

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Deposition of James E. Boyles

Docket Number: 50-390-CivP et al.

Location: Chattanooga, Tennessee

Date: Friday, November 9, 2001

Work Order No.: NRC-103

Pages 1-85

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

(9:13 a.m.)

MR. DAMBLY: It's November 9th, and we're about -- well, you're going to put it down anyway. 9:12 a.m. This is a deposition in the matter of Tennessee Valley Authority. It's a civil penalty case. The Atomic Safety Licensing Board Panel number is 01-791-01-CivP. And if you could please swear the witness.

Whereupon,

JAMES E. BOYLES

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

EXAMINATION

BY MR. DAMBLY:

Q Would you please state your name for the record.

A James E. Boyles.

Q And what's your educational background?

A I -- I'm a degreed engineer, worked as an engineer in the early part of my career with TVA.

Q Okay. And you presently employed by TVA?

A I am presently employed by TVA in the Chief Operating Officer's organization. I'm the Manager of Workforce Planning.

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1 Q The Manager of Workforce Planning. Okay.

2 How long have you worked for TVA?

3 A Going on 22 years, almost.

4 Q And prior to coming to TVA, what was your
5 professional experience?

6 A I worked for the State of Alabama for a
7 few years prior to coming to TVA, in the environmental
8 health area for a regional health department.

9 Q And did you -- was that the job you took
10 out of college?

11 A Right out of college I worked for a
12 manufacturing company called Worthington Air
13 Conditioning. I was a purchasing agent for them, and
14 I worked my way through college with them and worked
15 with them for a period of time after college before I
16 moved to the health department.

17 Q Okay. And when you came to TVA, what was
18 your original job with TVA?

19 A I was an entry level civil engineer
20 working in transmission planning and engineering. And
21 we did the decision of the 500 kV and 1-61 kV
22 transmission line systems.

23 Q Okay. And what year was that?

24 A 1980.

25 Q Then after your -- what's the next job you

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1 held at TVA?

2 A I worked as a civil engineer for around
3 three years, and then I moved to the nuclear
4 organization in nuclear services. And in 1986, I
5 moved to Sequoyah Nuclear Plant as a -- with the
6 Employee Concern Program, and I was a site --
7 assistant site representative for the Employee Concern
8 Program. In 1987, I became the site representative
9 for the Employee Concern Program at Sequoyah, and
10 remained there until 1990.

11 In 1990, I came to the corporate office,
12 and I worked a series of staff jobs. I worked for Dan
13 Naumann, who was the chief nuclear officer, and Bill
14 Kuh later in the early '90s on staff, who was the vice
15 president of generating group human resources. And
16 in -- in '90 -- late '94, I believe November, December
17 of '94, I moved to Human Resource Operations in TVA
18 nuclear in the corporate office. And my most
19 recent -- I'll add, my most recent move was June of
20 this year. I became Workforce Planning Manager for
21 the Chief Operating Officer.

22 Q You went to, I guess, corporate -- well,
23 let's back up.

24 When you were the assistant site rep for
25 the Employee Concerns Program...

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1 A Uh-huh.

2 Q ...and then the site rep, what were your
3 duties?

4 A To investigate concerns raised by
5 employees related to safety of the plant,
6 intimidation, and harassment, and general employee
7 concerns.

8 Q Did you receive any training in that
9 position?

10 A We did some in-house training. I had had
11 some fairly extensive experience with them. I had
12 gone, I believe, in early '95, when TVA began the
13 Employee Concern Program...

14 Q '85?

15 A '85, I'm sorry. Began the Employee
16 Concern Program with -- at Watts Bar, and began
17 investigating, I had been assigned to Watts Bar and
18 had worked until I think April of '86 investigating
19 concerns. I had a technical engineering background,
20 and many of the concerns involved technical issues.
21 We did get training in the program in ECP, and had a
22 lot of resources at our disposal at that time.

23 Q Okay. And somewhere in the '90s you got
24 into HR?

25 A Well, in 1990 I moved to the job working

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1 for Dan Naumann, who was the chief nuclear officer at
2 that time. And I worked on staff for Mr. Naumann for
3 a period of time. And then -- and these are
4 approximate -- '92, maybe, '90 -- I think it was
5 around 1992, I accepted a position working on the
6 staff for the vice president of human resources for
7 the generating group. They had actually combined all
8 generation under Oliver Kingsley at that time, and --
9 and I moved out of -- of nuclear into the generating
10 group in the early '90s.

11 Q Okay. What were your duties in that
12 position?

13 A Pretty typical staff duties, responding to
14 interrogatories or -- or questions from the public.
15 Oftentimes I would prepare contracts. I would review
16 reports or prepare reports as requested. A lot of
17 tracking and trending and -- and preparing summary
18 information for Mr. Kingsley or Mr. Kuh or Mr. Naumann
19 during that period of time, and other duties as
20 assigned.

21 Q That's that killer. Yeah.

22 A Uh-huh. For example, one of the duties
23 would be I managed what we call our combined federal
24 campaign for two years while Mr. Kingsley was here,
25 and that was a pretty big job. It's about a -- we

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1 raise about \$1.3 million. It was about half my time
2 for...

3 Q Half your time?

4 A Yeah.

5 Q Okay. So in -- in that staff position,
6 with the vice president of the generating group, you
7 didn't perform any what I would call line HR
8 functions?

9 A No, I didn't.

10 Q Have you ever performed any line HR
11 functions, first level, position description review?

12 A In 1994, I -- I moved into line HR. And
13 I'd like to point out, though, that in '86, when I
14 joined the Employee Concern Program, many of our
15 concerns were not technical. About half our concerns
16 were what we call management and personnel,
17 intimidation and harassment. And actually, I found
18 myself dealing with personnel issues as much or more
19 than I did technical issues in the late '80s. And
20 that required a lot of close interaction with our
21 human resource staff on site and in corporate; our
22 labor relations staff; inspector general; our unions.
23 So it was a good training ground in HR, and I enjoyed
24 the work, enjoyed dealing with the people. And when
25 I had the opportunity in '92 to go to the staff of the

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1 vice president of HR, I took that opportunity.

2 MR. MARQUAND: He thought he'd like it.

3 A I did. Oh, and I do like it.

4 Q He's still smiling. That's good.

5 And so then when you -- in '94, you moved
6 into -- directly into an HR position?

7 A That's correct.

8 Q What were your duties there?

9 A General HR services to the corporate
10 organization. And that included posting vacant
11 positions, assisting in resolution of grievances,
12 assisting in organizational development issues,
13 organization changes, reorganizations, reductions in
14 force, terminations. General HR duties.

15 Q And were you in a management job, or were
16 you a line supervisor -- I mean line...

17 A I was line HERE.

18 Q Line HR?

19 A Is what I -- I managed two HR consultants.
20 And when I first started, I think we had four human
21 resource assistants. I reported to -- to a manager
22 over HR that supervised both the corporate
23 organization and the sites. The three sites.

24 Q And who was that?

25 A That was Naomi Lindsey.

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1 Q The two, I think, HR consultants that you
2 managed were...

3 A It's actually changed over the years. Ben
4 Easley was one of the consultants that worked for me;
5 Melissa Westbrook. At one period I had one named Bill
6 Dye. And the most recent one I had was an individual
7 named Don Nixon.

8 Q In that position, did you do any position
9 classification work?

10 A No, I didn't.

11 Q Would Mr. Easley or Ms. Westbrook have
12 done position classification?

13 A I know Ms. Westbrook would have -- we had
14 had training on classification, and I -- we had
15 certain human resource consultants that could do
16 position classifications, and she was one of them. I
17 don't remember if Ben Easley had had the training to
18 do classifications or not.

19 Q Okay. I guess just as an aside, do you
20 know -- do you have an agreement with OPM on
21 interagency transfers? Your system parallels the
22 federal system, and if there is something here, they
23 can go into another service?

24 A We do federal transfers. There's a
25 process. We haven't done many, and I'm not intimately

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1 familiar with it.

2 Q Okay. In the position you assumed in '94
3 where you were involved with reduction in force, did
4 you get any training on federal RIF procedures, OPM
5 regs, whatever?

6 A No, I didn't.

7 Q Where did you learn how to handle RIFs?

8 A Fortunatley, I -- all of the consultants
9 and human resource assistants had been involved in
10 reductions in force over the years and were familiar.
11 And they did most of the detail work and preparation
12 of retention registers, that type thing. And when --
13 when there would be a question and they would come to
14 me, we would typically contact our labor relations
15 staff or our office of general counsel and have
16 discussions with them, if there was an issue that we
17 were not clear on what the regulations were.

18 Q Okay.

19 A In addition, and I -- probably in the mid-
20 '90s we did some -- I'll call it in-house training,
21 labor relations training, which did include some OPM
22 and basic labor relations, TVA's labor agreements, the
23 labor history, that type of thing, for all of our
24 employees, including consultants and HRAs.

25 Q And just so it's clear, when you say you

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1 had, I guess, HR consultants, I mean, when we use a
2 consultant, that's an outside person. You're using
3 "consultant" as a TVA employee?

4 A It's a TVA employee. That's correct.

5 MR. MARQUAND: It's a job title.

6 A It's just a job -- it's a job title.
7 We -- we ask them to act as consultants to their
8 customers, and that's where that comes from.

9 Q Okay. Okay. In your employment at TVA,
10 how long have -- or did you know Mr. Easley?

11 A I had actually met him in the mid-'80s,
12 probably around the '85 time frame. We worked on the
13 same floor, but I -- I was in the technical side and
14 he was in human resources. I don't remember any
15 specific interaction other than meeting him. He sat
16 just a few offices down from where we were. And when
17 I came to staff in Chattanooga in human resources, he
18 was one of the consultants. Didn't have a lot of
19 interaction with him until '94, when I actually moved
20 down. But I knew him and knew his name and would
21 often see him or maybe be in a meeting with him.

22 Q How about Ms. Westbrook?

23 A Really did not know her well until I came
24 down in November, December of -- and took the job in
25 '95. I had maybe met her before, but that was about

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1 the extent of it.

2 Q And Mr. -- or Dr. McArthur?

3 A Probably in and around that same time; mid
4 maybe '94. When I was on Mr. Kingsley's staff, my
5 duties sometimes required me to contact managers
6 within the organization, and I may have had some
7 contact with him. I don't remember specifically.

8 Q Okay. Mr. McGrath?

9 A About 1990 I met Mr. McGrath. He
10 supervised staff personnel, and I had a lot of
11 interaction with him probably for a year or so in '91,
12 maybe.

13 Q Okay. Was he at that time the -- the
14 chairman of the Nuclear Safety Review Board?

15 A I don't remember. I don't think he was in
16 the early '90s, but I don't remember.

17 Q And Mr. Fiser?

18 A When I was at Sequoyah in the Employee
19 Concern Program, I knew Gary Fiser in that -- probably
20 met him in '87, '88 time frame.

21 Q Did you know him because he was at the
22 plant, or because he had filed concerns?

23 A I knew him at the plant. We both lived on
24 Signal Mountain. I knew Gary, and we actually rode to
25 work together occasionally. If I needed a ride home,

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1 or if he needed a ride, we would get together.

2 Q And as we all know, Mr. Fiser filed a
3 complete in '93, a DOL complaint. Did you have any
4 involvement in that action itself?

5 A I didn't have any involvement. I would
6 like to say, in my role on staff, we tracked numbers,
7 we tracked grievances, we would look at the numbers of
8 DOL complaints. But I had no specific involvement
9 in -- in that DOL complaint.

10 Q You were aware that he had filed A..

11 A I may have -- I don't remember any
12 specific knowledge of that complaint until Gary came
13 to my office in the spring of '96 and talked to me
14 about the complaint. It's hard for me to say I didn't
15 know that, because, again, I reviewed a lot of
16 documents. I reviewed NRC reports, NOV, and would
17 highlight those to send to higher level management.
18 But, to my knowledge, I don't remember any specific
19 knowledge until he came to see me in the spring of '96
20 and told me that he had filed a complaint. He told me
21 some specifics about it.

22 Q Okay. And in '96 he filed another
23 complaint. What involvement did you have with that?

24 A In -- in 1996, when we were going through
25 the reorganization, we were in the process of deciding

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1 what that organization would look like, and we were
2 rolling out the pending changes. And one of the
3 changes was that we were going to post a new job,
4 chemistry program manager, BWR and PWR. We'd had a --
5 a meeting with employees, if I remember correctly.
6 And after that meeting where we informed them what the
7 plans were, Ben Easley came to my office and asked me
8 if I would talk to Gary or meet with Gary, and I said
9 sure.

10 So Gary came in and -- and said that he
11 had filed a complaint in 1993. And that, as a part of
12 the settlement for that complaint, that he had been
13 given this job in Chattanooga. And that if we
14 proceeded to competitively bid to post the job, that
15 he would go back to the Department of Labor, and file
16 a complaint on that.

17 I told him that I really didn't know any
18 of the details about it, that I'd have to check into
19 it, but that I'd get back to him. And after that, I
20 contact our labor relations person. Her name was
21 Cathy Welch. And I asked Cathy if that was the case,
22 if there was a DOL settlement that awarded Gary Fiser
23 that job.

24 And as I remember it, Cathy talked to OGC
25 and we got the details of what had happened. And, in

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1 fact, they -- there had been a settlement agreement.
2 It had provided a job for Gary Fiser in Chattanooga
3 It was not the exact same job that he was currently
4 in. But in the discussions that we were told yes,
5 there had been a settlement, but that there was not a
6 guarantee of a job permanently, and that -- that we
7 should proceed on with what we're doing.

8 I asked Ben Easley, who had evaluated
9 the -- the chemistry and environmental job that --
10 that Mr. Fiser and other incumbents were under, to re-
11 look at it. And the reason I did that is because I --
12 I assumed that we would get a DOL complaint, and we
13 were kind of on notice. So we did that; we re-looked
14 at it. It still appeared that -- that we should
15 competitively bid the job. We ultimately did. And
16 Gary did file a DOL complaint.

17 Q Let's go to the -- I guess the -- the '96
18 reorg that took place. How did that come about?

19 A Each year we go through a business
20 planning process. And usually it would start, the --
21 the FY96 business planning process, fiscal year '96
22 business planning process would have started probably
23 the fall prior to that, when we were starting to look
24 at budgets and -- and so forth.

25 The -- the individual -- the

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1 reorganization was -- it affected all of our
2 organizations; not just the group that Mr. Fiser was
3 in. It involved engineering, human resources,
4 business services. It was just about all of the
5 corporate organizations. Mr. Fiser was in what we
6 called the operations support organization. And that
7 was one of the groups that was asked to reduce budget,
8 and look at how we could accomplish the work with the
9 reduced budgets and reduced headcount. So that
10 started probably late '95.

11 By early '96, we had -- we were
12 developing -- line organization began to develop the
13 new job descriptions, what the organization would look
14 like. They began providing those to the consultants.
15 We began the process of deciding what jobs were
16 different, what would need to be posted, what would
17 not need to be posted, and exactly how to implement
18 the organization. The schedule called for the basic
19 implementation I think in June of '96. And so we
20 actually began rolling it out and talking to
21 employees, informing them of what was going to occur,
22 earlier that year. Probably April-May.

23 Q Now, in the big picture in this
24 reorganization, you know, we've -- we've heard that
25 the goal was to get to a certain 2000 staffing level.

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1 And it could go over a number of years. And we've
2 also heard somebody made a decision it had to be done
3 immediately. Do you know who made what decision on
4 reaching the 2000 numbers in '96?

5 A I've -- I've heard the testimony where Mr.
6 McGrath had explained that. I was in Atlanta when --
7 when that question was posed to him.

8 At the time, in 1996, we weren't -- from
9 an HR standpoint, I don't remember having specific
10 knowledge of what their budget was or how aggressive
11 they were going to be. We did have some discussions,
12 and I guess our basic philosophy was not to string
13 something like this out over a long period of time.
14 It's not good for the overall morale of an
15 organization. But -- but I don't remember getting
16 into budget issues with the organizational managers,
17 or how long it should take us to do this. But it's my
18 philosophy that once you announce something like this
19 to employees, you shouldn't string it out for years.

20 Q Now, when you make a determination, during
21 a surplus or a RIF situation, and you make a
22 determination whether jobs are interchangeable, how do
23 you go about doing that?

24 A Well, the...

25 MR. MARQUAND: Him, personally, or in

1 general?

2 MR. DAMBLY: Well, him and -- and TVA

3 MR. MARQUAND: Or if h -- if he knows.

4 A Okay. Personally, I -- I don't and
5 didn't. But the -- the line organization's providing
6 us the information -- human resources the information
7 on what the organization's going to look like, what
8 the positions are going to be, and giving actual
9 position descriptions.

10 The human resources consultants do the
11 comparison of the position descriptions or the job
12 descriptions, and begin making determinations on
13 interchangeability. Is this job going to require a
14 posting, or is this a transfer? Does this person have
15 rights to this -- this new job? They do that once
16 they get the position descriptions and we begin the
17 process of -- of identifying those that we're going to
18 have to post and those that we're not going to have to
19 post.

20 Q When you're saying, "Does this person have
21 rights to that position?" what do you mean by "rights
22 to that position"?

23 A If -- if it's determined to be
24 interchangeable, that they -- that we don't have to
25 post the position, that they can be moved into it or

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1 transferred into the job.

2 Q And how would you do that in a surplus or
3 RIF situation?

4 A Compare the -- the existing position
5 description that that employee has with this new
6 position description, and make a determination. If
7 it's -- if it's significantly the same job, if it has
8 not changed, and it is interchangeable, that they --
9 that they have rights to the job. If the job is
10 significantly different, then we would make a
11 determination that we need to post the job.

12 Q Suppose you have five people that have a
13 PD that's interchangeable with the new PD, and there's
14 only going to be three of those jobs, who has rights?

15 A If -- if the job were the -- were the
16 same, and all of the incumbents had -- had rights to
17 the job, we would go through a retention standing and
18 identify those -- the most senior employees would be
19 transferred into the new job or into -- it would not
20 be a -- considered a new job, if it was
21 interchangeable.

22 Q And in making determinations on
23 interchangeability or -- or whether something has to
24 be posted or not in a surplus situation, do you
25 consider or take into account that, if you don't post

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1 it, some people aren't going to be able to bid on the
2 job?

3 A No.

4 Q Let me show you your interview, I guess,
5 with the TVA IG. The date on this is -- good
6 question. 10/93. July 10th, '96. The second page,
7 the highlighted portion at the top.

8 A Okay, let me -- let me go back up to above
9 the highlighted portion, too. What it says is, "After
10 reviewing the new and old position descriptions, Ben
11 Easley, human resources officer, made the decision
12 that the positions were different, and that they
13 needed to be posted." One factor we considered here
14 was that there are three or four people presently in
15 the position, vying for two positions being posted,
16 and that everyone should have an equal change to apply
17 and secure the position.

18 Q And where does that consideration of that
19 factor come from?

20 A Of...

21 Q Where you said, "The one factor we
22 considered was that everyone should have an equal
23 chance to apply and secure a position." Where, under
24 the OPM RIF regs or TVA policy do you take into
25 account -- I mean, the whole purpose of a RIF is

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1 you're going to be -- have more people for less
2 positions. And if you consider posting them all as a
3 factor so that everybody can compete, then you never
4 follow a RIF.

5 A Yeah. The first -- the first step we did
6 is compare to determine that they were different, and
7 that they would be posted. There were more people
8 there than would have jobs. And we were going to be
9 required at that time not to RIF, but there would be
10 individuals in a surplus situation, and they would all
11 have the ability to apply on the new jobs. And that's
12 what I was indicating there.

13 Q Do you take into account -- and reading
14 the sentence again, "One factor we considered here was
15 that three or four people presently in the positions
16 would be vying for the two positions being posted, and
17 that everyone should have an equal chance to apply and
18 secure a position."

19 A If -- I'm giving the perception that we're
20 considering an individual and whether -- what the
21 impact on that individual would be. That's a -- I did
22 not mean to give that perception. We don't focus on
23 the individual, their qualifications or their
24 situation when we're doing that comparison. And, as
25 I said, we did the comparison. And based on that

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1 comparison, we made the decision to post the job.

2 Q Well, I'm not suggesting that it says we
3 looked at individual people, but it does say that if
4 you look and there's four people and there's only
5 going to be two jobs, one thing that you would
6 consider in deciding whether you had to post or not
7 was making sure everybody had an equal chance.

8 A The -- the factor that determined whether
9 we had to post it or not was the comparison we did,
10 was the comparison of the job descriptions that we
11 did.

12 Q And did -- did you review the comparison,
13 the determination as to whether those jobs were
14 interchangeable?

15 A I discussed that with Mr. Easley on more
16 than one occasion. And we discussed some of the
17 specifics.

18 Q And what do you recall about those
19 discussions?

20 A I don't recall a lot of the specific
21 detail, but Mr. Easley had looked at it. After Mr.
22 Fiser had contacted us, he had looked at it a second
23 time. And we had talked to -- to other folks, labor
24 relationships. We -- we knew what we were facing,
25 that a DOL complaint would be filed. So we didn't do

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1 it in a vacuum. We talked to others about, you know,
2 whether this was a sound decision. And the conclusion
3 was that it was; that the job was different and should
4 be posted.

5 Q And do you know the basis for that
6 conclusion?

7 A The basis that they were different?

8 Q Uh-huh.

9 A I remember some of the specific elements
10 that were considered different. It eliminated the
11 environmental function; it specialized the chemistry
12 position into BWR systems -- boiling water reactor
13 systems and pressurized water reactor systems; and it
14 added some technical contract language functions, I
15 believe. I'm going from memory there. Now, those --
16 those are some things I remember that, in our view
17 made the jobs different.

18 Q When you do a comparison of old PD, new
19 PD, and the old PD's got ten functions on it and the
20 new PD's got ten functions, whatever, do you do a one-
21 for-one comparison and assume they're all equally
22 valued, or do you weight factors or...

23 A It's sometimes difficult to do a one-to-
24 one, especially in a technical job. One technical
25 element could -- could be very specific in its

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1 requirements, and could add a function that might be
2 difficult for an incumbent to do. It might --
3 technically, it may be beyond their capabilities or,
4 you know, it might not meet the -- the quals. So
5 it's -- it's hard to say that you go one-for-one.

6 But in -- in a review like that -- and
7 maybe it's -- it might be easier for me to describe
8 how Ben Easley did it, because in...

9 Q Okay.

10 A ...my discussions I -- on this job, we had
11 looked at the two. He -- he had taken both position
12 descriptions, and in the comparison we would highlight
13 what was in the new and what was in the old and
14 discuss the differences. Is this significantly
15 different or is this the same function? And then
16 identified those differences and -- and make a
17 decision that, yes, it is significantly different,
18 it's -- it's a new position and should be posted; or
19 no, it's not.

20 Q Did you have input from Mr. McArthur or
21 other management as to whether these were different or
22 not, or what percentage of the job was encompassed by
23 one function versus another?

24 A The line organization prepared the job
25 descriptions. But I don't believe we discussed the

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1 decision to post or not to post and -- and those
2 similarities. Now, I did not. I'm not certain if Mr.
3 Easley did or not. But to my knowledge, he didn't.

4 Q Going back to my hypothetical, if you have
5 a -- the old PD had ten functions on it, and the first
6 two encompassed 80% of the duties, and those two were
7 transferred over, and maybe the other eight weren't,
8 but some other something was put in its place, would
9 that be an interchangeable position or not?

10 A You know, it's -- it's hard to make that
11 without sitting down and actually going over the
12 specific position descriptions. I understand what
13 you're -- you're saying. If these two functions were
14 the main functions of the job, and they were similar,
15 it -- it would be -- it would carry the weight, and
16 possibly would. But I -- I would -- I hate to make
17 the call on a hypothetical situation.

18 Q I appreciate that. But I -- I was -- I
19 asked actually yesterday Mr. Reynolds, and he
20 indicated it's not -- just because there's ten of them
21 doesn't mean they're all equally weighted, and you're
22 looking at the majority, preponderance, whatever. How
23 would you or Mr. Easley or somebody know, if you got
24 ten listed, that, you know, the first two or three
25 are -- are 90% of the job, and the last seven or eight

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1 are 5% of the job, and that you should be taking --
2 how can you do anything but a one-for-one?

3 A The consultant that is involved and
4 supports the organization is typically knowledgeable
5 of what's happening in -- in an organization. If --
6 if something is incorrect or the duties are not
7 performed, we need to change the position description.
8 But typically, two or three of the duties do describe
9 the majority of the functions. And as I said earlier,
10 we oftentimes have that last one, "other duties as
11 assigned" which may -- which is not the main focus of
12 the job description.

13 Q Okay. You mentioned we should change the
14 PDs if the functions have changed. Who's responsible
15 for making sure that the position descriptions are
16 accurate?

17 A An employee, if the job description's
18 inaccurate, should raise the issue. The manager and
19 the employee should then get together and decide
20 what -- what's incorrect about it, and they can
21 rewrite a PD and submit it to human resources.

22 Q Okay. Prior to conducting a surplus or
23 reduction in force effort, does HR make any -- any
24 attempts to do any pre-RIF planning to assure that the
25 documents you're going to be using are accurate?

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1 A If I understand your question, we -- we
2 did not go out and -- we don't go out and do surveys
3 to determine that the -- the job descriptions
4 accurately reflect all the duties that are -- are
5 being performed unless we're requested to do that.
6 Employees often request an evaluation of their
7 position description. Typically, it's based on a
8 desire to -- to get a higher grade and receive more
9 compensation, though. So we do get a lot of requests
10 to look at them and evaluate. But, again, that's
11 typically a compensation issue.

12 Q Well, was there -- was there any notice
13 provided to employees in '96, say a few months before
14 the decisions on posting, not posting, whatever, were
15 made that, you know, there's going to be some
16 potential reductions coming up. If you've got
17 questions about your PDs, you should let us know?

18 A I believe I can safely say that every
19 employee knew that a reorganization was pending.
20 In -- in the case of the chemistry positions,
21 chemistry and environmental positions, many of those
22 employees were involved in helping prepare the new
23 position descriptions. Mr. Grover and Mr. McArthur
24 and those department level managers would typically
25 get input from employees on what the position

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1 description should look like. And I believe that
2 some -- previously we've had some -- we've had
3 discussions that that happened here, that the
4 employees did help prepare the position descriptions,
5 and in doing this, they -- they clearly understood
6 what was pending; that a reorganization was coming.

7 Q At the time Mr. Easley made the
8 determination, I mean, there has been, and I'm sure
9 you've seen testimony in this -- in various times that
10 the environmental part of that job was 5% of the work,
11 and the chemistry was 95% of the work. Mr. Easley
12 have any discussions with anybody to determine, that
13 you're aware of, the significance of...

14 A Not that I'm aware of.

15 Q Okay. Go to Dr. McArthur's position. I
16 guess, first of all, was a position description
17 prepared for the '94 position -- I guess the position
18 he got in '94, if I'm not mistaken, or '95 for the rad
19 con manager?

20 A 1994? I don't know. He was never issued
21 a position description, and I was not in that
22 organization at the time.

23 Q You weren't involved in that?

24 A I came in November or December of '94.
25 And I'm not sure when that occurred.

1 Q All right. Let me show you a statement
2 that -- to the Department of Labor, 5/22/97. I'm not
3 sure what -- and if you -- if you look at the bottom
4 of it, the first page and the top of the second page,
5 or specifically #2 says the position was --
6 description was -- I'm sorry. Bottom of -- this is
7 the second page, so if you look at the bottom of the
8 first, it'll tell you what's coming up to that. But
9 the #2 there is...

10 A Well, I say given a position description
11 as the rad con chemistry manager. If I said that, I
12 was incorrect. I don't believe he was ever issued,
13 and my records don't show that he was ever issued a
14 position description of rad con chemistry manager. I
15 don't know if one was ever written.

16 Q Okay. To your knowledge, was he ever
17 given a, I guess, what do you guys call them, service
18 review in that position?

19 A In the 1994 position?

20 Q Right.

21 A I don't know.

22 Q Turns out he was. Let's see. Let you
23 look at these -- a service review for Dr. McArthur.
24 And I -- look and see what the date on that is.

25 A Well, the date's 10/1/94 through 9/30/95.

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1 Q And actually, if you could help me to --
2 whose signatures are on the bottom of that first page,
3 or initials or whatever it is? Do you have any idea
4 as to who the manager was? No?

5 MR. MARQUAND: Well, if you look at the
6 last page, the initials are reflected on the
7 signatures on the back page.

8 A Okay. Wilson McArthur, Tom -- is the
9 employee.

10 Q Tim McGrath?

11 A Supervisor's Tom McGrath. T. J. McGrath.
12 And the reviewer was Ben Easley.

13 Q Okay. Now, how would one in TVA go about
14 developing elements and standards, and issuing
15 performance appraisals for a job that didn't exist?

16 MR. MARQUAND: Look at those performance
17 objectives.

18 A And the question was: How did they
19 develop the performance objectives if he didn't...

20 Q If officially he was not in a job, how
21 were -- how do you develop detailed elements and
22 standards, and appraise somebody on a position that
23 they don't occupy?

24 MR. MARQUAND: I think you're assuming
25 that those are detailed, as opposed to be very general

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1 engineering.

2 Q Well, how do you normally develop
3 performance -- service reviews, whatever you have?

4 A The manager and the employee sit down and
5 agree to what the elements of the service review and
6 the expectations for the coming year are.

7 Q And where do those come from? They
8 related at all to the position and the position
9 description?

10 A Typically they are. But that's a
11 discussion between the two; between the manager and
12 the employee, and -- and what the goals of the
13 organization are.

14 Q From your knowledge of OPM regulations and
15 reductions in force, when -- let's say you consider
16 the employee's official position. And somebody told
17 you that that's only with the position description and
18 nothing else?

19 A That's been our policy since I've been in
20 HR -- in human resources.

21 Q And who set the policy?

22 A I don't know. I would have to go to OGC
23 and determine how the policy was initially set. But
24 it's been the practice and the policy in TVA nuclear
25 since I joined the line HR in '90 -- November of '94.

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1 Q How often, in your -- or in your
2 experience at TVA, have you gone to a reduction in
3 force or surplusing situation and used what, to your
4 knowledge, was clearly out-of-date position
5 descriptions for jobs that the employee was not in?
6 I'm not talking about additional duties assigned, I'm
7 talking employees in a totally different position.
8 How often have you used the position description of
9 record for a position the employee was not in, in
10 making determinations on who stays and who goes?

11 A As far as what percent of the time, I
12 don't know a percent. But in the early 1990s -- by
13 '94, when I joined the line HR, many of the position
14 descriptions were drastically out-of-date. Many of
15 the engineer position descriptions and job
16 descriptions were, prior to the reorganization when
17 engineering was -- was reorganized and disbanded from
18 the Knoxville organization, and even into the '90s,
19 many of those employees had position descriptions and
20 job descriptions many years old and in the other
21 organization.

22 So I don't know a percent of the time. In
23 the early 1990s, I suspect it happened -- I suspect it
24 was quite often that they had to refer to an old job
25 description. I wasn't there at the time. I think

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1 we're a lot better today than we were in 1990, and
2 we're a lot better today than we were in 1994. I
3 can't cite an example, but I believe it has happened.

4 Q And people basically went out the door
5 because they had the wrong PD of record?

6 A I don't know of any examples, but many
7 employees have been RIF'd over the -- the ten-year
8 period from -- or the period 1988 to 1997. And to my
9 knowledge, many of them may have and did have out-of-
10 date job descriptions. Now, whether the job
11 description still reflected the duties -- and you got
12 to look at the individual job description.

13 Many of the engineering job descriptions,
14 if they were a electrical (sic) engineer, I'm sure
15 they were still performing electrical engineering
16 functions, but it might have been at a plant, and it
17 might have been in a department level at the plant.
18 I don't know.

19 Q Have you specifically been told by OGC
20 or -- or someone else that in a -- in a surplusing
21 situation or a reduction in force situation, you're to
22 use what you know to be inaccurate position
23 descriptions for a job a person is clearly not
24 occupying because they're being appraised and have
25 elements and standards in another job? Have you been

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1 told you must use what you know to be the wrong or
2 false document in making decisions?

3 A OGC has not suggested that I use a false
4 or -- or wrong document. The consultants that work
5 for me and the consultants in HR that I worked with
6 utilized the position description to do the comparison
7 of. And that -- that's been their practice.

8 Q And do you know how that practice
9 developed?

10 A No, I don't.

11 Q Have you ever been audited by OPM on
12 reductions in force?

13 A Not since I've been in human resources.

14 Q Has the IG ever done an audit of your
15 practices, record keeping, whatever?

16 A Not that I'm aware of.

17 Q Tell me how it was determined that Dr.
18 McArthur could roll over into the new rad con
19 chemistry program manager position in '96.

20 MR. MARQUAND: Wasn't a program manager.

21 Q Whatever it was called. Rad con something
22 or other.

23 MR. MARQUAND: Manager of rad -- I believe
24 it was called manager of rad chem, if you'd like it.

25 Q Okay. Chemistry, environment and --

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1 that's...

2 MR. MARQUAND: Radiological control and
3 chemistry.

4 Q Corporate radiological and chemistry
5 control manager. That job.

6 A Let me back up, then, to -- this is
7 probably early '96 when we began to see what the
8 organization was going to look like. I had had some
9 preliminary discussions with Tom McGrath about what we
10 would have to do from an HR standpoint. And I think
11 I'd told him early on that it appeared, from the way
12 the organization was shaping up, that we were going to
13 end up posting most of the jobs. And as we started
14 writing the job descriptions and doing the
15 comparisons, this was one of the first ones we were
16 going to fill, because we wanted to settle the
17 management position so that we could complete the rest
18 of the organization.

19 And I hadn't -- I don't know of any
20 specific conversations we had had since I told him
21 that most of them would be posted. But at some point
22 in time early '96, Tom McGrath came to me and said
23 that Wilson McArthur had approached him about the
24 position description, and had expressed a concern to
25 him, indicating that he felt that that was his job.

1 And I -- I told Mr. McGrath that I'd look into it.

2 I didn't know the history. I hadn't been
3 there during some of the -- of the changes. That we
4 would look at it. And I subsequently talked to Mr.
5 Easley. Ben Easley had been there during all of these
6 changes. And I asked Ben to -- to kind of describe to
7 me what had happened, what position he was in, what he
8 had held, and that type thing.

9 We had several discussions about, you
10 know, whether this was in fact the case; whether he
11 had rights and could move into the job; or whether we
12 should post it. I talked to our labor relations
13 folks; I talked to my boss, Naomi Lindsey, about it;
14 I talked to Phil Reynolds about it. And we laid out
15 all the information that we could. It appeared to me
16 that -- that -- that it was a job that was
17 interchangeable, and it appeared that...

18 Q It was a job that was interchangeable with
19 his...

20 A With -- with his technical...

21 Q ...1990 job?

22 A ...technical programs, manager position.

23 Q Not the one he was in at that time?

24 A Right. The -- and that was his issue.
25 From a historical standpoint, what had happened is I

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1 think in '93, '94, he had been moved from the
2 technical programs manager into the rad con position.
3 Was shortly thereafter, about the time I -- I joined,
4 they -- they actually brought an individual up, a
5 fellow named Allen Sorrell, and put him in acting in
6 the basic technical program manager job. There may
7 have been some elements that had changed, but they
8 kind of recreated the job fairly soon after Mr.
9 McArthur had been taken out of it.

10 Mr. Sorrell retired during this period, or
11 was planning his retirement. And as they wrote this
12 job, the corporate radiological and chemistry control
13 manager job, that's when Mr. McArthur raised the issue
14 to McGrath. And based on our evaluation of it, it did
15 appear he had rights to the job, once we understood
16 the full -- what had happened and what position he was
17 under. And, again, it was an important decision.
18 This was going to be the manager of that department.
19 We talked to labor relations, we talked to my boss
20 about it, and we talked to Phil Reynolds. And if
21 memory serves me correct, everyone agreed that we were
22 doing the right thing.

23 Q Did Mr. Easley disagree with that?

24 A Not at -- not at that time, to my memory.
25 He did come to me later. Once we got a little further

1 into the reorganization, he did talk with me about it
2 and indicated we should post the job. We'd already
3 made the decision, had already told Mr. McGrath, and
4 I think we'd already told Mr. McArthur and probably
5 had him in the job. I don't remember the exact time
6 frame. But Ben did come to me and talk to me about --
7 specifically about Ron Grover and the impact on Mr.
8 Grover.

9 Q Now, that was after the decisions had been
10 made, not...

11 A Yes.

12 Q ...in the process?

13 A Yes.

14 Q You say you determined that Mr. McArthur
15 had rights to that job. If -- under TVA personnel
16 practices, if you're in -- or you take another job and
17 they -- you know, they're getting rid of your position
18 or you're in another job, and a year or so later they
19 decide they're going to have your old job again, do
20 you have some rights to that job? Assuming you had a
21 PD in the new one.

22 A If -- if they recreated my job from a year
23 or two ago, but I had -- I had accepted another job,
24 I had a position description in the job as a manager,
25 it's probably something I'd call OGC about, but I

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1 don't think so. I'm under -- I've taken another
2 position, I have a position description. I don't
3 believe I would have rights to it.

4 Q You said all of this stuff around Mr. --
5 Dr. McArthur revolves around the fact that he either
6 had a PD that's somehow missing, or he never had a PD
7 in a -- in another job he took, and you -- and you
8 know he's in that job because he got a performance
9 appraisal. I could show you the organizational chart
10 with his name and grade from 1995. He was in a PG-11
11 position, the same as Mr. Grover on the org chart.
12 Got a performance appraisal. And just because you
13 can't find a PD, then everything's different than it
14 would have been?

15 A Yeah, I -- I see two other individuals on
16 it: Mr. Sorrell and Mr. Moody. And their -- we do a
17 lot of rotational developmental assignments. We have
18 a lot of individuals actg in those positions. So I
19 don't know that that's the deciding -- it's not in our
20 case. It would not have been the deciding factor.

21 Q What would not have been?

22 A In making the -- in making -- the fact
23 that -- that he was on an org chart...

24 Q Oh.

25 A ...with a specific job title. That

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1 wouldn't have been the deciding factor in...

2 Q The deciding factor here is the missing
3 position description?

4 A The deciding factor's in the position
5 description of record that he had, and then the new
6 position description that was created.

7 Q Well, is there any dispute at TVA that, in
8 point of fact, Dr. McArthur occupied the rad -- what
9 was it? Rad control...

10 A Rad control.

11 Q ...manager position in 1995?

12 A Not that I'm aware of.

13 Q So you all know he was in the job; he got
14 appraised in the job; but because nobody wrote one
15 document, you felt you were bound to use an out-of-
16 date position description for a job he didn't occupy?

17 MR. MARQUAND: If you would like to depose
18 one of our in-house advisory attorneys who advised
19 them on that, we'd be glad to make them available.

20 MR. DAMBLY: Well, we asked for that, I
21 think.

22 MR. MARQUAND: Well, you asked for
23 somebody who'd be an expert on the application of the
24 RIF regulations. We plan to provide somebody from HR
25 as to how HR applies them. But if you wanted to

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1 depose somebody from our office as to what advice they
2 routinely give, be glad to put them up.

3 MR. DAMBLY: Okay. Surprised you're
4 willing to give me one of your attorneys, but, hey...

5 MR. MARQUAND: Well, it's not a privileged
6 matter. I mean, they said over and over this is the
7 advice they get from OGC. And it's not privileged
8 with respect to -- because nobody came in and said --
9 to our office and said, "What do you do -- what do we
10 do with Dr. McArthur." We're not talking about
11 whether there's a privileged communication. It's what
12 is the advice that's routinely given in these matters.
13 There's no question about it.

14 THE WITNESS: Let me -- let me go back and
15 say again. We -- we used the same criteria, the same
16 HR process that we did for all of the others. This
17 was not the -- the rad con chemistry group was not the
18 only group involved in this. We used the same
19 practice. We compared the position descriptions in --
20 in these other cases, and we made our decisions based
21 on those findings. So I think we were -- we were
22 consistent in the way we approached all of those
23 decisions.

24 BY MR. DAMBLY:

25 Q With regard to posting manager positions,

1 senior manager positions, I guess, as I recall during
2 the enforcement conference you indicated there were
3 different criteria for, say, PG senior, and when you
4 had to post and when you didn't, you had more latitude
5 then for the PG 1 through 11. Do you recall that?

6 A I don't remember specifically what I said.
7 But if -- if I gave you the impression that I didn't
8 have to do a comparison, I did not mean to. We did
9 the comparison, first thing, to determine what we
10 needed to do there. Again, we talked to labor
11 relations and to our supervision to see if we were
12 doing the right thing. And in each of those cases it
13 was agreed that we were doing the right thing.

14 MS. EUCHNER: I have a question for you.

15 THE WITNESS: Okay.

16 MS. EUCHNER: What would have happened if,
17 during the reorganization, they decided to keep the
18 rad con manager position that McArthur held, and you
19 went back and compared the PDs? Would he have had to
20 compete for that position, even though he was already
21 holding it, simply because his position description of
22 record was the technical programs manager position?

23 THE WITNESS: I might have called OGC at
24 this point in time. And I definitely would have
25 talked to labor relations. It's something I'd have

1 to -- to look at and think about. But, seriously, I
2 would probably have talked to -- have sought advice.

3 BY MR. DAMBLY:

4 Q Okay. Now, did you actually do a job
5 comparison between the -- the '90 and the '96 PDs for
6 Dr. McArthur for the two positions?

7 A Yeah. Yes.

8 Q You did it?

9 A Yes, we -- I -- I didn't -- I did not do
10 it.

11 Q I mean, there are, when I look at them,
12 significant differences between the two and the
13 programs that they were responsible for.

14 A When I say I didn't do it, I did review
15 and have discussions about the results. But, no, I
16 didn't do the actual comparison.

17 Q Is there a difference when you're
18 comparing what I will call people managers as opposed
19 to program managers? I guess Mr. Fiser was in a
20 program manager position as opposed to a people
21 manager, which was Dr. McArthur. Is there a
22 difference, when you compare PDs to determine
23 interchangeability, in how much of the duties have to
24 be the same for a program manager versus a people
25 manager?

1 A There's not a difference in that sense.
2 But in -- in a management position, the position
3 description should reflect that the main function is
4 to supervise. And there may be several elements.
5 Again, you might get into that list of ten -- ten
6 departments or functions that are supervised. Again,
7 I -- I like to use examples in -- in how I see the
8 difference.

9 If you're looking at, for example, the
10 vice president of engineering and technical services,
11 and you move the Concerns Resolution Program from that
12 organization to -- to report directly to the chief
13 nuclear officer, I wouldn't view that as a significant
14 change in the functions of the vice president of
15 engineering and technical services. They still are
16 the manager of all the technical engineering
17 evaluations. We've taken an element out of that.

18 So, from that standpoint, that's -- that's
19 how I see approaching evaluating management jobs like
20 that. And, in fact, we -- and I'm sure NRC does, too.
21 If a manager -- high level manager has various
22 elements, if you move one or two elements around
23 underneath that manager, typically we don't post the
24 job or consider it a significant change.

25 Q But if you were doing a reorg and you're

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1 creating a new position that has -- picks up two
2 and -- say a -- you had a manager -- senior manager or
3 something for -- that had three functions under him,
4 and you do a reorg, and now they're going to have six
5 functions. It's a new position title, new PD, yet
6 five or six functions instead of just the three. Do
7 you have to post that? Or do you just say he's a
8 manager and he can manage anything?

9 A You wouldn't just say he's a manager and
10 can manager anything. There's a lot of difference
11 between the vice president of human resources and the
12 vice president of engineering and technical services.
13 Now, that's one example that it's pretty evident those
14 are different functional areas within the company.
15 Totally different. One I won't say couldn't do,
16 because engineers can come over into HR occasionally,
17 but...

18 Q I was wondering if you were going to, you
19 know, cover for yourself.

20 A I'm not going -- I'm not going that way.
21 But I -- but I do -- you can see the difference in two
22 jobs like that, that they would be drastically
23 different. But it's hard to answer your question,
24 because those three elements still could have some
25 of -- a lot of the same elements as six. It just

1 depends on how you break it up.

2 Making a determination like this, again,
3 I couldn't go by the number of elements or duties.
4 You need to look at the words, the job description,
5 itself.

6 Q Okay. And I'll let you look at those
7 words, because those are the two PDs. If you'd tell
8 me -- and if you want, I'll take a break for -- we've
9 been going for an hour-and-a-half. Get a drink of
10 water or whatever, take a look at those, and then
11 I'll -- I'll ask you to tell me what the difference
12 is. Why don't we take like five minutes off the
13 record.

14 MR. MARQUAND: Sure.

15 THE WITNESS: Okay.

16 (Brief recess.)

17 MR. DAMBLY: Back on the record.

18 THE WITNESS: Where were we?

19 MR. DAMBLY: We were on asking you if you
20 would compare the two McArthur position descriptions,
21 the '96 and the '90, and tell me you weighed them.

22 THE WITNESS: Now...

23 MR. DAMBLY: Why you consider them
24 interchangeable.

25 THE WITNESS: What I'd prefer to do,

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1 rather than orally, you know, reading them and doing
2 a comparison, we did a comparison back then. And I
3 believe we provided a copy that does -- does the
4 comparison. And, in addition -- it was like a one-
5 page comparison. And I believe we provided that. In
6 addition...

7 MR. DAMBLY: That was at the enforcement
8 conference?

9 MR. MARQUAND: No, actually they did it --
10 what he's referring to is something -- a document we
11 produced that was in one or -- one or more of the
12 notebooks as a comparison of the two PDS.

13 THE WITNESS: But I also do think that in
14 the enforcement conference we did and provided a
15 comparison where we showed the two positions, and the
16 process for decision. And...

17 MR. DAMBLY: Okay. I looked for that
18 document the other day and couldn't find it.

19 THE WITNESS: ...actually, rather than
20 just...

21 MR. MARQUAND: It was in front of one of
22 your -- the one in '96 was in the front of one of
23 those notebooks you had out yesterday. And then one
24 of the -- the other documents he's referring to was a
25 document that was used during the enforcement

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1 conference, and it was one of the...

2 THE WITNESS: Part of the presentation.

3 MR. MARQUAND: ...part of the
4 presentation.

5 MS. EUCHNER: You mean the selection
6 notebook?

7 MR. MARQUAND: Look in the front of that.
8 Yeah, right there in the front.

9 THE WITNESS: There it is.

10 MS. EUCHNER: Oh, this one?

11 MR. MARQUAND: Uh-huh. And -- and also
12 there were some supporting documents you and I talked
13 about the other day. There was a whole bunch of org
14 charts behind that in one of them that shows all the
15 functions that were being supervised by those
16 positions, that was -- that was the supporting
17 documentation.

18 THE WITNESS: That's -- that's the first
19 document I was referring to. But again, we did
20 provide in presentation format a breakdown.

21 MR. DAMBLY: All right. I was -- I was
22 looking for that the other day and I couldn't get my
23 hands on it.

24 MR. MARQUAND: There's also a bunch of org
25 charts that go with that, that was in one of the --

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1 one of the notebooks as well, that's a backup for
2 that. But as I understand it, that was done in '96
3 to help them arrive at the decision they made.

4 MS. EUCHNER: I have a question. Why
5 would that be in the notebooks for the selection
6 review board?

7 MR. MARQUAND: I don't know, except the
8 fact that apparently the notebooks were kept up-to-
9 date after the selections were made; I mean, the
10 selection documents were made after the selection
11 review board met. And these were all in Ben's
12 custody, and we found these back in the files, and
13 this is the way they were found.

14 MR. DAMBLY: And they had this on the...

15 THE WITNESS: I suspect that was the file.
16 And just to keep anything, stick it in there.

17 MR. DAMBLY: Okay. Put that back -- put
18 it in place, then. All right. You could help me with
19 this, because I was -- the -- the DOL declaration back
20 in looks like -- the reason I have trouble with the
21 date, there's this date stamp at the top says January
22 20th, 19...

23 MR. MARQUAND: Look at the third page. I
24 think there's...

25 MR. DAMBLY: Well, that's my problem. All

1 the copies I have, there is no third page.

2 MR. MARQUAND: Oh, sorry.

3 MR. DAMBLY: It just goes to this thing in
4 the back.

5 MR. MARQUAND: Sorry, sorry, sorry.

6 MR. DAMBLY: It says, "or that his
7 position would," and then I go to a thing and I'm...

8 MR. MARQUAND: Is that the same one?

9 MR. DAMBLY: Have you got -- mine's Bates
10 stamped. Is that...

11 MR. MARQUAND: Well, that's out of my
12 file. That's out of the one that was filed with the
13 Department of Labor. Yeah, those are the same.

14 MR. DAMBLY: Same one? I don't know what
15 was on the third page, but -- all right, yeah. I
16 throw away the PD one. That's why that page was
17 missing. Okay.

18 MR. MARQUAND: So what was -- what was the
19 date of it? January 15?

20 MR. DAMBLY: Well, it's filed on January
21 20th of...

22 MR. MARQUAND: It was signed by him on
23 1/15 of '88 -- '98.

24 MR. DAMBLY: Okay. I was just looking to
25 see if that one in particular had any discussion of

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1 the McArthur position, but it -- it's all Fiser. It
2 was up through there, third page is...

3 THE WITNESS: It looked -- the document...

4 MR. DAMBLY: Yeah. Okay. Okay.

5 BY MR. DAMBLY:

6 Q In -- in making the determinations for who
7 would end up in the position that -- the corporate
8 radiological and chemistry control manager position,
9 did you at all consider Mr. Grover's PD or did you
10 make any comparison to see if his functions were
11 similar enough?

12 A Now, I didn't, and I don't know if Mr.
13 Easley did or not.

14 Q And there was some discussion, I think, at
15 the PEC about Mr. Grover being in a different pay
16 grade, I guess, than Dr. McArthur. And so they would
17 have been on different competitive levels. Do you
18 recall that?

19 A At the enforcement conference? I don't
20 believe -- I don't remember it.

21 Q Okay. Well, the reason I was going to
22 ask, at TVA, if you conduct, let's say, a reduction in
23 force and you have -- and I showed you the org chart
24 before where Dr. McArthur and Mr. Grover were both
25 listed in PG-11 positions, if Dr. McArthur, because

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1 of -- well, let me ask you. Do you have save pay?
2 What I call save pay at TVA. If you come down from
3 a -- let's say a PG-11 to a PG-8 position, even though
4 normally that'd be a pay reduction, do you retain your
5 pay?

6 A We don't have any policy that we refer to
7 like save pay. But typically our pay bands are fairly
8 broad, and it -- it would be unusual if a -- if an
9 individual that went back say one -- one grade...

10 MR. MARQUAND: You just mentioned two.
11 And I think the problem I'm having with that is that
12 you've got a whole lot of permutations. If you've got
13 somebody who's rocking along in a job, and they just
14 apply -- say you've got somebody in Chattanooga and
15 they live in Spring City, and they want to get back to
16 Spring City, which is Watts Bar. Say they're in a PG-
17 10, Chattanooga, and there's an opening at Watts Bar,
18 PG-7, PG-8, and they apply on it, take that, and
19 are -- and on an advertised job and are selected, that
20 would be a totally different situation than somebody,
21 say, who's in Chattanooga. There's surplus from PG-11
22 jobs, say, and they take a very similar job in a
23 reorganization as a PG-10.

24 Or, for example, when we did reevaluation
25 of engineers a couple of years ago, and simply

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1 reclassified a lot of engineers from a higher level to
2 a lower level job, and they basically stayed in the
3 same place and in the same organization. A lot of
4 different permutations.

5 A And I think we've had some others where if
6 it were an entire group of people, we -- we wouldn't
7 reduce the salary, but would freeze their salary until
8 the pay grade -- until the salary caught up with it.

9 MR. MARQUAND: Okay. But that's different
10 than say an individual who, you know, voluntarily move
11 from one job to another, maybe.

12 MR. DAMBLY: Can we go off the record for
13 a scd?

14 (Off the record.)

15 BY MR. DAMBLY:

16 Q The questions I'm getting to is when --
17 when you're doing a reduction in force, do you
18 compare, in determining who would be in a competitive
19 level, the positions that the people occupy as opposed
20 to the people. And maybe their grade was higher
21 before and their pay's higher or whatever. If you had
22 an org chart that showed two PG-11s and you were going
23 to do a RIF, and it happened to be that for some
24 reason Dr. McArthur was being paid as a PG-SR, even
25 though he wasn't in that job, would you look at...

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1 A We would have looked at the position
2 description, the job title, the job description,
3 itself.

4 Q Okay. So you'd look at the actual job,
5 not -- not his individual permutations?

6 A You could have situations that an
7 employee, as we were talking earlier, had been in
8 other positions and had held different grades, and
9 their salary might be at a -- at that level. But that
10 wouldn't determine their competitive level.

11 Q Okay. Unfortunately I will have to say
12 this, because it was actually Mr. Marquand who said
13 whatever I was interested in, so that'll be a
14 different deposition.

15 (Off the record.)

16 MS. EUCHNER: While he's doing that, when
17 you were working with Mr. Easley on the determination
18 that Dr. McArthur...

19 COURT REPORTER: Excuse me. Speak...

20 MS. EUCHNER: I'm sorry. When you were
21 working with Mr. Easley on the determination that Dr.
22 McArthur could transfer into the new position...

23 THE WITNESS: Uh-huh.

24 MS. EUCHNER: I just lost my question.
25 Did you look at -- did you recently look at just the

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1 job descriptions, or did you take into consideration
2 the fact that Dr. McArthur was already performing some
3 of those job duties for Mr. Sorrell?

4 THE WITNESS: For the comparison purposes,
5 we looked at the job descriptions. You are correct,
6 he was performing some of the duties, because the
7 individual that was planning to retire and had
8 already -- was not in Chattanooga, and would often
9 delegate duties to Dr. McArthur. But we compared the
10 job descriptions, not the fact that Dr. McArthur might
11 have by doing some of the portions. Was that -- was
12 that the question?

13 MS. EUCHNER: Uh-huh.

14 THE WITNESS: Okay.

15 BY MR. DAMBLY:

16 Q What was just asked, in the -- I don't
17 know what this was in -- predecision on enforcement
18 conference, there's a discussion that says -- and it's
19 your discussion, that McArthur, in early '96,
20 approached Tom McGrath with concern. His concern was
21 that he believed the position description of the
22 radiological control and chemistry control manager was
23 his position. He believed he had held it before; and,
24 in fact, Mr. Sorrell was in the process of retiring,
25 and Mr. McArthur often did perform functions of the

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1 job.

2 Did Mr. Grover, to your knowledge, ever
3 act for Mr. Sorrell?

4 A It's possible. I don't remember.
5 Typically, if Allen Sorrell was not here, he would ask
6 Wilson McArthur to stand in for him.

7 Q The -- let me show you a document. It's
8 a MP business practice, management and specialty
9 selection process, dates 9/30/93, that was approved by
10 Mr. Reynolds. To your knowledge, was that the
11 business practice that was in place during the -- the
12 '96 reorg?

13 A It's dated '93. I believe it was. It may
14 have been revised since then, but I think this was in
15 effect.

16 Q Okay. And does that require that all
17 PG and 1 through 11, plus the senior positions, be
18 posted?

19 A All vacant, permanent PG-1 through senior
20 management and specialist positions must be posted for
21 not less than seven working days.

22 Q So that wouldn't have been a difference in
23 the requirements as related to the job Dr. McArthur
24 went into and the job, I guess, Mr. Harvey got and Mr.
25 Fiser didn't get in terms of posting?

1 A No. No.

2 MS. EUCHNER: What would have happened if,
3 after you gave Dr. McArthur -- after you determined
4 that Dr. McArthur could transfer into the rad con
5 chemistry position, that Mr. Grover came in and said,
6 "I think I also have rights to this position"? What
7 would have HR have done?

8 THE WITNESS: We would have looked at his
9 concern just like we did Dr. McArthur's concern. He
10 didn't do that. He did approach Mr. Reynodsl and talk
11 with him about the position, and we ultimately came to
12 a decision that we would retain Ron Grover in -- in
13 the company, and we agreed on the inpo assignment and
14 a new position, a developmental rotational position.
15 But I don't remember him saying he had rights to the
16 position. To the new one.

17 MS. EUCHNER: Would you have done a review
18 of his position description at that time to determine
19 whether...

20 THE WITNESS: Most likely we would have
21 looked at his position description.

22 MS. EUCHNER: And if his position
23 description was also determined to be interchangeable,
24 given that you had already put Dr. McArthur in that
25 position, what would you have done?

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1 THE WITNESS: We would have had a problem.

2 MR. DAMBLY: He would have called OGC.

3 THE WITNESS: I don't know right now.
4 We -- we would have had two people with rights to the
5 same job. I probably would talk to labor relations or
6 OGC.

7 MS. EUCHNER: And assuming that both of
8 them would have been eligible to transfer into the
9 position, under the policy that Mr. Dambly just showed
10 you from 1993, could Mr. Grover have been basically
11 waived into one of those positions under any of the
12 exceptions to the posting policy listed in there?
13 Because it's my understanding---and correct me if I'm
14 wrong---that if you have two individuals who are both
15 eligible to transfer into the same position, that that
16 would put you in a position where the most senior of
17 the two would get the position and the other one would
18 be RIF'd for surplus.

19 MR. MARQUAND: Well, you've got it
20 backwards, Counsel. If it's a vacant position that
21 requires advertising, they can waive the requirement
22 for advertising.

23 MS. EUCHNER: Okay.

24 MR. MARQUAND: They can't waive the
25 requirement -- if somebody's got rights to a job, you

1 can't waive and say, "We're not going to give it to a
2 senior person, we're going to give it to somebody else
3 because they're a minority."

4 MS. EUCHNER: Okay.

5 MR. MARQUAND: If both people have -- what
6 you're saying the situation is, if people have rights
7 to a job, you're saying the jobs are the same. We
8 can't post it. They're the same. Therefore, if
9 you've got one job and you had two people, you know,
10 in that hypothetical you might have to conduct a RIF.
11 And you would...

12 THE WITNESS: You'd be in surplus or a RIF
13 situation.

14 MR. MARQUAND: You'd be in surplus
15 situation. You'd eliminate the less senior person.

16 MS. EUCHNER: And so, under TVA policies,
17 you would follow the strict RIF rules and not make any
18 exceptions?

19 MR. MARQUAND: I don't know. I mean...

20 MS. EUCHNER: The fact that you wanted to
21 keep a minority...

22 MR. MARQUAND: ...it depends on the
23 hypothetical. But, I mean, in a strict hypothetical
24 where you've got one -- one new position in the
25 reorganization with -- that is similar to two previous

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1 existing positions, you would, in that situation, be
2 in a surplus position.

3 MS. EUCHNER: Okay.

4 BY MR. DAMBLY:

5 Q If you have one new position that was the
6 similar, you know, you got -- let's say you got the
7 two PG-11 positions; now you're creating a PG senior
8 position that combines the two, and you've determined
9 it's a different position, could you use this policy
10 to put in Mr. Grover over -- without posting it?
11 The -- I guess the EEO minority exception.

12 MR. MARQUAND: As a minority? You could
13 seek a waiver.

14 A We could seek a waiver.

15 Q Okay. Were you involved with the
16 selection review board for the Fiser, Harvey,
17 whatever, the PDR -- PWR chemistry manager position in
18 '96?

19 A I was not present or a part of the
20 selection board. I did have discussions prior to it
21 with Mr. McGrath, when they were trying to establish
22 the selection board.

23 Q And what was the nature of those
24 discussions?

25 A Prior to the scheduled selection board, he

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1 talked with me about the fact that one of the
2 selection board members was not going to be able to
3 attend the meeting. It was Mr. Cox from Watts Bar.
4 And that we were going to -- that we needed to
5 substitute. He also told me that -- that Mr. McArthur
6 had told him that Mr. Cox had indicated that --
7 something to the effect that he really didn't know if
8 they needed to do the seclusion board. That it
9 appeared that he preferred Mr. Fiser.

10 And, as I remember it, it seemed that
11 concerned Mr. McGrath, that he would say that. But
12 regardless, he couldn't attend the meeting that night,
13 and we had to go on with the selection board. We had
14 several scheduled for that same day, and we needed to
15 find a substitute for Mr. Cox. And so we -- we did
16 that.

17 Q Now, you -- I mean, how far in advance did
18 you know that Mr. Cox wasn't going to be there? From
19 what you just said, sounded like you didn't find out
20 till that afternoon and you stuck somebody on the
21 board.

22 A No, no. It was more than -- more than a
23 day, I think. It was maybe a few days.

24 Q Few days? And why was it not possible to
25 delay the review board for those PWR-BWR positions for

1 a week or until some other time when Mr. Cox could be
2 there?

3 A We were on a fairly tight time frame to
4 get all these selections made, and we had a date that
5 we wanted to roll the organization out. As I remember
6 it, we had to have the selections done and the -- and
7 the letters -- I think at that time we were -- there
8 were surplus letters or transfers to the service
9 organization. I'm not sure about that.

10 We had a schedule that we were trying to
11 follow. And we had at least three or four other
12 selection boards going the same day, and we had at
13 least two of the members set. We felt like we needed
14 to -- to go on and get the selections done on
15 schedule, on the day we had picked. And we were able
16 to find another manager that was -- schedule-wise, was
17 able to serve on the board. They were -- they were a
18 good choice. Plant experience, a good technical
19 background, and -- and we felt that they would make a
20 good selection board member, so we moved on with it.

21 Q The -- the deadlines that you were trying
22 to reach or comply with or whatever, those -- those
23 were TVA self-imposed deadlines?

24 A Self. Yes.

25 Q And so you could have delayed things by a

1 week and -- and there wouldn't have been any penalties
2 whatever associated with that?

3 A I don't know of any penalties, but it was
4 oftentimes very difficult to get that many managers
5 together at any one time. It was a busy time and
6 there were a lot of selection boards going. It just
7 didn't seem prudent to delay that one any longer and
8 go on with these other four; and then, at a later
9 date, pull it all back together again. We would have
10 had to have had site managers come back in a week or
11 two later, whenever we were able to do it. That just
12 didn't seem like a wise decision.

13 Q For some reason I'm under the impression
14 the site managers---I guess Cox, Kent, and what was
15 it; Corey?---got together once a month?

16 A They had peer team meetings once a month.

17 Q And this was at one of those that this...

18 A It was after one of the peer team
19 meetings, I believe. That's correct.

20 Q So they would have been back together in
21 another month?

22 MR. MARQUAND: Maybe.

23 A Yeah. I don't know. I don't know when
24 the next meeting was scheduled.

25 MR. MARQUAND: Counsel, let me ask you a

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1 question. And maybe you want to ask the witness this
2 question. What would be the logic in delaying the
3 selection for the chemistry program manager jobs by
4 the peer team, to allow the peer team later to all be
5 present to make that selection, but proceeding on with
6 the other selections for these other positions that
7 are also in this new organization, that are also
8 affected by all the peer team...

9 Q And if you want to answer that question,
10 go ahead.

11 A What would have been the logic for
12 delaying?

13 MR. MARQUAND: I don't understand what the
14 logic behind the question he was asking, was delaying
15 one selection while proceeding with the other four.

16 A To me it didn't seem like a good decision.
17 We had a selection board scheduled. It's -- it's not
18 unusual that in our business things happen that
19 require managers to change their schedules and plans.
20 And this was not the first time that we've had to
21 identify a substitute selection board manager and use
22 that person.

23 During 1996, when we were having to make
24 that decision, it did not seem that unusual. We had
25 one manager that for some reason couldn't make it. We

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1 were able to find another qualified manager to serve
2 on that selection board, and that was perfectly
3 permissible.

4 Q Now, you indicated that Mr. McGrath came
5 to you and indicated that Cox had indicated to him
6 that he would have preferred Fiser for the job?

7 A I think he -- that Cox told McArthur.

8 Q Told McArthur?

9 A I think that's...

10 Q And McArthur told McGrath, and McGrath
11 told you?

12 A That's the way I remember it.

13 Q Okay. And did Mr. McArthur -- I'm sorry,
14 Mr. McGrath indicate to you he thought that was
15 inappropriate or...

16 A Based on my memory, he -- he was concerned
17 or -- that he had a manager that felt like we didn't
18 need to do a selection board.

19 Q What was your response?

20 A Well, it was -- it was kind of a moot
21 point to me at the time. We had a manager. He had
22 already said he couldn't serve on the selection board.
23 And I tend to agree that I would prefer our managers
24 see the importance and support the use of the
25 selection boards. But, again, it was -- it was a moot

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1 point when you're going to find another manager at
2 that time. But we did -- we did discuss it, and I'm
3 aware that Mr. McGrath would have preferred that that
4 manager support the use of the selection board to pick
5 the candidates.

6 Q Did he have a problem with somebody
7 expressing a preference for a candidate before a board
8 meeting?

9 A That may have been part of the discussion,
10 that -- that he had indicated that Mr. Cox had
11 indicated to Wilson McArthur that he -- he had a
12 preference.

13 Q Do you have any policy at TVA on selection
14 boards that you can't sit on one if you have a
15 preference?

16 A We don't have a policy that -- that
17 establishes or excludes individuals that -- that may
18 have a preference. But we -- we have a professional
19 expectation that our managers will come in and act in
20 a professional manner and participate in these boards
21 with an open mind, and make a proper decision.

22 Q Is there any way you in HR try and ensure
23 that that takes place?

24 A We have a -- a human resource facilitator
25 present. And a part of what they will do is to ensure

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1 there's not any improper discussion or questions. And
2 some of it's very basic, that you don't question
3 people about their -- their personal life, their --
4 how many children they have, how long they have to
5 commute to work. Some very basic HR issues. But
6 they're there, and part of their responsibility is to
7 make -- make sure things are conducted in a proper
8 manner.

9 Q Did -- and I guess prior to this job
10 posting, although there was some interaction
11 concerning possibly moving Mr. Harvey to Sequoyah.
12 Were you involved in that at all?

13 A I believe Tom McGrath mentioned to me
14 that -- that McArthur had asked him, based on a
15 request from Charles Kent, if we could transfer Sam
16 Harvey to Sequoyah. And I don't remember the exact
17 discussions, but it was -- after a few questions, it
18 was clear they had no position at Sequoyah, and it was
19 just simply a request for transfer of one individual
20 out of several incumbents. And I -- I think we even
21 talked to Ben Easley about this, and Ben and I both
22 agreed that it was not proper under our rules and
23 regulations. We couldn't just transfer Sam Harvey to
24 Sequoyah. I don't remember all the details of the
25 discussion. It's been several years. But we -- we

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1 basically gave Tom McGrath that feedback; that no, we
2 didn't believe that was the right thing to do.

3 Q Okay. Did you understand that this was
4 based on a request from Mr. Kent to have Harvey go to
5 Sequoyah?

6 A I don't remember the details, but I
7 believe that -- I believe Tom McGrath told me that it
8 was a request from Charles Kent.

9 Q All right. And this was before the -- the
10 selection review board?

11 A Probably. I don't remember the time
12 frame. It very well could have been.

13 Q Well, would it -- didn't mean to bore you.
14 But would it have caused you or did it cause you any
15 concern that Mr. Kent had sought to have Harvey
16 transferred to Sequoyah, and he was going to be
17 sitting on the selection review board looking at Mr.
18 Harvey and others?

19 A No, it didn't cause me any concern, and I
20 didn't tie it to any bias or predisposition toward Mr.
21 Harvey by Mr. Kent.

22 Q Have you ever been the HR consultant kind
23 of person that was involved with the selection review
24 board?

25 A I have facilitated a few selection review

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1 boards.

2 Q And who's responsible for putting together
3 these wonderful notebooks from the selection review
4 board?

5 A The human resource consultant. I -- I
6 have put a few of those together. Not many, but a
7 few.

8 Q A few. And what did you include when you
9 put them together?

10 A The -- usually the vacant position
11 announcement, the job or position description, the
12 packages that the employees submit as a part of their
13 application. It's been a while. That's -- there may
14 be other things.

15 Q Did you include service reviews in those
16 packages when you put them together?

17 A Yeah, many times the employee -- typically
18 or oftentimes they include their last three service
19 reviews.

20 Q If they didn't, you wouldn't put them in?

21 A No, we wouldn't pull them and put them in
22 there. They're available to the selecting manager
23 through our PHR system. Also, we can pull out of the
24 system a history of overall ratings that employees
25 got. So all that information's available to the

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1 selecting manager.

2 Q And in the -- the function of the
3 selection review board or panel, it's strictly a one-
4 day, ask some questions, rate people on those
5 questions, period?

6 A Yes.

7 Q And the HR person takes the results of all
8 that, somehow tabulates it, and provides it to the
9 selecting official?

10 A Typically, at the end of the interview,
11 the human resource consultant -- they go over each
12 candidate, they talk about the individual ratings,
13 they do -- they take notes and determine what the top-
14 rated candidate was based on the input from the
15 individuals there. And the results of that are
16 usually taken by the consultant to the selecting
17 manager and presented to that manager.

18 Q What is the manager expected to do at that
19 point? The selecting official.

20 A To make the final selection that they --
21 they typically can review the results of the selection
22 board. If it's clear-cut, you -- you know, you would
23 expect that they would totally agree. If it's close,
24 they do have some leeway. If their decision were
25 different from the selection board, there do -- we'd

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1 need some justification. But the selecting manager is
2 the selecting manager, ultimately.

3 Q So you would normally expect the manager
4 to go along with the review board?

5 A Normally.

6 Q Under what kind of circumstances would you
7 expect them -- and who do they have to get approval
8 from to disagree with the review board?

9 A Well, they -- they are the selecting
10 manager. This is typically an issue that they would
11 get approval from their next-level supervisor on. If
12 they disagreed with the selecting review board, and we
13 couldn't see a justification there, I can foresee a
14 discussion with the next-level supervisor.

15 I would like to say the review -- review
16 board process historically has done a good job, and
17 normally the results of the review board are -- are
18 agreed to by the manager.

19 Q The manager is responsible for deciding
20 who goes to the review board in the first place?

21 A Yes. Usually the -- the manager and the
22 human resource consultant get together and discuss who
23 should be on the review board. And the consultant has
24 some input into that.

25 MR. MARQUAND: Who should be on or who

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1 should be...

2 THE WITNESS: Who should be -- I think the
3 question was the review board, itself.

4 MR. MARQUAND: Okay.

5 BY MR. DAMBLY:

6 Q Who should -- the question was: Which
7 candidates get sent to the review board?

8 A Oh, that should be interviewed?

9 Q Uh-huh.

10 A The human resource consultant does some
11 up-front screening and work, and meets with the
12 selecting manager to identify which candidates would
13 get interviewed.

14 Q What's the -- what's the criteria for
15 that?

16 A There's a screening process. They usually
17 do a spreadsheet to identify the top candidates, if
18 you have a large number of candidates, 15 of them meet
19 the minimum qualifications. The consultant would try
20 to identify the top candidates, looking at service
21 reviews, looking at a variety of things, and meet with
22 the manager, and they would try to identify five or
23 six or eight of the top candidates based on a review
24 of all that information. And once they've done that,
25 those candidates would be recommended to be

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1 interviewed the selection review board.

2 Q Okay. And in TVA practice, policy,
3 whatever, if you -- if the consultant and the manager
4 look through those qualification -- the applications,
5 and there was one person that was clearly head and
6 shoulders above everybody else, if you've got, you
7 know, six qualified candidates, one of them's got
8 outstanding in everything they've ever done, and
9 awards, and the rest of them are all fully
10 satisfactory, do you still have to have a review
11 board?

12 A I don't remember a specific case like
13 that, that we've not done a review board on. I --
14 we -- we might -- I would recommend to them that they
15 do the review board unless there was a strong
16 difference. And if you've got several people that
17 meet the minimum qualifications of the job, even
18 though you might feel like you've got one that's above
19 the rest, going through the review board process I
20 think would be prudent. Oftentimes you can
21 identify -- you might be surprised at how well another
22 employee might do in the -- in the interview. I'm not
23 saying that we -- we would, but that would be unusual.

24 Q Okay. And if you were surprised at how
25 well somebody did, and the hypothetical I gave you,

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1 one person's clearly way above the rest, got all the
2 awards, all the top everything versus some people
3 with, you know, satisfactory records but -- and one of
4 those people with satisfactory did better on the
5 review board than the top candidate, would you expect
6 then, from normal practice, that you would take the
7 one they did the best on, the...

8 A That's pretty hypothetical. I would
9 suspect that the head and shoulders candidate is going
10 to do as well or better. But I'll go back. The
11 selecting manager is the selecting manager and has the
12 final decision there. And in a case like that, there
13 might be justifications for saying, "No, I'm not going
14 to select this individual. He did -- did well, but
15 I'm going to select that one, the head and shoulders
16 above." And they -- they have the final decision, as
17 I said before.

18 Q One other. I'm going to make the --
19 we're -- I guess we're on the selection review boards.
20 In the case involving Mr. Fiser where there were
21 apparently two DOL complaints involved, was there any
22 attempt made to make sure that the people that were on
23 the board didn't know about those, and so they
24 couldn't influence the panel in any -- any way?

25 A Didn't know about the Department of Labor

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1 complaints?

2 Q About the -- about the complaints. Are
3 you sure that people that were involved in those
4 complaints weren't on that board?

5 A No.

6 Q No? Did -- did Dr. McArthur have any
7 discussions with you about his knowledge of the '93,
8 and him not participating in the board?

9 A He did not participate in the board as the
10 selection review manager, and that's not unusual
11 often. But we -- we did not poll the proposed
12 selection board to determine what they knew or -- or
13 about the previous DOL complaints or what they didn't
14 know.

15 Q Okay. Would you consider proper and --
16 for one selection board member to mention to another
17 selection board member that one of the candidates had
18 filed a DOL complaint?

19 A I guess it would depend on the context of
20 how they mentioned it.

21 Q Well, what context would be good and what
22 context wouldn't?

23 A Well, it wouldn't be good if they said,
24 "We shouldn't select this individual. They filed a
25 DOL complaint." That's pretty obvious. But DOL

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1 complaints often become public knowledge because
2 they're in the paper, the newspaper. And many of our
3 employees know who may have filed those in the past.
4 And we don't poll all selection boards to find out
5 what they know about individual candidates within that
6 group.

7 But, again, I guess the best way to answer
8 that is we would expect all the selection board
9 members to act in a responsible, professional way.
10 And the example I gave you obviously would not be
11 responsible or professional.

12 MR. DAMBLY: Did you have a question?

13 MS. EUCHNER: Yes. In talking about the
14 managers who serve on the selection review board, and
15 you said you would expect them not to show any
16 preferences going in, but to go in open-minded and
17 really pay attention to the answers that the candidate
18 would provide.

19 But in selecting the managers, from what
20 I understand, at least for the chemistry positions, it
21 was initially planned that you were going to have one
22 person from Watts Bar, one from Browns Ferry, one from
23 Sequoyah, so you'd get one person from each site. And
24 then, what was it, Cox is from Watts Bar; is that
25 correct?

1 THE WITNESS: That's correct.

2 MS. EUCHNER: He was unable to serve, so
3 you filled in with Rogers. Would you expect the
4 managers on the selection review board to bring their
5 personal knowledge to the selection process, so if
6 they knew that so-and-so was not particular good at
7 the site, but came in and had a fabulous interview,
8 would you expect them to share that information with
9 the other members of the selection review board?

10 THE WITNESS: Knowledge of performance
11 problems or deficiencies in their ability or anything
12 like that. I think the selection board can discuss
13 the overall -- they probably have information on their
14 resumes. Again, they may have provided some
15 information. And I don't have a problem if a -- if a
16 manager knew of a specific performance issue and maybe
17 referred to it. I think that's what the -- the
18 selection board should do, is identify the top-
19 performing candidate.

20 MS. EUCHNER: Okay. And does that work
21 the other way; that if the person knows something
22 exceptional, performance-wise, about someone, that
23 they should also share that?

24 THE WITNESS: Performance discussions in
25 either direction, positive or except -- exceptional or

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1 negative.

2 MS. EUCHNER: And this goes back again to
3 the questions Mr. Dambly was asking you about Mr. Cox
4 not being able to participate.

5 THE WITNESS: Uh-huh.

6 MS. EUCHNER: You had two individuals
7 there, Mr. Corey and Mr. Kent, who could speak to the
8 performances that Harvey and Chandra had given them at
9 the sites, the support that they had given them. And
10 you had nobody there to say, "Fiser gave me good
11 support, too." Would that be a problem where you had
12 someone who just didn't know how good Fiser may or may
13 not have been at the site, whereas the other two did?

14 THE WITNESS: I think, number one, Mr.
15 Rogers did know from his work at Sequoyah during the
16 '80s, was familiar with Mr. Fiser's work and his
17 performance. The other chemistry managers knew all of
18 these individuals. They had access to the books. So
19 from that standpoint, I think the intent of having the
20 peer team do the selection board is you had a customer
21 from each site. The -- the intent was not to have an
22 advocate from each site.

23 BY MR. DAMBLY:

24 Q Let me ask about what you'd said a minute
25 ago. Totally, I guess, canceled out my understanding

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1 of selection review boards. It was my understanding,
2 from yesterday's depositions, and up until you
3 answered the question about performance and whatever
4 from Ms. Euchner, that these selection review boards,
5 they'd have -- I guess they ask ten questions,
6 something like that, and on each question you got an
7 answer and you wrote down a number between one and ten
8 points that you gave that person. And at the end,
9 they totaled up those numbers, and each -- each
10 individual reviewer did that separately, and passed
11 them in to the HR consultant, who then tallied up the
12 numbers and gave the scores.

13 Where does performance appraisals and past
14 performance, good, bad, or indifferent, come into
15 writing those numbers on a -- the answer to Question
16 3 would have been a seven, but I know he's no good, so
17 it's a five, or...

18 A I'm not giving the -- you the impression
19 that they have the service reviews. They may have
20 some of their service reviews, depending on what the
21 employee had submitted on this. But a part of what
22 they were doing in this was to evaluating the
23 technical competence and the performance of an
24 individual. And I wasn't on the selection board so I
25 can't speak to exactly what went on in this specific

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1 selection board. But a part of that, when they
2 respond to those questions, deals with determining the
3 technical competence of these individuals. These are
4 not management jobs, they are technical specialists.
5 And I expect that the selection board discussed the
6 ability of each of those individuals to perform the
7 technical specialities of the job.

8 Q Discussed it when and how? Again, my --
9 maybe my understanding of what happens is -- is
10 totally off. But my understanding of what happens, if
11 I'm the candidate and the three of you sitting here
12 are the panel and I walk in -- or the board. You ask
13 me a series of questions. I give you answers. And
14 each one of you writes down a raw score between one
15 and ten, I guess, for each of those answers, and then
16 somebody totals them up. Where is the discussion
17 taking place that says, well -- or is there a
18 discussion that says, "Well, I gave him a seven. It
19 was -- it was probably an eight answer, but I think
20 his performance, when I saw him, was only worth a six,
21 so I rounded it off," what you do? Or -- or, "I
22 jacked it up a couple of grades because I know he's a
23 good guy. And his answer might have been four, but I
24 know he's smarter than that." Or is there any of that
25 discussion, or are you just writing down? I mean...

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1 A I was not in this selection board, so...

2 Q Well, in a selection review board do you
3 expect...

4 A In the selection -- I can tell you about
5 the ones that I've done. You come in and you do go
6 through a series of questions. And typically it's
7 rotated from one selection board member to the other.
8 First question, second question, third question in a
9 rotational effort.

10 Then, after that candidate leaves, we
11 usually -- I usually build five to ten minutes in to
12 discuss the results of the interview with the
13 candidates. And if we have time there, I'll gather
14 the scores from those. But a part of the discussion
15 would be: How did the candidate do on that specific
16 question? It may be that one board member didn't
17 understand the technical issue as well as the other,
18 and could provide the insight.

19 So there is discussion, after each
20 candidate, for the ones that I've done in the past.
21 And I typically build that in. I like to achieve some
22 level of consistence or consensus between the -- the
23 board members, and make sure that we all understand
24 that. The board members, again, are individuals, and
25 they're responsible to -- to voice their opinion on

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1 how that candidate goes. But, yeah, there can be some
2 discussion about how the candidate did after -- right
3 after the interview.

4 Q Okay. So after -- after the candidate
5 leaves, you got five minutes or so and -- I mean, are
6 review board members expected to have given a score
7 before that, or do they wait till after the discussion
8 and then change a score or...

9 A Typically, each one has made an evaluation
10 prior to that.

11 Q Okay. And in your experience, do they
12 change that based on a group discussion?

13 A It's possible that an individual
14 misunderstood the response to a question or -- the
15 real issue to me is calibration; that we all are on
16 the same page. That if we're scoring a one to five
17 rating, that I'm not the difficult one; that I'm
18 grading everybody 2-1/2, while for the same level of
19 response somebody else is grading them 4-1/2. What we
20 like to do is achieve some level of consistency in the
21 way we -- we approach it.

22 Q Consistent -- I mean, but suppose you're
23 the one doing 2-1/2, and you're doing everybody 2-1/2,
24 it wouldn't make any difference in the outcome. I
25 mean, you're going to just tally the raw scores. So

1 if one person grades everybody low, they've graded
2 everybody low and it's not going to affect the
3 outcome.

4 MR. MARQUAND: Correct.

5 A Correct. But let me say again, I was not
6 in this one. I don't know if -- I'll go back to this.
7 I don't know if they had any discussions afterwards.
8 I'm telling you I've done several selection review
9 boards, and I like to build in five minutes where we
10 can discuss the questions that were asked and achieve
11 some consensus on how this was going.

12 Q And do the -- the review board members
13 typically at that point turn in their scores, or do
14 they wait until all the candidates are done to turn in
15 their scores?

16 A Often it depends on -- on the time. They
17 can turn them in to a facilitator at that time, or
18 they can wait.

19 Q And if you collect the books at the end,
20 then they would know, when they grade Candidate B,
21 what they gave Candidate A? That'd be sitting there
22 in front of them, in effect?

23 A In front of the -- I mean...

24 Q The review board member. He or she's
25 going to know...

1 A On how the others did?

2 Q ...no, on how they did or -- and maybe how
3 the others did, depending on the discussion.

4 A Well, again, I -- it depends on the time.
5 In this case, they had several back-to-back. And I'm
6 not sure they had a lot of time to discuss that. It
7 may have been -- and again, I wasn't there. It may
8 have been just turning them in. I'm not sure when the
9 HR consultant had time to even compile the scores.
10 That may have -- that may have been after the
11 interviews. These went into the late evening that
12 night, and it was a pretty tight schedule.

13 MR. DAMBLY: You're free. That's all we
14 have.

15 (Whereupon, the deposition was concluded
16 at 11:34 a.m.)

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