

CROSS-EXAMINATION

BY MR. MARQUAND: (Cont.d)

Q Mr. Kent, since this -- we've just gotten through reading portions of this particular inspector general record of interview regarding your discussions with Mr. Fiser in '93 about a job, did you consider him for one or more than one position in '93?

A I believe in 1993 I considered Mr. Fiser for two positions.

Q And tell us what positions you considered him for.

A I believe I considered him for the chemistry technical support supervisor's position.

Q Right.

A And I later considered him for the chemistry manager's position.

Q All right. Was Mr. Fiser -- did he indicate that he was interested or not in the chemistry technical support supervisor job?

A He did not indicate an interest in that position.

Q All right. And you said you considered him for the chemistry manager's job. We went through a long discussion this morning about how you talked to Wilson McArthur and got feedback from him, and talked to Mr. Fennick, and also yesterday they mentioned Beecken. What happened -- you said that -- this morning that you and

1 Fennick had a second -- had a joint telephone conversation
2 with Wilson McArthur. As you read through this record of
3 interview, does that refresh your recollection about what
4 Wilson McArthur -- whether Wilson McArthur told you that it
5 would be a good or a bad idea to bring Mr. Fiser back to
6 Sequoyah as a chemistry manager?

7 A Yes, that's correct.

8 Q Does it refresh your recollection?

9 A Yes, it does to some extent.

10 Q And what is that recollection as refreshed?

11 A Well, I believe that the issue that we were
12 discussing there, and -- and it's also reflected in this
13 interview as I corrected it on -- I forget which page it is
14 now. But it says that Mr. Fennick thought I had misled him
15 about Mr. McArthur's support for bringing Gary back out to
16 the site.

17 Q Right.

18 A And so I insisted that we call Mr. McArthur and
19 discuss that issue with him. And it was confirmed during
20 that conversation that Mr. McArthur did support.

21 Q He said he would be supportive of your decision?

22 A Yes, whatever decision we made.

23 Q Did he then express an opinion as to whether it
24 was a good idea or a bad idea with respect to bringing Mr.
25 Fiser out to -- back to that job? Let me direct your

1 attention, to refresh your recollection, to the bottom of
2 Page 356.

3 A Yes, on the bottom of Page 356 I have noted that
4 he -- he didn't think it was a good idea.

5 Q He did not?

6 A He did not think it was a good idea.

7 Q Now, there was some discussion about -- there's
8 been a lot of discussion about Gordon Rich. And ultimately
9 I think you said Gordon Rich became the chemistry manager.
10 Did you go through a selection process in which you selected
11 Gordon Rich?

12 A Yes, we did.

13 Q You posted a VPA?

14 A Yes, we posted a VPA and selected from the
15 candidates that applied.

16 Q Did Mr. Fiser apply for the chemistry manager
17 position?

18 A He did not apply on that position.

19 Q Oh. And did you have discussions with Mr. Fiser
20 in which he ever expressed interest in doing something else?

21 A During the -- one of the conversations I had with
22 Mr. Fiser about one of these two positions---I don't
23 remember exactly which one---he did express an interest to
24 me and -- or expressed to me that, you know, because it
25 wasn't going to work out, that that was sort of fine with

1 him because he had other interests outside the company that
2 he was going to pursue.

3 Q Did he explain what he meant?

4 A I believe they were of a private business nature,
5 but he didn't go into a lot of details.

6 Q So he said he was interested in doing something
7 else besides staying with the company?

8 A Yes, it was my impression he was going to take any
9 severance that he got and -- and pursue a private business.

10 Q Now, this morning you said that Mr. Powers was
11 walking his spaces when Gary Fiser was in your office, and
12 he came in and you said he would have said, quote, "some
13 nice things." Did Mr. Powers suggest that you should -- in
14 front of Mr. Fiser, go ahead and hire Mr. Fiser, make it
15 happen?

16 A No, I don't -- I don't believe he said that. I
17 believe the context of that conversation was -- and I think
18 I said that this morning, that I'm not sure if Mr. Powers
19 was walking his spaces and came by my office, or we were
20 walking down the hallway and went by his office. But there
21 -- there was a casual conversation between the three of us,
22 Mr. Powers, Mr. Fiser, and myself, where I introduced Mr.
23 Fiser to Mr. Powers and explained that I was talking to Gary
24 about the possibility of him coming to the site. That he
25 had previously worked at the site. And Mr. Powers, you

1 know, would have said some nice things. It was not an
2 interview, and it had been characterized as an interview,
3 and I was trying to explain that it was not an interview, it
4 was a casual conversation.

5 Q During this period of time that you were
6 discussing the possibility of Mr. Fiser being selected as
7 the chemistry manager, did you make an offer to him of that
8 job?

9 A No, I did not make an offer to him of the job.

10 Q Did you tell him, "Hey, show up out here next
11 Monday," or next Thursday, or whatever, "with a tie on, and
12 be ready to work"?

13 A With respect to a position like that, no, I did
14 not.

15 Q Did you discuss with him at all about the
16 possibility of working out there?

17 A Yes, I did. He was at the -- at one time, and I
18 believe -- well, at that time he was in the employee
19 transition program. And I did discuss with him the
20 possibility that he would come to Sequoyah on loan from ETP
21 to support the program. I mean, he was basically sitting
22 downtown with nothing to do. And I asked if he would be
23 available to provide us with support, and he indicated that
24 he would. And gave me the contact of the individual he was
25 reporting to at that time in ETP that I could -- I could

1 contact if I wanted to do that.

2 Q Now, is ETP, is that where employees who had --
3 whose positions had been eliminated went to either find
4 another job within TVA or outside TVA?

5 A Yes, that's correct.

6 Q All right. And he had nothing to do at that point
7 in time. Did he, in fact, ever come out to Sequoyah on this
8 loan basis to assist you?

9 A I don't believe he did.

10 Q Did you have to go through any kind of selection
11 process to bring an employee on a loan basis from ETP?

12 A No, I believe it would have been a phone call.
13 Just a phone call to the responsible manager and an
14 agreement that I would pick up the individual's salary for
15 the period of time he was going to be working for us.

16 Q All right. Now, let's -- let me direct your
17 attention back to a discussion you had with counsel this
18 morning about the chemistry upgrade program.

19 A Yes, sir.

20 Q And you said that it was your responsibility to
21 convince management if you needed resources?

22 A Yes, that's correct.

23 Q Let me direct your attention to TVA Exhibit 122.

24 MR. MARQUAND: That's the one, Your Honors, that's
25 got a fax cover sheet on the front of it from Mr. Fiser to

1 Jim Force. I'm going to share my copy with you.

2 Q This morning counsel directed your attention to
3 the very last page and the very last paragraph of this
4 document. This is purportedly Mr. Lydon's record of
5 interview with the inspector general about chemistry program
6 in which Mr. Lydon talks about the fact that Mr. Lydon had
7 been responsible for the CUP budget, and he and his managers
8 completed a budget which Bynum, quote, "slashed to hell."
9 And counsel asked you about whether or not, even if the CUP,
10 which had been, you said, scoped for 22 million, was
11 slashed, whether upper management provided Mr. Fiser with a
12 part of that to upgrade or replace out-of-service
13 instrumentation.

14 JUDGE YOUNG: I'm sorry, to place out-of-service
15 what?

16 MR. MARQUAND: To upgrade or replace out-of-
17 service instrumentation, rad monitors.

18 JUDGE YOUNG: Okay. Thank you.

19 BY THE WITNESS:

20 A I believe that during this time interval, and I --
21 I actually think that Mr. Lydon confused the CUP and the
22 chemical traffic control programs.

23 Q Right.

24 A But -- so I really don't know which one he was
25 talking about.

1 Q Well, I'm not going to ask -- I want to ask you
2 about CUP...

3 A CUP.

4 Q ...and the 22 million and the slashing of it.

5 A Okay.

6 Q Go ahead.

7 A I believe the CUP project was originally proposed
8 in -- in about 1988, '88 or '89 time frame. And it was put
9 forward, and it was developed to be the chemistry monitoring
10 program that was going to solve all of our problems.
11 Everything was computerized, everything would have been
12 automated. And it would have practically eliminated the
13 need for grab sampling.

14 It was seen, I think, by management as a -- as a
15 Cadillac process, and therefore it was not viewed as being
16 appropriate or necessary. And so very little support was
17 given for that proposal.

18 When -- in -- as far as whether or not management
19 would have provided support for parts of it, all I can --
20 all I can refer back to is actual experience with management
21 in '93 time frame.

22 Q What I want to know is, I want you to explain your
23 comment this morning about that it's your responsibility to
24 convince management of your need for resources.

25 A Oh, yes.

1 Q With respect -- with -- specifically with respect
2 to CUP.

3 A With the CUP project. Okay. When -- when we
4 assumed responsibility for the chemistry program in '93,
5 obviously instrument availability, chemistry monitoring
6 instrument availability was a significant issue, because it
7 was a rsrc drain on the department.

8 JUDGE YOUNG: Let me ask a clarification question.
9 You said when you resumed responsibility?

10 THE WITNESS: When we -- we assumed responsibility
11 in '93 for the chemistry program.

12 MR. MARQUAND: "Assumed," not "resumed."

13 THE WITNESS: "Assumed."

14 JUDGE YOUNG: Okay. And -- and when you say you
15 assumed responsibility, how was that different than before?
16 That's what I'm not clear on.

17 THE WITNESS: That is the same thing as before.
18 When -- in '93, when the chemistry and rad con organization
19 were combined,...

20 JUDGE YOUNG: Okay.

21 THE WITNESS: ...then -- then I took over
22 responsibility for the program.

23 JUDGE YOUNG: You're talking about the -- okay.

24 THE WITNESS: Right, it was the combination of the
25 two organizations.

1 JUDGE YOUNG: Now I understand. Thank you.

2 BY THE WITNESS:

3 A I stated this morning that I believe it was my
4 responsibility, as the responsible manager, to show
5 management what was needed, and convince management that it
6 was the right thing to do. And if -- if they did not do it,
7 then that was my problem. I obviously hadn't done a good
8 job of presenting that information.

9 In -- in 1993, when I looked at the CUP program,
10 it was apparent to me what the problem was with the CUP
11 program, and that was that it was scaled up to be a
12 Cadillac, which wasn't necessary. So we relooked at the
13 program. I had the staff identify what was essential and
14 what was necessary, and we took it to management and we got
15 it approved and we implemented it.

16 Q Was it -- if it's overscoped, if it's sold to --
17 if somebody attempts to sell it to management as a Cadillac,
18 is it management's responsibility to go through that request
19 and decide, line item by line item, what really is
20 essential, and to help Mr. Fiser out and say, "Okay, well,
21 we really think he needs this particular rad monitor or this
22 particular sampling system"? Whose responsibility is that?
23 Who's at fault if it's not approved?

24 A I believe that's the line manager's
25 responsibility, and -- and the line manager's at fault if --

1 if it's not approved. It's not upper management's
2 responsibility to try to ferret out what we need. It's our
3 responsibility to identify what we need appropriately and
4 provide that information to upper management so they can
5 make a proper decision.

6 Q Now, in '93 you assumed responsibility for
7 chemistry. At that point in time, did you think that
8 chemistry was doing an adequate job of trending chemistry
9 parameters at the plant?

10 A No, we were not. We were not doing an adequate
11 job of trending chemistry parameters at the time.

12 Q What did you do about it?

13 A Well, one of the first things I did was design a -
14 - a report that I thought management could understand, that
15 provided the essential information that was necessary to the
16 entire management team on a daily basis, to be able to see
17 what was going on in chemistry, and what the needs really
18 were. And -- and to educate the entire management team on
19 important parameters to the chemistry program. One of those
20 -- one of those things was a -- was a chemistry report that
21 we implemented almost immediately after I took over
22 chemistry, that -- that laid out the plant system from the
23 condenser right on through the steam generators, and showed
24 what monitoring was being done at the different locations.
25 And the intent was to communicate to management how we were

1 doing in terms of goals and limits in each of those
2 different locations, as an educational process, more than
3 anything else, so we could then show management what was
4 important.

5 Also on that report we had a place where we
6 identified out-of-service equipment and the impact that that
7 was having on chemistry. So, for instance, if a -- if a rad
8 monitor were out of service and we were having to
9 compensatory sample because of that rad monitor out of
10 service, that would be highlighted on that report so
11 management would be aware that there's four hours a day of
12 manpower resource committed to taking grab samples because
13 this instrument is not available.

14 Q Is that -- is that a technique you use to convince
15 management about the need for the priority to fix those
16 particular rad monitors?

17 A Yes. Plus -- plus we also had a specific report
18 that showed rad monitor operability and chemistry instrument
19 operability that I believe at that time we probably
20 presented to management at least once a week, that showed
21 what we had available and what we didn't have available.

22 Q Now, you said a daily trending report?

23 A Daily trending report; yes.

24 Q Was this -- do you mean seven days a week, 365
25 days a year?

1 A I believe it was seven days a week, because I
2 believe that even on the weekends we provided the
3 information to the operations shift manager, because we
4 thought it was important for him to know and be aware of
5 those parameters and -- and be aware of those trends.

6 Q Did this daily trending report require additional
7 resources?

8 A No, it did not really require additional
9 resources. We didn't hire any additional staff to do this.

10 Q What about...

11 A We did not work...

12 Q ...physical resources, like computers?

13 A Initially it was -- the report, I believe, was
14 mostly manual in terms of data collection. I did provide
15 the staff immediately with several PCs that they could use,
16 and very shortly the -- the report was generated from a PC
17 with manual input of data.

18 Q Did it require additional manpower resources be
19 dedicated to producing the report?

20 A Not additional resources. It was done from within
21 the staff we had.

22 Q Okay. You redirected people to...

23 A That's correct, they were redirected.

24 Q Did you proceduralize this report?

25 A I believe it was. We have a chemistry program

1 procedure that directs what we do, and it does require
2 reporting and trending of parameters. I believe it was
3 proceduralized at that time. There was, you know, some
4 transition, as I was just assuming responsibility for the
5 program, so I really -- I really can't tell you exactly when
6 that was all laid out and -- and detailed.

7 Q If you don't comply with the procedure, is that a
8 problem?

9 A Yes, that would be a problem. And -- and if we
10 weren't monitoring parameters that -- that we had indicated
11 were important, then that would result in a -- a non-
12 compliance with our procedure. We would document that in a
13 corrective action document, and then investigate and follow
14 up to see what it was going to take to correct that issue.

15 Q To your knowledge, have you ever violated this
16 procedure by not providing required daily trending?

17 A No, to my knowledge, we always provided the daily
18 trending report after I assumed responsibility for the
19 program.

20 Q Did the Nuclear Safety Review Board force you or
21 threaten you to do trending and to create a procedure for
22 this trending?

23 A No. No, they did not. We thought it was the
24 appropriate thing to do, to again provide our management
25 with the tools they needed to see where the plant was, what

1 parameters were impacting plant performance, and what
2 parameters were impacting chemistry performance.

3 Q Did Tom McGrath or Tom Peterson ever request that
4 you do this trending?

5 A I don't think so. I believe we -- we'd started it
6 on our own initiative. I believe both -- if I could, both
7 of them were aware of it and were very complimentary of the
8 initiative, but I don't think that they had a great deal of
9 the play with the initiation of it.

10 Q Are these daily trending reports reviewed by plant
11 organization and management?

12 A Yes. What we -- what we decided to do, and we --
13 we have a plan-of-the-day report, which is a -- a report
14 that -- all the management team meets once a day in the
15 morning. We go over this plan-of-the-day report. And it --
16 it basically has all the critical parameters that we're --
17 that we're monitoring in operations and other areas. And it
18 has evolved a little bit over the years. But, for the most
19 part, it -- it tells the status of the units, tells the
20 power level of the units, it identifies any limiting
21 conditions of operations that we would be in because of some
22 equipment unavailability for the units. And then also we
23 had our chemistry page in there, and I talked to plant
24 management, and we agreed that the chemistry page would be
25 essentially the next thing in the package after the -- the

1 ops page, so that it got highlighted in the front of the
2 package. And it was a very useful tool for the entire team.

3 Q When you -- when you call -- say a plan-of-the-day
4 report, this is a plan for the entire...

5 A Site.

6 Q ...Sequoyah site?

7 A That's correct.

8 Q All right.

9 JUDGE YOUNG: And just to clarify, when you say
10 "every day," you included weekend days?

11 THE WITNESS: Yes, I believe we did produce that
12 report even on the weekends. And -- and it would have been
13 given to -- on the weekends we didn't have a plan-of-the-day
14 meeting, per se. But every shift now, and I believe it was
15 the case then---this has been a long time---but I believe it
16 was the case then, every shift, the operations group always
17 produced a plan-of-the-day report for the ops shift. And
18 they went through it as part of their turnover.

19 So even on the weekends, when some of the other
20 managers weren't on site, senior managers, they would have
21 the same process on a smaller scale, go over the plan-of-
22 the-day, talk about the LCOs, and then those -- we wanted
23 those chemistry performance measures in there so they would
24 -- they could see those. So I believe we did that right
25 from the beginning, and I believe it was seven days a week.

1 CHAIRMAN BECHHOEFER: Mr. Kent, did you -- or did
2 I -- this is the way I understood you to say. I understood
3 you to say that to perform trending daily, including weekend
4 trends, was no more resource intensive, would not require
5 additional resources than if you skipped the weekends and
6 did the trends the next week, covering weekend readings. Is
7 my understanding incorrect or correct?

8 THE WITNESS: I don't believe that I tried to
9 communicate that we skipped weekends and reported it the
10 next week. I believe we did the report every day. At the
11 time, if I can recall, chemistry was doing a lot of
12 trending. They had tremendous trend reports that they put
13 out every day. Or frequently during the -- during the week.
14 They were not given to management to review. If they were,
15 they were so voluminous, that management couldn't digest the
16 information. It was a tremendous pile of charts and graphs
17 and things like that, that would have been almost
18 meaningless to anybody outside of chemistry.

19 But, so what we did is we put together a summary
20 report, one page, which outlined all the key parameters at
21 each phase in the plant system, and -- and was able to use
22 that as a communication tool to keep management briefed up
23 on what we considered to be important chemistry issues and -
24 - and chemistry monitoring and limits, and how we were
25 complying with our limits.

1 CHAIRMAN BECHHOEFER: Well, would this report have
2 been prepared on Monday to cover the previous two weekend
3 days, or would the reports have to be prepared each day,
4 meaning weekend -- including weekend days?

5 THE WITNESS: I think they were prepared each day.
6 And let me give you an example. And obviously this was
7 1993, you know, a number of years ago.

8 CHAIRMAN BECHHOEFER: Right.

9 THE WITNESS: But I think, from my recollection,
10 it was done each day. And one of the reasons it was done
11 each day is each day we -- we have a requirement that we
12 provide operations with the boron concentration in the rad
13 cooling system. That is a daily -- that's a daily analysis.
14 We also trend responses to rad monitors, radiation monitors,
15 for certain key places in the system. And you need that
16 information daily.

17 One of the things that we did with our report was
18 we needed to be able to communicate to -- to ops that
19 information on the -- on the status of boron concentration.
20 That's a reactivity control issue. There has always been a
21 concern, with pressurized water reactors, about a primary to
22 secondary leak, steam generators leaking, and you get
23 primary water on the secondary side of the plant.

24 So one of the parameters we've always trended is
25 our off gas, our condenser vacuum exhaust rad monitor

1 readings. Those readings were on that report. And so my --
 2 my recollection and belief is that that -- we felt that was
 3 important enough information that we would do it every day
 4 of the week, and we provided it to the management team
 5 during the week, and ops on the weekends.

6 CHAIRMAN BECHHOEFER: And -- and you're also
 7 saying that doing it daily, including weekends, is no more -
 8 - no more resource intensive than if you skipped the weekend
 9 reports but did the -- picked up the data points on Monday.
 10 And -- and you -- there's no resource difference?

11 THE WITNESS: Well, there -- there may have been
 12 a...

13 CHAIRMAN BECHHOEFER: Manpower, whatever?

14 THE WITNESS: Right. There may have been a minor
 15 -- I understand your question now, I think. There may be a
 16 minor resource difference in whether or not you do the
 17 report on Monday and summarize -- it's a summary of the
 18 weekend. But it was really a minor issue. And what we --
 19 what we did was, we stopped doing all these trend charts
 20 that -- that we had been providing and printing out. And
 21 the resource that was made available by not doing that bulk
 22 of work, which was of very little value to anybody, anyway,
 23 was easily diverted to cover the -- the presentation of this
 24 simple report for the team.

25 In the -- in the rad con area, my health physics

1 group, we do exactly what you're talking about. We don't
 2 report every day of the week. We report Monday through
 3 Friday, and on weekends we roll up -- for instance, the dose
 4 that's accrued over the weekend is included in Monday's
 5 report. So on Mondays we give a summary of weekend work.
 6 And that's because we don't -- we don't have but a few
 7 people available on weekends to do that -- to do that work
 8 in the -- in the rad con area.

9 CHAIRMAN BECHHOEFER: I see. Thank you.

10 JUDGE YOUNG: Do the -- did the daily reports
 11 include -- well, let me back up. "Data trending" says to
 12 me, and -- and I want to find out if my understanding is
 13 correct, that -- that not only would you have, for example,
 14 the boron concentration as measured that morning, but you
 15 would have some indication of what it had been the previous
 16 week or however long, so that you could see if there was
 17 some direction that it was going in, or whether there'd been
 18 a sharp spike, for example.

19 If -- were it put out on a chart, by having the
 20 summary, did you incorporate that same information in some
 21 manner, so that you could look and -- and see what the
 22 trends were, as opposed to just the information, the
 23 readings from that morning? Does that make sense?

24 THE WITNESS: Yes, it does make sense. And I
 25 think I can explain what -- what our -- how we attempted to

1 accomplish that objective of trending. Each parameter has a
2 control band that's really pretty tight around some
3 performance number that we want to achieve. And what we
4 would do, if I -- if I can -- I wish I could find one of
5 these old reports. But what we did was, we would report,
6 for instance, that boron was at nine, ten -- you know, boron
7 was nine, ten PPM, or something like that. And then we
8 would have the band that it would be in, an adjacent -- a
9 block on the report to that. Sodium, you know, for
10 instance, maybe our goal at that time might have been one
11 PPB of sodium. We would have then a block next to that that
12 told the band. And any parameter that was out of limits or
13 out of band would be highlighted, so that it would draw
14 management's attention to that particular parameter.

15 Once you do that every day, most of us -- I'd say
16 almost anybody can recall very quickly, you know, hey, this
17 parameter's been in band for along period of time. And --
18 and all of a sudden it's -- it's going high. You can see
19 that. Because, you know, once -- once you've communicated
20 to management, hey, here's the key parameters and -- and
21 this is where they're supposed to be, almost any of the
22 management team is able to very quickly identify, hey, this
23 is -- this is wrong. Something's going on here.

24 So it really wasn't that -- we didn't have a trend
25 chart that showed 30 days worth of performance, although we

1 did that on a periodic basis, also. We would put in a trend
2 chart that would show, over a period of time, what our
3 performance was. One of the key parameters that we -- that
4 we trended like that is our fuel performance. We do a --
5 what's called a fuel integrity calculation. And once a week
6 we would put in a chart that showed for the entire cycle
7 what the fuel integrity calculation value is. And because
8 we -- that was very important for management to see any
9 slight trends one way or another, because it could indicate
10 a failing fuel assembly.

11 But, for the most part, for the -- for the
12 parameters we reported on a daily basis, it was the value
13 that we had, our measured value; the performance
14 expectation; and then, that being flagged as to whether or
15 not it was out of band or not.

16 JUDGE YOUNG: And then -- and then these daily
17 reports would be all kept in the same place, so that if --
18 if you recalled that something -- that the reported value
19 for that morning was out of band, you would have...

20 THE WITNESS: Quickly look back at -- yes.

21 JUDGE YOUNG: ...a recollection of what had
22 occurred, and you could look back quickly to see what had
23 been going on in the...

24 THE WITNESS: Yes, we retained all of these
25 reports. And I think -- I don't know exactly where they

1 were retained for -- for most everyone, but there was a
2 mechanism to retain these reports, and you could look back
3 over time and see what had been happening to any -- anything
4 related to the plant that we were trending. And that would
5 include not only chemistry parameters, but all the other
6 program parameters that were reported in the POD.

7 Today they're all electronic, on a web page. And
8 so you can easily go click on the POD report for, you know,
9 August of 2001 and you can look at August the 1st and then
10 click on August the 2nd and you can look at, you know, just
11 any series of them you want to. Also today, though, our
12 computer systems are much more sophisticated, and with the
13 push of a button, we can print out any trend report we want
14 on any parameter we want for as far back as we want to go in
15 history.

16 JUDGE YOUNG: Okay. Thank you for that
17 explanation.

18 CHAIRMAN BECHHOEFER: And I take it all the data
19 points are established either mechanically or electronically
20 or -- today? I'm saying I -- it's my understanding that all
21 the figures that go into each data point are recorded either
22 mechanically or electronically today?

23 THE WITNESS: Yes, they -- yes, they -- today many
24 of them are recorded automatically. The computer will --
25 will read the data -- will read an online instrument and

1 archive that data. And then, at a certain point in -- over
2 the shift, whenever my staff decides it's time to -- to
3 initiate the report that's going to go in the -- the morning
4 package, they will basically push a button and print it out
5 and it'll tell them all the parameters that are there, and
6 they make sure it gets appropriately represented in the
7 report.

8 I think, even today, though, that POD report,
9 itself, the specific POD page is one that the staff takes
10 the parameters off our chemistry report and keys into the
11 computer specifically to get those parameters in there.
12 Because once in a while they'll key one in wrong and you'll
13 find a typo and that kind of thing.

14 CHAIRMAN BECHHOEFER: I see. Right. Thank you.

15 JUDGE COLE: These POD reports are -- are given at
16 some time in the initial parts of the morning?

17 THE WITNESS: Yes, sir, every morning. And it
18 changes over time, you know, depending on -- over the years
19 we've -- we've changed that. Right now our POD is at 8:45
20 every morning. It has been as early as 8:00, as early as
21 7:30.

22 JUDGE COLE: All right, sir. Now, what about
23 shift changes?

24 THE WITNESS: Shift changes generally happen at --
25 for most of the organizations, at 7:00 a.m. and 7:00 p.m.

1 We generally work a 12-hour shift for most of the
2 organizations. That report is available during the shift
3 change to all of the personnel that are...

4 JUDGE COLE: Okay. So -- so the second shift
5 would use that morning report as their guidance for what's
6 going on and what has happened? They would look at the
7 plan-of-the-day report?

8 THE WITNESS: That is -- that is available for the
9 second shift. On -- on our ops turnover, and the -- the
10 primary users of the report on back shift is operations,
11 which is staffed, of course, around the clock. They can --
12 they can and do, and I believe we provide them data probably
13 twice a day for their report. I don't know that they have
14 the same data in all cases that we would see in the morning.
15 It could be an update of that report for their shift
16 turnover at 7:00 p.m..

17 JUDGE COLE: Thank you.

18 MR. DAMBLY: Might it be possible to take a -- if
19 we're staying late tonight, which I gather we must be doing,
20 to take a few minutes and turn on the air conditioning in
21 here for a bit? It's getting a little on the warm side.

22 JUDGE COLE: Take a -- take a night and then a
23 break for air cooling?

24 MR. DAMBLY: That would be nice.

25 CHAIRMAN BECHHOEFER: Okay.

1 (A short recess was taken.)

2 CHAIRMAN BECHHOEFER: Back on the record.

3 Before Mr. Marquand resumes, I would like to ask a
4 follow-up question to one that I asked just a few minutes
5 ago. In terms of doing the trending and making the reports
6 over the weekend, I take it -- well, do you agree or
7 disagree with something I'm going to read you? And that is,
8 it would involve a tremendous expenditure of overtime of
9 staff positions. Overtime that was very difficult to get
10 approved and it would require working staff positions
11 essentially seven days a week.

12 Would you agree or disagree with that? That would
13 be from shifting -- from skipping weekends on the written
14 reports -- collecting the data, but skipping weekend reports
15 and having one on Monday that would cover the previous --
16 would you agree or disagree with that description that I
17 just read you from an earlier transcript?

18 THE WITNESS: I think I would disagree with that
19 characterization of what it takes to present the report --
20 to produce the report that we -- that we use. At this time,
21 and for many, many years, we have had on weekends only the
22 on-shift rotating crew, which is typically made up of a
23 shift supervisor, a lower level supervisor, and two or three
24 technicians, and they seem to have no difficulty producing
25 the reports on weekends. So there's not a lot of staff

1 involvement. Now I do believe that at the time in the early
2 -- or late 1980s most of the data analysis was done by
3 technical staff members which generally only work Monday
4 through Friday. I'm not saying that was necessary. That's
5 just the way business was done in those days.

6 JUDGE YOUNG: Which was also when they were
7 producing the charts every day?

8 THE WITNESS: No. When --

9 JUDGE YOUNG: Or when they were producing the
10 charts when they did do the reports?

11 THE WITNESS: When we started doing the reports,
12 initially it may have been done by the technical staff, but
13 it was always our goal to make that an on-line function that
14 everybody could do or anybody could do. And within a
15 reasonable amount of time, I'm sure the technicians and the
16 shift crew on the weekends were doing those reports. I
17 can't recall any significant element of overtime involved in
18 this from the beginning in '93. I mean there was not a
19 significant impact of resources, and certainly not one that
20 required a great deal of special approvals or anything like
21 that. I mean our overtime, we have -- we manage it pretty
22 closely and we try to keep overtime costs down, but in
23 general it's not been an issue with us, at least since '93.
24 Now maybe prior to that when I wasn't involved in Chemistry,
25 they may have had an issue with overtime. I believe our

1 overtime has actually been reduced over the years from what
2 it was prior to '93.

3 CHAIRMAN BECHHOEFER: For the benefit of the
4 parties, I was reading from transcript 10201021.

5 MR. MARQUAND: Thanks Judge.

6 CHAIRMAN BECHHOEFER: Pardon?

7 MR. MARQUAND: Thank you.

8 JUDGE COLE: Which was a statement made by Mr.
9 Fiser.

10 MR. MARQUAND: I understood that.

11 CHAIRMAN BECHHOEFER: Okay, you may proceed.

12 MR. MARQUAND: If you have any other good
13 questions like that, go ahead, Judge.

14 CHAIRMAN BECHHOEFER: No, that was just a follow-
15 on of a more general question I had from memory.

16 MR. MARQUAND: Okay.

17 BY MR. MARQUAND:

18 Q Mr. Kent, I previously asked you about your
19 consideration and your discussions with Mr. Fiser in 1993
20 for the chemistry technical supervisor job and also for the
21 chemistry manager position. I wanted to ask you one follow-
22 up question. Do you consider your discussions with him in
23 your consideration of him for those two positions as
24 evincing some bias against Mr. Fiser?

25 A Bias against him?

1 Q Yeah.

2 A I would certainly think not. The fact that I
3 would discuss the position with him and his interest in them
4 would certainly show that I was interested in the
5 possibility of having him be a part of the organization
6 rather than being a negative bias.

7 Q I previously asked you whether or not the NSRB
8 directed you to do this daily trending. Also along the same
9 line with respect to the NSRB, did the NSRB, to your
10 knowledge, ever direct management to remove an individual or
11 to take any sort of personnel action with respect to an
12 individual?

13 A No, sir. I have been on the NSRB subcommittees
14 and served myself on NSRBs for a number of years as a
15 subcommittee member, and typically the NSRB focuses its
16 attention on performance related issues, programmatic issues
17 and not personnel issues. I'm never aware of the NSRB
18 addressing an individual personnel issue.

19 Q All right. Let me -- you still have in front of
20 you TVA Exhibit 131, the record of interview by TVA's
21 inspector general of you in 1994 regarding Mr. Fiser's
22 complaint. You -- I think you testified that you knew about
23 Mr. Fiser's '93 complaint and you knew there was a
24 resolution. Had you seen Mr. Fiser's '93 complaint?

25 A I don't believe I had. I don't ever recall seeing

1 that.

2 Q Had you seen the settlement?

3 A I don't believe I had seen the settlement.

4 Q How did you learn about Mr. Fiser's complaint --
5 '93 complaint?

6 A I was interviewed by the IG. I believe that was
7 the first time I was aware of it.

8 Q And other than --

9 A And Mr. Stripling. You know, those interviews.

10 Q I'm talking about '93, not '96.

11 A Oh, '93.

12 Q Yes.

13 A I believe it was through that interview process.

14 Q All right. Did you have discussions with other
15 persons about who was interviewed and who was not
16 interviewed by the Inspector General with respect to Mr.
17 Fiser's '93 complaint?

18 A Okay, let me clarify something.

19 Q I'm talking about the '93 complaint.

20 A The '93 complaint?

21 Q Yeah.

22 A Were you just talking about the '93 or '96
23 complaint?

24 Q Just the '93.

25 A Okay, the '93 complaint then. Now your question

1 was again?

2 Q In that time frame did you know who was
3 interviewed by the IG?

4 A No, I don't believe I did.

5 Q Did you know what the complaint was about?

6 A Only as it may have been inferred from IG's
7 questioning.

8 Q Okay. Did you have any knowledge whether it was a
9 claim against Mr. McGrath?

10 A I would not have known an specific individuals who
11 may have been named in the complaint.

12 Q In your discussions with Mr. Fiser in '93 about --
13 in your considerations of him for both the chemistry
14 technical supervisor and the chemistry manager position, did
15 you ever make a statement to Mr. Fiser that you knew he had
16 been mistreated or you knew he had been discriminated
17 against and that you were going to fix things for him?

18 A No, I can't recall ever making a statement like
19 that.

20 Q You attended the peer team meetings of the radchem
21 managers from '93 on, is that correct?

22 A Yes, sir, That's correct.

23 Q And did there ever come a time when Mr. Fiser
24 attended on behalf of Mr. Grover and he was asked to leave
25 such a meeting because he -- you as the radchem managers

1 were concerned that he had tape recorded people's
2 conversations in the past?

3 A No, sir. There was a meeting that I recall that
4 he was asked to step out at a point during the meeting, but
5 it had nothing to do with the potential for tape recording.
6 I wasn't aware that anybody did that. That was not an issue
7 that caused us to ask him to step out of the room.

8 Q You weren't aware that Mr. Fiser had previously
9 tape recorded individuals?

10 A When was this?

11 Q I don't -- when was the meeting?

12 A I don't know.

13 Q Okay. But did you --

14 A I can't recall a specific meeting.

15 Q Did you know at the time of the meeting that Mr.
16 Fiser had previously tape recorded individuals?

17 A Sometime during these proceedings -- at some point
18 during these proceedings I became aware that there was some
19 taping.

20 Q You're talking about this NRC proceeding here?

21 A Yes.

22 Q Okay.

23 A Yeah.

24 Q Prior -- when Mr. Fiser still worked at TVA, '96
25 and earlier --

1 A Right.

2 Q -- did you know at that point in time that Mr.
3 Fiser had tape recorded individuals?

4 A I don't think I did.

5 Q You said that you were aware at one point in time
6 Mr. Fiser had been asked to leave a peer team meeting?

7 A Yes. I recall a peer team meeting that he was
8 involved in where he was asked to leave.

9 Q Do you recall why?

10 A Yes, I recall why. We were -- occasionally -- and
11 we had a lot of people that participated in our peer team
12 meetings from time to time for different technical reasons
13 to make -- to provide us with information, status reports on
14 issues and things like that. Generally the peer team would
15 conduct business and we would let anybody who wanted to set
16 in, but occasionally there were issues we would discuss that
17 were of a sensitive nature that we felt only the site peers
18 or the permanent member of the peer team, which would I
19 guess have been Mr. Grover, should have been involved in,
20 and we would have asked anybody else who happened to be
21 there to leave the room while we had those discussions.

22 Q When you say sensitive issues, what do you mean by
23 that?

24 A Mostly related to restructuring, proposed
25 restructuring, personnel issues and things like that.

1 Q Was Mr. Grover part of the peer team? What was
2 his position?

3 A At that -- I believe at that time Mr. Grover was
4 the chemistry -- corporate chemistry manager.

5 Q Was he part of the peer team -- the radchem peer
6 team?

7 A Functionally the radchem peer team was the radchem
8 managers from the site -- the three radchem managers from
9 the sites. Depending on what we were discussing, he may or
10 may not have had a need. Had he been there, we probably
11 would have asked him to leave. It was not related to a fear
12 that Mr. Fiser was recording something, or in that sense was
13 not trustworthy. It was an issue that the peer team was
14 going to discuss a sensitive issue that nobody outside the
15 peer team really needed to know about.

16 CHAIRMAN BECHHOEFER: Sir, are you stating that
17 you remember that Mr. Fiser -- are you saying that you
18 remember that Mr. Fiser was asked to leave because of a
19 personnel type discussion that was coming up or were you
20 that specific?

21 THE WITNESS: I remember a specific meeting, and
22 probably I only remember it because I've been asked about
23 this issue before. But I remember a specific meeting with
24 Mr. Fiser in attendance. He was representing Mr. Grover at
25 the time, and we discussed all of our business that we had

1 that day up to a point, and from that point on we were going
2 to discuss issues -- the three radchem managers were going
3 to discuss issues that we considered to be sensitive in
4 nature, reorganization, restructuring and things like that
5 that would did not believe should be discussed would people
6 outside that small group of people, so we asked everybody
7 else to leave. I don't know who else would have been there,
8 but anybody else in the room would have been excused.

9 CHAIRMAN BECHHOEFER: Except the permanent
10 members.

11 THE WITNESS: Except the permanent members, that's
12 correct.

13 BY MR. MARQUAND:

14 Q Let's fast forward to 1996 and the discussion
15 about -- you said you had a discussion on the sidewalk at
16 the Sequoia Campus with Mr. Grover. There was a discussion
17 about whether or not Sam Harvey could be transferred to
18 Sequoia. Did you fill out any paperwork or requests to
19 Corporate to transfer Mr. Harvey to Sequoia?

20 A No, I did not.

21 Q Did you request your upper management for approval
22 to transfer Mr. Harvey to Sequoia?

23 A No, I did not.

24 Q Did you go to Mr. McGrath in Corporate and request
25 that he be transferred to Sequoia?

1 A No, I did not.

2 Q All right. Is Mr. Grover the only person you made
3 the request of?

4 A Yes, that is true.

5 Q And who responded back to you?

6 A Mr. Grover.

7 Q And his response was?

8 A His response was that he had discussed the matter
9 with Mr. McGrath. At the time, he reported, I believe,
10 directly to Mr. McGrath and Mr. McGrath had indicated that
11 he thought that that wasn't the proper process to use to
12 move a person from a corporate to a site position, and that
13 he would not support that because of process issues.

14 Q Did Mr. Grover tell you what Mr. McGrath indicated
15 the proper process would be if there was -- if you wanted to
16 try to do something to add additional human resources to
17 your organization?

18 A Yes, he did communicate that Mr. McGrath had told
19 him that if I wanted to hire Mr. Harvey at the site, I
20 should post a vacancy announcement and pursue it in that
21 manner.

22 Q And you've already said you didn't do that. What
23 would have been involved in using -- utilizing that
24 particular process?

25 A Posting a vacancy announcement?

1 Q Yes.

2 A Well in addition to just the administrative part
3 of making sure you went through the process to get the
4 vacancy posting right, I would have had to have gone to my
5 plant management, to my site management through HR at the
6 site and depending on the time frame, maybe up even through
7 several levels of corporate management to get approval to
8 post a vacancy.

9 Q Were those approvals anything more than simply
10 administrative approvals?

11 A No, they were -- they were not just administrative
12 approvals. They were -- they were difficult to get
13 approvals.

14 Q All right. Do you know -- let me direct your
15 attention to 1996. Did you fill any vacant positions in
16 1996 in your chemistry organization through the posting of
17 vacant position announcements?

18 A I don't believe I did.

19 Q Let me show you TVA Exhibit 80. This is an
20 excerpt from a folder and the folder is labeled 10249 and
21 it's a little blurry. I think it says shift supervisor 1 --
22 I believe it's 1-17-96, rad control PG-5, M.A. Palmer. Will
23 you tell us what these documents are?

24 A These documents represent a vacancy announcement,
25 number 10249, that was posted in 1996 with a closing date of

1 1-17-96.

2 Q Okay.

3 A It was for a radiological control shift
4 supervisor. It's a PG-5 position.

5 Q The first couple of pages are called notice of
6 selection or nonselection, right?

7 A Yes, That's correct.

8 Q Now if you'll turn over to the page that's Bates
9 stamped DB70. It's a March 30, '95 memorandum from the
10 plant manager to R.J. Adney. Do you know -- can you tell us
11 what that is?

12 A This document is a request to post a vacant
13 position and it looks like it went from Mr. Baumstark, our
14 plant manager at the time, to Mr. Adney, our site vice
15 president at the time, and it identified several positions
16 as being important to the organization. There's four --
17 four different positions described on this page.

18 Q Do you know who initiated the process to request
19 to post this position?

20 A I'm sure I would have.

21 Q All right. Whose approvals were required on this
22 document?

23 A On this particular vacancy announcement it
24 required our human resource manager, the site vice
25 president, the manager of nuclear human resources, the

1 general manager of nuclear human resources, the
2 organizational vice president, Mr. Oliver Kingsley.

3 Q He's the Chief Nuclear Officer?

4 A The chief nuclear officer.

5 Q All right. So this process began in March of '95?

6 A That's correct.

7 Q And went through this approval process. And you
8 said the vacant position announcement got posted in January
9 of '96. Did you go through a selection process then?

10 A Yes, we did.

11 Q If you let me direct your attention to the next
12 page, DB94. What is that?

13 A This is a memo that I prepared to our human
14 resource manager, Mr. Haemsch at the time. It indicates
15 that we've evaluated the candidates for the position of the
16 radconship supervisor and we're recommending selection of
17 two candidates.

18 Q And the next page DB120, is that the vacant
19 position announcement for that particular vacancy?

20 A Yes, it is.

21 MR. DAMBLEY: What did he say that was?

22 MR. MARQUAND: It's the vacant position
23 announcement for that vacancy.

24 MR. DAMBLEY: Oh.

25 BY MR. MARQUAND:

1 Q Let me direct your attention first to page DB --
2 the next page is DB121. It's posted. It's stuck in the
3 middle of page DB122, so let's turn over two pages to DB122.
4 What is that?

5 A This is a document that -- it's a review and
6 concurrence sheet, approval to fill a vacant position for
7 the shift supervisor radiological control, PG-5, with two
8 candidates named.

9 Q And it shows a number of people's concurrences
10 required, is that right?

11 A That's correct.

12 Q All right, if you'll turn back to the preceding
13 page you'll see the posting that was stuck in the middle of
14 that concurrence page. Do you see that?

15 A Yes, I do.

16 Q And had that -- even at that point in time, was a
17 hold put on filling that particular position?

18 A Yes, I believe there was.

19 Q And it says in the middle -- on the right-hand
20 side it says hold until 8-20-96 per Charles Kent. Do you
21 see that?

22 A That's correct.

23 Q Do you recall why that -- there was a hold being
24 put on that?

25 A Well there were a number of changes taking place

1 in the organization, as we talked about earlier, at the site
2 we were looking at, at restructuring the site organization.
3 I think we would have put a hold on it pending the outcome
4 of that review.

5 Q When we look back at the very first page -- the
6 second page of this document, which is called notice of
7 selection, non-selection, and the recipient is TVAEA. Do
8 you know what that is?

9 A Yes, that's the Tennessee Valley Authority
10 Engineering Association. That's our union for our
11 represented salary policy employees.

12 Q So this is a notice sent to them that the position
13 has been filed by these two gentlemen, right?

14 A That's correct.

15 Q And this notice went out what date?

16 A 2-25-97.

17 Q all right. So the notice of the selection occurs
18 at that point in time that you had selected Mr. White and
19 Mr. Wheeler?

20 A That's correct.

21 Q So from beginning to end -- and it indicates that
22 their selections were effective September 30th, '96?

23 A That's correct.

24 Q So from beginning to end, at least of the
25 documentation, the first request to fill this job in March

1 of '95 and then the notice of selection doesn't even go out
2 until February of '97?

3 A That's the way it looks, yes, sir.

4 Q Is that unusual?

5 A No, it's not.

6 MR. MARQUAND: Your Honor, I tender TVA Exhibit
7 80.

8 MR. DAMBLEY: The staff will object because I fail
9 to see any relevancy to what he did for a radcon position at
10 the PG-5 to anything in this case.

11 MR. MARQUAND: The relevance, Your Honors, is it
12 shows in general what the process was in this organization
13 at Sequoia and chemistry about what was necessary to receive
14 approval to post a position, to fill a position, how long it
15 took, you know, the steps that they had to go through to do
16 this. They're suggesting that you could have put Mr. Harvey
17 over there in just a couple of weeks and gone ahead and
18 given Mr. Fiser this other job.

19 MR. DAMBLEY: Well first of all, we don't know
20 that this wasn't one, the worst-case scenario they could
21 find --

22 MR. MARQUAND: He just testified it was not
23 unusual.

24 MR. DAMBLEY: And we also heard him testify he
25 went from the radcon to radcon chem with no competition over

1 night. We heard that from Mr. Corey. They do whatever they
2 want. This doesn't show anything.

3 MR. MARQUAND: That's a matter for argument.

4 MR. DAMBLEY: That's a matter of fact.

5 CHAIRMAN BECHHOEFER: This book looks awfully
6 thick.

7 MR. MARQUAND: No.

8 JUDGE YOUNG: It's just a few pages.

9 CHAIRMAN BECHHOEFER: Oh, is it?

10 MR. MARQUAND: We've discussed all the pages in
11 this exhibit, Your Honors.

12 JUDGE YOUNG: I would find it relevant for the
13 purposes offered.

14 MR. DAMBLEY: May I ask a voir dire question?

15 CHAIRMAN BECHHOEFER: Yes, you may.

16 VOIR DIRE EXAMINATION

17 BY MR. DAMBLEY:

18 Q Was this an outside hire?

19 A No, these two individuals were within the
20 organization.

21 Q They were within your organization?

22 A That's correct, within my organization.

23 Q Was it a promotion?

24 A Yes, it would have been a promotion for them.

25 Q It wasn't a lateral transfer?

1 A No, it was not a lateral transfer.

2 (End of voir dire examination.)

3 MR. DAMBLEY: I still object.

4 JUDGE YOUNG: I think we would take your
5 objections under advisement as to weight and consider them
6 in argument in our final decision.

7 CHAIRMAN BECHHOEFER: Yeah, we -- the Board will
8 admit this exhibit.

9 (TVA Exhibit No. 80, having been
10 previously marked for identification was
11 received in evidence.)

12 BY MR. MARQUAND:

13 Q Mr. Kent, are you aware of any other -- this
14 particular TVA Exhibit 80 was a selection of positions in
15 your radchem organization that occurred in 1996, correct?

16 A That's correct.

17 Q The VPA is posted in '96 and the selection is in
18 '96?

19 A That's correct.

20 Q Are you aware of any other selections through the
21 VPA process, that is the posting of positions that occurred
22 -- in which they were posted in '96, or that were selected
23 in '96 other than this particular VPA?

24 A No. I believe this was the only position that was
25 filled in '96.

1 CHAIRMAN BECHHOEFER: You're saying filled
2 through this methodology in '96?

3 THE WITNESS: We may have had other vacant
4 positions, but I believe we were only successful at these
5 two -- at the promotion of these two individuals.

6 CHAIRMAN BECHHOEFER: Were other positions filled
7 through other means?

8 THE WITNESS: I can't recall any.

9 CHAIRMAN BECHHOEFER: Okay.

10 MR. MARQUAND: Were any positions filled by
11 transferring anybody out of Corporate into your
12 organization?

13 THE WITNESS: No, no positions were filled by any
14 means like that.

15 CHAIRMAN BECHHOEFER: That's basically what I was
16 interested in.

17 MR. MARQUAND: Are you aware of any other
18 processes to fill position other than to post them, or as
19 counsel suggested, to transfer positions to the
20 organization?

21 THE WITNESS: No, I'm not, other than directed or
22 an organizational transfer of function and posting a vacancy
23 I'm not aware of any other mechanism to fill positions.

24 CHAIRMAN BECHHOEFER: You're saying that some
25 directed transfers did take place?

1 MR. MARQUAND: No, he said that was the process.
2 He said that was the only process he was aware of.

3 JUDGE YOUNG: The only methods.

4 CHAIRMAN BECHHOEFER: Yeah. But were you saying
5 that some were filled --

6 THE WITNESS: During this time period, as far as I
7 know, there were no positions filled by any other means
8 other than this one vacancy announcement that was posted.

9 CHAIRMAN BECHHOEFER: I see.

10 BY MR. MARQUAND:

11 Q Now prior -- Mr. Kent, do you consider that your
12 inquiry to Mr. Grover about transfer -- whether or not Mr.
13 Grover -- Mr. Harvey -- let me start over. It's getting
14 garbled. Mr. Kent, do you consider whether or not your
15 inquiry to Mr. Grover about whether Mr. Harvey could be
16 transferred to Sequoia is indicative of your being biased or
17 predisposed to select Mr. Harvey when you served on the SRB?

18 A No, I don't consider that. This was really a
19 pretty minor endeavor on my part to make the request of Mr.
20 Grover, or to have that interface with him. We debated a
21 lot this morning whether I initiated or he initiated the
22 conversation, but, you know, that was really a pretty minor
23 thing.

24 Q Were you predisposed in the selection review board
25 to evaluate Mr. Harvey higher so that you could retain his

1 services?

2 A No, I was not. The evaluation that I gave all of
3 the candidates in the review board for all the positions
4 that we reviewed was based totally on their performance, the
5 way they answered the questions and presented themselves at
6 that review board meeting.

7 Q Did anyone suggest to you that you should evaluate
8 Mr. Harvey or Dr. Chandra higher?

9 A No, no one made any inference like that to me.

10 JUDGE YOUNG: Was there ever -- was there ever any
11 unspoken message in the air that someone like Mr. Fiser, who
12 had filed a Department of Labor complaint, was a
13 troublemaker and sort of on the outs?

14 THE WITNESS: No, there was not. There was never,
15 you know, an unspoken body language communication formal,
16 informal, you know, on the back of an envelope at night, on
17 weekends. There was never in any means or in any way any
18 information communicated to myself that would indicate I
19 should show preference over any candidate in this process.

20 BY MR. MARQUAND:

21 Q How did you regard the fact that Mr. Fiser had
22 filed a complaint in 1993?

23 A That's Mr. Fiser's right.

24 Q It didn't bother you at all?

25 A No.

1 Q Did Mr. Fiser tell you why in 1996 he was telling
2 you that he had filed this new Department of Labor complaint
3 regarding the posting of a job he considered to be his?

4 A No, he did not. He just volunteered the
5 information kind of out of the blue.

6 Q Did -- how did that strike you?

7 A Well I didn't know why he told me. I mean it was
8 kind of unusual that somebody would walk up to you and tell
9 you I filed a DOL complaint. You know, I guess I -- I
10 didn't think much of it. I mean, he has the right to file a
11 DOL complaint.

12 Q Well, I mean the fact that he walks up out of the
13 blue and tells you about it --

14 A Well I thought it was strange.

15 Q How did you regard him with respect to the fact
16 then that he had filed his '96 Department of Labor
17 complaint?

18 A It didn't make any difference. I mean that's his
19 right.

20 Q Had you either with respect to -- with respect to
21 his 1993 complaint, do you know what safety issues he
22 claimed to have raised that caused people to, in his mind,
23 discriminate against him in 1993?

24 A As a result of this somewhat --

25 Q Okay, before this proceeding began did you know?

1 A No.

2 Q Did Mr. Fiser ever tell you?

3 A No. I now know of some of the...

4 Q Well, did you know of any then?

5 A Of any then? No.

6 Q Okay.

7 CHAIRMAN BECHHOEFER: Did Mr. Fiser mention to you
8 the subject of his '96 DOL complaint?

9 THE WITNESS: Yes, he did. He indicated to me
10 that he had filed a complaint because the position he
11 considered to be his had been posted.

12 CHAIRMAN BECHHOEFER: I see. And he explicitly
13 mentioned that?

14 THE WITNESS: Yes, that's correct.

15 CHAIRMAN BECHHOEFER: Right.

16 BY MR. MARQUAND:

17 Q Well, he obviously considered that to be
18 discriminatory. Did he tell you why he thought anybody was
19 discriminating against him in '96?

20 A I can't recall any other specifics that he told me
21 on -- regarding that.

22 Q He didn't tell you why he thought anybody was
23 motivated to discriminate against him?

24 A I don't believe so.

25 Q He simply made sure that you knew about the

1 complaint?

2 A That's correct.

3 CHAIRMAN BECHHOEFER: Mr. Kent, if you made any
4 remarks to others concerning Mr. Fiser's filing a DOL
5 complaint, did you differentiate between the earlier
6 complaint and the '90 -- the '93 complaint and the '96
7 complaint?

8 THE WITNESS: Are you saying if I made any
9 remarks, or have I made any remarks?

10 CHAIRMAN BECHHOEFER: Yeah. Well,...

11 THE WITNESS: I don't recall making any remarks
12 about either complaint, except the one remark I made to Mr.
13 McArthur regarding his participation in the selection review
14 board.

15 CHAIRMAN BECHHOEFER: I see. Okay.

16 THE WITNESS: That's the only comment I can recall
17 ever making to anybody about them.

18 CHAIRMAN BECHHOEFER: Right.

19 THE WITNESS: Well, other than the IG. I mean, I
20 have been asked about these by the IG several times, and --
21 and I have made, obviously, comments to the IG regarding...

22 CHAIRMAN BECHHOEFER: No, I'm not -- I'm not
23 including that.

24 THE WITNESS: Okay.

25 JUDGE YOUNG: And on that occasion, did you

1 specify whether it was -- when the Department of Labor
2 complaint was made or any subject matter of it, or did you
3 just refer to a Department of Labor complaint without...

4 THE WITNESS: When I was speaking with Mr.
5 McArthur?

6 JUDGE YOUNG: Right.

7 THE WITNESS: I simply referred to -- I think the
8 words I used when we discussed it was, "Since there is this
9 DOL issue," and Wilson knew what I was talking about because
10 he was the supervisor that was involved, "I think it would
11 be best if you didn't participate actively in the review
12 board." And he agreed. And I thought I had done a great
13 thing because he agreed and that was going to improve the
14 process. He may have already decided to do that. I don't
15 know.

16 BY MR. MARQUAND:

17 Q With respect to the selection review board, you
18 were aware -- you testified that Jack Cox couldn't
19 participate, and that Rick Rogers did.

20 A Yes.

21 Q Was Rick Rogers a reasonable substitute to put on
22 the selection review board?

23 A I -- I wouldn't have been aware that he was a
24 substitute.

25 Q Well, you're aware now.

1 A I am aware now. But Rick Rogers would have been a
2 knowledgeable person and could have -- could have
3 contributed positively to the process; yes.

4 Q Is there any reason that Rick Rogers would have
5 been any less knowledgeable about the subject matter of --
6 or be less knowledgeable with respect to be a selection
7 review board member (sic) than you or Mr. Corey?

8 A Not substantially. Mr. Rogers was a member of the
9 technical support staff at the site. Or actually I think at
10 that time he was in corporate. He was a very knowledgeable
11 individual. I don't -- I can't substantially see that he
12 would not have been able to make a positive contribution to
13 that team.

14 Q There's been a suggestion that there should have
15 been parity -- at least the staff is suggesting that there
16 should have been parity among the three members by having a
17 participant -- a rad chem manager participant from each of
18 the sites. Is that normally the way selection review boards
19 are constituted, is to have a co-equal person from each site
20 be on a selection review board?

21 A No, that's -- that's not necessary to do.

22 Q Is that -- in your experience, is that common?

23 A I'd say it's probably uncommon. It's very
24 difficult to get everybody lined up at the same time and the
25 same place.

1 Q Let me direct your attention to Joint Exhibit
2 Number -- I believe it's 23.

3 CHAIRMAN BECHHOEFER: Joint exhibit what?

4 THE WITNESS: Which one was that, again?

5 MR. MARQUAND: 23, the black notebook. Joint 23.
6 Should be a single black notebook, Your Honors. It's Book 6
7 of 6. Volume 6 of 6.

8 BY MR. MARQUAND:

9 Q Now, I believe you testified this is -- contains
10 the material you were provided the day of the interviews, as
11 well as your comment sheets and the scores you had for the
12 various candidates; is that right?

13 A That's correct, as well as some other information.

14 Q All right. For instance, Page GG698, is that your
15 notes of Mr. Harvey's answers to questions?

16 A Yes, those are my notes.

17 Q All right. And the -- the numbers that are
18 circled, are those the question numbers?

19 A Yes, those would be -- represent the question
20 numbers.

21 Q What are the numbers in the left-hand column?

22 A The far left would be my grading of Mr. Harvey's
23 responses.

24 Q All right. Page 599 is what?

25 A That is my notes regarding Mr. Chandra.

1 Q Okay. The numbers to the far left column are
2 what?

3 A The grades I would have given Mr. Chandra
4 regarding his responses.

5 Q Page 601 is what?

6 A Page 601 is the same type of page for Mr. Fiser,
7 and the grades I would have given Mr. Fiser.

8 Q All right. And if you go on, you see you have
9 questions for -- answer pages for other individuals on the
10 other jobs. For example, 603 are Bert Huey's answers; Page
11 604, John Traynor's answers; Page 605 are Traynor's answers
12 for a different position.

13 A That's correct.

14 Q And so forth. Let me direct your attention to
15 Page 641 and 642. What are those two pages?

16 A These two pages contain the list of questions that
17 were provided to the selection review board, and they also
18 show which questions were selected for asking the
19 candidates. And my initials are by the ones that -- it
20 looks like by the ones I was supposed to ask. I believe
21 that's either "CK" or "OK." I'm not sure what that is. But
22 we did -- we did divide up the list of questions, and I
23 would have been responsible for asking certain selected
24 questions.

25 Q Which questions were the ones asked?

1 A Question 1, 2, 7, 9, 11, 12, 17 was added, 15, and
2 16.

3 Q All right. And your initials are by Questions 9,
4 11, and 12?

5 A Yes, that appears to be the case.

6 Q Can you read the comment behind Question #9? Is
7 that your handwriting, by the way?

8 A That is my handwriting. I -- I have a difficult
9 time reading the note.

10 Q Can you read the handwriting on Question #17?

11 A Yes, I believe I can make it out.

12 Q All right. What does it say?

13 A All right, Question #17 says, "Define a molar
14 ratio control and the primary factors influencing and
15 controls." So that would be define molar ratio control, the
16 primary factors that contribute to it, and -- and what you
17 do about it, how you control molar ratio.

18 I think the note on -- on #9 there says,
19 "Especially as it relates to problems."

20 Q Okay. If you would, turn back to your handwritten
21 notes and the answers for -- I believe Mr. Harvey's the
22 first in my book at Page 598.

23 A Yes.

24 Q And if you would, can you tell us whether or not
25 the scores you gave Mr. Harvey in the left-hand column of

1 that are the same scores shown under -- on Page 597 under
2 your name, which is the middle column, "Kent."

3 A Yes, they appear to be the same scores.

4 Q All right. So we can see that the scores you gave
5 on those questions are not -- for Kent -- for Harvey totaled
6 80.5?

7 A Yes, that's -- that's correct.

8 Q And would you also compare the scores on Page 599
9 and Page 600 from Dr. Chandra with the scores...

10 JUDGE YOUNG: 613?

11 MR. MARQUAND: Thank you, Judge.

12 Q Page 613, the scores for -- under your name on 613
13 and 614.

14 A They -- they appear to be the -- the same scores
15 that -- that I gave the candidate.

16 Q All right. And would you look at the scores you
17 gave Mr. Fiser on Pages 601 and 602 with the scores on Page
18 615 and 616.

19 A They seem to be the same scores I gave the
20 candidate.

21 Q All right. Now, I note that you scored Mr. Harvey
22 at an 80.5 and Mr. Fiser in the mid-60s. Can you -- do you
23 recall or can you -- in reviewing your notes, can you tell
24 us why you scored Mr. Harvey higher than Mr. Fiser?

25 A Well, in reviewing the -- the notes that I have

1 here, and of course these were -- these notes were of more
2 meaning to me at the time than they are now. But as -- you
3 know, let me look at question number -- let's just pick a
4 question, let me look at that. Question #1, for example.
5 All right, Question #1 is: What strengths do you have that
6 will benefit this position? And this was the corporate
7 position. And it appears that Mr. Harvey answered the
8 question by describing his knowledge of steam generator
9 chemistry, his knowledge of raw water systems, and his plant
10 experience. And I've got a note that he was very clear in -
11 - so I assume that that would have meant that he was very
12 clear in his description of his -- his response.

13 And Mr. Fiser responded -- my notes indicate that
14 he responded with a person needs people skills to accomplish
15 the goals. Top to -- looks like probably top to bottom of
16 the site org. Knows the basics, I think. I can't make out
17 the next -- next couple of words. Looks like, "Knows the
18 basics and problem areas and where to get information --
19 where to get additional information if you get into
20 trouble." That's -- that's what I would get from those
21 notes.

22 And based on these notes, and these notes, alone--
23 -because I can't remember these conversations---I probably
24 rated Mr. Harvey a little higher than Mr. Fiser because of
25 his clarity in the response, and his discussion probably of

1 -- of his knowledge of chemistry, and that he -- you know,
2 it would have implied that he brought a great deal of
3 knowledge of -- of both steam generator chemistry and raw
4 water programs and processes to the -- to the team.

5 JUDGE YOUNG: Do you have any independent memory
6 of that -- those interviews?

7 THE WITNESS: Perceptions only. I can remember,
8 you know, something about the demeanor of the candidates in
9 certain cases where it -- you know, where it stood out.
10 But, other than that, I have no real independent memory of
11 the interviews.

12 JUDGE YOUNG: What -- what do you recall of the
13 demeanor?

14 THE WITNESS: I recall that most of the candidates
15 for the positions---and there were maybe eight or nine---
16 were pretty aggressive, attentive, appeared to really want
17 to put their best foot forward, you know, really want to do
18 a good job. Leaned forward, for example, when they were
19 answering questions, and -- and really talked to the team
20 members. Those kind of perceptions.

21 Mr. Fiser was -- what I remember of -- of his
22 interview was he was really pretty laid back and casual
23 about the whole process. I -- I think he -- he didn't
24 really speak up very clearly, very, I guess you might call
25 it, forcefully or directly in responses. I think he slumped

1 back in his chair, you know, those kind of things. You
2 know, to some degree, would have maybe communicated---not
3 disinterest---but a real casual approach to the process. A
4 lot more than most of the other candidates.

5 I mean, most of the candidates, you could tell,
6 really wanted the position. They were -- they were
7 interested in -- it was an opportunity for them. They were
8 interested in the position, and they were really trying to
9 do their best to communicate and put their best foot forward
10 and -- and really deal with -- really show you what they
11 knew. I didn't get that, I don't think, from Mr. Fiser.
12 That's -- that's my recollection.

13 Q Directing your attention to the questions that
14 were posed for this particular position, the PWR program
15 manager on Page 641 and 642.

16 A Yes.

17 Q Considering the questions as a whole, was that a
18 fair list of questions upon which to -- the selection review
19 board to evaluate and make their recommendation?

20 A Yes, I think it's a fair list of questions. I
21 mean, it -- it covers a broad spectrum of topics. It would
22 give the candidates an opportunity to discuss their
23 strengths, whatever they were, and any weaknesses that they
24 thought they had. It would -- it would certainly give them
25 a lot of opportunity to interface with the team and show

1 that they could communicate well. It would -- it did
2 address, you know, critical technical issues related to the
3 program at the time. So I would say yes, it was fair, and -
4 - and it was also fair in that every candidate was asked
5 exactly the same questions. So they were all on pretty much
6 even footing.

7 Q What technical issues were critical to the program
8 at that time that these questions went to?

9 A For the -- for the PWR chemistry position, the --
10 the real problem areas that we were having was -- was
11 related to steam generator chemistry, secondary chemistry,
12 and -- and programs that were necessary to support
13 improvements in that area. That was a real issue. That was
14 a real issue across the country, as we were losing steam
15 generators because of tube failures due to both ID and OD
16 stress corrosion and cracking. And so those were the key
17 issues that -- that we would have been dealing with.

18 Q I note you added the question or suggested the
19 question about molar ratio control. If someone who
20 purported to be a -- an expert in the area of chemistry and
21 worked in the area of chemistry at the plant told you that
22 their view was that the problem had to do with -- that
23 chloride ions were the contaminant or that they were the
24 problem, and that they caused corrosion, and that the way to
25 deal with those chloride items -- ions was to inject -- was

1 to infuse the system with sodium ions, would that be
2 correct?

3 A No, that would be incorrect.

4 Q Tell us why.

5 A Well, the problem is sodium ions. Sodium
6 contamination from a number of sources is the -- is the
7 element that's primarily deposited in crevices. It's the
8 element that causes the conditions in the crevice that you
9 have to try to deal with. And we actually add chlorides to
10 the system to achieve neutral chemistry in the crevice.

11 Q Okay.

12 JUDGE YOUNG: I'm sorry, I didn't follow that. I
13 thought -- I thought his question was: Would it be correct
14 to say that you should add chloride to deal with...

15 MR. MARQUAND: No, I said would you -- would it be
16 correct to say you should add sodium to deal with the
17 chloride.

18 JUDGE YOUNG: Okay, I heard it backwards, then.

19 THE WITNESS: Yeah. I think that's...

20 MR. MARQUAND: I certainly intended to ask that.

21 THE WITNESS: It was exactly backwards. The
22 problem with stress corrosion cracking, OD, outside diameter
23 of the steam generator tube cracking is where you have
24 stress conditions in the -- in the area around the tube
25 sheet, the tube support plates, and the steam generator

1 tube. You form a -- a crevice or a little opening. And
2 because of the inability of water to circulate in those
3 areas, you tend to get localize boiling, and deposits are
4 formed there. And those deposits are what really attack the
5 steam generator tubes.

6 So what we try to do with a molar ratio control is
7 to -- on a -- on a molecular level, is to balance the ions
8 in that region so that you have neutral chemistry
9 conditions, essentially neutral conditions. Not an acid --
10 acidic or a caustic.

11 JUDGE YOUNG: Okay. I just heard it backwards, I
12 guess. Go ahead.

13 MR. MARQUAND: Well, I think that's what the
14 previous testimony was.

15 BY MR. MARQUAND:

16 Q This morning, one of the questions to you was:
17 If, when you sat on an SRB, if a candidate grossly inflated
18 their role in a project or misstated their credentials, if
19 you would take that into account or cross-examine them or
20 call that to the attention of the other SRB members?

21 To your knowledge, has that ever occurred when you
22 sat on an SRB? Say a candidate grossly overstated their
23 involvement in a project or claimed to have a PhD when in
24 fact they didn't, or...

25 A No, I can't recall any specific instance where a

1 candidate grossly overstated their qualifications.

2 Q And in the SRB for this particular PWR program
3 manager job, did any of the candidates overstate their role
4 in any projects or claim any credentials that you were aware
5 that they didn't have?

6 A I can't specifically recall any.

7 Q Did -- prior to this NSRB -- I mean, excuse me,
8 prior to the selection review board, the SRB, did Dr.
9 McArthur or Tom McGrath ever make any disparaging comments
10 to you about Gary Fiser?

11 A No, they -- they did not make any disparaging
12 comments about Mr. Fiser.

13 Q Mr....

14 JUDGE YOUNG: Do we want to take a sort of an
15 assessment of where we are, so we can talk to Mr. Voeller
16 or...

17 MR. MARQUAND: I think I'm done. I just have one
18 more question.

19 JUDGE YOUNG: Oh, all right.

20 BY MR. MARQUAND:

21 Q Mr. Kent, as you sat on the SRB in -- back in
22 1996, did you have any animus for or against Mr. Fiser?

23 A No, I did not. I had no animosity against any
24 person, and I had no bias toward any person. My role was to
25 be objective and evaluate the candidates based on the --

1 that SRB process, and to the best of my ability, and I
2 believe to the best of all of our ability, that's what we
3 attempted to do.

4 JUDGE YOUNG: Let me just follow up on that just a
5 little bit. Was -- was there any -- the previous question
6 about whether Mr. McArthur or Mr. McGrath had said anything
7 disparaging about Mr. Fiser, did anything that -- that you
8 heard from Mr. McArthur back in I think it was 1993, when
9 you were considering Mr. Fiser and then -- and then Mr.
10 Fiser told you there might be problems and then you talked
11 to Mr. McArthur and so forth and -- and heard that there
12 were maybe perceived problems about Mr. Fiser, did that have
13 any effect on your thinking in 1996? Could that have?

14 THE WITNESS: No. No, it did not. You know, it
15 was a different position. The responsibilities were
16 different, the accountabilities were different. You know, I
17 -- if there were problems in 1993 or prior to 1993, they may
18 have been addressed. It really had no effect on -- on my
19 review of Mr. Fiser on that day and his responses. You
20 know, I -- I would have done and did do the best job I could
21 to be objective, based on the performance of the individual
22 on that specific day.

23 Q One clarification, Mr. Kent. When you received
24 the comments, input from Dr. McArthur in '93 regarding Mr.
25 Fiser, you were considering Mr. Fiser for what position?

1 A Chemistry manager's position.

2 Q And how many people would he be managing in that
3 capacity?

4 A The staff at that time was approximately 41
5 individuals.

6 Q All right. Is that the same position or similar
7 position to the position you were considering him for when
8 you sat on the SRB in '96?

9 A No, it's not a similar position. In the SRB in
10 '96, that was a technical staff position. He would have had
11 I don't think any supervisory responsibility. It was more
12 of a technical specialist type position.

13 MR. MARQUAND: Nothing further, Your Honor.

14 JUDGE YOUNG: If he had -- if Mr. Fiser had leaned
15 forward and -- and been enthusiastic and answered the
16 questions exceptionally well and really done better than the
17 other two candidates, would you have had any hesitation
18 about giving him a higher score?

19 THE WITNESS: Certainly not.

20 JUDGE YOUNG: Do you want to assess at this point?
21 About how much time do you think you'll need on cross?

22 MR. DAMBLY: Well, I think if we turn the air on
23 for a second and break till about 5:30, we could -- I don't
24 think I need more than a half hour.

25 JUDGE YOUNG: Okay. And then so Mr. Voeller would

1 take 6:00 to 7:00. And then about how much cross do you
2 think you'll have on...

3 MR. MARQUAND: If they really take an hour with
4 him, I can't imagine how much is left.

5 JUDGE YOUNG: Okay. Looks like we can finish him,
6 then.

7 MR. MARQUAND: Okay, let's hit the AC hard.

8 CHAIRMAN BECHHOEFER: Mr. Damby.

9 MR. DAMBLY: Thank you.

10 REDIRECT EXAMINATION

11 BY MR. DAMBLY:

12 Q This afternoon, Mr. Marquand asked you if Mr.
13 Fiser applied for the position of chemistry manager at
14 Sequoyah, do you recall that?

15 A Yes, I do.

16 Q And you told him no, is that correct?

17 A That's correct, he did not apply.

18 Q That vacancy was posted after you'd had the
19 discussions with Mr. Fiser and after you talked to Dr.
20 McArthur in the tape recorded interview we heard this
21 morning where you talked about the hornet's nest and pecking
22 the baby bird to death. It was after those conversations --

23 A Yes, that was after those conversations.

24 Q Does it surprise you a lot after agreeing with Mr.
25 Fiser that it wasn't in his or your best interest that he

1 didn't apply for that job?

2 A Well, you know, if an individual is in an employee
3 transition program and he knows he's going out and he knows
4 that there people -- he thinks that there are people who
5 maybe don't support him staying in the company and yet he
6 wants to stay in the company, he should apply on a position,
7 because we give special consideration to people in programs
8 like that.

9 Q You could have put him in non-competitively.

10 MR. MARQUAND: Objection, can the witness finish
11 his answer before counsel starts arguing with him?

12 JUDGE YOUNG: Finish your answer.

13 THE WITNESS: What I meant was if Mr. -- when you
14 have a person in a transition program like that, we
15 generally always try to give them first consideration for
16 any open positions. So, you know, it would have been
17 appropriate for us to have given him additional
18 consideration had he applied on the job.

19 BY MR. DAMBLY:

20 Q But you had already basically told him about the
21 position and we're willing to place him in it non-
22 competitively until you got stopped or heard from above that
23 that was not a good idea and then you and Mr. Fiser agreed
24 that was not a good idea for --

25 MR. MARQUAND: I'm going to object to that

1 question as mischaracterization. I don't think there's been
2 any testimony they were going to put him in that job in '93
3 on a non-competitive basis.

4 JUDGE YOUNG: Well, let's let Mr. Kent correct any
5 mischaracterization.

6 THE WITNESS: Right, that is true, we had -- I had
7 not considered those discussions with him regarding his
8 interest in the position, that that would have communicated
9 to anybody we were going to put him in in a non-competitive
10 way. Just as we did when we eventually filled it with Mr.
11 Rich, we had to post that position to do that. Mr. Rich was
12 also in the company at the time and was available but the
13 process was we posted the position.

14 BY MR. DAMBLY:

15 Q Was Mr. Rich in the ETP?

16 A No, he wasn't.

17 Q And you had all these discussions with McArthur
18 and Fenech about would they support you in bringing Fiser
19 into that position prior to having to post the job and go
20 through a competition.

21 A That's true.

22 Q So you were planning on preselecting him,
23 according to the conversations you had.

24 A No --

25 Q And then you were going through a show.

1 A No, I didn't say that.

2 Q Well, why would you discuss a candidate and
3 offering that candidate a job and go through upper
4 management to get their approval or agreement or any
5 comments they had about an individual, if you had to post it
6 and you didn't even know who the candidates were going to
7 be?

8 A I was looking for anybody to fill that position.
9 We were having a very difficult time finding any candidate
10 in the country who was interested in coming to Sequoyah.
11 Our performance was not good in 1993 and I think a lot of
12 people thought it was a liability to be associated with
13 Sequoyah. So we had very little luck generating any
14 interest outside the company, so we were looking for any
15 candidate for that position.

16 Q And so you heard from or you asked Mr. Fiser and
17 he said he'd be interested and check it out, and you checked
18 it out and got a negative response. But if you'd got a
19 positive response, then you were going to go back and post
20 and go through some kind of fake competition to decide who
21 was going to get the job? Weren't you concerned about
22 allegations of preselection after you'd already cleared it
23 all the way through the top?

24 A No. I hadn't already cleared it all the way
25 through the top. I had approached my management about the

1 possibility of talking to Fiser who had previously worked at
2 Sequoyah. And these were informal conversations, I wasn't
3 in the process of filling the position, and I knew of Fiser
4 and I informed them of Fiser and that he was in the company
5 and that he may be available and that's what we were doing.
6 I was trying to determine if he was available and
7 interested.

8 Q And you found out he was available and interested.

9 A Yes, I found out he was available and interested.
10 We had our conversation, he suggested to me in our
11 conversation that he thought he was a liability, I should
12 check it out. I didn't go initiate that call to McArthur on
13 my own, it was at his request that I initiate the call to
14 McArthur. I would not have known about any potential
15 dissatisfaction, you know, or perception of poor management
16 qualities that he may have had from anybody in corporate had
17 he not suggested I make that phone call. He suggested I
18 call, I called and I shared with him the information I got
19 back.

20 Q And Fenech and Powers and McArthur told you they
21 support you putting Fiser in that position?

22 A Every conversation I had with Fenech and Powers
23 and McArthur, they told me they would support me, whatever I
24 wanted to do.

25 Q With regard to Mr. Fiser.

1 A Yes, but that didn't mean necessarily that I could
2 violate all the rules that we have in terms of putting
3 somebody in a job. I mean the intent is management today,
4 you know, and forever, may tell you we want you to do
5 something. That doesn't mean you can violate the rules in
6 doing it. They want you to accomplish an end, they want you
7 to pursue a path or a direction, but the intent is always
8 understood you comply with the process that's in place in
9 doing that.

10 Q Okay, and the process in place, actually Mr. Fiser
11 was in the ETP because he had been surplussed from the
12 position that you were talking about.

13 A I assume so. I mean I was not aware of
14 specifically which position he was in when he was
15 surplussed. My way of thinking, he was in the corporate
16 organization, he was in a corporate position, he was moved
17 to ETP from corporate. You know, I had no knowledge that he
18 was being surplussed from the chemistry superintendent's
19 position.

20 JUDGE YOUNG: What role did the idea of him taking
21 the job on a loaner basis from ETP -- how did that work in
22 terms of timing and your discussions with Mr. Fiser and with
23 Mr. McArthur and so forth, and with that people, Mr. Powers
24 and Fenech?

25 THE WITNESS: I don't believe I talked with Mr.

1 Powers, Fenech or -- I can't recall a conversation with
2 Wilson McArthur about a loan -- about the loan arrangement.
3 I think the only person I talked with about the possibility
4 of a loan essentially of him from ETP to the site was with
5 Mr. Fiser. I believe I did discuss that with him and I
6 don't think I got any input from anybody else on that.

7 JUDGE YOUNG: Was that before you found out -- was
8 that before you talked to McArthur or after?

9 THE WITNESS: I believe that was before I talked
10 with McArthur.

11 JUDGE YOUNG: And do I remember this right, that
12 Mr. Fiser was not interested in the loan?

13 THE WITNESS: No, I don't think he said he was not
14 interested, I can't recall the specifics of the
15 conversation, but I believe he would be willing to do that
16 on loan. My impression was that he had communicated to me
17 he would be willing to come out on loan from ETP because he
18 gave me the supervisor's name at ETP that I could call to
19 follow through on that.

20 JUDGE YOUNG: Were the -- was the feedback that
21 you got back from McArthur and then your subsequent
22 discussion with Mr. Fiser, that it didn't look like a good
23 idea -- I hope I'm not paraphrasing too loosely there, but
24 did that play a role in Mr. Fiser not ultimately coming out
25 there on a loan basis either?

1 THE WITNESS: It very possibly did because the
2 timing was fairly close. I would, you know -- very
3 possibly. I can't recall specifically, but very possibly
4 could have influenced whether or not he came out on loan
5 either, that's true.

6 JUDGE YOUNG: And when you first talked to him
7 about the loan job and the permanent job, were you talking
8 about those at the same time or sort of -- in any
9 relationship to each other?

10 THE WITNESS: I don't recall if they were in the
11 same specific conversation or meeting or interface. It
12 would have been probably within the same month, you know, I
13 believe it would have been within the same month. I don't
14 have any specific recollection but it was about that same
15 time period that I would have been having those
16 conversations with him.

17 JUDGE YOUNG: Thank you.

18 CHAIRMAN BECHHOEFER: Mr. Kent, I have a follow up
19 question about procedures. If a person is in the ETP or I
20 gather that's like being faced with a RIF notice in other
21 government agencies, does that person have an absolute
22 preference to fill any position for which he's qualified,
23 any vacant position for which he's qualified?

24 THE WITNESS: Well, I'm not an expert on those
25 rules, so I won't profess to be, but it's my impression that

1 if you have a person in ETP who is qualified for a position
2 and expresses interest in it, you definitely have to review
3 that candidate very carefully and typically I would think we
4 would have to go to our HR organization and explain why we
5 selected any other candidate over that candidate, if we did
6 that. So it's not -- I never perceived it as being a hard
7 and fast thing if an ETP person applied on a job they had it
8 regardless, but I think that definitely warranted additional
9 consideration. But I'm really not an expert on those rules.

10 CHAIRMAN BECHHOEFER: I see, thank you.

11 THE WITNESS: You're welcome.

12 BY MR. DAMBLY:

13 Q You are aware that you cannot be surplussed or
14 reduced from a position which continues in existence, is
15 that correct?

16 A Not being an HR person, I can't swear that that is
17 always the case, but in general, that's my perception, that
18 if you have a position, you can't be RIFed from one or
19 removed from one that exists, it's because of the
20 elimination that you'd be surplussed.

21 Q Let me refer you to TVA Exhibit 12, that's Book 1
22 of 11 of TVA.

23 JUDGE YOUNG: Twelve, you said?

24 MR. DAMBLY: Twelve.

25 BY MR. DAMBLY:

1 Q Which is apparently a sequence of events that you
2 supplied as part of the IG investigation in 1994.

3 A It appears to be. I remember the IG asking me for
4 information similar to this and I did provide it. This
5 looks like it could be document I provided, I haven't looked
6 at this since that time, so I really don't know, but I'll
7 take your word for it that's what it is, part of that
8 report.

9 Q And we discussed I think yesterday about your
10 proposed organization and then the common organization that
11 was approved by Bynum or the standard organization for all
12 the plants.

13 A Yes.

14 Q And if you look at the bottom of page 2, March 24,
15 1993, "The proposed organization related position
16 descriptions were presented to the Hay Committee for
17 evaluation. Since a discrepancy was identified between the
18 SQN and BFN organizations, all of the positions described
19 were withdrawn from review except that of the radiological
20 and chemistry control manager. The rad chem manager
21 position was approved." Now the rad chem manager position
22 was yours, right?

23 A That's correct.

24 Q So as of March 24, your attempted interim
25 organization was formally turned down by the Hay Committee.

1 A Well, as of March 24, I would take this to mean,
2 and if I remember the events correctly, we had proposed to
3 the Hay Committee all of the positions that we viewed
4 necessary for the new organization, the entire gamut of
5 positions. And in -- I don't know if it was in a Hay
6 Committee meeting or prior to the Hay Committee meeting,
7 these discussions came up about the standardization between
8 the organizations and a desire to do that. They were
9 withdrawn from the Hay Committee meeting, not in that it was
10 killed, but in that the review of those positions was
11 postponed pending resolution of what the organization really
12 should look like.

13 Q So at that point, you were still in limbo, as we
14 discussed the other day?

15 A More or less, yes. I believe that the issue
16 wasn't finally resolved until probably a month or so later
17 when Mr. Bynum approved the final organization.

18 Q And approximately a week after this Hay Committee
19 was when Mr. Fiser was supplussed.

20 A I don't know that.

21 Q Well, it's in your sequence of events.

22 A Well, it says April, I don't know if it was a week
23 or three weeks or whatever.

24 Q I think we looked yesterday, it was April 2.

25 A I don't recall.

1 Q Okay, if you'd turn to page 4.

2 A Okay.

3 Q Going to July 15, 1993, "Contacted Gordon to
4 determine interest in chemistry manager's position at SQN,
5 said he would if Wilson and I thought it best for the
6 program."

7 July 20, 1993, "Informed Wilson McArthur that I
8 wanted Gordon Rich to transfer to SQN. Wilson agreed to the
9 request and released him ASAP."

10 Now can you tell me what released means?

11 A Well, in this context -- in the context that we
12 were having these discussions, I needed support for the
13 chemistry program at Sequoyah. I had a vacant position at
14 the chemistry superintendent level. Gordon was qualified to
15 fill that position. As a matter of fact, he had been a
16 chemistry manager at another nuclear plant, and my initial
17 discussion with Wilson was, you know, if I needed -- and I
18 think Wilson had already told me, you know, even after he
19 hired Gordon earlier and we didn't get him, when we were
20 sort of competing for him -- I think he had told me that,
21 you know, he would do whatever was needed to support the
22 site, he felt like that was his role.

23 Well, at this time, I obviously am trying to
24 communicate that I contacted Wilson and I think I asked him
25 for Gordon on loan for a period of time and he agreed to do

1 that and he would do it essentially immediately. I believe
2 Gordon came to the site almost immediately, within the next
3 week or so. There was a few issues he was trying to close
4 out, but I think he came very promptly to the site and
5 started supporting us.

6 Q What grade level was Mr. Rich at the time, was
7 this a promotion for him?

8 A I believe it was probably a lateral position.

9 Q Lateral?

10 A Yes.

11 Q To your knowledge, on a lateral, does it require
12 the losing supervisor to approve the transfer?

13 A I believe it would.

14 Q And this specifically says -- this is the thing
15 you wrote -- you informed Wilson McArthur that you wanted
16 Gordon Rich to transfer and Wilson agreed to the request and
17 would release him ASAP.

18 A Yes.

19 Q And then there was a vacancy -- do you know, was
20 the vacancy posted before this?

21 A It looks like, according to this chronology, that
22 it was posted August 19.

23 Q No, that's the date it said it closed.

24 A Oh, okay. Generally vacancy announcements are
25 open for 10 to 15 days, so I would assume if that's the date

1 it closed, it was posted 10 to 15 days prior to that.

2 Q Okay, and so you posted the job after you and Mr.
3 McArthur had agreed to transfer Mr. Rich and a day after it
4 closed, you made a selection of Mr. Rich.

5 A Yes, that is true.

6 Q And that doesn't strike you as preselection?

7 A Mr. Rich was the only qualified candidate that
8 applied for the job.

9 Q It says you had two applicants.

10 A The other candidate wasn't qualified for the job.
11 There are I believe -- I can't remember now who the other
12 candidate was, it's been so long, but it was somebody who
13 was totally on a different level than Mr. Rich, there was no
14 competition.

15 Q So how often as a selecting official do you agree
16 ahead of time who the candidate that you're going to select
17 is and arrange to transfer that individual?

18 A Well, you don't do that. These -- I think we're
19 making something of these words that wasn't intended. I
20 requested from Mr. McArthur because Gordon and I had
21 discussed his interest in coming to Sequoyah and that is
22 clear here. And he had expressed to me that he would be
23 willing to do that if it was okay with Wilson and we both
24 felt like it was best for the program. In other words, he
25 was interested in coming to Sequoyah.

1 Like I said, I was really searching and struggling
2 for candidates from anywhere, inside the company, outside
3 the company, anywhere. Could not find any candidate, he was
4 really sort of my last hope to get a candidate for the
5 position that had any chance of being qualified for that
6 position. So I talked with Wilson about it and Wilson said
7 if that's what was best for the program, he would support
8 Gordon coming to the site. He loaned him to me I think
9 almost immediately, within a week or so, and I posted the
10 vacancy announcement, I looked at all the candidates that
11 applied. There may have been two that applied. There was
12 really no competition for Gordon for the position, so it
13 wasn't very difficult to make a selection, because there was
14 no competition.

15 CHAIRMAN BECHHOEFER: Would a different procedure
16 have been followed if Gary Fiser had applied along with the
17 other two? Would you have done things at all differently?

18 THE WITNESS: No, we would have followed the same
19 process, we would have posted the vacancy announcement, I
20 would have evaluated both candidates, I would have --

21 CHAIRMAN BECHHOEFER: Well, three candidates.

22 THE WITNESS: I would have evaluated the three
23 candidates, ranked them by a ranking mechanism that I would
24 have determined in advance of what I was looking for in the
25 position, and I would have made recommendation to HR to hire

1 the best qualified candidate, whoever it was.

2 CHAIRMAN BECHHOEFER: Would you have gone through
3 an interview process if that was the case?

4 THE WITNESS: It really depends on the candidates
5 and -- I mean if you have a real good perception of the
6 candidates' backgrounds, you don't necessarily have to
7 interview them. It may have been -- I may have and may not
8 have, it depends on, you know, your knowledge of the
9 candidates that are involved.

10 CHAIRMAN BECHHOEFER: I assume from what you've
11 said that you did not go through interviews for Mr. Rich
12 and the other person.

13 THE WITNESS: I cannot recall doing interviews for
14 this position. You know, if I did, it was -- obviously I
15 did them on the 20th and wrote my letter on the 20th
16 recommending Mr. Rich be hired. It would have been all done
17 on one day. If I knew who the other candidate was, it would
18 be real easy for me to tell you if I interviewed them,
19 because if I knew them both extremely well, you know, or
20 very well, and I knew the qualifications of both of them, it
21 might have been a no-brainer as to whether or not you needed
22 to do an interview or not.

23 CHAIRMAN BECHHOEFER: I see, okay.

24 THE WITNESS: But I can't recall who the other
25 candidate was.

1 JUDGE YOUNG: Could you tell me, up to the point
2 of your agreement with Mr. McArthur on loaning Mr. Rich,
3 could you tell me any similarities and differences between
4 the process you had gone through earlier with Mr. Fiser and
5 the process that you were going through with Mr. Rich?

6 THE WITNESS: I would have -- I think I would have
7 followed exactly the same process. You know, had Mr. Fiser
8 --

9 JUDGE YOUNG: Not what you would have done, what -
10 - the similarities and differences between what you did do
11 with the two of them at different times obviously, but --

12 THE WITNESS: I think I did the same thing. I
13 spoke with Mr. Fiser in advance to determine his interest,
14 again because we were really struggling to find candidates
15 for the position. I did not speak with Mr. Rich about his
16 interest because he had recently taken this corporate
17 position and turned down a position at the site, so I didn't
18 really consider him interested in the position. I did speak
19 with Mr. Fiser about it. Had Mr. Fiser and I not decided,
20 in my concept, sort of mutually, it wasn't in everybody's
21 best interest, I would have posted a vacancy announcement,
22 we would have gone through the process of looking at the
23 candidates that applies -- I mean occasionally somebody
24 comes out of the woodwork who is a good person that you may
25 not have known about. So you always really need to post a

1 vacancy announcement if you're looking for a position, plus
2 I think my HR organization would have required me to post a
3 vacancy announcement.

4 JUDGE YOUNG: You might want to look at the date
5 of July 15, 1993.

6 THE WITNESS: Uh-huh.

7 JUDGE YOUNG: You had said that you did not
8 contact Mr. Rich --

9 THE WITNESS: Oh, no, I hadn't contacted him
10 earlier when I was discussing the issue with Mr. Fiser.

11 JUDGE YOUNG: Oh, okay.

12 THE WITNESS: Sorry for the confusion.

13 JUDGE YOUNG: The parallel that I was interested
14 in was whether there was a parallel or similarity or
15 difference between your contacting Mr. Fiser and your
16 contacting Mr. Rich later.

17 THE WITNESS: I think they were very parallel, the
18 same intent, to determine interest and if there was
19 interest, then to pursue through the process that was
20 established.

21 JUDGE YOUNG: Okay.

22 BY MR. DAMBLY:

23 Q And is this an example of the long, drawn-out
24 selection process you told us about earlier?

25 A No, this was really an exception to the rule I

1 believe. Obviously I was able to post this vacancy
2 announcement, close it and select the candidate in almost a
3 month, little over a month, but there were different focuses
4 in '93 than there were in '96.

5 (Whereupon, the afternoon session was
6 concluded at 6:00 p.m., the evening session began
7 immediately.)
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EVENING SESSION

6:00 P.M.

MR. DAMBLY: We'd like to move TVA Exhibit 12 into evidence.

MR. MARQUAND: No objection.

CHAIRMAN BECHHOEFER: Without objection, TVA Exhibit 12 will be admitted.

(The document, heretofore marked as TVA Exhibit 12, was received in evidence.)

BY MR. DAMBLY:

Q Now let's talk just a little bit about your discussions concerning budget and whose function it was to get the funds.

A Uh-huh.

Q The chemistry program is a regulated safety system, is that correct?

A I don't know that I understand the question.

Q It's one of the safety systems, the chemistry procedures are in the tech specs, it's part of the requirements that you fulfill.

A Some of the parameters are tech spec parameters, that's true. All the procedures aren't in tech specs but you are required by tech specs to have procedures for all aspects of the program.

1 Q And to follow the procedures.

2 A Yes.

3 Q And when you have an issue because equipment is
4 broken and there are no computers, how is it only Mr.
5 Fiser's concern with whether or not you're going to be able
6 to comply with the regulatory requirements applicable to the
7 program and not above Mr. Fiser? How does it get down to
8 his level as the sole person responsible for justifying the
9 budget necessary for the process to work, function properly?

10 A I don't see that as being his sole responsibility.

11 Q But you said if you don't get the money, it's your
12 fault. Isn't management responsible -- upper management --
13 for making sure that the equipment that's needed to comply
14 with the requirements is there, not just the first line
15 individual?

16 A Yes, that's true. I think the entire management
17 team is responsible for supporting, complying with, the
18 requirements. I don't think that's the same issue that we
19 had with the chemistry upgrade project. That issue was what
20 do we need or want in terms of upgrading our chemistry
21 instruments. We were complying with tech specs, I don't
22 think there was ever an issue that we were not doing the
23 sampling and monitoring that was necessary. We may have
24 been doing it by grab sample, but we were doing to required
25 monitoring and properly recording and reporting the results.

1 Q And those results were being trended by hand.

2 A Those results would have been trended in Mr.
3 Fiser's time by the staff, by the chemistry staff.

4 Q And that's different than when you talked about
5 doing it seven days a week now, but it's basically
6 automated, is that correct?

7 A It is now. That's different than what I talked
8 about in the time of February-April, March of '93 also. We
9 did not do the trending the same way, but we're not talking
10 about tech spec required trending, we're talking about
11 overall performance trending and reporting and doing it in
12 such a way that you focus management's attention on the
13 right things.

14 Q Okay. And at the time you took over, I think you
15 told us that the chemistry people were providing a lot more
16 data than you needed, they were trending all kinds of
17 things, is that right?

18 A If I recall correctly, at the time we took over
19 the chemistry program, chemistry was really focused on
20 generating numerous trend plots and those trend plots
21 consumed a tremendous amount of time. And I think they were
22 doing it like on a -- in some cases a daily basis, a weekly
23 basis, they were hand carrying the trend plots around to
24 different people. You know, there was a lot of resource
25 involved in generating those trend plots and I don't believe

1 they were considered very useful by anybody.

2 JUDGE YOUNG: Was there ever a point at which
3 anyone other than yourself and your people in 1993 when you
4 came up with the new method of doing data trending, was
5 there ever any discussion with the NSRB or anybody else
6 about the methods to use in doing data trending and the
7 degree to which all those charts were necessary,
8 appropriate, desirable, et cetera?

9 THE WITNESS: No, there was not. I don't think I
10 had a discussions with anybody about that. I did, of
11 course, when I assumed responsibility for the chemistry
12 organization, I did I think do my best to review past
13 reports. As a matter of fact, I was doing that prior to
14 assuming responsibility for the organization. The way that
15 actually transpired was the plant manager, Mr. Beecken, had
16 approached me with that idea months, many months, prior to
17 the actual transfer of responsibility and --

18 JUDGE YOUNG: I'm sorry, which idea, the idea of
19 taking over chemistry?

20 THE WITNESS: Taking over chemistry, yes.

21 JUDGE YOUNG: Yes.

22 THE WITNESS: And I had resisted for a long period
23 of time doing that. Eventually after you boss comes to you
24 three or four times telling you he really wants you to do
25 something, you know, you have to give it more consideration

1 and so I was convinced, based on our conversations, that he
 2 felt it was really important for the program that we do
 3 that, and so I acquiesced. Well, in that process of
 4 considering that, I reviewed INPO reports, I looked at -- we
 5 had an outside assessment done by I think an outside vendor
 6 sometime prior to '93. I looked at that. I would have
 7 looked at NSRB minutes from meetings. I tried to do as much
 8 research as I could to see just what I would be getting into
 9 by doing this. And the reason I was resisting was the
 10 radcon program was getting pretty good. I mean we had come
 11 an awful long way in the three or four years, but I didn't
 12 really feel like it was in condition that we could just turn
 13 hands off. And I knew that the chemistry program was
 14 basically, if we took it on, was going to require almost all
 15 of my time and I'd be neglecting the radcon side of the
 16 house. So I really was very cautious about approaching
 17 that.

18 JUDGE YOUNG: And so with regard to -- with regard
 19 to the data trending, how did you arrive at the new idea
 20 about how to do that?

21 THE WITNESS: Well, it was my perception, I saw
 22 the kinds of things that were being done and it was my
 23 perception that, like myself, most everybody else found the
 24 information not particularly useful, easy to understand.
 25 You give somebody a stack of reports that high, most

1 managers don't have time to go through a stack of reports
2 that high. So I perceived that management really didn't
3 understand the needs or the significance of the parameters
4 that really needed to be focused on, so what we tried to do
5 was present the information in a concise manner that would
6 be clear to everybody, me included, because now I was
7 responsible for it and I wanted to see something that would
8 be easy for me to evaluate on a day-to-day basis. So we
9 came up with this idea of the nomogram of the site, it's a
10 little diagram of the site, and then aligning each of the
11 parameters with where in the system it was being monitored.

12 JUDGE YOUNG: Was that considered in any way to be
13 revolutionary or such a big change that it wouldn't have
14 been thought of before? Because it sounds as though the way
15 it was being done before would have required a lot more
16 resources than --

17 THE WITNESS: Definitely.

18 JUDGE YOUNG: -- and so when Mr. Fiser was
19 objecting because of the resources that it would take to do
20 that on the weekend, for example, based on the previous way
21 that it was done, that would have made more sense. And I'm
22 just wondering how unusual or out of the general course it
23 was for you to come up with a new way of doing it. Did
24 anyone look at it as being unusual that you would have
25 thought of that way of doing it?

1 THE WITNESS: Or novel?

2 JUDGE YOUNG: Right, novel.

3 THE WITNESS: Well, the only feedback I got
4 regarding the new format was positive feedback from everyone
5 who looked at it, positive feedback from the NSRB and my
6 site management because they could understand what was
7 important. I was not burdened with any prior history in
8 that area, you know, I mean sometimes if you're really close
9 to something and you're doing something and you're spending
10 a lot of effort doing it, you may think that's the only way
11 you can do it. And I didn't have that burden so whether it
12 was unique in the industry or not, I don't know. It was
13 definitely a major change for Sequoyah chemistry.

14 JUDGE YOUNG: Thank you.

15 BY MR. DAMBLY:

16 Q And when you went back to look at the NSRB minutes
17 pertaining to the chemistry program, I think you said you
18 did that, is that right?

19 A I believe I did, yes.

20 Q Were you aware that in '91 that the NSRB and Mr.
21 McGrath specifically was demanding that Mr. Fiser do
22 trending seven days a week and put it into procedures?

23 MR. MARQUAND: Well, I'll object if the premise of
24 that question is did you look at the NSRB minutes and find
25 that out, that's a mischaracterization by counsel. We've

1 already been through those minutes ad nauseam and it doesn't
2 say that.

3 BY MR. DAMBLY:

4 Q When you went back to look at the NSRB minutes,
5 did you notice trending as an issue that was covered from
6 '90 to '92?

7 A I can't specifically recall that fact from the
8 minutes. I mean, I can't say that I saw in the NSRB minutes
9 that that was a major concern and therefore that was one of
10 the things we considered when we redesigned what we were
11 going to do. I don't recall the details of those minutes.

12 Q When you took over and decided to get points
13 within the band --

14 A Uh-huh.

15 Q -- that wasn't trending as was discussed earlier.

16 A That was -- specifically that was not a trend,
17 that was monitoring performance against the specified
18 parameter.

19 Q And so if the NSRB was asking for trends to be
20 done on a daily basis, what you did wouldn't have complied
21 with that request. You weren't doing trending.

22 A I don't know really what they asked for, so I
23 really don't know if it would have complied or not.

24 JUDGE COLE: But weren't you a member of the NSRB
25 during a lot of those times?

1 THE WITNESS: At that time, I was not a member of
2 the NSRB. At that time, I was a program manager and I
3 attended NSRB meetings, particularly when they were dealing
4 with my program area, the rad protection program.

5 The way our NSRB functioned over the years has
6 changed from time to time. Last year I was a member of the
7 NSRB subcommittee, this year I'm not. We rotate those
8 assignments periodically, so I don't think I was at that
9 time.

10 BY MR. DAMBLY:

11 Q And when you were a member, you were on the radcon
12 subcommittee?

13 A No, generally you're on a subcommittee in another
14 area outside of your program area.

15 Q Oh, okay.

16 A It kind of gives a fresh perspective on things.

17 Q Is the system you have in place today, the
18 Cadillac that you said Mr. Fiser or the chemistry program --
19 the chemistry upgrade program was looking for back in
20 whatever it was, '89, '90 time frame?

21 A No, it's not.

22 Q You have less than they were asking for?

23 A Yes.

24 Q Do you have online monitoring?

25 A Yes, we do.

1 Q All computer generated?

2 A We have a number of parameters and points in the
3 system that are monitored on line and we can generate
4 computer reports. It is significantly scaled down from what
5 was proposed in the early '90s, late '80s.

6 Q And are you aware that problems Mr. Fiser raised
7 concerning the trending and problems he was having had to do
8 with the fact he couldn't get computers and the computers
9 they had were often down?

10 A No, I'm not aware of that.

11 Q But as soon as you took over, you provided some
12 PCs for some reason.

13 A As soon as I took over, I talked with the staff
14 about what they needed and one of the things they needed,
15 they said was PCs, so I went and got them PCs.

16 Q So you did convince management of the need in the
17 chemistry program for the PCs?

18 A Yes.

19 Q But when Mr. Fiser had proposed to addition or the
20 need to have those and complained because they weren't
21 working, that wasn't a problem at that time that management
22 could see.

23 A I'm not aware of any conversation he ever had
24 regarding a need like that.

25 MR. DAMBLY: We have nothing further.

1 JUDGE YOUNG: Can we release Mr. --

2 MR. MARQUAND: I have a couple of questions on
3 recross. Go ahead, Judge.

4 CHAIRMAN BECHHOEFER: No, I was going to say we
5 shouldn't release the witness before you --

6 MR. MARQUAND: Before I get a chance?

7 CHAIRMAN BECHHOEFER: Yeah.

8 MR. MARQUAND: I just had a couple.

9 RECROSS EXAMINATION

10 BY MR. MARQUAND:

11 Q Let me direct your attention to Staff Exhibit 69.
12 And that is another record of interview by the Inspector
13 General of you and it's dated August 11 of '93. It was in
14 the context of a different case, Mr. Jocher's case. Let me
15 direct your attention to the bottom of page 3 and see if
16 that refreshes your recollection with respect to TVA Exhibit
17 12, the particular document that counsel was asking you
18 about which is also an Inspector General record, which was a
19 chronology of events you prepared.

20 And I'm going to ask you with respect to the entry
21 in July of '93 where it says -- I believe July 20, where you
22 said "I wanted Gordon Rich to transfer to Sequoyah."

23 We've talked a lot today about transfers and
24 vacancies, et cetera, et cetera. What I want to ask you is
25 if you will look at Staff Exhibit 69 at the bottom of page

1 3, if that refreshes your recollection about the particular
2 mechanism by which Mr. Rich came to Sequoyah in late July of
3 '93.

4 A The text on the report on the bottom of page 3
5 basically reinforces my recollection about Mr. Rich coming
6 to the site on loan and I had told the IG investigator that
7 it appears that -- it says "Further Kent stated that Rich is
8 only on loan to Sequoyah and is on the corporate head count
9 and budget."

10 Q Okay, so in late July when Mr. Rich came out there
11 prior to this vacancy announcement being closed and you
12 selecting him, did he have a permanent Sequoyah position?

13 A No, he did not.

14 Q Where was his position?

15 A He was a corporate staff member.

16 Q And let me also direct your attention to Joint
17 Exhibit 63 -- this is Joint Exhibit 63. There was some
18 question about the rapidity with which you filled the
19 position after Mr. Rich applied for the job. And this
20 morning, counsel went through a long discussion with you
21 about whether you were familiar with the selection review
22 board process. What I'm showing you is the Nuclear Power
23 Business Practice entitled Management Specialist Selection
24 Process, and it is entered into the record as Joint Exhibit
25 63.

1 Can you tell by looking at that document whether
2 that selection process would have required the use of a
3 selection review board in July-August of '93 time frame?
4 Did it have applicability at that point in time? What's the
5 effective date of the document?

6 A The effective date of the document appears to be
7 9/30/93.

8 Q So would that selection process have required the
9 use of a selection review board prior to its inception?

10 A No.

11 Q To your knowledge, were you required to use a
12 selection review board in August of '93 when you selected
13 Mr. Rich?

14 A I don't believe -- no, I was not required to use
15 one. Had I been required to use one by process, we would
16 have had one.

17 Q Would there have been any need to even have a
18 selection review board if you only had one qualified
19 candidate?

20 A No, there wouldn't have been.

21 MR. MARQUAND: Thank you, Mr. Kent.

22 CHAIRMAN BECHHOEFER: Mr. Dambly?

23 FURTHER REDIRECT EXAMINATION

24 BY MR. DAMBLY:

25 Q If you would go back to TVA Exhibit 80.

1 MR. MARQUAND: Your Honors, I'm going to object to
2 questions about -- at this point in time about TVA Exhibit
3 80, it's -- this is re-re-redirect, it's behind to scope of
4 the recross and as a federal judge in Knoxville is wont to
5 say, have you no terminus?

6 (Laughter.)

7 MR. DAMBLY: Well, it's interesting that on re-re-
8 redirect or whatever he did, or recross -- I'm not sure
9 cross is the appropriate term when it's your witness
10 actually, but be that as it may, he brought up the issue
11 again about the SRBs and whether they applied and why that
12 would have been different for this thing.

13 And on 80, if you look at page BB and 71 is the
14 page that has the -- it's BB00070 and 71, March 30, '95
15 request to post. And then we've got concurrence approval.
16 There was a request made on apparently March 30 and the
17 ultimate approval was, through all of these people including
18 Kingsley, by April 6. Why did it take a year to post it
19 after that?

20 (The witness reviews a document.)

21 THE WITNESS: It looks like from the documents
22 here -- I'm having to surmise from what's here, but the way
23 I would look at these documents, we requested permission
24 from Mr. Adney, who was our site vice president at that
25 time, to post a variety of positions and I'm sure we went

1 through a justification as to why we needed these specific
2 positions, and from the view of this memo, we went through
3 the gamut and got approval to post the position in April of
4 '95, about a month or so, maybe it took a month, I don't
5 know, to get approval to post. We did not post until --
6 looking at the vacancy announcement -- it looks like we did
7 not post it until January of '96, so there's a number of
8 months in there. There's no documentation in this package
9 that would indicate, you know, why we didn't post it until
10 January, but there was a lot of things going on in the
11 company. I'm sure, as is always a consideration, whether or
12 not you have budget within your current budget year, those
13 kind of things. I don't know what contributed to that. We
14 didn't post it until January of '96 and then it appears from
15 this documentation that in March of '96, we processed a
16 piece of paper to make a selection, so we had posted it,
17 done the evaluation of individuals and made a recommendation
18 on the selection of those individuals but there was a hold
19 put on it and the -- it's just a sticky note but it looks
20 like it's a sticky note where I had talked with Buddy
21 Haemsch who was our HR manager at the time and it says "no,
22 per Buddy" and then it says "Hold until 8/20/96 per Charles
23 Kent."

24 So all I can tell you is that during this entire
25 time interval, there were a lot of organizational reviews

1 going on and a lot of I guess if you want to call it turmoil
2 in terms of what was available and what was going to be
3 available and how we were going to be structured, what we
4 were going to do with vacancies and that kind of thing, and
5 it appears my vacancy got caught up in that and was
6 basically put on hold until the end of the year.

7 Now I don't know that this has the document in it,
8 I thought I saw the document earlier that said that these
9 would be effective sometime in September or so of '96. That
10 was in the document where we sent to the EA that I believe
11 identified when these people would be effective in this new
12 position. Yes, we sent a document to the EA and this would
13 have come out from HR, our personnel organization and it was
14 a notice that said that their promotion in these positions
15 would be effective 9/30/96. That was probably the beginning
16 of a pay period, it was probably just prior -- it is just
17 prior to the beginning of our fiscal year, so I'm assuming
18 that there was a consideration regarding funding and things
19 like that.

20 Q If I could turn your attention to Staff Exhibit
21 152.

22 JUDGE YOUNG: 162?

23 MR. DAMBLY: 152.

24 BY MR. DAMBLY:

25 Q A few minutes ago, Mr. Marquand showed you Joint

1 Exhibit 63 which is Business Practice 102 and then called
2 your attention to the effective date in September. If you
3 take a look at 152, Staff Exhibit 152, this is dated March
4 23, 1993, so it would have been applicable during the time
5 that you were talking to Mr. Fiser and ultimately selected
6 Mr. Rich for the chemistry position at Sequoyah, is that
7 correct?

8 A Yes, this was issued by Mr. John Long, it looks
9 like in April -- excuse me, March 23 of '93.

10 Q And this indicates under number 1 on the first
11 page "All vacant management schedule positions, PG-1 through
12 senior manager will be announced TVA-wide subject only to
13 the following limited exceptions" and under that it says you
14 can get a waiver where a candidate is being selected from
15 the employee transition program. Is that right?

16 MR. MARQUAND: Is counsel suggesting Mr. Fiser is
17 a minority, a woman or a targeted disabled employee?

18 MR. DAMBLY: It doesn't say that and maybe we need
19 to refresh Mr. Marquand on the English language. It says
20 with emphasis, it doesn't say exclusively. And he had Mr.
21 Easley so eloquently testify, that would be reverse
22 discrimination.

23 THE WITNESS: This is probably the first time I've
24 seen this document. If you wouldn't mind pointing out to me
25 where --

1 BY MR. DAMBLY:

2 Q If you look under one it says this and it says
3 two, I think that's a two, it's cut off. "Waivers to this
4 announcement requirement may be requested from" and it's
5 crossed out "senior VP of HR, who is the only official
6 responsible for approval of such requests. The following
7 are criteria under which an organization may submit a
8 written request for the waiver of a vacancy announcement."
9 And it's got supporting justification should include and
10 then the first category under that is "where a candidate is
11 being selected from employee transition program."

12 A Yes, that's what it says.

13 Q So you could have got a waiver and not posted it
14 if Mr. Fiser went into that job. He could have applied for
15 one.

16 A I was not aware -- I mean I am not an HR person,
17 I'm not aware of HR policies, this was a memo internal to HR
18 and I would not have been -- would not have known about
19 this. I would have -- I would go to my HR representative
20 and say this is what I want to do, what's the appropriate
21 process. They would have evaluated whether or not we could
22 request a waiver and whether or not that was the right thing
23 to do, and would have advised me in that regard. I would
24 not have been making that decision.

25 MR. DAMBLY: Nothing further.

1 JUDGE YOUNG: Have we reached the terminus?

2 MR. MARQUAND: I sure hope so.

3 CHAIRMAN BECHHOEFER: We thank you for your rather
4 extended testimony and hope you have a pleasant evening and
5 you're excused.

6 THE WITNESS: Thank you very much. You've been
7 most kind.

8 (Witness excused.)

9 JUDGE YOUNG: Fifteen minutes.

10 (A short recess was taken.)

11 CHAIRMAN BECHHOEFER: Mr. Dambly, do you wish to
12 call your next witness?

13 MS. EUCHNER: Staff calls David Voeller.
14 Whereupon,

15 DAVID VOELLER
16 appeared as a witness herein, and having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. EUCHNER:

20 Q Good evening, Mr. Voeller. Thank you for waiting
21 for us.

22 JUDGE YOUNG: Thank you.

23 A No problem.

24 Q Could you please state what your current
25 occupation is.

1 A Yes, I am the superintendent of maintenance at
2 Watts Bar.

3 Q Okay. How long have you been in that position?

4 A I've been in the superintendent position for
5 approximately one year.

6 Q How long have you been at TVA?

7 A I've been at TVA ten years in January this year.

8 Q What is your educational background?

9 A My educational background is I have a -- a degree
10 in individual studies in chemistry. I received that degree
11 after getting out of the Navy. Went on to a Master's
12 program in nuclear engineering. Got about halfway through
13 that program. That's my -- my formal educational
14 background.

15 Q In the 1994 to 1996 time frame, what was your
16 position?

17 A '94 to '96, I was the superintendent of chemistry
18 at Watts Bar Nuclear Power plant.

19 Q What kind of reactor is at Watts Bar?

20 A That's a PWR, pressurized water reactor.

21 Q Who was your supervisor at Watts Bar during 1994
22 to 1996?

23 A '94 to '96 would have been Jack Cox.

24 Q And what was Mr. Cox's position at that time?

25 A The rad chem manager.

1 Q As the chemistry superintendent, what interactions
2 did you have with the corporate chemistry staff?

3 A I interacted with them on a periodic basis. They
4 would frequent the plant for various things to support the
5 plant, self-assessments, oversight issues. I would
6 interface with them for problems that -- that we had. We
7 had a -- you know, a routine dialogue.

8 Q From 1994 to 1996, who specifically at corporate
9 chemistry staff did you interact with?

10 A At some point in time I would have interacted with
11 -- with everybody at corporate chemistry. I believe that at
12 that time Chandra -- I would have interfaced with him on a
13 number of issues; Sam Harvey; Gary Fiser; Ron Grover, the
14 chemistry manager at the time. I would have interfaced with
15 -- with all of those individuals during that period.

16 Q Did one of those individuals work more often at
17 Watts Bar than the others?

18 A Yes. The way the corporate program worked,
19 usually they assigned one individual to -- to be the main
20 interface with a given plant. We have Watts Bar, Sequoyah,
21 and Browns Ferry, and so we would have a primary interface
22 that we would interface with, depending upon what the issues
23 were. You may interface with any of them, but during that
24 time frame -- I'm not sure if there was one -- one of those
25 individuals in particular. Both Sam Harvey and Gary Fiser

1 were assigned to Watts Bar as -- as interfaces, and which
2 one when, exact what months and years in there, I -- I
3 couldn't say I could remember.

4 Q What kind of work did the corporate chemistry
5 staff do? Was it chemistry work, environmental work, a
6 little bit of both?

7 A It wasn't -- it was a little bit of both; mostly
8 chemistry. And I can't say off the top of my head at what
9 point changes were made where it was more predominantly just
10 chemistry issues and not environmental issues. There was
11 organizational changes that took place that the primary
12 responsibility, whether it was chemistry or environmental,
13 changed. And I don't -- I can't say when -- when that
14 occurred. But my primary interface was -- was chemistry
15 with those individuals I mentioned, and -- but environmental
16 issues would be discussed, as well.

17 Q Did you and Mr. Cox ever discuss the quality of
18 work you received from the corporate chemistry staff?

19 A I'm certain that it was -- that we discussed it at
20 times.

21 Q Would it be on a regular basis?

22 A No, I wouldn't say it would be on a regular basis.

23 Q What was your opinion of the quality of work that
24 Mr. Harvey provided?

25 A The quality of work? I guess I'd summarize it as

1 reasonable or, you know, met expectations in most cases. It
2 I guess depended upon, you know, what -- what he was doing.
3 But in his primary interface of providing technical support
4 for secondary chemistry issues, the quality of work was
5 reasonable.

6 Q Were there any interpersonal skills issues with
7 regard to Mr. Harvey's performance?

8 A Yes. When it came to interpersonal skills, Sam
9 was lacking in some degree. There was -- he would interface
10 with them staff on various issues, just interacting with
11 them on technical issues that someone in my staff had
12 questions about or that he was, you know, looking for
13 information on, or in doing self-assessments, which he would
14 do occasionally, he would -- that would involve going out
15 and watching work and -- and interviewing individuals,
16 talking to them. And his -- his approach, his demeanor was
17 at times not as -- not all that it could be from a
18 standpoint of just effective communication with individuals.

19 I'd have some complaints on his -- his
20 interpersonal style of how he dealt with folks, that they
21 didn't feel, you know, comfortable the way he interacted
22 with them at times. I had some issues with a couple of
23 complaints in particular that I can think of that, were it
24 for better interpersonal skills that he had, you know, I
25 wouldn't have had those issues.

1 Q What are those two that you can think of?

2 A I've said a couple. I guess one -- one issue that
3 is -- was -- is very clear in my mind is, there was two
4 members on my staff that had got engaged, and they were
5 going to be married. And Sam became aware of that. And for
6 whatever reason, when he was there, he -- he was asking the
7 one -- the female as to when she was going to quit her job
8 because she couldn't work in the same department with
9 somebody that she was going to marry.

10 And that really upset her the way he came across,
11 and she came to talk to me about it and explain what Sam had
12 said, and she was very concerned. And so I got into the --
13 into the situation and I found out what, you know, the
14 requirements were of being married, working in the same
15 department. And -- and then I went and talked to Sam and --
16 and, you know, gave him some feedback as to that was a --
17 you know, an issue he didn't need to have brought up. That,
18 you know, it wasn't directly related to anything he needed
19 to be involved with, it wasn't factual, and it -- it pretty
20 substantially upset someone on my staff needlessly. So
21 that's the kind of thing that I was referring to, with his
22 interpersonal skills.

23 Q What was Mr. Harvey's response when you gave him
24 that feedback?

25 A I guess he -- you know, I -- he responded that he

1 understood what my message was and would -- would keep that
2 in mind in going forward and, you know, try to abide by my
3 wishes of not getting into that sort of thing and not, you
4 know, spinning, you know, people up.

5 Q Now, before you said a couple. Were there any
6 other instances specifically that you can think of?

7 A I guess that one is very clear in my mind. I
8 guess there's not a -- another particular issue that was --
9 was that substantial that I remember that well, someone
10 coming to me, you know, fairly distraught over a
11 conversation with Sam. I just, you know, recall comments
12 with folks that -- that they just weren't as comfortable
13 with -- with Sam's demeanor when he went out to do
14 assessments of folks, generally speaking. I don't have
15 another specific example.

16 Q What was your opinion of the quality of Mr.
17 Fiser's work at Watts Bar?

18 A I guess the overall quality of -- of our
19 interaction and what he provided to the site was -- was
20 adequate. It was -- you know, his -- his main function in
21 dealing with me and my staff was reasonable. I guess, as
22 far as the overall product of what -- what they did in
23 providing, you know, technical services, oversight, fielding
24 technical questions, you know, that -- they were about par
25 on -- on that. But as far as the communication with -- with

1 Gary, his interpersonal skill, his -- his ability to
2 communicate with me or anyone else in the staff was, you
3 know, much more suitable.

4 Q From 1994 to 1996, do you know who the corporate
5 chemistry manager who supervised Mr. Fiser and Mr. Harvey
6 and Mr. Chandra was?

7 A I'm assuming that's Ron Grover at that time.

8 Q Did Mr. Grover ever seek your input as to the
9 quality of the work that the corporate chemistry staff was
10 providing to you?

11 A Yes, that would -- I'm sure he did. That was kind
12 of, you know, part of -- of his job as the superintendent or
13 the manager of the -- of the department, would be follow-up
14 feedback, how well is his organization supporting the sites.

15 Q Did you ever tell him about the interpersonal
16 skills problems that you and your staff had with Mr. Harvey?

17 A I'm sure I did. When, where, how, or dates or --
18 I'm sure I communicated that to Mr. Grover.

19 Q Did Dr. McArthur ever seek your input as to the
20 quality of work the corporate chemistry staff provided?

21 A I can't say I can remember specifically him asking
22 what my input on -- on the staff that -- that I gave him.
23 He was at the site occasionally. He was on the NSRB. He'd
24 be there and -- and he may very well have casually asked how
25 things were going, is the -- is the staff supporting.

1 Probably did, but I don't -- I don't recall specifically
2 giving him a -- you know, a response.

3 Q Now, you mentioned that the members of the
4 corporate chemistry staff each had a plant that they were
5 the primary interface for. What plant was Mr. Harvey the
6 primary interface for?

7 A Well, I think he was the primary interface for --
8 for more than Watts Bar, depending upon time era. Around
9 the time we're talking about, '94 to '96, I'm sure Gary was
10 the primary interface a portion of that time. But I
11 couldn't recall, you know, when. Gary was definitely a
12 primary interface for some portion of that time.

13 Q Was Mr. Harvey a primary interface at Sequoyah?

14 A I believe he -- I believe he was. Chandra was --
15 was always a primary interface for BWR chemistry and -- and
16 Sam -- Sam was at Sequoyah.

17 Q Sometime in 1996, did you become aware of any
18 discussions about Mr. Harvey being transferred to Sequoyah
19 permanently?

20 A Yes, there was some dialogue about that -- about
21 that happening, or maybe going to happen. I believe there
22 was a proposed organization to have a steam generator group
23 that would have a secondary chemist as part of that, and
24 that was an idea that -- that I had discussions with Sam,
25 I'm sure, maybe others, as to that might happen some day,

1 that -- that a position may be filled in -- in a steam
2 generator group at Sequoyah at some point in time.

3 Q Do you recall approximately when this dialogue
4 took place?

5 A I'd be guessing, but...

6 Q Okay.

7 A ...and I -- and I think it was an idea that was
8 out for some time. It -- I would have guessed in the '95,
9 '96 time frame. That idea that that might happen sometime.
10 And I'm -- I'm sure it was in that era.

11 Q Do you recall someone named Bruce Fender, who used
12 to work at Sequoyah?

13 A Bruce Bender (sic)?

14 Q Yes.

15 A Doesn't -- Bruce Bender?

16 Q No?

17 A No.

18 Q Do you know whether, in early 1996, Sequoyah had a
19 vacant position that could be filled by a chemistry manager?

20 A Say that one more time.

21 Q Do you know whether, in early to mid-1996, whether
22 Sequoyah had a vacant position that could be filled by a
23 chemistry manager?

24 A A chemistry superintendent vacant position
25 similar...

1 Q Chemistry superintendent or a position by another
2 name that could be filled by someone who was a chemistry
3 manager?

4 A I don't know. I...

5 Q Do you know whatever happened about Mr. Harvey
6 transferring to Sequoyah?

7 A Do I -- do I know that -- if he ever transferred
8 to Sequoyah?

9 Q Do you know if he ever transferred?

10 A I don't believe he ever transferred to Sequoyah.

11 Q Did you ever find out why he didn't?

12 A No.

13 Q At some point in 1996, did you find out that the
14 corporate chemistry organization, as well as its parent
15 organization, was going to reorganize?

16 A Yes.

17 Q How did you find that out?

18 A And when we say in 1996, that's -- I answer that
19 from a standpoint of there was -- over the course of from
20 1992 to 1996, there was organization -- or reorganizations
21 that either were taking place or being discussed to take
22 place almost as an ongoing dialogue. And I think the
23 organization has changed quite a bit over that time, and --
24 and so I'm -- I'm sure I was involved in discussions and
25 aware that reorganizations were taking place or being

1 proposed to take place in 1996 as well as basically all
2 along the line.

3 Q For the reorganization that happened in 1996, did
4 you learn anything about what was going to happen to the
5 chemistry positions?

6 A I believe in the 1996 reorganization it was a
7 matter of the organization had evolved to where there was
8 three positions that were going to collapse to two
9 positions; that they were going to go to a BWR and a PWR
10 specific position.

11 Q And it would be the PWR position that would
12 provide corporate support to Watts Bar; correct?

13 A Primarily; yes. Not 100 percent. I would -- I
14 would assume all along the BWR position, if that individual
15 had some expertise that could be used at a PWR, they would
16 provide that. But the primary support would be from the PWR
17 position.

18 Q After learning that the corporate chemistry
19 positions were going to go from three to two positions, did
20 you and Mr. Cox have any discussions about the three
21 corporate chemists?

22 A Yes. Mr. Cox had -- had asked me, you know, what
23 my -- what my input was as to the corporate chemistry
24 personnel, what my -- my thoughts were of their -- their
25 performance, their, you know, ability to support the site.

1 Q And what input did you provide him?

2 A Well, from what I recall, it was -- you know, in
3 discussing, you know, attributes between Sam Harvey and Gary
4 Fiser, it was -- you know, I gave him what I thought were
5 the -- were the positives and negatives of -- of each, and,
6 to the best of my recollection, it would have been that Sam
7 was, you know, an individual that had some pretty -- some
8 pretty solid credentials in PWR chemistry. That he was
9 pretty well known as a -- in the industry. He'd been on
10 some guideline committees for secondary chemistry. And he
11 was very involved in ion chromatography, which at the time
12 was, you know, a significantly growing area that Sam had a
13 lot of involvements with as -- as his strongest point toward
14 PWR support. On the negative side, his interpersonal skills
15 that -- in dealing with the site and -- and personnel were,
16 you know, not as optimum as one would like them to be.

17 Gary, on the other hand, his ability to, you know,
18 interface and communicate with -- more desirable
19 interpersonal skills was a -- would have been more of a
20 strength for him. His ability to, you know, help try to set
21 out, set a game plan, put together a project plan or
22 whatever and communicate was better than -- than Sam. But,
23 on the other end, his technical background and knowledge was
24 not -- not as strong, especially in secondary chemistry. So
25 I'm sure I summarized it somehow to that degree.

1 Q Did Mr. Cox ask you who you felt the best match
2 would be?

3 A I don't believe he did. He just asked me for
4 strengths and weaknesses on each candidate. I don't recall
5 giving him, "If I was making a decision, here's who I'd
6 pick."

7 Q Do you recall having a conversation with Sam
8 Harvey on June 3rd, 1996?

9 A Yes.

10 Q Was the conversation in person or over the phone?

11 A Over the phone.

12 Q What did you discuss with him in that
13 conversation?

14 A June -- June 3rd was the -- I'd received a phone
15 call from Sam, and he was calling me to let me know that
16 he'd be working more closely with me in the future because
17 he believed he was going to be the one retained in the -- in
18 corporate chemistry.

19 Q Did he say anything specifically about what
20 position that he would be retained in?

21 A No, I don't believe we had that discussion. He
22 just said that he would be working more closely with me in
23 the future, and he didn't -- I don't believe that he said
24 specifically in what regard or in what position. He just
25 said he was going to be working more closely with me in the

1 future.

2 JUDGE YOUNG: Was that the only purpose of his
3 call?

4 THE WITNESS: On June 3rd, that appeared to me to
5 be the -- the primary reason that he called.

6 JUDGE YOUNG: Was there any other reason at all?

7 THE WITNESS: I don't recall that we -- that we
8 talked about any -- that he had -- oh, and by the way, that
9 we had other issues to discuss that he brought up. That was
10 -- that was the primary purpose of the call. I can't
11 remember any additional things that we discussed.

12 JUDGE YOUNG: Thanks.

13 BY MS. EUCHNER:

14 Q When he told you that he would be working more
15 closely with you, did he give a reason why he would be
16 working more closely with you?

17 A What I had -- I think that the reason he thought
18 he'd be working more closely was that he was going to be the
19 one to rmn in -- in corporate chemistry, and that that was -
20 - that was why that he'd be working more closely with me.
21 So...

22 Q Did he ever tell you that he would be selected for
23 that position because corporate management hadn't released
24 him for the transfer to Sequoyah?

25 A He didn't say he'd been selected for a position,

1 but he did say that he felt like because he wasn't being
2 released to go to Sequoyah, that he would be the one that
3 would be retained, and he'd be working more closely with me,
4 because he inferred that him not being released to Sequoyah
5 meant that he would be retained in corporate chemistry.

6 Q Did Mr. Harvey identify any particular individual
7 in corporate management who wouldn't permit him to transfer
8 to Sequoyah?

9 A Not at -- not during this conversation. Or maybe
10 it was. I believe that he had made mention to me sometime,
11 and I can't remember exactly when that was, but that Tom
12 McGrath would be the one to release him or not release him,
13 and he didn't think that he would release him.

14 Q Did Mr. Harvey say anything about whether
15 interviews would be done for the PWR chemistry position?

16 A He did say that -- that interviews would be done.
17 I -- I had asked him if interviews were going to be done,
18 because he had called me to -- to tell me that he was -- you
19 know, the way he came across, I didn't know why he was
20 calling me to tell me, that what had changed or what was
21 going on. So I asked him if the interviews had been done or
22 going to be done, and he stated that they were going to be
23 done.

24 Q Did he state that they were going to be done to
25 keep it legal?

1 A He -- I believe that's what he stated.

2 Q Did Mr. Harvey make any reference to Mr. Fiser
3 during that phone call?

4 A Yes, he identified that Gary would be the odd man
5 out. And I'm not sure if "legal" is the word that he used,
6 or if, in the conversation, he said formality or legal or
7 what. But I believe that was -- I mean, that's what I
8 captured in -- in my notes. I know I documented that he
9 said to keep it legal. But whether that was his word or my
10 word...

11 Q Did Mr. Harvey say anything else during this
12 conversation that you can recall?

13 A That I can recall? He said he was -- he would --
14 he was sorry that Gary would be the odd man out. He'd be
15 working more closely with me. And I don't recall any other,
16 you know, discussion. There might be something in my notes.

17 Q What was your reaction to this phone call?

18 A It was -- it was kind of a wonder why Sam called
19 to let me know this. If -- you know, obviously something
20 gave him -- gave the impression that -- that he was -- he
21 was going to be the one retained. And I believe, you know,
22 he -- he felt like, because of -- and I'm -- this is
23 conjecture, that -- that because he wasn't going to be
24 released, he must be the one that would be retained, and he
25 was calling to let me know because -- I don't -- why, I'm

1 not sure. In my -- you asked what my reaction was. I was
2 just wondering myself why did he call to let me know that.

3 Q Did you discuss that phone conversation with
4 anyone else?

5 A Yes, I did.

6 Q Who?

7 A I discussed the conversation later with -- with
8 Gary Fiser sometime within the following week.

9 Q What did you and Mr. Fiser discuss?

10 A I don't recall exactly, but the essence of that,
11 that Sam let me know that -- that he -- that he felt like he
12 was -- that Gary would be the odd man out, that he felt like
13 he was going to be retained. I can't recall the
14 conversation exactly, but I -- but I know that we did -- did
15 discuss that subject. He had -- Gary had come up. This was
16 not on the phone. Gary had come up for a periodic visit.
17 He probably came up once or twice a week. And the
18 conversation came up somehow, and I don't really recall the
19 exact -- everything we talked about or how we talked about
20 it. But I know -- I know I conveyed the message to Gary,
21 the essence of what Sam and I had talked about.

22 Q To your knowledge, did Mr. Fiser tell anybody
23 else?

24 A Not that I know of.

25 Q Did you ever discuss the phone conversation that

1 you had with Mr. Harvey, with Mr. Grover?

2 A Yes, I did. So I can assume that Gary talked to
3 Mr. Grover about that. But I did have a conversation with -
4 - with Mr. Grover. He had called me, and we had -- I think
5 he had called me. We discussed it on the phone. And -- and
6 I let him know that I had talked to -- what the conversation
7 was with Sam -- with Gary, and that -- and that I had talked
8 -- and told him basically what Sam and my conversation had
9 been back on June 3rd.

10 Q What did Mr. Grover say in response?

11 A He asked me if I would be willing to repeat our
12 conversation or -- basically that was it. He asked me at
13 the conclusion of our conversation if I would be willing to
14 discuss what we discussed again.

15 Q And would you be willing -- did you say that you
16 would be willing to discuss it?

17 A Yeah. Yes, I told him -- I told him yes. I
18 didn't see any reason not to. I wasn't sure where he was
19 coming from, why he was asking me that. It was -- but he
20 asked me if I would, which really was the prompt for me to
21 write down in my planner what I had recalled of the
22 conversation the prior week, in case it came up that I
23 needed to follow up and repeat what I had said to him.

24 Q Okay. And now if you'd go to Joint Exhibit 36.
25 Do you recognize that document?

1 A Yes, this is a page out of my -- my Franklin
2 planner, June '96.

3 Q And when did you take the notes that were written
4 on that page?

5 A I took these notes on the 7th, June 7th.

6 Q And is that the date that you had your
7 conversation with Mr. Grover?

8 A Yes.

9 Q Would you please read the entry for June 7th.

10 A All right, you're going to challenge me there.
11 "Discussed with Ron the discussion I had with Gary the
12 discussion I had with Sam the week of June 3rd. Sam called
13 to let me know he would be working more closely with Watts
14 Bar in the future in the PWR corporate chemistry position.
15 He was sure that he would be in that capacity by his
16 inference from corporate management not releasing him for a
17 job at Sequoyah which he greatly preferred. Said he felt
18 sorry for Gary as the odd man out. Discussed that
19 interviews would still be conducted, when I asked, as it
20 sounded like it was a done deal. Commented about interviews
21 being done to keep it legal."

22 Q After you had that discussion with Mr. Grover, did
23 you have any future conversations with Mr. Harvey that
24 related to the June 3rd conversation?

25 A Yes. That's basically the follow-up entry in

1 here, what that was about, that Sam had called me back on
 2 the 10th in reference to this discussion and conversation.
 3 And basically had a different message when he called. That
 4 what he had stated before might not be accurate, and that he
 5 might be the odd man out. And -- and if he was, he
 6 specifically was asking if that came to pass, if I'd be able
 7 to help him in reference to finding other employment or
 8 reference -- you know, in providing references or help for
 9 him to obtain employment elsewhere.

10 Q And is there a note on this page that relates to
 11 that conversation?

12 A Yes. That's the June 10th entry.

13 Q Would you please read that.

14 A Sure. "Discussed several issues with Sam. Sam
 15 made reference to the possibility that he may be the odd man
 16 out, and may desire my help in looking for other employment,
 17 if so."

18 Q What was your reaction to that conversation?

19 A Little bewildered, as I was on the one the
 20 previous week, I guess. But from a standpoint of I -- I
 21 assumed something must have happened that -- that changed
 22 his -- his thoughts as to how likely it was that he would be
 23 the one retained as opposed to the odd man out. I didn't
 24 know why or what, but obviously something had -- had changed
 25 his mind set.

1 Q I'd like to go back to your June 7th entry.

2 A Okay.

3 Q And I believe it's the second paragraph,

4 "Discussed that interviews would still be conducted when I
5 asked, as it sounded like it was a done deal."

6 A Yes.

7 Q Based on that conversation with Mr. Harvey, did it
8 appear to you that he already knew that he was getting that
9 position?

10 A It appeared to me that he was -- he was confident
11 that he would have that position.

12 Q That he was confident that he would have it, or
13 that he knew he would have it?

14 A That he -- that he was confident that it would be
15 him.

16 Q How did you interpret his statement that the
17 interviews would be done to keep it legal or to -- as a
18 formality, however he stated it?

19 A I took it that he felt -- he felt very confident
20 that he was going to have that position, and -- and that the
21 -- the interviews would not necessarily -- weren't needed to
22 be done because -- because he was -- he was the individual
23 that was going -- you know, going to end up in that
24 position.

25 MS. EUCHNER: Your Honors, I would move Joint

1 Exhibit 36 into evidence.

2 MR. MARQUAND: No objection.

3 MS. EUCHNER: And...

4 CHAIRMAN BECHHOEFER: Pardon? I was saying
5 without objection, joint exhibit -- which one? 36? Joint
6 Exhibit 36 will be admitted.

7 (The documents, heretofore marked
8 as Joint Exhibit #36, were received
9 in evidence.)

10 MS. EUCHNER: And, Your Honor, could I just have a
11 minute to look through something and determine if I have any
12 more questions?

13 CHAIRMAN BECHHOEFER: Yes.

14 BY MS. EUCHNER:

15 Q Mr. Cox, I'd like to go back a minute to what we
16 were...

17 MR. MARQUAND: This is Mr. Voeller.

18 CHAIRMAN BECHHOEFER: Mr. Voeller.

19 MS. EUCHNER: I'm sorry. I just read Mr. Cox's
20 name, so I just started with Mr. Cox. Sorry, Mr. Voeller.

21 THE WITNESS: No problem.

22 Q We were talking a little bit earlier about whether
23 Mr. Cox had sought your input as to the merits of Mr. Harvey
24 and Mr. Fiser before the selections for the PWR and BWR
25 chemistry positions. And you explained what input you

1 provided him. And then I asked you if you had given him a
2 recommendation as to who you thought would be either more
3 effective or a better match, and you said you -- either -- I
4 don't remember whether you said no, or that you didn't
5 recall doing that; is that correct?

6 A I don't recall if I said, "If it was me, here's
7 who I would pick." I don't recall if I told him that. I do
8 recall telling him what I considered their strengths and
9 weaknesses, and the pluses and minuses of each one of those.

10 Q Okay. Do you recall telling him that as far as
11 interface with the site and dealing with a whole host of
12 issues, that Mr. Fiser would be more effective?

13 A I probably did.

14 MS. EUCHNER: I have nothing further, Your Honors.

15

16 CROSS-EXAMINATION

17 BY MR. SLATER:

18 Q Mr. Voeller, if you could turn to Joint Exhibit 36
19 that you were -- that you were looking at, your...

20 A Yeah, that...

21 Q ...Franklin planner note. Let me direct your
22 attention to the sentence -- it's -- well, let me just read
23 it to you. Says...

24 JUDGE COLE: Could you bring the microphone a
25 little closer, please. We're having...

1 MR. SLATER: Yes, sir.

2 Q Let me direct your attention to the sentence, "He
3 was sure that he would be in that capacity by his inference
4 from corporate management not releasing him from the job at
5 Sequoyah." "...for a job at Sequoyah." Do you see that?

6 A Yes.

7 Q Mr. Harvey did not indicate to you that anyone had
8 told him that he would be selected for the PWR position; is
9 that correct, sir?

10 A That's correct.

11 Q And by your note, you said "his inference." You
12 see that?

13 A Yes.

14 Q So that was Mr. Harvey -- Mr. Harvey speculating
15 that he would be the person selected for that particular
16 job; is that correct?

17 A That's -- that's correct. That's how I -- what I
18 understood that -- that he was communicating to me, was that
19 by his not being released for the job at -- at Sequoyah,
20 that that would -- that would imply that he'd be the one
21 that would be retained.

22 Q Now, you did say that the -- that the three
23 positions were going to be reduced to two; right?

24 A That's correct.

25 Q And that one person, then, would be without a

1 position?

2 A That's correct.

3 Q And that Chandra -- Dr. Chandra was the BWR
4 expert?

5 A That was -- that was -- Chandra -- most of his
6 background and what he -- the plant that he usually was the
7 single point contact for for most of the years was Browns
8 Ferry, was BWR.

9 Q So then that left just the PWR job to be open to
10 Mr. Fiser and Mr. Harvey; is that correct?

11 A That's -- that's what it looked like to me.

12 Q So that one person would be the odd person out?

13 A Out of those two, that's what I would have
14 guessed.

15 Q And would you characterize Mr. Harvey's as (sic)
16 confident in his abilities?

17 A Very.

18 Q And in his experience and his credentials?

19 A Yes. Yeah, I -- he was -- he was very confident
20 in -- in his -- in his abilities, in his -- in secondary
21 chemistry. He was, like I said, an individual who was on
22 the secondary chemistry guidelines committees. He was an
23 individual that would frequent industry meetings, and -- and
24 he would be a speaker at -- at I think most every industry
25 meeting he went to, he would present -- prepare and present

1 a paper.

2 Q Was he hesitant to let folks know about his
3 credentials and his background?

4 A No, Sam was not modest in what he did, what he
5 said, his confidence. It didn't take him long to, you know,
6 make a decision about something and move on and let you know
7 what he thought about any given situation.

8 Q Well, in direct -- on direct, Ms. Euchner also
9 asked you about conversations that you might have had with
10 Mr. Cox about your opinion as to who would be the better fit
11 at -- at Watts Bar, Mr. Fiser or Mr. Harvey. Do you -- do
12 you recall that?

13 A I recall having a conversation with Jack, Jack
14 asking me about -- about Sam and -- and Gary. And...

15 Q And I believe you said you did not recall whether
16 or not you gave him your opinion as to whether it would be
17 Mr. Fiser or Mr. Harvey?

18 A That's correct.

19 Q I'm going to show you some testimony by Mr. Cox
20 and see whether or not that refreshes your recollection.

21 A Okay.

22 MS. EUCHNER: Counsel, can you please tell me what
23 you're looking at.

24 MR. SLATER: Page 1773. 1773, starting with Line
25 1.

1 JUDGE YOUNG: What's the date, do you know?

2 MR. SLATER: It's May 3rd.

3 BY MR. SLATER:

4 Q And, Mr. Voeller, if you could start reading at
5 Line 1. Just read it to yourself.

6 (The witness reviews certain material.)

7 A Okay.

8 Q Does this refresh your recollection as to whether
9 or not you had any conversations with Mr. Cox about who you
10 thought would be a better fit at Watts Bar?

11 A I think, as documented there, it's -- overall
12 assessment that -- that I must have said, "And Gary would
13 have -- would be a more better fit between -- between the
14 two," based on the strengths and weaknesses that I'd
15 highlighted earlier, of -- of Gary being more...

16 Q Now, according to the testimony of Mr. Cox that
17 you just read,...

18 A Yes.

19 Q ...Mr. Cox indicated that you and he had ongoing
20 conversations about who would be a better fit; is that
21 correct?

22 A That's what I read there. As far as ongoing
23 conversations, I guess I'm not sure what Mr. Cox is
24 referring to exactly there as to...

25 Q Well, he said numerous conversations.

1 A Yeah. In preparing for -- in asking my opinion
2 prior to interviews, or over the duration of months, I'm not
3 sure in the context there. But...

4 Q And -- and you expressed your opinion to Mr. Cox;
5 is that...

6 A Yes.

7 Q And -- and Mr. Cox indicated that he was in
8 agreement that Mr. Fiser was a better fit; is that correct,
9 sir?

10 A Yes. From...

11 Q And that...

12 A ...from what I read there.

13 Q ...and that these conversations that you had with
14 Mr. Cox occurred prior to the SRB interviews for the PWR
15 jobs?

16 A Yes.

17 Q Thank you, sir.

18 CHAIRMAN BECHHOEFER: Let me follow up just a
19 minute on just the last matter you were questioned about.

20 THE WITNESS: Okay.

21 CHAIRMAN BECHHOEFER: Did you believe or do you
22 believe that Mr. Fiser was more familiar with Watts Bar
23 procedures than Mr. Harvey? I gather...

24 THE WITNESS: No. I just read -- read more
25 familiar with procedures. I don't know that -- I don't

1 recall saying that to Jack, that I -- I said he was more
2 familiar with procedures. I would think that Gary and --
3 and Sam would have been about the same level of knowledge as
4 overall procedures (sic). I think, as I said before, the
5 positives that Gary had in being a more effective
6 communicator with a larger population of folks was -- was a
7 -- you know, a more positive for Gary. He didn't have the
8 technical expertise that Sam had, but in the, you know, big
9 picture of things, I think I would have hedged my thinking
10 towards Gary in the position.

11 CHAIRMAN BECHHOEFER: Okay. Well, I was just
12 following up on what I read here.

13 THE WITNESS: Okay.

14 JUDGE YOUNG: I'd like to clarify just a few
15 things, get a better understanding. It sounds as though
16 you're saying that Gary's personality was a better fit, sort
17 of.

18 THE WITNESS: Yes.

19 JUDGE YOUNG: That -- that Mr. Harvey -- I'm
20 sorry, Gary Fiser -- Mr. Fiser, and that Sam Harvey had
21 better technical skills.

22 THE WITNESS: Yes.

23 JUDGE YOUNG: I'm not -- I'd like to -- you said
24 that you were puzzled by getting the first call on June 3rd.

25 THE WITNESS: Yes.

1 JUDGE YOUNG: And -- and I don't know whether you
2 can provide me with any clarification, but it sort of sounds
3 puzzling, and I guess I'm trying to get a sense of did it
4 just come out of the blue, did it...

5 THE WITNESS: Yes, it -- to respond to you, I was
6 -- that's the puzzlement I had, was it was kind of an out-
7 of-the-blue phone call. I mean, that's how I received --
8 you know, what my impression was to the call, is that it was
9 not of a -- I mean, that was why he -- he called, was to let
10 me know he was going to be working more closely with me,
11 which is -- and I can't remember -- maybe it struck me more
12 out of the blue just, you know, how busy we are day in and
13 day out, and that was just his reason for calling, so it --
14 I felt it was kind of out of the blue.

15 JUDGE YOUNG: I couldn't help wondering, in
16 hearing your testimony in total in which you talked about
17 Mr. Harvey's problematic interactions with some of the
18 people. And I think you said that you had spoken -- you
19 said that you had spoken to Mr. Harvey about his comment to
20 the young woman who was going to be married, and how that
21 had been inappropriate.

22 THE WITNESS: Yes, I did.

23 JUDGE YOUNG: And you also said that you had
24 talked to Mr. Fiser about what Mr. Harvey had told you about
25 his thinking that he was going to be the one to come out

1 there.

2 THE WITNESS: Correct.

3 JUDGE YOUNG: I'm trying to get a sense of the
4 overall context. Was -- was there unfriendliness between
5 you and Mr. Harvey, was there some tension there? Was he
6 sort of calling you to say -- to sort of be in your face
7 about something that he thought you would not like because
8 there was...

9 THE WITNESS: No. No, it wasn't -- it wasn't like
10 that. I -- I had a pretty decent working relationship with
11 -- with both Gary and Sam. I'm -- I'm, I guess, a little
12 bit more accommodating to personalities through the whole
13 diversity. And so I was...

14 JUDGE YOUNG: So he was not being hostile to you?

15 THE WITNESS: No. No, he wasn't. It...

16 JUDGE YOUNG: Was it more of in a friendly vein
17 or...

18 THE WITNESS: Friendly? Gee, I don't know if
19 that's the right word. It was more of a just...

20 JUDGE YOUNG: Matter-of-fact?

21 THE WITNESS: ...matter-of-fact and informative
22 thing.

23 JUDGE YOUNG: Okay. Was there -- so in your
24 talking with Mr. Fiser and telling him about this, was that
25 as a result of any greater friendship or anything that you

1 had with Mr. Fiser or...

2 THE WITNESS: No. Not -- I don't think so. I
3 mean, I've asked myself many times, I guess, since then what
4 prompted me to even bring it up. And I really don't recall.
5 You know, it's not like Gary came asking me about it or I
6 went looking for him or I called him or he called me. He
7 was up there to -- as he routinely was, and some -- for some
8 reason I decided to bring up that conversation that I had
9 with Sam. And I don't recall why I even brought it up.
10 But...

11 JUDGE YOUNG: But there was no particular
12 friendship, such that you were aware of the general context
13 of what was going on with Mr. Fiser?

14 THE WITNESS: No.

15 JUDGE YOUNG: Okay. Thank you. Any follow-up?

16 CHAIRMAN BECHHOEFER: Ms. Euchner?

17 MS. EUCHNER: I do have a follow-up question.

18 REDIRECT EXAMINATION

19 BY MS. EUCHNER:

20 Q With regard to the conversation that you had with
21 Mr. Harvey on June 10th,...

22 A Uh-huh.

23 Q ...did you think that the reason for that phone
24 call was because he had gotten some feedback from someone
25 about what he had said the previous week?

1 A I assumed that.

2 Q Why did you assume that?

3 A Because it was so different than the call less
4 than a week earlier, that the message was -- something
5 changed that -- or something was communicated that he felt
6 motivated to -- to make that statement. That it was so
7 different than what he had said before, so I assumed
8 something had changed or some communication had taken place
9 that -- and I don't know what.

10 Q You don't know whether Mr. Grover spoke to Mr.
11 Harvey?

12 A No, I don't know that.

13 Q Do you know whether Mr. Fiser spoke to Mr. Harvey?

14 A I don't know that -- if he did or didn't.

15 Q I have nothing further.

16 MR. SLATER: I have one more question, Your Honor.

17

18 RE CROSS-EXAMINATION

19 BY MR. SLATER:

20 Q In light of your criticisms of Mr. Harvey's
21 interpersonal skills, was there some tension on your part
22 toward Mr. Harvey?

23 A I guess, in reference to my dealing with Sam
24 versus dealing with -- with Gary or others, there was more
25 tension there with Sam than -- than with Gary. That just

1 because he wasn't -- because of the way he, you know, dealt
2 with people and communicated with people, there was more of
3 a -- more of a tension. It was more difficult for me to --
4 to just get to issues directly with Sam and stay focused on
5 technical issues than -- than it was. So I guess there was
6 some amount of, you know, dislike in the relation -- in our
7 professional relationship because of -- of that and
8 decisions that he -- things he would do that just were not
9 necessary.

10 Q Thank you.

11 MS. EUCHNER: Nothing further.

12 JUDGE YOUNG: Thanks for sticking around all day.

13 THE WITNESS: Okay.

14 CHAIRMAN BECHHOEFER: Hope you have a nice late
15 dinner.

16 THE WITNESS: No problem. I'm glad we were able
17 to get this done.

18 CHAIRMAN BECHHOEFER: Well, you're excused, and
19 thank you very much. I guess we'll resume tomorrow with Mr.
20 Reynolds. Is that...

21 MR. DAMBLY: I believe Mr. Reynolds is coming
22 tomorrow. I hope he is.

23 MR. MARQUAND: Well, I don't know. I'll have to
24 call him and see if I can find him. He was expecting -- he
25 was expecting to testify early this afternoon.

1 JUDGE YOUNG: He's probably waiting by the phone
2 with bated breath.

3 MR. MARQUAND: Oh, I'm sure he is. It was a nice
4 day and those golf clubs were beckoning.

5 CHAIRMAN BECHHOEFER: Well, we're adjourning till
6 9:00 a.m. tomorrow.

7 (Whereupon, the hearing was adjourned at 7:53
8 p.m., to resume at 9:00 a.m. on Friday, June 14,
9 2002.)

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CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of:

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

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

Location: Chattanooga, Tennessee

were held as herein appears, and that this is the
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/s/ William Warren
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