhere in
 3 this letter that Wilson McArthur had any animosity towards
 4 you?
 5 A No, sir.
 6 Q Does it indicate in this letter anywhere
 7 that Tom McGrath had any animosity towards you?
 8 A No, sir.
 9 Q Does it even mention Tom McGrath's name?
 10 A In this letter, it does not.
 11 Q And this is the complaint that you filed
 12 with the Department of Labor --
 13 A This is.
 14 Q -- under the Energy Reorganization Act?
 15 A That is correct.
 16 Q In the very last paragraph of your letter,
 17 do you see where it says that the facts and issues are
 18 extremely well documented?
 19 A Yes.
 20 Q All right. Did that include the sequence
 21 of events that we talked about earlier, which is Fiser
 22 deposition exhibit eighteen?
 23 A The main thing I was referring to here was
 24 the fact that I had tape-recorded a lot of these
 25 conversations.

Page 145

1 Q That show up in Fiser exhibit eighteen?
 2 A That did show up. That's correct.
 3 Q All right. And do any of those recordings
 4 or any of the notes reflected in Fiser exhibit eighteen
 5 reflect that Wilson McArthur had any animosity towards
 6 you?
 7 A I would have to say probably, yes.
 8 Q Show me.
 9 A Let's see. Which exhibit is that?
 10 Q Exhibit eighteen, the thick one.
 11 A July the 14th, 1993, page seventy eight. I
 12 went to Wilson's office downtown. Lookout Place I think
 13 it was. I'm not sure about that. This was after Charles
 14 Kent had offered me the job and then rescinded the job and
 15 said he'd talked to the right people, and I made it a
 16 mission of mine to find out who the right people were.
 17 So I go in that day and I talk to Wilson. And you
 18 can see the transcript there. How are you doing? Are you
 19 feeling all right? And he says I'm feeling fair for an
 20 old man, if they'd just leave me alone and let me do my
 21 work.
 22 Q What's that in reference to?
 23 A That's in reference to some surgery that he
 24 had had recently.
 25 Q Let's see. He had lung cancer?

Page 146

1 A That's right.
 2 Q He had testicular cancer?
 3 A I do not know about that.
 4 Q Prostate cancer?
 5 A I do not know about that.
 6 Q You don't know how much they cut on him?
 7 A No, sir.
 8 Q Do you know how long he was in the
 9 hospital?
 10 A No, sir. And he says -- he makes the
 11 statement -- I say have you been cut on enough. Because I
 12 knew he had had surgery. I didn't know what for.
 13 Q You didn't know that he had cancer at that
 14 point in time?
 15 A I did know he had cancer. I did not know
 16 how much surgery he had had or what the surgery had
 17 consisted of. Since I was removed from the loop out in
 18 ETP, I was not a part of all of that.
 19 Q All right.
 20 A That's why I asked him. He makes the
 21 statement that they want to do a little more, though. And
 22 I say cut. And he says not cut, just give me radiation.
 23 And I told him I would just stand on top of Browns Ferry's
 24 reactor. He asked me how I'm doing, how I'm spending my
 25 time. I told him where I was over at Amnicola, ETP

Page 147

1 program.
 2 Let's see if I can get to the meat of the matter
 3 here. He asked me if I'm looking at things internally or
 4 what. And I said mainly externally, although I got a call
 5 from Charles, but then things fell through. And then I
 6 asked him who's torpedoing me. And he said, well, I think
 7 it really comes all the way from -- in fact, I don't know
 8 for sure who, but I'll tell you things -- I don't know. I
 9 just don't know that. I said I don't want to know when
 10 it's all over. In other words, I want to know in advance
 11 who's shooting at me. McArthur: Well, Charles' --
 12 Charles' phone call said check it out and tell me how you
 13 think things will go.
 14 Q Well, my question was where --
 15 A I talked to Keuter and I talked to Bynum.
 16 Well, now, that raised a flag in my mind that he goes to
 17 the very guy that cut my head off summarily and talked to
 18 him when he was out of the position. He was not in the
 19 loop anymore.
 20 Q Who was not in the loop?
 21 A Bynum. He was out at the dam or something.
 22 He wasn't even in the picture anymore.
 23 Q In '93?
 24 A And so I'm saying what is he doing. Why
 25 would this man who purports to be my friend and my helper

Page 148

1 and the one who's watching my back and the one who's going
 2 to provide me a position in his organization or somewhere
 3 -- because all these people are screwing me, and this guy
 4 goes to Joe Bynum after Charles Kent calls him. Now we
 5 have to presume that Wilson McArthur was one of the right
 6 guys. Do you understand?
 7 Q No, I sure don't understand what you're
 8 taking about.
 9 A He goes to the right guy and the right guy
 10 goes to Joe Bynum.
 11 Q He says he talked to Joe Bynum?
 12 A This is one of the very people that I would
 13 suspect Charles Kent was wanting to get me in the position
 14 with a tie on before Joe Bynum ever found out what was
 15 going on --
 16 Q Did you ever talk to Joe Bynum?
 17 A -- and Wilson McArthur goes to Joe Bynum.
 18 Never.
 19 Q Okay. Well, we know that -- we know based
 20 on our discussions today that Rob Beecken and Jack Wilson
 21 didn't want you back out at Sequoyah; right?
 22 A I'm not done answering that first question.
 23 And then he says I talked to Keuter and I talked to Joe
 24 Bynum. And I said you talked to Keuter. Yeah, I had to.
 25 These guys -- Keuter and Joe Bynum -- were involved in it.

Page 149

1 Q Where are you looking at?
 2 A I'm looking at the top of page seventy
 3 nine. Follow along. Keep up.
 4 McArthur: Yeah, I had to. These two guys were
 5 involved in it. They just all seemed to -- I don't think
 6 it will work. I don't know if that comes from the
 7 information from above them or what, but I told them -- I
 8 told Kent. And then I got the picture and I said, yeah, I
 9 know you did.
 10 McArthur: I was supportive, but I said Gary is
 11 going to be bucking against a lot of people. You've got
 12 to recognize this in this case. Do you want to do that?
 13 I think when it got down to the final analysis, he said I
 14 won't do it. It is unfortunate, but it is the kind of
 15 thing that happens.
 16 Have I answered your question?
 17 Q I don't understand where you think that
 18 shows animosity by McArthur towards you. If that's what
 19 you think, that's fine.
 20 Now, anywhere in -- you said we were referring to
 21 deposition exhibit twenty four, the last page, where it
 22 says the facts and issues are extremely well documented.
 23 Do you see that?
 24 A Right. Yeah.
 25 Q And you agree that nowhere in your

Page 150

1 complaint does it mention Tom McGrath?
 2 A That is correct.
 3 Q All right. Is there anywhere in your
 4 complaint or these facts and issues that you said were
 5 documented in exhibit eighteen that shows that Tom McGrath
 6 had some animosity towards you?
 7 A Yes.
 8 Q Where?
 9 A The conversation I had with Beecken.
 10 MR. MARQUAND: Let the record reflect
 11 counsel is directing Mr. Fiser's attention towards
 12 something in exhibit eighteen.
 13 MS. EUCHNER: I'm directing his attention
 14 to page twenty two of exhibit eighteen.
 15 THE WITNESS: Let's see. Well, the only
 16 thing I see here -- I see McArthur says, well, you
 17 know and I know --
 18 BY MR. MARQUAND:
 19 Q Are you referring to page twenty two of
 20 exhibit eighteen?
 21 A Okay. Yes. Just above that actually.
 22 McArthur says do you know when the downhill slide started
 23 on you. And he makes this statement. What Tom Peterson
 24 and Tom McGrath said in your office that day. I don't
 25 know what happened, but Tom Peterson and Tom McGrath, one

Page 151

1 or both -- I don't know which -- went directly to the
 2 plant manager and said he needed to get rid of me.
 3 Now, that is reflected in my meeting with Beecken.
 4 I didn't know that at the time, but that's why I said they
 5 got up and said there's no reason for further discussion,
 6 left, told my plant manager that he needed to get rid of
 7 me.. And here Wilson is saying that.
 8 Q Where is it reflected in your conversation
 9 with Beecken that one of the two of them said something to
 10 him?
 11 A I'll have to page through it. Looking at
 12 -- we'll start at the bottom of page fifty one where I
 13 say, well, I'm telling you -- now hear me -- you may have
 14 had one finding if I'd been here. And I'm going to give
 15 you a maybe on that one, because I felt like I could have
 16 done a better job presenting the group to INPO.
 17 Q You're on page fifty one?
 18 A Yes, I am, the bottom of page fifty one.
 19 Q Okay. I see that.
 20 A Okay. Flip the page. Beecken: But the
 21 problem -- I didn't like Peterson and those guys.
 22 Yeah, I pretty well -- you know, in January now I
 23 really crossed those guys. Because they sat in my office,
 24 Rob, and they demanded that I turn out fifty two, fifty
 25 three plots every day, seven days a week, holidays,

Page 152

1 weekends, everything. I refused. I could not do that.
 2 It was impossible. Not only did they want me to commit to
 3 doing it, they wanted me to put it in procedures. And I
 4 absolutely could not understand why -- and they absolutely
 5 could not understand why I would not do that. So they got
 6 real upset with me because I would not do that. Because
 7 that's a kiss of death. There's no way. It is all we
 8 could do to turn them out the way we do. Now, you get
 9 this new, spiffy system, then there's a possibility.
 10 That's a part of the chemistry upgrade project
 11 where all this stuff is automatically fed into a computer.
 12 Then there's a possibility. But not when you have human
 13 intervention, entering all the data, retrieving all the
 14 data, generating all the trends, proofing all the trends,
 15 copying all the trends, and delivering all the trends. We
 16 could not do it.
 17 But I talked to INPO about that and they said that
 18 that is ridiculous. At most, you would turn out a couple
 19 a day. Remember when I would give you guys, Cal Vondra,
 20 an RCS dose equivalent and dissolved oxygen, et cetera,
 21 and things like that? That's okay. That would not have
 22 been a problem.
 23 But it was not because I was not wanting to be
 24 responsive. It was because that was an impossible
 25 situation. So, yeah, I fully admit it. And I -- I didn't

Page 153

1 throw them out of my office. But, my gosh, I couldn't do
 2 that, Rob. There was no way. No human being, no
 3 organization could do that. No one does.
 4 So, yeah, I got in trouble with NSRB. But, you've
 5 got to understand that Bill was downtown at the same time,
 6 and Bill was whispering all sorts of things in their ear,
 7 NSRB. You just read part of it. Okay? You just read
 8 part of it.
 9 Now you -- now you have got to also understand
 10 that I've been gone for eighteen months and I haven't been
 11 in chemistry. My gosh, I'm in trouble for something
 12 that's happened in the past eighteen months when I haven't
 13 even been here.
 14 Q All right. This is a reference --
 15 A Beecken --
 16 Q Hold on.
 17 A Beecken -- I'm answering your question.
 18 THE WITNESS: Do I have a right to answer
 19 his question?
 20 BY MR. MARQUAND:
 21 Q I see this. My question was where in here
 22 does it reference any animosity by Tom McGrath. Now, can
 23 you show me anyplace in this sequence of events?
 24 A I think we're getting to that.
 25 Q Show me where it says something about Tom

Page 154

1 McGrath.
 2 A You see that Peterson and those guys? You
 3 see that at the top?
 4 Q Is Tom McGrath one of those guys?
 5 A Yes, sir. He is.
 6 Q Is there someplace else in here that refers
 7 to Tom McGrath?
 8 A I can't recall. Peterson and those guys,
 9 that's Tom McGrath. That's who I was talking about.
 10 That's who Beecken was talking about. And that's who
 11 Wilson was talking about. Do you understand that?
 12 Q I understand that's what you're saying. Is
 13 there someplace else in here that refers to Tom McGrath?
 14 A I understand that you understand. I do not
 15 recall. I would have to read the whole document again.
 16 Q Well, you'll have an opportunity to tonight
 17 when we go -- when you look for the rest of your notes.
 18 And I'm going to request that you do so. If you find
 19 anyplace else that refers to Tom McGrath in this exhibit,
 20 I'd like to know, exhibit eighteen.
 21 A I'm not sure I'll have time to go through
 22 all of this tonight and find all this stuff.
 23 Q Well, you were subpoenaed to bring certain
 24 documents here with you. So I'm going to ask that you
 25 bring those documents here in the morning.

Page 155

1 A Okay. We'll bring those documents
 2 tomorrow.
 3 Q And when you get here in the morning, you
 4 can spend whatever time you need to reviewing exhibit
 5 eighteen to find out if Tom McGrath's name appears in
 6 there.
 7 A Okay.
 8 MR. DAMBLY: You say in the morning. When
 9 are you talking about?
 10 MR. MARQUAND: However long it takes him.
 11 MR. DAMBLY: No, you said he should bring
 12 them here in the morning. I thought you weren't
 13 going to be here until the afternoon.
 14 MR. MARQUAND: I'll be here. I'm here as
 15 long as it takes.
 16 MR. DAMBLY: Are you going to be here
 17 tomorrow morning?
 18 MR. MARQUAND: Yeah.
 19 MR. DAMBLY: Oh. Okay. That will work.
 20 THE WITNESS: Let's make this clear. You
 21 did not say whether Tom McGrath's name appears in
 22 here, but if it appears --
 23 BY MR. MARQUAND:
 24 Q Show me -- I would like for you to show me
 25 where his name --

Page 156

1 A I've already shown you one.
 2 Q -- or any other references to Tom McGrath
 3 expressing animosity towards you.
 4 A Okay. I've shown you one explicit, one
 5 implicit. And you're looking for another?
 6 Q I'm looking for any and all.
 7 A Okay.
 8 Q Let me ask you to look at exhibit twenty
 9 one.
 10 A Twenty one? Okay.
 11 Q That's the settlement agreement resolving
 12 your 1993 Department of Labor complaint, isn't it?
 13 A Yes.
 14 Q And doesn't that agreement provide for you
 15 to be placed into the corporate chemistry organization in
 16 a PG-8 technical support job?
 17 A Yes.
 18 Q All right. At that time, the job you were
 19 placed in was chemistry program manager?
 20 A Yes, I think that is correct.
 21 Q All right. Now, if you'll look at exhibit
 22 seventeen. That's a letter you sent jointly with Bill
 23 Jocher and Ralph Matthews to Senator Sasser, is it not?
 24 A Yes.
 25 Q And you signed the letter?

Page 157

1 A Yes.
 2 Q This was sent by you and the other two
 3 gentlemen after the filing of your Department of Labor
 4 complaint?
 5 A We've got to check the dates.
 6 Q Let's check the date of it. Oh. It was
 7 shortly before you filed your Department of Labor
 8 complaint.
 9 A That's right.
 10 Q Okay. Was the information you provided in
 11 your August 16th letter to Senator Sasser correct?
 12 A Yes. You understand, I authored a portion
 13 of this, not all of it.
 14 Q I would assume --
 15 A Dr. Matthews authored some.
 16 Q Was there any part of it you disagreed
 17 with?
 18 A I would have to go back and read the letter
 19 now. It's been too long.
 20 Q You signed the letter, didn't you?
 21 A Yeah, but I signed it representing my
 22 portion of the letter.
 23 Q With respect to Sequoyah and with respect
 24 --
 25 A Yeah. Because everything's happening

Page 158

1 between Jocher and Matthews that I was --
 2 Q At Watts Bar?
 3 A -- evidently -- that I was quite frankly
 4 unaware of.
 5 Q But with respect to the matters at
 6 Sequoyah, you didn't disagree with those?
 7 A That I wrote?
 8 Q Yes.
 9 A No.
 10 Q In fact, in this letter, the three of you
 11 indicate that Jocher and Matthews had filed Department of
 12 Labor complaints and that you were preparing to file a
 13 similar Department of Labor complaint accusing TVA of
 14 taking actions against each of you for identifying or
 15 documenting safety-related problems; right?
 16 A That's right.
 17 Q And you mention a lot of -- the three of
 18 you mention a lot of people as being involved in these
 19 actions; correct?
 20 A Oh, certainly.
 21 Q Is there anywhere in this letter that you
 22 or Jocher or Ralph Matthews referenced Dr. McArthur as
 23 taking any sort of discriminatory action against any of
 24 the three of you?
 25 A On August the 16th of 1993. That's

Page 159

1 correct.
 2 Q Is there anywhere in this letter that you
 3 or Dr. Matthews or Mr. Jocher referenced any action taken
 4 against any of the three of you by Tom McGrath?
 5 A On August the 16th, 1993. That's correct.
 6 Q Or any concern that the three of you
 7 documented or expressed to or identified to McGrath or
 8 McArthur?
 9 A I would have to go back and read the
 10 letter. I do not recall it. But, again, as of that date.
 11 Q The letter doesn't mention them, does it?
 12 A As I recall, it does not as of August the
 13 16th, 1993.
 14 Q What changed between August the 16th of '93
 15 and September the 27th of '93 to make you assume that
 16 McGrath or McArthur had taken any sort of action against
 17 you?
 18 A In reviewing some of the messages and it
 19 dawned on me what Wilson said, you know, you just begin
 20 to put the story together. You know, basically what
 21 you've got here is, you know, if you're walking through
 22 the woods and you see somebody out here hanging on a tree
 23 and they've got their hands tied behind their back, you've
 24 got a pretty good idea there's been a murder. You don't
 25 know who did it. You've got to put a lot of research into

Page 160

1 it. And that's what we did.
 2 And a lot of this information is what you might
 3 refer to as progressive revelation. Because you don't
 4 have the depositions. You don't have a lot of
 5 information. You don't have the background. You don't
 6 have the information from Jocher's case. You don't know
 7 what McArthur was saying behind your back one time and to
 8 your face another. So you have to put the story together.
 9 And it takes time. And you only have a certain amount of
 10 time to get the Department of Labor suit filed --
 11 complaint filed.
 12 Q So are you saying that, even though you had
 13 tape-recorded conversations with Beecken and with Wilson,
 14 the plant manager and site VP, in which they both told you
 15 why they didn't want you back -- are you saying that later
 16 on you came to a conclusion, no, it wasn't those two; it
 17 was Wilson McArthur and Tom McGrath who really did you in?
 18 A Oh, no. No, no. I'm just saying there
 19 were people added to it. There were a lot more people
 20 with their hand on the rope than what I realized
 21 originally.
 22 Q When did you come to this realization that
 23 McArthur and McGrath were out to get you?
 24 A I don't recall.
 25 Q Was it in 1993?

Page 161

1 A I don't recall.
 2 Q Was it in 1994?
 3 A I don't recall.
 4 Q '95?
 5 A I don't recall.
 6 Q '96?
 7 A Certainly that had a factor in it.
 8 Q After the '96 reorganization was announced?
 9 A I don't recall what date that was
 10 announced.
 11 Q Spring of '96.
 12 A I don't recall.
 13 Q Now, you were aware in '94 that there was a
 14 reorganization occurring in your organization that would
 15 impact the job that you held as chemistry program manager?
 16 A That was shortly after I took that job?
 17 Q Right.
 18 A That's right.
 19 Q And I'm going to ask you to look at exhibit
 20 number fourteen.
 21 A Uh-huh.
 22 Q This is the potential at-risk status notice
 23 that you received around September 15th of '94?
 24 A That's correct.
 25 Q All right. You were aware that all of

Page 162

1 chemistry was being reorganize and the positions were
 2 being combined with environmental protection functions?
 3 A That's correct.
 4 Q All right. Were those positions
 5 advertised?
 6 A Yes.
 7 Q Did you apply for one?
 8 A Yes.
 9 Q Did you object to having to apply for one?
 10 A No.
 11 Q Why not?
 12 A No reason to.
 13 Q Why? What do you mean, no reason to?
 14 A As far as I could tell, the jobs were
 15 changing. We were adding functions to the position
 16 description that we were not doing before. It appeared to
 17 be legitimate.
 18 Q All right. So in '94 -- up to that point,
 19 you had been the chemistry program manager?
 20 A Correct.
 21 Q And the concept was let's make these
 22 generalist positions and make them chemistry and
 23 environmental protection program managers?
 24 A Right.
 25 Q So you felt that that was a legitimate

Page 163

1 reorganization, and you didn't file a complaint about it?
 2 A That's correct.
 3 Q I'm going to show you -- let me ask you to
 4 look at exhibit number sixteen. Was that position
 5 description available for you to review prior to applying
 6 on the job?
 7 A This particular one?
 8 Q Yeah. Not that one signed, but with the
 9 typewritten text.
 10 A I know that we reviewed the job
 11 descriptions to fold in the environmental position, if
 12 that's what you're asking, the environmental bullets that
 13 were going to be included into the new job, yes. I assume
 14 this is it. And the reason I'm a little concerned is
 15 because it was -- it's dated October the 17th. And I'm
 16 wondering why it was not -- because I think we interviewed
 17 for those jobs in the June or July time frame. Am I
 18 correct in my assumption? In other words, it just gives
 19 me a little pause for concern.
 20 MS. EUCHNER: Brent, why don't we take five
 21 minutes while you go through your documents?
 22 MR. MARQUAND: Sure.
 23 (A break was taken.)
 24 MR. MARQUAND: All right. Exhibit twenty
 25 five.

Page 164

1 (Exhibit No. 25 was filed.)
 2 BY MR. MARQUAND:
 3 Q Have you seen the first two pages of
 4 exhibit twenty five before?
 5 A Not that I recall.
 6 Q All right. This is a memorandum from
 7 Grover and McArthur to Ben Easley to set up interviews for
 8 various positions, including the chemistry and
 9 environmental specialist position, and the interview was
 10 to take place for that position September 22nd, '94. Do
 11 you see that?
 12 A Okay. Yes.
 13 Q And your particular interview was to occur
 14 at 11:30 a.m. on that date?
 15 A Yes.
 16 Q Okay. Look at --
 17 A A concern that I have is this is the
 18 schedule. So I'm supposed to interview on the 22nd of
 19 September, and this document you gave me is dated --
 20 Q It's not dated. It's the effective date.
 21 A -- 10/17.
 22 Q Right.
 23 A When did these become effective? Okay.
 24 That's just a question that I have.
 25 Q If you'll look at the third page of this

Page 165

1 exhibit, is that an August 31st, '94, application you
 2 submitted for that position?
 3 A Yes.
 4 Q And attached to it -- or, you attached to
 5 it a two-paged resume?
 6 A It looks like me.
 7 MR. DAMBLY: Mr. Marquand, are you
 8 representing this is all that was submitted?
 9 MR. MARQUAND: This is selective. I've
 10 gone through the selection package and taken the
 11 pertinent parts out with respect to Mr. Fiser.
 12 MR. DAMBLY: I mean, I don't know if there
 13 were performance appraisals or --
 14 THE WITNESS: There would be others in
 15 there. I don't have any business --
 16 MR. MARQUAND: We produced the entire
 17 selection package to you.
 18 MR. DAMBLY: Okay.
 19 BY MR. MARQUAND:
 20 Q Is the resume accurate as of the date of
 21 your application, August 31st of '94? It didn't reflect
 22 your assignment following your return after your
 23 settlement; is that correct?
 24 A This goes through April of '93.
 25 Q All right. Is it accurate up through April

Page 166

1 of '93?
 2 A Yes.
 3 Q Okay.
 4 A They change all the time, as you know.
 5 Q I didn't ask you earlier. It indicates
 6 that you have a BS.
 7 A Uh-huh.
 8 Q Is that right? You have a BS degree?
 9 A That's correct.
 10 Q It wasn't clear. It said BS major. Did
 11 you actually receive a BS degree?
 12 A A BS degree in chemistry.
 13 Q Is this Wauchita or Ouachita?
 14 A Ouachita.
 15 O. Ouachita. That's the only way
 17 we could spell it. It was in the fight song.
 18 Q If you'll look at the resume, it's
 19 misspelled. The reason I ask is I've never heard of it.
 20 A Okay. That's a typo.
 21 Q Ouachita?
 22 A Right.
 23 Q Is that an accredited school?
 24 A Yes, it is.
 25 Q Okay. Now, following your resume are four

Page 167

1 interview score sheets. Were you interviewed by -- and if
 2 you'll look at the first page, it indicates -- the second
 3 page indicates who the boards members were.
 4 A The second?
 5 Q The second page of the exhibit, the
 6 memorandum to Ben Easley.
 7 A Okay.
 8 Q It shows Gordon Rich/Dave Voeller. Do you
 9 see that?
 10 A Uh-huh.
 11 Q John Sabados, Pat Hughes/Wilson McArthur?
 12 A Uh-huh.
 13 Q Ron Grover and Ben Easley?
 14 A Uh-huh.
 15 Q All right. Now, if you'll turn back to the
 16 pages marked HH000139.
 17 A Okay.
 18 Q All right. It's a score sheet for PWH. Do
 19 you see that?
 20 A Yes.
 21 Q All right. The next page is a score sheet
 22 done by Sabados. Do you see that?
 23 A Uh-huh.
 24 Q The next page is a score sheet that doesn't
 25 reflect who did that particular one.

Page 168

1 A I see it.
 2 Q And the last page looks like it says G.
 3 Rich. Do you see that?
 4 A I do see that.
 5 Q Now, going back to the second page on these
 6 board members, apparently we've got a score sheet from
 7 Gordon Rich, Sabados, PWH which is Pat Hughes, and the
 8 unmarked one may have been Ron Grover. Where was Gordon
 9 Rich? What plant or what location was he assigned to at
 10 the time of this interview?
 11 A Sequoyah.
 12 Q John Sabados, where was he assigned to?
 13 A Browns Ferry.
 14 Q Pat Hughes, where was he assigned?
 15 A I don't even remember.
 16 Q Do you know who Pat Hughes was?
 17 A The name, yes. I know I know him. I don't
 18 remember.
 19 Q Well, Rich and Sabados were chemistry.
 20 A Pat Hughes. It seems like he was Watts
 21 Bar. Wasn't he in rad protection or something?
 22 Q Rich and Sabados were chemistry; right?
 23 A That's right.
 24 Q Hughes wasn't chemistry; is that right?
 25 A As far as I recall, that's correct.

Page 169

1 Q I mean, you would know if he was Watts Bar
2 chemistry, wouldn't you?
3 A Oh, yes. I don't recall him.
4 Q Ron Grover was downtown chemistry?
5 A Corporate chemistry.
6 Q And Ben Easley was human resources?
7 A Yeah.
8 Q All right. So we've got two of the site
9 chemistry organizations represented. The Watts Bar
10 chemistry organization is not represented; right?
11 A It depends on who this was.
12 Q Well, Pat Hughes wasn't Watts Bar
13 chemistry; right?
14 A Yeah, but Dave Voeller is.
15 Q Right. But we have G. Rich.
16 A But we don't have any name on this one.
17 Q Right.
18 A I don't know who that was. Was that Dave
19 Voeller? I don't know.
20 MR. DAMBLY: Do you recall who was on the
21 panel?
22 THE WITNESS: No, sir.
23 BY MR. MARQUAND:
24 Q You don't recall?
25 A I don't even -- I do not.

Page 170

1 Q Do you remember who -- what persons were
2 selected for this job?
3 MR. DAMBLY: By this job, you mean the PG-8
4 level?
5 BY MR. MARQUAND:
6 Q The PG-8 chemistry and environmental
7 specialist -- environmental program specialist job.
8 A I know Sam got a job. Chandra got a job.
9 I got a job.
10 Q Dave Sorrelle?
11 A I don't -- honestly, I did not even
12 remember him applying. I thought he already had another
13 job, but I'm probably wrong there.
14 Q Okay.
15 A That's been just -- I don't remember.
16 Q At the time of this board selection, did
17 Wilson McArthur know of your 1993 Department of Labor
18 complaint?
19 A I feel certain he did.
20 Q Did Ron Grover?
21 A I feel certain he did.
22 Q Did Ben Easley?
23 A I feel certain he did.
24 Q Did Sabados?
25 A Most likely.

Page 171

1 Q You stated that differently than you did
2 with respect to McArthur and Grover and Easley.
3 A I can't say as a certainty that he did, but
4 I'm pretty sure he did.
5 Q Why are you certain of McArthur?
6 A This was in -- see, I am fairly certain we
7 had possibly even discussed it. I don't know.
8 Q Is it also possible that he would have had
9 to know because you were placed back into his -- into an
10 organization he supervised when the complaint was settled?
11 A Yes.
12 Q And how do you know -- how are you certain
13 that Grover knew?
14 A He's the one that hired me out of the ETP
15 program as part of the --
16 Q He didn't hire you. You were placed in
17 there as a result of the settlement.
18 A As part of the settlement for the complaint
19 that I filed. So I feel certain --
20 Q He would have to know if somebody said,
21 hey, you're going to get Fiser and somebody would have to
22 explain why you're going to get Fiser all of the sudden;
23 right?
24 A Yes.
25 Q Why are you certain that Ben Easley knew?

Page 172

1 A By virtue of the fact he was in personnel.
2 Q But other than that, you don't know how he
3 would have known?
4 A And personnel, his boss, Phil Reynolds, was
5 helping to get me into a position to settle it. So I can
6 only assume either they talk or they don't. I would
7 assume that they do talk.
8 Q Or that he was responsible for implementing
9 the settlement?
10 A Who was?
11 Q Easily. Wasn't he the HR manager for your
12 organization?
13 A Yes. But I think Phil was the one that was
14 responsible.
15 Q Well, Phil was the overall manager for HR,
16 but wasn't --
17 A He's the one I talked to.
18 Q Okay. Did Gordon Rich know of your 9/23
19 Department of Labor complaint and the settlement?
20 A I can't answer that.
21 Q Did Voeller?
22 A I can't answer that.
23 Q And you said you weren't as certain, but
24 you felt confident that Sabados knew. Why do you think he
25 knew?

Page 173

1 A You know, I think I would have to put him
2 in the same boat as the others. I'm not absolutely
3 certain of that.
4 Q He was at Browns Ferry?
5 A Uh-huh.
6 Q He really didn't work with you on a
7 day-to-day basis, did he?
8 A That's correct.
9 Q Now, you said you think you may have even
10 talked to Wilson McArthur about your Department of Labor
11 complaint?
12 A Oh, I did.
13 Q Did you talk with Grover about it?
14 A Oh, I did.
15 Q It wasn't any big secret, was it?
16 A No.
17 Q It wasn't anything you were ashamed of, was
18 it?
19 A It's not something I wanted known -- widely
20 known I should say.
21 Q But you didn't feel restrained in talking
22 to McArthur or Grover about it?
23 A No.
24 Q And did Charles Kent know about it?
25 A Yes.

Page 174

1 Q Okay. We know now that he knew about it
2 because he was interviewed by TVA's Inspector General.
3 But how did you know then that he knew about it?
4 A I don't recall.
5 Q Okay. Did you talk with him about it?
6 A I honestly do not recall. I could check
7 that in my notes and see if I had anything, but I --
8 Q If Kent said that you had talked with him
9 about it and told him about it, would you disagree with
10 that?
11 A Probably not.
12 Q All right. So in '94, this selection
13 occurred and you went to an interview.
14 A Uh-huh.
15 Q And these various people who knew of your
16 '93 complaint interviewed you. You did not feel like it
17 was necessary for you to file a Department of Labor
18 complaint simply because they were on the selection board
19 that interviewed you?
20 A That's correct.
21 Q The fact that they already had knowledge of
22 your prior Department of Labor complaint didn't compel you
23 to file a Department of Labor complaint?
24 A No.
25 Q Now, we talked briefly -- exhibit sixteen

Page 175

1 is the position description after you went through the
 2 selection review board, the position description issued to
 3 you approximately a month later for this particular job;
 4 correct?
 5 A That appears to be the case. Yes, sir.
 6 And I do see environmental words, functions, whatever.
 7 Q On this particular job description?
 8 A Yes, I do.
 9 Q All right. So in '94, you applied for this
 10 job. You didn't feel like you were necessarily stuck
 11 forever in the job that you had received as a result of
 12 your settlement? You felt free to apply for a new job?
 13 A By virtue of the fact that the job was
 14 going away and we had folded in environmental requirements
 15 and it was, a quote, new position. You're right.
 16 Q You didn't feel like TVA had to maintain
 17 that one job for you as a result of your settlement
 18 forever, nor did you feel like you were locked into that
 19 job forever?
 20 A No.
 21 Q Now, if you'll look at exhibit fifteen. I
 22 think you said earlier that exhibit fifteen was issued as
 23 a result of some minor modifications to the previous
 24 position description which is exhibit sixteen; is that
 25 right?

Page 178

C E R T I F I C A T E

I, Bonnie L. Smith, do hereby certify that the
 foregoing 177 pages is a true and accurate transcript of
 the testimony taken by me on the day of December 11th,
 2001.
 This 7th day of January, 2001.

 Notary Public
 My Commission Expires:
 November 29, 2005.

Page 176

1 A Would you repeat that?
 2 Q All right. Do you see exhibit fifteen and
 3 exhibit sixteen?
 4 A Yes.
 5 Q How did exhibit fifteen come to pass?
 6 A I don't recall. I'll have to --
 7 Q Well, you didn't have to apply for and be
 8 selected for the job which is in exhibit fifteen, did you?
 9 A Let's see. Hang on one second. Not that I
 10 recall. Because I know we changed the PDs in '94 to
 11 incorporate the environmental functions which is the job
 12 that we interviewed for. And then later on, those
 13 functions were removed.
 14 Q Right. In '95, apparently a new PD was
 15 issued and your signature is on it.
 16 A Uh-huh.
 17 Q That's exhibit fifteen.
 18 A Uh-huh. And is that where the
 19 environmental functions were removed?
 20 Q No. It states it's still chemistry and
 21 environmental protection.
 22 A I don't know why this came about. I don't
 23 recall.
 24 Q Okay.
 25 A These appear to be the same thing. You

1
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 177

1 know, I haven't done a word for word, but certainly all of
 2 the bullet points are the same.
 3 MR. DAMBLY: I just went through this.
 4 Other than -- do you know of any change other than
 5 to the title? They dropped senior. Because I
 6 don't see any difference in them.
 7 MR. MARQUAND: I don't know of specific
 8 changes.
 9 BY MR. MARQUAND:
 10 Q My question is, if there was testimony that
 11 position descriptions were revised slightly to standardize
 12 them without going through a selection process, would you
 13 disagree with that?
 14 A I could not agree or -- I have no knowledge
 15 of that.
 16 Q You couldn't agree or disagree?
 17 A Yeah. I don't --
 18 Q Okay.
 19 A It's just -- they appear to be the same
 20 thing. I don't understand the point of it I guess.
 21 Q I think it was an HR exercise.
 22 MR. MARQUAND: All right. Let's adjourn
 23 until tomorrow at 10:00 a.m.
 24 (Thereupon the deposition was adjourned.)
 25

1
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 1

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of: Docket Nos. 50-390-CivP;
TENNESSEE VALLEY AUTHORITY 50-327-CivP;
(Watts Bar Nuclear Plant, 50-378-CivP;
Unit 1, Sequoyah Nuclear 50-258-CivP;
Plant, Units 1 & 2; Browns 50-260-CivP;
Ferry Nuclear Plant, 50-296-CivP;
Units 1, 2, 3 ASLBP No. 01-791-01-CivP
 EA 99-234

APPEARANCES

BRENT R. MARQUAND, ESQUIRE
EDWARD J. VIGLIUCCI, ESQUIRE
Attorneys for the Tennessee Valley Authority

JENNIFER M. EUCHNER, ESQUIRE
DENNIS C. DAMBLY, ESQUIRE
Attorneys for the Nuclear Regulatory Commission

DEPOSITION OF GARY L. FISER
(Continued from December 11, 2001)
December 12, 2001

Copyright Bonnie L. Smith, 2001

Page 4

1 understand the reasons to be why those functions were
2 being combined?
3 A I think there was a reduction in force and
4 some of the -- some of the positions were done away with.
5 Q So the idea then was, I gather, to create
6 generalist positions that could handle a broader range of
7 responsibilities so you could do with fewer positions; is
8 that right?
9 A I'm sure that's correct.
10 Q Who did you get this information from?
11 A I don't recall.
12 Q Did you talk to Ron Grover about it?
13 A Oh, extensively. But I think that
14 information -- you know, we had received word years ago
15 that eventually we were going to be cut down to two or
16 three people at corporate.
17 Q And you knew that in '94?
18 A I did not know the specifics. We had just
19 heard rumors that that was the case.
20 Q All right. Following this reorganization
21 in which you were selected for a chemistry and
22 environmental protection specialist position, how did your
23 job responsibilities change?
24 A None.
25 Q Did you ever have occasion to perform any

Page 2

I N D E X

1	WITNESS	PAGE
2	GARY L. FISER	
4	Examination by Mr. Marquand	3
5	Examination by Ms. Euchner	149
6	Examination by Mr. Marquand	156
8	EXHIBIT DESCRIPTION PAGE	
9	No. 26 1994 Franklin Planner Excerpts	8
10	No. 27 1995 Franklin Planner Excerpts	22
11	No. 28 1996 Franklin Planner Excerpts	32
12	No. 29 1996 Franklin Planner Excerpts	56
13	No. 30 1996 Franklin Planner Excerpts	100
14	No. 31 1992 Franklin Planner Excerpts	122
15	No. 32 1993 Franklin Planner Excerpts	135
16	No. 33 9/20/99 Letter to J.A. Scalice	143
17	No. 34 2/7/00 Letter to J.A. Scalice	145
18		
19		
20		
21		
22	NOTE: Unless provided by counsel to the reporter, all names are rendered as the best phonetic approximation.	
23		
24		
25		

Page 5

1 environmental protection responsibilities?
2 A Not that I recall.
3 Q Why not?
4 A As I recall, we had a couple of people in
5 the group that still performed those functions.
6 Q Some people who had more background in
7 environmental than, say, you and the other chemists?
8 A I would not necessarily say that.
9 Q Who were the people performing
10 environmental functions?
11 A Trish Landers. It seems like there was
12 somebody else. I don't recall.
13 Q Take a look at exhibit twenty five.
14 A I go to twenty three. I don't have twenty
15 five.
16 Q You can use my copy.
17 A I think I got away from here last night
18 without picking up a lot of these.
19 Q All right. Take a look at twenty five.
20 A Okay.
21 Q See the roster at the top of the page --
22 or, toward the top -- of people who applied on the PG-8
23 chemistry and environmental specialist jobs? If you look
24 towards the bottom, you'll see a roster of people who were
25 being considered for the PG-7 chemistry and environmental

Page 3

1 The deposition of GARY L. FISER taken by agreement
2 of counsel, for any and all purposes allowable under the
3 Tennessee Rules of Civil Procedure, before BONNIE L.
4 SMITH, Shorthand Reporter and Notary Public in and for the
5 State of Tennessee at Large, on the 12th day of December,
6 2001, at the offices of the Tennessee Valley Authority,
7 Chattanooga, Tennessee.

8 It is agreed that the reporter may swear the
9 witness; that she may take the deposition in shorthand,
10 reduce her notes to typewritten form and sign the name of
11 the witness thereto.

12 All objections except as to the form of the
13 question are reserved until the time of hearing.

14 Formalities as to caption, certificate and
15 transmission are expressly waived.

16 GARY L. FISER
17 having been previously duly sworn, was examined
18 and deposed as follows:

19 EXAMINATION

20 BY MR. MARQUAND:
21 Q Mr. Fiser, you're still under oath from
22 yesterday.
23 In 1994 when the chemistry and environmental
24 functions were combined and you applied on a new job of
25 chemistry and environmental specialist, what did you

Page 6

1 jobs. Do you see those?
2 A Uh-huh.
3 Q Do you know which, if any, of those people
4 were selected for the PG-7 level positions? Wasn't Betsy
5 Eiford-Lee selected?
6 A I don't recall. I know at some time she
7 was in the group and then she left to go to Watts Bar.
8 And I can't tell you when that happened. It's just --
9 it's been too long.
10 Q Were any of those other people ever in the
11 group?
12 A Joe Mantoath was in the group at one time.
13 Betsy Eiford. That's the only two that I see that I
14 recall.
15 Q Did they perform environmental functions
16 from time to time?
17 A Yes.
18 Q They weren't primarily chemists, were they?
19 A No.
20 Q Did Mr. Grover ever explain to you or any
21 of the others in the staff what the concept was or was
22 intended to be with respect to environmental
23 responsibilities?
24 A It seemed that he had planned that at some
25 time there was going to be some cross-training and these

Page 7

1 functions would be absorbed into the group as they were
 2 originally intended whenever we put those requirements
 3 into the position description and interviewed and hired
 4 for the jobs.
 5 Q So then what I hear you saying is that he
 6 intended for you to learn or pick up these
 7 responsibilities as you went.
 8 A Well, there was supposed to be
 9 cross-training. I'm not sure exactly what he meant by
 10 that.
 11 Q All right. Did he ever explain why -- or,
 12 did that cross-training ever occur?
 13 A No.
 14 Q Did he ever tell you why it didn't or did
 15 you ever learn why it didn't?
 16 A I can only speculate. I'm not sure.
 17 Q You don't recall ever hearing anybody tell
 18 you why it never occurred?
 19 A It seems like we were just busy and we
 20 never got around to it or something. I'm not sure.
 21 Q All right. Nobody ever told you we're
 22 abandoning that idea?
 23 A No.
 24 Q Okay. Now, let's move forward to 1996.
 25 Well, actually, let's just go back to these runners.

Page 8

1 MR. MARQUAND: I'm going to have marked, I
 2 guess -- is twenty five the next exhibit?
 3 MR. DAMBLY: Twenty six.
 4 (Exhibit No. 26 was filed.)
 5 BY MR. MARQUAND:
 6 Q I've excerpted pages from your 1994
 7 Franklin planner. The first one is an entry I want to ask
 8 about on January 26th, '94. On number one, who's Mike
 9 Luellen?
 10 A A fellow that at one time worked here, I
 11 think, as a contractor and then took a job with INPO.
 12 Q On number three, there's a note at the
 13 bottom. It says TVA's conduct regulations; do I have to
 14 let them know if I have another job. Do you see that,
 15 item number three?
 16 A Yes, I do.
 17 Q Okay. Why were you concerned about whether
 18 or not you had to let TVA know if you had another job?
 19 A I have no idea.
 20 Q Did you have another job?
 21 A No. I had started a business when I was in
 22 the ETP program.
 23 Q And were you continuing to run that
 24 business?
 25 A No.

Page 9

1 Q What had happened to it?
 2 A My wife ran it.
 3 Q So you were out of it?
 4 A I was not running a business.
 5 Q You were not involved in it?
 6 A I was working my rear end off at night and
 7 on weekends for sure.
 8 Q In the business or at TVA?
 9 A In the business.
 10 Q All right. So did you disclose your
 11 involvement in that business to TVA?
 12 A I don't recall.
 13 Q Did anyone ever advise you that if you had
 14 any outside business interests that you were obligated
 15 under United States code to disclose those?
 16 A Yes. And I do recall that now. And
 17 whenever I came back to work, I had to fill out a form for
 18 personnel. I gave it to them. I had some questions about
 19 it and could not fill it out because I did not have
 20 complete information on how to fill it out. They were
 21 concerned. They did not understand how to answer the
 22 questions. And I don't know if that ever got resolved.
 23 Q All right.
 24 A So certainly personnel knew about it.
 25 Q This is a sign business?

Page 10

1 A Yes, it is.
 2 Q From '94 up to the present time, have you
 3 been involved in any other businesses besides that sign
 4 business?
 5 A Yes.
 6 Q Have you been involved in any other
 7 businesses with any other TVA employees?
 8 A No.
 9 Q Okay. Have you invested any money with any
 10 TVA employees?
 11 A No.
 12 Q On the entry for February the 18th, I see
 13 in the daily task list the name Jim Bates. What
 14 involvement were you having with him?
 15 A That's on the 18th?
 16 Q Friday, February the 18th. It's on the
 17 left-hand side of the page.
 18 A Okay. At that particular time, I do not
 19 recall.
 20 Q Jim Bates didn't work for TVA then, did he?
 21 A No.
 22 Q He worked for INPO?
 23 A When he left TVA, he went somewhere else
 24 for some company, and at some point in time, he went back
 25 to INPO. I don't remember exactly how long that period

Page 11

1 was. I'm pretty certain, though, that at that time he
 2 worked for INPO. I use him as a resource. We talk all
 3 the time because of his knowledge of chemistry and
 4 chemistry-related matters.
 5 Q All right. If you'll look at April 1st,
 6 1994, would you read to us the entry that appears on the
 7 daily record of events?
 8 A Wilson McArthur and John Maciejewski. John
 9 wanted to welcome me, tell me to forget about the past,
 10 look forward. All new management team. Open door. Says
 11 he really means it. Says I was scheduled to go to a site,
 12 but they changed that. He said chemistry would be cutting
 13 back in about six months.
 14 Q Okay. So is this apparently after you had
 15 reached the resolution of your 1993 Department of Labor
 16 complaint and Mr. -- and you're reporting back to work and
 17 Mr. Maciejewski's welcoming you back?
 18 A Yes, sir.
 19 Q And Mr. Maciejewski was Wilson McArthur's
 20 boss at that time?
 21 A I don't know.
 22 Q Okay. If you'll look at the entry for June
 23 16th, 1994, number two, could you read the second entry
 24 for us, please?
 25 A It's an entry --

Page 12

1 Q Number two, under daily record of events.
 2 A It says Ron Grover. Apparently this was a
 3 discussion I had with Ron --
 4 Q All right.
 5 A -- or that Ron had with me, one or the two.
 6 Reductions are coming. Going to loan one guy now. If I
 7 can read this correctly, it says engineering going into
 8 chemistry.
 9 Q Rad-Con number is three?
 10 A Rad-Con number is three. That's what it
 11 is.
 12 Q In parens, includes WCN. That's Wilson
 13 McArthur?
 14 A Right. Rad-Con number is three, includes
 15 Wilson McArthur. I have, I think, a three RC written down
 16 there, four chemistry and environmental in parentheses.
 17 Ron expressed concerns that if I participate in the
 18 interviews that someone may tell him not to keep me in the
 19 organization -- or, the reorg.
 20 Q In the reorganization?
 21 A Uh-huh.
 22 Q Okay.
 23 A He said nothing had come down like that
 24 yet, but it could happen. He asked for my objective in
 25 the article and said it was purely to ensure that the

Page 13

1 article was accurate. He advised me to stay out of it.
 2 Q What article is he referring to?
 3 A I think there was an article written by a
 4 fellow -- the newspaper in Dayton, Tennessee.
 5 Q And it was about your case?
 6 A Not just my case.
 7 Q Well, it was about whistle blowers, and it
 8 included a quote from you or something about your case;
 9 correct?
 10 A As I recall, that's correct.
 11 Q And so you were having this discussion with
 12 Mr. Grover in which he was speculating that maybe you
 13 wouldn't get a job in the reorganization because of
 14 something in the article?
 15 A Well, that's not what it says, but you can
 16 infer that if you'd like.
 17 Q Well, how did you understand it? I mean,
 18 you've got the two sentences right there together. If you
 19 participate in the interviews, someone may tell him not to
 20 keep me in the reorganization. Then it goes on and says
 21 he asked you about your objective in the article. I mean,
 22 they're juxtaposed. I mean, how did you understand it?
 23 A I think Ron was concerned that it would not
 24 be received well by TVA management.
 25 Q That he was concerned that it might not be

Page 14

1 -- the article might not be received well?
 2 A You'd have to talk to him about that.
 3 Q All right. Did anybody else in your
 4 management ever express any concern to you about the fact
 5 that your name and you were quoted in an article about
 6 whistle blowers?
 7 A I don't recall.
 8 Q But he did tell you that he didn't -- he
 9 had not received any directions from someone up the line,
 10 but he was just speculating that that might happen, wasn't
 11 he?
 12 A You can read it as well as I can. That
 13 appears to be --
 14 Q Isn't that what it says?
 15 A That appears what it was saying. I would
 16 refer this to him personally.
 17 Q Okay. If you'll look at June 19th -- June
 18 20th, 1994.
 19 A Uh-huh.
 20 Q There is an entry -- one entry there. Can
 21 you read that for us, please?
 22 A It was a conversation I must have had with
 23 Wilson McArthur, because WCM's initial were there.
 24 Q Uh-huh.
 25 A I discussed my conversation with Ron

Page 15

1 Grover, parentheses, 16th.
 2 Q Which would be the conversation we just
 3 talked about; right?
 4 A I don't know.
 5 Q Well, if you look back, it was on the 16th.
 6 Isn't that the way you keep your planner?
 7 A I'm certain I did not write down every
 8 conversation I had on the 16th.
 9 Q I understand that. But doesn't it say I
 10 discussed my conversation with Ron Grover, parens, 16th?
 11 A That's correct.
 12 Q And if you look back on the 16th, we just
 13 talked about a conversation you documented you had with
 14 Ron Grover on the 16th. Isn't that what it apparently
 15 refers to?
 16 A I can see how you would make that
 17 inference. Yes, sir.
 18 Q All right. Let's read the rest of the
 19 entry for June 20th.
 20 A For June 20th?
 21 Q Uh-huh. I discussed my conversation with
 22 Ron Grover on the 16th with Wilson. Am I reading it
 23 correctly so far?
 24 A Yeah. Do you want me to read it or do you
 25 want to read it?

Page 16

1 Q Let me ask you if I'm reading it correctly.
 2 He said that he still felt I should continue talking with
 3 the reporter and stick with the truth. Is that what Mr.
 4 McArthur told you?
 5 A That's right.
 6 Q Okay. So is there any doubt in your mind
 7 that this entry on June 20th refers to the entry on June
 8 16th with Ron Grover?
 9 A It certainly appears that way.
 10 Q Wilson McArthur didn't express any
 11 misgivings, at least that you recorded, about the fact
 12 that somebody might tell him not to keep you in the
 13 reorganization?
 14 A Not in that conversation, no.
 15 Q Okay. On June 29th, there's an entry
 16 there. Can you read that for us, please?
 17 A Uh-huh. This is apparently a conversation
 18 I had with Ron --
 19 Q Okay.
 20 A -- wherein I say he said Goetcheus talked
 21 to him today about the reorg and the importance of saving
 22 his favorite employee, parenthesis, Sam.
 23 Q Sam and Ron didn't get along, did they?
 24 A At times they did not.
 25 Q And what was this -- why do you have this

Page 17

1 in quotes, his favorite employee, referring to Sam?
 2 A Because I'm certain that that was implied.
 3 It was not stated to me at that time in my conversation
 4 with Ron. It might have been stated in a conversation
 5 Goetcheus had with him but not me. So if it was inferred,
 6 I put it in parentheses.
 7 Q All right. So why did you or Ron infer
 8 that Sam was Goetcheus' favorite employee?
 9 A Probably appearances.
 10 Q Okay. Goetcheus was a manager in charge of
 11 maintaining the integrity of the steam generators
 12 basically, wasn't he?
 13 A Yes.
 14 Q And do you know if he had a lot of
 15 confidence in Sam Harvey's ability to maintain the
 16 chemistry program to accomplish that end?
 17 A I don't know how much confidence he had in
 18 him.
 19 Q Did he seem to express confidence in Sam to
 20 be able to maintain the integrity of the steam generators?
 21 A No, I would not say that.
 22 Q Well --
 23 A He had confidence in himself for
 24 maintaining the integrity.
 25 Q Goetcheus had confidence in himself?

Page 18

1 A In himself. I'm not sure he would entrust
 2 that to anyone.
 3 Q Did he seem to think that Sam had some
 4 expertise in the area of secondary chemistry?
 5 A I can't read the man's mind.
 6 Q I asked you if that's what he seemed to
 7 think.
 8 A I don't know.
 9 Q Did he rely upon Sam?
 10 A I don't know.
 11 Q Did he rely on you?
 12 A At times.
 13 Q Who did he rely on the rest of the time?
 14 A You'd have to ask him.
 15 Q You don't know?
 16 A No. You'd have to ask him.
 17 Q Okay.
 18 A I'm not into mind reading.
 19 Q Did you get along with Goetcheus?
 20 A At times.
 21 Q Did you -- were there times that you didn't
 22 get along with Goetcheus?
 23 A There were.
 24 Q What was the basis of that?
 25 A I got a little upset with him one time when

Page 19

1 he asked one of my guys to falsify data.
 2 Q When was this?
 3 A I don't recall the date.
 4 Q Did you ever get upset with Goetcheus over
 5 what seemed to you to be his preference for Sam?
 6 A With Goetcheus?
 7 Q Yes.
 8 A I don't recall getting upset with him.
 9 Q Okay. Did you ever learn that Sam had --
 10 that Goetcheus had expressed a preference for Sam?
 11 A Yes.
 12 Q Did that bother you?
 13 A Yes.
 14 Q Did you learn why he expressed a preference
 15 for Sam?
 16 A No.
 17 Q And when did you learn this?
 18 A I don't recall.
 19 Q Okay.
 20 A I do think there are notes on it, though.
 21 Q If you'll look at the entry for June 30th,
 22 1994, what is the -- can you read the first entry out loud
 23 for us please?
 24 A Again, I have Ron out beside number one.
 25 So it must have been a conversation I had with him. Said

Page 20

1 my name came up in a meeting with John Maciejewski. He
 2 said that John expressed misgivings about me and that he
 3 had --
 4 Q Had turned it around?
 5 A -- and that he had turned it around by
 6 telling him how hard I've been working -- I think that's a
 7 comma there; I'm not sure -- about turning around Watts
 8 Bar chemistry, image with NRC, NSRB, et cetera, that I was
 9 working long, hard hours and that the people at Watts --
 10 WBN, Watts Bar, were very pleased with the work I've been
 11 doing.
 12 Q Did Mr. Grover tell you what the misgivings
 13 that Mr. Maciejewski had about you were?
 14 A If he did, I did not record it here.
 15 Q And you don't remember?
 16 A No.
 17 Q Look at the fourth entry. Read that to us,
 18 please.
 19 A Ron Grover wants me to do the lesson -- I
 20 think that's plan -- on primary chemistry.
 21 Q For what?
 22 A I don't have a clue.
 23 Q Okay. If you'll look at the entry for
 24 August 23rd, can you read to us the entry number six? It
 25 refers to Beth Thomas.

Page 21

1 A Yes.
 2 Q And Beth Thomas is in the Inspector
 3 General's office; right?
 4 A That's correct.
 5 Q Okay.
 6 A Beth Thomas. I told Beth I was concerned
 7 about the timing of release of the tapes. I told her we
 8 had just been notified of the fact that our jobs were at
 9 risk. She was unaware of it. That's in parentheses. I
 10 told her I wanted to discuss this with Donald Hickman, I
 11 think.
 12 Q Okay. And is she -- is this conversation
 13 referring to the IG's release of the copies of the
 14 surreptitious tape-recordings you made?
 15 A It must have been.
 16 Q All right. And had they informed you they
 17 were going to release those tapes?
 18 A No. They had told me they were not going
 19 to release them without my knowledge. And then I think I
 20 got a letter that said, hey, we did it or something like
 21 that.
 22 Q But that's what that was about was the fact
 23 that they --
 24 A Yeah, that they released the tapes.
 25 Q All right. So you knew at least by August

Page 22

1 23rd of '94 that the IG had released those tapes somewhere
 2 in some context?
 3 A Unless I was just on the wrong page when I
 4 recorded it, that's correct.
 5 Q All right.
 6 A That did happen sometimes.
 7 Q I saw that.
 8 (Exhibit No. 27 was filed.)
 9 BY MR. MARQUAND:
 10 Q Mr. Fiser, I've shown you Fiser deposition
 11 exhibit twenty seven. It's a copy of the some of the
 12 pages out of your 1995 planner. Do you see the entry for
 13 April 26th, 1995? There's one entry under the daily
 14 record of events.
 15 A Right.
 16 Q Can you read that to us, please?
 17 A I will try. It must have been a
 18 conversation I had with Phil Pfeifer, one of the attorneys
 19 working for TVA, preparing for the case Bill Jocher had
 20 going to trial.
 21 Q All right. Why don't you read this entry
 22 and then we'll ask you some questions about it?
 23 A 632-8949, Bill's attorney, 9th dash and
 24 23rd of May. During the week of the 15th. Need to be
 25 able to get me on short notice.

Page 23

1 Q Some rocky top -- rocky time?
 2 A Some rocky time, but time -- but the time
 3 -- I'm going to try this again -- some rocky time. By the
 4 time he left, we had --
 5 Q Patched things up?
 6 A Oh, I see. Some rocky time. By the time
 7 he left, we had patched things up. No real help. Many
 8 dealings with WCM.
 9 Q That's Wilson McArthur.
 10 A WCM --
 11 Q Was fair?
 12 A I think that's what it says. WCM was fair.
 13 Dan was a bad guy.
 14 Q All right. So this is a conversation
 15 apparently you're having with Phil Pfeifer, an attorney
 16 from TVA; right? And he's telling you that Mr. Jocher's
 17 attorney wants you to be available during certain periods
 18 in May of '95 to testify in Bill Jocher's case?
 19 A Uh-huh.
 20 Q And you're telling him -- basically what
 21 you've noted here is some of the information that you had
 22 to provide in this case, that is, you had some rocky times
 23 but by the time Bill Jocher left, you and he had patched
 24 things up?
 25 A That's correct.

Page 24

1 Q And then you said -- what does the no real
 2 help comment --
 3 A I have no idea.
 4 Q All right. And then you said had many
 5 dealings with Wilson McArthur; is that right?
 6 A I said many dealings with Wilson McArthur.
 7 I don't know if that was me or Bill.
 8 Q All right. And then you said Wilson
 9 McArthur was fair?
 10 A Right.
 11 Q This is your conversation with Phil
 12 Pfeifer?
 13 A That's correct.
 14 Q Not with Bill; right?
 15 A That is correct.
 16 Q So you're telling Pfeifer your perceptions
 17 of Wilson McArthur and Dan Keuter?
 18 A I suppose that's Dan Keuter. We have to
 19 infer that.
 20 Q How many other Dans --
 21 A That would be logical.
 22 Q How many other Dans in management would you
 23 know of?
 24 A Well, I would have to go down the list of
 25 the phone directory and tell you. I don't know. That's

Page 25

1 what it appears.
 2 Q All right. So when Mr. Pfeifer was
 3 interviewing you about appearing as a witness at the
 4 trial, you were telling him Wilson McArthur was fair, but
 5 Dan Keuter was a bad guy?
 6 A Yes.
 7 Q Okay.
 8 MR. DAMBLY: Off the record for a second.
 9 (A discussion was held off the record.)
 10 BY MR. MARQUAND:
 11 Q If you'll look at the entry for June 30th,
 12 would you read out loud the entry -- the third entry on
 13 the daily record of events? And then I'll ask you some
 14 questions about it.
 15 A The third entry says US Congress, Con
 16 Clement, C-L-E-M-E-N-T, House of Representatives,
 17 attention Jay Hansen. Tell him that Ann Harris told me to
 18 call NRC's IG. And I have the phone number and Tom
 19 Blatchford.
 20 Q All right. What does this mean?
 21 A I don't know.
 22 Q Had you had conversations with Ann Harris
 23 in which she suggested you call Congressman Clement's
 24 office?
 25 A Yes, it appears to be.

Page 26

1 Q Why?
 2 A I don't know.
 3 Q Why was she recommending you call
 4 Congressman Clement?
 5 A I do not recall. I know I had
 6 conversations with her, but I really don't --
 7 Q About what?
 8 A My case, Bill's case, her case.
 9 Q There's a reference to a Tom Blatchford
 10 here.
 11 A Right.
 12 Q Is that somebody in the NRC's IG office?
 13 A I would assume so.
 14 Q Were you in contact with the NRC IG?
 15 A It doesn't say that.
 16 Q Pardon me?
 17 A It doesn't say that.
 18 Q I know. But were you in contact with the
 19 NRC IG?
 20 A I don't recall, but it would not surprise
 21 me.
 22 Q I haven't seen any documents from the NRC
 23 indicating one way or another whether or not you have
 24 been. I would assume that they would have been produced
 25 if you had been.

Page 27

1 MR. DAMBLY: Well, unlike TVA, NRC's IG
 2 doesn't provide those documents.
 3 MR. MARQUAND: I would assume they would if
 4 the case was closed and you asked for them.
 5 MR. DAMBLY: Well, as far as I know, there
 6 never was -- I mean, IG would not investigate
 7 whistle blower complaints. That's OI's function.
 8 MR. MARQUAND: Unless the whistle blower is
 9 complaining about OI.
 10 MR. DAMBLY: I have no knowledge of there
 11 being any IG investigation.
 12 MR. MARQUAND: Could you check and, if
 13 there is, produce the documents?
 14 MR. DAMBLY: Sure. I'll see if there was
 15 one.
 16 BY MR. MARQUAND:
 17 Q Would you look for the entry for --
 18 MR. DAMBLY: What year are you talking
 19 about?
 20 MS. EUCHNER: '95.
 21 BY MR. MARQUAND:
 22 Q -- October 12th, 1995. Can you read us
 23 that entry?
 24 A Okay. Ron Grover. Meeting with McGrath.
 25 He wants to hear emergent problems from us. Spills,

Page 28

1 environmental, temperature -- that would be degrees T --
 2 temperature problems, rumor or hearsay. Ruth Morgan is
 3 his secretary.
 4 Q All right. So what was this about? What
 5 was Grover telling you? He had a meeting with Tom
 6 McGrath. Tom McGrath's the new boss, and Tom wants to be
 7 kept up to speed with everything going on, even if it's
 8 just a rumour or hearsay; is that right?
 9 A Well, if it's -- I would say if it has to
 10 do with a spill, environmental temperature problems, rumor
 11 or hearsay, in other words if we even think there might be
 12 a problem with the temperature.
 13 Q He doesn't want to be surprised?
 14 A He doesn't want to be surprised. That's
 15 what I get out of it.
 16 Q So, in other words, he's saying if there's
 17 a problem, you tell me about?
 18 A Regarding spills, environmental
 19 temperature, rumour or hearsay.
 20 Q All right. Now, was this a one-on-one
 21 conversation you had with Grover?
 22 A I don't know. It could have been a phone
 23 call.
 24 Q All right. But it wasn't apparently a
 25 staff meeting. It was just a message Grover passed on to

Page 29

1 you?
 2 A Oh, it could have been a staff meeting. I
 3 mean, if he just said that to me or in a staff meeting or
 4 anywhere.
 5 Q I note that it doesn't say anything about
 6 chemistry issues here. McGrath is concerned about
 7 apparently environmental problems, spills, temperature;
 8 right?
 9 A That's what it says.
 10 Q And Grover's passing on this information to
 11 you as though it's your responsibility to let him know so
 12 he can let McGrath know; right?
 13 A That's correct.
 14 Q All right. So at least to some degree at
 15 this point in time Grover was holding you accountable for
 16 some environmental responsibilities?
 17 A Absolutely not.
 18 Q Even though he was giving you these
 19 directions?
 20 A To communicate those to McGrath. Somebody
 21 else could have done the work. I didn't have to do the
 22 work. He just wanted to know if something was going on.
 23 Q So you had a responsibility to report them?
 24 A So you were wrong in that. He wanted to
 25 know -- he wanted to have the report. That does not mean

Page 30

1 that I was doing the work.
 2 Q You had the responsibility to report the
 3 problems if you were aware of them?
 4 A That's correct.
 5 Q If you'll look at the entry for October
 6 16th, 1995, would you read the fifth entry, please?
 7 A Sam says we are signed up for Chem Works.
 8 No problems. Ron had approved it. We, corporate
 9 chemistry, have the voting share.
 10 Q And there's an exclamation point behind
 11 that; right?
 12 A I think that's correct.
 13 Q What's that mean?
 14 A Sam was letting me know that we now have
 15 the program Chem Works on the computer and we can run it.
 16 Q What's that mean, that corporate chemistry
 17 has the controlling share?
 18 A I'm not sure.
 19 Q Corporate chemistry was in control of it,
 20 right, as opposed to the sites?
 21 A That's what it appears.
 22 Q All right. Now, moving to 1996, at some
 23 point in time you became aware that Tom McGrath had taken
 24 over, at least in an acting capacity, as the -- when Don
 25 Moody became ill; is that right?

Page 31

1 A That's correct.
 2 Q And you learned that in the fall of 1995?
 3 A I don't recall.
 4 Q You knew Don Moody died in the fall of
 5 1995, didn't you?
 6 A McGrath had taken over before he died. I
 7 don't remember when he died.
 8 Q All right. You're aware that McGrath began
 9 taking over responsibilities in the September/October time
 10 frame in '95?
 11 A Whenever. I know he took over.
 12 Q All right. Because we have already seen,
 13 for example, the conversation you had with Grover in which
 14 Grover told you McGrath wanted to make sure you reported
 15 environmental problems?
 16 A (No verbal response.)
 17 Q You have to say yes or no for the court
 18 reporter.
 19 A Correct.
 20 Q All right. When did you first learn that
 21 there might be a reorganization of the chemistry and
 22 environmental organization in 1996?
 23 A I don't recall.
 24 Q When you learned of it, was it of concern
 25 to you?

Page 32

1 A As I recall, it was.
 2 (Exhibit No. 28 was filed.)
 3 BY MR. MARQUAND:
 4 Q All right. I've handed you Fiser
 5 deposition exhibit twenty eight. It is a selection of
 6 pages from your 1996 planner. That runs from March 20th
 7 through May 14th of 1996.
 8 A That's correct.
 9 Q These are on -- this was on -- your planner
 10 in 1996 are larger pages, so these are one page -- two
 11 pages per day.
 12 A Okay. I understand.
 13 Q If you'll look at the daily records of
 14 events for March 20th of 1996, can you read to us the
 15 third entry that's got the star by it?
 16 A Yes.
 17 Q Okay.
 18 A The third entry is a note from BJ. That
 19 would be Bill Jocher. It says they have closed my case.
 20 They said they found nothing. Ron Fields, NRC's IG, (301)
 21 415-5965. Bill said that this word was based on a
 22 conversation that Ron had with Jim Vorse.
 23 Q Okay. So you were getting information
 24 through Bill Jocher that the NRC IG or NRC OI had closed
 25 their investigation with respect to your '93 complaint?

Page 33

1 A That's correct.
 2 Q Jim Vorse being with OI and Ron Fields
 3 being with the IG?
 4 A I think that is correct.
 5 Q If you'll look at the entry for March 22nd
 6 of 1996 on the daily record of events.
 7 A March 22nd. Okay.
 8 Q Would you read the second entry that begins
 9 with George Moley?
 10 A George Moley, NRC's IG, (301) 415-5967.
 11 Follow up with the letter stating my complaint. I think
 12 that's Jane.
 13 Q Jane thinks?
 14 A Jane thinks that NRC's IE rubber-stamped
 15 the TVA IG report.
 16 Q Who's Jane?
 17 A I don't know.
 18 Q So is this a conversation you had with
 19 George Moley with the IG's office or maybe Jane, his
 20 secretary?
 21 A I don't know.
 22 Q Okay. Apparently it's some sort of
 23 conversation with the NRC IG's office.
 24 A It appears that way.
 25 Q All right. Why -- if you know, why is the

Page 34

1 third entry apparently incomplete? It says Mr. Uric. It
 2 has a colon and then nothing following it.
 3 A There are times -- I don't know for sure,
 4 but there are times when I would write down something
 5 because I was going to have a conversation, maybe the
 6 conversation -- maybe it was business, maybe I didn't get
 7 to have it. I don't know. I don't even know who Mr. Uric
 8 is.
 9 Q Well, now, as I understand -- if you look
 10 at the preceding page, the task list is the list of things
 11 that you intended to do that date.
 12 A Right.
 13 Q Whereas, the record of events are things
 14 that actually happened. I mean, you didn't put down names
 15 and say I intend to have a conversation with somebody on
 16 the right-hand side of your planner, did you?
 17 A If I was going to have a conversation with
 18 you and I wanted to record it, I might just write down
 19 your name and then try to call you, just so I could have
 20 your name down and start writing. I did that a lot of
 21 times.
 22 Q I thought you did that -- like, if you
 23 intended to have a conversation with somebody, you put
 24 their name on the prioritized daily task list on the
 25 preceding page, and then when you accomplished the

Page 35

1 conversation, you would document the conversation on the
 2 daily record of events; isn't that correct?
 3 A No.
 4 Q If you'll look at the daily record of
 5 events for March 25th, 1996, can you read the second entry
 6 for us, please?
 7 A Ron's staff meeting. I have a colon then
 8 and I have something. I'm not sure what it is.
 9 Q Shinberger?
 10 A Shinberger --
 11 Q Is checking out?
 12 A Shinberger is checking out this week. List
 13 of required courses TVAU. We have to complete budget for
 14 fiscal year '97, fifteen percent reduction to seventeen
 15 percent reduction. 2001, forty percent reduction. He
 16 wants two --
 17 Q Summary plans?
 18 A -- summary plans for seventeen percent
 19 reduction in '97 and forty percent reduction in 2001.
 20 Summarize first cut by Monday. Identify our mission,
 21 primary functions, what we must do as a minimum, number of
 22 people and the level they should be at, all in bullets.
 23 Address safety, reliability, regulatory, maintain proper
 24 -- I can't read those last two words.
 25 MS. EUCHNER: The last word may be

Page 36

1 expertise.
 2 THE WITNESS: Maintain proper technical
 3 expertise, I guess. Establish developmental
 4 positions within the organization. We are not
 5 policemen, don't do their -- I don't know what
 6 that means -- combine Wilson and Ron. Combine
 7 Rad-Con and chemistry. Separate steam generator
 8 organization.
 9 BY MR. MARQUAND:
 10 Q All right. So is this a meeting where Ron
 11 was telling you how your organization was going to have
 12 budget reductions in '97 through 2001 and that you all
 13 were responsible for coming up with at least some
 14 proposals on how to do that while accomplishing certain
 15 matters relating to safety and reliability, et cetera?
 16 A No.
 17 Q What was it about then?
 18 A You said where he told me.
 19 Q No, the organization.
 20 A It was a staff --
 21 Q A staff meeting?
 22 A Yes, it was a meeting of the entire staff
 23 as I recall.
 24 Q And he was telling the entire staff that?
 25 A That's correct.

Page 37

1 Q So this was the first time that you knew
 2 about the budget cuts and the fact that there was going to
 3 be a reorganization?
 4 A It's the first time I recorded anything
 5 apparently.
 6 Q Okay.
 7 A I'm trusting you going through my notes.
 8 Q Well, I mean, if you can find some more,
 9 I'll be glad for you to find them. If you'll look at
 10 March 29th, 1996, daily record of events.
 11 A Okay.
 12 Q Can you read the third entry for us?
 13 A Yes, I can. Ron Grover, colon. Met with
 14 Chandra, Sam, Diedre, Trish and me. He said that
 15 everything budget-wise was up in the air. He advised
 16 Chandra, Sam and me to go get in touch with the Rad-Chem
 17 managers and have them talk with the VPs, parentheses Ike,
 18 and have the VPs call McGrath and help us keep McGrath
 19 from slashing our group.
 20 Q So Ron wasn't in agreement apparently with
 21 the budget cuts and he wanted to try to have the sites
 22 exercise their influence to keep your budget intact; is
 23 that right?
 24 A It appears to be the case.
 25 Q Who's Trish?

Page 38

1 A Trish Landers. She worked in the group.
 2 Q Was she an employee?
 3 A Yes.
 4 Q Or was she an intern?
 5 A I don't know at that time.
 6 Q Did you work with her?
 7 A When you say with her, she was sort of in a
 8 different area job responsibility-wise. But, yeah, we did
 9 work together.
 10 Q What about Sam? Did you work with him?
 11 A Oh, yes.
 12 Q Was Sam stationed downtown during this time
 13 period?
 14 A Yes, he was.
 15 Q Full time?
 16 A Yes.
 17 Q Did he have any assignments at the sites?
 18 A He was assigned Sequoyah.
 19 Q Did he have any particular assignments that
 20 kept him there a lot?
 21 A I don't recall at that time.
 22 Q Read the fourth entry to us, please.
 23 A The fourth entry. Jack Cox. I talked -- I
 24 told -- sorry -- Jack that if he liked the way we have
 25 been supporting them that he should contact his VP and

Page 39

1 have the VP call McGrath. Jack said he knew what to do
 2 and said he was very pleased with us, chemistry. He was
 3 not so pleased --
 4 Q With Rad-Con?
 5 A -- with Rad-Con, just as he had discussed
 6 with me last week.
 7 Q Okay. So you were carrying out Mr.
 8 Grover's directions to talk with your chem managers to
 9 solicit their support for maintaining the corporate
 10 chemistry budget?
 11 A That's correct.
 12 Q Read the fifth entry on that page to us,
 13 please.
 14 A Ron Grover. Met with me privately,
 15 parentheses, joined us later. Ron said --
 16 Q It was planned?
 17 A I can't make out that word. Ron said they
 18 or there or that -- I'm not sure -- that it was planned
 19 now that they would keep two in our group and it would be
 20 him and Chandra.
 21 Q What's that in reference to? What was he
 22 telling you? I mean, surely the conversation was more
 23 than one sentence long.
 24 A Oh, I'm certain it was.
 25 Q Well, we've already seen that he's told you

Page 40

1 there's going to be budget cuts. Is he telling you now
 2 that it's planned that there's only going to be two
 3 chemists left in the group, but it would be him and
 4 Chandra?
 5 A It may even go beyond that. At that time,
 6 it may have been there was only going to be two
 7 chemistry/environmental/Rad-Con. I don't know. But he
 8 felt like at that time there were going to be two left.
 9 They would keep Ron and they would keep Chandra.
 10 Q Okay.
 11 A And I don't know that for sure. I'm just
 12 guessing.
 13 Q That's what your notes indicate, though;
 14 right? That's what your notes indicate that Grover told
 15 you?
 16 A Well, we are assuming that the him is Ron.
 17 It could have been Sam. I don't know. I don't recall.
 18 It's just been too long.
 19 Q Let's see. Your note says Ron said they or
 20 the -- it was planned now, that they would keep two in our
 21 group. And then there's a long dash. It looks like it
 22 says but, not and. But it would be him and Chandra. It
 23 doesn't mention Sam on this page; right?
 24 A No, it doesn't. Right. But we are
 25 assuming that the him there is Ron and not Sam. I don't

Page 41

1 know that.
 2 Q All right. If you'll look at the daily
 3 record of events for April 22nd?
 4 A April 22nd?
 5 Q Right.
 6 A Okay.
 7 Q Would you read to us the second entry?
 8 A The second entry? Sam Harvey. I called
 9 him and asked if he had a job yet. He said he --
 10 Q He does not?
 11 A He said he does not but that he is not
 12 concerned about it. I told him that Diedre said she --
 13 Q Did not have an RLA position at Sequoyah?
 14 A -- did not have an RLA position at
 15 Sequoyah. And I was concerned that they may do the same
 16 thing to Sam. Sam said that he had more information than
 17 I did --
 18 Q No, than did Diedre.
 19 A -- than did Diedre. And he could not tell
 20 me any specifics, but he knew that he would get a job.
 21 Q All right. What is this reference when it
 22 says he had more information than did Diedre? What's the
 23 deal with Diedre and this RLA position?
 24 A There was a lot of concern with the fact
 25 that they were going to be cutting positions and nobody

Page 42

1 would have a job. Diedre at that time was trying to go
 2 back to Sequoyah as an RLA.
 3 Q She was in Corporate environmental; right?
 4 A Yes.
 5 Q And she tried to go back to Sequoyah, and
 6 she found that she couldn't get a job at Sequoyah?
 7 A That's correct.
 8 Q All right.
 9 A And my concern was because I knew Sam had
 10 been trying to work out something to go back there. And I
 11 said, Sam, if Diedre suddenly doesn't have a position when
 12 she thought she did, you know, the same thing might happen
 13 to you.
 14 Q Well, at that point in time, what did you
 15 think was going on with Sam at Sequoyah?
 16 A Sam was pretty certain that he was going to
 17 be assigned to the chemistry group at Sequoyah. He had
 18 worked out some kind of deal. I don't know the specifics.
 19 Q He had been working out there pretty much
 20 on some sort of cleaning assignment?
 21 A I don't know.
 22 Q Now, if you'll look at the entry for --
 23 A I don't recall.
 24 Q Now, if you'll look at the entry on May 7th
 25 on the daily record of events.

Page 43

1 A Okay.
 2 Q All right. Would you read to us the second
 3 entry?
 4 A Ron Grover. Told me he had visited with
 5 Sam out at Sequoyah yesterday. He said Sam's job was up
 6 in the air. They were probably trying to do something
 7 illegal. He said Sam may not have a job and that they
 8 would have to post --
 9 Q The one he's interested in?
 10 A -- the one he is interested in. He also
 11 said that McGrath was probably going to use this
 12 opportunity to rewrite the PD such that he can keep Sam
 13 and get rid of me. He wants to do this because of the NRC
 14 concerns I raised in the past. He said McGrath had a very
 15 low opinion of me. I told him --
 16 Q That the feeling?
 17 A -- that the feeling was mutual.
 18 Q All right. So going back to April 22nd of
 19 the daily record of events, it appears that you initiated
 20 this call to Sam to ask him if he had a job at Sequoyah.
 21 A I don't know if it was a call or if he was
 22 in the office.
 23 Q Well, it says Sam Harvey, colon. I called
 24 him and asked.
 25 A Oh. That's correct. I'm sorry.

Page 44

1 Q And you initiated the call, initiated the
 2 inquiry?
 3 A Uh-huh.
 4 Q Were you concerned about Sam for Sam's sake
 5 or were you concerned about Sam getting a job at Sequoyah
 6 because that would be one less person for you to compete
 7 for a job downtown?
 8 A The answer is both.
 9 Q Okay. When you look at the entry then for
 10 May 7th, you learned that Sam was not going to get a job
 11 at Sequoyah and that they were going to have to post the
 12 job downtown?
 13 A No. That's not what it says.
 14 Q Okay. If he was going to get a job at
 15 Sequoyah, they were going to have to post it?
 16 A Right.
 17 Q And then it says that they were going to
 18 rewrite the PDs apparently downtown?
 19 A Apparently.
 20 Q All right.
 21 A That's correct.
 22 Q Now, in this conversation with Grover, he
 23 says McGrath was probably going to use this as an
 24 opportunity to rewrite the PDs. He was speculating to you
 25 at that time, wasn't he?

Page 45

1 A I don't know.
 2 Q Well, he doesn't indicate that that's a
 3 fact, right?
 4 A I don't know.
 5 Q It says probably.
 6 A I don't know.
 7 Q Is that the word you used?
 8 A Yeah. But that does not mean he's
 9 speculating.
 10 Q All right. Does he indicate -- do your
 11 notes indicate that this is information that McGrath
 12 actually told Grover?
 13 A My notes do not.
 14 Q The sentence that says he wants to do this
 15 because of the NRC concerns I raised in the past, do your
 16 notes indicate that that's something that McGrath told
 17 Grover?
 18 A That's implied.
 19 Q That's the impression you got from Grover?
 20 A That's implied. Yes.
 21 Q When he says McGrath had a very low opinion
 22 of you, did he ever tell you what the basis for McGrath
 23 having a low opinion of you was?
 24 A I would have to check my notes.
 25 Q You don't see anything here?

Page 46

1 A I don't.
 2 Q Okay.
 3 A Except for the fact of the NRC concerns.
 4 Q When you said the words in your notes that
 5 say I told him that the feeling was mutual --
 6 A That's correct.
 7 Q -- that's a reference to the fact that you
 8 had a low opinion of McGrath?
 9 A That's correct.
 10 Q Why did you have a low opinion of McGrath?
 11 A Well, it dates back a long time to the
 12 conversation we discussed yesterday which we had with
 13 NSRB, Tom McGrath, Peterson, McArthur, before I was
 14 transferred back downtown wherein the guy would not listen
 15 to reason and was trying to force me to write a procedure
 16 that I was certain to have to violate. In my opinion, he
 17 does not do a good job listening. And then he goes
 18 straight to my manager and you know the rest of the story.
 19 Q If you'll look at the daily record of
 20 events for May 8th. Can you read the fourth entry,
 21 please?
 22 A Yes. Ron, colon. Said that I did not have
 23 to worry too much about McGrath because the --
 24 Q Selection board?
 25 A -- because the selection board would be

Page 47

1 chemistry managers, and they would be split between Watts
 2 Bar, Sequoyah, with Browns Ferry having the swing vote.
 3 Q What was this conversation about?
 4 A The selection board for the jobs that we
 5 were going to be interviewing for he felt like was going
 6 to be comprised of people who would be fair.
 7 Q All right. So you knew in May of -- by May
 8 8th of '96 that there was going to be a selection board
 9 for those new positions?
 10 A There was always a selection board.
 11 Q But you knew there was going to be a
 12 selection board and you knew the jobs were going to be
 13 advertised and competed?
 14 A Right.
 15 Q Had you seen any position descriptions?
 16 A I don't recall.
 17 Q Were you ever involved in preparing the
 18 position descriptions?
 19 A At the time they were going to take the
 20 environmental functions --
 21 Q In '96?
 22 A -- back out?
 23 Q Right.
 24 A We were involved in marking up the position
 25 description and submitting it for review.

Page 48

1 Q Who is we?
 2 A Chandra, Sam, me, I assume the
 3 environmental people as well, and the Rad-Con people
 4 maybe. I don't know.
 5 Q So the staff was tasked with writing the
 6 new position descriptions for the new reorganization?
 7 A With drafting them.
 8 Q Did anybody take the lead in drafting --
 9 there was two chemistry position descriptions, the PWR and
 10 the BWR position; correct?
 11 A Right.
 12 Q Did anybody take the lead in drafting
 13 either or both of those descriptions?
 14 A When you say take the lead, I don't know
 15 why they would. It was basically just line-out the
 16 environmental and hand it back in.
 17 Q Well, did somebody take the first crack at
 18 it?
 19 A I don't have a clue.
 20 Q You don't remember?
 21 A I don't remember.
 22 Q Did there ever come a time when Sam Harvey
 23 complained that you had done the primary drafting on the
 24 PWR position such that it favored you and your experience?
 25 A Yes.

Page 49

1 Q And how did you respond to it?
 2 A He did not complain to me as I recall. I
 3 think he complained to Ron or to Chandra who was taking
 4 over for Ron while Ron was away or something like that.
 5 Q Do you recall when that occurred?
 6 A No.
 7 Q I've noticed a number of conversations in
 8 here where Ron is coming to you to talk about the
 9 possibility of you being selected or -- almost as if Ron's
 10 taking sides with you. Do you ever get that impression
 11 when you read these notes?
 12 A I haven't read these notes in years. So
 13 you'll have to be more specific.
 14 Q Well, in terms of the way the dynamics of
 15 your office worked, did -- was there alignment of you and
 16 Ron on one side and Sam as being the guy on the outs with
 17 Ron?
 18 A Sam and Ron did not get along all the time,
 19 as I mentioned earlier.
 20 Q And you got along with Ron?
 21 A Yes.
 22 Q If you'll look at the entry for the daily
 23 record of events for May the 9th. Can you read the fourth
 24 entry, please?
 25 A Fourth entry, yes. Dave Voeller. I met

Page 50

1 with Dave in his office at about 15:45, and he told me
 2 that Goetcheus had called him campaigning for Sam Harvey
 3 to be retained on the corporate staff instead of me if
 4 push came to shove. I asked him if he had told Ron, and
 5 he said he had not mentioned it to him yet.
 6 Q All right. So Goetcheus is expressing a
 7 preference for you as opposed to Sam to be retained?
 8 A No.
 9 Q I'm sorry. Did I misstate that? Goetcheus
 10 -- Voeller is telling you that Goetcheus had expressed a
 11 preference for Sam to be retained if push came to shove
 12 instead of you?
 13 A That's correct.
 14 Q All right. Did you understand why or did
 15 Voeller tell you why Goetcheus was campaigning for Sam
 16 Harvey to be retained?
 17 A No.
 18 Q Did you have any idea?
 19 A No.
 20 Q You had no idea why Goetcheus preferred Sam
 21 to you?
 22 A No.
 23 Q Whether it was true or not, you had no
 24 idea?
 25 A They had worked closely together. But so

Page 51

1 had Goetcheus and I.
 2 Q Do you know why Voeller told you this?
 3 A I could only speculate.
 4 Q Well, what's your speculation?
 5 A I'm not sure.
 6 Q Well, I asked you what your speculation
 7 was.
 8 A I'm not sure.
 9 Q Well, I know you're not sure. That's why
 10 you said it was speculation. What is it?
 11 A Perhaps he didn't get along with Sam. I
 12 don't know.
 13 Q Perhaps Voeller didn't get along with Sam?
 14 A That's correct.
 15 Q Okay. So we're seeing some little cliques
 16 here, Goetcheus and Sam, Voeller versus Sam, you and Ron
 17 as a clique. There's a lot of dynamics going on there;
 18 right?
 19 A That's your opinion.
 20 Q If you'll look at the daily record of
 21 events for May the 10th.
 22 A Right.
 23 Q Can you read the entry for -- the second
 24 entry?
 25 A Yes. Second entry. Dave Voeller. Said

Page 52

1 Wilson McArthur came in to see him wanting feedback on my
 2 usefulness. Dave said Wilson had nothing but positive
 3 things to say about me and that he appeared supportive.
 4 Dave said that he did --
 5 Q A sales job?
 6 A -- did a sales job on me and that it was
 7 well received by Wilson McArthur.
 8 Q What does the DFG in the third entry refer
 9 to. Oh. That's Dave Goetcheus, isn't it? Would you read
 10 the third entry?
 11 A Yes. Ron Grover said he and Chandra would
 12 approach John Sabados about DFG and make sure DFG does not
 13 back door me.
 14 Q All right. DFG is a reference to Dave
 15 Goetcheus, right?
 16 A I would think so, yes.
 17 Q And John Sabados was the chemistry manager
 18 at Browns Ferry at the time, right?
 19 A Right.
 20 Q What's this conversation about then where
 21 Grover said that he and Chandra would talk to Sabados and
 22 make sure Goetcheus didn't back door you? What was he
 23 talking about?
 24 A You would have to talk to him.
 25 Q Well, he had a conversation with you. What

Page 53

1 did you understand?
 2 A I understood that perhaps he was trying to
 3 back door me.
 4 Q Well, why would Grover be talking to
 5 Sabados? Was this to put in a good word for you with
 6 Sabados?
 7 A I don't know.
 8 Q What did you mean when you said that maybe
 9 Goetcheus was trying to back door you?
 10 A I don't think I said that.
 11 Q Well, those are your words. Didn't you use
 12 the words back door in your notes?
 13 A Yes.
 14 Q What did you understand those to mean when
 15 --
 16 A I don't think I said that.
 17 Q What did you understand those words to mean
 18 when you wrote them down?
 19 A I think those words came from Ron Grover.
 20 Q What did you understand those words to mean
 21 when you wrote them down?
 22 A That he thought Goetcheus was trying to
 23 back door me.
 24 Q Meaning what?
 25 A I'm not really sure.

Page 54

1 Q You must have thought something about it.
 2 I mean, it's only one of four notes you made for that day.
 3 It must have had some significance to you. What did it
 4 mean to you?
 5 A That Ron felt like David Goetcheus was
 6 trying to back door me.
 7 Q Would you look at the daily record of
 8 events for May the 14th?
 9 A Yes, sir.
 10 Q Read the second entry, please.
 11 A Second entry. Mike King. Sodium --
 12 Q No, on your daily record of events. It's
 13 number two.
 14 A I'm sorry. Sam Harvey. Sam says McGrath
 15 will not --
 16 Q Release him?
 17 A -- release him. He says -- he says Gordon
 18 has a position. Sam has been talked to --
 19 Q Is that told to?
 20 A I'm sorry. Sam has been told to post on
 21 8720.
 22 Q Post on all jobs down here?
 23 A I'm sorry. Sam has been told to post on
 24 the jobs down here. Everything is going -- and it drops
 25 off.

Page 55

1 Q 8720?
 2 A 8720, J. Barker, MR and without MR. I
 3 don't know what that means.
 4 Q You've said everything is going and then
 5 the G has sort of a squiggle down below. Does that mean
 6 everything is going south?
 7 A No. That's just a weird looking G, I
 8 think, but that certainly would be implied.
 9 Q I mean, that's what I inferred from the way
 10 you wrote your G.
 11 A No.
 12 Q You've got some symbols in here?
 13 A Yes, I do have symbols, but that's not one
 14 of them.
 15 Q Okay.
 16 A I don't --
 17 Q In the first line, it says Sam says McGrath
 18 will not release him.
 19 A Right.
 20 Q He says -- and then the next line I'm not
 21 sure that -- you've repeated yourself again unless I'm
 22 misreading it. He says?
 23 A Right. I did. He says Gordon has a
 24 position.
 25 Q He says he says?

Page 56

1 A Right. He says McGrath will not release
 2 him he says. I don't know what that means. I'm a
 3 chemist, not an English major.
 4 Q Well, you're doing a pretty good job. All
 5 right.
 6 MS. EUCHNER: Can we take a five-minute
 7 break, please?
 8 MR. MARQUAND: Okay.
 9 MS. EUCHNER: Thank you.
 10 (A break was taken.)
 11 (Exhibit No. 29 was filed.)
 12 BY MR. MARQUAND:
 13 Q Let's see. I think I gave you a new
 14 exhibit to look at.
 15 A Well, I have several things here on my
 16 notebook.
 17 MS. EUCHNER: Exhibit twenty nine.
 18 THE WITNESS: Okay. Yes.
 19 BY MR. MARQUAND:
 20 Q On the prioritized daily task list for May
 21 15th on exhibit twenty nine --
 22 A Yes.
 23 Q And by the way, exhibit twenty nine are
 24 copies of pages from your 1996 planner from May 15th
 25 through August 2nd of '96. And if you'll look at May 15th

Page 57

1 on the prioritized daily task list, what does the
 2 reference mean that says INPO memo, include Ron Grover?
 3 A I don't have a clue.
 4 Q Were you aware that Ron Grover was loaned
 5 by TVA to INPO?
 6 A Yes.
 7 Q Beginning sometime in 1996; correct?
 8 A It was about that time frame, yes.
 9 Q All right. Were you aware in May of '96
 10 that Ron had requested to be assigned to INPO?
 11 A That would not surprise me, because I did
 12 know about it. I just don't know when.
 13 Q But did you know at some point in time that
 14 Ron initiated the request to go to INPO?
 15 A No. I don't know if Ron initiated it or
 16 somebody suggested it.
 17 Q All right. Were you involved in drafting a
 18 memo to send Ron to INPO?
 19 A Not that I recall.
 20 Q All right. What is right beneath that?
 21 What does the next line say? INPO writers or -- I can't
 22 read that.
 23 A It looks like INPO write-ups.
 24 Q Oh.
 25 A Mike and George.

Page 58

1 Q Okay.
 2 A I think that would have to do with Mike
 3 King --
 4 Q Okay.
 5 A -- at Watts Bar about something. I don't
 6 know. I don't know what about.
 7 Q If you will look at the daily record of
 8 events for June 5th. Can you read to us entry number
 9 four, beginning with Dave Voeller, colon?
 10 A Yes, sir. That was Dave Voeller, Ralph
 11 Matthews, me. I assume this was -- no. Number four?
 12 A I'm sorry. Four, Ron Grover.
 13 Q No, four starts with Dave Voeller.
 14 MS. EUCHNER: There's two number fours.
 15 BY MR. MARQUAND:
 16 Q Okay. The first number four.
 17 A Okay. I misnumbered them. I'm not a math
 18 major either. The first number four. I'm sorry. Dave
 19 Voeller. Told me that Sam had called him last week and
 20 told him that he was going to be working a lot closer with
 21 him in the future, that his job at Sequoyah was not
 22 working out, and that he would, therefore, be one of the
 23 two chemists left. And then in parentheses I have the
 24 PWR. Dave asked him if they were no longer going to post
 25 and interview for the job. Sam said that they would

Page 59

1 probably do it but that he would be the one chosen.
 2 Q Okay. Read the second number four item to
 3 us, please.
 4 A The second number four. Ron Grover. Says
 5 CDM is all screwed up. They are going to have to do some
 6 flow chart thing by a contractor that will take weeks and
 7 weeks to complete. McGrath is behind it.
 8 Q What's CDM?
 9 A The first thing that comes to mind is
 10 chemistry data management, but I don't think that's what
 11 it's referring to.
 12 Q It wouldn't be talking about flow charts?
 13 A Not necessarily, no.
 14 Q All right. Why do you have a Christmas
 15 tree in the margin next to item number three?
 16 A I have not a clue. My wife doodles all the
 17 time. Sometimes I doodle.
 18 Q Well, I see that you have celebration in
 19 all caps there too.
 20 A That I have what?
 21 Q Under item three, it says July 29th, dash,
 22 celebration. And it's written in all caps.
 23 A I don't see that.
 24 Q Under item number three.
 25 MS. EUCHNER: Right here.

Page 60

1 BY MR. MARQUAND:
 2 Q If you'll turn to the June 10th daily
 3 record of events, would you read item number three for us?
 4 A June 10th, item number three. Mike King.
 5 Q No, I'm sorry. Number four.
 6 A Oh. The first number four?
 7 Q The only number four I see.
 8 A Ben Easley. I talked to him for a minute
 9 about perceptions. He stopped me after a few minutes and
 10 asked if it was okay for us to talk in front of Ed Boyles.
 11 I agreed to.
 12 Q All right. Would you read number five?
 13 A Ben Easley, Ed Boyles, me. I talked to Ed
 14 --
 15 Q I told Ed?
 16 A I'm sorry. I told Ed that if my job is
 17 posted tomorrow that I will --
 18 Q Contact my attorney?
 19 A -- contact my attorney, because TVA will be
 20 violating -- will have violated my settlement agreement.
 21 At that time, Ben --
 22 Q Filled Ed in?
 23 A -- filled Ed in on my DOL case three years
 24 ago. And he had said he wanted to talk to Phil Reynolds
 25 about it. I told Ed that if I -- that I felt McGrath had

Page 61

1 orchestrated everything to teach me a lesson and that his
 2 instructions were to cut his head count by seventeen
 3 percent --
 4 Q His budget?
 5 A -- his budget by seventeen percent only
 6 this year and forty percent by the year 2001. I told him
 7 that McGrath was the only one working for ODK that came in
 8 under budget except for Sanger.
 9 Q Who?
 10 A Carl Sanger.
 11 Q Singer?
 12 A Singer. Okay. I thought it was Sanger.
 13 Q Okay.
 14 A If I had been told to cut my budget by
 15 seventeen percent, I would have protected my team and not
 16 offered up a fifty percent reduction until the year 2001.
 17 Q Then as people?
 18 A Then as people left and -- shoot -- it
 19 looks like -- oh -- then as people left and found other
 20 jobs, I would not replace them. I told him that this --
 21 Q Whole thing?
 22 A -- that this whole thing was avoidable and
 23 really smelled funny. He said that he would talk to Phil
 24 Reynolds but told me --
 25 Q To be sure and?

Page 62

1 A -- to be sure and apply for the job. I
 2 told him that I was not sure I wanted to work for the two
 3 -- for two of the guys that shot me in the back three
 4 years ago. I told him I would be glad to talk to Phil if
 5 Phil so desired.
 6 Q Now, you mentioned Phil Reynolds in here a
 7 couple times.
 8 A Uh-huh.
 9 Q What position was he in, do you know?
 10 A I called him the head of personnel. I
 11 don't know what his official title was.
 12 Q Something like that?
 13 A Correct.
 14 Q Okay. And did you know Phil Reynolds?
 15 A Yes.
 16 Q Did you know him well compared to, say, Ed
 17 Boyles?
 18 A No.
 19 Q Did you work with Phil in the past?
 20 A Yes.
 21 Q At Sequoyah?
 22 A That's correct.
 23 Q Did you even car pool some with him?
 24 A Not that I recall.
 25 Q You've never ridden to work with him or

Page 63

1 anything?
 2 A I can't say that, but not that I recall.
 3 Q Okay.
 4 A I would assume if some day he had car
 5 trouble and needed a ride or if I was in a position, but
 6 not as a matter of routine. No, sir.
 7 Q He lives on Signal Mountain too, doesn't
 8 he?
 9 A Who does?
 10 Q Phil.
 11 A I have no idea. Now, Ed Boyles does. I
 12 offered Ed a ride one time.
 13 Q Did you ever car pool with Ed Boyles?
 14 A There was a time when I gave him a ride
 15 home.
 16 Q Okay. Just the one time?
 17 A As far as I know, yes.
 18 Q Now, in the second line of item number
 19 five, it said that you will contact your attorney because
 20 TVA will have violated my settlement agreement.
 21 A Correct.
 22 Q In what fashion did you think that TVA
 23 would violate your settlement agreement if they posted the
 24 new position descriptions?
 25 A Because back in '94 or '95, whenever it was

Page 64

1 that we folded the environmental position in, that was the
 2 only change to that position description, but it was a
 3 legitimate change. We interviewed and I was selected. We
 4 never did those functions. So they took out functions we
 5 never did, which now made the PD just almost identical to
 6 the very one they had offered me to settle this thing back
 7 in '93. I felt like then if they posted essentially the
 8 very same job that they offered me to settle the thing in
 9 '93 that they were violating the agreement they had made
 10 with me to come back to work.
 11 Q I thought we talked about yesterday the
 12 fact that you applied for a job in '94 that was different
 13 than the one you accepted and you didn't feel you were
 14 constrained to stay in the same job, nor was TVA
 15 constrained by virtue of the settlement agreement to
 16 retain you in that same job but that they, for business
 17 reasons, could change the way they did business?
 18 A They could. That is correct. They didn't,
 19 but they could. That's my point.
 20 Q You said here that -- you've told Ed that
 21 you felt McGrath had orchestrated everything to teach you
 22 a lesson. Why was he trying to teach you a lesson in your
 23 opinion?
 24 A It would be speculation on my part.
 25 Q Well, you said it here. What were you

Page 65

1 speculating about then?
 2 A In my opinion?
 3 Q Yeah. What was your opinion?
 4 A My opinion was he was trying to teach me a
 5 lesson.
 6 Q For what reason?
 7 A That's the part that would be speculation.
 8 I'm not sure. I think that he really had it in for me
 9 after the NSRB incident.
 10 Q The '91 NSRB incident?
 11 A Or '92.
 12 Q Late '91 or early '92?
 13 A Correct.
 14 Q So you were thinking that this guy was
 15 waiting in the bushes for four years to a point that he
 16 could take it out on you?
 17 A Those are your words.
 18 Q Well, is that what --
 19 A That's not what I said, no.
 20 Q Is that your opinion?
 21 A No.
 22 Q Your opinion was that he was trying to
 23 teach you a lesson because of whatever interaction you had
 24 with him at the NSRB meeting in late '91, early '92?
 25 A My opinion is the first opportunity he got,

Page 66

1 he took advantage of it to settle an old score.
 2 Q And the old score was based on what? The
 3 NSRB meeting?
 4 A The NSRB meeting, the former complaint that
 5 I had, me being able to come back out of ETP to get a
 6 position and to even possibly go back to Sequoyah
 7 chemistry manager. I think all of those he would have had
 8 a problem with. Now, you wanted speculation. That's
 9 speculation.
 10 Q All right. While, we're dealing with
 11 speculation, let's talk about it. You mentioned the
 12 former complaint. We talked yesterday. The former
 13 complaint doesn't mention Mr. McGrath; right?
 14 A We talked yesterday about the fact --
 15 Q The complaint.
 16 A -- the fact that he was mentioned in the
 17 eighty-something paged deposition. That's what we talked
 18 about yesterday.
 19 Q The complaint does not mention Mr. McGrath;
 20 is that right?
 21 A By name, no.
 22 Q Or by position?
 23 A That's correct. And we talked yesterday
 24 about the fact that you see this body in the woods that's
 25 hanging, hands tied behind, with a lot of people --

Page 67

1 Q Well, until we see the body in the words --
 2 A -- we named with hands on the rope. Do you
 3 remember talking about that?
 4 Q We'll worry about the complaint.
 5 A You remember that; right?
 6 Q Yeah. And I really kind of drew a blank --
 7 A I'm sure you did.
 8 Q -- as to any sort of relevance to this
 9 case. In '93 when you filed your Department of Labor
 10 complaint, Mr. McGrath was not your supervisor. He wasn't
 11 in your supervisory chain at all; right?
 12 A That's correct.
 13 Q All right. And he wasn't in your
 14 supervisory chain when you settled your Department of
 15 Labor complaint in the spring of '94 and came back to
 16 nuclear power?
 17 A That's correct.
 18 Q All right. Do you have any information at
 19 all as to whether or not Mr. McGrath even knew that you
 20 filed a Department of Labor complaint in '93?
 21 A It's inconceivable to me that he would not.
 22 Q Well, again, that's speculation. But do
 23 you have any information that would show whether he knew
 24 or didn't know about your '93 Department of Labor
 25 complaint?

Page 68

1 A I did not go tell him.
 2 Q Okay. And you don't know of anybody who
 3 did tell him?
 4 A I would have to check my notes on that.
 5 Q Well, we've got them here. I mean, if you
 6 want to check your notes, fine. But I don't see it.
 7 Would you disagree?
 8 A I don't disagree you don't see it.
 9 Q Okay. You don't disagree it's not in your
 10 notes?
 11 A I don't know. That's why I say I'd have to
 12 check it.
 13 Q All right. Do you have any information
 14 that Mr. McGrath was aware of your '94 settlement of your
 15 DOL complaint?
 16 A I never discussed it with him.
 17 Q Do you know of anybody who did?
 18 A I would have to check my notes.
 19 Q But as you sit here today, you don't have
 20 any knowledge or information that Mr. McGrath had any clue
 21 about your '93 DOL complaint or the '94 settlement of that
 22 complaint?
 23 A I would dispute that.
 24 Q Okay. Tell me.
 25 A The article in the paper that you just

Page 69

1 referred to before we broke for lunch --
 2 Q Right.
 3 A -- it's customary for TVA to cut those
 4 articles out and to distribute them to management. I used
 5 to get them all the time. That article was in the paper.
 6 That article must have been cut out and distributed to all
 7 managers, because that's what you did to keep everybody
 8 up-to-date. That complaint was in that article.
 9 Q Okay. Did you see it being distributed
 10 throughout TVA?
 11 A I'd have to check my notes. I would have
 12 to check my notes. I'm not sure. At that time, I was --
 13 I had been reduced to such a level in the organization
 14 that I probably would not have been on distribution for
 15 it.
 16 Q If you'll look at the daily record of
 17 events for June 11th, would you read the second item on
 18 that, please?
 19 A Yes, sir. I will. Ron Grover. Said that
 20 Ben E. had been in to talk with him and that they were
 21 looking into my case. He said that they, personnel in
 22 parentheses, felt like there was some time limit on my
 23 settlement. I told him that, in fact, it was open-ended.
 24 Q Would you read the third item?
 25 A Third item. Ben Easley says everything

Page 70

1 with regard to posting the positions is on hold until they
 2 get to the bottom of my complaint. Ben said they are
 3 looking at it very closely.
 4 Q All right. Now, you were aware that the
 5 plan was for chemistry to go from three program manager
 6 specialists to two, one of PWR and one of BWR?
 7 A That's correct.
 8 Q And you felt that -- if I understood what
 9 you were saying correctly -- that they shouldn't post the
 10 job at all; right?
 11 A That's correct.
 12 Q What did you think they should do? How did
 13 you think they should handle it?
 14 A I thought they should have -- since the job
 15 functions had not changed at all, I felt like they should
 16 have pulled our retention register and retained people in
 17 those positions based on seniority.
 18 Q Did you have any understanding as to who
 19 had the most seniority and who had the least?
 20 A Yes, I did.
 21 Q And who was that?
 22 A Me.
 23 Q You would have had the most?
 24 A I would have had the most.
 25 Q And who had the least?

Page 71

1 A I'm not sure.
 2 Q You didn't have any idea?
 3 A No, I'm not sure.
 4 Q Could it have been Sam Harvey?
 5 A I'm not sure.
 6 Q Or was it Chandra?
 7 A I'm not sure.
 8 Q All right. But you felt you should have
 9 been retained and one of the other two RIF'd, reduced in
 10 force?
 11 A Correct.
 12 Q Now, you know Trish -- you knew Trish
 13 Landers at that time; right?
 14 A Yes, sir.
 15 Q Where did she work physically? In
 16 Chattanooga?
 17 A Yes.
 18 Q Was it in the same vicinity as your office?
 19 A Yes, it was.
 20 Q Did you talk with her from time to time?
 21 A Oh, certainly.
 22 Q Did she ever indicate to you that she was
 23 having any problems with any co-workers?
 24 A Yes.
 25 Q Who?

Page 72

1 A Sam Harvey.
 2 Q Did you talk with her about it?
 3 A Yes.
 4 Q Tell me about that conversation.
 5 A I don't recall it.
 6 Q Well, what did she tell you?
 7 A She was concerned about sexual harassment
 8 from Sam.
 9 Q Did she initiate this conversation?
 10 A I don't recall. I would not have known
 11 about it otherwise, but --
 12 Q Well, I mean, did you ask her if she was
 13 having any kind of problems?
 14 A No, not that I recall.
 15 Q And she told you it was -- that she was
 16 concerned about sexual harassment by Sam; is that right?
 17 A That's correct.
 18 Q And you were a manager? You were on the PG
 19 schedule at TVA; right?
 20 A That's correct.
 21 Q Did you know that you had some management
 22 responsibilities if you received allegations of sexual
 23 harassment?
 24 A Yes.
 25 Q And what were those responsibilities?

Page 73

1 A I don't recall now, but I told her she
 2 should pursue it with personnel.
 3 Q Is that all you did?
 4 A Yeah.
 5 Q You didn't do anything else?
 6 A Not that I recall.
 7 Q Did you report it to anyone?
 8 A Not that I recall.
 9 Q You didn't tell Ron Grover about it?
 10 A Not that I recall.
 11 Q You could have, but you just don't recall?
 12 A Not that I recall.
 13 Q When did you have this conversation with
 14 her?
 15 A I don't recall.
 16 Q Could it have been around June 11th or
 17 10th?
 18 A I do not recall.
 19 Q Would you deny it if she said that it was?
 20 A No, sir. I would not.
 21 Q Would you deny it if she said that you
 22 referred her to Ron Grover?
 23 A I would not, because I knew that she had to
 24 either talk to personnel or a supervisor or bring -- she
 25 couldn't just drop it.

Page 74

1 Q Do you know what happened with respect to
 2 her complaints about Mr. Harvey?
 3 A Yes. I know that it was pursued at some
 4 length and a letter was written and placed in Sam's file.
 5 Q And when did you learn that?
 6 A I don't know.
 7 Q Did you know that about that time?
 8 A I don't know when the letter was written
 9 really.
 10 Q How did --
 11 A I would have known it when the letter was
 12 written because I know she communicated that to me.
 13 Q She told you about it?
 14 A I'm sure she did.
 15 Q Did Ron Grover tell you about it?
 16 A I know she did. Now, I don't know if Ron
 17 told me or if I asked Ron about it or discussed it. That
 18 would not surprise me once she told me that it had
 19 happened.
 20 Q Did Sam tell you about it?
 21 A Oh, I don't think so.
 22 Q Did Wilson McArthur tell you about it?
 23 A I would have to check my notes. I don't
 24 know if we ever discussed that.
 25 Q Did she specifically tell you that Sam

Page 75

1 Harvey was sexually harassing her?
 2 A I don't recall.
 3 Q Well, now, earlier you said that you were
 4 aware that she had problems of sexual harassment by him.
 5 A Uh-huh.
 6 Q So now you're saying you don't specifically
 7 recall her using the words sexual harassment?
 8 A Well, according to the definition. I mean,
 9 I don't recall exactly what she said. I really do not.
 10 But I do know that I didn't just drop it. I said, well,
 11 you've got to pursue it. I don't remember if I said
 12 personnel or Ron, but she could not just drop it.
 13 Q Did you tell Ben Easley about it?
 14 A I don't recall.
 15 Q You could have, but you don't recall?
 16 A No, I have no recollection of that.
 17 Q It could have happened. You just can't
 18 affirm or deny it; is that right?
 19 A That's correct.
 20 Q Would you look at the daily record of
 21 events for June 12th?
 22 A Yes.
 23 Q What does the second item say?
 24 A It's a conversation with Ben. It said Ed
 25 wants me to come down and discuss advertising my position.

Page 76

1 Q Did you go and talk with Ed Boyles about
 2 the posting of the new position?
 3 A It seems that I did.
 4 Q What did he tell you?
 5 A That they had reviewed it and determined
 6 that they were going to go ahead and post the position.
 7 Q All right. What did you say?
 8 A I don't recall.
 9 Q Look at the June 17th daily record of
 10 events.
 11 A Okay.
 12 Q What does item number two say?
 13 A Tom McGrath. See attached presentation.
 14 Q And for the record, there's no presentation
 15 attached to your June 17th planner notes?
 16 A That's correct.
 17 Q What presentation does that refer to?
 18 A I'm fairly certain it refers to a
 19 presentation that he made to the entire group of everybody
 20 who worked for him wherein he laid out some changes that
 21 were in effect for the new reorganization.
 22 Q If you would, look at exhibit twenty three.
 23 And look -- if you'll look at attachment one to it, there
 24 are some -- it looks like some overheads.
 25 A Correct.

Page 77

1 Q Are these overheads that were used during
 2 that presentation by Mr. McGrath?
 3 A Yes, sir. I do believe they are.
 4 Q And did he conduct this presentation?
 5 A Yes, sir. He did.
 6 Q If you'll go to the end of those overheads,
 7 you'll see an organization chart.
 8 A Yes, sir.
 9 Q Is that organization chart part of what was
 10 handed out at that presentation?
 11 A As I recall, it certainly was.
 12 Q And there's an organization chart for the
 13 general manager, operations support. And if you'll go two
 14 more pages over, there's another organization chart that
 15 says radiological and chemistry control. Do you see that?
 16 A Yes, I do.
 17 Q Was that also handed out at the June 17th
 18 presentation?
 19 A I'm certain it was. Yes, sir.
 20 Q Does that reflect the organization that you
 21 understood was going to be put in place as a result of
 22 this reorganization? It shows two program managers for
 23 chemistry, one PWR and one BWR specifically.
 24 A That's correct.
 25 Q Now, following this presentation, did you

Page 78

1 have a discussion with Sam Harvey?
 2 A I don't recall.
 3 Q If there was testimony that you met with
 4 Sam Harvey afterwards and you told him that he was going
 5 to be selected because Wilson McArthur was going to be the
 6 new Rad-Chem manager, would you dispute that?
 7 A Unless it was in my notes.
 8 Q Unless it was in your notes, you're going
 9 to dispute it?
 10 A Yeah. I don't know that I had a meeting
 11 with Sam Harvey. I don't know that I did not, but I
 12 certainly do not remember having one with him.
 13 Q Well, I mean, a lot of things happen in
 14 your day that aren't reflected in these notes, don't they?
 15 Don't things occur?
 16 A What things?
 17 Q Don't various things occur during your day
 18 that you don't take notes of?
 19 A Not when they are pertinent to this case.
 20 Q Well, how did you know you were having this
 21 case at that point in time?
 22 A You want me to go back and review the
 23 previous day when they said they were going to post my job
 24 and I said if they were going to post my job I was going
 25 to file a complaint because I felt like they had --

Page 79

1 Q So you were meticulous --
 2 A -- because I felt like they had violated
 3 the agreement that they had with me in '94 and now you say
 4 I don't know that I'm going to have a case. Have you not
 5 been paying attention?
 6 Q Well, what does Sam Harvey have to do with
 7 it? He was not a decision maker, was he?
 8 A A decision maker?
 9 Q Yeah. Sam didn't make any decisions with
 10 respect to how the organization was going to be
 11 reorganized or how it was going to look, did he?
 12 A I don't know. I'm not assigned to him. I
 13 don't follow him around.
 14 Q He was your peer; right?
 15 A Yes.
 16 Q So it's your testimony that if --
 17 A I know that at one time he told me that he
 18 had information I did not have.
 19 Q It said -- as I recall, the note said he
 20 had more information than Diedre.
 21 A That's right. And he was not willing to
 22 share anything. So I don't know. You know, you're asking
 23 me -- you know, I don't know.
 24 Q So as you sit here today, you're denying
 25 that you had any meeting with Sam Harvey on June 17th

Page 82

1 you that.
 2 Q Well, you did contact DOL and file a
 3 complaint, didn't you?
 4 A That was already in the works.
 5 Q Okay. You did contact VanBeke, didn't you?
 6 A I don't think so. I certainly did not use
 7 him in the second case. I can't say I didn't call and let
 8 him know something was going on.
 9 Q Well, if you'll look back one page in this
 10 document to the prioritized daily task list --
 11 A Right.
 12 Q -- for June 17th --
 13 A Correct.
 14 Q -- what's the third item there?
 15 A Call VanBeke.
 16 Q So those were daily tasks that you were
 17 setting for yourself?
 18 A Yes. I don't recall doing it, though.
 19 Q Okay.
 20 A But, like I say, it could have been just,
 21 hey, this is what's going on, since he was involved in the
 22 settlement of my previous case.
 23 Q In your conversations with Trisha Landers,
 24 did she ever tell you that Ann Harris had tried to call
 25 her?

Page 80

1 about who might be selected for the PWR chemistry program
 2 manager position?
 3 A I don't have any note of it.
 4 Q So are you saying that you deny that it
 5 happened?
 6 A I'm saying I don't have any note of it.
 7 Q Did it happen or not?
 8 A I don't have a note of it. How can I say?
 9 Q I don't know. Do you have a recollection?
 10 A It is doubtful, because I think that would
 11 have been so germane to the case that I would have made a
 12 note about it.
 13 Q Okay.
 14 A So I would question it.
 15 Q Read the third item on the June 17th daily
 16 record of events, please.
 17 A Third item. Ed Boyles. Said that they
 18 decided to go ahead and post my position. He said that he
 19 had talked to both Tom McGrath and Phil Reynolds. He said
 20 the reason was because they were going to do all groups
 21 the same way.
 22 Q Read the fifth item too, please.
 23 A Fifth item. Ann Harris, 2492. Contact DOL
 24 and file a breach of contract. I have a hundred and
 25 eighty days to do something. Letter to Zack Wamp, Al

Page 83

1 A Yes.
 2 Q And what advice did you give Trisha about
 3 that? First, let me ask you. Did you tell Trisha who Ann
 4 Harris was?
 5 A I don't recall.
 6 Q Do you recall any advice you may have given
 7 Trisha about it?
 8 A Yes.
 9 Q And what advice did you give her?
 10 A That Ann had a lot of knowledge about
 11 proper procedure for dealing with complaints.
 12 Q With whistle-blower complaints
 13 specifically?
 14 A No, I did not mention whistle-blower
 15 complaints specifically.
 16 Q Okay.
 17 A Her complaint about the sexual harassment.
 18 But I said, you know, you can talk to her. You can
 19 listen. But just as I did, you need to be careful and
 20 make up your own mind about what you do with the
 21 information she provides. As I recall, that's what I told
 22 her.
 23 Q Would you deny that you told her she
 24 shouldn't talk to Ann Harris because she was a whistle
 25 blower?

Page 81

1 Gore, Cravin. Talk to VanBeke. No basis for posting the
 2 job. The job's presently filled.
 3 Q Arbitrary and capricious?
 4 A Arbitrary and capricious on McGrath's part.
 5 Need to apply on the job.
 6 Q So this is a conversation you had with Ann
 7 Harris?
 8 A Uh-huh.
 9 Q Did you call her or did she call you?
 10 A I don't recall.
 11 Q Are these things she was suggesting to you?
 12 A Yes, sir. They were.
 13 Q How did you know Ann Harris?
 14 A Through the Bill Jocher case.
 15 Q Okay. And who is Ann Harris?
 16 A A previous employee of Tennessee Valley
 17 Authority.
 18 Q And why was she advising you on these
 19 matters?
 20 A She had been down this road before, felt
 21 like she had an insight into -- and phone numbers and
 22 contacts and people that could help out in a case like
 23 this.
 24 Q Did you think this was good advice?
 25 A I did not follow all of it. I'll guarantee

Page 84

1 A No. I would -- wait a minute. Repeat the
 2 question.
 3 Q Would you deny that you told Trisha she
 4 shouldn't talk to Ann Harris because she was a whistle
 5 blower?
 6 A I do not recall that.
 7 Q Would you deny it?
 8 A If I don't recall it, I would probably deny
 9 it. I do recall telling her just be careful with the
 10 information she provides.
 11 Q Would you look at the daily record of
 12 events for July 15th?
 13 A Yes, sir.
 14 Q Could you read the third item, please?
 15 A Third item. David VanBockern. Left a
 16 message on his voice mail. Told him I was at WBN and he
 17 could page me at 40063. I stated that I would like to
 18 start out with a short interview, present him some info
 19 and then continue to correspond in writing for reasons
 20 that I would make clear -- for reasons that I would make
 21 abundantly clear to him in the short interview.
 22 Q Now, VanBockern had already attempted to
 23 contact you to investigate your allegations of
 24 discrimination, hadn't he?
 25 A I don't know.

Page 85

1 Q Do you know who David VanBockern is?
 2 A Yes, sir. I do.
 3 Q Who is he?
 4 A He is the TVA IG person assigned to
 5 investigate the case. But what I'm telling you is I don't
 6 remember -- it appears from this record that I called him.
 7 He was not in and I left a message for him.
 8 Q Right. I mean, somehow or another you had
 9 to have his name and know that he was --
 10 A Right.
 11 Q -- the person assigned the case.
 12 A I can assume he was the one assigned. He
 13 sent me a letter or something.
 14 Q All right. And your note says for reasons
 15 that I would make abundantly clear to him. Is that the
 16 reason that you wanted to do a short interview? Is that
 17 what that means?
 18 A I think that has reference to the fact that
 19 I wanted to communicate in writing.
 20 Q Oh. Okay. And why did you want to
 21 communicate with him in writing?
 22 A I do not recall.
 23 Q And you wanted to communicate in writing as
 24 opposed to orally; is that right?
 25 A Obviously both. A short interview and then

Page 86

1 I wanted a lot of our correspondence to be in writing.
 2 That didn't happen, but that's what I wanted.
 3 Q If you'll turn to the daily record of
 4 events for July 17th, I'd like for you to read to us item
 5 number two.
 6 A Item number two. Ron Grover. McGrath
 7 wants to go ahead with the interviews even though Cox and
 8 Hughes will not be able to participate on the board.
 9 Wilson McArthur told Ron and Ron's recommendation was to
 10 reschedule. Now they want to place Marcy Cooper or Dennis
 11 Cole or Rick Rogers, two of the Rad-Chem managers from
 12 Browns -- BEN and SQN and none from WBN. Jack Cox says
 13 this was a bad time and he could not participate on that
 14 day. Wilson refused to reschedule at Ben E.'s --
 15 Q To reschedule, period?
 16 A Period. Ben E. said this was wrong and we
 17 should wait and reschedule. No big hurry. Ben and Ron
 18 were very upset that they would go ahead with the
 19 interview knowing that the selection board was obviously
 20 biased towards Sam, but Wilson would not change his mind.
 21 Q Why do you say in here that the selection
 22 board was biased towards Sam?
 23 A Because that's what they said.
 24 Q Who said?
 25 A Ron.

Page 87

1 Q Did Ron explain why he thought the board
 2 was biased towards Sam?
 3 A He did not. He just stated it.
 4 Q Did you understand why he thought that the
 5 selection board was biased towards Sam?
 6 A I can only speculate.
 7 Q And what is that speculation?
 8 A My speculation would be that you've got a
 9 high-level manager from Watts Bar that was not present, a
 10 high-level manager from Browns Ferry who was, and a
 11 high-level manager from Sequoyah who was present.
 12 Q Okay. So why would that mean the board was
 13 biased towards Sam in your opinion?
 14 A Because the people who were present from
 15 Browns Ferry knew Chandra, knew his work. He had been
 16 assigned to that plant. They knew the contributions he
 17 had made to that plant from a corporate perspective. The
 18 guy from Sequoyah knew Sam because he had worked closely
 19 with Sam through projects, through problems that Sequoyah
 20 was having. The guy at Watts Bar who worked closely with
 21 me, who knew me, was not present. I would think that
 22 would be biased.
 23 Q That's your --
 24 A That's speculation on my part. You will
 25 have to ask Ron.

Page 88

1 Q Would you look at the prioritized daily
 2 task list for July 18th?
 3 A Yes, sir.
 4 Q What's the second item there beginning with
 5 Ron?
 6 A It says Ron. Dave's message from dx
 7 Harris.
 8 Q What's the dx mean?
 9 A With respect to. It's a calculus term.
 10 Q I thought maybe you were differentiating or
 11 something.
 12 A You remember the dx/dy in calculus?
 13 Q Yeah.
 14 A Okay.
 15 Q So with respect to which particular Harris?
 16 A I do not have a clue. I don't even know
 17 which Dave, so --
 18 Q Well, we could be talking about Sharon
 19 Harris-Plant or Ann Harris, couldn't we, either one, or
 20 maybe even some other Harris?
 21 A It could have been any Harris.
 22 Q All right.
 23 A I don't know. But I would also note in the
 24 little bar out to the left where it's X's out. So that
 25 usually means I didn't do it, don't carry it forward,

Page 89

1 whatever, usually.
 2 Q Apparently you did, if you look at item
 3 number three on the daily record of events.
 4 A On the 18th?
 5 Q Uh-huh. Do you see the reference to Sharon
 6 Harris-Plant there?
 7 A Yes, I do.
 8 Q Okay. Why, if you know -- do you see in
 9 your appointment schedule 12:30 to 13:15, BR3N BO1 and I
 10 believe that's Indian Creek room?
 11 A Correct.
 12 Q Do you recognize that as the time and date
 13 that you were interviewed by the selection review board?
 14 A As I recall, I think that's correct.
 15 Q All right. Do you have any idea why you
 16 didn't even make an entry in your daily record of events
 17 about how -- your impressions from the interview?
 18 A No.
 19 Q Well, that would be a fairly significant
 20 thing as far as your career goes, wouldn't it?
 21 A Oh, yes.
 22 Q If you'll look at the July 26th daily
 23 record of events.
 24 A Yes, sir.
 25 Q Read item number four.

Page 90

1 A Number four. David VanBockern. I don't
 2 know if I'm pronouncing his name right or not.
 3 Q You've got it misspelled, but that's okay.
 4 He's not here.
 5 A Okay. I don't think I ever learned how to
 6 spell his name. I called to let him know --
 7 Q That my?
 8 A -- that my background is primary coolant,
 9 failed fuel, and data interpretation. I let him know that
 10 there was not a single question dealing with primary. All
 11 the questions were dealing with secondary. Designed to
 12 make Sam shine. I would --
 13 Q He?
 14 A I'm sorry. He would give no indication,
 15 only that he was working on stuff prior to the complaint.
 16 Time, 1:49.
 17 Q All right. Does this refer to the
 18 questions that were asked during the interview, during the
 19 selection review board --
 20 A Yes, sir.
 21 Q -- on July the 18th?
 22 A Yes, sir. It does.
 23 Q But on July the 18th, you didn't make any
 24 notes at all about the types or nature of the questions;
 25 right?

Page 91

1 A That's correct.
 2 Q And it didn't occur to you until July 26th
 3 to make any -- to question the questions that were
 4 selected for that interview?
 5 A Absolutely incorrect.
 6 Q You didn't make any note of it; isn't that
 7 right.
 8 A Absolutely correct.
 9 Q How would you describe the way you handled
 10 yourself during the interview on the 18th?
 11 A Nervous, but okay.
 12 Q Were you relaxed?
 13 A Yes.
 14 Q Did you sit back in your chair?
 15 A I didn't stand in it.
 16 Q Were you gregarious?
 17 A Yes. Lots of people in there I really
 18 admired.
 19 Q Pardon me?
 20 A There were lots of people in there I really
 21 admired.
 22 Q Who?
 23 A I can't remember.
 24 Q Well, Rick Rogers, did you know him?
 25 A Yes, I did.

Page 92

1 Q Did you admire him?
 2 A Yes, I do.
 3 Q Did you think he was fair?
 4 A As he could be.
 5 Q Does that imply that he couldn't be fair?
 6 A That implies he did not have the knowledge
 7 base to stand toe to toe with the guys who were in there.
 8 Q Do you think he was biased against you?
 9 A Not deliberately so.
 10 Q Do you have any indication that he was
 11 aware of your 1993 Department of Labor complaint?
 12 A I have no reason to believe he did not know
 13 about it for the same reason that the others knew about
 14 it, because these articles were passed around all of
 15 management.
 16 Q You had worked with Rick some before,
 17 hadn't you?
 18 A Yes, sir.
 19 Q When you had been at Sequoyah?
 20 A That's correct.
 21 Q He was -- in TVA-speak, he was a customer
 22 of the chemistry organization, wasn't he?
 23 A At times.
 24 Q Was Charles Kent on the selection review
 25 board?

Page 93

1 A Yes, sir.
 2 Q Did you admire him?
 3 A Yes, at times I did.
 4 Q Did you think he was capable of being
 5 impartial and fair?
 6 A Capable, yes.
 7 Q Do you think he was?
 8 A I can't say.
 9 Q You don't know?
 10 A I don't know. I was not part of the
 11 deliberations or anything, so I don't know what took
 12 place.
 13 Q Were you aware John Corey was on the
 14 selection review board?
 15 A Yes.
 16 Q Did you admire him?
 17 A I didn't really know him that well.
 18 Q So you wouldn't say you did or didn't
 19 admire him?
 20 A Correct.
 21 Q Well, if you didn't know him very well, do
 22 you think he knew you very well?
 23 A I don't know.
 24 Q Do you have any reason to think he was
 25 aware of your 1993 Department of Labor complaint?

Page 94

1 A Yes, sir.
 2 Q What reason do you have to think he knew
 3 about it?
 4 A As is stated in the record somewhere, after
 5 I took the job with Ron Grover, Ron took off some time,
 6 placed me in charge or asked me to attend a meeting to
 7 represent Ron between the Rad-Chem managers at the various
 8 sites. I attended for Ron. Things appeared to go well.
 9 At one point in that meeting, I was asked to leave
 10 because they had some things they wanted to discuss
 11 privately or without me being in attendance and so I left.
 12 And I reported to Ron, you know, what all took place in
 13 the meeting, just to bring him up to speed since he was
 14 not present.
 15 And I said there was something else that went on.
 16 I have no idea what it was. They wanted to talk in my
 17 absence. If you need to know that, you will have to call
 18 them because I didn't have a clue what it was.
 19 And later on, he did that. And I just followed up
 20 and I just asked, well, did you get everything resolved.
 21 And he said yes. And I said good. He said the reason you
 22 were not -- they did not want you present was because they
 23 knew -- they, one, both, I don't know -- knew that you had
 24 taped some information in the past and they were fearful
 25 that you might do it again. So they wanted to speak in

Page 95

1 private.
 2 Now, the only way and the only time I have ever
 3 taped anybody in this organization is in association with
 4 the first Department of Labor complaint. How would they
 5 have known that if they did not know about it?
 6 Q Did they tell you that they didn't want you
 7 there because you had tape-recorded people in the past?
 8 A They told Ron.
 9 Q They told -- you're saying Ron told you
 10 that that's what they said?
 11 A That's correct.
 12 Q Ron didn't come to TVA until after you
 13 settled your Department of Labor complaint; right?
 14 A I don't think that's true.
 15 Q He wasn't there when you filed it?
 16 A That's correct. Which --
 17 Q Your '93 complaint.
 18 A Yes, sir.
 19 Q How was he aware that -- if you know --
 20 that you had tape-recorded people?
 21 A I don't know. I don't even know if he did
 22 up until that point.
 23 Q Had you ever disclosed to various people in
 24 management that you had surreptitiously tape-recorded
 25 them?

Page 96

1 A Yes, sir.
 2 Q Pardon?
 3 A Yes, sir.
 4 Q Who did you tell?
 5 A You, for one.
 6 Q You told me?
 7 A Yes.
 8 Q When?
 9 A When you were preparing for the Bill Jocher
 10 case.
 11 Q Why did you tell me? I don't believe you
 12 and I spoke.
 13 A Oh, I think we did. Because you and Mr.
 14 Phil Pfeifer were preparing for that case. And at one
 15 point, you guys brought me to you and Phil brought me into
 16 a room trying to get information. I think you were trying
 17 to see if I had anything that would support TVA's side of
 18 the case going up against Bill Jocher.
 19 Q I think we spoke this morning looking at
 20 part of your planner about a conversation you had with
 21 Phil Pfeifer. And I believe someone else was in
 22 attendance, but I don't believe it was me.
 23 A I think it was.
 24 Q I don't think so.
 25 A I think it was.

Page 97

1 Q And you think you told us at that time that
 2 you had done some tape-recording?
 3 A Yes. And if I remember -- I don't -- yes.
 4 I don't recall whether that was the time that you and I --
 5 that you were going to be distributing a notebook that
 6 contained the transcribed messages from those
 7 tape-recordings to various people, Wilson McArthur being
 8 one of them, but at some point in time you did.
 9 Q I did?
 10 A Yes. You did circulate that notebook to
 11 Wilson McArthur and others.
 12 Q What makes you think that?
 13 A I was in the room when he was flipping
 14 through it.
 15 Q When Wilson was?
 16 A Yes, sir.
 17 Q And you saw it?
 18 A Yes, sir.
 19 Q I beg to differ.
 20 A If I remember correctly, you and Phil
 21 Pfiefer were there, and either you or Phil, one, looked at
 22 me as you were preparing for Bill Jocher and you said --
 23 either you said it and he nodded in agreement or he said
 24 and you nodded in agreement -- yeah, Gary, you know, we
 25 know everything didn't go right. We know you weren't

Page 98

1 treated right. We know that 1993 case was wrong.
 2 You were very apologetic. But now you needed me
 3 involved because you needed information I had to support
 4 your case for Bill Jocher. And I think you were in
 5 attendance.
 6 Q I don't think so.
 7 A I could check my record.
 8 Q Your note -- if I was, your notes would
 9 reflect that?
 10 A It's possible.
 11 Q Well, earlier you said you made notes about
 12 significant events.
 13 A Leading up to that case. I thought that
 14 case was over.
 15 Q If you'll look at the August 2nd daily
 16 record of events, could you read item number three?
 17 A Item number three, August 2nd, '96. Diedre
 18 Nida -- that's who the Diedre is -- said SH told her about
 19 my DOL and that it was filed based on the fact that my job
 20 had been --
 21 Q Posted?
 22 A -- posted. Go to -- I think it says NUC
 23 PWR, nuke power, DCCM. System 014 DCN M.
 24 Q Is this a different entry that just simply
 25 is not numbered?

Page 99

1 A It could -- it does not appear to be
 2 related, but it is part of that number three.
 3 Q Who was SH that Diedre Nida was referring
 4 to?
 5 A I am fairly certain that was Sam Harvey.
 6 Q How did Sam Harvey know about your
 7 Department of Labor complaint in August of '96?
 8 A I don't know.
 9 Q Did you tell him?
 10 A Not that I recall.
 11 Q Did you tell Wilson McArthur?
 12 A The fact that I had told Ed Boyles in Ben
 13 Easley's presence and to tell Phil Reynolds that if they
 14 posted my job I was going to file, I don't -- I don't see
 15 how that knowledge would have been just kept with those
 16 few guys. So how did he find out? I don't know.
 17 Q It's possible you told Wilson McArthur?
 18 A It's possible.
 19 Q Did you tell -- in fact, you discussed it
 20 with Charles Kent, didn't you?
 21 A I would have to refer to my notes. I don't
 22 recall.
 23 Q You didn't keep it a big secret, did you?
 24 A What a big secret?
 25 Q The fact that you filed a new Department of

Page 100

1 Labor complaint in '96.
 2 A I didn't tell the world. I didn't go to
 3 the newspaper as some do.
 4 Q Okay. You didn't go to the newspaper. So
 5 it wasn't in the newspaper?
 6 A I didn't go to them.
 7 Q Okay. But you don't have a recollection
 8 one way or the other about talking about it with Charles
 9 Kent?
 10 A I would have to refer to my notes. I don't
 11 recall talk to him about it.
 12 Q You mean you don't recall talking -- you
 13 don't deny telling Wilson McArthur?
 14 A I have no recollection of telling him. I
 15 can't imagine why I would not have.
 16 Q You told Sam -- you told Ron Grover?
 17 A Oh, I think certainly I did.
 18 MR. MARQUAND: Let's take a five-minute
 19 break.
 20 (A break was taken.)
 21 (Exhibit No. 30 was filed.)
 22 BY MR. MARQUAND:
 23 Q All right. Mr. Fiser, I've handed you
 24 copies of some pages from your 1996 planner that go from
 25 August 6th to December the 11th. And I've marked it as

Page 101

1 Fiser deposition exhibit thirty.
 2 A Correct.
 3 Q On the first page under prioritized daily
 4 task list for August 6th, you see the entry for C.
 5 VanBeke?
 6 A Yes, I do.
 7 Q What's the mark next to that mean?
 8 A Usually that means that whatever it was I
 9 put that reminder in here for I did it. I don't have to
 10 worry about it again.
 11 Q So apparently you had some task dealing
 12 with VanBeke that you took care of?
 13 A I think that would be correct.
 14 Q So apparently you were in contact with him
 15 in 1996 despite your earlier testimony?
 16 A No. That might have just been reminding me
 17 to go back and pull something out of a file I had with
 18 him. It does not necessarily mean that, but it certainly
 19 could.
 20 Q All right. Would you read the fifth entry
 21 on the daily record of events for August 6th?
 22 A Yes, sir. WCM.
 23 Q The fifth entry.
 24 A I'm sorry.
 25 Q Five.

Page 102

1 A Trish. One year in services or one month,
 2 plus one year of salary. Sam and with Tom McGrath today
 3 to fill tomorrow in on all chemistry --
 4 Q To fill Tom in on?
 5 A -- to fill Tom -- I'm sorry -- to fill Tom
 6 in on all chemistry --
 7 Q Issues?
 8 A I'm thinking that's issues. It's a little
 9 hard to read. Since he is a little weak in this area.
 10 Okay. Let me read that again. I can't do any better
 11 after reading it again.
 12 Q Who's Trish?
 13 A Trish Landers is the lady we were speaking
 14 of earlier.
 15 Q Why were you having a conversation with her
 16 about one year in services or one month and one year
 17 salary?
 18 A I don't recall, unless that would have been
 19 one of the options that I would have been given had I not
 20 been selected for the job. I don't recall.
 21 Q Right. But that sounds like an option if
 22 you were in services, but I don't understand why you would
 23 document a conversation with her about that.
 24 A I don't either. Probably she asked, but I
 25 don't know. Or perhaps it was a message. Because, see,

Page 103

1 why would she tell me to fill McGrath in since he was a
 2 little weak? It might have been she took a message and
 3 gave it to me for some reason. Maybe I wasn't around.
 4 Because that is strange that I would -- that Trish would
 5 be telling me to fill Tom McGrath in because he was weak
 6 in some area or something. I'm not really sure I
 7 understand.
 8 Q Would you read the second item?
 9 A WCM --
 10 Q Second. Number two. I know you want to
 11 get to that number six and we'll get to that.
 12 A The second one is JB.
 13 Q Get the?
 14 A I think that is get. It says get the long
 15 list of problems I submitted back in 1989-'90 time frame.
 16 Q Parens?
 17 A Yeah, parentheses. W-M, F-R-A-D-E-G or
 18 something. I don't know who that is.
 19 Q Could that be a Y?
 20 A It could be. I don't know. I can't --
 21 it's been too many years. I don't know.
 22 Q He had to appeal it to the Secretary of
 23 Labor?
 24 A Right. He had to appeal it to the
 25 Secretary of Labor to get a favorable ruling. They talk

Page 104

1 about priming the test questions so that it -- and then
 2 there's a period or a dash -- fits certain individuals.
 3 Q Could that be a reference to a Department
 4 of Labor case by the name of Fradey that the individual
 5 took to the Secretary of Labor?
 6 A It could be. I don't recall.
 7 Q Well, who's JB?
 8 A I don't recall.
 9 Q Bates? Barker?
 10 A I don't recall. I just can't -- I don't
 11 recall.
 12 Q All right. Now read the sixth -- number
 13 six.
 14 A Number six. WCM. Selections have been
 15 made. I am not one of them. Chandra, Sam -- I guess
 16 that's were.
 17 Q Chandra plus Sam?
 18 A Chandra and Sam were WCM says.
 19 Q Won. Chandra and Sam won; is that right?
 20 A That very well could be. It's a little
 21 hard to read. Chandra and Sam won, were selected for the
 22 positions I guess. WCM says it was fair. I said it was
 23 not. Jack Cox could not meet. Said it was not necessary.
 24 Even with him not there, WCM conceded, Wilson -- even with
 25 him not there, Wilson conceded.

Page 105

1 Wilson provided the questions and the board
 2 selected the ones they wanted to ask. He was unaware of
 3 the fact that the questions were -- that no questions were
 4 asked that had to do with primary but said it would not
 5 have mattered. The board would have selected Sam anyway.
 6 Q I'd like to discuss the interview questions
 7 with you --
 8 A Uh-huh.
 9 Q -- that were asked for the PWR selections.
 10 The first question was what strengths do you have that
 11 will benefit this position. Is that question slanted
 12 towards either PWR or -- I mean, towards primary or
 13 secondary aspects of chemistry?
 14 A It could be.
 15 Q It could be slanted?
 16 A It could be.
 17 Q How?
 18 A Sam had been heavily involved with EPRI.
 19 Sam had been appointed to the chemistry tag team by
 20 Goetcheus. Sam had served on several boards, EPRI
 21 meetings, things like that. He was really, really
 22 up-to-date on secondary chemistry issues because of his
 23 position on these various boards. I would think think
 24 that that would be an opportunity for him to really
 25 present himself well.

Page 106

1 Q So an opportunity for somebody to shine in
 2 front of the board in the area of secondary chemistry you
 3 think, if it happened to be in the area of secondary
 4 chemistry, would cause a bias against you?
 5 A It could be. Because due to the fact I was
 6 in ETP I was off of everything. I wasn't on any boards.
 7 I came back. We were firing up Watts Bar. I didn't have
 8 time to. Sam was assigned to such things as the primary
 9 and secondary leak task force or whatever with EPRI. Sam
 10 was assigned to something having to do with the shutdown
 11 of cooling chemistry, things likes that, that I did not
 12 have an opportunity to do.
 13 Q Okay. So when the question of what
 14 strengths do you have that will benefit this position, the
 15 answer -- your opinion is that Sam's strengths in the area
 16 of his background and what he had done would make him
 17 shine better than you?
 18 A Due to the fact he was plugged in to all of
 19 these various organizations, boards, subcommittees, et
 20 cetera, tag team, especially assigned by Goetcheus to that
 21 tag team, you know, you could make that argument.
 22 Q You apparently did, because you told
 23 VanBockern that the questions were geared towards
 24 secondary chemistry and not primary chemistry; right?
 25 Isn't that what you told him?

Page 107

1 A Yes. Not necessarily this one question.
 2 Q Not -- you're saying not necessarily that
 3 question?
 4 A Not necessarily. It could be.
 5 Q But that that question might make Sam look
 6 better than you?
 7 A Oh, yes.
 8 Q The second question that was asked -- and
 9 it's number two on the question sheet -- is indicate
 10 weaknesses that you need to address if you fill this
 11 position. Was that slanted towards favoring somebody?
 12 A No.
 13 Q Did it make Sam shine better than you?
 14 A No, I don't think so.
 15 Q You're saying it was a neutral question?
 16 A It appears to be.
 17 Q All right. The third question which was
 18 asked and which is number seven on the question sheet is
 19 to state -- or, describe three projects/programs you
 20 helped initiate, develop and complete in the chemistry
 21 areas. Would that make Sam shine more than you?
 22 A It very well could have due to the fact he
 23 was on all these subcommittees and things. Yes, it is
 24 possible.
 25 Q Was it a question which would make him look

Page 108

1 better because it spotlighted secondary as opposed to
 2 primary chemistry?
 3 A Possibly due to the fact that he was
 4 involved in all these committees and things. It's
 5 possible.
 6 Q The fourth question, which is number nine
 7 on the list, says describe the level of responsibility
 8 this position should have in contributing to the success
 9 of the site chemistry programs.
 10 A Correct.
 11 Q In your opinion, was that a neutral
 12 question or was that designed to make Sam shine?
 13 A I feel like that was pretty neutral.
 14 Q Was it geared to make secondary chemistry
 15 -- to give somebody who had a background in secondary
 16 chemistry a foot up on you or a leg up on you since you
 17 were in primary chemistry?
 18 A I feel like that was pretty neutral.
 19 Q Okay. The next question was describe at
 20 least two chemistry concerns of TVAN.
 21 A Correct.
 22 Q Was that neutral or was that biased?
 23 A Probably pretty neutral.
 24 Q You think the chemistry concerns were
 25 equally weighted between primary and secondary?

Page 109

1 A Would you repeat that question?
 2 Q Do you think the chemistry concerns --
 3 A No, the question.
 4 Q Describe -- the question that was asked was
 5 describe at least two chemistry concerns of TVAN.
 6 A I think that's pretty neutral.
 7 Q The next question was define the term
 8 denting and where and how does it occur. Is that neutral
 9 or not?
 10 A Certainly Sam was involved in all these
 11 outside organizations, EPRI. I think he could quite
 12 possibly have more current information than I did by
 13 virtue of the fact that he had attended all the meetings.
 14 Q Well, is --
 15 A Did that answer your question?
 16 Q Is denting secondary or primary?
 17 A Secondary.
 18 Q Now, in your job as program manager, did
 19 you work with one particular plant more than the others?
 20 A Yes, I did.
 21 Q What plant was that?
 22 A That was Watts Bar.
 23 Q Were there concerns at Watts Bar about
 24 denting?
 25 A There are concerns at all plants about

Page 110

1 denting.
 2 Q Oh, there are? Are there concerns even at
 3 BWR plants about denting?
 4 A No, sir.
 5 Q Oh. Only PWR plants?
 6 A That's correct.
 7 Q So if somebody worked primarily in a BWR
 8 plant, it might be a question that they might not be as
 9 familiar with?
 10 A That's correct.
 11 Q So like Chandra who was assigned primarily
 12 to work with Browns Ferry, would that be a question that
 13 you might have more of a leg up on than him? You might
 14 have more background on that particular topic?
 15 A No, I don't -- I don't think so.
 16 Q Well, he worked at a BWR plant, didn't he?
 17 A And PWR.
 18 Q Well, didn't he primarily work at Browns
 19 Ferry?
 20 A At that time.
 21 Q You primarily worked -- your career had
 22 primarily been in PWR plants; right?
 23 A My career?
 24 Q Uh-huh. P, as in pressure.
 25 A That's correct.

Page 111

1 Q And denting was primarily at PWR plants?
 2 A That's correct.
 3 Q And did you have any experience in it?
 4 A Me?
 5 Q In denting, dealing with denting.
 6 A Oh, yes.
 7 Q The next question was number fifteen,
 8 discuss the INPO chemistry index; what is its
 9 significance. Is that a neutral question or is that
 10 biased toward somebody with a secondary background?
 11 A That would be biased towards somebody that
 12 was operating at a nuclear plant, a PWR nuclear plant that
 13 was in operation.
 14 Q Somebody with operational experience?
 15 A Present operational experience, yes. So
 16 that one would have been very biased in favor of Sam.
 17 Q Okay. But not necessarily because of his
 18 secondary background but simply because he had operational
 19 experience?
 20 A No, because he was assigned to a plant that
 21 was operating. I was assigned to a plant that was in
 22 start-up.
 23 Q Okay.
 24 A The chemistry index had changed. It was
 25 new. We had never used the new index. He used it every

Page 112

1 day.
 2 Q Oh. So he was up on that? He was current
 3 with it?
 4 A Yes.
 5 Q And you weren't?
 6 A Due to the fact I was operating at a plant
 7 that was not -- that was in start-up, that's correct.
 8 Q The next question was discuss your specific
 9 management experience and training. Was that a neutral
 10 question or not?
 11 A The experience thing, you know, with Sam
 12 having the inside track and being assigned to all these
 13 wonderful task forces and EPRI and things like that, that
 14 would have certainly helped him.
 15 Q But not because of his secondary background
 16 but simply based upon his -- the work he was doing?
 17 A And the subcommittees and task forces he
 18 was assigned to, yes.
 19 Q The last question was, define molar ratio
 20 and the primary factors affecting it. Is that a neutral
 21 question or not?
 22 A Fairly neutral I would say.
 23 Q Would you look at the daily record of
 24 events for August the 7th of '96?
 25 A Yes, sir.

Page 113

1 Q Can you read item number four?
 2 A Number four. It says later that morning I
 3 left a message with Wilson McArthur expressing my extreme
 4 displeasure in the fact that he had spread the info before
 5 we were ready to go public.
 6 Q What info are you talking about?
 7 A I think it had to do with item number three
 8 above. It was a specific incident where, as I recall,
 9 there was some contamination and this was being checked
 10 out by chemistry on site at Watts Bar. They were trying
 11 to get to the bottom of it. I mentioned this to him. And
 12 I said, look, these guys are still chasing this down.
 13 We're trying to find out if it's a real problem, an
 14 instrument problem. We don't know.
 15 Q Is there a discussion about H-3 being in
 16 the secondary?
 17 A Right.
 18 Q Okay.
 19 A And the Watts Bar chemistry management
 20 folks were very upset when they started getting calls from
 21 high-up managers in corporate chemistry.
 22 Q This has nothing to do with the selection
 23 issues then; right?
 24 A Oh, no.
 25 Q Okay. Look at August the 8th, daily record

Page 114

1 of events item number three.
 2 A Right.
 3 Q It says JB called Ron Fields NRC's IG.
 4 A Right.
 5 Q Who's JB? Is that a secretary?
 6 A I don't know. I don't recall.
 7 Q Okay. And Mr. VanBeke's name once again?
 8 A Right.
 9 Q Item number four. And there's a
 10 parentheses, Gail.
 11 A No. No parentheses.
 12 Q I mean colon, Gail.
 13 A That's right.
 14 Q August the 9th, there's a note, number two.
 15 Trish. My problem ticket is 1504.
 16 A Right.
 17 Q Ticket for what?
 18 A I have no idea. I might have had a
 19 computer problem. I don't know.
 20 Q If you'll look at August 20th of the daily
 21 record of events.
 22 A Yes, sir.
 23 Q Can you read number two, the one that
 24 begins Wilson McArthur?
 25 A Called to tell me that things were not

Page 115

1 working out in the new organization. He said he was not
 2 being informed about what was going on at Watts Bar. He
 3 wanted to know if Ron had signed my leave slip for the
 4 past weekend. I was to be reporting to him. And if I had
 5 a problem with that, I could go talk to McGrath about it.
 6 I said that --
 7 Q He said?
 8 A I'm sorry. He said that he had been told
 9 that he was going to be doing my last quarter service
 10 review and he would be doing Ron's and that he would like
 11 to be saying some good things about us. And that night --
 12 Q And that right now?
 13 A And that right now things were not going
 14 well because he was not being kept informed. I told him
 15 that as far I knew I was still reporting to Ron and that
 16 Ron was to keep -- Ron was to -- Ron was to keep him
 17 informed. I'm not sure about that word.
 18 He said that was not the case since he was telling
 19 me that. I told him I would give him the Watts Bar -- WBN
 20 status by voice mail once a day. He said that was okay.
 21 Q Would you read item number five on that
 22 page?
 23 A Item number five. D. Nida. Heard that
 24 they are trying to get a campaign against us to blame all
 25 problems on Ron, me and Diedre. People were hiding out at

Page 116

1 Watts -- WBN in order not -- in order to not do work.
 2 People will not answer pages. WCM also said last night
 3 that had a -- I think that's meeting -- they had --
 4 probably that should be they had a meeting last night and
 5 Wilson McArthur said he cannot get a response out of --
 6 and then there's a dash. I don't know who it was. He is
 7 writing the service review insinuating that I have been
 8 hiding out.
 9 August the 30th we get our letters. September
 10 16th we transfer to services. Have to stay with TVA until
 11 September 30th -- that's greater than September 30th -- to
 12 get any of the PIP bonus dollars.
 13 Q So this is your impression that you needed
 14 to be there after September 30th to qualify for a bonus?
 15 A I think that was her impression.
 16 Q Oh. She was saying that?
 17 A Yeah.
 18 Q What was her position at the time?
 19 A I don't recall.
 20 Q So this is what she was telling you?
 21 A That's what I recall.
 22 Q Did you have a problem with Wilson in his
 23 --
 24 A Yes.
 25 Q -- telling you that he needed to be kept

Page 117

1 up-to-date about what was going on in chemistry and that
 2 he was upset that he was not being told what was going on?
 3 A Yes.
 4 Q Why? I mean, he's the boss; right?
 5 Doesn't he have a responsibility to be aware of what's
 6 going on with the plant?
 7 A Sure, he does.
 8 Q And doesn't he have a right to be upset if
 9 he's not being informed of the status of chemistry at the
 10 plant?
 11 A Sure, he does.
 12 Q So why were you upset with him for telling
 13 you he wasn't being kept up-to-date?
 14 A At that time, as I recall, my instructions
 15 were to continue to report things through Ron. And he
 16 felt like he was being cut out, so he changed that. And
 17 that's why I said, okay, I will give you the status report
 18 every day.
 19 Q So why did you have a problem -- if Ron
 20 wasn't doing what he was supposed to do, why did you have
 21 a problem with Wilson telling you to give him a voice mail
 22 every day about the status of chemistry?
 23 A The problem was he was -- he was very
 24 threatening.
 25 Q Wilson McArthur?

Page 118

1 A Yes, he was.
 2 Q Okay.
 3 A Yeah, Wilson McArthur was very threatening.
 4 Q All right. Go ahead.
 5 A That's -- I'm done.
 6 Q He was threatening?
 7 A Threatening me.
 8 Q Okay. If you'll look August 21st, item
 9 number three.
 10 A Yes.
 11 Q Would you read that?
 12 A Yes. This was a conversation with Ben
 13 Easley. It says I called Ben Easley and voiced a
 14 complaint against WCM for the --
 15 Q Threatening phone call?
 16 A -- threatening phone call yesterday
 17 morning. I went over it with Ben and asked that he
 18 discuss it with Ed Boyles and that I would not tolerate
 19 this harassment.
 20 Q Read number five on that page, please.
 21 A Number five. Ron Grover. Called from
 22 Florida. Said he would be in tomorrow and wants to talk
 23 to me. I told him I've filed a voice harassment complaint
 24 with Ben Easley because of WCM's threatening phone call
 25 yesterday morning.

Page 119

1 Q Why was Grover in Florida, if you know?
 2 A I don't know.
 3 Q Was he away from work often?
 4 A No more than anybody else.
 5 Q Okay. Look at the prioritized daily task
 6 list for August 30th. There was a post-it on that page
 7 with Ron Grover's name and two phone numbers. Do you know
 8 where those phone numbers go to?
 9 A No, sir.
 10 Q You don't know where the 816 area code is?
 11 A No.
 12 Q Do you know why you had that posted in
 13 there?
 14 A I can only assume he was out of town and
 15 wanted to leave numbers where he could be reached. That's
 16 a guess.
 17 Q If you'll look at the September 5th, 1996,
 18 daily record of events. Does item number four reflect
 19 that you submitted a resignation letter that day?
 20 A Item number four?
 21 Q Yes.
 22 A On the 5th?
 23 Q Yes.
 24 A I'll just read it. Wilson McArthur. I
 25 called and left a message at 18:25 telling him that I

Page 120

1 submitted my resignation to McGrath and that I would be
 2 out of state the next two days looking for a job.
 3 Q Okay.
 4 A It certainly appears that way.
 5 Q If you'll go back to August 21st.
 6 A August 21st?
 7 Q Uh-huh. On number five -- on number five
 8 where we talk about Ron Grover, where it said called from
 9 Florida, how do you know he called from Florida? Is that
 10 what he told you?
 11 A Oh, he probably told me.
 12 Q All right. But you don't know for certain
 13 he was in Florida? He could have been in the next room as
 14 far as you know?
 15 A Certainly.
 16 Q Okay. And on August 30th, you don't know
 17 where the 816 area codes are? As far as you know, it
 18 could be Florida or it could be Kansas City?
 19 A Or Kalamazoo. I don't know.
 20 Q It could be Kansas City?
 21 A We could look it up.
 22 Q Well, we did.
 23 A Oh. Okay.
 24 Q But that's where he told you he could be
 25 reached was the 816 area code number?

Page 121

1 A That was a guess.
 2 Q Well, you didn't make them up, did you? If
 3 you didn't get them from Grover, where could you have
 4 gotten them?
 5 A Oh, I could have gotten them from a
 6 secretary that just said, hey, here's -- here's where
 7 Grover is. As a matter of fact, that does not appear to
 8 be my writing. It is not my writing. So I don't know.
 9 Q So you put those down and put them in your
 10 planner in case you needed to reach him?
 11 A Somebody may have just come by and stuck
 12 them down there. I don't know.
 13 Q I don't know how they'd get into your
 14 safety deposit box to do that.
 15 A This book was not in my safety deposit box.
 16 Q Okay. Look at the entry for November 25th,
 17 1996, entry number two.
 18 A November 5th?
 19 Q The 25th.
 20 A I'm sorry. The 25th. Entry number two?
 21 Q Uh-huh.
 22 A Zack Wamp.
 23 Q There's a reference to Zack Wamp.
 24 A Right.
 25 Q What does that mean, cobra for TVA?

Page 122

1 A I think when we left, those of us who were
 2 not successful in getting a job, we could not continue our
 3 insurance.
 4 Q Oh. This is in reference to the statute
 5 regarding insurance?
 6 A Yeah. It wasn't a snake.
 7 Q It threw me there. Okay. I thought maybe
 8 you were -- like, somebody was sending us a snake. I
 9 didn't know. If you had put it in all caps I wouldn't
 10 have a problem with that.
 11 A You need a break.
 12 Q Put it in all caps and we wouldn't have had
 13 a problem.
 14 A I'm sorry. I will do that next time.
 15 Q December 4th, there's a reference to
 16 Chandra with some directions. Are those directions to his
 17 house?
 18 A Chandra. We would have to follow them.
 19 That is the approximate area where he lives for sure. But
 20 you could follow those and see where they lead.
 21 Q I'm not that interested.
 22 A Okay. You're more interested in the cobra.
 23 Q Yeah. Definitely.
 24 MR. MARQUAND: Number thirty one.
 25 (Exhibit No. 31 was filed.)

Page 123

1 BY MR. MARQUAND:
 2 Q If you'll look at the prioritized daily
 3 task list for March 6th.
 4 A Yes, sir.
 5 Q Do you see --
 6 A This is 1992.
 7 Q I'm sorry. '92, more of your Franklin
 8 Planner notes. These are for '92.
 9 A Okay.
 10 Q Now I've lost where I was. Oh. The very
 11 last item on the task list. It says Ben Easley, colon,
 12 rewriting PD. Do you see that?
 13 A Yes.
 14 Q And then if you look at the next page, it
 15 says daily records of events, same day.
 16 A Yes.
 17 Q About midway down the page, the fifth line
 18 of item number two, it says PDs to be redacted to get
 19 environmental stuff out. Do you see that? Removed or
 20 whatever, redone.
 21 A Redone I guess.
 22 Q All right.
 23 A I guess I do.
 24 Q In '92, was there a plant -- this was --
 25 you were at downtown then; right? Because Ben Easley was

Page 124

1 your HR guy.
 2 A In March of '92, I was downtown. I think
 3 that's correct.
 4 Q All right. At that point in time, they
 5 were reorganizing chemistry and environmental and the
 6 program managers had been chemistry/environmental and they
 7 were reorganizing it to remove the environmental aspects
 8 of the job; right?
 9 A I have no idea.
 10 Q Isn't that what this indicates?
 11 A I have no idea. That certainly would
 12 appear that that would be part of it.
 13 Q All right.
 14 A PDs were rewritten all the time. I don't
 15 know.
 16 Q If you'll look at the daily record of
 17 events for March 11th.
 18 A Yes, sir.
 19 Q Do you see item number two?
 20 A Yes, sir.
 21 Q Can you read that out loud, please?
 22 A It looks like there are two item number
 23 twos. No, it's actually one.
 24 Q Let's look at sub-item two under item two.
 25 A Okay.

Page 125

1 Q This is a conversation with Bill Jocher?
 2 A I think that is correct.
 3 Q Okay. At that point in time, Bill was site
 4 chemistry manager at Sequoyah.
 5 A Yes, sir.
 6 Q And you were downtown --
 7 A Yes, sir.
 8 Q -- in the corporate chemistry manager
 9 position. Can you read that sub-item two?
 10 A Okay. I will read it. Bill also wanted to
 11 clear the air and say he was not trying to stab me in the
 12 back. I told him I was concerned about him taking Chandra
 13 from office to office this past Monday and Tuesday and
 14 trying to get him installed instead of me. The reason, I
 15 have no BWR experience and the hydrogen water chemistry
 16 issue. I told him that I felt we had that resolved, i.e.,
 17 that I would use him as a resource, him being Chandra.
 18 Q Chandra?
 19 A I think it was Chandra. It could have been
 20 Bill, but most likely it was Chandra.
 21 Q All right. So you -- as I understand this
 22 conversation, you felt that maybe Bill was trying to do
 23 something behind your back by taking Chandra around and
 24 introducing him and because you had no BWR experience or
 25 hydrogen water chemistry experience and that Chandra did.

Page 126

1 And by Bill taking him around, you thought maybe Bill was
 2 trying to get Chandra into your job?
 3 A That's what I had been told. At one time,
 4 you know, when this switch was supposed to take place,
 5 Bill was trying to get Chandra installed as the manager.
 6 And evidently we had discussions about it at some time
 7 because I said, no, it's not a problem. Yes, I don't have
 8 any explicit experience in hydrogen water chemistry, but
 9 I've got Chandra; I will use him or, Bill, I will use you.
 10 I can't remember which it was. And I thought it was a
 11 dead issue and apparently it was.
 12 MS. EUCHNER: Brent, can we take five
 13 minutes?
 14 MR. MARQUAND: Yeah.
 15 (A break was taken.)
 16 BY MR. MARQUAND:
 17 Q March 24th, if you'll look at your planner
 18 in the daily record of events.
 19 A What year?
 20 Q '92.
 21 A March 24th?
 22 Q Still looking at exhibit thirty one. March
 23 24th, do you see item number two, WCM and Arthur?
 24 A WC McArthur.
 25 Q Okay. Staff meeting?

Page 127

1 A Yeah. Right.
 2 Q DK -- is this what he says to you? DK and
 3 J. Bynum say that the sites are overloaded. Do you see
 4 that?
 5 A Yes, sir.
 6 Q DK being Dan Keuter?
 7 A I would suppose.
 8 Q Well, he was the vice president that Wilson
 9 reported to.
 10 A I would suppose.
 11 Q What did you understand Wilson to mean when
 12 he said that Keuter and Bynum had said that the sites were
 13 overloaded?
 14 A I don't recall.
 15 Q Possibly that they were staffed too
 16 heavily?
 17 A Or possibly that they felt that they had
 18 too much work to do with the staff.
 19 Q One or the other?
 20 A Yeah. I don't know which.
 21 Q Actually, if you'll look at the previous
 22 page, March 23rd, item number three, there's a discussion
 23 with Bill Jocher who was at that time at the site; right?
 24 A That's correct.
 25 Q It says John Sabados, Mr. Budget. Bill has

Page 128

1 no travel.
 2 A No. Bill Jocher, John Sabados, me.
 3 Q Okay. Discussing the budget?
 4 A Right.
 5 Q Bill has no travel budget. John has it.
 6 John is being challenged to get Sequoyah's number lower
 7 than forty three since they have --
 8 A That appears to say John is being
 9 challenged to reduce to Sequoyah's forty three since they
 10 have primary and secondary chemistry.
 11 Q So in other words, somebody's telling John
 12 he's got to reduce the size of his organization?
 13 A That appears to be the case. Yes, sir.
 14 Q And then the next day you have a
 15 conversation that says Wilson McArthur says the sites are
 16 overloaded?
 17 A Yes.
 18 Q So you get a confirmation from both the
 19 chemistry managers at the site that they're being asked to
 20 reduce their staff and then Wilson McArthur says, hey, my
 21 bosses say the sites are overloaded too. I.E., sites are
 22 overloaded.
 23 A That's your inference.
 24 Q Well, how do you read it?
 25 A It's probably separate issues. I know no

Page 129

1 other way to do it. It's been too long. I don't remember
 2 the exact specifics and probably what we would have to do
 3 there is collate the information from Sabados' notes,
 4 Jocher's notes, my notes, even Chandra's notes, to find
 5 out what's really going on here. But I'm not absolutely
 6 sure that these two are connected, although I could see
 7 how you could infer that.
 8 Q It's not an unreasonable inference, is it?
 9 A It's not an unreasonable inference for you
 10 to make.
 11 Q Would you look at the May 21st, 1992,
 12 entry, number two?
 13 A Yes, sir.
 14 Q Okay. It says NSRB, colon. Do you see
 15 that?
 16 A Yes.
 17 Q Will you continue and read the rest of
 18 that?
 19 A Yes, sir. NSRB. All examined on PASS.
 20 Seven could not meet the three-hour criteria if Boron was
 21 not included. All but four techs retrained and twenty one
 22 of twenty seven can meet. I assume that's the
 23 requirements.
 24 Q Can meet?
 25 A That's what it looks like.

Page 130

1 Q All right. So this is a reference -- we
 2 talked about PASS yesterday, the fact of the number of
 3 people who could or couldn't meet the PASS criteria.
 4 A I think that is what this is about. Yes,
 5 sir.
 6 Q When did you come downtown from Sequoyah?
 7 February or March?
 8 A Yes.
 9 Q All right. If you'll look at July 10th,
 10 1992, item number four. Apparently that's a conversation
 11 with Bill -- with Wilson McArthur.
 12 A Yes.
 13 Q What did he tell you?
 14 A WCM. Told me confidentially that when Bill
 15 Jocher met with Dan K. -- that would be Keuter -- last
 16 week, he let Dan know that Fiser was not his cup of tea.
 17 When Dan pressed him about what he meant, he did not have
 18 any specifics.
 19 Q So Jocher was continuing to complain about
 20 you behind your back to the vice president of your
 21 organization?
 22 A Well, you say continuing.
 23 Q Well, you said earlier he was raising
 24 complaints about the way you were running Sequoyah
 25 chemistry and that's why he was sent to Sequoyah.

Page 131

1 A But you're inferring that this just
 2 happened. This could have been months ago. I don't
 3 recall. You see what I mean? He could have been relating
 4 this information to me about when I first transferred
 5 downtown.
 6 Q It says last week.
 7 A Wait a minute. Let me read that again
 8 then. Told me confidentially that when Bill met with Dan
 9 Keuter last week -- you're right -- he said that I was not
 10 his cup of tea. That's correct.
 11 Q All right.
 12 A So evidently they had a meeting that
 13 previous week. I mean, surely we could pull that record.
 14 Q Would you look at the October 26th daily
 15 record of events?
 16 A October?
 17 Q October 26th.
 18 A Yes, sir.
 19 Q Would you read item number three?
 20 A Item number three. Wilson's staff meeting.
 21 Dan is looking at cutting 2.2 percent out of the '93 --
 22 1993 budget. 1994 budget will be cut by ten percent, plus
 23 the cost of living will be cut as well. Head count will
 24 be cut in '94 if we can't come up with the ten percent.
 25 Don't fill vacancies.

Page 132

1 Q Exclamation?
 2 A Don't fill vacancies, exclamation. Report
 3 to WCM how much time we spend on the advanced reactor
 4 project -- I think that's what it is -- advanced reactor
 5 project, if I can read that correctly. I'm not sure.
 6 Tech programs' reports indicate what we can take away.
 7 Sam has this report. Got information to DWS over Wang and
 8 get to David tomorrow. Oliver -- I think that's what that
 9 says -- Oliver wants to go over our quarterly reports,
 10 check-off sheets, et cetera, within the next two weeks.
 11 Q So in this staff meeting, Wilson is telling
 12 you about reduced budgets and potential reductions in head
 13 counts?
 14 A If we can't come up with a ten-percent
 15 reduction somewhere else.
 16 Q Okay.
 17 A Don't fill vacancies, et cetera. In other
 18 words, it's my understanding after reading this almost ten
 19 years hence that we were going to have to reduce the
 20 budget. And if we couldn't come up with a way to do it
 21 out of moneys allowed for programs, we were going to have
 22 to cut people.
 23 Q Okay. Do you know if people were cut that
 24 year? Or were you able to cut out programs instead?
 25 A Oh, I think certainly we just cut out

Page 133

1 programs as far as I recall.
 2 Q If you'll look at the November 16th, '92,
 3 entry.
 4 A Yes, sir.
 5 Q Can you read to us entry number seven where
 6 it says Bill Lagergren's name?
 7 A Yes, sir. Bill Lagergren. Said he knew
 8 that they were going to get rid of Jocher. I told him
 9 that WCM had told me that Beecken had told him that they
 10 would not want -- that they did not want me back at
 11 Sequoyah. He was very surprised and asked me if Rob had
 12 talked to me about it, parentheses -- I think that's a
 13 parentheses -- it looks like an A, no. Answer no is what
 14 I would guess I was trying to communicate there.
 15 Again, he stated that he was very pleased with my
 16 performance and that the proof was in the bonuses, et
 17 cetera. I think there's a period after that. He said he
 18 felt Jocher had been talking to Rob and he was getting a
 19 one-sided story. Also he said he was going to talk to
 20 Beecken and Joe Bynum and find out what he could and get
 21 back to me.
 22 Q Do you remember what position Lagergren was
 23 in at the time?
 24 A No, sir.
 25 Q Who is Bill Burke, do you know?

Page 134

1 A Bill Burke was a senior INPO evaluator.
 2 Q Would you look at November 17th, '92 --
 3 A Yes, sir.
 4 Q -- and read item number two?
 5 A Yes, I will. Called WCM and told him,
 6 parentheses, at 15:30, that Bill Burke was very interested
 7 in making a swap with me. He may not, however, be
 8 interested in a PG-6 position.
 9 Q What does that mean?
 10 A As I recall, when I found out that the swap
 11 -- I was not going back to Sequoyah, I went to Wilson and
 12 said, well, heck, I didn't know this was going on. I
 13 don't know what's happening. Why don't I just go to INPO
 14 and maybe we could arrange for me to be transferred there
 15 or arrange a swap or something like that.
 16 And they had a guy at INPO that really wanted to
 17 come here because he wanted his son to attend college, I
 18 guess, at UTC and he was interested in the swap. I mean,
 19 he was highly motivated to get here. I, of course, wanted
 20 to go there. It looked like it would be a good plan to
 21 get the heck out of Dodge.
 22 Q Would you read the November 18th, '92,
 23 entry, number three?
 24 A Number three. Ben Easley. Says he was
 25 unaware of anything going on other than the fact that

Page 135

1 Keuter made the decision against WCN's advice to give me
 2 no raise this year. He said my actual rating was high and
 3 Keuter made the decision in Ben's presence to move the
 4 rating to the lowest group. I asked him to talk to
 5 Lagergren and see if anything was open, and he said he
 6 would talk to Sorrelle as well.
 7 He said my salary would be protected for twenty
 8 six pay periods, even if I was placed in a PG -- within a
 9 PG with a lower cap than my original salary. He also
 10 agreed that I needed to get out of chemistry as long as
 11 Jocher and Keuter were around. Ben also said that he did
 12 not understand how ODK could get a two hundred thousand
 13 dollar a year bonus and have misled the TVA employees as
 14 he did.
 15 (Exhibit No. 32 was filed.)
 16 BY MR. MARQUAND:
 17 Q Okay. Mr. Fiser, I'm going to show you
 18 some pages from your 1993 planner. The first page of this
 19 exhibit in this exhibit thirty two is dated April 2nd,
 20 '93. Item number three says Bill Jocher presented me with
 21 surplus letter. Is that when you received the surplus
 22 letter in '93 sending you to services and informing you
 23 that your chemistry management position at Sequoyah had
 24 been eliminated?
 25 A As I recall.

Page 136

1 Q If you'll look at the May 10th, '93, entry,
 2 can you read number two, please?
 3 A May 10th?
 4 Q Uh-huh.
 5 A May 10th, 1993. Charles Kent.
 6 Standardized the organization and it is approved. It
 7 includes a Rad-Con chemistry manager job. He's recruiting
 8 the tech support manager Rob Beecken, slash, he did not
 9 have the opinion that I was not aggressive enough.
 10 Q So what is this conversation about?
 11 A I think this is the time I was in the ETP
 12 program.
 13 Q And Kent was looking at you possibly to
 14 fill the new chemistry manager position?
 15 A Well, it just says that the standardization
 16 of the organization apparently was approved.
 17 Q All right. But it says he's recruiting the
 18 --
 19 A And he makes a statement that Rob Beecken
 20 was not of the opinion that I was not aggressive enough.
 21 Q This is before he's looking for a chemistry
 22 manager. He's looking for a tech support manager, right?
 23 A I don't know that.
 24 Q But he got the input that Beecken didn't
 25 think you were aggressive enough to do the job?

Page 137

1 A No. If I read this correctly, it says he
 2 did not have the opinion that I was not aggressive enough.
 3 In other words, he thought I was okay. That's what
 4 Charles Kent felt like Beecken thought, I think.
 5 Q Kent disagreed with Beecken's opinion?
 6 A No. Kent was trying to express to me what
 7 he thought Beecken's opinion was.
 8 Q That Beecken did not have the opinion that
 9 you were not aggressive enough?
 10 A Yeah.
 11 Q A lot of double negatives there.
 12 A Go figure.
 13 Q All right. July 3rd, '93. There's an
 14 entry for Charles Kent at 08:45. Can you read that?
 15 A Yes, sir. 08:45. Charles Kent beeped me.
 16 Q When I returned the call?
 17 A When I returned the call, Charles said that
 18 he wanted to know if I had found a job yet. I said no.
 19 He then asked if -- this must have been in some felt tip
 20 that didn't come through very good.
 21 Q Something come out to Sequoyah to meet with
 22 --
 23 MS. EUCHNER: if I would.
 24 BY MR. MARQUAND:
 25 Q Okay. If I would come out to Sequoyah to

Page 138

1 meet with their new plant manager; is that right?
 2 A That's correct.
 3 Q All right.
 4 A As I read it, that is correct.
 5 Q Sometime Tuesday morning?
 6 A That's correct.
 7 Q Okay.
 8 A He said that he had --
 9 Q Decided to fill the chem manager position
 10 and that I should not get my hopes up?
 11 A And that I should not get my hopes up. I
 12 can't read it.
 13 MR. DAMBLY: Have you got the original?
 14 THE WITNESS: Yeah. We may need to look at
 15 the original. It may help. This is '93.
 16 BY MR. MARQUAND:
 17 Q Write these in pen from now. Okay?
 18 A Do what?
 19 Q Write these in pen from now. Okay?
 20 A At this time when he paged me, I was out at
 21 a flea market, got a page, ran over to the pay phone, and
 22 I grabbed whatever pencil that I could find as I recall.
 23 Q Pretty good recollection.
 24 A Oh, that was -- that really made my day, if
 25 you want to know the truth about it.

Page 139

1 It was in pencil. Okay. This does help a little.
 2 He said that he had decided to fill the chemistry manager
 3 position and that I should not get my hopes up but that it
 4 looked pretty good. He said that he had filled the new --
 5 he said that --
 6 Q That he had filled the new?
 7 A Oh, that he had filled the new PM, plant
 8 manager, in on what had happened to me and that he seemed
 9 to be favorable. That's it.
 10 Q So at that point, Kent was talking with you
 11 about the possibility of coming out to Sequoyah as the
 12 chemistry manager but not to get your hopes up?
 13 A But that it looked pretty good.
 14 Q Okay. If you'll look at the July 16th,
 15 '93, entry. That's a conversation with Ron Brock?
 16 A Correct.
 17 Q Paged Al Black at Sequoyah --
 18 A Correct.
 19 Q -- to find out what was going on with
 20 placing me in the chem manager's position at Sequoyah?
 21 A Right.
 22 Q I told him --
 23 A No. Al.
 24 Q I told --
 25 A Al.

Page 140

1 Q Al told him that it had been blocked at the
 2 highest level. Ron then asked Al if they were going to
 3 fill the position. Al said he did not know but that they
 4 were not going to fill it with G. Fiser.
 5 A Correct.
 6 Q Is that right?
 7 A That was on a speaker phone.
 8 Q Oh. You were there and you heard?
 9 A I was there. I heard it. Al Black heard
 10 it and so did Mr. Mannis. They had -- they -- Sequoyah --
 11 somebody had contacted these guys and said, hey, we want
 12 to arrange this direct transfer. We want it to happen
 13 quickly. And then -- then it just kind of vaporized.
 14 Q Okay. Do you know how Chandra and Harvey
 15 got hired by TVA?
 16 A No, sir.
 17 Q You do not?
 18 A Bill Jocher hired them. That's all I know.
 19 Q Do you know why he hired them?
 20 A I could only speculate. He had a very high
 21 opinion of them.
 22 Q Do you know if he had worked with them
 23 previously?
 24 A Yes, sir.
 25 Q And they went back some years together?

Page 141

1 A Yes, sir.
 2 Q Let me show you your planner for February
 3 26th of '91. Do you see the entry on the right-hand side?
 4 A Yes, sir.
 5 Q It says Al Black, IG, investigating.
 6 What's that in reference to?
 7 A I'm clueless.
 8 Q Is the rest of that a different entry?
 9 A Yes.
 10 MR. MARQUAND: why don't we take about a
 11 five-minute break and we will determine if we have
 12 any more questions?
 13 (A break was taken.)
 14 BY MR. MARQUAND:
 15 Q Mr. Fiser, did you meet with the attorneys
 16 from the NRC prior to this deposition?
 17 A Yes, sir. I did.
 18 Q How many times?
 19 A One time.
 20 Q December 1st, Saturday?
 21 A Saturday. I don't know what the date was.
 22 MS. EUCHNER: I'll confirm that it was
 23 Saturday, December 1st.
 24 BY MR. MARQUAND:
 25 Q How long did you meet?

Page 142

1 A About three hours.
 2 Q Where?
 3 A My home.
 4 Q Anybody else present?
 5 A My son and my wife.
 6 Q They were present during your meeting?
 7 A No. They were coming in and out of the
 8 kitchen.
 9 Q All right. But you and Jennifer Euchner
 10 and Dennis Dambly met to discuss various things about this
 11 proceeding?
 12 A Yes.
 13 Q All right. Did they tell you what issues
 14 were involved in this case?
 15 A Just the fact that TVA was appealing to a
 16 three-judge tribunal and something -- a little bit about
 17 that process.
 18 Q What did you talk about for three hours?
 19 A They went down to my basement. They looked
 20 over some books that we had down there for sale. We
 21 talked about a sizeable stack of information that they
 22 left me to review, most of which we have already gone
 23 over. The deposition of the predecisional enforcement
 24 conference back in December of '99 I guess it was.
 25 Q Did you discuss with them the sequence of

Page 143

1 events which is attached to deposition exhibit eighteen?
 2 A Some parts of it I'm sure.
 3 Q All right.
 4 A Not all of it.
 5 Q Now, you attended part of the predecisional
 6 enforcement conference; correct? The whole thing?
 7 A I attended all of it.
 8 Q The whole thing with TVA?
 9 A Yes, sir.
 10 Q And you heard TVA's presentation and you
 11 made your own presentation?
 12 A Yes, sir.
 13 Q All right. So you heard when -- did you
 14 see the apparent violation that had been sent to TVA prior
 15 to the predecisional enforcement conference?
 16 A I think I did.
 17 Q All right. And I'm reading from --
 18 MR. MARQUAND: where is the synopsis?
 19 (Exhibit No. 33 was filed.)
 20 BY MR. MARQUAND:
 21 Q Mr. Fiser, I've handed you a September
 22 20th, 1999, letter from the NRC to TVA which is the request
 23 apparent violation which TVA was cited for and the request
 24 to the predecisional enforcement conference. And that's
 25 the predecisional enforcement conference that you

Page 144

1 attended?
 2 A That's correct.
 3 Q Did you get a copy -- did you see a copy of
 4 this letter?
 5 A I definitely remember seeing a copy of it,
 6 yeah.
 7 Q If you will look, we have the two
 8 attachments.
 9 A Two attachments?
 10 Q Yeah. There's enclosure one and enclosure
 11 two.
 12 A Yes, sir.
 13 Q You'll see in the fourth paragraph of
 14 enclosure two it says in late 1995 and early '96 the two
 15 individuals who served as NSRB committee member and
 16 chairman in 1993 and who were named as culpable parties in
 17 the employee's 1993 DOL complaint -- do you see that
 18 language?
 19 A Yes, I do.
 20 Q Now, do you remember at the predecisional
 21 enforcement conference TVA took issue with whether or not
 22 Wilson McArthur or Tom McGrath were named as culpable
 23 parties in your 1993 complaint? Do you remember that's a
 24 part of the TVA presentation?
 25 A I remember discussions about that, yes.

Page 145

1 Q All right.
 2 A I don't remember the specifics, but I do
 3 remember that being discussed.
 4 Q All right. When you -- and, in fact -- I'm
 5 going to show you what I'll have marked as deposition
 6 exhibit thirty four.
 7 (Exhibit No. 34 was filed.)
 8 BY MR. MARQUAND:
 9 Q Fiser deposition thirty four is a February
 10 7th, 2000, letter from the NRC to TVA citing TVA with a
 11 notice of violation. Do you see that?
 12 A Yes, sir.
 13 Q At the bottom of page -- first, at the last
 14 complete paragraph at the bottom of page two, in the last
 15 sentence, it says TVA took exception to the statements in
 16 the NRC's September 29th -- September 20th, 1999, letter
 17 that the 1993 NSRB chairman and committee member were
 18 named as culpable parties in Mr. Fiser's 1993 DOL
 19 complaint. Do you see that?
 20 A Yes, sir. I do.
 21 Q And in the next paragraph, beginning in the
 22 middle of the top of page three, it says the NRC agrees
 23 with TVA basically that the NRC -- NSRB chairman and
 24 committee member were not named as culpable parties in Mr.
 25 Fiser's 1993 DOL complaint as misstated in our September

Page 146

1 20th, 1999, letter. Do you see that?
 2 A Yes, I do.
 3 Q Now, my question then is, when you were
 4 meeting and being prepared for this deposition by the NRC
 5 attorneys on December 1st, was there some discussion with
 6 you about the issue of McArthur and McGrath being named by
 7 you with respect to your 1993 complaint?
 8 A There was discussion as to whether they
 9 were included in some of the documents and things like
 10 that, which they were.
 11 Q And yesterday when I was questioning you
 12 about Fiser deposition exhibit eighteen -- if you'll get
 13 that out --
 14 A Eighteen?
 15 Q Uh-huh.
 16 A Eighteen. Yes, sir.
 17 Q Do you recall yesterday when I asked you
 18 about -- I was asking you about whether they were named in
 19 your complaint and you said no, but they're named in this
 20 sequence of events, and I made a point of mentioning that
 21 counsel for NRC was pointing out to you in this particular
 22 document where you mention Mr. McGrath and Mr. McArthur.
 23 Do you remember that?
 24 A Oh. At one point, yes.
 25 Q Did you ever -- did counsel for NRC in your

Page 147

1 meeting with them on December 1st point those particular
 2 passages out to you?
 3 A I do not recall.
 4 Q Did you have discussions about that with
 5 them?
 6 A About McArthur and McGrath?
 7 Q About being mentioned in the sequence of
 8 events.
 9 A I do remember going over that, yes --
 10 Q And did they show you --
 11 A -- that they were in the sequence of
 12 events.
 13 Q Did they show you where the sequence of
 14 events -- that it was subject to interpretation that
 15 McArthur and McGrath were named in there?
 16 A It seems like I showed them some cases
 17 where they were. And you had asked me to find any others,
 18 by the way, last night as my homework.
 19 Q And yesterday when we did have your
 20 deposition, counsel for NRC pointed it out to you?
 21 A Did point out one of the indications -- one
 22 of the places where it was indicated. That's correct.
 23 You had further asked yesterday that I do some homework
 24 last night --
 25 Q Right.

Page 148

1 A -- and review this document and see if
 2 there were any other indications.
 3 Q Right.
 4 A And there were. That would be on page
 5 twenty four.
 6 Q Tell me where on page twenty four.
 7 A Let's see. Let me go back here a second.
 8 Okay. We got the one at the top of page twenty three;
 9 correct?
 10 Q We talked about twenty two and twenty
 11 three, yes. The same conversation continuing with
 12 McArthur -- Wilson McArthur?
 13 A Right. And then on page twenty four, the
 14 sixth message down, where it says, of course, the thing
 15 with Peterson didn't help.
 16 Q That's when you said that; right?
 17 A Uh-huh. That's correct. And then
 18 McArthur, a couple of entries down, speaking of the NSRB
 19 -- let's see. What was McArthur saying? He says, no,
 20 that one I did not understand. He -- I think he's talking
 21 about Jocher at this time -- he started a couple of rumors
 22 that were way off base. He just called me one day and
 23 said I guess he's got to feeling that there were some
 24 criticisms and a corrective action program, that NSRB did
 25 give him a rough time. That was another reference of

Page 149

1 NSRB.
 2 Q NRC giving Jocher a rough time?
 3 A About some problems with the corrective
 4 action program. I'm not sure what.
 5 MR. DAMBLY: It just says the NRC.
 6 BY MR. MARQUAND:
 7 Q Did the NRC give him a rough time too, Mr.
 8 Fiser?
 9 A No, sir.
 10 Q All right. Mr. Fiser, I'd like if we could
 11 to at least go off the record maybe permanently, but I'd
 12 like to listen to parts of some of these tapes that you
 13 brought with you.
 14 (A break was taken.)
 15 EXAMINATION
 16 BY MS. EUCHNER:
 17 Q Okay. For your 1993 Department of Labor
 18 case, did you have any interactions with any of the
 19 attorneys for TVA?
 20 A Yes, I did.
 21 Q Which attorneys?
 22 A Mainly Brent.
 23 Q What interaction did you have with Brent?
 24 And for the record, we're discussing Brent Marquand;
 25 correct?

Page 150

1 A That was the 1993 case?
 2 Q Yes.
 3 A Well, there was a time, of course, when we
 4 talked about certain points of that case as it related to
 5 Bill Jocher's case when they were preparing to do -- go to
 6 trial or something with Bill Jocher. And I talked to both
 7 Brent and to Phil Pfiefer I think was the guy's name.
 8 Q But that was not during your '93 complaint?
 9 It was after?
 10 A It was after.
 11 MR. MARQUAND: That was in relation to
 12 Jocher's complaint, not your complaint?
 13 THE WITNESS: That's true. But some of the
 14 stuff -- the information that was part and parcel
 15 of my complaint was being looked at and evaluated
 16 for use in his complaint.
 17 BY MS. EUCHNER:
 18 Q During the resolution of your '93
 19 complaint, did you have any interactions with Mr.
 20 Marquand?
 21 A There were several letters that were sent
 22 back and forth and discussions between my attorney and his
 23 attorney -- I'm sorry -- between my attorney and these
 24 guys trying to arrive at a settlement. But I don't ever
 25 recall talking to him personally about it.

Page 151

1 Q Then you indicated in 1994 for the Jocher
 2 case you met with Phil Pfiefer and Brent Marquand.
 3 A That's correct.
 4 Q How many times did you meet with them?
 5 A I don't recall. It was certainly more than
 6 one, sometimes in an office with a closed door, sometimes
 7 at my cube.
 8 Q Do you recall what you discussed with
 9 them?
 10 A Going over this eighty-some-odd-paged
 11 document which was a transcription of the tapes.
 12 Q The sequence of events?
 13 A The sequence of events. That's right. And
 14 the -- and the transcribed tape-recordings as well.
 15 Q Who did you initially give copies of your
 16 tapes to at TVA?
 17 A Copies of my tapes to?
 18 Q Yes. Did you provide a copy of your tapes
 19 --
 20 A Yes, I did.
 21 Q -- to anyone at TVA?
 22 A Yes, I did.
 23 Q Who was it?
 24 A I cannot remember. It seems to me like I
 25 took them to a place where they were reproduced. And I

Page 152

1 got mine back, and they probably picked up their copies
 2 from there or it could be that I turned them over to
 3 someone.
 4 Q Who is they?
 5 A They is TVA.
 6 Q Was it the OIG for TVA?
 7 A It could have been. I'm not sure that I
 8 recall exactly who picked up the tapes. Either the OIG or
 9 the IG. It could have been Beth, Beth Thomas. I don't
 10 know.
 11 MR. MARQUAND: The IG is the OIG.
 12 THE WITNESS: Okay.
 13 MR. MARQUAND: And Beth Thomas is an agent
 14 with that organization.
 15 BY MS. EUCHNER:
 16 Q Now, did you provide her these tapes as
 17 part of your 1993 DOL complaint?
 18 A Copies of the tapes.
 19 Q Copies of the tapes for your '93 complaint?
 20 A As I recall.
 21 MR. MARQUAND: Could it have been in
 22 connection with the Jocher case instead?
 23 THE WITNESS: It could have been. I can't
 24 remember if it was actually -- the exact date that
 25 I -- that I provided it to them. I cannot recall.

Page 153

1 We'd just have to check the record and see when
 2 they were copied and get the date. I'm sure there
 3 is a bill somewhere because we had to pay -- they
 4 had to pay somebody to copy the tapes.
 5 MR. MARQUAND: The IG has a record of that
 6 and you have it.
 7 THE WITNESS: She has it?
 8 MR. MARQUAND: Uh-huh.
 9 BY MS. EUCHNER:
 10 Q When you provided copies of your tapes to
 11 the IG, did you give them permission to share what was on
 12 -- the contents of the tape with anybody?
 13 A No, I did not.
 14 Q Did they ever ask your permission to share
 15 the contents of the tape?
 16 A No, and I never gave it.
 17 Q Were you ever notified that the IG had
 18 provided copies of your tapes to anyone else?
 19 A Yes, I was.
 20 Q Who did they provide them to?
 21 A I can't state everybody, but I -- I know
 22 that I saw Wilson McArthur paging through the
 23 transcription of the tapes.
 24 Q Was there anyone else present while Dr.
 25 McArthur was paging through the transcript?

Page 154

1 A Is seemed like it was Phil Pfiefer and
 2 possibly Mr. Marquand. I'm not sure of that.
 3 Q Did you give anyone permission to poison
 4 the well by showing Dr. McArthur these transcripts of your
 5 tapes?
 6 MR. MARQUAND: I'm going to object to that.
 7 That's totally objectionable.
 8 MS. EUCHNER: I'll rephrase.
 9 BY MR. EUCHNER:
 10 Q Did you give anyone at TVA permission to
 11 share the transcripts or the tapes with Dr. McArthur?
 12 A No.
 13 Q To your knowledge, did anyone else at TVA
 14 ever see the transcripts or hear the copies of your tapes?
 15 A I feel fairly certain that the copies --
 16 the transcript of the tapes were passed around to various
 17 people who were preparing to go to trial with Jocher.
 18 MR. MARQUAND: Object to the answer.
 19 That's nonresponsive to the question. Move to
 20 strike. The question was to your knowledge.
 21 BY MS. EUCHNER:
 22 Q Let me ask some more specific questions.
 23 Do you know whether Charles Kent was ever shown a
 24 transcript of the conversation that you recorded with him?
 25 A I can't say for sure.

Page 155

1 Q Do you know whether Ben Easley was ever
 2 shown a transcript of the conversation?
 3 A Yes, he was. Or at least he heard some of
 4 the tapes. Because he was very upset about it.
 5 Q Do you know whether Rob Beecken was ever
 6 shown either the transcripts or listened to the copies of
 7 the tapes?
 8 A I don't know personally, but I would be
 9 very surprised if he were not.
 10 Q Do you know whether Jim Mullinix was ever
 11 shown the transcript or listened to the tapes of his
 12 conversations?
 13 A I do not.
 14 Q Do you know whether Bill Lagergren was ever
 15 shown a transcript or whether he was able to listen to the
 16 copies of the conversation with him?
 17 A I do not know.
 18 Q You stated that you know that Ben Easley
 19 heard --
 20 A Yes.
 21 Q -- the tapes.
 22 A That's correct.
 23 Q How do you know that?
 24 A He mentioned it to me.
 25 Q Did he tell you how he came to hear the

Page 156

1 copies of the tapes?
 2 A No, he did not.
 3 MS. EUCHNER: I have nothing further.
 4 EXAMINATION
 5 BY MR. MARQUAND:
 6 Q When the first time counsel asked you if
 7 you had -- if you knew if Ben Easley heard the tapes you
 8 said he heard some of the tapes and you knew that because
 9 he was upset. The second time she asked you the question,
 10 you said that he mentioned it to you. Now, my question
 11 is, did Ben Easley directly tell you -- tell you directly
 12 that he heard the tapes or simply that he was upset about
 13 the fact that you had taped him?
 14 A He told me that he had heard the tapes.
 15 Q Did he tell you how he heard those tapes?
 16 A No, he did not.
 17 Q And where was it that you -- where were you
 18 when he told you this?
 19 A I don't recall.
 20 Q When did he tell you this?
 21 A I don't recall.
 22 Q Did you make a note of it?
 23 A I don't recall.
 24 Q Would it be reflected in your planner if
 25 you did make a note of it?

Page 157

1 A If I did make a note of it, it would have
 2 been.
 3 Q Is there any reason why you wouldn't have
 4 made a note of it?
 5 A Yes.
 6 Q Why?
 7 A Because I felt like that case was over and
 8 it was no longer important.
 9 Q When you saw Wilson McArthur paging through
 10 the document entitled sequence of events, where was that?
 11 A Here on either the fifth or third floor,
 12 right across the hall.
 13 Q On the fifth or third floor? That's a big
 14 discrepancy.
 15 A Yeah. We moved around a lot.
 16 Q When did this occur?
 17 A When you were preparing for Bill Jocher's
 18 case.
 19 Q For the trial?
 20 A That's correct.
 21 Q That was in 1995?
 22 A I think that's correct.
 23 Q Where were you located then?
 24 A Downtown.
 25 Q What floor?

Page 158

1 A It seems like we were in Blue Ridge on the
 2 fifth floor, but I'm not sure because we did move around
 3 some.
 4 Q And you don't recall when this was?
 5 A In '95.
 6 Q Where within the office space was Wilson
 7 McArthur paging through the transcript?
 8 A Sitting behind a desk.
 9 Q In his office?
 10 A That I don't recall.
 11 Q Well, was he sitting out in the hallway?
 12 A No, he was in an office. I do not know if
 13 it was his office.
 14 Q He has a hard-walled office with a door
 15 doesn't he? Always has, correct?
 16 A That's correct.
 17 Q Is there any reason he'd be sitting in a
 18 cubicle to page through this transcript to be prepared for
 19 trial?
 20 A No, he was in an office.
 21 Q And you say there was an attorney there
 22 with him at the time?
 23 A As I recall, yes.
 24 Q Why would you be in that room at that time?
 25 A I think that the attorney called me in to

Page 159

1 ask a question or something about possibly some of the
 2 words even in the document.
 3 Q And you said that you recall -- you think
 4 you recall Phil Pfiefer there and you said that I might
 5 have been there as well?
 6 A It's possible.
 7 Q It's possible? Now, I want you to answer
 8 this question for me, remembering you're under oath.
 9 A Correct.
 10 Q Isn't it true that the first and only time
 11 I met you prior to your testimony at the Jocher trial was
 12 in the hallway outside the courtroom?
 13 A In Knoxville? The first and only time we
 14 met?
 15 Q The first and only time I had met you prior
 16 to your testimony in the Jocher trial was in the hallway
 17 outside the courtroom in Knoxville on the fourteenth floor
 18 of the First Plaza Bank building?
 19 A I don't even recall meeting you there.
 20 Q That's the only time we met.
 21 A That's your words, not mine.
 22 Q I'm asking you. Is that the case or not?
 23 A No. I don't recall it that way.
 24 Q Do you have any notes of ever having met me
 25 before?

Page 160

1 A I don't know. We'd have to page through
 2 them and look.
 3 Q I'd be willing to sit here while you do it.
 4 A Well, that's fine. I don't know that I
 5 would have made a note of that just because we met.
 6 Q You made a note -- we looked at it earlier
 7 today -- that Phil Pfiefer called you to ask you to be
 8 available to testify in the Jocher case.
 9 A Uh-huh.
 10 Q And he gave you his phone number. And I
 11 believe that his secretary was on the line in case there
 12 was any dispute about what was said.
 13 A I don't recall.
 14 Q It's not even reflected in your notes, is
 15 it?
 16 A What?
 17 Q The fact that his secretary was also on the
 18 line.
 19 A I don't recall.
 20 Q Well, we had the note earlier today.
 21 A Yeah. I don't know what his -- I don't
 22 know his secretary from Adam.
 23 Q How many times did you meet with an
 24 attorney from TVA prior to your testimony in the Jocher
 25 case?

Page 161

1 A I don't know.
 2 Q More than once?
 3 A Yes.
 4 Q More than twice?
 5 A Yes.
 6 Q More than three times?
 7 A Possibly.
 8 Q More than four times?
 9 A I don't know. A few.
 10 Q At least three times -- more than three
 11 times you said?
 12 A A few.
 13 Q More than three times?
 14 A I can recall three.
 15 Q Okay. When did they occur?
 16 A In preparation for the Jocher trial.
 17 Q All right. Where did they occur?
 18 A Here.
 19 Q All of them here at the Chattanooga office
 20 complex?
 21 A As I recall, that's right.
 22 Q Did you play the tapes for the TVA
 23 attorney?
 24 A No, sir.
 25 Q Not at all?

Page 162

1 A No, sir.
 2 Q Did you review the sequence of events, the
 3 document sequence of events?
 4 A As I recall.
 5 Q Each time?
 6 A I do not recall each time.
 7 Q How far apart in time were these meetings?
 8 A I don't recall.
 9 Q Were they scheduled ahead of time or did
 10 the attorney just drop in on you?
 11 A As I recall, the attorney was just here
 12 talking to various people preparing for the case. I do
 13 not remember there being a scheduled appointment.
 14 MR. MARQUAND: No further questions.
 15 AND FURTHER DEPONENT SAITH NOT.
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Bonnie L. Smith, do hereby certify that the foregoing 162 pages is a true and accurate transcript of the testimony taken by me on the day of December 12th, 2001.

This 7th day of January, 2001.

Notary Public
My Commission Expires:
November 29, 2005.