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NUCLEAR REGULATORY COMMISSION

Title: Deposition of Ben G. Easley

Docket Number: 50-390-CivP et al.
ASLBP No. 01-791-01-CivP EA 99-234

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

DEPOSITION

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

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The deposition of BEN G. EASLEY, was taken by the Nuclear Regulatory Commission, pursuant to Notice, commencing at 12:45 p.m. on Thursday, November 29, 2001 at the offices of Tennessee Valley Authority, Sycamore Room 5, Lookout Mountain Building, 11th and Market Streets, Chattanooga, Tennessee.

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

MR. DAMBLY: This is a -- a deposition in the matter of Tennessee Valley Authority. Today's date is November 29th, 2001, and it's the deposition of Mr. Ben Easley.

THE WITNESS: Ben G. Easley.

MR. DAMBLY: Ben G. Easley. I was going to ask you to state your name for the record first, anyway, so...

My name is Dennis Dambly. I'm counsel for the NRC staff. Mr. Easley, would you state your name.

THE WITNESS: Ben, initial G., Easley, E-a-s-l-e-y.

MR. DAMBLY: Okay. Would you swear in the witness, please.

Whereupon,

BEN G. EASLEY

appeared as a witness herein and, having been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. DAMBLY:

Q Mr. Easley, where are you presently employed?

A I'm retired from TVA, not employed anywhere at the present time.

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1 Q Okay. And what's your educational
2 background?

3 A My educational background was, I received
4 a B.S. from Tennessee State. Used to be Tennessee A&I
5 State University. I worked toward some advanced
6 courses at Tennessee State, and also at UTM, Martin.
7 And I have taken some courses -- took a course or two
8 out at Chattanooga State Tech, and have taken some
9 courses through TVA due to the position I was in.

10 Q Okay. And what was your B.S. in?

11 A I started off in engineering, but I
12 graduated in vocational and industrial education,
13 which is building construction.

14 Q Oh, okay. And after you graduated,
15 eventually you got to TVA. What'd you do -- was that
16 your first job out?

17 A My first job was in the military. I got
18 drafted in the military.

19 Q Oh, okay.

20 A And took an extra year to go in with a
21 friend of mine on the buddy-buddy plan. I had two
22 years AFROTC at Tennessee A&I, and I could have taken
23 four years, but I didn't like it. Could have gone in
24 as a second lieutenant.

25 Q Okay. After you got out of the military?

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1 A After I got out of the military, I came
2 back to -- at the present -- at that time my father,
3 who was a United Methodist Minister, was in Martin,
4 Tennessee, at the United Methodist Church. And my
5 fiancé was in Hickman, Kentucky, 25 miles away. I was
6 teaching. And I came back there to stay there to be
7 close to my fiancé and to -- I got my resumes out and
8 my application out to get a job.

9 Q Okay.

10 A But I had a problem getting a job in my
11 major because I put resumes out to be an apprentice
12 contractor, which I was trained for. And primarily,
13 the only thing they wanted me to do was dig ditches
14 and pour concrete. And that was not what I was
15 trained to be. So I sent out resumes like to TVA and
16 to all of the places. And that's how I came to TVA.

17 Q What year did you come?

18 A I came in April of '66, but I was
19 interviewed three months earlier by a person by the
20 name of Joe Cade (phonetic). He came all the way to
21 Martin to interview me at the time where the federal
22 government was telling TVA that they were going to
23 have to hire some well-qualified blacks. And I was
24 one of the quotas.

25 Q That's what he told you?

1 A I say I were one of the quotas.

2 Q Uh-huh (affirmative). So...

3 A There were so many numbers they had -- so
4 many people that they had.

5 Q Right.

6 A So I were one of the quotas, one of the
7 numbers, after he interviewed me and...

8 Q Right. What year did you come -- you
9 started in '66?

10 A April '66.

11 Q And what -- what was the job you started
12 as?

13 A Okay, let me go back. Okay, when I talked
14 to Joe Cade, I talked to him about an engineering
15 position, industrial engineering. Because my degree,
16 with all the engineering, and almost had what amounted
17 in business to graduating in vocational-industrial
18 education.

19 And let me just elaborate a little bit
20 about that. My last year at Tennessee A&I, my advisor
21 came to us. I was in industrial arts. I had switched
22 over to that. And they wanted to incorporate building
23 construction in the curriculum. And there were about
24 150-plus guys in industrial arts. And there were 20
25 guys that he wanted to sacrifice another year for

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1 Tennessee State to get that in curriculum.

2 I were one of the 20, and it were based on
3 the knowledge and based on your aggressiveness and
4 based on what you could do. And he told us at the
5 time that only one thing, we would have to go back and
6 take all the business courses, because building
7 construction is a business.

8 Q Right.

9 A You got to know the accounting, the law,
10 and all this. So I had to go back and take all those
11 courses. And -- and, but he didn't fail -- he failed
12 to tell us that when you graduate and come out, unless
13 your father, in the South, was a black contractor, or
14 unless you knew a good Caucasian that would give you
15 an opportunity, or unless you could move north or go
16 west, that you probably were not going to get a job.
17 So this what happened to me when I sent my resumes
18 out. So that's when I sent one to TVA, and that's
19 when Joe Cade came and talked to me.

20 Q And -- and the job you got hired into?

21 A Okay, I asked him -- I told him, in my
22 opinion, that my job was equal to a industrial (sic)
23 engineer, and asked him did he have anyone with---he
24 looked at my transcript---anyone that had the same
25 type of transcript but -- or sort of the equivalent to

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1 it in engineering. He said no. He said only thing he
2 could offer me was an engineering aide job, and based
3 on my transcript and based on the curricula and
4 everything I had, that I probably would go to a SE-6
5 in about three years.

6 Q SC?

7 A SE, as in Eastley.

8 Q Okay.

9 A Engineering a SE-6. He offered me an SE-
10 2, and told me probably six months that I would go to
11 a 3 and progress along the lines. But after I had
12 been in there just for a short period of time, he told
13 me I needed to go back to school and get some more
14 education.

15 And at that time you had whites with the
16 same degree I had, working as an engineer. And there
17 was two other whites that were working with me that
18 took my side and told him that I were doing the same
19 thing the rest of them were doing, and that they
20 should promote me. However, they have been kept down
21 in TVA because of that, of them trying to help me.
22 They haven't been able to move up or did not move up.
23 But I filed a complaint and...

24 Q An EEO complaint?

25 A Right, a EEO complaint. And in '72 or

1 maybe -- yeah. I came in '66. Maybe in '71, '72, I
2 were offered three job at the same time, three
3 professional job. And I took the personnel job.

4 Q These were all three in TVA?

5 A Right. At the same time.

6 Q Okay.

7 A Because they knew they had a loser.

8 Q So you got the -- you took a personnel HR
9 job in '72?

10 A Right. They called it personnel officer
11 back then.

12 Q Back then. We all called everything
13 personnel back then.

14 A Right.

15 Q Now you got to call everything human
16 resources.

17 A Right. Right. Right.

18 Q Got to change the names every once in a
19 while. Makes everybody feel better.

20 A Uh-huh (affirmative).

21 Q So the -- the job you got in personnel,
22 what level was that?

23 A It was a M-1, with the intent to take me
24 up to M-3 with 12 -- between 12 and 18 month
25 probation.

1 Q Okay. And the M scale later became what's
2 now the PG scale?

3 A Let me see what scale they're on now.
4 Time.

5 Q Okay, off the record.

6 (Off the record.)

7 A Yes, it -- it changed from the M to the
8 PG, because when I left I was a Pay Grade...

9 Q PG...

10 A ...7.

11 Q ...7.

12 A But they paid me a 8 before I left. Paid
13 me money in 8.

14 Q Okay. Now, from -- where were you
15 stationed physically at TVA in -- in '72 when you
16 became personnel officer?

17 A I was stationed at -- let's see, where
18 were we at.

19 Q I mean, I'm just talking...

20 A Oh, we -- no, we -- in the -- what's this
21 building up here? Edney Building. Edney.

22 Q I've been there. Okay. So, I mean, you
23 were in Chattanooga?

24 A Yes, sir.

25 Q And have you been in Chattanooga with --

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1 the rest of your career in TVA was in Chattanooga?

2 A Yes, but I've been involved in all of
3 the -- at the time, the fossil and the -- fossil and
4 steam plants. And then, when it became nuclear
5 generation, I were involved in that. And then when we
6 split from steam and hydro -- hydro and steam, I went
7 nuclear. Well, I been involved in -- all over the TVA
8 as a human resource manager and a human resource
9 officer.

10 Q Okay, now, the difference -- what's the
11 difference between the human resource manager and the
12 human resource officer?

13 A Okay, a manager had his own division or
14 department. Like I was the human resource manager for
15 the training center. And then I was a human resource
16 manager where we had another reorganization. And they
17 brought a manager in here, and under that manager, she
18 had 1, 2, 3 -- I think three or four different
19 managers, lower managers over different organizations.

20 Q And at the time you retired -- when did
21 you retire?

22 A January '97.

23 Q January '97. Okay. When you retired in
24 '97, were you a human resource officer or manager?

25 A I was a human resource officer.

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1 Q Officer. Okay. Did your grade get
2 affected at all by whether you were a manager or an
3 officer?

4 A No.

5 Q No?

6 A Not for me. It might if it was in
7 corporation.

8 Q Is there like a career ladder, what I
9 would call a career ladder at -- at TVA.

10 A It should have been a career ladder for
11 me, but it didn't work that way.

12 Q Why not?

13 A Because of my aggressioness (sic) and my
14 fairness, and I went against TVA on lots of things
15 that was happening in TVA in the way different
16 managers and different employees were mistreated. And
17 to tell you this, which I have told them, I should
18 have been where my manager was. This is my opinion on
19 it.

20 Q Right.

21 A This is just an opinion. I'm opinionated.
22 But...

23 Q Your manager was...

24 A ...minorities did not get promoted, they
25 did not progress. Some women did not, some men did

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1 not, because they were trying to help the employees.
2 Some got terminated because of it.

3 Q Now, the manager -- your manager at the
4 time you retired was...

5 A I trained him. Ed Boyles.

6 Q ...Ed Boyles. And then Reynolds was above
7 him?

8 A Right. And I trained Ed. Ed came in as
9 an engineer, not knowing anything about personnel.

10 Q Now, in -- in the time you were in the HR,
11 either manager or official position or personnel
12 officer position, did you ever -- did TVA ever send
13 you to any what I call federal employment courses, OPM
14 courses on reductions in force or...

15 A Yes, I have all the courses. I can't
16 remember exactly.

17 Q Okay.

18 A And I wouldn't dare to try to name them.

19 Q I just asked, because everybody else I've
20 talked to...

21 A Yes.

22 Q ...that was in personnel hadn't had any
23 outside courses, and so...

24 A Well, what do you mean outside courses?
25 No, all -- most of the TVA courses were inside.

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1 Q Oh, okay.

2 A Okay?

3 Q Put on by -- by TVA people?

4 A I misunderstood that. Right.

5 Q You didn't ever have a -- go to an OPM
6 course on reduction in force?

7 A No, sir.

8 Q Okay. Ask you about some people and some
9 names that are involved at the various places in this
10 case, in Mr. Fiser's case. And getting -- this
11 deposition's about the 1996 Gary Fiser case.

12 But, Bynum; do you know Mr. Bynum?

13 A Yes. Joe Bynum was the -- was the
14 president or vice president over nuclear at the time.
15 I think so.

16 Q Back in probably '93, '94?

17 A '93, '94, or something like that.

18 Q I mean, did you have any direct dealings
19 with him?

20 A No, I didn't really have any direct
21 dealing with Mr. Bynum. I have talked to Joe from
22 time to time.

23 Q How about Mr. Jocher?

24 A Yes.

25 Q When did you first meet him?

1 A I met him when he was interviewed for the
2 job that he came into as -- I think he were chemistry
3 manager. And I don't remember the exact year. But
4 I've talked to him on the telephone, talked to him
5 when he got here. Sat down and talked to him about
6 personnel and other things concerning his job and just
7 everything.

8 Q You -- you were the one providing
9 personnel or human resources support to him in his
10 position?

11 A Yes.

12 Q Tom McGrath? When did you first meet him?

13 A I met Tom McGrath when they made him the
14 manager of operations support. The managers that they
15 had, I think they transferred him somewhere else or he
16 transferred out, and they made McGrath the interim
17 manager of operations support where rad con and
18 chemistry fell under him.

19 Q Under him?

20 A Right.

21 Q Wilson McArthur.

22 A Very well.

23 Q Very well? How long have you known him?

24 A Ever since he's been here at TVA. He was
25 the head manager of -- he used to be at one time -- I

1 can't remember what it was. But he was the head
2 manager over the whole group before they broke it
3 down.

4 Q Broke it down?

5 A And -- and had a reorganization.

6 Q And you provided HR support to him?

7 A Yes.

8 Q Would you have been the direct contact
9 with him, or would it have been Mr. Boyles or...

10 A Most of the time it were me.

11 Q Okay. How about Sam Grover?

12 A Who, now?

13 MS. EUCHNER: Ron Grover.

14 Q Ron Grover. I'm sorry. I'm getting my
15 names confused. Ron Grover?

16 A Yes, same with Ron.

17 Q Okay.

18 A See, at one time Ron were working under
19 McArthur.

20 Q Right.

21 A Until we had a reorganization.

22 Q We'll get into -- and then they end up on
23 the same level and then...

24 A Okay. Okay. All right. Okay.

25 Q ...changed again. Right.

1 Mr. Reynolds?

2 A Yes.

3 Q You...

4 A He was the manager of nuclear human
5 resources. I may not be giving you the correct title,
6 but...

7 Q That's fine.

8 A He was over Ed Boyles.

9 Q Do you have any direct interaction with
10 him on a normal basis?

11 A All the time. I'm going to tell you the
12 truth. If there's one man in TVA that I admire, I
13 admire Phil.

14 Q That you admire?

15 A Uh-huh (affirmative).

16 Q Okay. Ed Boyles? James Boyles. He goes
17 by Ed.

18 A Ed and I were really good friends until
19 later when I left, when I left TVA.

20 Q Something happened when you left that
21 caused you not to be friends?

22 A Yes, I -- no, something happened that
23 should have not have happened.

24 Q Oh, okay.

25 A I had...

1 Q And it had nothing to do with this case?

2 A Okay, let me tell you this. I applied for
3 a early out. Okay? And due to going to court and
4 seeing some things happen that I didn't go along with
5 it, and due to some other things, personal things that
6 were involving my life, I just told them that I
7 couldn't take it no more. And -- and I said some
8 things that I probably shouldn't have said, and they
9 said some things they shouldn't have said. So it
10 ended up in...

11 Q Right. But none of -- none of that has
12 anything to do with Mr. Fiser?

13 A Thing to do with that, no. Right, right,
14 right. No. Okay.

15 Q Okay. Because I -- I don't want to get
16 into something and...

17 A Okay. Tell him erase that from the
18 record.

19 Q Doesn't matter to me. Nobody's going to
20 see it, anyway, so...

21 A Okay.

22 Q Ms. Westbrook?

23 A Yes. She was a counterpart.

24 Q You -- do you have frequent interactions
25 with her?

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1 A Oh, yes. Uh-huh (affirmative).

2 Q She was in a peer position to you?

3 A At one time she was. She were lower than
4 I when she came over. She transferred over into our
5 division.

6 Q Gary Fiser?

7 A Gary Fiser was working for Ron Grover.

8 Q Okay. Before he was working for Mr. -- I
9 guess Mr. Fiser came back in the mid-'80s somewhere.
10 Did you have any involvement or interaction?

11 A No, he came -- he was -- no, I can't go
12 back that far. I know he was -- was it in 1993 when
13 he was put into the ETP program?

14 Q Right.

15 A I'm not sure about the date, now. He were
16 placed into that program, and he filed a complaint at
17 the time. And -- and he was terminated. We -- we
18 were having downsizing at the time, and he was working
19 at Sequoyah. But we end up being the one to serve the
20 papers, and I was the one to serve the papers to him.
21 And...

22 Q Now...

23 A ...and I think, if you read through that,
24 I'll say I shouldn't have. It shouldn't have been me.
25 It should have been the manager from the Sequoyah or

1 the personnel people from Sequoyah, human resource
2 people from Sequoyah. But they turned it over to Mike
3 Pope, who was my supervisor at the time. This is
4 before Ed Boyles. Okay. And Mike sent me over. I
5 didn't want to go, but he said, "You go." So that's
6 when I first met...

7 Q That's when you first met...

8 A Right.

9 Q Great -- great way to meet somebody;
10 right?

11 A Right. Oh, yeah.

12 Q But something you said triggered -- what's
13 the relationship between corporate HR and site HR?

14 A Okay, corporate and site HR, they
15 primarily do the same thing. Only at the site you
16 have a manager that report to the head person
17 downtown. Like they reported to -- they reported to
18 Phil, I think, at one time. Okay, they reported to
19 Phil. Okay, and at one time we had one -- somebody
20 in-between Ed Boyles and Phil. Naomi Lindsay. Okay,
21 they reported through her, and she reported to Phil.
22 But we did the same thing.

23 And sometime, in doing audits, in doing
24 some other type of personnel work, they would send
25 someone new through. Like they may send me out to do

1 an audit and keep them from not being involved, to get
2 an independent -- get an independent assessment of
3 what it was, whether it was a audit or whether it was
4 something else.

5 Q So...

6 A And sometime they would send them down
7 here to do the same thing, one of the officers.

8 Q ...if -- if there was a HR issue or
9 selection or something at let's say Sequoyah, that
10 would be handled by the HR people at Sequoyah?

11 A Yes, sir.

12 Q And if there was some big question about
13 it, it'd go from the manager at Sequoyah to Phil
14 Reynolds or Naomi Lindsay or someone like that?

15 A Whoever is in-between; right.

16 Q You wouldn't be involved at all with
17 providing the support, other than the audit?

18 A Unless they said, "Ben, we want you to
19 go."

20 Q Okay.

21 A "We want you to go and do this one."

22 Q Okay. Sam Harvey?

23 A Yes.

24 Q When did you first meet Sam?

25 A I met Sam when he came here, and I think

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1 Sam Harvey...

2 Time.

3 Q Okay. Off the record.

4 (Off the record.)

5 A I met Sam when he was interviewed for the
6 job under Jocher.

7 Q Okay. And that would have been prior to
8 early '90 time frame?

9 A Yes, something like that time. I don't
10 recall the exact date.

11 Q And -- and the fellow whose name I won't
12 spell, but fortunately Frank already has it down
13 there. We'll call him Mr. Chandra.

14 A Yes. I met him also, because he came
15 under Jocher, also.

16 Q You know Mr. Cox?

17 A At Sequoyah?

18 Q Cox was at...

19 A He were at one of the plants.

20 Q ...Watts Bar.

21 A At one -- yes, I met him. Right.

22 Q And Mr. Corey?

23 A Yes, Corey.

24 Q And Kent?

25 A And Kent.

1 Q Now, did you ever provide HR services for
2 Cox, Corey, or Kent?

3 A Okay, they were selected for management
4 review boards. And yes, I supplied information to
5 them, some little booklets showing them...

6 Q Oh, okay.

7 A ...a outline, different things. And I had
8 gotten with the managers on the questions that were
9 going to be asked, provide other information, like the
10 application that the employees sent in, all the other
11 information, so they would have a copy of it. A
12 booklet, somewhat.

13 Q But in their management roles, like if
14 they were the selecting official?

15 A No, no. No, no, no. I didn't have
16 anything to do with all of that.

17 Q Okay. You know Gordon Rich?

18 A Yes. Gordon Rich were down here one time,
19 and they sent him out to Sequoyah, if I'm -- if I'm
20 mistaken (sic).

21 Q Mr. Rogers? Ever interact with him?

22 A First name?

23 Q Good question.

24 MR. MARQUAND: Rick.

25 Q Rick. Yeah, Rick Rogers.

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1 MR. MARQUAND: There's a couple of Rick
2 Rogers. This is the Hayward Rick Rogers.

3 A I think I know a Rogers, but I better
4 not -- I don't recall. But I think I know a Rogers.
5 It was -- it was a Rogers.

6 Q He was on the actual selection review
7 board...

8 A Oh, okay.

9 Q ...in the '96 Fiser...

10 A Okay, well...

11 Q Okay. Okay. Ask you...

12 A And I think Rogers was a substitute for
13 somebody. I don't think he was originally on there.

14 Q The TVA personnel system, when there's
15 a -- going to be a vacancy, advertised position, how
16 do you -- how do you go about generating a vacancy
17 announcement, where does it come from, what
18 documentation would you expect, those sorts of things?

19 A Okay, if you have a vacancy, and say just
20 pick a -- any job, say chem engineer or SE-4, okay,
21 what you do, you get your job description that they
22 have to make sure it's updated, already updated. If
23 not, you update the job description. And then you go
24 by the article of agreement and the personnel booklet,
25 and post the job on the board. And you list the

1 qualification and time limit on it, and let people
2 apply.

3 Q And then after you would get a -- a...

4 A A spreadsheet. You do a spreadsheet on
5 the applicant that applied.

6 Q And what would you put on a spreadsheet?

7 A Okay, you put -- like if it required a
8 chemical engineering degree, you put that over there
9 at degree, yes or no; what type degree they had;
10 experience. Okay, also, you put over here sometime
11 what type of evaluation they got. Okay, and other
12 information that were pertinent to the job as were
13 outlined on the vacancy announcement.

14 Q And...

15 A And then you supply that to the selecting
16 manager.

17 Q And you would be the one filling out the
18 spreadsheet, the HR person?

19 A Yeah. And then I may take and get with --
20 communicate with my supervisor before actually
21 finalizing it.

22 Q Okay. Let me see what we have over here,
23 maybe you can...

24 When someone's selected to fill a position
25 in TVA, now, you have this vacancy and you went

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1 through the process, and then they are selected. How
2 do you go about making them an offer or notifying them
3 of selection? What official documentation is cut?

4 A Okay, you get with the manager, after he
5 has made his selection, to review it to decide in your
6 opinion, and also in your resource opinion, that the
7 right person, based on the selecting procedure, have
8 been selected. You would -- if you agree, then you
9 have the supervisor to make an offer to the person.

10 Q Okay. And the person accepts. How does
11 that get documented?

12 A Sometime we will write it down, you know,
13 on paper that he or she were selected. Sometime we'll
14 put down there who were number one, who were number
15 two, number three, just in case the top person turn it
16 down, then we'll go to the second person. But it were
17 always some type of documentation. I were -- don't
18 recall exactly now. Won't try to.

19 Q I'm, you know, familiar with the -- I call
20 it the NRC system. It's pretty much the system that
21 most federal agencies use. And they have differences.

22 If someone gets selected for a job and
23 they accept the offer, there's a standard Form 50
24 that's cut, and -- and it goes into their official
25 personnel folder that lists the title and dates and

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1 all those.

2 A Well, we...

3 Q Do you have a similar document at TVA that
4 would say, you know, "John Smith was selected for this
5 position. It's a promotion. This is the grade, this
6 is the date"?

7 A Yes, we -- we had a documentation of it.
8 And I can't -- I don't recall exactly what
9 documentation that we had for the time. They were
10 well documented. And also it was sent to the PHR, and
11 it -- we kept it in our filing system, just in case
12 something came back and we had to look it over to make
13 sure -- like NRC want to know why Joe Blow was
14 selected, we had all the documentation right there to
15 show.

16 Q Okay. Let me just show you a document
17 here. This is the employee action reasons sheet. I
18 guess it's three pages on Wilson McArthur. And then
19 behind it is 39 pages. And ask you to take a look at
20 that for a second.

21 (The witness reviews certain material.)

22 Q And just while you're looking, for the
23 record, it says...

24 A Let me ask you a question.

25 Q Yes, sir.

1 A What -- what selection -- is this on a
2 selection?

3 Q No, this -- this is -- well, I was going
4 to ask you what this sheet is. But, I mean, it's my
5 understanding this is basically every -- every change
6 to Mr. McArthur's employment from the time he joined
7 TVA to...

8 A Oh, yeah. Okay. You're talking about the
9 personnel files that we kept.

10 MR. MARQUAND: Counsel, we've produced
11 this and given you this today from TVA's system today.
12 And I'm not sure that this was even from the same sort
13 of computerized system that...

14 THE WITNESS: It's not.

15 MR. MARQUAND: ...TVA was using when Mr.
16 Easley was here.

17 THE WITNESS: It's not.

18 BY MR. DAMBLY:

19 Q Oh, you wouldn't have had -- you would
20 have had a different system?

21 A No, no. This is different.

22 Q Okay. So you wouldn't know what went in
23 to generate this?

24 A Right.

25 Q How about the -- the forms that are

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1 underneath?

2 A But -- but like this, we always -- anytime
3 a change were made on someone, it was documented and
4 put in their PHR, one sent to our head -- head PHR
5 people, and we had a file of our own that we kept.

6 Q The pages that are behind the top three --
7 this top three is...

8 A Oh, this right here is just showing why
9 you...

10 Q You know, this...

11 A ...basically change of address and pay
12 rate change and...

13 Q Were these forms in existence at the time
14 that you were at TVA?

15 A They weren't like this. Not to my
16 knowledge. They could have been. I don't recall.

17 MR. MARQUAND: We used to use hard copies,
18 Counsel, that were -- and the form was called a 90 --
19 TVA-98-80. And that should be what's reflected in the
20 microfiche that we provided to you of these
21 individuals. This is a computer database, and this is
22 just a -- these are printouts from that computer
23 database. I'm not sure that this system was in effect
24 in 1996. But we -- you have copies of the microfiches
25 up to the date certainly that we maintained the

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1 microfiche.

2 MR. DAMBLY: Okay, thank you.

3 BY MR. DAMBLY:

4 Q During the time that you were at TVA, what
5 was HR's responsibilities for reductions in force?

6 A We were to look at the retention register
7 and determine how the reduction in force would go.
8 And on that, I would like to -- I think I answered
9 that in this right here. I'd like to refer you to
10 whatever I said in my previous deposition that I gave
11 to Diane Benson.

12 Q Well, how many RIFs were you the HR
13 support person for during your tenure?

14 A How many I was involved in? Too many.

15 Q Too many. Is that more than ten?

16 MR. MARQUAND: When you say RIFs, you mean
17 individuals or different...

18 MR. DAMBLY: No.

19 MR. MARQUAND: Oh, I...

20 Q How many RIF...

21 A Reorganization?

22 Q ...reorganization RIF. Thank you. Not an
23 individual, but...

24 A A reorganization?

25 Q ...a reorganization where you were

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1 providing the HR support?

2 A I don't recall. It was -- I'd say four or
3 more.

4 Q Four or more?

5 A I don't recall. Don't take that as
6 accurate.

7 Q Would you have been the one responsible
8 for coming up with a retention register?

9 A Sometime; yes.

10 Q Sometimes somebody else would do it?

11 A Sometimes some of us would do it together,
12 like my counterpart.

13 Q Oh, okay.

14 A But if it was far, like operations
15 support, I would have been the one.

16 Q You would have been the one?

17 A And if I had any question about it, we
18 always contacted OGC or had someone to contact OGC to
19 make sure that we were doing it correctly.

20 Q Was there any one person in OGC you would
21 normally contact?

22 A I have talked to Brent Marquand several
23 time, and Tom Fine, Susan Fendley, Maureen Dunn. You
24 want me to go on and on?

25 Q No. I just...

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1 A Okay.

2 Q If there was one -- I mean, if you
3 normally went to Mr. Marquand or you went to a variety
4 of people?

5 A A variety. But I met with him most --
6 more than any other, I think, other than Tom Fine and
7 Susan Fendley. I mean, so those three.

8 Q Okay. Normally---and I don't know if
9 there is such a term---but to the best of your
10 recollection, what percentage -- in a reorganization
11 reduction in force, what percentage of positions were
12 posted as new vacancies versus a retention register,
13 filling it?

14 A I can't -- I can't answer that because I
15 can't recall. But I can tell you this. It refers
16 back over here to my deposition. When a job changed
17 35% or more, you had to readvertise it.

18 Q Okay.

19 A I think it says in here that -- and I want
20 to comment on this, that Grover said 15%. That's not
21 true. It's 35% or more.

22 Q And how did you determine how -- how much
23 a job changed?

24 A Well, you take and you look at the old job
25 description and you look at the new job description,

1 if it was a known or written, and you go through it
2 line by line and see what had changed.

3 Q Did you -- if there were ten duties listed
4 on the old position description, and there were six
5 duties listed on the new -- six duties listed on the
6 new PD, did you assume that those ten on the old
7 were -- each one accounted for 10% of the
8 responsibilities?

9 A No, you have to look at them and determine
10 what the six were in respect to the ten, if you had
11 that. But I don't remember from six to ten. Since I
12 left, I think they have come where they don't have
13 duties anymore, they have accomplishments, something --
14 something different. They're very short now, I think.
15 You don't go into all the things we used to go into.

16 Q Did you -- would you -- in deciding
17 whether or not there was sufficient change, that you
18 needed to post a new position, would you talk to the
19 manager involved to find out?

20 A Yes. You sat down with the manager, you
21 sat down with your human resource person. You may
22 talk to a counterpart. And then, like I said, if you
23 weren't sure, then you contact OGC for information.

24 Q Okay. The -- the TVA services program,
25 which I guess was the employee transition program

1 before that...

2 A The first were ETP, employee trans --
3 you're right.

4 Q Okay. How did all that come about?

5 A That came about when we started having
6 downsizing. And instead of having a reduction in
7 force or termination or letting the person resign,
8 they put -- they came up with this special program to
9 put people over there. While they're over there, they
10 had the opportunity to -- was supposed to have a
11 opportunity---because I wasn't there---to seek other
12 jobs, to use the computers to make contact, telephone
13 to make contact. They also had some training that
14 were given to them. And some got jobs in other
15 organization (sic) across TVA while they were there.
16 And some just sat there. You understand what I'm
17 saying?

18 Q Right. Now, the people that went to
19 either the ETP or later the services organization, you
20 were going to conduct -- if you were doing a reorg and
21 it was going to result in a smaller staff than you had
22 before...

23 A Right.

24 Q ...you would go through the same process
25 as if you were going to -- to do a RIF, and determine

1 if there were positions they could be rolled over into
2 because they hadn't changed, or if there were new
3 positions, you'd post those? But you -- you used
4 basically the retention register, to -- to the extent
5 that it was applicable, because there were similar
6 positions, and the rest of the people either competed
7 for new jobs, or they went over to the services
8 program?

9 MR. MARQUAND: Wow, Counsel, I don't
10 understand your question.

11 A No, I -- I don't -- I don't understand
12 that, myself.

13 Q Okay. What did you do when you were going
14 to do a reorg?

15 A Just put people in...

16 Q How'd you do a reorg?

17 A ...ETP.

18 Q How did they get to ETP during a reorg?

19 A Oh, okay. All right.

20 Q Okay?

21 A It would determine -- it had been set up
22 that this division or department could only have so
23 many people. Where they had ten, they couldn't have
24 but six.

25 Q Right.

1 A So you got to decide what four position
2 you going to eliminate; okay? After you decide what
3 position were permanent -- pertinent to keep, you take
4 these other, and if they were the same people at the
5 same title, like chemical engineer, chemistry person,
6 you look at them, and you look as, you know, like
7 veteran, compensable veteran.

8 Q Right.

9 A Then veteran, compensable with permanent
10 status, pre-permanent status, you know. You go on
11 down. Then you look at indefinite, and then you look
12 at temporaries. Had temporary, temporary would go
13 first. Then the indefinite go next. Then you move on
14 up, like I said. But you look to see who had more
15 time. And at that time, I think we were also -- we
16 had evaluation where it would give you so many -- add
17 to your time in TVA. You looked at that, too.

18 Q Okay.

19 A And -- and then you eliminate and send the
20 lower person over to the ETP.

21 Q And -- and that would be -- so you're
22 basically following the RIF procedures...

23 A Yes. Right.

24 Q ...to determine who would be surplusd to
25 the ETP?

1 A Yes.

2 Q And you followed the RIF procedures to the
3 extent that the new positions were similar to the old
4 positions, so you didn't have to post them?

5 A Now, when you say "new position," now,
6 what you mean?

7 Q Well, if you had an organization with ten,
8 your example, and you're going down this list...

9 A You don't have any new position, if you --
10 if you're cutting back.

11 Q Well, but...

12 MR. MARQUAND: That wasn't your question.

13 Q ...just as a case in point. But we'll get
14 there.

15 If you have -- start off with ten, and you
16 got ten chemical engineers and ten whatever, something
17 else, a total of ten people, and the new organization
18 going to have six, and those six -- we'll say three of
19 them are going to be the same as the positions in the
20 old one, but three of them are going to be different.
21 Nobody had those in the old organization. They're
22 combining functions or doing...

23 A I think you putting apple and oranges
24 (sic) together, and I think you need to separate and
25 put the oranges over here and the apples over here.

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1 Q Okay.

2 A Okay, because what you're talking about,
3 actually you're talking about a reorganization, and
4 then you're talking about putting people over in ETP,
5 which is entirely different. Now, in a new
6 organization, yes, you advertise your position.
7 Whereas the job -- like I said, if the job change 35%
8 or more, the position was to be advertised. And you
9 go through the same process.

10 Q For the advertisement?

11 A Yes, sir. But what you asked me, you
12 putting apple and oranges together. You got to
13 separate the two.

14 MR. MARQUAND: The way I understood your
15 question, Counsel, is that you have ten people.
16 You're going to reduce it down to six people, and
17 they're all the same competitive level. And Mr.
18 Easley said that's how you decide who -- what the
19 retention standing is between those ten people. And,
20 but then you changed your question to say, "Well, if
21 I've got ten people in different jobs and I'm going to
22 reorganize, what is the..."

23 THE WITNESS: Right.

24 MR. DAMBLY: Well, now, I'm letting you go
25 ahead.

1 MR. MARQUAND: Let's get the question.
2 That's what I...

3 THE WITNESS: Right, what I'm telling,
4 it's...

5 MR. DAMBLY: I'm trying to deal with...

6 BY MR. DAMBLY:

7 Q We're doing a reduction. I mean, a case
8 in point, the '96 where it changed the chemical
9 engineering positions to chemistry positions. Okay,
10 they reduced from maybe four to two. You didn't...

11 A They had five.

12 Q You had five, went down to two?

13 A I think five to two. Or it may have been
14 three to two.

15 MR. MARQUAND: Four slots, and it went to
16 two. Wasn't Sorrell in that slot, too?

17 MR. DAMBLY: Well, I got a organizational
18 (sic) chart that I could show you, that develop
19 Sorrell, Chandra, Fiser, and Harvey on it.

20 THE WITNESS: Okay. Let's get -- let's
21 get down to specific, be specific. You're not
22 specific.

23 MR. DAMBLY: Well, I'm trying to...

24 BY MR. DAMBLY:

25 Q You can have a reduction where you decide,

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1 if you've got ten people in an organization and you're
2 going down to six, if you had five of one kind and
3 five of a different kind.

4 A Okay.

5 Q And the one kind, you're going to keep the
6 same position descriptions and everything. You would
7 do a retention register and go through and decide who
8 got those five. And the five other positions, you're
9 going to change those to different positions and only
10 going to keep three people out of them. You would
11 post those vacancies; is that right?

12 A I still don't like your question, because
13 you're putting apple and oranges together. Let's put
14 it like this. If you're going to have a
15 reorganization, and in that reorganization, in some
16 areas you're not going to cut, then yes, you keep the
17 same people. I mean, if you're not going to change
18 the job description 35% or more, you keep the same
19 people. Okay?

20 Q By seniority and tenure and...

21 A Right. Right. All that.

22 Okay, but if you're going to have new job
23 description, position description, whatever you want
24 to call it...

25 Q Right.

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1 A ...new duties, then you got to look at it
2 and determine if you're going to cut from three to two
3 or you're going to cut from four to two. You got to
4 look at it and see who will the lowest of people on
5 those that you would put into the ETP program, if you
6 had it. Are you following me?

7 Q No, right there you lost me. Because I
8 thought -- maybe if you had five positions, and if
9 they were all the same.

10 A Right. Uh-huh (affirmative).

11 Q Now you're going to go down to three.

12 A Right.

13 Q But you're going to redo all three of
14 those, so that they're different, they're more than
15 35% different.

16 A Right. Right. Uh-huh (affirmative).

17 Q Okay.

18 A I'm following you.

19 Q Then, if I understand, now, and maybe I --
20 better way to put it, all five of those people that
21 were in the old positions would get notices to go to
22 the ETP, and -- and you would advertise those three
23 positions. And if those five people wanted to apply,
24 they could. But they...

25 A No, they wouldn't get notice at that time.

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1 Huh-uh (negative).

2 Q You'd advertise the positions first and
3 then you'd get notices?

4 A No, no. What you do, you look at the
5 position. And I think -- I think I know what you're
6 trying to get to. Okay, whereas we changed some job,
7 whereas they would combine chemistry and --
8 chemistry -- at one time, chemistry and...

9 Q Environmental?

10 A No, no. Rad con.

11 Q Oh, okay.

12 A And rad waste and environmental. I think
13 all of them were combined. Okay. And then we
14 separated them. Okay, we put chemistry by itself, and
15 then we put rad con and rad waste and -- and
16 environmental was separate. Then we came back and
17 decided just to have two. Decided to have rad con, if
18 I'm right, okay, and -- and chemistry. Okay, and then
19 we came back and decided to change them again and go
20 back to the old system that we had in the beginning
21 several years ago.

22 Q Now, I understand. I'm trying to get to
23 a more -- forget the specifics, because there's two or
24 three different sets of specifics that we could talk
25 about, and we probably will.

1 But just if you had an organization, let's
2 say you had five chemistry managers, and you're going
3 to reorganize, and now you got three chemistry and rad
4 con managers; okay? And you decided that's a
5 different job, it's more than 35% different. And
6 you're only going to have three of them. What do you
7 do to the five chemistry managers?

8 There's going to be a reduction, it's a
9 reorg. Do you do anything at that point, or do you
10 post vacancies for the -- what's going to be the
11 surviving new jobs and see who gets those and then do
12 a register?

13 A No, no. You do your register first. You
14 look at it. Okay, you look at your job description
15 first. You got to look at that first.

16 Q Right.

17 A And decide what have changed. Okay, and
18 then you do your -- your sheet where you break it
19 down, who got this and who got this and what got that.
20 Then you go to your retention register, like I were
21 telling you before. Okay, and then you determine who
22 is the lowest two, who -- the one that do not fit.
23 But you go ahead and you advertise the position to
24 give them a opportunity to apply while they have --
25 what meet the criteria or not.

1 And I think I'm -- and let's -- let's just
2 do this. Since it been so long, let's just say I
3 don't recall, but it were done -- a process was done
4 that was a good process, that was in the benefit of
5 every employee that you had there where you would not
6 be or should not be discriminating against a employee.
7 And that's the best way I can answer that. Because
8 you're getting me where you -- you know, things I
9 can't recall.

10 Q And I'm not -- I'm not -- these aren't
11 supposed to be trick questions.

12 A Well, I'm saying -- I'm saying be
13 specific. Hit a specific. Then I can answer a
14 specific. You're not specific.

15 Q Well, but I gave you one. We've got six
16 chemistry managers.

17 MR. MARQUAND: I think what he's saying,
18 Counsel, is...

19 Q We're going down to three, chemistry and
20 rad.

21 A Well, go to -- in here, I know what you're
22 talking about. Go to this thing here and we can talk
23 about it.

24 Q Okay. We'll talk about the '96 one first
25 with Mr. Fiser, then. You had the -- and let me dig

1 out the -- the chart.

2 A And we can go to the page. Let's do that.

3 Q Here's a org chart that we were provided
4 from TVA that's -- the date at the bottom right is
5 2/13/95. Says at the top, "Nuclear Operations,
6 Operations Support, Radiology and Chemistry Control."
7 Shows Don Moody, acting; shows Sorrell, acting; and
8 then underneath it it's got the rad control with W. C.
9 McArthur as the PG-11; chem and environmental with
10 Grover as a PG-11; and environmental rad monitoring
11 and instrumentation with W. L. Raines as a PG-10.

12 A Right.

13 Q And under Mr. Grover there's five slots.
14 One's vacant, and you have a Harvey, Chandra, and
15 Fiser as 8s, and a Nida as a PG-7.

16 A Right.

17 Q Okay. Now, that's the one that -- then
18 there was a reorganization, and the environmental
19 function left the chemistry, and chemistry ended up
20 with the two, the PWR and the BWR chemistry program
21 manager people. When -- when Chandra...

22 A Let me -- let me look this over, now.

23 (The witness reviews certain material.)

24 A Okay.

25 Q Okay, now...

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1 A Now, re-ask your question.

2 Q ...when you -- when you went from those
3 four positions, one -- five positions, one vacant and
4 four filled, down to two chemistry positions,
5 chemistry PWR and a chemistry BWR.

6 A And one a BWR; right. Okay.

7 Q Then you posted those?

8 A Yes.

9 Q And we'll talk about why and whatever.
10 But you posted those.

11 Before you posted those, did all four of
12 those people get surplus notices that they were going
13 to ETP?

14 A No, no, no, no. No, no, no, no, no, no.
15 They had the opportunity to apply on the positions.

16 Q Before they got the notice?

17 A Yes, sir.

18 Q Did you draw up a register because there
19 was going to be an elimination of -- of positions, or
20 you waited till after they -- they were...

21 A After.

22 Q Okay. That's all I was trying to get to
23 before.

24 A Oh, well, okay. All right. Okay. But I
25 have to see some of this stuff. I can't recall.

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1 Q Okay. And -- and if the positions hadn't
2 changed, you would have just gone by a register and
3 filled them with the most senior?

4 A You say if it hadn't changed?

5 Q Hadn't changed.

6 A On this right here?

7 Q By more than 35%; yes.

8 A If we stayed like this?

9 Q Yeah. Well, I mean, you might have
10 said -- well, say the title changed but the duties
11 didn't change by more than 35%?

12 A Now, are we talking about this, or are we
13 talking about when we got down from four to two?

14 Q Well, that's where you got down there, I
15 think. From four to two. But...

16 A No, no, no. No, not this, we didn't get
17 four to two. This is showing you where we had
18 vacancies.

19 Q Yeah. Well, this is before the reorg that
20 got from four to two.

21 A Right. Okay.

22 Q Okay. I'm talking going from this to the
23 two.

24 A Okay. Now, show me that where we went
25 from four to two. Then we'll talk about that.

1 Q I got that one.

2 A But we can't talk about that from this.

3 Q Okay, that's the -- after the reorg PD.

4 A Right. This is it.

5 Q For the -- what became Mr. McArthur's...

6 A May I ask, what did you block out here?

7 Q I didn't block out anything there.

8 A Okay.

9 Q That's what they gave me.

10 A Okay. Somebody else blocked it out.

11 MR. MARQUAND: I think that was

12 highlighted.

13 A Okay.

14 Q And that's the -- the organization chart

15 that now shows Mr. Harvey and Mr. Chandra in chemistry

16 positions.

17 A Yes.

18 Q Now, if -- I realize it didn't; okay. But

19 if the chemistry positions -- those two were not more

20 than 35% different than the positions that are over on

21 your first org chart you looked at, those would have

22 been filled by seniority, by the retention register?

23 A Right. Right. You're right.

24 Q Okay. That's all I was asking.

25 A Right. Okay.

1 Q I'm just not very clear, and I'm sorry
2 about that. Okay. Now, you keep those or whatever,
3 for the moment.

4 Jumping back to '93, when you first met
5 Mr. Fiser, and what did you know in '93 or -- about
6 Mr. Fiser and his DOL complaint? '93, '94 time frame?

7 A I didn't know anything until later, after
8 I went to serve him that notice at the ETP program --
9 I mean ETP place.

10 Q And when did you learn about him having a
11 complaint?

12 A It may have been several months later.

13 Q Okay. What did you...

14 A You mean -- you talking about when he
15 filed the complaint?

16 Q Yeah, his '93 complaint. What did you
17 understand his '93 complaint was about?

18 A Oh, that he was improperly placed into
19 ETP -- ETP program.

20 Q Now, were you involved at all in the
21 resolution of that complaint?

22 A No.

23 Q No? When Mr. Fiser came back out of ETP
24 and was given a job, were you...

25 A Right, I were involved in that.

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1 Q Okay. And what job was he given?

2 A He were given some type of program manager
3 job. I think it was Pay Grade 8. I'm not really sure
4 on the pay grade. But that job that were given to
5 him, it was a settlement; okay? It was a settlement.
6 And we were told that we had to take him back and put
7 him in a job similar or identical to what he was in;
8 okay? Which we did.

9 Q Who told you you had to do that?

10 A This came from whoever made the decision,
11 whether it was TVA or whether it was the arbitrator or
12 whoever.

13 Q Okay.

14 A Said that we had to do that. And it came
15 through -- down through the general office, OGC
16 office.

17 Q Okay. And the position he was reinstated
18 to was...

19 A Was a program -- I marked it in here
20 somewhere. Look at my affidavit and you'll find it.

21 Q Okay. It's not a secret, I was just --
22 you know, if you remember it. It was -- it was a --
23 it was a position here in Chattanooga?

24 MR. MARQUAND: I think the agreement
25 specifies what it is, Counsel.

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1 MR. DAMBLY: Well, I know.

2 MR. MARQUAND: Okay. Well, he's already
3 told you he doesn't remember.

4 BY MR. DAMBLY:

5 Q To your knowledge, was -- was he here in
6 Chattanooga, or was he put out at a site?

7 A No, he -- he in Chattanooga (sic).

8 Q Okay.

9 A We placed him up there -- I forget the
10 name of it, but it was up there in rad control,
11 chemistry -- in chemistry.

12 Q Okay.

13 A Okay?

14 Q Now, at any time did anybody tell you that
15 as part of Mr. Fiser's '93 DOL complaint and
16 activities and whatever, that he was tape recording
17 individuals at -- at TVA?

18 A I know he was.

19 Q You know he was?

20 A He tape recorded me.

21 Q And how do you know that?

22 A I caught him at it, and he also had turned
23 it in. However, it did not play. He were going
24 around with a tape recorder here.

25 Q "Here" meaning in his coat pocket?

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1 A Pocket. Right. And some of his friend
2 were telling me that he had it. Said, "Be careful.
3 He has one."

4 Q Okay. Now, did you ever see any
5 transcripts of -- of any tape recordings he had made?

6 A No. I know that he did it to me, but it
7 didn't come out.

8 Q How do you know it didn't come out?

9 A I heard it.

10 Q Somebody played the tape?

11 A Someone told me they -- they played the
12 tape.

13 Q Okay.

14 A And it did not come out clear.

15 Q Now, in -- in '94, I guess, Mr. -- Mr.
16 Fiser came back in late '93 or early '94. I don't
17 remember the date, and it's not important.

18 A He came back in '93.

19 Q '93. Okay. There was another
20 reorganization?

21 A After he came back; yes.

22 Q After he came back. And at -- and in the
23 '94 reorganization, that's the one you were talking
24 about earlier where Mr. McArthur went from head of the
25 whole thing down to the same level as -- as Mr.

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1 Grover?

2 A Right; uh-huh.

3 Q In fact, I think that's this first
4 organization chart I showed you, again, the one that's
5 dated 2/13/95?

6 A Uh-huh (affirmative). Right.

7 Q Now, were you involved in that reorg?
8 Were you the HR person?

9 MR. MARQUAND: Why do you assume it's a
10 reorganization, Counsel? I object to the question.

11 Q Well, okay.

12 This is also the organization in which the
13 chemistry and environmental functions were combined.
14 Do you recall that?

15 A I recall this; yes.

16 Q Okay. And if you're combining chemistry
17 and environmental, is that a reorganization?

18 A Yes.

19 Q Now, when Mr. McArthur left his---I don't
20 remember whether it was technical support manager or
21 some position like that---and assumed this job as the
22 rad con manager, the PG-11 manager, this part where it
23 made him a peer with Mr. Grover, was there a vacancy
24 announcement for Mr. McArthur's job?

25 A You mean on...

1 Q The one that got him -- that job there,
2 was there -- was that job posted and -- and Mr.
3 McArthur competed for it? Do you recall how he got in
4 that job?

5 A I'm trying to think. I don't recall at
6 this moment.

7 Q Do you recall how Mr. Grover got in that
8 job?

9 A If you want to take a break, maybe give me
10 time to get my thoughts together, I may be able to
11 answer that.

12 Q Okay, let's take a five minute break.
13 We've been talking long enough anyway.

14 (Recess.)

15 BY MR. DAMBLY:

16 Q Do you recall now, in the -- in the reorg
17 that took place in '94 that ended up with Grover and
18 McArthur both in PG-11 slots, one with rad con, one
19 with chem and environmental...

20 A Can I expound?

21 Q Please do. Tell me what you remember.

22 A Okay. Okay. Okay.

23 Q How he got there.

24 A I'm going to -- I'm going to tell you how
25 we got to here. Okay, all this came primarily from

1 the Wes Motley case in advertising the manager's
2 positions.

3 Q Right.

4 MR. MARQUAND: I believe you're getting
5 ahead of yourself, Ben.

6 THE WITNESS: I need to get into this.

7 MR. MARQUAND: I know, but I think you're
8 getting ahead of yourself on that. I think he's
9 asking...

10 THE WITNESS: No, I'm...

11 MR. MARQUAND: ...how it got to this.

12 THE WITNESS: This is -- I'm going to tell
13 him how we got this.

14 MR. MARQUAND: Okay.

15 BY THE WITNESS:

16 A You got to go back to the Wes Motley.
17 Okay, the Wes Motley case came where he applied for
18 the position, he were qualified, but he just didn't
19 get it, and he filed a complaint that minorities and
20 others, women and others, were not getting the same
21 treatment.

22 Okay, and this is when they said that all
23 position Pay Grade 1 through 8 would have to be
24 advertised. Then they came back later and said all
25 position Pay Grade 1 through 11 would have to be

1 advertised. Then they came back later and said all
2 position, even senior managers position, had to be
3 advertised.

4 Okay, now, that -- during this time here,
5 these position did not have to be advertised. Okay,
6 if you had a group up there and you were filling so
7 many positions, you take and you look at the
8 qualification of the people in your position and place
9 them in a position equal to what they had. So this is
10 how this came about. Okay, so when they took and put
11 them equally down there, this decision were made by
12 top management, the reorganization.

13 Q Right.

14 A So you didn't have to advertise, you only
15 advertise the one that you had that were left vacant.
16 And we advertised one or two that were filled here
17 where they had that Pay Grade 7. She came from
18 somewhere else and they put her in there for training
19 purposes to move up to -- to an 8, equal to the
20 others.

21 Q Okay.

22 A Does that -- does that answer the
23 question?

24 Q Not totally. But let me see if I can help
25 you with one thing. The date on that is -- this is

1 the reorg that took place in 1994; correct?

2 A I don't recall.

3 Q Was it the chart...

4 MR. MARQUAND: I'm not sure that,
5 Counsel -- yes, there was a reorganization in '94 that
6 combined chemistry and environmental, but I'm not sure
7 that's the same time that Wilson McArthur was assigned
8 to work in the rad con job. And that's what I had
9 mentioned to you earlier. I'm not sure that was part
10 of this reorganization. I think that may have been a
11 separate action.

12 MR. DAMBLY: Well, it was in the same --
13 it was in '94.

14 MR. MARQUAND: Well, it was this same time
15 frame.

16 MR. DAMBLY: Right.

17 MR. MARQUAND: But I don't know if it's
18 part of that reorganization. Maybe Mr. Easley could
19 help you out.

20 MR. DAMBLY: Right, he may...

21 BY THE WITNESS:

22 A Let me say it like this. There was a
23 reorganization. But only the position that was
24 advertised was the vacancies and the others. You took
25 the people that you had, and you put them in position

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1 that they fell out in equal to what they had.

2 Q Okay. Now, Mr. Grover said in -- in his
3 OI statement that he had to compete for that PG-11
4 slot. And the four people that are under him all had
5 to compete, because they made it -- instead of
6 chemistry, it was chemistry and environmental, and
7 they all had to compete for those jobs.

8 A I think he is right. I don't recall; I
9 think he's right on that one.

10 Q Okay. Matter of fact, he thought that
11 McArthur also had to compete, but you don't recall
12 that? Let me find the document for you that will
13 help. The -- the statement that went out that said
14 all position PG-1 through senior -- PG senior had to
15 be advertised was in '93.

16 A Now, you going -- you going to another --
17 that wasn't in '93.

18 Q That was in '93. I'll find it for you.

19 A No, the thing came out in '92 saying had
20 to -- wait a minute.

21 Q Let me show you two documents we've been
22 given.

23 A Okay. Let me see.

24 Q One's dated March 23rd, 1993, to those
25 listed, announcement of vacancies, and the manager and

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1 specialist pay schedule, revised selection and regular
2 policy.

3 A Okay, let me put it like this. Since I
4 don't recall, based on this right here, I'm stand to
5 be corrected (sic) that maybe we did advertise all
6 these positions, and considering all the people that
7 applied, and put them in position based on their
8 qualification and others. And you may be correct.
9 Because, like I said -- because Nida applied. I know
10 she applied and came in as a 7. I told you that. She
11 applied and came in as a 7. So, based on this here,
12 I will go along and say I'm going to stand to -- to be
13 corrected on that.

14 Q Okay, now, I mean...

15 A Okay?

16 Q ...you know, I don't want to put -- I know
17 we all know for a fact that the four -- that Chandra,
18 Fiser, Harvey, and Nida had to compete for their jobs.
19 I mean, that's a matter in the record.

20 A Okay. All right.

21 Q Okay, that's not in dispute.

22 A Okay.

23 Q This is when the chemistry went to
24 chemistry and environmental.

25 A Okay.

1 Q Mr. Grover said in his OI statement he had
2 to compete.

3 A Okay.

4 Q I'm not positive how Dr. McArthur got in
5 that job. I think Mr. Grover thought he had to
6 compete; he thought everybody had to. I'm asking you
7 if you remember, because you're the HR guy. Was there
8 a competition for that job?

9 A I told you I don't recall, since it's been
10 so long. And if you go back through here you may find
11 out what -- at one statement I gave to the IG...

12 Q I don't think they asked you that
13 question.

14 A ...DOL, or who I gave it to, or even this
15 here that I gave to Diane, I refer you to that
16 statement.

17 Q Okay. As far as I know, you didn't make
18 a statement about how Dr. McArthur got in that '94
19 job.

20 A Well, based on this right here, I say I'm
21 stand to be corrected (sic). More than likely, we
22 advertised the position and everybody applied.

23 Q Okay. And if you would advertise the
24 position, from what you told me earlier, you would
25 have had to have a PD to -- to do a vacancy

1 announcement?

2 A Yes. Right.

3 Q Do you know, did a PD ever exist for the
4 position of rad con manager that Dr. McArthur was...

5 A Yes, all of them. Right.

6 Q There was a PD for that?

7 A Right, a PD for that. All of them
8 changed.

9 Q Okay. Do you know what happened to that
10 PD?

11 A Because at one time, see -- no, I don't
12 know what happened to that. No.

13 Q As you know, because you were asked about
14 when Dr. McArthur -- then, when they did the next
15 reorg in '96 and...

16 A Now, I remember that one...

17 Q ...he moved up. Yeah.

18 A ...quite well, now.

19 Q Okay. And what we've been told lately is
20 one reason that Dr. McArthur got put in the job above
21 Mr. Grover and there was no competition, is because he
22 was never in this job, there was no position
23 description for his '94 job, and he was never really
24 in it.

25 A He was in that position, too. There was

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1 a job description for that.

2 MR. MARQUAND: Counsel, nobody told you he
3 wasn't in it. They told you he was assigned to it,
4 but no PD was issued.

5 MR. DAMBLY: Well, you were telling me a
6 minute ago it was all a temporary -- just whatever.

7 THE WITNESS: And let me tell you this.

8 MR. MARQUAND: Assignment.

9 THE WITNESS: There should have been a PD
10 for that position.

11 MR. MARQUAND: Correct.

12 THE WITNESS: But every position that we
13 had...

14 BY MR. DAMBLY:

15 Q And did you ever see a position
16 description?

17 A I think I did.

18 Q And Dr. McArthur said he wrote one.

19 A Beg your pardon?

20 Q Dr. McArthur said he wrote a position
21 description for that job. The '94 job.

22 A It were a position description for every
23 job on here.

24 Q Okay. But you don't know what -- because
25 now there isn't one.

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1 A I don't know what happened to them.

2 Q And it might -- you know?

3 A And, yes, I have seen it before.

4 Q Let's see if this would help. Now, this
5 is out of Dr. McArthur's OI statement interview with
6 Ms. Benson. And on Page 32, Ms. Benson asks Mr. --
7 Dr. McArthur, says, "So, anyway, the point being is
8 that you do recall writing that position description?"

9 Answer: "Yes, I do."

10 Question: "And do you recall submitting
11 that to someone?"

12 Answer: "Yes, I do."

13 Question: "Okay. You're not sure who you
14 submitted it to?"

15 Answer: "No. I'm sure I gave it to human
16 resources. Ben Easley was my contact at that point in
17 time. And also whoever was the manager of what was
18 called operation support back then."

19 Question: "What is it called now?"

20 Answer: "It's now called engineering and
21 technical support."

22 A Uh-huh (affirmative).

23 Q Question: "I didn't know it had changed."

24 Answer: "I can't even keep up with the
25 name changes."

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1 Question: "But you don't recall ever
2 seeing that back again or anything like that?"

3 Answer: "Usually what would happen is
4 they were sent in to -- they would go to the pay
5 committee." And I think that should have been Haye
6 committee. "Pay committee would do an evaluation and
7 then get you that evaluation back. I don't recall
8 ever getting the evaluation back. It pretty well
9 tells you where you stand on the pay scale and that
10 kind of thing, but I don't remember that happening.
11 It could have happened, but I don't remember that."

12 Mr. Marquand: "If you recall, it does
13 have Mr. Maciejewski's name on it. I believe it does
14 say that it was pending, and it uses the word..."
15 Then, in paren, "Cannot hear due to someone coughing
16 at this point, approval."

17 So you do recall there being one?

18 A Read -- read that last about
19 Maciejewski...

20 Q This is Mr. Marquand interjecting about
21 the '94 PD. "If you recall, the -- it does have
22 Maciejewski's name on it. I believe it does say that
23 it was pending, and it uses the word..." And then it
24 says, "Cannot hear due to someone coughing at this
25 point." And then, end of whatever, and says,

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1 "approval."

2 A Let me say this. A job description was
3 done, a position description, whatever you want to
4 call it. It was done. It probably came to me. I
5 probably sent it to the Haye people, and the Haye
6 people are the people in Knoxville. Okay, they look
7 it over, also. And we did have a job description for
8 every position here.

9 Now, we may not have had -- if Don Moody
10 was in there for acting, may not have had a official
11 one for him. But for all the other position down
12 here, we had a PD.

13 Q Okay.

14 A See, Davie -- Allen Sorrell came up from
15 Browns Ferry and they put him in acting position. But
16 in all these positions down here, we had a job
17 description. I don't know what happened to it.

18 Q Where would that have been kept?

19 A We supposed to kept it in the personnel
20 file or that microfiche or whatever we had at the
21 time. I don't -- I don't know.

22 Q Okay. Is there any doubt in your mind
23 that Dr. McArthur was put in that position of rad con
24 manager, PG-11, as his official position at TVA?

25 A Yes, he -- he were put -- no doubt in my

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1 mind, he was put in there. And he were put in
2 that equal to Ron Grover at the same level.

3 Q All right.

4 A See, they took all the other stuff out
5 from under him. He was up here.

6 Q Right.

7 A Okay, right.

8 Q And he came down to there and...

9 A Right. Uh-huh (affirmative).

10 Q And then maybe -- just following up on
11 that one, since we're on that subject, then in '96,
12 when they did the next reorg and they combined rad con
13 and chemistry, and Dr. McArthur got that position,
14 tell me what you recall about that.

15 A Is this pertinent to this?

16 Q Yes.

17 A It's pertinent to this?

18 MR. MARQUAND: '96?

19 MR. DAMBLY: Yes.

20 THE WITNESS: Right. Do I need to talk
21 about that?

22 MR. MARQUAND: He's asked about it.

23 THE WITNESS: Okay. Because I'm going to
24 get into some stuff that he probably never heard
25 before, or someone never heard.

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1 MR. DAMBLY: Well...

2 BY THE WITNESS:

3 A Okay. '96.

4 Q '96.

5 A At that time, all position Pay Grade 1
6 through senior manager were supposed to be advertised
7 unless a waiver were given by the head human resource
8 people in Knoxville. At the time they wanted to
9 put Wilson McArthur in that position. I told my
10 supervisor, Ed Boyles, I said, "The position got to be
11 advertised." And it were passed on up to -- I'm
12 pretty sure to Phil. Phil Reynolds. Okay.

13 And at the time, each organization were
14 told to cut back. Some over a period of time, three
15 years. And in operation support, where you had Tom
16 McGrath, who were over these positions.

17 Q Right.

18 A Okay. He decide (sic) that he would
19 impress the hell out of TVA and his management and --
20 and just get rid of them all at one time, which he
21 should not have done, in my opinion.

22 Okay, now, I go to him and tell him the
23 position needs to be advertised. And he go back and
24 tell my supervisor he's not going to advertise the
25 position. He not going to get a waiver to put

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1 McArthur in there. I said, "He's looking for
2 trouble." I said, "Because if you advertise the
3 position, more than likely, due to McArthur being up
4 there before and due to having a management review
5 board, he is going to come out on top." I don't know
6 whether he would have or not -- have or not. But in
7 my opinion, he would have. Because he had -- he had
8 done that before. Because we were going back similar
9 to what we had, almost identical to what we had. But
10 no, they said they wasn't going to do it.

11 And that's when Ron said, "I want to be
12 given a chance at that position."

13 Q That's Ron Grover?

14 A Right. And Ron, a well-intellect person,
15 has a loss of knowledge (sic). Yes, he would have
16 been one of the candidates, but in my opinion he
17 probably wouldn't have been selected. I don't know.
18 But they said they wasn't going to take a chance on
19 it. And McGrath told whoever were under him not to
20 advertise the position.

21 Q Now, did they get a waiver for that, do
22 you know?

23 A No, they didn't get a waiver.

24 Q In fact, under that policy I showed you...

25 A And then the...

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1 Q ...if they could -- a waiver would have
2 been applicable for Mr. Grover...

3 A Right. They say they -- right.

4 Q ...but not for Mr. McArthur?

5 A Right, they wouldn't -- and in went back
6 to Ed Boyles and I told him again. Ed Boyles came
7 back to me and say, "I'm going to take it up on my own
8 to move him back up in that position." And I think Ed
9 was sort of taking the blunt for somebody else.

10 Q Okay. Now, would it surprise you if I
11 told you that Mr. Boyles and Mr. Reynolds said that
12 they were not aware, before McArthur got the job...

13 A They...

14 Q ...that you -- that you had a -- had
15 suggested it should be posted?

16 A They lying.

17 Q Okay. You made it real clear to Mr.
18 Boyles and -- and to Mr. Reynolds?

19 A Day in and day out.

20 Q And you talked specifically, personally,
21 to Mr. McGrath?

22 A Right.

23 Q And told him he needed to post this?

24 A Right. And I told Ed day in and day out,
25 "Ed, you making a mistake. You getting yourself in

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1 hot water."

2 Q Okay. Now, also with the '96 reorg as it
3 applies to the chemistry and environmental positions
4 going to just chemistry, was that your decision or
5 somebody else's decision that those jobs would have to
6 be posted for vacancies because they'd changed more
7 than 35%?

8 A That was going by the policy, the
9 guidelines, TVA guidelines, and also this here.
10 That's going by the guideline. That was going by
11 the -- what they were calling then the DPM.

12 MR. MARQUAND: OPM?

13 A OPM. OPM and the article of agreement and
14 the other guidelines.

15 Q Okay. When you said OPM and -- you're
16 talking about because it had changed more than 35%...

17 A Right.

18 Q ...it wasn't similar, for purposes of a
19 reduction in force retention register? Is that what
20 you're talking about.

21 A No, I'm misunderstanding what you are
22 asking.

23 MR. MARQUAND: He's saying that because
24 they had changed, then it had to be advertised.

25 Q Right. That's -- I mean, had -- had the

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1 duties not changed by more than 35%, you would have...

2 A Right. Right. Right. Right. Right.

3 Q But because they did change...

4 A Right. Right. Right. You're right.

5 Right. Right.

6 Q ...you considered them dissimilar, and
7 therefore the -- the RIF procedures wouldn't have
8 applied, or the surplusing procedures, but you applied
9 the vacancy procedures; is that right?

10 A When you talk about the RIF procedures and
11 the vacancy procedures...

12 Q The retention register stuff. If they
13 hadn't changed -- if they'd only changed by 10%
14 instead of...

15 A Right.

16 Q ...50%...

17 A You would have moved that person over.

18 Q ...you would have moved them based on
19 that?

20 A Right, right, right.

21 Q Whoever had the most seniority?

22 A Right. You got it right, sir.

23 Q Okay. Because it was more, you couldn't
24 do that.

25 A Right.

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1 Q You had to post it?

2 A Right. You had to post them. Right.

3 Q Okay. And who made the decision it was
4 more than 35%?

5 A The managers wrote the job description,
6 and then I got with labor relations. Okay, we looked
7 at them, and Ed and I looked at them, and we may have
8 contacted some of the others that write job
9 descriptions, like the Hays or whatever. But we
10 determined that it was 35% or more. And you could
11 even just look at it. Even you, not even knowing
12 about positions, or TVA position. You -- because I'm
13 pretty sure in your job, you could look at it and you
14 could tell where things have changed, where we have to
15 be advertised if you had the same position that we
16 had, guidelines.

17 Q Okay. Now, and I asked Mr. Reynolds this
18 a couple of weeks ago.

19 A Now, let me say this. Okay, say if you
20 had a person doing chemistry...

21 Q Right.

22 A ...and a person doing environmental and
23 rad waste, and you take those other two out from
24 there, the position is being changed. I don't care
25 whether you had done the work before.

1 Q Right.

2 A But, see, the position had been changed
3 more than really 35% in some cases. You see what I'm
4 saying? So you got to advertise it. I don't care if
5 that man have had experience or be here.

6 Q Okay. And I'm not asking about what his
7 experience is. When I asked Mr. Reynolds, and I think
8 I -- as I said, when I asked Mr. Reynolds before in a
9 deposition, and I think I asked you earlier, when you
10 look at two position descriptions, you got one that
11 says chemistry and environmental manager, and you got
12 another one says chemistry manager PWR, chemistry
13 manager BWR, you don't just look and say one-on-one,
14 you know, does this duty, is this duty, or -- or, you
15 know, if you take the word "environmental" out of
16 everything, you look and see what percentage of the
17 time you spend doing this, and what percentage is
18 responsible for this and -- and that's the way Mr.
19 Reynolds said how it would go.

20 A But what we did, okay, we set up
21 management review boards. And they were interviewed
22 for these jobs.

23 Q No, I understand that's what happened.

24 A Right.

25 Q But that's only after you get to the point

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1 of deciding that they're more than 35% changed?

2 A Yes, sir, you're right.

3 Q Okay. I'm talking about the 35%. Did you
4 talk to Mr. Grover about what percentage of the duties
5 in that position were environmental...

6 A Oh, I talked to all the managers. Right.
7 Uh-huh (affirmative). All the manager that had people
8 under them. Yes. Right.

9 Q Okay. And Mr. Grover...

10 A And they the one that primarily wrote the
11 job description.

12 Q Well, again, Mr. McArthur...

13 A McArthur wrote these over here, Grover
14 wrote these over here. Then they may have even
15 communicated with one another, since that had been his
16 boss, you know. I don't know.

17 Q Okay. Again, and I think Ms. Benson
18 mentioned it to you, because you pointed out from
19 earlier, but Mr. Grover said he told you the job had
20 changed by less than 15% or more.

21 A No, he say I told him. Go back and read
22 it. He say I told him that the job only changed by
23 15%. And that's what I want to change in this record.
24 I did not tell him that.

25 Q Okay. Did he ever...

1 A He were under the impression from me if
2 the job only change 15%. I didn't tell him that.

3 Q But did he tell you by how much he thought
4 it had changed?

5 A No, he agree with me.

6 Q He agreed that it had changed by 50%?

7 A Right.

8 Q Okay.

9 MR. MARQUAND: Counsel, I think what
10 you -- a misunderstanding as to Grover is that you
11 don't look at what the individual is doing on a day-
12 to-day basis, you look at the job description. And
13 when the job description changes, not whether his
14 daily...

15 MR. DAMBLY: I understand. And that's not
16 Mr. Grover, that's Mr. Reynolds I'm talking about.
17 And we'll talk to Mr. Grover at some other time.

18 BY MR. DAMBLY:

19 Q But just because a position description
20 says you've got ten functions, doesn't mean all ten of
21 them are the same? Doesn't mean 10% for each one of
22 those functions; is that correct? If you've got a
23 position description that say you do these ten things,
24 you may spend 80% of your time doing the first two?

25 A Right. Yeah.

1 Q And so if you eliminated the other eight,
2 you still haven't changed the job, because 80% of it's
3 the same?

4 A Right. Right.

5 Wait a minute, now.

6 Q If I -- if I gave you a position and it
7 had ten functions, one through ten.

8 A Uh-huh (affirmative).

9 Q And the first two were 80% of the duties
10 of that job, and the other things were almost
11 miscellaneous, and then I wrote another position
12 description and I eliminated functions three through
13 ten and left one and two, which were 80% of the job,
14 would you have to post that job or would that be
15 similar?

16 A Yeah, you post that job, because it didn't
17 change 35% or more.

18 Q You wouldn't change it? You wouldn't post
19 it?

20 A Right.

21 Q You'd go through a retention register?

22 A Right. I'm saying if it -- 35% or more,
23 you -- then you have to advertise it.

24 Q And you would have talked to -- to Mr.
25 Grover on how much the job functions actually changed

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1 between the old and the new?

2 A Yes, sir.

3 Q Okay.

4 A And on what page is that, because I want
5 to refer to what she's marking.

6 Q You don't have that one.

7 MS. EUCHNER: Oh, I'm reading someone
8 else's statement.

9 THE WITNESS: Oh, okay.

10 MS. EUCHNER: Not one of your statements.

11 MR. DAMBLY: If it was one of yours, I'd
12 tell you where to look.

13 THE WITNESS: Okay.

14 BY MR. DAMBLY:

15 Q Now, what involvement did you have, after
16 the decision was made that -- that those former
17 chemistry and environmental positions -- that the
18 chemistry PWR and the chemistry BWR positions were
19 going to have to be posted, what involvement did you
20 have in that vacancy and the selection process and
21 however it went?

22 A Okay, I was in the process of doing the
23 spreadsheet and everything. And I don't know what
24 period of time that Fiser came down to me. In fact,
25 he had told me up in his office one day, in front of

1 Grover, if I -- we posted that position, then he were
2 going to file a complaint, because that were his
3 position. He don't care. TVA brought him back and
4 put him in that position.

5 But they didn't put him in that position.
6 Okay? Anytime you leave, and I don't know whether it's
7 a settlement or whatever, you are placed in a position
8 similar to or identical to what you had. But when
9 reorganization and changes take place, you are treated
10 just like anyone else.

11 You do -- you and I in any position, any
12 corporation, we do not hold a position as it first
13 started, unless they going to change. If they change,
14 we got to go along with the change. And we got to go
15 along with the guidelines. And this is what I was
16 trying to explain to him.

17 That position was not his position. He
18 said, "This is my position. They put me in this
19 position, and this is my position."

20 And I told -- "This is not your position."
21 Then he came down and -- and he was very -- what the
22 word I want to use. He was unhappy. And I didn't
23 know whether he had his...

24 Q Tape recorder?

25 A ...tape recorder or what he had. And he

1 were telling me what he want to do to me and what he
2 going to do to everybody else if we advertise that
3 position. And I said, "Would you like to say that to
4 Ed Boyles, in front of Ed Boyles?" And he said yes.
5 So I took him to Ed Boyles, so Ed Boyles could hear
6 what he were talking about.

7 Okay, and he told Ed the same thing. And
8 at first he say he wasn't going to apply on the
9 position, because the position were his. And
10 meanwhile, I think he was talking to someone or
11 talking to a lawyer or talking to someone else
12 concerning -- concerning that.

13 Okay, and this is when Ed decided to take
14 me out of the picture. Because going back to when he
15 were tape recording me, and things that he had said to
16 me before, and things that he were telling his
17 friends, who were telling me what he was saying about
18 me, decided to take me out and let my counterpart be
19 the facilitator for the management review board.

20 Q Okay.

21 A So I were not involved in that.

22 Q So you -- you weren't involved when they
23 actually did the interviews?

24 A Right. Wasn't involved in it.

25 Q But in putting together the packages that

1 went to the review board members and collecting the
2 scores, you did all that? Yes?

3 A No, no, I didn't collect the scores. I
4 were getting the spreadsheet together, like I told
5 you. We put all this stuff together and -- and send
6 to the managers, and I were in the process of doing
7 all that. Okay? I may not even have finished all of
8 that. Melissa may have taken over on that. But I
9 know she did -- she is the one that was the
10 facilitator for the management review board when they
11 interviewed him.

12 MR. MARQUAND: I think then there were
13 some other interviews the same day for some other
14 jobs.

15 THE WITNESS: Now, I -- I may have been on
16 some other job, but I was not involved with his job.

17 MR. MARQUAND: Okay.

18 THE WITNESS: Because of him threatening
19 me, and also threatened Ed and others. And they felt
20 that it wasn't fair for me to be in there because he
21 were going to say, if he didn't get the job, that I
22 was in on it from the first, and I colluded all the
23 way through, and that's the reason he didn't get the
24 job. So we put someone in there independent of
25 myself.

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1 BY MR. DAMBLY:

2 Q. Right. Now, and the reason I asked the
3 question is I -- we took Melissa Westbrook's
4 deposition a couple of weeks ago, and my recollection,
5 she said you prepared all the packages for the -- the
6 board for all the positions that day, and there was a
7 bunch of...

8 A I may have. I can't recall. I may have.

9 Q Her function was to sit in on the
10 interviews, and once they were over, she collected the
11 stuff and gave it back to you, and you followed
12 through.

13 A No, no, no. I -- huh-uh (negative).

14 Q No?

15 A No.

16 MR. MARQUAND: Why don't you show him the
17 documents, Counsel, and maybe that'll refresh his
18 recollection.

19 THE WITNESS: If I...

20 MR. DAMBLY: Well, the whole packages,
21 this is all -- everybody's packages from that day.

22 MR. MARQUAND: Because I think that it
23 shows Melissa's writing and Ben's writing on them.

24 MR. DAMBLY: Yeah, here's a...

25 THE WITNESS: Let me see it. I don't --

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1 I don't recall it.

2 MR. MARQUAND: Each of these looks like is
3 a separate individual's -- let's see. Here's Rick
4 Rogers' scores. Here's the one that you and Melissa
5 had.

6 THE WITNESS: Okay, where is my writing?

7 MR. MARQUAND: Well...

8 MR. DAMBLY: I think the -- the adding up
9 at the end is supposedly -- where that somebody does
10 the totals of the scores.

11 MR. MARQUAND: For example, on these
12 people here, I think that's yours.

13 THE WITNESS: No, that's not my
14 handwriting. That's not mine. Well, that's not him.

15 MR. MARQUAND: No, these -- these are all
16 selections that happened the same day.

17 THE WITNESS: Yes, but I...

18 MR. MARQUAND: Okay.

19 THE WITNESS: ...but I'm not on...

20 MR. MARQUAND: Right.

21 THE WITNESS: Right.

22 MR. MARQUAND: We understand that you did
23 not sit in on the interviews.

24 THE WITNESS: On Fiser. I didn't do
25 nothing on Fiser.

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1 MR. MARQUAND: Or Harvey or Chandra or
2 Trayner or Hewey.

3 THE WITNESS: Right. I did not.

4 MR. MARQUAND: But I think counsel's
5 question was...

6 MR. DAMBLY: Here's -- in the sheet on...

7 THE WITNESS: On -- on the others I were.
8 I was. Excuse me. Correction.

9 MR. DAMBLY: Here's a sheet on the -- the
10 PWR slot and the interviews for Harvey. Did...

11 MR. MARQUAND: I think Melissa said that
12 that was -- that might be your handwriting at the very
13 bottom of the page.

14 THE WITNESS: This is my -- all my
15 handwriting, right here.

16 MR. MARQUAND: Okay.

17 MR. DAMBLY: Okay. So...

18 MR. MARQUAND: So you got the score
19 sheets, and then -- after it was all over, and then
20 added up the scores?

21 THE WITNESS: Evidently I did, and I got
22 it from her.

23 BY MR. DAMBLY:

24 Q Okay. That was all I...

25 A. Because I didn't -- I didn't score it.

1 Q. No, I understand you didn't do the
2 scoring. I understand she was in for the interviews.

3 A Right; uh-huh.

4 Q But after the interviews, then she turned
5 it back over to you?

6 A Right, with the scores.

7 Q Okay.

8 A I may -- I may have put this down here.

9 Q Okay. That was all.

10 A That was the only involvement I had on
11 that.

12 Q All right. Now, based on also this
13 comment you made a minute ago, was there some---for
14 lack of a better way to put it---bad blood that
15 occurred between you and Mr. Fiser prior to this time?
16 Because you indicated you thought Mr. Fiser...

17 A I didn't have no bad blood. I just didn't
18 want to be around him. How you like somebody
19 following you around taping you?

20 Q Now...

21 A In fact, I asked -- I think I asked Brent
22 could I file suit against him, or someone in OGC.
23 Because I was under the impression that you had to be
24 told if you were taping someone. But someone
25 explained to me if it's one-on-one or if there are two

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1 or more or something like that, it has to be told. I
2 don't remember exactly.

3 Q Depends on what state you're in.

4 But, now, you made a comment that somehow
5 if you were involved, you thought Fiser was going to
6 say it was all -- you colluded and whatever. Was
7 there some reason that you felt that Mr. Fiser thought
8 you had a bias against him?

9 A Well, from all along, ever since I went
10 and gave him that termination...

11 Q Oh, okay.

12 A ...thing; okay? And, like I say, I
13 shouldn't have been the one to have done that. But I
14 were given my direction to do that; okay? From then
15 on, everything that came up -- and when he came back,
16 I was the one to do it, and I shouldn't have been the
17 one to do that then. But I did it because I was over
18 the department or organization that they were going to
19 put him back into; okay? And from then on, he was
20 sort of taking it out on me. I wouldn't say he were
21 taking it out on me. He were trying to get
22 information from me that would aid him in what he
23 wanted to do.

24 Q Go off the record for a second.

25 (Off the record.)

1 BY MR. DAMBLY:

2 Q Did you ever hear anybody talk about any
3 bias by Mr. Cox, or were you aware of who the SRB
4 members were supposed to be for that job to start
5 with? For the -- for the PWR '96 job?

6 A Right; uh-huh. You mean the management
7 review board?

8 Q Right.

9 A Yes; right.

10 Q I mean, you know, originally it was
11 supposed to be the three rad chem managers.

12 A Yeah, and Cox...

13 Q Cox, Corey, and Kent.

14 A ...found a way to get out of it.

15 Q Found a way to get out of it? Did -- did
16 you make any comments about whether he should be on or
17 shouldn't be on?

18 A Yeah, I said he should be on. He should
19 have been on.

20 Q And why was that?

21 A Because he was the -- we were getting the
22 managers who were equivalent at each plant to come in.
23 And for some reason, he didn't want to -- he said he
24 had something better to do. And for management to let
25 him get away with that, it was wrong.

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1 Q Okay. Would it have been possible to
2 reschedule that to a time he could make it?

3 A I think we tried to reschedule it and he
4 still said that he wouldn't be available.

5 MR. MARQUAND: Counsel, if you recall, I
6 mean, he told -- was interviewed by Ms. Benson and he
7 said he had a farm, and he wasn't available any night
8 because he had chores to do at his farm.

9 MR. DAMBLY: Ms. Benson?

10 MR. MARQUAND: When he was interviewed by
11 Ms. Benson, that's what he told her. He was not
12 willing to stay late. Period. Not that night or any
13 other night.

14 MR. DAMBLY: Right. I don't recall that.
15 BY MR. DAMBLY:

16 Q But, aside from that, is there anything
17 that would have stopped you from rescheduling it for
18 a morning?

19 A We tried to reschedule. He said he was
20 not coming.

21 Q Okay. How many management review boards--
22 --or selection review boards, is I guess the term we've
23 been hearing---have you been the HR facilitator for?

24 A Several. I won't put a number to it.

25 Q Explain to me how you understand that

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1 process is supposed to work.

2 A Be a little more specific.

3 Q See, it's all your fault, Frank.

4 Well, what's the purpose of a -- of a
5 management review board?

6 A Purpose of management review board is to
7 have all the employees that applied on the position to
8 come in, and we have come up with some questions for
9 each one to respond to. Okay, and each manager -- say
10 if we had ten, okay, and we had four in there, okay,
11 you may have two to take -- I mean four to take two
12 each. Then you may have the other two to take three,
13 you know, to get to whatever number. Okay.

14 And they would ask question (sic), they
15 would write notes on the response that they got.
16 Sometime they would ask the person to reiterate, to
17 respond, when they were trying to get something out of
18 them that they thought they needed.

19 Okay, I was asked to facilitate to make
20 sure that no one were being favored. And sometime I
21 will cut in and say, "You did not ask that one that,
22 so you cannot ask this one this. Record -- take it
23 off the record." Okay, and sometime I would talk
24 about the personnel procedures and things in that.

25 And I would sometime ask them about why

1 they want the job. Sometime I would talk. And that
2 was the facilitator job, our responsibility, to make
3 sure that everybody were getting fair and equal
4 treatment in -- in the interview on that position.

5 Q Okay.

6 A Because, as you know, in any organization,
7 any workplace, any church, anywhere, you got friends.
8 And sometime you have friends, and other people don't
9 know you have those friends. So we wanted to make
10 sure that everything were asked of one, were asked of
11 the other in the same context.

12 Q Okay. Now, in the ones that you were
13 facilitating on over your career at TVA, did the
14 selecting official participate in those boards
15 normally or...

16 A Oh, yeah. Yes. Right; uh-huh.

17 Q They would ask questions, also?

18 A Yes; right. Uh-huh (affirmative).

19 Q Okay. And...

20 A And they weren't -- okay, let me tell you
21 this. Okay, although you had different managers on
22 that board, it were left up to the selecting
23 supervisor for the final selection, based on what they
24 put down, and based on what he thought, and based on
25 what personnel or human resource thought. But, nine

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1 out of ten, they went along with the selecting
2 management review board.

3 Q Did the -- in any of the things that you
4 facilitated, any of the boards that you facilitated,
5 did the selecting official ever fill out a score sheet
6 himself or herself?

7 A I think so. I can't recall. I think it
8 may have been, and in some they didn't. I don't think
9 they did.

10 Q Were...

11 A I just can't recall. I...

12 Q ...were the -- the selecting review board
13 members supposed to utilize, in evaluating answers
14 and -- to questions, whatever, their -- their
15 knowledge of the individual and their resume? Or just
16 strictly ask a question, whatever that answer is, give
17 it a number and move on?

18 A Right. But some of them knew some of the
19 people, because some of these people been -- see,
20 corporate was---let me see what the word I want to
21 use---was the support for the plants. And like you
22 take -- you may take Chandra, you may take Fiser, you
23 may take Harvey. Just -- they may have been going to
24 this plant, they may be going to that plant. They may
25 have been dealing with this particular supervisor.

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1 And this supervisor knowing this person, of course,
2 just being human, what they'll tell you sometime. And
3 then again, he may not want that person, because that
4 person may not have been doing a good job for him.
5 You understand what I'm saying?

6 Q Right.

7 A So that's the reason we had people from
8 different location, and then we had the personnel --
9 human resource person in there.

10 Q And just using that as an example---and I
11 don't know anything even close to this happened---but
12 if you had, you know, the three people and they're
13 asking questions to let's say Fiser, and -- and say
14 they -- the person from Browns Ferry asks a question
15 to Fiser, and Fiser gave an answer. And suppose Cox
16 had been there and -- and knew that Gary knew more
17 than that because he'd done more than that at -- at
18 Watts Bar.

19 A I got you.

20 Q Okay. If Cox was there and knew he had
21 done more, could he take that into account in
22 evaluating, or has he got to give an answer a score
23 based on just what Gary said that day?

24 A Based on what Gary said that day. But the
25 human element is going to come in. You can't keep it

1 out.

2 Q Right.

3 A Some of us may be able to put it aside,
4 but most of us aren't.

5 Q Okay. And then...

6 A Do you see what I'm saying?

7 Q No, I understand. And I...

8 A Well, let me tell you what Melissa said.
9 She said he came in there with the wrong attitude in
10 the beginning. Say he didn't even hardly answer any
11 of the questions. Say he sat back relaxed and act
12 like he wasn't worried about it.

13 Q She told us that, too.

14 A Okay. So I don't know. So, evidently, if
15 you don't talk, you could be the best candidate, the
16 smartest in there. But if you don't answer the
17 question, you can't -- you can't be evaluated no more
18 than what you gave.

19 Q How does -- in the selection process, you
20 know, suppose somebody's been at TVA for 20 years.
21 They've been in a variety of positions. They've got
22 all kind of experience. They got outstanding
23 appraisals every place that they've been. They got
24 awards, they got everything, and they have a bad
25 interview. How does the selecting official take that

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1 into account?

2 A You got -- when you got to -- for an
3 interview, you got to give it all. I don't care how
4 smart I am, if I -- you interviewing me right now for
5 a job in NRC, and I sit up here and I do not impress
6 you as far as my experience, my expertise, my
7 knowledge or whatever, no, you don't want me. And you
8 shouldn't take me.

9 Q Now, I can -- but I'm not a selecting
10 official, I'm not on the review board. And I know
11 you. And I've supervised you before, and I've given
12 you good appraisals, and whatever. And I know what
13 you can do. And you had a bad interview. Am I
14 supposed to, as supervisor, look at your background,
15 your resume, your performance appraisals, your awards;
16 or just strictly how good you did on ten questions on
17 a given day? You forget the rest of the career?

18 A Yeah.

19 Q And that's how you make a selection?

20 A Yes. On that particular day. Now, if
21 there's something else, if it's not where we got to
22 advertise a position and stuff like that, if there
23 where we are looking at a retention register, we look
24 at all of that. Where we won't sit up and talk to
25 you.

1 But if we set down a criteria where you
2 got to be interviewed and you got to respond, and you
3 don't respond, right, you out of here. I hate to put
4 it that way, but that's the way it works.

5 But in respect, going back to what you
6 were talking about, if we're just doing a retention
7 register, yes, you look at all of that.

8 Q Okay. And had there been a retention
9 register...

10 I think we've been told, but do you
11 recall, was Mr. Fiser the most senior of the
12 Fiser/Chandra/Harvey people?

13 A I don't recall who was the most senior.

14 Q Now, you talked about -- earlier I'd asked
15 you about it, that's why you talked, because you
16 weren't going to do it if I didn't ask you. The
17 McArthur '96 position where he -- he got put in
18 without competition because he'd held that job in the
19 past, was that, in your mind, similar to Mr. Fiser
20 having held the job in the past and -- but he didn't
21 get put in?

22 A I told you he -- he shouldn't have been
23 placed in that position.

24 Q He shouldn't have?

25 A I'm talking about...

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1 Q McArthur?

2 A Right.

3 Q But, I mean, you see -- was there a
4 parallel between those two situations in '96? They
5 both...

6 A They should have been treated alike.

7 Q Okay.

8 MS. EUCHNER: Let's go off the record for
9 a minute.

10 (Off the record.)

11 BY MR. DAMBLY:

12 Q Back on the record. And just for -- who
13 is Maciejewski, by the way?

14 A He used to be over that part of the --
15 over that organization.

16 MR. MARQUAND: Before Don Moody, wasn't
17 he?

18 THE WITNESS: Right.

19 Q Okay. One other question I had, and I
20 think -- I know you're going to refer me to your
21 interviews. But as I recall, in the interviews you
22 told Ms. Benson that when you prepared these notebooks
23 for the SRB members, you provided those to McGrath
24 first?

25 A Beg your pardon?

1 Q That you -- you provided a copy of that to
2 McGrath, or that you gave it to McArthur and McGrath?

3 A I think that's right. I don't recall.

4 Q Okay. Do you recall having any
5 interaction with Mr. McGrath on that selection?

6 A Oh, my -- oh, my goodness. I had
7 interaction with McGrath almost every day, trying to
8 tell him that he was not following procedures.

9 Q Do you recall any of that concern for
10 Fiser's position?

11 A And to me -- and to me, from his
12 standpoint, I was too low on the totem pole to tell
13 him anything. That's the reason in personnel -- and
14 I hope some...

15 Listen to this, Brent. In personnel, the
16 personnel manager, officer, needs to be up higher to
17 deal with these people. Because they look at us as
18 you're too low to tell me something. In fact, I had
19 a manager to tell me that. "You can't tell me
20 nothing. I'm a senior manager and you're a Pay Grade
21 7."

22 I said, "I'm just passing on the
23 procedures. You can do what in the hell you want to
24 do with it." I'm that type of person. I say, "I'm
25 just passing on to you what the procedure are and what

1 the guidelines say. And I had discussed this with my
2 supervisor, and if you do not want to do that, you can
3 talk to my supervisor." Because he or she is the one
4 to tell me what to do. But I am not going to back off
5 on giving you advice, which is my responsibility and
6 assignment.

7 Q And it does occur to me that this -- in
8 your OI interview with Ms. Benson, on Page 58...

9 A Are we through with this?

10 Q Oh, yeah.

11 MR. MARQUAND: Just hold on to that. I'm
12 going to ask some questions.

13 MR. DAMBLY: We just normally use that for
14 exercise.

15 BY MR. DAMBLY:

16 Q Okay, on Page 58, at an interview with Ms.
17 Benson.

18 A Thank you, sir. Yes, sir.

19 Q Down at the bottom of Page 58 there's a
20 question: "In the big scheme of things, explain to me
21 what the purpose of human resources is and where they
22 fall on the final decision making. Is human resources
23 there to advise and then the manager makes the final
24 decision?"

25 Answer: "We are there to advise."

1 Question: "Okay."

2 Answer: "Okay, and sometimes we are there
3 to bend all the rules."

4 A To bend all the rules?

5 Q That's what it said, to bend.

6 A Okay, that is incorrect.

7 MR. MARQUAND: Well, read the rest of it,
8 though.

9 Q "I said, 'No, we're not going to do that
10 if we know that it is going to cause some headaches or
11 cause some problems where we're going to be
12 investigated, like NRC, going to be investigated by
13 the IG, we're going to be investigated by others, it's
14 our responsibility to say -- to talk to our upper
15 management and say this is what we're confronted with
16 and we cannot win, in our opinion. And in most cases,
17 upper management will stop." Okay?

18 A That's true. Now, go back to this other
19 part. Now, I want that corrected. "And sometime we
20 are there to bend all the rules."

21 Q Right.

22 A That's wrong.

23 Q You didn't say that?

24 A She's -- now, they didn't send me a copy
25 of this. I did not say that. I want that corrected.

1 Q Is there another word besides "bend" that
2 you would have put in?

3 A Because -- because if you come back and
4 look at this here...

5 Q Right.

6 A ...naturally that would tell you that I
7 did not say that, or that it was not my intention to
8 say that. That someone misinterpreted or misheard, or
9 whoever typed it out, after they listened to it,
10 didn't type it out right.

11 Q Okay. Well, and -- and to follow that up,
12 I took what you were saying there to be analogous to
13 what you were saying about the McArthur '96 situation
14 where you said, "No, I ain't going to do that. That's
15 wrong."

16 A Right. That's right.

17 Q But Boyles and Reynolds said, "Yes, we are
18 going to do that."

19 A And Boyles -- I told -- he finally said,
20 "I'm the one that taking the blame (sic). We not
21 going to advertise it."

22 I said, "Don't do that, Ed. Don't you do
23 that." I told you I told Ed that day in and day out.

24 Q Okay. But, I mean, I was just reading
25 this to be a statement by you sometimes that's what HR

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1 does. You weren't going to be the one to do it, but
2 sometimes they did that.

3 A Right. And I think someone put it on Ed
4 back (sic). Because, like I said, Ed trained under
5 me. Ed came in and Ed will tell you---I hope he will
6 tell the truth---that basically I trained him in all
7 areas of human resources.

8 Q I don't think we heard anything different
9 than that.

10 A But since I couldn't say pacific --
11 specific, because I had a, you know -- and sometime I
12 linger when I talk. And talking ain't nothing but
13 communication. I don't care whether you're a English
14 professor with a PhD or whatever, it's -- we all talk
15 different due to the environment, due to the
16 association. You understand what I'm saying?

17 Q Yes, sir.

18 A But as long as we communicate, that's the
19 most important thing. And on this communication here,
20 I told them not to do it.

21 Q Okay. And I guess I -- I have one last
22 question. When you left TVA, did you -- do you have
23 any agreements of any kind with TVA about what you
24 will or won't say about anything to do with your job?

25 MR. MARQUAND: You mean about this case?

1 A You getting into something you shouldn't
2 be getting into.

3 Q Okay. As to this case?

4 A Lone -- lone on this case?

5 Q On this case.

6 A No.

7 Q Okay. You don't have anything that said
8 you couldn't talk about this case in any way, shape,
9 or form?

10 A I told them when I left I will be back,
11 anyone that wanted me to come back, as long as they
12 subpoena me, I will come back and will tell the truth.
13 And you may be seeing me again before long.

14 Q Okay. I don't know why, but okay. But
15 I -- I appreciate your candor and your answers, and I
16 thank you for your time.

17 A All right, thank you. Nice meeting all of
18 you.

19 Q And I think Mr. Marquand might have a
20 question or two.

21 EXAMINATION

22 BY MR. MARQUAND:

23 Q I've got a couple.

24 Ben, with respect to the 1994 charts that
25 counsel showed you -- okay, it's a 1995 chart.

1 MR. MARQUAND: And so that the record is
2 clear, I'm going to ask to have this marked as an
3 exhibit.

4 MR. DAMBLY: That's fine.

5 MR. MARQUAND: We'll make it Exhibit 1 to
6 Mr. Easley's deposition.

7 (The documents referred to were
8 marked for identification as
9 Easley Deposition Exhibit #1.)

10 BY MR. MARQUAND:

11 Q And it shows Mr. McArthur in a rad control
12 PG-11 box.

13 A Yes.

14 Q We've looked and we can't find the
15 officially issued, approved position description.

16 A Uh-huh (affirmative).

17 Q And you said you'd seen a position
18 description?

19 A Yes.

20 Q Do you recall ever seeing a position
21 description that had been fully signed by everybody,
22 that was ready to be placed in the PHR?

23 A Not to my knowledge. I don't recall. I
24 know one were done. One were done. And it may have
25 been sent up to Haye or whatever, for somebody else to

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1 look at and come down. But I can't say that I saw the
2 final one. But he wrote one, and we went over with
3 McGrath and some others and...

4 Q Mr. McArthur said he wrote one?

5 A Right. Right. Right.

6 Q We haven't found it.

7 A Okay. One was done. One were done for
8 all these position down here.

9 Q All right. The other thing I want to ask
10 you about are these notebooks.

11 A Uh-huh (affirmative).

12 Q There was four of them. And we found them
13 after this case was -- after Fiser filed his
14 complaint.

15 A Uh-huh (affirmative).

16 Q So long afterwards, we found them in the
17 human resource files. And these are copies. And
18 there was one that was labeled "Rick Rogers"; one
19 labeled "Corey"; one Ben Easley/Melissa; and one for
20 Charles Kent.

21 A Right.

22 Q And there are documents in them that
23 appear to have been issued after the selection review
24 board met. The selection review board met on July
25 18th. For an example, in the notebook that had your

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1 name on it, there are some selection memos from Wilson
2 McArthur to you for each of the position descriptions.

3 A Uh-huh (affirmative).

4 Q Do you see those?

5 A I see those there.

6 Q And there are also some spreadsheets that
7 are dated September 30th, '96, which would have been
8 after the selection review board.

9 A Uh-huh (affirmative). Right.

10 Q Do you have any idea how those documents
11 got put in those selection review board...

12 A I really don't recall. It's hard for me
13 to recall. Only thing, they may have put it in my
14 name after Melissa did all the facilitating and...

15 Q Well,...

16 A ...putting everything together, they may
17 have done this, put it in my name because I started it
18 all. That's the only thing I can...

19 Q Do you think that possibly that you
20 were -- I mean, you were still the HR manager for that
21 organization in December?

22 A Right.

23 Q Do you think maybe you were -- it's
24 possible that you were keeping these books up to date
25 for these selections?

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1 A No. We had others down there. Our
2 administrative assistants were probably helping us
3 keep these up to date, you understand.

4 Q So that as these documents...

5 A Some will call them secretaries, but they
6 want to be administrative assistants. But...

7 Q Right. But, for example, the memos that
8 came to you, do you think maybe that it's possible
9 that you handed it off to your administrative
10 assistants, and then they -- they would just update
11 the notebooks?

12 A Could have. Right. Right.

13 Q In the front of the notebooks...

14 A And then somebody in labor relations may
15 have done this. Because sometime we work hand-in-hand
16 down there.

17 Q Okay. In the front of your notebook, and
18 I think in the front of some of the other notebooks,
19 is a single sheet of paper like this.

20 A Uh-huh (affirmative).

21 Q Actually, there's this single sheet of
22 paper in the front of your notebook.

23 A Uh-huh (affirmative).

24 Q And I'm going to ask to mark it as Easley
25 Exhibit 2. This one refers to a -- sort of like a job

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1 history for Wilson McArthur. And take a minute and
2 look over it.

3 A Okay.

4 (Off the record.)

5 MR. MARQUAND: On the record. Easley 1
6 will be the 1995 -- is that -- I can't see the date.

7 MR. DAMBLY: It's down in the bottom.
8 It's 2/13/95.

9 THE WITNESS: '95; right.

10 MR. MARQUAND: 2/13/95 org chart.

11 MR. DAMBLY: That's Easley 1.

12 MR. MARQUAND: If you want to go ahead and
13 mark that.

14 MR. DAMBLY: And bind it into the record.
15 Might as well do that, so...

16 MR. MARQUAND: And you want him to make
17 the 1996 org chart...

18 MR. DAMBLY: '6, yeah.

19 MR. MARQUAND: ...Easley 2. That's the
20 one that counsel referred to in direct examination.

21 MR. DAMBLY: That's the after the reorg
22 chart.

23 (The documents referred to were
24 marked for identification as
25 Easley Deposition Exhibit #2.)

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1 (Off the record conversation.)

2 MR. DAMBLY: Back on the record. Okay.

3 MR. MARQUAND: In the front of Mr.
4 Easley's -- of the notebook marked with Mr. Easley and
5 Mr. -- Ms. Westbrook's name was the document I've
6 asked Mr. Easley to review, referring to Wilson
7 McArthur. And we've marked that as Easley Exhibit 3.

8 (The documents referred to were
9 marked for identification as
10 Easley Deposition Exhibit #3.)

11 BY MR. MARQUAND:

12 Q And if you'd take a minute and read it.

13 A I already read it.

14 Q All right. Have you seen that before?

15 A Yes.

16 Q Tell me when.

17 A I can't tell you exact date, but all of
18 this is true.

19 Q It's true?

20 A Right.

21 Q All right. Is it -- you saw this, then,
22 in the '96 time frame before you left TVA? Obviously
23 you didn't see it after you left TVA; is that right?

24 A Let's put it this way. Whether I have
25 seen it or not, it is...

1 Q Factually correct?

2 A ...it's correct.

3 Q All right.

4 A And ERMI is -- it's environmental

5 radiological...

6 Q Monitoring?

7 A ...monitoring instrumentation.

8 Q Okay.

9 A At -- down in...

10 Q Muscle Shoals?

11 A ...Muscle Shoals.

12 Q All right. Did you help prepare this?

13 This document -- you see the little number down at the

14 bottom?

15 A And I'll tell you, seem like that this is

16 something that I may have been involved in.

17 Q You may have helped prepare this document?

18 A I may have.

19 Q You see the little...

20 A But what is the date?

21 Q Well, I -- there's not a date, and we've

22 looked. See the little number down in the lower left-

23 hand corner?

24 A Right. Uh-huh (affirmative). Right.

25 Q 2407Y.

1 A Right. Uh-huh (affirmative). Right.

2 Q Do you remember that that's the
3 designation that the old Wang system used to put on
4 documents?

5 A Right. Right. Uh-huh (affirmative).

6 Q Because when we went to PCs...

7 A Right.

8 Q ...we had about six different numbers.

9 A Right. Right. Right. I agree with you.

10 Q All right. And so this -- we had the Wang
11 system. It was going away in '96; remember?

12 A Right, right. That's true.

13 Q So it is my guess that this was done on a
14 Wang back in '96. Ed Boyles has identified the
15 handwriting at the bottom as his.

16 A That's his.

17 Q Okay. But you think you may have been
18 involved in...

19 A Yes, I...

20 Q ...helping to put this document together?

21 A All this is true. Yes. And if I didn't,
22 they wrote it up just like it occurred.

23 Q Okay. Is it -- is it possible that you
24 had this document and discussed these facts with Ed
25 Boyles?

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1 A Yes. Everything I did was discussed with
2 my supervisor.

3 Q All right. Now, as I said, that was in
4 the front of your notebook. Now, in the front of one
5 of the other notebooks there is a similar document,
6 the same document, but there's also -- there was a
7 bunch of org charts. And this is -- I'm looking now
8 at the front of Rick Rogers' notebook. And these org
9 charts appear to correspond to the facts and dates
10 shown on Easley Exhibit 3.

11 A Uh-huh (affirmative).

12 Q For instance, there's an ERMI org chart in
13 this one; and then there is a...

14 A Right. Right.

15 Q ...emergency preparedness.

16 A Uh-huh (affirmative).

17 Q This looks like the org charts for the --
18 Wilson when he was the technical programs manager.

19 A Let me look at that.

20 (The witness reviews certain material.)

21 A Okay, this is right without the -- that's
22 right. Right, Hudson was here at the time. That's
23 right. He was out to -- oh, okay. That's right.
24 Now, this one right here.

25 Q That was when chemistry was -- manager was

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1 vacant, after Jocher left, I believe.

2 A Right. Okay. Right, right. Yeah, I see
3 it. Okay. That's right. Okay, because -- okay.
4 That's right. That was nuclear security.

5 Q That was Kelly.

6 A But that -- all those are not on here,
7 though.

8 Q Well, wouldn't they have been here when
9 Wilson was the manager of technical services?
10 Technical programs?

11 A Oh, yeah, that's right. You're right.
12 You're right.

13 Q So this first set of org charts that look
14 to me...

15 A Right, right, right.

16 Q ...corresponds with this first set of
17 facts on that.

18 A It does. It does.

19 Q All right. And then there's a set of org
20 charts -- I don't see a date on these. Yes, there is.
21 I can't read it. And they look to me like they
22 corresponded to -- make sure they correspond.

23 A This is when...

24 Q 1994.

25 A ...this when Medford (phonetic) was over

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1 technical support. And these were the people
2 reporting to him.

3 Q And there's a date in the lower right-hand
4 corner.

5 A Right. Okay.

6 Q 4/20/94.

7 A Right. Okay. Now, this is Medford
8 (phonetic) in -- he was over engineering
9 modifications, operations service, he -- all the
10 things were reporting to him. Nuclear support,
11 McGrath.

12 Q Right. And then the next page is a roll
13 down that shows who's under Maciejewski?

14 A Right. Uh-huh (affirmative). That's
15 right.

16 Q And it shows, under Maciejewski, Wilson
17 McArthur then as a...

18 A Right. Right.

19 Q ...technical programs manager?

20 A Right. That's right.

21 Q And then a break -- rollout of the Wilson
22 people.

23 A All those are correct. All those are
24 correct.

25 Q All right. And that's 4/15/94?

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1 A Right. That's correct.

2 Q All right. And then, right after that --
3 oh, I thought there was another org chart. Is there
4 not?

5 A I think that's the last one.

6 Q Shows Grover.

7 A Uh-huh (affirmative).

8 Q A vacant rad con manager.

9 A Uh-huh (affirmative).

10 Q All right. So that would correspond to...

11 A This, when...

12 Q ...prior to...

13 A Prior to...

14 Q ...prior to the August '94?

15 A Right. Right. That's true. That's --
16 that's right.

17 Q Now, do you have any idea or recollection
18 of how these org charts got into the front of...

19 A No.

20 Q ...Rick Rogers'?

21 A No, I don't.

22 MR. DAMBLY: Could I see those org charts
23 for a second.

24 A In fact, I haven't seen this book.

25 Q Well, this book was -- is a compilation of

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1 all four.

2 A Okay. Right.

3 Q They were in four little skinny white
4 books.

5 In the front of Rick Rogers' book, also,
6 there's some other information about the day of the
7 meeting. Do you recognize anybody's handwriting on
8 that?

9 A That's not mine, not mine.

10 Q It looks like Sheila's.

11 A Hold on just a minute. This is for Wilson
12 McArthur. That's Sheila's.

13 Q All right.

14 A Edwards.

15 Q And there's an agenda for the -- for the
16 peer group meeting in the morning.

17 A Right.

18 Q And then there's an interview schedule,
19 says starts at 12:00 noon.

20 A Right.

21 Q Do you recognize that handwriting?

22 A I think that is McArthur's.

23 Q All right. And then there's...

24 A I'm not sure.

25 Q ...a menu for the food and drink for that

1 day.

2 A That's definite -- it got to be Sheila or
3 McArthur's.

4 Q All right. So...

5 A That's got to be one of the two.

6 Q ...somebody had typed up the menu and
7 taken everybody's dinner orders?

8 A It's right good food we had.

9 Q Right. But before that day...

10 A That's the only time we ate good.

11 Q All right. Let's see if there was
12 anything else I want to ask you about.

13 MS. EUCHNER: For the record, can you tell
14 us who Sheila is?

15 MR. MARQUAND: Sheila Edwards...

16 THE WITNESS: She's -- she was...

17 MR. MARQUAND: ...is a secretary for
18 Wilson. She's retired.

19 THE WITNESS: ...she was -- yeah. She was
20 the secretary for Wilson McArthur.

21 MR. MARQUAND: She retired.

22 MS. EUCHNER: Thank you.

23 MR. MARQUAND: Apparently she has made the
24 reservations for the room and took the dinner order
25 and typed all that up.

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1 THE WITNESS: Right. Right. Uh-huh
2 (affirmative). And that's probably her handwriting.

3 MR. MARQUAND: And the only point I was
4 making was that -- Counsel, is that this was not a
5 last minute thing. They had taken all these dinner
6 orders far enough in advance to have them all typed up
7 and to have shipped them out to somebody, and even had
8 it in somebody's notebook.

9 Let me look at my notes just a second
10 here. I think that's all.

11 (Off the record conversation.)

12 MR. MARQUAND: On the record.

13 MR. DAMBLY: All right.

14 MR. MARQUAND: On the record. This --
15 this is going to be an exhibit. We're going to hold
16 this out. I'm going to give this back to you guys
17 before I tear it up.

18 MR. DAMBLY: Probably too late.

19 MR. MARQUAND: There's a page -- there's
20 a page loose in the front.

21 BY MR. MARQUAND:

22 Q Ben, with respect to the job that Wilson
23 McArthur ended up in in 1996, when they -- they
24 identified the rad chem manager job, if -- and let me
25 go back to Easley Exhibit #3.

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1 MR. DAMBLY: It's that one.

2 Q At one point in time, Wilson had had
3 chemistry and environmental and rad con?

4 A Uh-huh (affirmative).

5 Q Okay. And then, over a period of time, he
6 was assigned other duties. And I -- and we talked
7 about the org chart, and we saw that in 1994, at
8 least, he was assigned to be the rad con manager. And
9 bear with me a minute.

10 Let's assume for a minute that position
11 description was never issued for him, never
12 official -- Maciejewski never signed it, and it never
13 got into his PHR and it didn't get issued to him.
14 Okay?

15 A I'm -- I'm...

16 Q Okay. Now, in -- then we come up to 1996
17 and they start doing -- and saying, okay, we're going
18 to have a rad chem manager over these things, and
19 they've got a new PD, and they've got to look at what
20 to do with Wilson McArthur. What do you compare for
21 Wilson McArthur to decide whether or not we're going
22 to advertise this new job?

23 A I hate to answer this this way, but I am.
24 You need to get the person that got rid of it, because
25 it were out there.

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1 Q Well, let's -- let's suppose it wasn't
2 officially issued.

3 A It was official. It were official
4 somewhere. Somebody misplaced it. Someone is
5 covering up. It was there.

6 Q Well, awhile ago when I asked you if you'd
7 ever seen it officially issued, you told me...

8 A I told you it went through -- I said it
9 went through. Okay, no. And I think it should have
10 come back, but it went through the signatures here,
11 and it went through upper management or whoever, Haye
12 or however it was supposed to go to. But there were
13 one officially done. If not, he would not have been
14 placed down here. Okay?

15 And, anyway, since he were placed down
16 here, you can't say that he never was removed from up
17 here, because he was. You can look at the
18 organization and show that he were removed. Whether
19 you have it or not, you still going to have to
20 advertise those position, because what you getting
21 into, Brent, you getting into something that you
22 really don't want me to talk about, because we're
23 going to go back up here to Allen Sorrell and we're
24 going to go to Don Moody, and these are things that I
25 don't think you want me to bring out here.

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1 Q Why not?

2 A Because, hell, Allen Sorrell never should
3 have been here. He never should have been in this
4 acting position.

5 Q Well, I'm not going to argue about that.

6 A Okay. And I can tell you some more, and
7 you don't -- he going to come back and ask me some
8 question if you keep pushing me. I think it's best to
9 drop it and let it go.

10 Q Well, I -- I want to know. What -- I
11 don't -- I don't disagree with you that maybe Allen
12 Sorrell was -- should not have been in that job.

13 A But on this right here, no, I don't agree
14 with you that, since we did not have the PD, that he
15 should go back without advertising. I don't agree
16 with that.

17 Q All right, you said something awhile ago
18 when I -- I want to ask you about. You said that
19 if -- if the PD is missing, maybe there's --
20 somebody's taken it and there's -- somebody's covering
21 up for something.

22 A Yes, I believe that.

23 Q All right. If that's the case, I want you
24 to be -- I want you to share with me and Mr. Dambly
25 what are they covering up?

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1 A They're trying to cover up that they
2 didn't make a mistake (sic) by putting him back in
3 that position and by not advertising it like it was
4 supposed to be advertised.

5 Q All right. And who was harmed by that?

6 A Who were harmed by that? Grover were
7 harmed by that.

8 Q Because he didn't get a chance to compete
9 for the job?

10 A Right.

11 Q Was Fiser harmed by it? Did it have
12 anything to do with Fiser not...

13 A Fiser wasn't harmed by that, because he --
14 he wouldn't have -- he didn't have the qualifications
15 for that job. He could have been interviewed.

16 Q Fiser -- was Fiser's job properly -- or
17 the job that Fiser competed on, was it properly
18 advertised?

19 A The one that he competed on?

20 Q Right.

21 A Yes, it was.

22 Q All right. Would it make any difference
23 whether or not McArthur's -- this rad chem job was
24 advertised or not advertised, did that make any
25 difference at all whether the program manager

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1 chemistry job should have been advertised? Did it
2 have any effect on that?

3 A No. The chemistry job had to be
4 advertised.

5 Q No. So regardless of what happened with
6 respect to Grover and McArthur, didn't make any
7 difference, they did the right thing with respect
8 to...

9 A Yes, sir.

10 Q ...the program manager job?

11 A Yes, sir.

12 Q All right. That's all I've got.

13 MR. DAMBLY: Well, unfortunately, that
14 raises a few questions.

15 MR. MARQUAND: Well, you got to pay for
16 his...

17 REEXAMINATION

18 BY MR. DAMBLY:

19 Q We'll start with the last inquiry about
20 whether or not Mr. Fiser was harmed by putting
21 McArthur up there and not competing the job. And
22 again, going back to the -- the policy that was in
23 effect in '93 which required all these to be posted,
24 but would allow a waiver for minorities and whatever.
25 As between Mr. McArthur and Mr. Grover, who would have

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1 fallen under the minority category, could have got a
2 waiver to go up into that job?

3 A Repeat that. I didn't follow you.

4 Q Was Mr. Grover a minority? Is he a
5 minority?

6 A Yes. Right, he is.

7 Q I guess he was and is. I mean, I don't
8 think it changed.

9 A He's still living; yes.

10 Q So under the policy in effect, they could
11 have legitimately put him in that position without
12 advertising?

13 A No.

14 Q They could have got a waiver to put a
15 minority in. That's what the policy says.

16 A I said they could have got a waiver. I'm
17 saying you got to get a waiver.

18 Q Right.

19 A Or you got to get...

20 Q Now...

21 A ...or post.

22 Q ...can you say that had Mr. Grover been
23 the selecting official...

24 A But they would -- they would not have done
25 that for Grover because of the expertise that Wilson

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1 had.

2 Q Okay.

3 A See, you have to explain why you want this
4 waiver. You just don't send up and say, "I want a
5 waiver." You got to say why you want the waiver, and
6 this and that. And they would have thought that, huh-
7 uh, okay, there is reverse discrimination. You see
8 what I'm saying?

9 Q Oh, no, I understand that.

10 But then, going on to the issue of the --
11 whether McArthur was improperly placed or not maybe
12 had an adverse effect on Grover, but it had no effect
13 on Fiser?

14 A Had no effect on Fiser.

15 Q Now, can you say, from a personal
16 knowledge, that...

17 A Well, if...

18 Q ...if Mr. Grover was the selecting
19 official...

20 A ...if Grover were up there...

21 Q ...that it wouldn't have made a difference
22 in who he picked?

23 A It may have.

24 Q He may well have?

25 A It may have.

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1 Q So if somebody didn't...

2 A Because...

3 Q ...they thought that Grover was close to
4 Fiser, and they wanted to make sure McArthur was the
5 selecting official, there'd be a reason?

6 A ...because it's my understanding that
7 Grover is backing Fiser. And he backing him in a DOL
8 (sic), which I know nothing about. I know something
9 about it, but I don't know the actual thing. And to
10 me, they're saying this is part of it.

11 Q Okay. That's all I wanted. Because I
12 think Mr. Grover said in his OI interview that it's
13 quite possible, if he was the one in that position,
14 Fiser would have been selected.

15 A And Harvey wouldn't.

16 Q So it could have had an impact on Mr.
17 Fiser?

18 A Yes, if he were there. But Grover never
19 would have been there, in my opinion.

20 Q Well, that I can't answer. Obviously, if
21 they're willing to put him in there without
22 competition, it's probably a pretty good chance they'd
23 have selected him with the competition.

24 The one other area which unfortunately for
25 you Ms. Euchner reminded me...

1 A And then again, he wouldn't have been
2 selected. I'm going to tell you that. In my opinion,
3 he wouldn't.

4 Q Okay.

5 A Wilson had too much; but they just didn't
6 follow the rules and the guideline and the regulation.

7 Q I understand. The one area I did forget
8 to ask you about before, prior to this reorg and the
9 posting in these chemistry positions, there was some
10 interaction between Sequoyah and Mr. Kent and
11 headquarters about transferring Sam Harvey to
12 Sequoyah. Do you recall that?

13 A Sam Harvey never should have been brought
14 back downtown.

15 Q Okay. But do you recall when there --
16 that interaction took place?

17 A Yes.

18 Q Tell me what you remember about it.
19 Who -- who initiated the action?

20 A They -- they were supposed to select --
21 and I can't give you a date and I can't give you a
22 name, but you named some of the people. They had
23 selected Sam for a job out there. And for some
24 reason, Sam wanted to come back home. And Wilson
25 McArthur -- both of them Mormons. I think they were

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1 Mormons. Or Sam became one. And I told you we have
2 a tendency, when we are the same or -- you understand.
3 And if Sam had taken that job out there, it wouldn't
4 have been any problem, whatsoever.

5 Q Okay.

6 A If they had left Sam out there and said,
7 "Sam, okay, you in a position equivalent. We can make
8 room for Fiser," probably wouldn't have had the
9 problem.

10 Q Do you recall anybody -- Mr. Kent talking
11 to you about bringing...

12 A No, they didn't talk to me. They talked
13 to the high people.

14 Q Okay. Did you have any interaction on
15 that part at all?

16 A No, not with Kent.

17 Q Did you talk to Boyles about it or
18 McGrath? Was...

19 A Oh, I've been in on the conversations. I
20 can't recall what the conversation entailed. Been --
21 been a long time, as -- as I've said.

22 Q Did you ever hear anything where McGrath
23 made a statement he didn't want Harvey to go out
24 there, because he wanted to keep him in corporate?

25 A I don't recall. I wouldn't dare try to

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1 answer that.

2 Q In that case, hopefully we're done this
3 time. But I don't know.

4 MR. MARQUAND: I've got one last question.

5 REEXAMINATION

6 BY MR. MARQUAND:

7 Q Ben, since counsel decided to ask you
8 about the Sequoyah situation, Harvey was a chemistry
9 program manager like Fiser and Chandra. Was there any
10 way to transfer Harvey and his job to Sequoyah as long
11 as you had Fiser and Chandra in similar positions?

12 A Beg your pardon?

13 Q Could you transfer Harvey...

14 A No, they...

15 Q ...into that job?

16 A ...I think they had posted it.

17 Q You have to -- you have to address...

18 A Oh, I'm sorry.

19 Q There's microphones there.

20 A I'm catching a cramp. I'm sorry, sir.

21 Q My question is: Could they transfer
22 Harvey, in the job he was in, to Sequoyah?

23 A Yes. And they had to go through the same
24 procedure and everything. And I think they had
25 gone -- gone through everything they had to, to put

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1 him in that position. All the things I have mentioned
2 before. And he had been selected for a job out there.

3 Q I'm not talking about selecting somebody
4 for a vacancy. I'm talking about if you've got three
5 people in identical positions, can you single out one
6 of those positions and transfer it to a different
7 competitive area without eliminating the others?

8 A I'm not following you, Brent.

9 Q Okay.

10 A Go over it again.

11 Q Fiser, Chandra, and Harvey had identical
12 job descriptions. They're all in corporate chemistry.
13 Same competitive level, same competitive area; right?

14 A Right.

15 Q Can you transfer Harvey -- just transfer,
16 not select him for a job, but transfer that -- him and
17 the function he's in without eliminating the
18 function -- the entire function at corporate?

19 A No. You can transfer...

20 Q Don't you have to transfer something...

21 A You -- you don't have to -- no, no. You
22 don't have to eliminate. You can transfer -- if a
23 service is needed, and it -- it's a procedure you go
24 through, and I wish I had all these books out to go
25 back to. Where you can -- it's just like that waiver

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1 thing, where you -- you have a form, you sign it, and
2 you say...

3 No, I think you're right. You have to
4 transfer the function, too.

5 Q Transfer the function.

6 A Okay. You're right.

7 Q And it has to be eliminated, and a
8 transferring function, and...

9 A You're right. You're right. It's coming
10 back to me. You're right on that. Yes.

11 Q Okay.

12 A And that -- I think that's what we were in
13 the process of doing.

14 Q But you couldn't transfer Harvey without
15 eliminating the entire function.

16 A But, see, back then you had two serving...

17 Q Right. But they were -- these were all
18 the same; right?

19 A ...the plant, see. But -- but it was left
20 for jobs still down here, you see. Because they were
21 serving this plant, they were serving this plant, they
22 were serving that plant. So you was just transferring
23 one out of two. You understand what I'm saying?

24 Q Let me ask you a question. Suppose that
25 Harvey had been transferred to Sequoyah, and he wasn't

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1 subject, then, to a potential RIF because of the
2 elimination of jobs in downtown. What would have
3 happened, then, if a job downtown got eliminated and
4 either Chandra or Fiser got RIF'd after Harvey's job
5 had been saved by going to Sequoyah?

6 A Nothing.

7 Q And you -- you don't think somebody would
8 have filed a complaint about preferential treatment?

9 A Oh, we -- that's what's happening now.
10 That's what we're doing now. That's what he's saying.

11 MR. DAMBLY: Are you done?

12 MR. MARQUAND: I'm done.

13 FURTHER REEXAMINATION

14 BY MR. DAMBLY:

15 Q Now, just to follow up, according to a few
16 statements that Mr. Kent made to TVA OIG, and for that
17 matter to ROI, he had a vacant position, and I believe
18 at the PG-8 or 9 level at Sequoyah. Did he need
19 anything from corporate to -- if he wanted to post and
20 put Mr. Harvey in that job?

21 A I think it was all done. It was just a
22 matter of him being placed in the position. And
23 something may have happened. I can't tell you all,
24 sir, what took place.

25 Q Okay.

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1 MR. DAMBLY: Maybe we're done. Anything
2 else?

3 MR. MARQUAND: Ed has asked me to be done.

4 MR. DAMBLY: Ed has asked you to be done.

5 Okay, Ed wants to be done. I guess we're done, then.

6 Thank you very much.

7 (Whereupon, the deposition was concluded
8 at 3:55 p.m.)
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