

**Official Transcript of Proceedings**

**NUCLEAR REGULATORY COMMISSION**

**Title:** Deposition of Wilson Cooper McArthur

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

**Location:** Chattanooga, Tennessee

**Date:** Thursday, December 13, 2001

**Work Order No.:** NRC-140

**Pages 1-123**

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

+

ATOMIC SAFETY AND LICENSING BOARD

DEPOSITION

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In the Matter of: \_\_\_\_\_ :

: Docket Nos. 50-390-CivP

TENNESSEE VALLEY AUTHORITY: 50-327-CivP; 50-328-CivP

: 50-259-CivP; 50-260-CivP

(Watts Bar Nuclear Plant, : 50-296-CivP

Unit 1; Sequoyah Nuclear :

Plant, Units 1&2; Browns : ASLBP No. 01-791-01-CivP

Ferry Nuclear Plant, : EA 99-234

Units 1, 2 &amp; 3) :

-----X

Thursday

December 13, 2001

Deposition of:

WILSON COOPER McARTHUR,

was taken by the Nuclear Regulatory Commission, pursuant to Notice, commencing at 10:10 a.m., on at the offices of Tennessee Valley Authority, Lucy's Branch, Lookout Mountain Building, 11th and Market Streets, Chattanooga, Tennessee.

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## 1 APPEARANCES:

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5 NICK HILTON

6 U.S. Nuclear Regulatory Commission

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9 On behalf of Tennessee Valley Authority:

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

(10:10 a.m.)

Whereupon,

WILSON COOPER MCARTHUR

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 Wilson Cooper McArthur.

Q And where do you presently live?

A Well, I have a home in Provo but I'm  
living in Salt Lake on a church mission for the Church  
of Jesus Christ of Latter Day Saints. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q All right. And are you employed at all  
now?

A No.

Q Do you -- I guess we heard something that  
you're working with the Olympic Committee.

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1           A       I'm the Public Affairs Director for  
2 interface with the Olympic Committee.

3           Q       Could be a pretty busy couple of months  
4 coming up.

5           A       Yeah. We just interviewed Bob DeWalters  
6 and Tom Brokaw last week getting ready for the  
7 Olympics, so --

8           Q       In preparing for the deposition today, did  
9 you review any documents?

10          A       Yes.

11          Q       What documents did you review?

12          A       Previous testimonies I had given and some  
13 other information. I think the information was given  
14 down in Atlanta by TVA.

15          Q       At the enforcement conference?

16          A       Yes.

17          Q       Did you have those statements or were they  
18 provided to you?

19          A       Provided to me.

20          Q       By whom?

21          A       Ed Vigluicci.

22          Q       Okay.

23          A       And Brent Marquand.

24          Q       Did you meet with Mr. Marquand and Mr.  
25 Vigluicci?



1 A Yes.

2 Q Other than providing you those documents,  
3 did they discuss any of the depositions that have  
4 taken place in this case?

5 A They discussed the information I had read  
6 through and that was basically the things we covered,  
7 they asked me questions.

8 Q I'm speaking of depositions that have been  
9 taken now in the NRC case, like we've deposed Mr.  
10 Kent, Mr. Cox -- did they talk to you about any of  
11 those?

12 A No.

13 Q Okay. In this -- through the course of  
14 the Jocher and the Fiser DOL complaints and the NRC  
15 investigation, you have given several statements to  
16 TVA's IG.

17 A Yes.

18 Q When they interview you, do they put you  
19 under oath?

20 A I'm pretty sure -- I don't know for sure,  
21 but I think they do -- I'm pretty sure they do. Isn't  
22 that standard procedure?

23 MR. MARQUAND: I don't know what the  
24 standard procedure is.

1 THE WITNESS: I don't really recall for  
2 sure.

3 BY MR. DAMBLY:

4 Q What is your educational background?

5 A I have a B.S. in physics from East  
6 Carolina University, a Masters in radiation physics  
7 from University of North Carolina with a major in  
8 nuclear engineering at North Carolina State.

9 Q A major in nuclear engineering?

10 A Minor in nuclear engineering.

11 Q Oh, minor.

12 A Major in radiation physics, a Ph.D. in  
13 radiation physics from Purdue University.

14 Q In any of those three degrees, did you  
15 take courses on radiochemistry?

16 A Yes.

17 Q When, where?

18 A In all cases, I took several courses in  
19 the B.S., you know, normal quantitative chemistry,  
20 qualitative chemistry and took advanced chemistry  
21 courses at both Carolina and at Purdue.

22 Q Okay. Now after you got out, your  
23 professional employment, did you work between the B.S.  
24 and M.S. or did you go all the way through school  
25 before you started working?

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1           A       I worked some between the Masters and the  
2           Ph.D. You want a work history?

3           Q       Right.

4           A       My first employment was with Nuclear  
5           Chicago out of Chicago.

6           Q       What were you doing there?

7           A       I was design engineer for various pieces  
8           of a program for counting equipment. They Baltimore  
9           the Cutie Pie and some of those kinds of things back  
10          then. So I was involved with that group. I also  
11          installed accelerators at universities and research  
12          labs. And then I went on for the Ph.D. and -- because  
13          I was actually installing an accelerator at Purdue and  
14          it made some sense to do that.

15                 And when I left Purdue, I went to Carolina  
16          Power & Light Company and was the principal engineer  
17          for the Shearon Harris project and for their retrofit  
18          projects at Brunswick and at -- I can't think of the  
19          name of the other plant, one down in South Carolina.

20          Q       What are the functions of a principal  
21          engineer?

22          A       I was responsible for the design and  
23          construction, interface. I dealt with -- we did a lot  
24          of our own engineering design and a company Ebasco,  
25          you're probably familiar with, out of New York, did

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1 some of the design. So I oversaw what they did, plus  
2 what we did internally.

3 Q Did you have a staff?

4 A Yes.

5 Q How large?

6 A About 400 people.

7 Q 400 people under you.

8 A Somewhere in there, I don't remember exact  
9 number but it was something like that.

10 Q And after you were done with Carolina  
11 Power & Light, where did you go?

12 A I was the Vice President and General  
13 Manager of a company called Hittman Nuclear out of  
14 Columbia, Maryland.

15 Q Pittman?

16 A Hittman, H-i-t-t-m-a-n. Hittman Nuclear  
17 & Development Corporation. I was the Vice President  
18 & General Manager and we designed and Baltimore rad  
19 waste handling equipment. We also had teams of people  
20 that went to facilities and solidified radioactive  
21 waste. We also did consulting work in those areas.

22 Q Okay. And when did you leave that job?

23 A God, I don't know.

24 Q Long time ago.

25 A Yes.

1 Q Where did you go after that?

2 A A company called Tera, T-e-r-a, out in  
3 California and there I was the Vice President of  
4 Engineering Consulting for them.

5 Q Is that the organization that was working  
6 on some carousels for the NRC?

7 A That's correct, yeah.

8 Q Took a lot of depositions in that case,  
9 but you weren't one of them.

10 A No, I wasn't involved. I was in the same  
11 building in Washington for awhile, but I stayed away  
12 from that one. I understand they had some real  
13 problems with that.

14 Then I went to a company called EDS  
15 Nuclear, which later became a part of Impell. I was  
16 in the same position, engineering -- Vice President of  
17 Engineering Consulting.

18 And then I left there to start my own  
19 company, a company called KLM, stood for Kanazeras,  
20 Lemmon and McArthur, and we were in California and I  
21 did that for a period of time. Then we sold that  
22 company to a company called Quadrex, you may have  
23 heard of them.

24 Q Uh-huh.

1           A       Then I left. I had a year's assignment  
2       once we sold the company, to go to Quadrex and get  
3       them in the decommissioning business. So I spent a  
4       year developing plans and making contacts for Quadrex  
5       in that area. Then I came to TVA in 1990.

6           Q       1990. How did you get to TVA, was there  
7       a vacancy, did someone call you up that knew you,  
8       what?

9           A       Yeah, Ike Zeringue, who is the Chairman of  
10      the Board, used to work with me at Carolina Power &  
11      Light -- isn't that terrible that a guy you used to  
12      work for -- called me up and asked me would I be  
13      interested in coming here to start up a technical  
14      programs organization. So I came in and interviewed  
15      as a result of his contact.

16          Q       Okay. And that job was the technical --

17          A       Manager, Technical Programs.

18          Q       And the functions you had at that time?

19          A       Let's see -- radiation control; chemistry;  
20      environmental; the ERMI, which is the laboratory  
21      facilities for TVA; industrial safety; emergency  
22      preparedness and at that point in time I had security,  
23      I was over 400 security people.

24          Q       Did you have fire protection?

1           A       Yeah, that's right, there were -- they had  
2       a protective services group which consisted of  
3       security and fire protection.

4           Q       Okay. Now how many total people did you  
5       have under you?

6           A       Gosh, 140 or something like that.

7           Q       Excluding the security?

8           A       Oh, not counting security. I didn't count  
9       security, I didn't know anything about it, so --

10                  (Laughter.)

11          A       They were just under me.

12          Q       So you had 400 plus 140 or so?

13          A       Yeah, probably 5-600 people.

14          Q       And how long were you in that job?

15          A       Several years, probably about three years,  
16       I'm guessing. Then we reorganized and I became  
17       manager of radcon, chemistry -- I believe that's  
18       correct. You'll find one of the things is I'm not  
19       very good on remembering exact dates but --

20          Q       The thing you're talking about now is when  
21       I guess they reorganized, you ended up with one group  
22       and Grover with another one, or is this before that?

23          A       No that was later. They actually took  
24       security out. In fact, I recommended they make  
25       security -- send it to the plants, it's not a

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1 corporate function. So it made sense to me to have  
2 the sites responsible for security. So they went to  
3 the sites and fire protection, I had fire protection  
4 still for awhile, but eventually they went to fossil  
5 because most of the work they did was with fossil  
6 organization anyway. Then we had the radcon,  
7 chemistry organization, which was radcon, chemistry,  
8 environmental, emergency preparedness and the labs.

9 And then at a later date, a couple of  
10 years later, we reorganized into radcon and chemistry.  
11 I had hired Ron Grover in as the chemistry guy and the  
12 new manager of operational support decided to have one  
13 radcon person and one chemistry person. So we did  
14 that for awhile and then they went back to the radcon,  
15 chemistry organization.

16 Q In your job as the Technical Program  
17 Manager and then I guess -- I've looked at a couple of  
18 PDs and some have you doing radcon and some have  
19 radcon and they have rad waste as a separate group.  
20 Is that normally under -- in your first organization,  
21 did you have both?

22 A Yeah, I had both. The whole time I was  
23 here, I had rad waste with radcon.

24 Q Oh, okay. It was broken out separately as  
25 a different function.

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1 A That's correct.

2 I left that out in each one of those --  
3 for some reason I left that out, so -- it's just a  
4 bunch of waste anyway, right?

5 Q Now I'm going to ask you about some people  
6 from your days here at -- well, I guess I could ask  
7 you -- let's see, we got through radcon. It was  
8 broken out radcon and chemistry and then they  
9 recombined that later, right?

10 A Right.

11 Q And when they recombined, then you became  
12 radcon, chemistry manager. Is that the job you held  
13 until you left?

14 A Well, about a year before I left, I think  
15 it was about a year, I was taken out of the position  
16 and became a direct report to Jack Bailey as a staff  
17 person to him.

18 Q Oh. Did somebody else fill that position?

19 A Yes.

20 Q Who was that?

21 A Chandra, Dr. -- I can't even say his last  
22 name.

23 Q I think Bill's dealt with that before,  
24 right? Chandra.

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1           A       It always ends up in all these reports as  
2       S-h-o-n-d-r-a.

3           Q       All right. So during the time you were  
4       here -- and is there any particular reason you were  
5       taken out of that position and made a staff person?

6           A       I don't know. My boss just called me in  
7       and said that he wanted me to support -- they had some  
8       environmental concerns for Bellefonte and for Browns  
9       Ferry, and so they decided they needed somebody to  
10      spend some time, plus they were getting very much into  
11      the Star-7 program, so I was responsible for the Star-  
12      7 program under his direction.

13          Q       I'll ask about some people that you  
14      probably encountered during your time here at TVA and  
15      if you'll tell me when you met them, what your working  
16      relationship, social relationship, whatever.

17          A       Okay.

18          Q       Mr. Meine.

19          A       He was over operations -- when I came  
20      here, he was the operations -- I don't think it was a  
21      VP position, if I remember correctly. And at one  
22      point in time, I was acting Vice President of  
23      Operations Support, so I reported to him directly for  
24      a period of time. I failed to mention that when I was  
25      going through, but that was just like for a year or

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1 something like that. So I dealt with him then. And  
2 when he was the operations guy with plants, spent most  
3 of his time out at Sequoyah and Watts Bar and Browns  
4 Ferry, I interfaced with him quite a bit during that  
5 period of time.

6 Q How about Bill Jocher?

7 A Bill Jocher -- he was chemistry, he worked  
8 for me as chemistry manager here. I hired him in.

9 Q Do you recall he had a DOL complaint?

10 A Yes.

11 Q I guess Dr. Chandra.

12 A Yes. He worked for me most of the time I  
13 was here. He came right after Jocher came -- Sam  
14 Harvey and Chandra came at his recommendation. They  
15 were from Texas utilities.

16 Q And Sam Harvey was also chemistry work for  
17 you?

18 A Yes.

19 Q Did you have any personal or social  
20 interaction with Chandra?

21 A Not really.

22 Q And how about Mr. Harvey.

23 A No.

24 Q Ed Boyles.

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1           A       He was the human resources person I dealt  
2 with -- I really dealt with someone else in between  
3 him, but I dealt with him quite often too.

4           Q       Would the somebody else be Mr. Easley?

5           A       Yes, Ben Easley.

6           Q       Did you have a lot of interactions with  
7 Ben over the years?

8           A       He was directly responsible for the  
9 organization from an HR standpoint.

10          Q       How about Phil Reynolds?

11          A       He was over HR, so I dealt with him some  
12 also. But less directly than with the other two guys.

13          Q       Okay. Charles Kent.

14          A       He was -- when I first came here, he was  
15 radcon manager out at Sequoyah. Later on became  
16 radcon, chemistry manager, so we were sort of on a  
17 peer group, he and myself, the corporate guy and the  
18 three plant radcon, chemistry managers formed a peer  
19 group, so I dealt with Charles quite a bit.

20          Q       Did you ever supervise -- what was the  
21 relationship between corporate and --

22          A       We were a support organization to the  
23 sites.

24          Q       Would that be similar for Mr. Corey?

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1           A       Yes, he was the Browns Ferry radon,  
2 chemistry manager.

3           Q       And Mr. Cox?

4           A       Same thing at Watts Bar.

5           Q       None of those you ever supervised or they  
6 never supervised you?

7           A       No.

8           Q       What about Rick Rogers?

9           A       He was with the engineering group here and  
10 we interfaced on a number of different projects,  
11 engineering type projects, that kind of thing.

12          Q       Dan Keuter.

13          A       He was my boss at one time. When I was  
14 the acting manager of -- VP of Operational Support, he  
15 came in to fill that position on a full time basis, so  
16 he was my boss.

17          Q       And Mr. Beekin?

18          A       He was the plant manager out at Sequoyah.

19          Q       You never worked for him at all?

20          A       No, but I interfaced with him quite a bit.

21          Q       Were any of those individuals we've talked  
22 about so far ever on any of the NSRBs?

23          A       I believe Beekin was on some, Charles Kent  
24 has been, Corey I'm not sure, Cox -- they were

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1 probably acting at some points in time. Did you  
2 mention McGrath?

3 Q He was my next guy.

4 A Okay, yeah, McGrath was the director of  
5 NSRB for a long period of time. So I interfaced with  
6 him quite a bit.

7 Q And did he ever become your boss?

8 A Yes.

9 Q Do you recall when that was?

10 A He was the last boss I had, other than  
11 Jack Bailey, he was back in 1997-'98 time frame I'm  
12 thinking.

13 Q Okay, how about a Tom Peterson?

14 A He was a consultant to the NSRB for  
15 radcon, chemistry area.

16 Q Was he part of the NSRB or just an adviser  
17 or --

18 A He was part of the NSRB.

19 Q Gary Fiser.

20 A when I first came here, he was at  
21 Sequoyah. I don't remember if he was actually in  
22 chemistry then or not, but he was in chemistry along  
23 the way and then he ended up coming downtown to  
24 corporate chemistry.

25 Q How about Mr. Fenech?

1           A       He was a plant manager, he might have been  
2 the site VP.

3           Q       At Sequoyah?

4           A       Sequoyah, yeah.

5           Q       You never worked for him?

6           A       No.

7           Q       Don Moody?

8           A       He was my boss too, he was another VP of  
9 -- I don't know if it was a VP position then or not,  
10 but operations support. At some point in time, it  
11 became a VP position.

12          Q       What about Mr. Maciejewski?

13          A       He was my boss -- I had a lot of bosses,  
14 didn't it? He was also operations support. He was  
15 not a VP, I remember that.

16          Q       Okay. And let's see, Ron Grover.

17          A       I hired him in as a chemistry manager.

18          Q       How about Mr. Vigluicci here, how long  
19 have you known him?

20          A       Probably since I've been with TVA, both he  
21 and -- probably more Brent because Brent was involved  
22 -- I knew him first and Ed then later. Ed was  
23 involved very much when Oliver Kingsley's staff  
24 meetings and that kind of thing, so I knew him there.

25          Q       Okay. You knew Mr. Marquand from what?

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1           A       The Jocher case was probably my first  
2 introduction, wasn't it?

3                   MR. MARQUAND: It was after the surgery.

4                   THE WITNESS: Yeah.

5 BY MR. DAMBLY:

6           Q       Okay, tell me what you remember about the  
7 Jocher DOL case, what your involvement in that was.

8           A       Jocher worked for me and at one point in  
9 time with his interface with Sequoyah, a decision was  
10 made by Sequoyah plant management that he might be  
11 helpful in the chemistry program, so the decision was  
12 made by upper management, not at my level, that Jocher  
13 and Gary Fiser -- Gary Fiser was the chemistry manager  
14 at Sequoyah and was thought of as not doing a very  
15 good job there at that point in time. So they made a  
16 switch. It was going to be a year switch, I guess to  
17 see how Jocher would work out in the position out  
18 there. And so then when the end of the year came,  
19 Jocher called me and he was ready to come back to  
20 corporate, he liked the big picture of the whole  
21 nuclear program. And at that point in time, the plant  
22 manager at Sequoyah didn't want Gary back, so I ended  
23 up with a problem, I didn't know what I was going to  
24 do here. But anyhow, Jocher did come back and Gary  
25 was down here too and then at some point in time, we

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1 had a meeting with Joe Bynum, and a decision was made  
2 that Jocher was not working out here and I was to  
3 advise him that it would be best for him to -- Jocher  
4 and I had always had this agreement, at least I  
5 thought we had this agreement, that if TVA didn't like  
6 his performance, he'd leave -- we had that discussion  
7 on a number of occasions. And so I went and told him  
8 that it would be best if he sought employment  
9 elsewhere and he said well could I get a year's salary  
10 or -- I can't remember the exact point in time, so I  
11 went to Joe Bynum and Joe said I'll give him three  
12 months separation pay.

13 Somewhere along that point I went into  
14 surgery for cancer. Wasn't that about the same time?

15 MR. MARQUAND: Yeah.

16 A So I was out of pocket for several months  
17 here and during that period of time Jocher left and I  
18 found out that he had come back and filed a DOL  
19 complaint about what took place.

20 BY MR. DAMBLY:

21 Q You're the one that actually negotiated I  
22 guess the -- his leaving?

23 A It was a combination of myself, Dan Keuter  
24 and Joe Bynum. Joe was the one who made the decisions

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1 about what kind of separation pay, I didn't make that  
2 decision, I passed it on.

3 MR. MARQUAND: I believe the person is who  
4 actually dealt with Jocher.

5 THE WITNESS: I did.

6 BY MR. DAMBLY:

7 Q Let me show you a document which we  
8 obtained in discovery and I think it's your document.  
9 It doesn't have your name on it so I was going to ask  
10 you. It's dated July 25, 1993, it's a note to file,  
11 William F. Jocher versus Tennessee Valley Authority.  
12 It looks like --

13 A It certainly looks like it's mine because  
14 I'm referring to myself. Let me go through the whole  
15 thing.

16 MR. MARQUAND: Look at the back and see if  
17 it's signed.

18 MR. DAMBLY: It's not signed. It's got a  
19 number, I don't know if that number at the bottom  
20 means anything.

21 MR. MARQUAND: It used to, but there's no  
22 way to find out now. It's the old Wang system and we  
23 don't have that any more, it's been scrapped.

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1 THE WITNESS: I can't -- it's not a part  
2 of my memory, you know. I didn't sign it, I don't  
3 know why I wouldn't have signed it, but --

4 BY MR. DAMBLY:

5 Q Is there anything in there, like in the  
6 second paragraph, "Mr. Jocher states I told him that  
7 'Oliver D. Kingsley, President, Generating Group, did  
8 not think I was part of the team and that I should  
9 find a new job.'"

10 A He never said that.

11 MR. MARQUAND: Well, that's apparently a  
12 quote from Jocher.

13 MR. DAMBLY: Right.

14 BY MR. DAMBLY:

15 Q I'm just saying does that help refresh  
16 your recollection as to whether you wrote this or not,  
17 not that you said -- it clearly says Jocher says.

18 A It doesn't help. All I can say is it  
19 looks like part of my thought process.

20 Q How about the note in the middle.

21 A Yes.

22 Q Is that accurate as to you?

23 A Yes.

24 Q So you have no reason to believe you  
25 didn't write this?

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1           A       I have no reason to believe I did or  
2       didn't.

3                   MR. MARQUAND:   Could we have a copy of  
4       that marked as Exhibit 1 to Mr. McArthur's -- Dr.  
5       McArthur's deposition.

6                   MR. DAMBLY:    If you wish.

7                   MR. MARQUAND:   Yes, since we're talking  
8       about it and for clarification of the record, I think  
9       it would be wise.

10

11                               (The document referred to was marked for  
12                               identification as McArthur Exhibit 1.)

13       BY MR. DAMBLY:

14               Q       The Jocher/Fiser switch for the year,  
15       prior to that period of time, what interactions had  
16       you had with Gary Fiser?

17               A       I did have oversight responsibility at  
18       Sequoyah and also as a member of the NSRB, which was  
19       an organization that had responsibility kind of like  
20       an oversight group looking at the programs at each one  
21       of the nuclear plants that we had and giving  
22       recommendations and that kind of thing to management.  
23       We'd meet on about a quarterly basis, if I remember  
24       correctly, with consultants and TVA personnel. And so

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1 I met with Gary quite a bit during that period of  
2 time.

3 Q Did you have any problem with Gary or his  
4 programs or his work?

5 A Yeah, we did have some problems on NSRB on  
6 occasions. One of them had to do with taking data,  
7 tracking and trending that data and the NSRB, which  
8 would be Tom Peterson, myself, didn't feel that he was  
9 doing -- Dick Mullee, I think, was involved in that  
10 too.

11 Q Dick --

12 A Dick Mullee, he's the guy that --

13 MR. MARQUAND: M-u-l-l-e-e.

14 A -- didn't think that he was doing a very  
15 good job of tracking and trending chemistry data. As  
16 a part of our oversight responsibility, the outside  
17 people brought in a lot of experience from other  
18 plants and of course, we were internal at the TVA and  
19 we'd use that experience to say this is how a good  
20 chemistry organization would be run. That was a  
21 concern at that particular point in time.

22 Q Okay, do you recall exactly what that  
23 concern was?

24 A Just used to -- Charles Kent and myself  
25 and I think Corey and maybe Cox had gone down to

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1 Florida Power & Light Company and a few other  
2 utilities kind of doing a look at what other people  
3 were doing and we found a lot of good trending was  
4 going on and we were not doing as well here at  
5 Sequoyah. So from this data, we felt that we should  
6 be doing more trending of data so you can determine if  
7 you've got some problems or not. And so we came back  
8 with that recommendation.

9 At Carolina Power & Light Company, we  
10 always trended data much more in detail than we did  
11 here at Sequoyah. Browns Ferry did a pretty good job  
12 and Watts Bar did a pretty job, but Sequoyah was not  
13 at the same level as the other two plants.

14 Q This has been discussed some, Mr. Fiser,  
15 as you know I think, has represented he was tracking  
16 I think 52, 53 parameters.

17 MR. MARQUAND: That's not correct.

18 THE WITNESS: No.

19 MR. MARQUAND: He did not testify to that,  
20 he said that that was what was recommended to him.

21 MR. DAMBLY: Okay.

22 THE WITNESS: I'm sure he was not  
23 tracking 52.

24 BY MR. DAMBLY:

25 Q How many was he tracking?

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1           A       On the order of four, five, six, something  
2       like that. I don't remember the exact number. I  
3       don't want to go on record of saying exactly what the  
4       number is.

5           Q       Would the trending data for the '90, '91,  
6       '92 period be preserved somewhere at TVA?

7           A       I'm sure it would. I'm not responsible  
8       for that, I would think they would keep that data.

9           Q       Was the issue -- Mr. Fiser has represented  
10      the issue, they were prodding him to do certainly more  
11      than four, five or six, but that Mr. McGrath wanted it  
12      plotted every day and they were plotting like Tuesday  
13      they did Monday data, but that they were collecting  
14      it.

15                   Is it your recollection that they were  
16      collecting it or they weren't collecting it?

17           A       They were collecting some. They were not  
18      collecting all the data -- it was not being recorded,  
19      let's put it that way.

20           Q       Ever?

21           A       I can't say ever, but --

22           Q       I'm trying to understand whether the issue  
23      is, you know, people weren't in over the weekend, as  
24      I understand Mr. Fiser's representation, but when they  
25      got in on Monday, they got the data, the printed out

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1 the plots and distributed them on Tuesday, they  
2 covered that and then on Wednesday, Thursday and  
3 Friday, they put in stuff --

4 A That wasn't my recollection, my  
5 recollection was that some data was just not being  
6 tracked or trended.

7 Q Okay. Do you remember when this meeting  
8 was?

9 A No. It was a scheduled NSRB meeting.

10 Q Somewhere like January of '92?

11 A I wouldn't even hazard a guess.

12 Q Do you recall Mr. Fiser being an outage  
13 manager?

14 A I don't think we interfaced during that  
15 period of time or he told me he had been in outage  
16 management.

17 Q Do you recall how long after he returned  
18 from outage management that you had this NSRB  
19 discussion?

20 A I wouldn't know that.

21 Q Was Mr. McGrath involved in the  
22 discussion?

23 A Yes.

24 Q Tell me what his role was?

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1           A       I think Tom McGrath and Mullee and myself  
2       were looking at the program, we came up with this  
3       concern and part of our responsibility in the NSRB is  
4       we would periodically sit down as Tom, since he was  
5       the coordinator for the director of the NSRB and  
6       reported to him we had this concern. I remember he  
7       came into a meeting later on and that topic came up  
8       and Gary took a strong position that he didn't think  
9       he could -- he didn't want to do that. He didn't want  
10      to track that much data.

11           Q       Do you recall whether there was a  
12      discussion about making this a required procedure or  
13      the discussion was I'm just not doing the trending?

14           A       He just said I don't want to do that much  
15      data taking.

16           Q       Do you remember any discussion of setting  
17      up plant procedures requiring it?

18           A       No. That would be a natural follow up to  
19      that, but I don't remember that discussion.

20           Q       Do you remember Mr. McGrath's reaction to  
21      Mr. Fiser's statement?

22           A       He wasn't happy. I wasn't happy either.  
23      I think I was not happy because I felt that if I had  
24      been i Gary's shoes, I would have said look, I  
25      wouldn't mind doing it but I don't have the resources.

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1 I'll go to my management and try to get a resource.  
2 But we didn't get that kind of -- that's what I was  
3 looking for. I see something here that may be of  
4 value to me, but he didn't respond that way. I didn't  
5 think it was a very good management response.

6 Q If the NSRB had wanted to follow up on  
7 that issue, how would they have gone about that?

8 A It would have gone into the minutes of the  
9 meeting. At the end of our NSRB meetings, we'd meet  
10 with the whole key plant management people and we'd  
11 discuss our concerns that were identified. And if it  
12 was agreed to by plant management as a concern on both  
13 of us's side -- it wasn't just we just rammed things  
14 down somebody's throat, we'd discuss it and decide if  
15 it was a real issue and it would become a part of the  
16 minutes and we'd follow up on it.

17 Q Did the NSRB have any direct authority  
18 over, say, Sequoyah? Could the NSRB order anything?

19 A No.

20 Q Now how long after that did the Jocher --  
21 well, do you recall, was that before the Jocher/Fiser  
22 switch?

23 A You know, I don't know the answer to that  
24 question. My feeling is it was, but I don't --

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1 because he was there and Jocher wasn't out there, so  
2 --

3 Q And actually he never came back, Mr. Fiser  
4 never came back to Sequoyah, right?

5 A No.

6 MR. MARQUAND: Not as a chemistry manager.

7 THE WITNESS: Not as a chemistry manager.

8 BY MR. DAMBLY:

9 Q So, how did the Jocher/Fiser switch come  
10 about? Who determined that had to take place?

11 A You know, I can't really truthfully answer  
12 the question other than to say that I know that Joe  
13 Bynum and the plant manager and the site VP were  
14 talking about it and they came to me and wanted to  
15 know how I felt about it and I said -- well, first of  
16 all, I was reluctant. Jocher didn't want it to  
17 happen, he didn't want Gary -- he was very in to his  
18 responsibilities and didn't want somebody to come in  
19 and mess it up, is the way he put it to me. So he did  
20 not want Gary to come downtown, he didn't think Gary  
21 did a good job out at the site. So he wanted to stay  
22 down here. And then I think over a period of time, if  
23 somebody pats you on the back enough and says I think  
24 you could solve our problems -- he became convinced

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1 that maybe it'd be a good exchange for him to go out  
2 to the site.

3 Q Other than Jocher expressing misgivings  
4 about Fiser coming to corporate, did you hear from  
5 anybody else -- Mr. McGrath, Peterson?

6 A Dan Keuter was my boss then and I went  
7 down to Keuter and I expressed Jocher's concern and my  
8 concern also and Dan gave me a comparison of when he  
9 was at a plant in Oregon that he had a guy that was  
10 not considered a good manager but given a chance, he  
11 performed. He said let's give the guy a chance and he  
12 said I'll leave it up to you on a period of time if  
13 you think he performs in the corporate position. So  
14 he knew Jocher's concern. In fact, Jocher went  
15 independently down to talk to Dan Keuter and said I  
16 don't think the guy ought to be put in this position  
17 down here.

18 Q Did anybody make any statements to you  
19 along the lines that they wanted Jocher to go out  
20 there because he kept saying there were all these  
21 problems and this was like a put up or shut up deal?

22 A No. I think that'd be a foolish thing to  
23 do, I would think, to have somebody come out just to  
24 get even with them. I can't visualize a person in the

1 position of a plant manager or a site VP taking that  
2 kind of a position.

3 Q Well, how about somebody in corporate  
4 going you guys are doing this wrong, you're doing this  
5 wrong, you're doing this wrong and you need to fix it.  
6 Would it be foolish for them to say well, they're  
7 going to come out and show us how to fix them?

8 A That'd be fine, if you've got a way to fix  
9 it; yeah, that'd be fine. We didn't operate that way.  
10 We weren't on a competitive or animosity type, we were  
11 a support organization. Quite often, we did -- we'd  
12 meet at the first of the year and we'd say what kind  
13 of things would you like us to do this year -- we want  
14 a new chemistry monitor for this, we want a new  
15 radiation monitor, and we'd be responsible for going  
16 to do that. So a lot of things we would do as a  
17 corporate support organization would be do those  
18 things.

19 NSRB was different, we were an oversight  
20 organization. There was always a discussion about how  
21 much oversight and how much technical support do you  
22 give. The sites didn't like the oversight part, they  
23 liked the technical support part, which I can  
24 understand.

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1 Q When Mr. Jocher was I guess the corporate  
2 chemistry manager, was there friction between him and  
3 Mr. Sabados at Browns Ferry?

4 A They had some problems.

5 Q Do you recall the nature of what that  
6 disagreement was?

7 A If I remember, there was a position that  
8 was to be filled and Jocher wanted somebody in his  
9 position, which was not his responsibility and Sabados  
10 wanted somebody else. And the first person Sabados  
11 wanted got the position. Jocher got upset about it  
12 and they had some conflicts over that. There were  
13 probably some other things.

14 Jocher was an overpowering -- he's a big  
15 guy, I don't know if you've met him before, very big  
16 guy, who was an actor. He performed in this thing up  
17 in Dayton --

18 MR. MARQUAND: Scopes monkey trial.

19 A -- Scopes monkey trial, he was a big star  
20 in that. He had also been a pro football player -- at  
21 least I was told he was, I don't know that for a fact.  
22 He was an overbearing guy. He could come into the  
23 room and he could upset people just because of the  
24 big size he had, you know. That's my opinion. And  
25 Sabados took him on a few times I think.

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1           Q     Do you remember there being any  
2           disagreement between them because Mr. Jocher was  
3           treating Mr. Sabados as a subordinate?

4           A     I don't recall that being the case. That  
5           was not the case, he was the support for a person. If  
6           I had been aware of that, I would have gotten myself  
7           involved, but that was not the case.

8           Q     Let me show you your 1994 interview --  
9           actually it's '93. August 31, 1993, TVA IG record of  
10          interview with Wilson C. McArthur in Chattanooga. And  
11          on page 4, the top paragraph under the heading  
12          "Jocher's performance problems", it says "1.  
13          According to McArthur, while Jocher was the corporate  
14          chemistry manager, Bynum knew that Jocher had a lot of  
15          problems dealing with John Sabados, the chemistry  
16          manager at Browns Ferry Nuclear Plant and Gary Fiser,  
17          the SQN chemistry manager. Sabados told McArthur on  
18          a couple of occasions that he had told Bynum that  
19          Jocher was opinionated and overbearing and he,  
20          Sabados, did not want Jocher involved in his BFN  
21          chemistry program. However, McArthur confirmed that  
22          the problems with Sabados had occurred before Jocher  
23          became the SQN manager."

24                   Do you remember making that statement to  
25          the IG?

1 A Let's see, which one is it?

2 Q The top one on the page.

3 A Oh, okay.

4 (The witness reviews the document.)

5 A I'd say that's an accurate statement. In  
6 fact, the plant manager -- I know I'm not supposed to  
7 ad lib, but it's probably important here -- that the  
8 plant manager, I can't remember who it was -- John  
9 Scalice I believe -- called me in his office and said  
10 he didn't want Jocher on the site any more. Lot of  
11 other issues, it wasn't directly related to Sabados,  
12 but other issues. That's a bad organization as a  
13 support organization to have somebody tell you, you  
14 know, your key people are not --

15 Q Did you ever have any other people that  
16 worked for you that the site said I don't want them on  
17 my site besides Jocher?

18 A I can't think --

19 MR. MARQUAND: You mentioned somebody else  
20 this morning.

21 THE WITNESS: Hmmm. Somebody else that  
22 wasn't welcome on site. Oh, Ron Grover, yeah, Ron  
23 Grover was not welcome by John Corey in that he was  
24 always late for meetings and they felt he was not  
25 committed to supporting the plant.

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1 BY MR. DAMBLY:

2 Q Somewhere I read a statement that you said  
3 that.

4 A I did. I used to get phone calls from  
5 Corey saying where is Grover, you know, and he'd be on  
6 his way down I guess.

7 Q So after the switch was made and Fiser  
8 came to work for you, how did that work out?

9 A Not very good.

10 Q Why was that?

11 A There was two little cliches, there was a  
12 Fiser, Chandra and let's see who else was involved  
13 there -- anyway, they had one group of people and then  
14 there was the Sam Harvey, Adams and in fact, I would  
15 meet with -- I'm one that has objectives and I sit  
16 down with my guys at the beginning of each month and  
17 I say what are your plans for this month, what are you  
18 going to do. And I required them to spend quite a bit  
19 of time on the site, I expect them to spend about half  
20 their time on the sites. And Fiser could not meet his  
21 commitments, he wouldn't deliver the product on time  
22 and the plants were complaining and he wouldn't spend  
23 enough time at Browns Ferry. He didn't mind going to  
24 Sequoyah, but he just didn't like to go down to Browns  
25 Ferry very much. And that was part of the

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1 responsibility of that position, so I wanted him to  
2 become more involved with Browns Ferry.

3 So he wasn't performing very well at all.  
4 So eventually I came to the point of saying this is  
5 not going to work, I went to Dan Keuter so I could be  
6 able to take him out of that position because he  
7 wasn't performing.

8 Q Okay, and where did he go when you took  
9 him out of that position?

10 A he stayed in the chemistry group at  
11 corporate as a chemistry program manager.

12 Q And who became --

13 A I believe it was Sam Harvey at that point  
14 in time.

15 Q Did Mr. Fiser have a, I guess, lack of  
16 technical experience in all areas that would be  
17 required to be in the corporate chemistry management  
18 position?

19 A From my viewpoint, he did.

20 Q What was his strengths and weaknesses?

21 A His strengths were primary water  
22 chemistry, fairly weak in secondary water chemistry  
23 and very weak in BWR, hydrogen water chemistry, most  
24 of the things to do with BWR because most of his  
25 experience had been in PWRs.

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1 Q Okay. And Mr. Harvey, what were his  
2 strengths?

3 A He was -- he had a little strength in both  
4 areas, PWRs and BWRs, he had worked in both. I think  
5 in BWR primarily as a consultant before he went to  
6 Texas but he had good experience in BWRs and PWRs.

7 Q How about in the PWR, primary versus  
8 secondary, where was Harvey's strengths?

9 A Secondary, probably the best secondary  
10 chemistry guy I've ever known.

11 Q You say you never socialized with Mr.  
12 Harvey at all or had any outside interactions?

13 A Well, we were a member of the same church  
14 and a lot of people made the comment that was the  
15 reason that perhaps he was promoted and that was a  
16 bunch of bull. We didn't relate -- he was in a  
17 different location in the city, but we were members of  
18 the same church. Just like your Baptist friends, do  
19 you favor your Baptist friends? No, you don't. There  
20 was no favoritism on that part, we didn't socialize in  
21 that regard.

22 Q Somewhere I heard the comment that you  
23 introduced Mr. Harvey to his wife?

24 A My wife did.

25 Q Your wife did.

1 A I didn't know her.

2 Q Hopefully you knew your wife, right?

3 A Hopefully.

4 Q If not, well, probably a normal marriage.

5 Back when we have Fiser up here and he's  
6 no longer the manager and we've got -- up here in  
7 corporate -- and we've got Jocher down in Sequoyah.  
8 And there was an agreement that he would come back in  
9 a year.

10 A As his original position.

11 Q Did that happen?

12 A Yes.

13 Q And then what happened to Mr. Jocher?

14 A At some point in time, we had a -- I met  
15 with Joe Bynum on kind of a regular weekly basis  
16 discussing concerns, things that I had uncovered and  
17 wanted to take a look at and he would ask my opinion  
18 about things. And the decision was made that Jocher  
19 just didn't fit into the organization and that I was  
20 to ask him to find employment elsewhere. And the  
21 question I asked was if he didn't accept that, what do  
22 I do. And I said well, he has told me if we didn't  
23 think he fit in, he'd go someplace else. I said but  
24 what if he doesn't do that. And they said well, tell  
25 him we'll terminate him. And that's basically what I

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1 told Jocher. Jocher, in the first round of that  
2 discussion was pretty agreeable because he said well,  
3 I want a year or six months' pay and that'll be fine.  
4 And then Joe Bynum said I'll give him three months and  
5 that's when I went into the hospital, so after that --

6 Q That Jocher wasn't working out, that was  
7 after he was back in corporate chemistry?

8 A He was back in chemistry.

9 Q Did you get negative reports on him when  
10 he was in Sequoyah chemistry?

11 MR. MARQUAND: Sequoyah didn't want to  
12 keep him.

13 THE WITNESS: What?

14 MR. MARQUAND: Sequoyah didn't want to  
15 keep him.

16 THE WITNESS: No, they wanted rotation to  
17 take -- they wanted him to come back but they didn't  
18 want Fiser either.

19 BY MR. DAMBLY:

20 Q And why didn't they want Fiser?

21 A I don't think that Beekin had a lot of  
22 respect for his management style and how he had  
23 performed before. That's my opinion. He made it very  
24 clear to him that Fiser was not welcome back at  
25 Sequoyah in that position.

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1 Q Prior to the switch with Fiser and Jocher,  
2 did you have any indication from your management that  
3 Jocher wasn't working out at corporate chemistry?

4 A No. Other than the problems down at  
5 Browns Ferry that we talked about. Not at Sequoyah or  
6 Watts Bar.

7 Q And did Bynum never had any problems and  
8 talked to you about Jocher's not doing a good job?

9 A In the corporate organization?

10 Q Right.

11 A Other than the Browns Ferry situation, no.

12 Q Did something happen after he returned  
13 from Sequoyah that suddenly he had management problems  
14 he didn't have before he went to Sequoyah?

15 A I can't respond to that.

16 Q I mean did you have problems, would you  
17 have terminated him?

18 A Would I have terminated him? I probably  
19 wouldn't have terminated him, not with that  
20 information.

21 Q Would not?

22 A Probably would not without any information  
23 more than I had.

24 Q Okay. When you go about terminating  
25 somebody at TVA, is there a for cause termination, do

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1 you have to make out a case of some kind or people,  
2 employees are at will?

3 A I would go to HR for anything like that,  
4 and ask them before I proceed with anything in that  
5 direction. I received a lot of direction during that  
6 period of time from HR and from Joe Bynum as to how to  
7 handle that, but I was not -- like I said, I'm not an  
8 expert, I'm a technical and management person at TVA,  
9 I'm not an HR expert, so I would certainly seek advice  
10 at each step as to what to do in those cases.

11 Q You ever talk to Mr. Easley about that?

12 A Oh, absolutely.

13 Q Did you talk to Mr. Marquand about it?

14 A I don't know if we talked about it.

15 MR. MARQUAND: Not directly until it  
16 became a case.

17 A Not until it became a case, I don't think.

18 Q Okay.

19 MR. MARQUAND: Can we take a break?

20 MR. DAMBLY: Any time you want to take --  
21 do you need a break?

22 THE WITNESS: I just want something to  
23 drink.

24 MR. DAMBLY: Let's take a five minute  
25 break.

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1 (A short recess was taken.)

2 MR. DAMBLY: Back on the record.

3 THE WITNESS: On Jocher, I mentioned that  
4 when he came in a room, he -- like he had trouble with  
5 Sabados, he had some trouble with Fiser. He had an  
6 overall attitude of being very overpowering, very  
7 opinionated and was not tremendously liked, but it  
8 wasn't a situation where you would say you're out of  
9 here. A lot of people did not like Fiser -- I mean  
10 Jocher -- because of his overbearing, opinionated  
11 attitude, but I thought he was a very competent  
12 individual.

13 But I was wrong once.

14 MR. MARQUAND: You were?

15 BY MR. DAMBLY:

16 Q You were wrong once?

17 A Yeah.

18 Q You've got a better batting average than  
19 most of us. Now at about the time of Mr. Jocher's DOL  
20 case, Mr. Fiser also filed a DOL case. Do you know  
21 what that was about?

22 A For some reason I never have gotten really  
23 into that one. I know that it's been explained to me  
24 by the lawyers before, but I wasn't -- I don't  
25 remember being so directly involved that it's much a

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1 part of my memory, but I do know a little bit about  
2 it.

3 Q Okay. Now when Jocher came back and Fiser  
4 was still in corporate --

5 A Yeah.

6 Q -- Fiser never went back to Sequoyah?

7 A No.

8 Q And why was that?

9 A Because the site didn't want him.

10 Q Okay, and so what position did he occupy  
11 in corporate?

12 A It was a project management position,  
13 chemistry project manager.

14 Q Okay. And how long did he stay in that  
15 position after Jocher came back?

16 A To the point in time that I was directed  
17 that Jocher needed to find another position and Gary  
18 would be RIF'd.

19 Q Who directed you to do that?

20 A It came from HR and Joe Bynum.

21 Q Who in HR?

22 A I don't remember directly who it was.  
23 Probably -- I'm just saying Ben Easley because he was  
24 my contact, but it could have been somebody else.

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1 Q Did you have any positions available in  
2 corporate that Mr. Fiser could have filled?

3 A If that position was RIF'd, there would  
4 have been no position. I was upset, I went to Joe and  
5 was fighting to keep Fiser there. I didn't understand  
6 why they were going to RIF him, but he wanted to --  
7 from Joe's standpoint, it was that industry required  
8 that we downsize some of the chemistry organization so  
9 he wanted to RIF one of those positions.

10 Q Okay, did you have a position that was  
11 being vacated by Mr. Adams?

12 A See, that was part of my argument at that  
13 point in time. The position would have gone away. I  
14 don't remember the particulars about that, but Adams  
15 did go out to the site. All I know is I did not have  
16 another position at that point in time.

17 Q Do you know what position -- well, how did  
18 Fiser end up leaving your organization?

19 A He was RIF'd.

20 Q By whom?

21 A HR sent him a letter, I guess, that's  
22 normal procedure.

23 Q You didn't send the letter or sign the  
24 letter?

1           A       I don't think I signed the letter, I think  
2       that was HR that would do that -- I believe. Again,  
3       I'm not --

4           Q       Do you know which position it was that he  
5       was occupying that he was RIF'd from?

6           A       It was a corporate program manager,  
7       chemistry program manager position. That may be a  
8       conflict, I heard the story that he still had the  
9       position as chemistry manager out at -- again, like I  
10      said, I'm not an expert on HR type things, so I don't  
11      know what the letter said as far as what position he  
12      was RIF'd from.

13          Q       Okay. But you know that led to his filing  
14      the DOL complaint?

15          A       I don't know what led to it, but I see  
16      that was a part of his concern.

17          Q       What do you know about his complaint or  
18      what did you know then?

19          A       You know, there's something at TVA, you  
20      don't just sit down with everybody and tell them here  
21      are all the reasons that somebody filed a DOL  
22      complaint, so I usually wouldn't know a whole lot. I  
23      may just know that somebody filed a DOL complaint, but  
24      I didn't receive a copy of something in the mail  
25      saying what actually took place.

1 Q Did you understand that his complaint had  
2 to do with the interaction of the NSRB between he and  
3 McGrath and the trending?

4 A I understood that.

5 Q You did understand that that was part of  
6 it.

7 A Uh-huh.

8 Q When were you first aware that Mr. Fiser  
9 had gone to DOL?

10 A Oh, I don't have a clue when it was, but  
11 it was in that time frame. Remember, I had just come  
12 back from -- when I came back from medical, I went  
13 into a new position, I was again acting VP of  
14 Operations Support. Every time that they got rid of  
15 somebody, I'd be the acting guy for awhile -- never  
16 got the position, but I was always acting. Probably  
17 didn't act good enough, that's the reason I didn't get  
18 it full time.

19 MR. DAMBLY: Let's mark this as -- well,  
20 this is Exhibit 17 from Fiser, but we'll just put  
21 another sticker on it and call it --

22 MR. MARQUAND: You can just use the same  
23 exhibit number and say it is from the Fiser testimony.

24 BY MR. DAMBLY:

1 Q Okay, this is Exhibit 17 from the Fiser  
2 deposition, it's a letter to James Sasser, Honorable  
3 James Sasser, dated August 16, 1993 and it's signed by  
4 Jocher, Fiser and Dr. D.R. Matthews. I'll show you  
5 that letter.

6 (The witness reviews the document.)

7 Q Do you recall ever seeing this letter?

8 A I can tell you already, I don't remember  
9 seeing anything signed by the three individuals, that  
10 I can remember.

11 Q During the time you were at TVA, when  
12 someone wrote in to a Congressman about a problem they  
13 perceived with TVA, did that normally get sent --  
14 forwarded to TVA for a response?

15 MR. MARQUAND: How would he know that?

16 A I don't know.

17 Q Did you ever get assigned to respond to  
18 any letters from Congressmen -- to Congressmen?

19 A I don't recall any.

20 Q No?

21 A Seems like there was one at Browns Ferry,  
22 I can't remember what -- I just remember the thought  
23 in my mind that some Congressman had written about  
24 some kind of -- the restart of Browns Ferry Unit 1 or

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1 something like that, but I don't remember anything  
2 other than that. I don't remember this letter.

3 MR. DAMBLY: We'll make this McArthur  
4 Exhibit 2.

5  
6 (The document referred to was marked for  
7 identification as McArthur Exhibit 2.)

8 BY MR. DAMBLY:

9 Q I'm going to show you an article from the  
10 Dayton Herald News dated 6/12/94. I'll ask you if you  
11 ever saw that article.

12 A I do remember seeing this, yeah.

13 Q Do you recall when you saw it?

14 A No. Probably within a short time frame  
15 after it came out in the paper, I would guess. But  
16 somehow it didn't seem to be in this format, but I  
17 remember seeing maybe a different paper or something,  
18 but I remember seeing this issue come up.

19 Q During your tenure at TVA, did you as a  
20 manager get some kind of a publication, I don't know  
21 what format, that would have news clippings of  
22 relevance to TVA?

23 A Sometimes I would. Other people seemed to  
24 collect them more than I did and I would see what they  
25 had done. Quite often, you could go up to the sixth

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1 floor and you'd see documents that were available of  
2 newsworthy items.

3 Q I was speaking more of a routine. For  
4 example, NRC has some kind of news clipping service  
5 and they put out everything that mentions NRC in the  
6 newspapers and it's distributed to certain people.

7 A No.

8 Q Do you have anything like that?

9 A No, I didn't.

10 Q Did you ever discuss that article with Mr.  
11 Fiser?

12 A I don't remember doing that.

13 Q Do you have any recollection of discussing  
14 any newspaper stuff, anything mentioning Mr. Fiser in  
15 the newspaper with him? Whether he should do that,  
16 not do it.

17 A That he should do what?

18 Q Talk to the press or not.

19 A I would never advise my employees whether  
20 to or not to do something like that.

21 Q Were you interviewed by the TVA IG in --  
22 let me find the right one -- do you recall being  
23 interviewed about Mr. Fiser's '93 DOL complaint by the  
24 TVA IG?

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1           A       Not specifically, but I had many  
2 interviews like that, so it wouldn't be surprising to  
3 find out that I did.

4           Q       I'll show you one, it's a TVA office of  
5 Inspector General Record of Interview; name, Wilson  
6 McArthur; Investigation on January 10, 1994,  
7 Chattanooga. And the first paragraph says "McArthur,  
8 who is aware of the identity of the interviewing agent  
9 [which was Beth Thomas] was contacted at his office  
10 and interviewed regarding Gary Fiser's reduction in  
11 force and issues raised in Fiser's subsequent DOL --  
12 Department of Labor, DOL -- complaint."

13          A       Okay. You want me to look at the things  
14 in green, is that what --

15          Q       Well, that first paragraph just indicates  
16 that the subject matter that they were talking to you  
17 about was Mr. Fiser's complaint, his DOL complaint.

18          A       Okay.

19          Q       Do you recall being interviewed regarding  
20 that?

21          A       Not specifically, but like I said, there  
22 were a lot of interviews during that period of time,  
23 so --

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1 Q And the reason I ask is because in '96,  
2 you were interviewed by the IG concerning Mr. Fiser's  
3 later complaint.

4 A Uh-huh.

5 Q And said you had no previous knowledge of  
6 his '93 complaint.

7 A There was some point in time that Brent  
8 made me aware -- may have been more than once, but I  
9 don't know how to explain this other than the fact  
10 that I'm a technical person and that was the personal  
11 business of somebody else. Unless it directly related  
12 to me, you know, I did not consider it an issue.  
13 That's the reason it wasn't an issue whenever we did  
14 the review board, it just wasn't an issue because I  
15 didn't know enough about those things to do anything  
16 about them, unless I was directly involved.

17 MR. MARQUAND: I mean if he said in '96 he  
18 didn't know about it, that could also mean he did not  
19 remember it, which I think was often the case.

20 THE WITNESS: Sure, that could be.

21 BY MR. DAMBLY:

22 Q I was more concerned -- obviously they  
23 didn't write it down in here, do you remember anybody  
24 when the IG person interviewed you in '96 going well,  
25 wait a minute, in '93 we interviewed you about this?

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1           A     All I can tell you, sir, is I was  
2 interviewed quite often, so I can't tell you.

3           Q     I appreciate that, because you certainly  
4 were. Somewhere in this time frame of Mr. Fiser's '93  
5 DOL complaint, did anybody ever make you aware that  
6 Mr. Fiser was tape recording conversations?

7           A     Yes.

8           Q     Who told you that?

9           A     Legal.

10          Q     Who in Legal?

11          A     I believe it was Brent. Am I correct in  
12 that?

13                   MR. MARQUAND: Probably.

14          Q     And what did they tell you?

15                   MR. MARQUAND: Objection, that's attorney-  
16 client privilege.

17                   MR. DAMBLY: What you told him is not a  
18 privilege.

19                   MR. MARQUAND: What we discussed is work  
20 product and privilege and I object.

21                   MR. DAMBLY: Work product, what work  
22 product?

23                   MR. MARQUAND: You've heard my response.

24                   MR. DAMBLY: Okay. I'd like an answer  
25 what you were told about the taping.

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1 THE WITNESS: Well, my attorney has told  
2 me not to respond to that, so I cannot respond.

3 BY MR. DAMBLY:

4 Q Now you discussed what you were told both  
5 in your OI interview and at the PEC.

6 A PEC?

7 Q Predecision enforcement conference. To  
8 the extent there's a privilege, it's been waived.

9 I'd like to know what you were told and  
10 what you were told not to do with Mr. Fiser.

11 MR. MARQUAND: Before he responds, do you  
12 want to show us what the response was that he made?

13 BY MR. DAMBLY:

14 Q Let me show you a statement you gave to  
15 the Department of Labor in 1997 in regard to Mr.  
16 Fiser's complaint of '96. And I'll first ask you --  
17 it's dated April 24, 1997 and ask you to look at the  
18 last page and tell me under "I have read this  
19 statement and it is correct," whether that's your  
20 signature.

21 A That's my signature.

22 Q Now let me give you the right page to look  
23 at. It's on the fourth page of the document, the last  
24 paragraph on the bottom says "Yes, I was told by  
25 Legal/TVA to be very careful of Fiser because he was

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1 recording people's conversations and I should be  
2 sensitive of that."

3 A Let me make an overall comment.

4 MR. MARQUAND: Wait until he asks a  
5 question.

6 THE WITNESS: Okay.

7 BY MR. DAMBLY:

8 Q Do you recall signing that document and  
9 making that statement?

10 A There's something that goes along with  
11 that that I need to say. This is the most  
12 unintelligent human being I've ever dealt with in my  
13 life.

14 MR. MARQUAND: You're talking about  
15 whoever interviewed you?

16 THE WITNESS: Whoever wrote this. He  
17 wrote this thing at least half a dozen times and  
18 finally, out of total frustration, I signed it,  
19 because I knew I was never going to get him out of my  
20 office. But the guy could not get anything right. I  
21 should have put a note on there, that's my mistake, to  
22 say I don't know if anything in here is correct at  
23 all.

24 Q Well, do you recall telling him --

25 A I don't remember --

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1 MR. MARQUAND: Why don't you just read the  
2 statement and tell him if that statement is correct.

3 (The witness reviews the document.)

4 THE WITNESS: I do not remember Legal  
5 telling me to be very careful, they just said be  
6 sensitive of the fact that you're being recorded. I  
7 was told that -- be sensitive of the fact that a tape  
8 recording is -- I don't remember -- it may have  
9 happened, but I do not remember the comment about be  
10 very careful about what you say.

11 BY MR. DAMBLY:

12 Q Do you remember discussing it with Ms.  
13 Benson when she interviewed you, the OI investigator  
14 from NRC?

15 A I don't remember. If you've got something  
16 that says I did.

17 Q We've read your statement and it's in  
18 there. Do you recall ever seeing any transcripts that  
19 were generated from those tapes?

20 A We talked about that and I don't -- I  
21 remember being told they existed and I think somebody  
22 flashed them in front of me, but I don't remember  
23 sitting down and reviewing a number of transcripts.  
24 If I did, it was very quickly to look at a page or two  
25 or something. I did not in detail look at any

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1 transcripts. I was told that there was not really  
2 anything in there of any consequence.

3 Q Who told you there was nothing of  
4 consequence?

5 A I don't remember.

6 Q Who showed you the transcripts?

7 A I don't remember that, I just know I saw  
8 them.

9 Q Do you recall during the enforcement  
10 conference -- and it's on page 48 of the transcript --  
11 Mr. McNulty, who was the OI field office inspector,  
12 said "Have you seen any transcripts of the tapes?"  
13 And Mr. McArthur, "We did see some transcripts, it was  
14 very hard to understand and the transcripts were not  
15 -- nothing came out of any particular interest from  
16 what I recall. I didn't hear all of them, but I heard  
17 a number of them and read some transcripts."

18 A All I remember is looking at a couple of  
19 pages.

20 Q Do you recall what was on those pages that  
21 you looked at?

22 A No.

23 Q This is Fiser Exhibit 18, starting on page  
24 6, bottom of page 6 and it runs through I think the  
25 rest of it, through page 81, purports to be

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1 transcripts that Mr. Fiser typed up from his tapes.  
2 If you could just take a look at that and tell me  
3 whether --

4 A Gary Fiser typed these?

5 Q Yes, that's my understanding. Can you  
6 tell me -- just look through, if you recall if that's  
7 the document you looked at or was it in a different  
8 format?

9 MR. MARQUAND: It was in a different  
10 format.

11 A I don't remember. What document am I  
12 looking at?

13 MR. MARQUAND: If you'll look at the  
14 second page, you'll see that this is -- the second  
15 page of the document you've got, it's got a title on  
16 it and then he's referring to page 6 of this  
17 particular document.

18 THE WITNESS: I don't remember seeing  
19 this document.

20 BY MR. DAMBLY:

21 Q Do you remember seeing the transcribed  
22 portion, which is 6 through 81?

23 MR. MARQUAND: The transcribed portion  
24 begins on page 6 down at the bottom.

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1           A       Like I said, all I saw -- I briefly looked  
2       at a couple of pages.

3           Q       It was in a format different than this?

4           A       It wasn't this.

5           Q       Okay.

6           A       I don't know who transcribed it.

7           Q       We asked for transcripts and were told  
8       there weren't any. Do you know what it was --

9                   MR. MARQUAND: The same document appears  
10       in a somewhat different format attached to the OIG --  
11       to an OIG investigation. I don't know if that's what  
12       he's talking about or not, but it looks a little  
13       different.

14       BY MR. DAMBLY:

15           Q       Did you ever discuss with anybody that you  
16       were informed Mr. Fiser was taping you?

17           A       Did I discuss it with anybody?

18           Q       Anybody else at TVA, any other managers,  
19       Mr. Kent, Mr. Cox, Mr. Corey, Bynum.

20           A       You know, it me it was obvious I was being  
21       taped because I could tell when Gary came in that he  
22       was taping me. And by the way, he asked questions, he  
23       was trying to trap me into saying something, I could  
24       tell that by the way he said things.



1 Q It was obvious before you were told or  
2 after?

3 A After.

4 Q Okay.

5 A I didn't have any clue that he was doing  
6 it beforehand. I thought it was a very rude thing for  
7 any individual to do when I found out about it.

8 I don't remember -- I was very close to  
9 Kent and people like, but I don't remember  
10 specifically telling them that I was being taped, but  
11 it's possible I did. I just don't -- it wasn't  
12 important to me, because I didn't think there was  
13 anything I was going to say that would make that kind  
14 of difference anyway.

15 Q Did you change your interactions with Mr.  
16 Fiser after you --

17 A I'm sure I was more careful in what I  
18 would say. He would ask me things, well, I don't like  
19 that guy McGrath, what do you think -- you know,  
20 something like that. Well, I'm not going to respond  
21 to that, I'm not going to talk about my boss to him.

22 Q Would you have done that before you found  
23 out he was taping?

24 A I wouldn't have talked about -- I don't  
25 talk about my boss with other people.

1 MR. MARQUAND: Except in this deposition.

2 THE WITNESS: Yeah, except in this  
3 deposition.

4 MR. DAMBLY: Well, we haven't talked about  
5 him yet.

6 BY MR. DAMBLY:

7 Q And that is your former boss, so you're  
8 okay.

9 A Yeah.

10 Q After Mr. Fiser went -- I guess he went  
11 to the employee transition program when he was RIF'd?

12 A That's correct, yeah.

13 Q Do you know if he was surplused or RIF'd?

14 A No. I think he was RIF'd but again, I  
15 don't know. My answer has to be I don't know.

16 Q Okay. Do you recall a situation where Mr.  
17 Kent out at Sequoyah wanted to -- or considered  
18 bringing Mr. Fiser back to Sequoyah while he was still  
19 over in the employee transition program?

20 A Yes, I remember that.

21 Q Tell me what you remember about it.

22 A I remember I was very surprised that he  
23 was -- he called me and asked me what I thought and I  
24 said well, I had problems with Gary down here. My  
25 position was not to tell Charles Kent what to do, I

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1 could only give him my advice. And I said Gary has  
2 some -- has had problems with me in the corporate  
3 position down here, but you know Gary better than I do  
4 because he's worked for you before.

5 And if I remember correctly, he asked me  
6 to check around. So I talked with Keuter and Dan  
7 Keuter didn't have much position and Joe Bynum felt he  
8 didn't do a very good job at Sequoyah. That's  
9 basically the information that I passed back to  
10 Charles. But I did not make a recommendation that he  
11 not hire Gary Fiser. Charles is a big boy, he could  
12 do what he wanted to do.

13 Q Do you remember any discussions after he  
14 decided not to hire him, indicating it was probably a  
15 good move he didn't?

16 A No.

17 Q Don't remember any discussions, anybody  
18 make any comments that if Mr. Fiser went back to  
19 Sequoyah, he'd be almost designed to fail?

20 A No.

21 Q Never heard any discussion about that at  
22 all?

23 A I don't think so.

24 Q Did you have any involvement with the  
25 settlement of Mr. Fiser's '93 DOL complaint?

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1           A       I don't recall. Usually the technical  
2 manager is not involved in settlements like that. I  
3 may be asked my opinion, but I don't remember  
4 anything. In fact, I don't know what the settlement  
5 was. Is that the one where he came back?

6           Q       Right.

7           A       I don't -- I was not involved in that  
8 decision.

9           Q       Were you informed that he would be coming  
10 back?

11          A       When he came back to corporate?

12          Q       Right.

13          A       I had to be at some point in time because  
14 he'd be working for me. I don't --

15          Q       When he came back, did you have any  
16 discussions with anybody about this was part of the  
17 settlement or any mention of his DOL complaint as part  
18 of why he was back?

19          A       I just understood he was coming back to  
20 work in the chemistry group.

21          Q       Did you ever talk to Mr. Grover about how  
22 that came about?

23          A       I don't think so. Usually I wouldn't --  
24 to me, that was a hands off type thing, you just  
25 didn't -- you just stayed away from it.

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1 Q Do you remember any discussions with Mr.  
2 McGrath about Fiser's return?

3 A Other than he was coming back. I think  
4 McGrath is the one that told me he was coming back.

5 MR. MARQUAND: When was this that he came  
6 back?

7 MR. DAMBLY: '94.

8 MR. MARQUAND: Who was he working for?

9 THE WITNESS: All I know is I knew he was  
10 coming back and he'd be in our organization, which was  
11 fine with me.

12 BY MR. DAMBLY:

13 Q In '94, we were talking about earlier,  
14 about a reorg in the technical operations position  
15 that I guess was abolished and became radcon  
16 management, remember that?

17 A Uh-huh.

18 Q Do you recall how that came about that you  
19 became radcon manager?

20 A John Maciejewski, who was my boss then,  
21 called me down and said he had recommended to  
22 management that they divide the organization into  
23 radcon and chemistry. I never knew the reason why,  
24 but that was a fact and that's all I recall.

1 Q Do you know if that was a posted vacancy  
2 that you had to apply for?

3 A I think at one point in time, John  
4 Maciejewski told me it would be posted and then a  
5 little later on, he called me in and said you'll be in  
6 that position and Grover will be in the other  
7 position. I don't know how that transpired. I know  
8 I did not go before a selection review board for that  
9 position.

10 Q Let me show you a document here, it's the  
11 vacancy position announcement TVA Nuclear, the closing  
12 date is 5/25/94. We'll mark this as McArthur Exhibit  
13 3. It purports to be for the Manager of Radiological  
14 Control.

15  
16 (The document referred to was marked for  
17 identification as McArthur Exhibit 3.)

18 Q Tell me if that's the position that you  
19 ended up in in '94.

20 A Okay.

21 MR. MARQUAND: Counsel, you should have  
22 another VPA that follows up with this one -- yeah, I  
23 think you do, because we produced it.

24 MR. DAMBLY: Another one that follows up?

1 MR. MARQUAND: Yeah, this one was canceled  
2 and I think there was another one that was issued  
3 after this one.

4 MR. DAMBLY: Not that I'm aware of.

5 MR. MARQUAND: I'm sure there is. There's  
6 another one just like this one for Manager Radcon.  
7 This one shows that the supervisor of this position  
8 being posted is Wilson McArthur. You have another VPA  
9 that shows Dr. Maciejewski as the supervisor.

10 MR. DAMBLY: Not that I'm aware of.

11 MS. EUCHNER: We have one for the manager,  
12 chemistry and environmental protection.

13 MR. MARQUAND: No, there's one for 1994,  
14 like two months after this one or so, that shows John  
15 Maciejewski as the supervisor.

16 MS. EUCHNER: The VPA I have for the  
17 manager of chem and environmental is at the end of  
18 August 1994, but it wasn't attached with all of the  
19 other VPAs in that group.

20 MR. MARQUAND: It's just like this one  
21 that's a month or two later for radcon that shows John  
22 Maciejewski.

23 THE WITNESS: The only thing I can  
24 respond here is the summary of description of duties  
25 is the --

1 BY MR. DAMBLY:

2 Q That is the position?

3 A That's the position, yeah.

4 Q And you were selected somehow for that  
5 position?

6 A That's correct.

7 Q Do you have any doubt you were in that  
8 position?

9 A Did I have any doubt?

10 Q Yeah, I mean did anybody tell you you  
11 weren't really in that job?

12 A No.

13 Q Did you get any performance appraisals  
14 while you were in that job?

15 A John was usually pretty good about  
16 performance appraisals. I don't recall specifically,  
17 but I'm sure he would do that.

18 Q We have one so --

19 A It doesn't matter.

20 Q We do have one for that period. Do you  
21 recall your grade, for lack of a better term --

22 A PG-11.

23 Q -- that was a PG-11 in the radcon  
24 position?

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1           A       Yeah and the other position was a PG-  
2 Senior.

3           Q       Okay. Was there a reduction in salary  
4 involved in that or just --

5           A       I don't think so.

6           Q       And at the time they created this  
7 position, radcon, and then they broke off chemistry  
8 and environmental, was that also a PG-11 position?

9           A       Yes.

10          Q       And that's one Mr. Grover was in?

11          A       That's correct.

12          Q       When they eliminated the technical  
13 operations position -- operations support position --  
14 did you get any kind of RIF notice about that?

15          A       All I remember is what I told you before,  
16 that I was called in and told -- I don't remember if  
17 I saw that position description or what, but that I  
18 was going to be in that position.

19          Q       Since you brought up the position  
20 description, do you recall writing one for the  
21 position that's described in Exhibit 3?

22          A       That's usually standard procedure. I  
23 don't recall, I know I've written for radcon,  
24 chemistry technical programs. In my mind, I wrote one

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1 for radcon. I don't know if I even have a copy in my  
2 files or anything.

3 Q Have you looked to see if you have copies?

4 A I moved out west, so everything I've got  
5 is in boxes in Provo, so I don't know what's there.

6 Q Do you recall indicating to Ms. Benson  
7 during your OI interview that you had written a  
8 position description?

9 A It was standard practice in our  
10 organization when you got a new position, you wrote up  
11 a position description and got it approved by your  
12 supervisor. So it would be standard practice to do  
13 that.

14 Q On page 32 of your OI interview, Ms.  
15 Benson says "So anyway, the point being is that you do  
16 recall writing that position description." And you  
17 answered "Yes, I do." And it goes on to talk about  
18 submitting it to people, on the next page you're  
19 discussing the Hay system, the Hay Committee --  
20 actually that says Pay Committee but I think it was  
21 Hay Committee.

22 A Right, yeah.

23 Q And you say "It pretty well tells you  
24 where you stand on the pay scale and that kind of  
25 thing, but I don't remember that happening. It could

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1 have happened, but I don't remember that." And then  
2 --

3 A I was on the Hay Committee.

4 Q Oh, so it would have been submitted to  
5 you.

6 A Yeah.

7 Q That's not a bad job.

8 A Not bad. Usually in a case like that, you  
9 go out of the room. If your position came up, you  
10 were not a part of the Hay review.

11 Q Okay. And Mr. Marquand said "If you  
12 recall, the -- it does have Maciejewski's name on it,  
13 I believe it does say that it was pending and it uses  
14 the word" and then in parens (I can't hear) but  
15 "approval." Do you remember Mr. Marquand making that  
16 statement?

17 A No.

18 Q Okay. Does that document exist?

19 MR. MARQUAND: What document?

20 MR. DAMBLY: The one that you referred to.

21 MR. MARQUAND: I told you there's a VPA.

22 MR. DAMBLY: No, I'm talking about the  
23 position description.

24 MR. MARQUAND: I found and I thought we  
25 produced it to you, but I'll make a copy and give it

1 to you, I found a position description for that job  
2 that doesn't have any of the signatures filled in.

3 MS. EUCHNER: It was never provided.

4 MR. MARQUAND: Okay, I'll make a copy of  
5 it.

6 MS. EUCHNER: Thank you.

7 BY MR. DAMBLY:

8 Q I'll cover one more short topic before  
9 lunch and then we'll get to the '96 stuff. But  
10 somewhere in about the '95 time frame --

11 A Could we just have somebody bring a  
12 sandwich in?

13 MR. DAMBLY: Well we could probably just  
14 go down to the little place downstairs because it's  
15 raining.

16 MR. MARQUAND: You wouldn't want to  
17 continue the deposition while you have a mouthful, so  
18 we'll just take a very short break.

19 THE WITNESS: Okay.

20 MR. DAMBLY: We'll try and get you out of  
21 here as soon as possible.

22 THE WITNESS: Okay.

23 BY MR. DAMBLY:

24 Q But in the '94 -- I guess '95 time frame,  
25 when the positions over in chemistry under Mr. Grover

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1 were changed from chemistry program managers to  
2 chemistry and environmental, do you recall that?

3 A Yeah.

4 Q Did you have any involvement in that?

5 A Usually he and I would exchange and look  
6 at each other's. I don't recall specifically, but  
7 that may have happened, that it was just common  
8 courtesy to review each other's PDs to make sure  
9 there's no mixup between the two positions.

10 Q Did you have any knowledge of what the  
11 purpose of that change was?

12 A There was a big effort that came down from  
13 above that we should be working on cost containing  
14 efforts and so the idea was it was a good way to  
15 minimize manpower to have people trained in more than  
16 one area. And so the idea was that we would train  
17 some people in the environmental area.

18 When I first came there, we had a pretty  
19 good size -- we did all the environmental stuff for  
20 the sites and just one day we went out and said we no  
21 longer do the environmental, they were ticked off at  
22 us like crazy because they took it away and so we did  
23 very little other than just some regulatory review.  
24 And there was also another Knoxville organization that  
25 did a lot of regulatory review process and that kind

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1 of thing. So our impact was very minimal at that  
2 point in time, after reorganization where we had like  
3 five or six people that left the company.

4 Q At the time they made this switch to do  
5 some cross training, did the radcon section, division,  
6 whatever it was, did you make any -- post any PDs to  
7 cross train any of your people?

8 A No.

9 Q That was just in the chemistry side?

10 A Yes, I had radcon and rad waste at that  
11 point in time. We had one rad waste person, so --

12 MR. DAMBLY: Okay, why don't we take a  
13 lunch break and we'll get into the '96 time frame.

14 (Whereupon, a luncheon recess was taken at  
15 12:14 p.m., the deposition to resume at 1:10 p.m., the  
16 same day.)

17

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:10 p.m.)

Whereupon,

WILSON COOPER MCARTHUR

RESUMED his status as a witness herein, and was  
examined and testified further as follows:

EXAMINATION (Continued)

BY MR. DAMBLY:

Q I think during the enforcement conference  
-- do you remember telling us that you once picked  
Fiser back in '94?

MR. MARQUAND: Picked him?

Q You selected him or you and the selection  
review board.

A I remember that, yeah, I think that's the  
case, yeah.

Q Did you -- well, what are we up to, 4?

MR. MARQUAND: Yeah. This is already  
marked as a Fiser exhibit.

MR. DAMBLY: Oh, is it?.

MS. EUCHNER: My copy just has the Ex. 25,  
it doesn't have a sticker on it.

BY MR. DAMBLY:

Q Is that when he was selected as a  
chemistry and environment?

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1 A Right, chemistry and environmental.

2 Q Okay, let me show you a package, I guess  
3 it's Fiser Exhibit 15. And it shows chemistry and  
4 environmental specialist, people that are going to be  
5 interviewed I guess, and the rad control specialist.  
6 You guys -- under you there was also some changes at  
7 the same time, is that right?

8 A Let's see, at that time, I was the radcon  
9 chemistry manager?

10 Q No, I think you were radcon here.

11 A I would have done the second four. I  
12 guess we did all of them.

13 MR. MARQUAND: Review the whole document  
14 before you answer the question.

15 THE WITNESS: Okay. This looks like I  
16 shared it with Pat Hughes.

17 BY MR. DAMBLY:

18 Q You'll see in the back the ratings that  
19 were given to Fiser by the panel.

20 A Yeah.

21 Q Or by the board, I should say. And one of  
22 them is PWH, which I assume is Pat Hughes.

23 A Right.

24 Q Apparently you and he were both sharing  
25 that position or something. Then you had Sabados on

1 here and then we've got something that doesn't have a  
2 name on it and then Gordon Rich had the last one. Can  
3 you tell by that writing or the numbers?

4 A That's not my writing there, I'm pretty  
5 sure that's the case.

6 Q Okay.

7 A It may have been that Pat and I were  
8 sharing these. I was in part of the time and he was  
9 in part of the time. We don't generally do it that way  
10 but that's possible. It shows it was shared here.

11 Q Do you recall specifically interviewing  
12 Fiser for the chemistry and environmental specialist  
13 position?

14 A No, not offhand.

15 Q Okay. Moving on to '96, there was a  
16 reorganization. Tell me how that came about and how  
17 much you remember about --

18 A We were called into Tom's office and he  
19 said we're going to reorganize. My understanding was  
20 that we were going to cutback significantly, I don't  
21 remember exactly, 17 percent or some number like that,  
22 or more. And he wanted us to think about  
23 organizations to bring to him for his review. And I  
24 remember Ron and I worked on several. Then during  
25 this period of time, I was told by Tom I would be go

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1 before a selection panel for the position, but  
2 somewhere along in there, the decision was made by HR  
3 or Tom or the two of them together that I would be the  
4 radcon, chemistry manager. And so I was selected and  
5 then I became more involved in organizations. Also  
6 Ron Grover was involved. Now Ron came up with an  
7 organization chart which he was concerned because he  
8 was not going to have a position, so he worked out an  
9 organization where I was the radcon, chemistry manager  
10 and he was reporting directly to me. And I told him,  
11 I said, Ron, that doesn't make any sense, Tom is not  
12 going to go for it because it's just an extra head,  
13 you know. I'm not sure how you define that position.  
14 But I said you go ahead and present it to Tom, I will  
15 not say anything, I won't be negative, just go ahead  
16 and make the presentation to him. So that's what  
17 happened. As soon as Tom saw it, he said that's not  
18 acceptable, I can't do that.

19 Q Do you recall -- my understanding is Mr.  
20 Kingsley had said there was a five-year plan I guess,  
21 to get down by 40 percent by 2001?

22 A Some number like that.

23 Q Do you remember if Mr. McGrath decided to  
24 go down the 40 percent the first year?

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1           A       I know he wanted to accelerate it, I don't  
2       remember exact numbers, but I know he said we might as  
3       well just go ahead and try to get there. I remember  
4       that discussion.

5           Q       Do you remember any plan drawn up by  
6       Grover and/or yourself together or separately that  
7       would have, at least for the first year, for the 17  
8       percent cut, kept all three PGA chemistry and  
9       environmental specialists?

10          A       No, I think we were told right up front  
11       there would be two chemistry, one PWR and one BWR  
12       chemistry people.

13          Q       By Mr. McGrath?

14          A       McGrath, yeah.

15          Q       Okay. Now at the time this was first --  
16       I don't know the exact time, but there's a time when  
17       Mr. Harvey was being considered to go to Sequoyah with  
18       Mr. Kent?

19          A       There was a discussion between Ron Grover  
20       and Charles Kent in which that was discussed. I don't  
21       know much about the discussion. And I know that  
22       Charles called me and asked me what I thought and I  
23       said well -- you know, quite often I would give up  
24       people to go to the site because the site was more  
25       important than corporate, we were a support

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1 organization. Gordon Rich was an example, we sent him  
2 right to the site when they needed somebody there. He  
3 was downtown in corporate. So that wasn't an unusual  
4 thing for us to do.

5 I lost my train of thought. Where were  
6 we?

7 MR. MARQUAND: You were talking about Kent  
8 called you --

9 THE WITNESS: Oh, he called me and wanted  
10 to know what I thought and I said well, I said, do you  
11 have an open position, slot, and he said well, you  
12 could transfer the position and the budget out here,  
13 and I knew that didn't sound too good, and so I went  
14 down and talked to Tom and Tom said absolutely not, he  
15 says, they have an opening, they can bid that  
16 position, put it out for bid and let people apply for  
17 it and if Sam wins it, he wins it. Whoever wins it,  
18 wins it. And he told Charles that. And from what I  
19 remember, that kind of ended that. I know that Sam  
20 spent a lot of time out at Sequoyah, especially during  
21 steam generator outages. He worked with Goetcheus,  
22 David Goetcheus. I've got a lot of respect for his  
23 knowledge in the steam generator area. He spent a lot  
24 of time out there during those outages.

25 That's all I remember about that.

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1 BY MR. DAMBLY:

2 Q Was Mr. Kent interested in having him come  
3 out there?

4 A Yes.

5 Q He expressed that he was pleased with Mr.  
6 Harvey?

7 A Yes, he enjoyed his technical  
8 capabilities, yes. But he did not have -- I remember  
9 he did not have an opening.

10 Q Okay, and that's why -- I mean the issue  
11 that you recall is McGrath wasn't going to transfer  
12 the budget and the position.

13 A No, the only thing he could really do  
14 within the rules that we had was transfer the whole  
15 chemistry group if he did that. We had three -- I  
16 think we had three chemistry people then, maybe four,  
17 but he would have had to transfer the whole chemistry  
18 group and he did not want to do that.

19 Q Now you mentioned a minute ago, as part of  
20 this reorg, we eliminated the radcon manager and the  
21 chemistry and environmental manager and combined them  
22 into one position.

23 A That's right.

24 Q And you got that job.

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1           A       And that was kind of the standard industry  
2 practice, by the way, not to have a radcon and a  
3 chemistry manager, but to have one.

4           Q       Which is what they had at the sites.

5           A       That's correct. In fact, during that  
6 period of time, we put together a standard  
7 organization and that's basically the way the standard  
8 organization was laid out.

9           Q       And how did you come to end up as the  
10 person in the radcon, chemistry position?

11          A       I have no clue. All I know is Tom told me  
12 I was going to be competing for it and then sometime  
13 later while we were doing the evaluation for the  
14 organization, he called me in and said you have much  
15 more experience, you'll be in that position. He said  
16 HR has done some kind of evaluation -- I was not  
17 involved in the evaluation -- and you will be the  
18 radcon, chemistry manager, and get on with getting the  
19 organization finalized.

20          Q       Okay. Did you ask -- when Mr. McGrath  
21 indicated that the position would be posted, did you  
22 ever contact him and say hey, that's the job I had  
23 before?

24          A       Oh, yeah, I went down -- it was not an  
25 argumentative session. I had been the technical

1 programs manager and was over all of that and then was  
2 radcon, chemistry manager for a long period of time,  
3 and then he actually brought another guy in when I was  
4 radcon manager to be the new radcon, chemistry  
5 manager, the guy from Browns Ferry, a guy by the name  
6 of Alan Sorrell. But I actually performed -- the guy  
7 never performed in the position, I performed the  
8 position.

9 Q Now what position was this?

10 A Radon, chemistry manager.

11 Q So Sorrell at some point was technically  
12 over your position?

13 A Yes. But he stayed down at Muscle Shoals  
14 and was very interested in the laboratory facility and  
15 didn't spend any time in Chattanooga and I ran the  
16 organization for some period of time.

17 Q Now at some point, you went from technical  
18 operations --

19 MR. MARQUAND: Technical programs.

20 MR. DAMBLY: Technical programs.

21 Q -- support, whatever, organization to  
22 radcon --

23 A To radcon, chemistry.

24 Q -- to radcon, chemistry.

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1           A       And then to radcon and then back to  
2 radcon, chemistry.

3           Q       Okay, and was there a position description  
4 ever for radcon, chemistry that you had?

5           A       Yes.

6           Q       What year was that in?

7           A       For the new position, I know I wrote one.

8           Q       For the '96 one. I'm talking about the  
9 one you had before you became radcon only.

10          A       There was one, but that was -- yeah, there  
11 was a position description, sure, because it had to go  
12 through Hay Committee, so there was definitely a  
13 position description.

14          Q       We have for you two PDs at the moment. We  
15 have one for your 1990 job as technical support and we  
16 have one for the '96 radcon, chemistry.

17          A       Okay.

18          Q       In between there, you had a radcon  
19 position that we don't have a PD for.

20          A       There should be one for the radcon,  
21 chemistry position.

22          Q       We don't have that one either.

23                   MR. MARQUAND: I've never seen it.

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1 Q From looking through the thing, I didn't  
2 know there ever had been that position that you were  
3 in.

4 So at some point after you were in the  
5 technical programs --

6 A They eliminated the protective services,  
7 which was fire protection and security.

8 Q Right.

9 A And that became just radcon, chemistry  
10 organization.

11 Q Oh, okay, so when -- from your technical  
12 programs, basically because they eliminated or you  
13 sent out to the sites two things, there was still the  
14 same job, but --

15 A Yeah.

16 Q -- minus two functions.

17 A That's right.

18 Q Okay. It eliminated the job you were in,  
19 but they just retitled it.

20 MR. MARQUAND: De facto, I think he was  
21 the radcon, chemistry manager.

22 THE WITNESS: Because that's all that was  
23 left of that organization.

24 BY MR. DAMBLY:

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1 Q Oh, okay. At the time you had the  
2 discussion with McGrath where he told you we're going  
3 to put you in the job and they talked to personnel or  
4 HR, did he tell you the reason is because they can't  
5 find a PD for your radcon manager position, and so  
6 they're going by the position description you had as  
7 technical program?

8 A No, I was told to write a new position  
9 description.

10 Q The '96 one.

11 A Yeah.

12 Q But I mean when McGrath told you you would  
13 be put in it because HR had done some checking, did he  
14 mention anything to you about there being no position  
15 description for the job you were in as radcon manager  
16 and therefore --

17 A No, I remember anything about that.

18 Q That wasn't discussed at all? Okay. You  
19 wrote the PD for the '96 radcon, chemistry position?

20 A Right.

21 Q When did you write that PD?

22 A Right after he told me, he gave me a  
23 couple of weeks or something and I wrote one and gave  
24 it to him for his approval and it went to the Hay  
25 Committee.

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1 Q Okay, and that position had the same  
2 functions you had as the technical program manager  
3 once you lost protective services?

4 A Yes.

5 Q And was that position still a position on  
6 the organization chart at that time?

7 A I don't understand the question.

8 Q At the time you were the radcon person --

9 A Yeah.

10 Q -- was there still a position somewhere  
11 that Sorrell had occupied that was radcon, chemistry  
12 above you and Grover?

13 A I don't know if it was on the organization  
14 chart, I know he was put in that position, at Ike  
15 Zeringue's direction. He was at Browns Ferry and he  
16 came downtown to fill that position. It was not an  
17 advertised position, he just took that position. That  
18 when Moody, Don Moody, was the organizational support  
19 VP or manager. Whether there was an organization  
20 chart, I can't really say.

21 Q You've already told us that McGrath is the  
22 one that decided there was going to be a PWR and a BWR  
23 position.

24 A That's correct. There was going to be one  
25 radcon, chemistry manager in PWR/BWR and we were going

1 to eliminate the -- it ended up that there was one  
2 person in environmental or maybe two, I don't remember  
3 for sure. But environmental would be very limited.

4 Q Yeah. When you became the radcon,  
5 chemistry manager in the new organization in '96, how  
6 many people did you actually have working for you?

7 A Wow. The final organization?

8 Q Final organization.

9 A There are two chemistry, two radcon, one  
10 rad waste, one or two environmental and then the ERMI  
11 function which had maybe 20 people.

12 Q ERMI was still in?

13 A Yes, ERMI was always in there.

14 Q And when you were the technical programs  
15 manager and shipped the protective services out to the  
16 plants, how many people did you have reporting to you  
17 back then, I thought you said 140 or so before.

18 A Somewhere in the area of 100, 100+, I  
19 don't remember exact number. About six environmental  
20 people, five or six radcon, five or six chemistry and  
21 emergency preparedness had 10 people. They were  
22 always a part of that organization, all the way down  
23 through. So with ERMI and with emergency  
24 preparedness, you had 30 people right there in those  
25 two.

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1 Q And ERMI is E-R-M-I, right?

2 A E-R-M-I.

3 Q Do you want to tell us what that stands  
4 for?

5 A I used to know -- I'm a missionary now.

6 (Laughter.)

7 A Environmental radiological monitoring and  
8 instrumentation. It did all the instrument repairs  
9 and calibrations and it did all the environmental  
10 monitoring in the plants. That was their primary  
11 function.

12 Q The PDs for the chemistry PWR specialist  
13 and the chemistry BWR specialist, who developed those?

14 A The individuals themselves. There was  
15 some conflict in regards to who actually did. Sam had  
16 always indicated that he was not involved in putting  
17 them together. I got involved somewhere along the  
18 line and said everybody will be involved and they came  
19 up with a consensus PD.

20 Q Do you recall any statements by Sam Harvey  
21 that the PDs were written to favor Mr. Fiser?

22 A Beforehand, before I got involved in it,  
23 yes.

24 Q Do you remember what changes were made  
25 after that?

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1 A To the PDs?

2 Q Right.

3 A No, I don't specifically. I just know he  
4 reviewed them but what changes he made, I'm not  
5 familiar with.

6 Q Okay, who selected the selection review  
7 board for the PWR, BWR --

8 A It was a peer team decision. We met and  
9 -- first of all, I was going to get -- I was looking  
10 at radcon, chemistry and environmental person and then  
11 I represented that to the peer group and they said  
12 well, you're the primary users, the radcon, chemistry  
13 managers will be the peer team. So it was going to be  
14 Charles Kent, Jack Cox and John Corey and myself. I  
15 was going to be on the committee at that point in  
16 time.

17 Q Okay. And how far -- I mean do you recall  
18 at all the timing for when the decision was made it  
19 was going to be Cox, Kent and Corey and when the  
20 actual selection date was going to be?

21 A I think it was about a month before when  
22 we had one of the radcon, chemistry peer group  
23 meetings, we made the decision then that we were going  
24 to have a regular radcon, chemistry peer group meeting

1 in the morning and do the review board in the  
2 afternoon.

3 Q Okay, and was the date of that fixed the  
4 prior month? I mean did you set your monthly meetings  
5 for the first Tuesday or something?

6 A We had them for the whole year.

7 Q Okay, so it was already known.

8 A Yes.

9 Q And when you first set that date, did Mr.  
10 Cox indicate to you any problems in being available?

11 A No, not at that point.

12 Q When did he indicate he was going to have  
13 a problem?

14 A I don't know the exact date but it was not  
15 time for me to try to make some changes because he  
16 called and said I just can't make it, a week, 10 days,  
17 again, I don't know specifically. And I went to HR  
18 and to Tom McGrath and said we've got a problem, Jack  
19 can't make it and he said, you know, try somebody from  
20 Watts Bar and I said how about the system plant  
21 manager, I can't remember his name. So we called and  
22 tried to schedule him, but he was not available. And  
23 I didn't want to go any lower than that, I wanted to  
24 stay up at the radcon, chemistry manager level  
25 position because they were the primary users. And

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1       then I believe it was -- I don't know if Ben was in  
2       there or not, but Tom called me in and said well, how  
3       about using Rick Rogers, he knows Gary, he knows Sam,  
4       he's a very respected person, how about him. And I  
5       said sure, that's fine, that made sense to me, so he  
6       was selected to be -- and we still tried to get Jack  
7       to participate even at that point, even on the day of  
8       the meeting, we tried to get Jack to stay and he just  
9       decided he wasn't going to stay.

10           Q       Was there any thought given when he  
11       indicated -- when Mr. Cox told you that he wouldn't be  
12       able to stay that day -- not that day, but when he  
13       first told you, of moving the selection review board,  
14       the panel?

15           A       If I'd moved it, somebody else wouldn't  
16       have been able to make it, so -- we've gone through  
17       those exercises before.

18           Q       Okay. Now did Mr. -- do you recall some  
19       statement by Mr. Cox that he was biased in favor of  
20       Mr. Fiser?

21           A       We were standing outside of the -- where  
22       we had the peer group meeting and he just made the  
23       statement, he said I don't really need to be in it  
24       anyway, because I'd pick Gary Fiser or he did a good  
25       job for me -- I don't think it was he exactly said I

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1 would pick Gary Fiser or I would select -- he did a  
2 good job at Watts Bar.

3 Q And this was the day the actual panel was  
4 going to meet?

5 A Yes. I believe that's correct. I don't  
6 know exactly when it was. Could have been the month  
7 before, but he did make that statement. And then we  
8 tried, I tried to find out why he couldn't make it and  
9 was not very successful. I knew he had a farm and I  
10 know he left -- because I used to try to call him in  
11 the evenings, he left the plant right after 5:00 and  
12 it was always very difficult to get him after 5:00, so  
13 I believe that was the reason or some other reason, I  
14 don't know exactly. It was his decision not to be  
15 there. I was very disappointed because I wanted the  
16 three radcon, chemistry managers.

17 Q When he made the statement, I'm satisfied  
18 with Gary, he's done a good job for me, did that cause  
19 you a problem?

20 A I reported that, I thought it was  
21 pertinent enough information to McGrath and to HR.  
22 And Tom said well he's not going to be on the  
23 selection board anyway, it doesn't really make any  
24 difference. But if he was going to be on there, I'd

1 have to investigate that. That's basically how that  
2 ended.

3 Q Well, was it a surprise to you that Mr.  
4 Fiser -- that Mr. Cox thought Mr. Fiser had done a  
5 good job for him at Watts Bar?

6 A No.

7 Q Would it have been a surprise for you that  
8 Mr. Kent thought Mr. Harvey had done a good job for  
9 him at Sequoyah?

10 A He did, he would have said the same thing.

11 Q In fact, they had tried to hire him down  
12 there just before that because he wanted his  
13 expertise.

14 A Yeah, and Browns Ferry liked Chandra. So  
15 -- Shondra, S-h-o-n-d-r-a.

16 (Laughter.)

17 A And they got him.

18 Q Given McGrath's statement that, you know,  
19 he he'd have to investigate it if Cox was going to be  
20 there, did it -- did you go well, Kent also was  
21 interested, as you recall, in trying to hire him down  
22 there, that would seem to indicate he's happy too;  
23 shall we look into that?

24 A Well, the way I looked at it and my  
25 thoughts about this is like when you've got to bid

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1 something, you investigate all the bidders, you select  
2 the three and that means those three people that you  
3 selected are capable of doing the job. Then you  
4 either get the price or you interview them or whatever  
5 the case is, and you make a decision.

6 It appeared to me all three of the guys  
7 were qualified. In my mind, I had different opinions  
8 about the guys. My opinion was the final straw was  
9 going to be go before this panel, there'll be  
10 technical questions and they'll be graded and ranked  
11 and then you select the two best people. We could  
12 only select two out of three.

13 Q Right.

14 A So to me, that was cut and dried.

15 MR. DAMBLY: Let's take two seconds.

16 (A short recess was taken.)

17 THE WITNESS: I got to thinking, I didn't  
18 clarify something well enough in regards to Jack Cox.  
19 I was under the impression when we had our discussion  
20 outside, he just felt like the use of a review  
21 committee was a waste of time, from his standpoint, so  
22 that wasn't a priority to him. That was my feeling.  
23 I can't speak for Jack and say that was his feeling,  
24 but I certainly felt like that was the feeling he had.  
25 BY MR. DAMBLY:

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1 Q And before the review panel actually met  
2 that day and interviewed people, do you recall any  
3 statements by Mr. Kent concerning Fiser's DOL  
4 complaint?

5 A He mentioned the fact -- I don't remember  
6 the exact words, but something like are you guys aware  
7 of Gary's DOL? I basically said there's no further  
8 discussion on that topic and that ended it.

9 Q Do you remember who was present when he  
10 said it?

11 A Not for sure, but it usually was -- I  
12 don't want to say because I don't know exactly who was  
13 there. I do know that Jack and myself and Kent were  
14 there.

15 Q Do you recall -- did Mr. Kent say anything  
16 to you before the actual interviews of the people that  
17 because Fiser had this DOL thing going and you'd had  
18 some involvement with it in the past, that you should  
19 refrain from being involved?

20 A At some point, he may have made that  
21 suggestion. I didn't quite understand it, but he felt  
22 pretty strongly about it. Because I wasn't even aware  
23 of the DOL. I said well, that's fine, you three guys  
24 can, you know, be the voting part of this, I'll just  
25 observe. I knew I had the final decision, but I also

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1 knew the rules, if you decided to go against the  
2 panel, you'd go to your boss and review it with him to  
3 get his approval, if you changed something that the  
4 review board came up with.

5 Q Okay. Speaking of the rules, what are the  
6 rules regarding review boards, as you know them?

7 A I don't know if -- there is a Business  
8 Practice 201 or something like that that talks about  
9 that there is a document sent out to let people know  
10 that the position is being bid and you receive that  
11 information, HR compiles that information together and  
12 they send it up to the selecting individual, the guy  
13 that's looking to fill the position, and you review  
14 those documents for education and -- it's a laid out  
15 sheet that gives you all the information about the  
16 individual. And you select the ones that qualify,  
17 meet all the requirements.

18 Q The manager that's involved.

19 A That's correct.

20 Q Okay.

21 A And then you select a review committee,  
22 and it's important to select people that have -- are  
23 familiar with the area. It's not unusual to have two  
24 very technical people and then a business person in  
25 there, people that you respect and you feel can make

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1 a selection. Then you make a recommendation to  
2 management. If it's not the same as the review board  
3 selected, you give your argument to your boss or  
4 somebody else. Then you make an offer to the  
5 individual.

6 Q Now the review board, you've sat on review  
7 boards before yourself.

8 A Yes.

9 Q What is your understanding of what review  
10 board members can consider in coming up with their  
11 ratings of a candidate?

12 A Well, in this case, I had prepared, with  
13 input from others, some -- less than 20 questions, I  
14 don't remember, 16, 17 questions, that were  
15 technically and managerially oriented. Those are  
16 presented to the review board for their consideration.  
17 They can eliminate all of them if they want to or they  
18 can select those. They're not bound by anything. In  
19 this particular case, they picked 10 or so and added  
20 one on molar ratio, they added a particular question.  
21 Then it was decided who was going to ask the question.  
22 We wanted to have the same guy ask the question each  
23 time. And then they were to rank from 1 to 10 how the  
24 individual responded. And Ben Easley, from HR, was  
25 the one who kept that record.

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1 Q Okay, now in ranking the responses, are  
2 they allowed to consider their personal knowledge of  
3 the candidate? For example you ask someone a molar  
4 ratio question, we'll say, and they give you a not too  
5 good answer but they just worked with you for six  
6 months in that area and done stuff and you know they  
7 know it cold, they're just having a bad day. Can you  
8 take that into account or you just give them a bad day  
9 because they --

10 A I can't speak for each one of the  
11 individuals on there, but you do have an opportunity  
12 ahead of time to look at their record and -- the  
13 person submits whatever they want to submit.

14 Q Right.

15 A They can be previous appraisals, degrees,  
16 information, they can submit whatever they want to  
17 submit and that's available to the review board. And  
18 then it's up to them to decide how well the person  
19 answered a particular question. They can -- it's hard  
20 for me to sit here and say what each individual uses  
21 as their criteria.

22 Q No, I'm not asking what they use as their  
23 criteria, I'm just trying -- did anybody ever tell you  
24 that -- when you sat on review boards, that all you  
25 could consider is the answer to the question as they

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1 said it on that day and forget the resume, forget the  
2 --

3 A No, I never had that feeling. It was an  
4 important part of the response because you can have a  
5 bad day and select somebody -- but usually these  
6 questions are -- I think they were well couched  
7 questions that would -- and you could have a bad day  
8 but certainly some things you would need to know  
9 definitely. You'd need to know the answer to what a  
10 molar ratio -- if you're going to be a chemistry  
11 manager, you've got to know --

12 Q What is a molar ratio?

13 A It's just a sodium phosphate ratio of the  
14 plant.

15 Q Is that on the primary or secondary side?

16 A Secondary. It's been a steam generator  
17 problem, that's the reason we went to volatile  
18 chemicals instead of the sodium phosphate addition to  
19 the steam generators.

20 Q Now I'll provide you with a copy of the  
21 questions, but having looked at them, and we've been  
22 through this before, there are two questions that were  
23 on this list that are I would call technical  
24 competence questions, plus the molar ratio one that  
25 was added. One is define the term denting.

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1 A Yeah.

2 Q And the other one was discuss the INPO  
3 chemistry index.

4 A Okay.

5 Q Now denting is something that applies only  
6 secondary?

7 A Yes.

8 Q And the --

9 A Well, it can apply to other areas, that's  
10 where you generally think about it in PWRs. Denting  
11 is kind of a generic term in some ways, but steam  
12 generator people know what denting means specifically.

13 Q And the INPO chemistry index, that's a  
14 secondary?

15 A That's everything. You're actually  
16 looking at the chemistry of the plant, there can be  
17 primary information and secondary information for the  
18 plant.

19 Q Okay. Did anybody make any suggestion to  
20 you about including some specific primary chemistry  
21 questions in this list?

22 A No.

23 Q Is secondary more important than primary?

24 A I think the INPO chemistry index includes  
25 primary, so that's a primary question.

1 Q But the other two were strictly secondary?

2 MR. MARQUAND: What other two?

3 MR. DAMBLY: Denting and the molar ratio.

4 A Molar ratio can be both, steam generators  
5 are a secondary side, but they're both -- I would  
6 consider those mostly secondary side; two secondary  
7 side, one primary side question.

8 Q Which one is the primary side question?

9 A The chemistry index.

10 Q That covers both sides?

11 A Yes.

12 Q Did Mr. Grover have any input on these  
13 questions?

14 A Who?

15 Q Ron Grover.

16 A I had some questions from him. I don't  
17 know if his were included or not.

18 Q In a PWR, is secondary chemistry more  
19 important than primary chemistry?

20 A It's according to who you're talking to.  
21 Secondary chemistry is creating most of the problems  
22 in PWRs, let me put it that way. The primary side has  
23 not been the major problem. You can look at it that  
24 way, I wouldn't say one is any more important than the  
25 other, but in a PWR, you've got to really watch out.

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1 You spend most of your chemistry sampling in the  
2 secondary side.

3 Q Okay. Was -- would it be fair to say  
4 you're more interested in -- for this PWR specialist  
5 position in somebody with secondary than primary?

6 A I'd want somebody that knew both, but if  
7 I had to pick one, I'd pick secondary side because  
8 that's where most of the problems are. But they're  
9 both very important.

10 Q Given the -- what you told us earlier  
11 about Mr. Harvey's expertise was secondary, Mr.  
12 Fiser's was primary --

13 A That's my opinion. Gary may not agree  
14 with that. Sam -- I don't know what Sam's feelings  
15 would be, but -- state the question again.

16 Q I didn't get a question yet, I just asked  
17 -- you earlier had said that, you know, Mr. Harvey had  
18 --

19 A Usually a person that spends a lot of time  
20 at the site like Gary had, should know a lot about  
21 secondary side chemistry, you would think.

22 Q But you didn't think that was his strong  
23 point.

24 A No.

1 Q In your mind, did these questions favor  
2 Mr. Harvey over Mr. Fiser?

3 A No, I think a lot of the questions has to  
4 do with management style, what are your strengths,  
5 what are your weaknesses, what are the projects that  
6 you would consider more important -- Sequoyah or PWRs  
7 or BWRs, whatever. No, I didn't think they were  
8 weighted in any particular direction.

9 Q Did -- as part of this selection process,  
10 did HR and I guess Mr. Easley or Ms. Westbrook provide  
11 you a selection notebook also?

12 A They put the primary notebook together.  
13 It had the -- they laid out education, years of  
14 experience, that kind of thing, any special classes  
15 taken, they laid that information out.

16 Q And you had -- they gave you a book with  
17 all that in it?

18 A Yes.

19 Q And you had that plus the recommendation  
20 from the --

21 A Also had anything that the individual  
22 himself had submitted.

23 Q Had submitted. Did you have the  
24 performance appraisals in the book you had?

25 A If they submitted them.

1 Q HR didn't provide them to you?

2 A Not that I recall. I don't think that was  
3 standard practice.

4 Q What was standard practice.

5 A I said I don't remember that being  
6 standard practice, of submitting the appraisals.

7 Q So normally when you made a selection for  
8 a position, you wouldn't have the person's performance  
9 appraisals and take into account past performance?

10 A In my case, I think I knew pretty well the  
11 background of the people and we discussed this quite  
12 often in the peer group meetings. There were  
13 generally discussions about the ranking because every  
14 year, we would do incentive awards and all those kinds  
15 of things. We would discuss people, so we knew how  
16 they were ranked and how well they were thought of by  
17 the sites. That was done on a continuous basis in the  
18 peer group meetings.

19 Q Did you know Mr. Grover's relative  
20 rankings of Mr. Fiser and Mr. Harvey on the  
21 performance appraisals?

22 A I knew that he ranked Gary fairly high and  
23 he -- Sam did not think he was very well evaluated by  
24 Ron, I knew that.

25 Q How did you know that?

1           A       Because Sam told me and I talked to Grover  
2 about it and he said I think I've been fair.

3           Q       Why would Sam come to you?

4           A       I was the radcon, chemistry manager. Oh,  
5 if you're talking about the time he was reporting to  
6 Ron, he didn't come to me during that period of time.

7           Q       And those would have been the most recent  
8 appraisals that would have been part of his package,  
9 the selection package, if they were in there -- at  
10 least they would have been the most recent I guess  
11 service reviews?

12           MR. MARQUAND:   What question are you  
13 asking?

14           MR. DAMBLY:   He and I seem not to have a  
15 problem.

16           MR. MARQUAND:   You've got three going on  
17 right now at one time.

18           BY MR. DAMBLY:

19           Q       Were the service reviews given Grover --  
20 that Grover gave to Harvey and to Fiser, when he was  
21 chemistry, environmental and you were radcon, so he's  
22 not in your chain.

23           A       That's right.

24           Q       Those are the most recent appraisals prior  
25 to your selection for the PWR.

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1           A       I don't recall, but I would expect that  
2 would be the case.

3           Q       Well, directly before you became radcon  
4 and chemistry manager, you had the organization with  
5 Grover and you.

6           A       Yeah.

7           Q       And Grover ranked his people and you  
8 appraised your people.

9           A       Maybe you missed my discussion. We  
10 continuously in our peer group meetings, we always had  
11 a session in which we talked about performance of the  
12 personnel. We talked quite often about rotating  
13 people. We were very much into rotating and  
14 discussions about rotating Harvey to Watts Bar and  
15 Voeller back to Sequoyah and we would discuss their  
16 strengths and weaknesses.

17          Q       Now in your peer group meeting, was Grover  
18 a member of the peer group?

19          A       No.

20          Q       Why not?

21          A       Let's see now -- only radcon, chemistry  
22 manager was.

23          Q       And at the time you were PG-11 radcon and  
24 he was a PG-11 chemistry --



1           A       I was not, that was Sorrell that was on  
2       there -- was the member.

3           Q       Sorrell was the member.

4           A       Yeah.

5           Q       Okay, when did you start becoming the  
6       member again?

7           A       When I became radcon, chemistry manager.

8           Q       And that was when McGrath told you you're  
9       now in that position?

10          A       Yes.

11          Q       And so how long after that did you have  
12       this meeting with the three radcon chemistry site guys  
13       -- Cox, Kent and Corey -- at which you discussed the  
14       upcoming selections and who would be on the board?

15          A       I don't remember a particular month, but  
16       we discussed the review board, who would be on the  
17       review board and who would write the questions. I was  
18       always the work horse on the peer group. And so I was  
19       asked to write the questions and Ed reviewed the  
20       questions. And they were asked to give input. I  
21       think Grover gave some input and I had some questions  
22       from previous review boards and I went through those  
23       and tried to select.

24          Q       So from '94 to '96, you were not part of  
25       that peer group?

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1           A       Whatever time I was a radcon manager, I  
2 was not part of the peer group. I would make  
3 presentations, but I was not welcome there during  
4 their review sessions when they talked about people.  
5 You were excluded always from any of the sessions in  
6 which they discussed personnel between sites.

7           Q       Okay.

8           A       In fact, when I was a radcon, chemistry  
9 manager at corporate, sometimes the three guys would  
10 have discussions without me being present if they were  
11 talking about -- because I did not make decisions  
12 regarding the sites, site personnel selections.

13          Q       Okay, do you recall how many peer group  
14 meetings there were between the time you became  
15 radcon, chemistry manager and these selections?

16          A       We had one a month normally. In most  
17 cases, we'd have one a month.

18          Q       Do you remember when you became radcon,  
19 chemistry manager -- when McGrath told you that you  
20 were going to be it?

21          A       No.

22          Q       I just have hopefully a couple more  
23 questions.

24                   It has to do with Mr. Fiser's  
25 transcription. At this point, that hasn't been

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1 verified. I want to ask you if you recall -- well, we  
2 did verify one part of it yesterday. This would have  
3 been -- let me figure out the date here -- okay, it is  
4 ostensibly November 16 of 1992, this is a conversation  
5 that Mr. Fiser recorded, it's on page 22 of that.

6 MR. MARQUAND: And you're referring to  
7 Fiser deposition exhibit 18.

8 MR. DAMBLY: Deposition exhibit 18.

9 BY MR. DAMBLY:

10 Q Page 22 in the middle of the page. It  
11 starts:

12 McArthur: "Do you know when the  
13 downhill slide started on you with Tom  
14 Peterson and Tom McGrath sat in your  
15 office that day? I don't know what  
16 happened."

17 Fiser: "I do."

18 McArthur: "Well, you know and I  
19 don't. When I walked out of that  
20 meeting, Tom McGrath said we can't have  
21 this guy in Sequoyah chemistry position.  
22 Tom Peterson said the same thing and I'm  
23 saying to myself what happened in there  
24 that I did not see."

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1 Do you recall ever having a conversation  
2 like that with Mr. Fiser?

3 MR. MARQUAND: Now you're not representing  
4 -- you haven't asked him if he's heard the tapes and  
5 you're not representing --

6 MR. DAMBLY: I asked him before and he  
7 said he's heard part of the tapes. But I'm  
8 representing that Mr. Fiser said this is what he  
9 transcribed. Okay?

10 BY MR. DAMBLY:

11 Q I'm asking you, do you recall having a  
12 conversation like this? Not whether you heard it on  
13 a tape or not -- do you recall?

14 A I don't specifically recall. I know I'm  
15 responding when he says "am I still in trouble?" I  
16 didn't know what the problem was, I didn't know --  
17 Gary was always complaining about he was not -- you  
18 know, you can go through the transcript he gave down  
19 at NRC and it's stunning when you read through there  
20 the things he says. For example -- can I elaborate on  
21 this a minute?

22 MR. MARQUAND: Go ahead.

23 THE WITNESS: He says -- he was asked by  
24 somebody in the organization, I think it was Bill  
25 Lagren, to evaluate -- come up with chemistry

1 concerns, so he came up with 120, 130. Well, it is a  
2 rule in a nuclear organization when you come up with  
3 concerns, you put them into TROI. Well, he didn't do  
4 that, he decided or somebody there decided we're going  
5 to keep those separate. You don't do that, that's not  
6 the way you solve problems in a nuclear program. But  
7 that did take place.

8 Then in his report, he says --

9 BY MR. DAMBLY:

10 Q Now when you say TROI, that's an acronym?

11 A I don't know what it stands for.

12 MR. MARQUAND: It's the tracking of open  
13 items.

14 A Tracking items.

15 Q Oh, okay.

16 A And so then later on he says -- he called  
17 the plant manager and the plant manager chewed him  
18 out. Well, hell, I would have chewed him out too, if  
19 he'd come to me just before INPO comes in and says  
20 I've got 120, 130 questions, boss.

21 MR. MARQUAND: I don't think you're  
22 explaining what your concern about him having the 120  
23 questions is.

24 THE WITNESS: Oh, okay. The point is  
25 it's standard to do this kind of thing. Bill Jocher

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1 did it, you go through and you evaluate your program  
2 and we had -- internally we did that on a continuous  
3 basis, and you tracked them. You put them into TROI  
4 and you track them to completion.

5 But I think I'm getting --

6 MR. MARQUAND: What was the problem with  
7 him coming up with -- if in fact he did, what was the  
8 problem with it?

9 THE WITNESS: He didn't report it to  
10 management and put it in TROI.

11 MR. MARQUAND: He hadn't done it.

12 THE WITNESS: He hadn't done it.

13 BY MR. DAMBLY:

14 Q Well, did he report it to Bill Lagren?

15 A I don't know. I never saw those  
16 questions.

17 MR. MARQUAND: If in fact he did that,  
18 that was a problem.

19 THE WITNESS: If he did that, yeah. And  
20 then --

21 MR. MARQUAND: It was that he'd been  
22 hiding them.

23 THE WITNESS: And then what was really  
24 strange is later in that report he says well out of  
25 120 to 30, maybe six of them were used to tweak the

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1 chemistry program. That meant the other -- to me,  
2 that means the other 100+ were trivial questions.  
3 That's what I'd gather from it, I don't know that for  
4 a fact, but that's certainly what -- because that's  
5 part of his testimony.

6 So I said boy, that's not good management,  
7 there's something wrong here. So I didn't know what  
8 Gary's problem was, I knew he always felt like the  
9 people were after him, I'd hear that all the time.  
10 And so I'm just saying I don't know what's the  
11 problem, I knew what had happened.

12 In NSRB it's very consistent for us to  
13 challenge somebody and give them a rough time. That  
14 was part of our job, to try to get to the bottom of  
15 problems. And Gary was not treated in any different  
16 way. He was treated -- we were very upset at his  
17 response and that's not unusual. We did that at  
18 Browns Ferry and Watts Bar when we found things that  
19 were incorrect.

20 BY MR. DAMBLY:

21 Q Do you recall McGrath ever coming out and  
22 saying at Watts Bar or Browns Ferry we can't have this  
23 guy in the chemistry position?

24 A I'm sure -- this is my -- McGrath did not  
25 come right out and say get Gary out of here. He did

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1 not think that he was qualified to fill that position,  
2 his management style was too weak. That's my  
3 assessment.

4 Q Okay. Do you remember whether or not  
5 that's what you told Fiser? Do you remember telling  
6 Fiser that McGrath said we've got to have him out of  
7 the Sequoyah chemistry position?

8 A I don't recall telling him that, I don't  
9 think I would have said that. That's for McGrath to  
10 say instead of me.

11 Q Well, do you recall McGrath ever saying  
12 that to you?

13 A He just knew he was a weak manager, he  
14 didn't come out to me and say I think we need to get  
15 Gary out of there. That never transpired.

16 Q Did he ever comment to you on when Gary  
17 was switched -- not transferred but he and Jocher made  
18 the switch -- did Mr. McGrath ever comment to you that  
19 he shouldn't go to corporate because he can't handle  
20 it?

21 A He wasn't involved in -- you mean as  
22 chairman of the NSRB?

23 Q No, did he just comment to you?

24 A No, he wasn't my boss, Dan Keuter was my  
25 boss at that point in time.

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1 Q I appreciate he wasn't your boss and he  
2 wasn't in your chain. Did he make the comment at all  
3 about Fiser going to corporate, any comment, negative?

4 A Not to me.

5 Q Okay. And then the last one we'll  
6 discuss, page 80 in Fiser Exhibit 18. Again, this is  
7 Mr. Fiser's transcription of tapes that he had  
8 recorded. It represents what he thinks is on the  
9 tapes. In the middle of the page, this is Fiser.

10 "Well, my inclination is --

11 MR. MARQUAND: This is supposedly when?  
12 Isn't this like July of '93 right after his surgery?  
13 If you look at the top of page --

14 MR. DAMBLY: July 14, 1993.

15 THE WITNESS: Okay.

16 BY MR. DAMBLY:

17 Q What were you doing July 14 of 1993?

18 A Let's see, April I had surgery, I was just  
19 coming back and at that point in time -- this is  
20 difficult for me to recall, I knew that I was acting  
21 as the operations support manager but also running  
22 radcon, chemistry organization. So that's what I was  
23 doing.

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1 Q Okay. Were you on drugs that made you say  
2 things that you thought weren't true or somehow  
3 affected your memory or your ability to --

4 A I don't think so.

5 Q -- think and talk rationally.

6 MR. MARQUAND: You mean no more than  
7 normally.

8 THE WITNESS: No more than normal.

9 BY MR. DAMBLY:

10 Q Okay. Well, I got the impression from  
11 your counsel a minute ago that somehow your surgery  
12 had an impact on what you would have said.

13 A Oh, I was very weak for a three or four  
14 month period of time.

15 Q But it didn't affect your thought  
16 processes.

17 A No, I had just started radiation  
18 treatment. I'd just finished the surgery and the  
19 chemotherapy and now I was starting on radiation for  
20 eight weeks. So I was in radiation during that period  
21 of time.

22 MR. MARQUAND: Away from the plant.

23 THE WITNESS: Oh, yeah, I didn't stand on  
24 top of Browns Ferry and spread my legs.

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1 MR. DAMBLY: Somebody suggested that in  
2 one of these things.

3 THE WITNESS: I did.

4 MR. DAMBLY: You did, was that you?

5 THE WITNESS: As a good way to get  
6 radiation treatments -- cheap way.

7 BY MR. DAMBLY:

8 Q Okay, so back to the middle of page 80,  
9 which is July 14 of '93.

10 Mr. Fiser says, "Well, my  
11 inclination right now is to take him to  
12 court."

13 McArthur: "What I would do" --

14 Fiser: "I talked to Lagren about  
15 it and he said that you need to be real  
16 careful, that because even if you win, it  
17 might not be good."

18 McArthur: "If you lose, in fact,  
19 this is what I told Bill Jocher, what  
20 happens is nobody wants you. They don't  
21 want somebody who is a troublemaker.  
22 Even though you are defending your own  
23 manly hood, the right to have a job and  
24 those kinds of things. That is not the  
25 way people look at it. This is a big

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1 decision you have to make, a lot of  
2 companies will not hire you if you have a  
3 legal history. That is the thing you've  
4 got to keep in mind."

5 A I thought that was good advice.

6 MR. MARQUAND: I think the first question  
7 is did you --

8 BY MR. DAMBLY:

9 Q Do you recall saying that to --

10 A No, I don't know if I could say that.

11 Q From your experience at TVA, would you say  
12 that that's applicable to TVA, that people who take  
13 them on --

14 A No, to me, TVA has been the fairest  
15 organization I've ever worked with in my life. I'll  
16 say that. When I read through what Gary Fiser said in  
17 his testimony down t here, I was shocked. The first  
18 time I really got a chance to read through it was last  
19 couple of days and I don't know individuals in TVA  
20 that have the feelings that he does. To me, it's like  
21 he hates the company and hates the policies. I don't  
22 feel that here, I think this is a company when you  
23 provide concerns, they are tracked to conclusion,  
24 they're taken care of. That's my belief. But I don't  
25 think that Jocher -- that Gary was very fair to the

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1 company in what he had to say. It looked like he was  
2 trying to blame somebody for his problems. He was not  
3 a good manager -- he was not a good manager -- and he  
4 didn't want to accept that fact.

5 Q And, in your estimation, was Harvey a good  
6 manager?

7 A I didn't look at him as a manager either  
8 because they're technical people. Their positions were  
9 not to manage, their positions were to solve technical  
10 problems.

11 Q Well, the group of questions you came up  
12 with, and I guess out of the 10, seven of them were  
13 management questions.

14 A Well, you have to deal with the sites,  
15 that requires ability to deal with people. If you  
16 don't have some management skills, you'll fail  
17 miserably.

18 Q Well, how were Harvey's management skills?

19 A They weren't the best in the world.

20 Q Did you have any information concerning  
21 complaints that had been made against Mr. Harvey,  
22 potentially harassment by Tresh Landers?

23 A Yeah, I was aware of that, she came to me.

1 Q Did anybody come to you with anything from  
2 Sequoyah that the people there, some of the staff  
3 there, weren't happy?

4 A I don't recall anybody from Sequoyah  
5 coming to me.

6 Q Okay.

7 A Again, he was an opinionated person too.  
8 He had his opinions about things and he was very  
9 strong and vocal about his position. Gary was not  
10 that way, he was more laid back.

11 Q Anybody complain to you about personal  
12 interactions with Mr. Fiser?

13 A Other than Tresh Landers.

14 Q Well, she didn't complain about Mr. Fiser  
15 -- I'm talking about Mr. Fiser.

16 A Oh, Fiser.

17 Q If she complained about Mr. Fiser, I'd  
18 like to hear about that though. I haven't heard that  
19 yet.

20 A Well, I told these guys yesterday, I said  
21 I thought Gary was very, very -- extremely rude to  
22 Tresh Landers. But they were very close friends, I  
23 guess close friends can -- he would say things like we  
24 don't need women in engineering. They were right  
25 outside my office. That's the reason I was really

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1 surprised when they came up about Sam, I said gosh,  
2 the more criticism I've heard has been from Gary than  
3 from Sam. I was surprised, because he was very  
4 downgrading to her, at least in my opinion, from what  
5 I heard. But she laughed and they just got along, I  
6 guess they went to lunch together and things, they  
7 were very close friends. And Sam was not a part of  
8 that group.

9 Q Okay.

10 A What was the original question? I don't  
11 think I've answered your question.

12 Q My question was did anybody come to you  
13 and complain about Gary Fiser's interactions with  
14 them, from a management --

15 A Yeah, when we went around to the people  
16 part in NSRB, we would ask people their opinions about  
17 decisions and those kinds of things and Gary was not  
18 on the highest level with everybody, but I'm not sure  
19 where anybody would rank in that kind of case. Yeah,  
20 there were complaints.

21 MS. EUCHNER: Can we go off the record for  
22 a minute.

23 (Brief pause.)

24 MR. DAMBLY: Back on the record.

25 BY MR. DAMBLY:

1 Q There was a statement, and it could have  
2 come up in depositions, that the selection, the '96  
3 selection for chemistry position, PWR, was delayed I  
4 thought, because Fiser had raised the complaint that  
5 if you post it, I'm going to file a DOL complaint.

6 A I don't think it was delayed.

7 Q Do you remember there was some hold put on  
8 while legal looked into whether or not the settlement  
9 agreement --

10 MR. MARQUAND: If he knows.

11 A I don't recall it being delayed because we  
12 had scheduled it for the next radcon peer group  
13 meeting, we held it then, so -- there may have been  
14 some discussion in between, because I was kind of  
15 surprised he would consider DOL without a decision  
16 being made. No decision had been made when he  
17 threatened to -- that to me was intimidating.

18 Q You're aware that he said if they post  
19 this, I'm going to file a complaint?

20 A I heard that from Ben Easley.

21 Q And before the selection process. You  
22 heard that relatively contemporaneously, before it was  
23 posted or after it was posted?

24 A I honestly don't recall.

25 Q Before the selection was made.

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1 A Yes.

2 MR. DAMBLY: Well, I think we'll let you  
3 go home.

4 THE WITNESS: Okay.

5 MR. DAMBLY: Thank you very much for your  
6 time.

7 THE WITNESS: All right, thank you.

8 (Whereupon, the deposition was concluded  
9 at 2:17 p.m.)

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