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NUCLEAR REGULATORY COMMISSION

Title: Deposition of Thomas J. McGrath

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

Location: Chattanooga, Tennessee

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

DEPOSITION

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In the Matter of: :

: Docket Nos. 50-390-CivP

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

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

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

Unit 1; Sequoyah Nuclear :

Plant, Units 1&2; Browns :

Ferry Nuclear Plant, Units : ASLBP No. 01-791-01-CivP

1, 2 & 3) : EA 99-234

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The deposition of THOMAS J. McGRATH, was
taken by the Nuclear Regulatory Commission, pursuant
to Notice, commencing at 8:45 a.m. on Friday, November
30, 2001 at the offices of Tennessee Valley Authority,
Sycamore Room 5, Lookout Mountain Building, 11th and
Market Streets, Chattanooga, Tennessee.

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

MR. DAMBLY: This is the deposition in the matter of Tennessee Valley Authority, November 30th, 2001. Thomas McGrath is being deposed.

My name is Dennis Dambly, counsel for the NRC staff. And if you'd please swear in the witness. Whereupon,

THOMAS JOSEPH McGRATH

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

EXAMINATION

BY MR. DAMBLY:

Q All right, please state your full name for the record.

A Thomas Joseph McGrath.

Q And where are you presently employed?

A Tennessee Valley Authority.

Q What position?

A I'm a senior project manager for system integration and optimization.

Q Lucky you.

Prior to this deposition, did you do anything to prepare for it?

A The only thing that I did, I read some of the prior testimony and the record of the enforcement

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1 conference. Prior testimony by me, and the record of
2 the enforcement conference.

3 Q Okay. Your -- your enforcement conference
4 and the testimony of you.

5 Do you recall what -- what statements?
6 You reviewed the interview that OI took of you, NRC's
7 Office of Investigation back in 1999?

8 A Yes.

9 Q Did you review the statement that you gave
10 to the Department of Labor in April of '97?

11 A Yes.

12 Q Okay. And did you review a statement that
13 you gave to the TVA IG in July of '96?

14 A Yes.

15 Q When you looked over the TVA IG or the
16 DOL, did you see anything in there that was
17 inaccurate?

18 A Well, what they -- I read so many ones, I
19 can't remember exactly what's in each one; okay? So,
20 but relatively, of all the things together, I don't
21 remember anything that's inaccurate in those.

22 Q Okay. Let's discuss first, I guess, your
23 educational background. Where'd you go to school,
24 when'd you graduate?

25 A I graduated from the University of Notre

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1 Dame in 1968 with a Bachelor's degree in chemical
2 engineering.

3 Q Okay. Do you have any postgraduate?

4 A I did some postgraduate work in chemical
5 engineering at Catholic University. And while I was
6 in the Navy nuclear program, I went to what was then
7 called the Bettis Reactor Engineering School, which is
8 roughly equivalent to a Master's in nuclear
9 engineering.

10 Q All right. You mentioned you were in the
11 Navy nuclear program. When did you join that?

12 A In 1968. I'd been in Navy ROTC, and I was
13 assigned to Admiral Rickover's staff in Washington
14 when I got out of college.

15 Q And how long were you there?

16 A I stayed in that program for 16-1/2 years
17 until late 1984. I was in the Washington, D.C.
18 office, it was till '76. I spent a little under two
19 years at the office in Groton, Connecticut, and then
20 went -- and went to the office in Bremerton,
21 Washington.

22 Q Were you ever on one of the nuclear ships?

23 A Only on sea trials, not as a member of the
24 crew. And -- and once as a ROTC midshipman for
25 training.

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1 Q All right. After you left the Navy -- 16-
2 1/2 years, you couldn't wait for that 20 and get to
3 retire? I mean...

4 A Oh, well, the way the particular program
5 ran, I -- I had an obligated service of five years on
6 active duty. After that time, I switched over to
7 civil service. I essentially kept doing the same job
8 at the same desk.

9 Q Oh, okay, so...

10 A I just switched. So I was five years of
11 active duty, and the remaining time as being civil
12 service.

13 Q All right. That makes sense. Put in 16-
14 1/2, you want to hang that other three up, I mean, you
15 know...

16 A Yeah, it's...

17 Q So after you left the Navy, where did you
18 go?

19 A I went to work for Lockheed Shipbuilding
20 Company in Seattle.

21 Q When you were in your civil service job
22 with the Navy, what -- what grade were you?

23 A I started as a GS-13; when I left I was a
24 GS-15.

25 Q Okay. Then you went to Lockheed?

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1 A Well, my initial job was director of
2 quality assurance. I subsequently became the director
3 of the LSD program. That's a landing ship docks, and
4 they've got large landing ships for the Navy. And
5 then became the director of program management in
6 which all the -- all the various program directors in
7 the company worked for me.

8 Q Okay. How long were you at Lockheed?

9 A From November of '84 to May of '87.

10 Q And at that point what did you do?

11 A I came to TVA.

12 Q And what position did you come in?

13 A My initial position was a -- I spent a
14 couple of months in what was really a training
15 orientation position out at Sequoyah. I was then
16 assigned to Watts Bar Plant initially as the -- exact
17 title, it was manager of project management up there.

18 After about six months there, I became the
19 acting maintenance superintendent. During -- starting
20 in that period of time and throughout, I spent a lot
21 of time on various temporary assignments, starting
22 with the operational readiness review for the startup
23 of the first Sequoyah unit that restarted. I -- and
24 throughout the whole period I was at TVA, I served as
25 either a member or the head of the operational

1 readiness reviews for both Sequoyah, both Browns Ferry
2 units that restarted, and the initial startup at Watts
3 Bar. In...

4 Q How did all these -- well, let's talk
5 about the first one. When you got hired into TVA, was
6 there a vacancy posted out nationwide or anything, or
7 how did you come to just apply here?

8 A Actually, when I was -- I had elected to
9 leave Lockheed because the division I was in, my
10 assessment was, they were going out of business. I
11 got a phone call from -- I -- I don't remember who it
12 was I talked with. Someone I talked to talked to
13 somebody else who talked to somebody else, and I got
14 a phone call at that time from someone who was working
15 at TVA. At that time, the naval -- the TVA nuclear
16 program was being run by Admiral White. He had a few
17 advisors who had been -- were retired from naval
18 reactors. One of those people called me and asked me
19 if I'd have an interest in a job. And I came down and
20 had several interviews. I'm not familiar at all with
21 what -- what process they were using at that time
22 to...

23 Q What process.

24 A ...to find and fill positions.

25 Q When you came into this sort of training

1 and then project manager, do you recall what grade you
2 had?

3 A I think under that old system it
4 originally was what was called an M-8, I believe.
5 That's a few systems ago.

6 Q We've been trying to keep track of this.

7 Now, of these temporary assignments, the
8 various things, how did those come about?

9 A The initial team that I was put on to do
10 the operational readiness review for Sequoyah, it
11 actually was headed up by -- I know by his background
12 he was retired Navy, the person who ran it. But the
13 team essentially was made up of I think it was about
14 eight people, all of whom had backgrounds in the naval
15 reactor program. And if I recall, there were two of
16 us who were TVA employees, and all the rest were
17 outside consultants.

18 Once I had been on one team, I got -- got
19 assigned to the next one, and eventually some of the
20 later ones, to where I ended up being head of the
21 team. The teams continued to be a mix of TVA people
22 and outside consultants.

23 Q Were you actually placed in positions? I
24 mean, did you ever get position descriptions or
25 anything for those or...

1 A No. They were all -- they were always
2 temporary assignments of weeks to months duration.

3 Q Well, what---for lack of a better word---
4 permanent slot did you occupy during that time that
5 you were temporarily assigned to other places from?

6 A Over the years it changed. I --
7 initially, the permanent slot, when I went up to Watts
8 Bar, was that manager -- project manager job. I
9 believe it was sometime in 1989 where I came down to
10 corporate, and my job was -- I believe it was the
11 corporate outage manager, working in the
12 maintenance -- in the corporate maintenance
13 department.

14 Q Okay. And how long were you corporate
15 manage -- outage manager; do you recall?

16 A It was on the order of six months. In
17 that particular time period, TVA had a number of
18 outside contractors filling positions. Somewhere
19 along then, the -- the contractor left who had -- was
20 filling the position of the maintenance manager. I
21 moved up to being maintenance manager. The -- from
22 being maintenance manager -- and I don't recall,
23 seemed to me again within six months to a year from
24 there, I moved to being the manager of the chief
25 nuclear officer---who was Alvin Kingsley (phonetic) at

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1 the time---I became his staff manager.

2 Q Okay. Now, the first position description
3 I have for you is -- show it to you. It's showing an
4 effective date of 8/13/90, and has you as...

5 (Off the record conversation.)

6 BY MR. DAMBLY:

7 Q. Your position title is General Manager,
8 Materials Contract and Administrative Support, it
9 says. Have you seen that?

10 A Yes. Yeah, I've seen this before.

11 Q Okay. Is that the position that you were
12 talking about a minute ago where you were...

13 A No.

14 Q No? That's a different one?

15 A Yeah. I'm trying to remember. I don't
16 remember exactly when I went to Kingsley's staff. I
17 was -- I was Kingsley's staff manager for a while. I
18 don't remember exactly what the position description
19 said relative to what it was called.

20 In late 1989, I was also assigned the
21 responsibility to be the chairman of the Nuclear
22 Safety Review Boards while I also had Kingsley's
23 staff. My position at that time was something -- I
24 don't remember exactly what it said, but it was the
25 nature of manager of nuclear safety and oversight, and

1 something else which reflected the fact that my main
2 job was to run NSRB and to run Kingsley's staff.

3 The -- there was a reorganization which
4 was done that resulted in this particular position
5 description, and this put me over these particular
6 groups here which were called materials, contracts,
7 and administrative support. At the time this one came
8 into -- came into effect, the intention was to replace
9 me as chairman of the Nuclear Safety Review Board at
10 the time. That's why it's not reflected in that
11 position. I remained in that position on an acting
12 basis. The intention was I would continue to act as
13 the chairman while...

14 Q Chairman of the NSRB?

15 A NSRB. Within Medford's organization at
16 that time, he was creating a new manager's job, with
17 the intention that that manager would be the chairman
18 of NSRB; and I believe, in addition, like nuclear
19 assurance and licensing or -- or some of the -- would
20 report to that individual.

21 Q Okay. And, for the record, could you
22 identify who Medford was.

23 A Oh, Medford -- I don't know what his title
24 was at the time. He was the vice -- he was the vice
25 president who I worked for at the time, of something

1 like nuclear assurance, licensing, and fuels, maybe it
2 was called in that time period.

3 Q Yes, nuclear assurance, license, fuel was
4 the operations group, so that's what -- he was the...

5 A He was the vice president in charge of
6 that.

7 Q ...vice president?

8 A He was -- he was my boss. But what then
9 happened was that after about a year of my being
10 acting in NSRB, they concluded they couldn't find
11 anybody who was any better than me, so they were going
12 to let me keep the job. So I continued on as NSRB
13 chairman.

14 Q So when you say "continued," you held both
15 this...

16 A Both positions.

17 Q ...positions in the...

18 A I held -- yeah, I -- I held both -- at the
19 time that position description was issued, I was
20 just...

21 Q Acting?

22 A ...essentially acting as the chairman
23 until they could find a replacement for me. They
24 never found -- they never found a replacement for me.

25 Q Now, at some point, was chairman of the

1 NSRB---excuse me---your, like, full-time position?

2 A Yes.

3 Q Do you recall when?

4 A I -- I think it was around 1995, but I'm
5 not exactly sure of the -- the dates anymore.

6 Q Okay. If it helps, I've got a -- this is
7 one of the other PDs I have. It's effective date July
8 4th, 1995, and has you as chairman of the Nuclear
9 Safety Review Board.

10 A Uh-huh (affirmative).

11 Q So, in-between, you had this other PD, and
12 you were acting as the chairman?

13 A Well, in-between, when another
14 reorganization was done, I was the -- I became the
15 general manager of nuclear support. If I recall,
16 relative to that one, the nuclear materials no longer
17 worked for me. I had like contracts, fuels,
18 administrative support, and information systems, I --
19 I believe what -- under that particular
20 reorganization. That PD, I believe, also reflected
21 that I was the NSRB chairman at the same time. And
22 then this one reorganization, I became only the NSRB
23 chairman at -- at that point.

24 Q Now, I mean, looking, they appear to all
25 be -- the two that I've got here for PDs have you as

1 a PG senior. Do you know if there were -- are there
2 grades within PG senior, or they just go PG-1 through
3 11, and then it's PG senior?

4 A I believe at that time it was PG senior.
5 Perhaps if you became a vice president, it may have
6 been something different. But...

7 Q Okay. And to the best of your knowledge,
8 were all PG senior positions sort of lateral? I mean,
9 you could go from one to another and it -- it's not a
10 promotion?

11 A I really don't know that for sure. The
12 particular times when I moved, like in switching, like
13 start from the general manager materials, contracts,
14 you know -- you know, really, I kept several
15 departments that worked for me, and let one go, and
16 brought in another one. So it was just lateral in my
17 case. I can't speak to any other cases.

18 Q None of those positions were posted
19 positions that you competed for?

20 A Not when I switched -- not to my
21 recollection. See, like the one that switched between
22 us was really just a small change falling out of a
23 reorganization.

24 Q And in '95, you -- you assumed the full-
25 time duties as chairman of NSRB. How long did you

1 have that full-time? Not very?

2 A No. In October of '95, I also picked up,
3 then, acting general manager of operations support.

4 Q And what functions were under operations
5 support?

6 A At that time, it was a rad con-chemistry
7 organization. I'm not sure -- it could have been rad
8 con-chemistry, or rad con-chemistry-environmental.
9 But that was one. There was a maintenance and
10 technical support group. A training organization. We
11 had an operations support organization. I think that
12 covered operations and fire protection.

13 We also -- but I don't remember the
14 group's title. It was performance something. They
15 were a group of industrial engineers. I don't
16 remember the exact title of that group. And I also
17 had one project manager. Project manager may have
18 come a little bit later. It was around there. It
19 may -- may have also been like an individual project
20 manager or something in the group.

21 Q Do you recall how many direct reports you
22 had at that point?

23 A It was about a half a dozen. I'd have to
24 go back and find the org charts to count exactly, but
25 it was about a half a dozen.

1 Q And, unfortunately, I was going to show
2 you the org charts, but it turns out I gave my only
3 copies to the court reporter yesterday, and he doesn't
4 have them with him.

5 Do you recall, when you assumed this
6 acting general manager of ops support, what positions
7 a Mr. Grover and a Mr. McArthur were in?

8 A In October of '95, Mr. Grover was the
9 manager of chemistry and environmental; Mr. McArthur
10 was the manager of rad con. And they both reported to
11 Allen Sorrell, who was the acting rad chem manager
12 over the two of them.

13 Q Did Mr. Sorrell leave that job at some
14 point?

15 A He retired, I believe, about January of
16 '96. When I came in, he was in the process of
17 retiring.

18 Q And how long were you involved in -- as
19 the manager? Did you ever become permanent manager of
20 ops support, or just always acting?

21 A I was always acting. In -- in the --
22 originally, when I took over in October of 1995, the
23 incumbent, who had cancer and was quite ill, I was
24 assigned there as acting, but he was also still coming
25 to work, depending on his health, you know. A day,

1 two, three days in a week. So we worked together
2 there. By -- however, by early '96, his health had
3 gotten bad enough that he rarely came to work. I
4 believe he passed away the spring of '96, March,
5 April, somewhere around there.

6 I -- I believe I remained in acting --
7 with the job in an acting position, I think. There
8 was then started, in -- I believe it started in late
9 '96, finished up in '97, we did another review of all
10 of corporate. As a -- as a fallout of that, the
11 operations support organization went away, and the
12 position of general manager of ops support
13 disappeared.

14 Q And where did those functions end up?

15 A The -- there was a position of a vice
16 president of engineering and technical support. Most
17 of the positions went under there in various ways.
18 The rad con-chemistry organization moved over intact,
19 exactly as it was. The maintenance support
20 organization that we had was broken up some because it
21 had -- part of that particular review, when it was
22 done, was done by taking a cross-functional team of
23 people who started from the sites, and determined the
24 functional needs of the sites, and then brought that
25 back and matched: How should corporate functions

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1 match up with the needs of the sites? And then:
2 What's a logical way to organize them?

3 An example of something happened,
4 engineering support for various kinds of components,
5 like pumps, valves, some of that resided in corporate
6 maintenance, some of it resided in corporate
7 engineering under the old organization. Those were
8 all combined into one organization that gave component
9 support within the engineering organization.

10 The rad chem organization, on doing this
11 functional review coming back, was determined to be
12 very well aligned and organized with the needs of the
13 sites, and was left exactly intact the way it was done
14 during the 1996 organization, and just moved over, in
15 its entirety, under...

16 Q So the organization -- the rad con-
17 chemistry organization you're talking about that was
18 moved intact to the new group is the one that...

19 A That I...

20 Q ...resulted in Mr. Fiser being the odd man
21 out on the chemistry job?

22 A It's the reorganization that we
23 implemented in the summer of 1996 for fiscal year '97.

24 Q Okay. And that -- that's one that
25 eliminated a chemistry position? I mean, it's -- it's

1 the reorg that -- as you're aware, that's the basis
2 for why we're all here today?

3 A Yes.

4 Q Okay. Just so we're talking about the
5 same reorg. I appreciate the government. I'm in the
6 government. Reorg is, you know, wait a week, it'll
7 change, you know. So just got to get the right one.
8 Okay.

9 And after they did away with the ops
10 support job, the '97 time frame, whatever, where did
11 you go? Or was it back to full-time NSRB or a
12 different job?

13 A It was a different job. In that
14 particular time period, we also -- I went to just --
15 I stayed on NSRB, but I was the vice chairman. The
16 vice president of engineering and technical support
17 became the chairman of NSRB.

18 I was assigned to a special project to
19 work on -- at that time we were working on providing
20 a proposal to the DOE to produce tritium at either
21 Bellefonte or Watts Bar, and I was assigned to work on
22 that project.

23 Q Okay. Did you have a titled position
24 or...

25 A Oh, I think my job was called senior

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1 project manager, I think. I'm not -- I'm not
2 positive. I -- I don't -- I never paid a whole lot of
3 attention to that. It, again, was -- at the time it
4 was a special assignment, and I had gotten used to,
5 over the years, getting many temporary special
6 assignments.

7 Q After that, what?

8 A After that, I was assigned at -- TVA had
9 started a company-wide business transformation
10 program. It was to relook at how we did our core
11 business processes. I was assigned, and the
12 assignment was pretty much a full-time assignment---
13 again, another temporary assignment---to a team that
14 looked at -- was looking at what we eventually called
15 asset optimization, which was to -- we really looked
16 at the coordination of our major asset planning and
17 operating processes.

18 I started on the team. After about six
19 months or so I became the manager of the team.
20 Probably about -- about 18 months or so into the work
21 on that team, or a year into it---I don't remember
22 exactly when it started---in July of 1999 I moved over
23 into bulk power trading. It was a -- a rotational
24 developmental assignment, and I was assigned over
25 there. My title was senior portfolio manager.

1 Q Is that where you are now?

2 A No. In September of this year, I moved to
3 my current position. I work for -- in a group called
4 performance initiatives. I report to the senior vice
5 president of performance initiatives.

6 The main reason that I was moved to that
7 position was that our chief operating officer felt
8 that in the areas of asset optimization, that while we
9 had made some significant strides, it was time to
10 start moving on to the next steps and do better. And
11 given that I formally ran the team that did it before,
12 had the background and knowledge, I had to come over
13 and do that. And so I was assigned to that just in
14 September of this year.

15 Q From the position, I guess -- well, when
16 did you stop being involved with NSRB, or are you
17 still involved with it?

18 A I am not involved in NSRB. I -- I know I
19 stopped being involved when I went to bulk power
20 trading in July of '99.

21 Q Okay. Prior...

22 A I don't remember. I may have stopped a
23 little bit before then, where just the business trans
24 were taking a lot more of my time. But definitely by
25 November of '99, I had no more -- no longer had a

1 position.

2 Q The -- the business transformation
3 position, was that still within nuclear, or is that...

4 A It was still within nuclear. The teams --
5 the teams were made up from people across all of TVA,
6 and people were temporarily assigned to those
7 positions out of all the various -- all the various
8 organizations, and you stayed tied back to your
9 original home organization.

10 Q Okay. Even when -- when you were in asset
11 optimization, that was still in nuclear?

12 A That was still -- my job was still in
13 nuclear. But the teams were -- the actual workings of
14 the teams were set up to work for a stakeholder group
15 which was essentially typically a group of half a
16 dozen or so vice presidents, one of whom was chairman
17 of the group. So that, on a day-to-day basis, you
18 sort of reported to the chairman of that stakeholder
19 group, but you -- administratively, you still belonged
20 to your home organization.

21 Q And when you got to bulk power, was that
22 outside of nuclear at that point?

23 A Yes, that was outside of nuclear. At that
24 time, was in what was called our customer service and
25 marketing group.

1 Q And your present position is outside of
2 nuclear?

3 A Yes, it's outside of nuclear. It's --
4 it's in this group called performance initiatives,
5 which is a small but separate organization that
6 reports directly to the chief operating officer.

7 Q Can you tell me what the NSRB was, how it
8 came about, and how you got involved with it.

9 A Well, having NSRB is required by tech
10 spec. And they had a -- and when TVA -- I can't speak
11 to the NSRB at all prior to -- what it was like prior
12 to '85, '86 time frame, because, as part of recovering
13 the TVA nuclear program, the NSRB had been
14 restructured in that time frame. Its restructuring
15 was such that there was a chairman, who was a TVA
16 employee, and the board, who had a small support
17 staff. There was a -- the board, itself, was then
18 made up -- about half of the board members were TVA
19 employees, and the other half -- there were about five
20 outside consultants who were also part of the board.
21 And that's fairly common in the industry to have a
22 certain number of outside people on the equivalent
23 boards.

24 The boards were set up for Sequoyah and
25 Browns Ferry, and there also was a board for Watts

1 Bar, even though, since it did not yet have an
2 operating license, there actually was no requirement
3 to have it at that time. But it -- it had been
4 started up in the mid-'80s and continued.

5 In -- in 1989, the board, as it was
6 working at that time -- various reviews done by TVA
7 management, by IMPO, and NRC, basically all said the
8 board was ineffective. And so I was -- decided to
9 replace the chairman at that time, to try to get the
10 safety review boards straightened out.

11 Q Who was your predecessor, do you recall?

12 A I don't remember his name anymore.

13 Q Now, you talked -- and we'll get into
14 more -- more details in a minute, but -- because I
15 didn't appreciate this. But you -- there was a
16 separate NSRB for Sequoyah and for Browns Ferry?
17 There were two separate boards?

18 A There were two separate boards. But there
19 were common members. But they were not 100% the same.

20 Q Okay. And what were you the chairman of?

21 A I was the chairman of all of the NSRBs.
22 I was the chairman of the Browns Ferry and the Watts
23 Bar one and the Sequoyah one.

24 Q Okay.

25 A And when I took over the boards -- in

1 fact, the outside members were pretty much different
2 for all three boards. In time, I moved to using much
3 more common people across -- across all the boards.

4 But we still had some differences. Like
5 with Browns Ferry being a BWR, you would like someone
6 in -- with a BWR background on the board, where you
7 wouldn't necessarily want that on a Sequoyah or a
8 Watts Bar board. There were some differences in the
9 board because of technical differences in the plants,
10 but we -- we eventually moved to -- while they were
11 officially three separate boards and -- the boards
12 eventually evolved to being very similar in
13 membership.

14 Q Okay. I sort of had the impression it
15 only covers this super board with subcommittees or
16 something, but they're...

17 A No. Now, within each board we had a
18 subcommittee structure which we set up. We refined it
19 around over the years, but there -- we eventually
20 ended up to being like an operations subcommittee, a
21 maintenance subcommittee, a rad chem subcommittee, an
22 engineering, and had one that worked with QA type
23 matters. It was probably a fairly good model, because
24 some other utilities changed to pick up our model as
25 a way of doing it.

1 Q What -- what was the basic function of the
2 NSRB?

3 A From a regulatory standpoint, it's defined
4 in the tech specs. But -- but our -- our job was to
5 provide a safety oversight, to identify what we may
6 consider to be safety related problems or, as I tried
7 to look at it -- we tried to look at it, precursors to
8 safety related policy, bring up something before it
9 ever grew to that type of situation.

10 And we did have another function which was
11 just driven by -- it was required in the tech specs,
12 is that when -- when TVA submitted recommended tech
13 spec changes, there was a requirement that they be
14 approved by the safety review board before they were
15 submitted to NRC. That was -- that was one other role
16 of it.

17 And we -- well, we actual -- we met more
18 frequently than required by regulation. We -- in
19 most -- most of the time, met quarterly at each plant.
20 Normally, for a couple of days. We occasionally did
21 special reviews, but they were not -- they were not
22 very common. A special review might be -- two or
23 three members might come separately -- separate from
24 a regular meeting and spend a few days at the site
25 looking at some specific problem.

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1 Q I guess, how did items get on your agenda?
2 You go quarterly to Sequoyah and you have a meeting.
3 What's on -- what's on the agenda? How does it get
4 there?

5 A The agenda was developed from several
6 ways. One, if you -- if you go to the tech spec,
7 there are a list of documents we're required to
8 review, which -- which include a lot of things like QA
9 audits. I also got other information; for example,
10 IMPO reports. We'd look at those.

11 I would also get information about
12 industry problems. I would also get input from
13 specific board members. One advantage of the outside
14 members is, most of our outside members also served on
15 other safety review boards, so they would, say, send
16 information looking -- based on what they were perhaps
17 seeing somewhere else in the industry.

18 The way we developed the agenda was, then,
19 each subcommittee developed a agenda (sic) which the
20 subcommittee chairman prepared with the help of the
21 NSRB support staff through from looking at documents.
22 Documents we -- when we'd send documents out to people
23 for review, they might send us feedback to say, "I'd
24 like to have a follow-up with this on the agenda."
25 We'd then create the subcommittee agendas.

1 The subcommittee agendas also included
2 follow-up on specific action items we may have
3 assigned at a prior meeting. The -- then we had a set
4 of subcommittee agendas based upon when the -- when
5 the full board met the second day after -- the
6 subcommittees work for a day.

7 While there were always subcommittee
8 reports, sometimes something a subcommittee looked at
9 ended up as a good agenda item for the whole board.
10 There may be other agenda things; things I had seen or
11 someone else suggested that we put on the board.
12 Occasionally there would be a request for an agenda
13 item that might come from the chief nuclear officer or
14 one of the other vice presidents, or the site vice
15 president might want something on the agenda.

16 But when we'd, like -- when we'd make a
17 draft agenda, we would, like, send it to the site vice
18 president, see if there was anything else he wanted
19 added to the agenda. It was -- it was input from a
20 lot of different sources that went into what would be
21 on the agenda of any specific meeting.

22 Q Okay. Talked about assigned action items.
23 I guess, in terms of -- what was the authority of the
24 NSRB?

25 A The only thing we could say we probably

1 had specific authority would be to not approve a tech
2 spec change. Other than that, we really were -- NSRBs
3 are really set up as an advisor to the chief nuclear
4 officer. And so whatever authority we had sort of
5 came from that -- you know, that role. However, I
6 felt that the way we ran it, if we were to, say, like
7 add -- come up with an action item, if we're doing our
8 job and it had an adequate enough basis to it, that
9 people would go work on it. That it was something
10 that it was clear to the site management it was
11 something they needed to work on. I never ran into a
12 position where I felt I had to go to the chief nuclear
13 officer and ask him to direct someone to do something.

14 One of the things that led to the decision
15 that the prior board, before I took over, was
16 ineffective, is the prior chairman was getting to
17 where he felt he needed to come and get the chief
18 nuclear officer to direct people to do things he
19 wanted them to do.

20 Q Okay. Now, what happened at a typical
21 board meeting? You had an agenda and various action
22 items. I mean, were people required to come make
23 reports, or board members talking themselves about
24 something or...

25 A Oh, okay. Within the subcommittees, the

1 subcommittees would typically go out and sit down and
2 interview specific people or perhaps review
3 specific -- they never sat down in a room and just
4 reviewed documents. They might sit down with the
5 person who was the owner of it and -- and go over
6 items like that.

7 When we held the overall meeting, after a
8 pretty much standard report from either the site vice
9 president or the plant manager on generally what was
10 going on, we would -- people had to come and give us
11 specific reports. If there was an action item that
12 said, you know, we're going to take corrective action
13 related to "X," if that was on the main board agenda,
14 someone from the site would come and would give a
15 presentation as to what they were doing about it. The
16 board would then decide, essentially vote on whether
17 or not we felt the action item was closed, or whether
18 we wanted some more information back again.

19 If the individual action item answer was
20 reviewed by a subcommittee, that subcommittee, as part
21 of their report, would report what they found and
22 recommend to the rest of the board whether they
23 thought the item ought to be closed or continued.

24 Q And basically, the outcome of board
25 meetings were either open or closed action items?

1 A We had open and closed action items. We
2 also -- we did issue an agenda which -- I mean, a set
3 of minutes which, in some cases, while not resulting
4 in an action item, may have provided our assessment of
5 what was going on. They were -- well, they were
6 written with a short executive summary which was even
7 sent on to the board of directors, and was somewhat
8 longer than a set of minutes.

9 And frequently in that executive summary
10 we would, when appropriate, put in an assessment
11 that -- say if a given plant had been having problems
12 in an area, were they making progress on that or not,
13 you know, what -- what were we seeing with the trends.

14 Q All right.

15 A If I may add one other thing relative to
16 that.

17 Q Sure.

18 A There were many things at sites one did
19 that we never made a formal action on. If something
20 was considered relatively minor, we might, in part of
21 the thing, just suggest to the site: Take a look at
22 that. We didn't put it as a formal thing where they
23 owed us the answer back. We would tend to have one of
24 our subcommittees check up on it later, but it didn't
25 necessarily -- it didn't necessarily become -- it was

1 not one of the listed action items.

2 Q While the -- or even before, for that
3 matter...

4 I understood in your professional
5 relationship with -- well, Mr. Corey, anytime -- did
6 you know him? When did you know him?

7 A Well, I met Mr. Corey when he was the rad
8 chem manager at Browns Ferry. And, I mean, I would --
9 I would deal with him from time to time really on NSRB
10 business. I probably had some dealings with him when
11 they were doing the operational readiness reviews at
12 Browns Ferry.

13 Q How about Mr. Cox?

14 A It would be similar. He -- he came to TVA
15 later than Mr. Corey did. Probably had less -- again,
16 the relationships with him would have -- would have
17 just been whatever incidental relationships came up
18 relative to the NSRB or -- or operational readiness
19 reviews.

20 Q Okay. You never supervised either one of
21 those?

22 A No, I never supervised them.

23 Q Mr. Kent?

24 A The same thing with all three.

25 Q With all three. Mr. Fiser?

1 A Mr. Fiser---probably to a lesser extent
2 than the ones we just talked about---would be
3 incidental to NSRB or an operational readiness review.
4 I really do not recall very many even direct dealings
5 with him over the years.

6 In -- would be in early 1990 -- I think it
7 was early 1995, when we were doing the operational
8 readiness review for Watts Bar, we asked for some help
9 from corporate chemistry. Mr. Fiser was assigned to
10 help us. In doing so, though, he worked with the two
11 members of the team who were concentrating on
12 chemistry at the time. I may have talked with him
13 once when he was up there at that time.

14 And even when I became the acting
15 manager -- the acting general manager over operations
16 support, I don't recall talking with him more than
17 once or twice. I mean, my -- my management style was
18 to deal through the managers and supervisors, and not
19 very often with the direct, working level employees.

20 Q Would working level employees interact
21 with the NSRB?

22 A Yes, at the subcommittee level. It
23 would -- there were occasional full board areas where
24 the nature of a presentation might be such that it
25 is -- would most appropriately, say, have been given

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1 by some engineering specialist. But most of the time,
2 because the NSRB was made up of such senior people,
3 the sites would normally elect to send a manager to
4 give a presentation to them.

5 Q How about Sam Harvey?

6 A Sam Harvey, you know, there were some
7 incidental times, again, I guess, when I was in --
8 similarly in operations support, similar to Fiser. I
9 mean, I probably talked to him a few times. I -- I
10 know I had occasionally talked with him once before
11 when he -- he worked to support our steam generator
12 area.

13 And in -- along the years, somewhere in
14 the mid-'90s or so, I was TVA's representative on the
15 EPRI nuclear power counsel and was on a subcommittee
16 that dealt with steam generators, and I used to deal
17 with our steam generator manager from time to time.
18 And when he'd be working out at site, I would once in
19 a while bump into Harvey at a -- because he was out
20 there working in the same trailer with them or
21 something. But it was just incidental contact. He
22 never worked for me, you know, until the whole ops
23 support organization came under me.

24 Q Mr. Chandra? That's all I'm going to...

25 When did you...

1 A Part of it's pretty much similar to --
2 I -- very little. Because, you know, Harvey and
3 Chandra were corporate people. And what the idea
4 there is that NSRB never had -- really rarely
5 interfaced with corporate people. Fiser for a while
6 was the chemistry manager at Sequoyah, so there was
7 some more interface with him. But Chandra would be
8 similar to -- to Harvey. It would just be incidental.
9 And -- and likewise, you know, once I was a general
10 manager of operations board, I would occasionally talk
11 with them, but not very frequently.

12 Q And Mr. Jocher?

13 A Jocher, when he was the corporate
14 chemistry manager, he would from time to time come out
15 to NSRB meetings. And so there was a little bit of
16 interface with him on -- on NSRB when -- I had a
17 little bit more interface on Sequoyah, some of the
18 chemistry issues at Sequoyah that came up in 1991.

19 One problem, towards the end of the year,
20 was that corporate chemistry, under Mr. Jocher, and
21 site chemistry, under Mr. Fiser, were not in
22 agreement. I do recall having like a discussion with
23 Mr. Jocher as to, you know, the need for them to get
24 together and come to a resolution on a -- a couple
25 of -- well, actually, they were both regulatory

1 issues. And...

2 Q Do you recall what those issues were?

3 A One was the post-accident sampling system
4 and whether we were capable of taking samples within
5 the required time frame. The other was an issue of
6 potentially unmonitored release pass.

7 Q Unmonitored, you say?

8 A It'd be, say, like a situation where some
9 release -- say a water release passed out of the
10 turbine building somewhere that might be able to get
11 contaminated if you had a steam generator tube leak.
12 And if that was going to be discharged, would it go
13 through something that would monitor it for
14 radioactivity.

15 Q I ask -- I wasn't -- and I -- and it was
16 un...

17 A Oh, okay.

18 Q ...monitored?

19 A That's right.

20 And, but both of those are examples -- you
21 asked like how things got on NSRB agenda, where
22 outside people who were on the board brought those as
23 agenda items because they'd been problems at other
24 utilities.

25 Q Okay. You recall what the disagreement

1 between Jocher and Fiser on those items were?

2 A I think, on the release pass, was the site
3 said they had none, and Jocher said yes, they did.
4 And the -- I'm not sure I remember on the pass one.
5 It may have had to do with what the actual NRC
6 requirements were so as to what they had to do. But
7 I'm not positive on that.

8 But I had some more dealings with Jocher
9 later on after Jocher became the Sequoyah chemistry
10 manager. There was a time one of -- one of my
11 collateral duties, I was asked to go up and help
12 monitor some things at Sequoyah and how things were
13 going. And I had spent, like, some time over in his
14 chemistry lab, and I'd come talk to him about problems
15 I'd see in the chemistry lab after he was the -- the
16 manager at Sequoyah. That was a time I -- I don't
17 remember exactly what initiated it. I was just asked
18 to spend a couple of months out at Sequoyah looking
19 that things.

20 Q Okay. At that point, Jocher was in the
21 position that Fiser had been, though?

22 A That's correct.

23 Q While we're talking about Jocher, were you
24 ever aware, back in the '93, '94 time frame, about Mr.
25 Jocher's Department of Labor complaint?

1 A It seems to me I heard about that much
2 later. And I believe I heard about it because,
3 relative to the case, there was need for some
4 information from the NSRB meetings and things that I
5 was asked to supply.

6 Q How about a Mr. McArthur? When'd you
7 first meet him?

8 A It was probably -- I don't remember
9 exactly when he came to TVA. We'll say probably early
10 '90s. It could have been '89, it could have been --
11 somewhere around then. In the position he was in at
12 that time where he was over rad con and chemistry and
13 some other things, he was recommended to me as someone
14 to be on the NSRB, and he became one of the NSRB
15 members.

16 Matter of fact, I believe he was a member
17 on all three boards. And my -- my dealings with him
18 were almost entirely NSRB from that time really up
19 until I became the general manager of ops support.

20 Q Did you have any social interaction with
21 Mr. McArthur?

22 A None, whatsoever.

23 Q Or any of the other people I've mentioned?
24 None?

25 A (No audible response)

1 Q How about Mr. Rogers? That's Heyward.

2 MS. EUCHNER: Rick.

3 Q Heyward Rick, Rick Heyward.

4 A Rick had spent a lot of time at Sequoyah
5 and Watts Bar. And so again, like some of the other
6 site managers, I would have -- would have had, between
7 NSRB and these other reviews I did, some incidental
8 contact with him from time to time. When I became
9 the -- again, in October of '95, when I came over to
10 operations support, he was -- I believe it was the
11 technical support manager.

12 He was not a direct report to me. He
13 worked -- he worked for David Goetcheus, who was the
14 manager of maintenance and technical support at the
15 time. I -- I would say I had, you know, normal
16 management type dealings with him, because in
17 Goetcheus' job, which also included the steam
18 generators, like during an outage he would typically
19 go out to the sites and not be in corporate, and he --
20 my recollection is he most frequently left Rick Rogers
21 in charge. That'd be the acting manager over that
22 group. So I had some dealings with him in that
23 regard.

24 Now, subsequent to the reorganization, we
25 separated the steam generator group out, and Rick had

1 competed for and was selected in the job over the --
2 the newly reorganized maintenance and technical
3 support section. So at that point he became a direct
4 report.

5 Q Okay. Joe Bynum?

6 A Joe Bynum? When Joe was the VP or senior
7 VP of nuclear operations, from time to time I would
8 have dealings with him related to NSRB. Sometimes he
9 would come to our meetings. I don't specifically
10 remember his -- any conversations, but I may have from
11 time to time talked to him about a problem NSRB was
12 seeing at a -- at a site.

13 Q How about -- did you know Gordon Rich?

14 A Not really. I mean, I knew his name and
15 his face.

16 Q Phil Reynolds?

17 A Phil had various jobs in human resources
18 when I came. It relates -- he was someone I met
19 fairly early on, somewhere, I think, when I was --
20 initially came for some training and was out at
21 Sequoyah for a couple of months. I think my office
22 was somewhere near his, so I might have -- or I know
23 I occasionally talked to him out there. So I knew
24 him. I would occasionally have dealings with him, but
25 most of the time any dealings I had in HR were taken

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1 up with the individuals who more directly provided
2 support to me. And I don't remember all the different
3 jobs he had. And I would talk to him from time to
4 time.

5 Q How about Mr. Boyles?

6 A Well, Ed Boyles, I really had two
7 different relationships with him. One, while I was
8 the manager of Kingsley's staff, he worked for me. He
9 was -- he was a member of the staff. I don't remember
10 exactly how long he worked for me. Probably on the
11 order of a year.

12 Then, subsequently, he had gone to the
13 human resources organization, and he was over the
14 human resources support for the corporate
15 organizations. I think he gave most of the -- even
16 some of the jobs I had before 1995, I think -- I think
17 he may have been the main manager over the corporate
18 support to me then, and he was the -- and continued in
19 that role when we got into the -- like the
20 reorganizations in '96.

21 Q Okay. Ben Easley?

22 A When I -- I had no dealings with him until
23 I came to operations support. Nothing I remember.
24 And within operations support, he worked for Ed
25 Boyles. I really don't recall whether his job was

1 supporting all of operations support or a portion of
2 it, but he was involved in supporting operations
3 support. And from time to time, I would talk to him
4 about various human resources questions.

5 Q Did you have any interaction with Melissa
6 Westbrook?

7 A Very occasionally, because it seemed to
8 me, within Ed's organization, that perhaps if Ben
9 Easley was on leave or something like that, Melissa
10 Westbrook would -- but I think it may -- I believe she
11 may have been the one who is the Ben Easley equivalent
12 for the prior organization I had. But I'm not
13 positive of that. They...

14 Q Okay. Change subjects for a moment. In
15 your position and your dealings with TVA, if someone,
16 say, on the staff wrote to a congressman, and the
17 congressman sent a letter to TVA saying, "We got this
18 letter. What's going on? Please respond," what would
19 happen to the letter at TVA?

20 A I don't know.

21 Q Did you ever get any of those to respond
22 to?

23 A I don't recall directly responding to any
24 letter. Someone may -- someone may have -- somewhere
25 along the line I may have provided input to one or

1 something, but I just don't remember.

2 Q Show you a letter dated August 16th, 1993,
3 to the Honorable James Sasser from Fiser, Jocher, and
4 Dr. D. R. Matthews. First, these -- did you know Dr.
5 Matthews?

6 A I know the name that he was -- I can
7 relate the name to chemistry at Watts Bar. I probably
8 met him.

9 Q Ask you if you ever saw that letter?
10 Let's go off the record.

11 (Off the record.)

12 BY MR. DAMBLY:

13 Q So you need to repeat that on the record.

14 A Oh, okay. All right. This letter you
15 asked me about from August of '93 from those people to
16 Senator Sasser, I have never seen this letter.

17 Q Okay. And it does mention in it the NSRB
18 in a few places. But to your -- best of your
19 recollection, anybody ever come to you for any
20 information about any of this stuff in there?

21 A Well, I guess can take your break and let
22 me read it, then. I can't answer that question.

23 (Recess.)

24 BY MR. DAMBLY:

25 Q Back on the record.

1 Have you had a chance to review the letter
2 now, Mr. McGrath?

3 A Yes, I have.

4 Q Okay. Did anybody -- any of the issues in
5 there involving NSRB, anybody ever come to you for
6 information about?

7 A No, no one ever came to me for information
8 about these, that I -- that I recall. If I can make
9 a statement relative to what's in here, where Mr.
10 Jocher gives this list of things he identified to the
11 NSRB, I know in the -- the time frame of '91, '92,
12 that the subcommittee working on this did say that's
13 some of the deficiencies they were talking about had
14 been identified by nuclear assurance or by corporate
15 chemistry. So he may -- he may or may not. I would
16 not know whether he actually did it.

17 The statement he has in here about
18 identifying the problems in the past system is
19 factually incorrect. That was identified by Mr.
20 Peterson, who was the -- who brought up the question
21 of whether or not the technicians were able to do it.
22 Perhaps Jocher may have supplied some data in response
23 to that. But the issue was raised by the NSRB, not by
24 Mr. Jocher. I also do not recall...

25 Q Okay, in relation to that, before you go

1 on, how did NSRB identify that as an issue?

2 A That was one that one of the outside
3 members had brought, because he had seen it as an
4 issue at another utility. So he brought it in, and he
5 was asking for -- have you -- I don't remember exactly
6 how he raised the question. But he was raising the
7 question of how do you know that you can do this
8 within the time frame that's required by the NRC
9 requirements. And he...

10 Q Do you recall there ever being a
11 disagreement about whether there -- this is the three-
12 hour issue?

13 A Yes.

14 Q Do you recall there being any
15 disagreements about whether or not the three-hour
16 issue applied to TVA?

17 A That might have been the issue between
18 Jocher and the site.

19 MR. MARQUAND: The issue between them was
20 when the three hours started to run, not when the
21 three hours applied.

22 A I -- I don't remember the details, but I
23 think it did relate to the three hours. But that was
24 between Jocher and the site, not...

25 Q NSRB.

1 A And his last statement saying he
2 identified to NSRB a material false statement made to
3 NRC. In all the years I was in NSRB, I don't recall
4 anybody ever identifying to us that TVA made a
5 material false statement.

6 Q Okay. Now, the -- other than -- let me
7 just back up. Other than, I guess, when you were at
8 Watts Bar, during the time you've been at TVA, were
9 you always in Chattanooga?

10 A Yes. I've been -- I've been in
11 Chattanooga all the time, except, as I mentioned it
12 before, my -- my temporary assignments might send me
13 to one of the sites for a couple of months at a time.
14 But my -- other than the early job when I was assigned
15 to Watts Bar, my official station's been Chattanooga.

16 Q Okay. And you mentioned Tom Peterson.
17 Who was Tom Peterson, and what was your relationship?

18 A Tom Peterson was an outside consultant
19 working in the -- his expertise was chemistry and
20 radiological controls. I think he may have already
21 been on the boards when I took over, but I'm not
22 positive of that. But he -- but the relationship I
23 had, he was -- he was a contractor. He worked for us
24 on the NSRB, and I felt he did a very good job for us.

25 Q Did you know a Dan Keuter?

1 A Yes.

2 Q What was your relationship? When'd you
3 know him?

4 A I don't remember exactly when he came to
5 TVA. He came to TVA in a -- I think his title was
6 vice president. But he came in -- I believe he was
7 over the operations support. The -- I believe -- I
8 think he became an NSRB member. I'm trying to --
9 there were a lot of them over a lot of years. I'm not
10 positive of that, but I think he became an NSRB
11 member, so I would have dealt with him that way.

12 No we had the -- started the operational
13 readiness review for Watts Bar startup, we ended up
14 doing that in two phases. I believe we ended up not,
15 because the schedules slipped. And he was in charge
16 of the operational readiness review team, and I was a
17 member of the team on the first phase of it.

18 I think the -- by the time we did the
19 second phase, I think he had left TVA. So I ended up
20 being in charge of the team the second time. I'm
21 not -- I know I was in charge of the team. I don't
22 remember exactly why he was no longer on it.

23 Q What time frames are we talking about
24 there?

25 A Well, let's see. It'd be the mid-1990s,

1 but I -- I just don't remember the exact dates.

2 Q And I asked you earlier about Jocher's DOL
3 complaint. Do you recall---it's my understanding
4 there was a lot of newspaper articles about that at
5 the time---ever reading any of those?

6 A I probably did.

7 Q Let me ask you about, I guess, some NSRB
8 meetings. I think you previously identified November,
9 was it '91, meeting that involved something to do with
10 Fiser and I think a lot of other people, followed by
11 a January '92 meeting having to do with trending.
12 Tell me what you recall about those.

13 A Okay, first, there was no January '92
14 meeting. The -- what Fiser has called the January '92
15 meeting, I believe was the November 1991 meeting.

16 Q And you say there was no January '92
17 meeting?

18 A NSRB did not hold a meeting in January of
19 '92. There was a meeting in November; there was a
20 meeting -- I believe there was a meeting towards the
21 end of February '92. The one -- the one meeting which
22 back then that I recall sitting in for a while with
23 the rad con subcommittee was the November '91 meeting.

24 Q Okay. What do you remember about anything
25 to do with trending?

1 A Very little. I mean, trending was
2 mentioned by -- by the subcommittee in their minutes.
3 Mentioned trending as one of several issues that fell
4 under the category of issues that had been raised by
5 various people, including nuclear assurance and
6 corporate chemistry.

7 They -- I saw them raising trending as one
8 of a whole group of deficiencies that indicated that
9 the performance in chemistry at the site wasn't where
10 it should have been, and the concern there was that as
11 performance began to slip, that it eventually would be
12 seen by affecting the chemistry in the plant.
13 Trending was just one of many things.

14 Trending was not really, to my
15 recollection, raised as a specific issue. If you go
16 back, I think you have copies of the minutes. As I
17 mentioned to you earlier, there was no action item
18 assigned to trending. It was just an example, and as
19 probably you know, is an example of about half a dozen
20 various types of deficiencies that were occurring in
21 the chemistry department at that time.

22 Q You don't recall there being any big deal
23 about wanting 50-plus trends a day, 24 days a -- or
24 hours a day, seven days a week or...

25 A I don't remember there being a big deal

1 about it. Again, it was noted as a deficiency on
2 whether they were meeting the trending, whether they
3 were providing adequate trending at the time. The
4 main issues, when I sat in, were these two items I
5 mentioned to you previously of pass and the
6 unmonitored release pass.

7 And my main concern was that, even though
8 one of the two had been identified six months
9 previously and the other three months previously by
10 NSRB, that, 1) nothing had been fixed, and; 2)
11 corporate chemistry and site chemistry weren't even in
12 agreement over what -- what they should do. And that
13 we needed to get on and get those issues addressed.
14 That was the main -- that was what I remember being
15 the main topic of discussion when I sat in on the
16 subcommittee meeting.

17 Q You never told Mr. Fiser that he needed to
18 write a procedure requiring trends to be generated
19 seven days a week?

20 A No, I never told Mr. Fiser that he had to
21 do that.

22 Q Suggest that to him?

23 A No. I don't ever recall discussing
24 trending with Fiser. I'm not -- I'm not sure if that
25 was even mentioned when I was sitting in the room. I

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1 don't remember. My recollection is that -- is as
2 reflected in the minutes of the meeting, as being one
3 of a collection of various issues. I'm not sure
4 whether it was discussed -- I sat in on the
5 subcommittee meeting for a short period of time. I
6 don't recall if it even got mentioned while I was in
7 there.

8 Q Did you ever discuss it with Mr. Peterson
9 after that meeting?

10 A I don't recall discussing it with him.

11 Q Now, we talked earlier about Mr. Fiser and
12 Mr. Jocher switching positions at some point in '91
13 time space, I guess.

14 A Probably. I believe that switch occurred
15 sometime like the spring of '92, somewhere in that
16 time frame.

17 Q Did you ever make any comments or express
18 any displeasure or otherwise about Mr. Fiser?

19 A The only conversation I recall at all
20 having to do with that switch of people was, when I
21 was out at Sequoyah, it may have been for the May '92
22 NSRB meeting. The then site vice president, Jack
23 Wilson, telling me that when issues were being raised
24 with site chemistry, he didn't really believe he had
25 a problem until sometime subsequently he ran into

1 actual chemistry problems one weekend at the site, and
2 found that he had to come in and personally supervise
3 it, and found problems such as there were not
4 technicians assigned to watch who were qualified to do
5 the needed analysis; there were no supervisors on call
6 to support them if they had a problem.

7 And he said to me it wasn't till that
8 weekend, and he had to go dig into chemistry that
9 weekend, he realized that he had a lot of problems in
10 chemistry. And he told me that was why he decided
11 that he needed to change chemistry managers. That's
12 -- that's the only conversation I recall having with
13 anybody related to that particular change in position.

14 Q Did you ever discuss that change with Dan
15 Keuter?

16 A I don't recall discussing it with Dan
17 Keuter.

18 Q And I'll show you...

19 A What is the change -- the change -- I
20 didn't know about the change till after it occurred,
21 even. I had nothing to do with the decision to make
22 the change.

23 Q And I'll let you take a look at this. But
24 in Mr. Keuter's January 11, 1994 TVA OIG record of
25 interview, it says in there---and I've got it

1 highlighted; like I said, I'll let you take a look at
2 it---"In Keuter's opinion, Fiser was not a strong SQN
3 chemistry manager and did not pursue problems. As a
4 result, several individuals were against Fiser going
5 to corporate, because it was a higher position and
6 gave the appearance of rewarding Fiser. Keuter
7 specifically named Tom Peterson and Tom McGrath of the
8 Nuclear Safety Review Board (NSRB) as being opposed to
9 Fiser going to corporate."

10 A The two things that I can tell you
11 relative to this, as I just said before, the decision
12 to replace and move him to corporate was made and done
13 before I knew anything about it. I had nothing to do
14 with that, nor had any input to that.

15 Second, I do not recall ever having a
16 discussion with Keuter on it. And I -- that's all I
17 can tell you about that.

18 Q Okay. Thank you. And the sentence after
19 it, which I didn't read, says, "However, Keuter made
20 the final decision to give Fiser a chance as corporate
21 chemistry manager." Which is after, according to
22 this, the input from you.

23 A That is not consistent with my
24 recollection. My recollection is the decision was
25 made; the switch had been done; and as a -- as a

1 reason as to why I just related to you the discussion
2 with Jack Wilson, who told me why he did it. So I...

3 Q Did you have an opinion as to whether or
4 not Mr. Fiser should have gone to corporate?

5 A Do I have a -- you're asking me in 2001
6 what opinion I may have had about something in 1992?
7 I simply don't remember.

8 MR. MARQUAND: I'm not sure there's any
9 evidence that Tom McGrath knew of the switch in 1992,
10 or whether anybody asked him his opinion about it.

11 MR. DAMBLY: Well, I just read in a
12 statement Mr. Keuter made which would seem to be some
13 evidence that that conversation took place. You may
14 disagree with it.

15 BY MR. DAMBLY:

16 Q Did you have any bad relationship with --
17 with Mr. Keuter?

18 A Mr. Keuter's boss told me subsequently,
19 once, that -- and it -- I didn't see this affecting my
20 relationship with him, but that he was making an
21 attempt to become chairman of NSRB, and was unhappy
22 that he was unsuccessful in that attempt.

23 Q And that -- what was his position on the
24 NSRB at that time, or did he have one?

25 A He was a member.

1 Q A member.

2 A I said I -- I had no particular -- I had
3 no involvement in that. I heard about that after the
4 fact. But I'm not sure when that was.

5 Q Okay. Moving to your assuming the
6 position in '95 as, I guess, head of ops support; is
7 that the right title?

8 A Yes.

9 Q There was a reorg that took place in '96.
10 How'd that come about? What was your involvement?

11 A There were two things that affected the
12 reorganization. First, shortly after I became
13 involved in October, Mr. Kingsley told me that he had
14 requested a review of operations support, and was
15 concerned as to whether it was properly organized,
16 whether they were performing the proper functions, and
17 had asked Mr. Moody to do that.

18 The results of that had been reviewed with
19 Kingsley in September of '95, and he had a -- a number
20 of questions, issues he wanted to address at the time.
21 And he wanted me to go and start looking at what
22 should that organization look like for the long term.
23 And he asked me to do it because he felt, with the
24 condition of Mr. Moody's health at the time, that he
25 just wouldn't be able to handle that.

1 So I started looking at -- and there was
2 various input people had done, benchmarking in the
3 industry, information, calling at how we should have
4 operation support organized. And so I probably
5 started looking at that around, I guess, November of
6 '95.

7 Then in early 1996, we got the new budget
8 planning guidelines which came out. The budget
9 planning guidelines called for an overall reduction of
10 17% for corporate for the next fiscal year, which
11 would be 1997. But it also went out like five years,
12 and indicated the overall goal was to work towards a
13 overall 40% reduction in corporate.

14 Q Now, when you say 17 and 40, are we
15 talking dollars or are we talking dollars and...

16 A It's dollars.

17 Q ...slots or...

18 A Okay, it's dollars.

19 Q Dollars. Okay.

20 A Recognize that in most corporate
21 organizations the dollars are almost all salary and
22 benefits, and a few small items, travel and training
23 and things of that nature.

24 Q Right.

25 A You're probably familiar with that with

1 your own budget. So it -- it doesn't exactly equate
2 to heads, but that's where you've got to end up
3 looking to make any substantial reduction.

4 The other, which is important, and that
5 was an overall goal for corporate, and it intended --
6 it was applied at the large organization level. It
7 wasn't that every -- it wasn't that every single
8 component piece had to come down by a certain amount.
9 The overall goal was what was important.

10 I'll give you an example of something.
11 While I still had my hat in my position description of
12 being the NSRB chairman, that department was myself
13 and a secretary. It would be very hard to make a 17%
14 reduction in a two-person department.

15 Q I can appreciate that.

16 A So the number was intended to be looked
17 about at a high level. Consistent with what Kingsley
18 had asked me to do, though, was to look at what should
19 the whole organization look like. The approach they
20 decided to take was: What should this organization
21 look like? We need to get to that point.

22 A part of that was, we also need to meet
23 a 40% long-term goal. We have to meet the short term.
24 We need to be -- not that we had to do 40% in one
25 year, but we needed -- we needed to have -- look at

1 what should the organization look like, long-term.

2 And the first step we ought to be doing
3 should be a logical step to get there. Not just,
4 well, we'll -- we'll only trim "X" percent this year
5 because that's all we're required to trim, but set the
6 organization up like it ought to. And, in fact, as I
7 just told you, I had been asked to look at that before
8 the budget guidance ever came out.

9 In fact, in thinking back on it, I think
10 the organization would have come out the same
11 regardless of what the budget guidance had been,
12 because of the first request that had come to me, to
13 look at where the organization should be. So we went
14 on to ask the various managers. They were -- they
15 were given what -- what the guidelines were. And in
16 line with it, I provided them some guidelines, and
17 these were based a lot on comments Kingsley had given
18 me as to what the role of corporate should be.

19 We had a number of places in here where we
20 were overstaffed because we were doing what I'd label
21 as staff augmentation. We were, perhaps, doing in
22 corporate work for one of the sites that really was a
23 legitimate site task; and in fact, at the other two
24 sites, was being done by the site. And we needed to
25 trim out the -- doing things of that nature. That

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1 wasn't our function.

2 So we then proceeded, over the next few
3 months, to look at the various organizations, and we
4 made a lot of changes. The biggest change really came
5 in what was the maintenance and tech support area,
6 because that was an area where we -- there were a few
7 things there where we were doing things to the sites
8 that were staff augmentation type.

9 We separated out the steam generator
10 organization, and really separated it out because in
11 that time frame was where steam generators were
12 becoming a very big problem in the industry. And
13 particularly our -- our steam generators at one of the
14 Sequoyah units happened to have some problems. So it
15 wasn't -- it was both an industry issue which was
16 taking up a lot of our time, dealing with the overall
17 industry issues there.

18 And we also had steam generator issues in-
19 house, and we were about ready to start up Watts Bar,
20 which was going to put some more steam generators in
21 service. And the Watts Bar steam generator design, by
22 history, is about -- at that time, it was about the
23 poorest one in the industry for track record.

24 So we knew the scope of work in the steam
25 generator area would be expanded significantly, and

1 that it would require a fair amount of management
2 attention. And, in fact, the manager who was over the
3 bigger group at that time was spending almost all of
4 his time on steam generator issues already. So
5 that -- that was a driver in how we did the
6 organization.

7 And so the other thing was to look at what
8 we needed to do to support the sites, and we also
9 needed to have a -- and then the question of how many
10 managers we needed was kind of a fallout of -- okay,
11 if the organization needs to be this big, what is the
12 required management in it. In the maintenance and
13 technical support, once they took the steam
14 generator -- once we moved out the steam generators
15 and cut back the size of the remaining, it was an area
16 where there were like two managers. It was the
17 maintenance support manager and the technical support
18 manager.

19 Q Now, you say "moved out the steam
20 generators." Where did they go to?

21 A Well, they stayed under operations
22 support. They became a separate -- they became a
23 separate unit.

24 Q What was it called?

25 A Probably something like steam generator

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1 support.

2 Q Okay. I want to show you a document which
3 is entitled, "Enclosure 2." I'm not sure to what.
4 "TVA Nuclear Corporate 1996 Reorganization Impact on
5 Head Count." And it's got a "before" and "after."

6 A Yes. See, maintenance and tech support
7 went from 20 to 16, with a note of 1 there. The 1
8 down here says, "'After' head count includes five
9 positions for the newly formed steam generator support
10 organization." So maintenance and tech support went
11 from 20 to 11; steam generators, which had actually
12 only been like two people in the original 20, went
13 from two to five. That's -- that's where it is. It's
14 in that 16 right up there.

15 Q Okay. So, but ultimately it lost four
16 positions, but you're indicating that...

17 A But they were different...

18 Q Different.

19 A ...they were different positions. My
20 recollection is the number of actual occupied
21 positions with people in them, that went away for the
22 whole organization was about 12. And some of that was
23 because there were several new positions created which
24 were not ones that the people who bid in the others
25 could -- could move over into. And they were totally

1 different positions.

2 Q I guess actually it would be 13, if these
3 numbers are right.

4 A Oh, okay.

5 Q Fifty-eight (58) after and 71 before.
6 Very good.

7 A Well, after 5-1/2 years, 12 is close.

8 Q Not bad. Not bad.

9 A The way we approached it was generally
10 what we could do, make -- and tried to go through and
11 make some -- as in very -- I explained we did the
12 steam generator one, the separated out, and we looked
13 on what was then left in maintenance and technical
14 support, eliminating some of the positions they had as
15 not being necessary. I said, "Gee, now I don't
16 need -- there aren't enough people to warrant two
17 managers." So I created one manager.

18 Similarly, in rad con and chemistry, when
19 you looked at what the organization would be like,
20 there was no longer -- actually, the existing
21 structure was three managers: a rad chem manager plus
22 a rad con manager plus a chemistry manager.

23 And one other thing under them was ERMI,
24 the -- the laboratory group that's on there that -- I
25 think it's called there the eastern region something.

1 The -- and that organization was also reduced in size.
2 And on a similar basis, that we looked at their
3 workload, eliminated some supervisory positions,
4 because they had some vestige in them when they were
5 once much larger. They eliminated people but didn't
6 eliminate managers.

7 So, tried to look all the way across the
8 organization, and one case being training. There were
9 too many open items to make a significant one, so
10 training was clearly identified to get a much harder
11 look the next year. In fact, I told you in that
12 functional organization change that was looked at and
13 then implemented the following year, the corporate
14 training was wiped out in its entirety. It was
15 eliminated. It was completely -- we didn't even need
16 it.

17 Q Okay. Now, that was the question I was
18 going to ask in a minute. But since you brought it
19 up, it was my understanding that you decided to make
20 the -- the -- instead of the 17%, you were going to do
21 the -- go for the 2001 goal the first year.

22 A No, what I decided to do was -- the first
23 year was to make a logical step towards the 2001
24 which, by requirement put on me, had to be at least
25 17%. That logical step fell out of the reviews. I

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1 did not set a specific target, I -- I believe we --
2 the actual reduction in money was 20 to 23%, somewhere
3 in that range is where it actually came out for that
4 year.

5 And -- and some of the positions we looked
6 at in it were known that, because of various reasons,
7 they would be eliminated out another year or two.
8 Like in the -- well, in the rad chem, at the time we
9 did that, the position that -- the rad waste
10 environmental position that was in there, our thought
11 at that time is that that position would probably have
12 one away within about two years. There were some
13 ongoing projects. When they went away, we -- we did
14 not at that time anticipate a need to continue that
15 position.

16 It turned out we were wrong, because we
17 got into the issues of North Carolina not opening
18 their waste dump, and South Carolina wanting to close
19 theirs. Rad waste became a much bigger issue than we
20 had anticipated, so the job, like I say, actually
21 continued on.

22 Q It has me confused. In -- in both your
23 '94 -- '96, I'm sorry, statement to the IG, it says,
24 "McGrath thought it was hard on the TVA employees to
25 continually downsize and cut a certain percentage each

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1 year. Thought it was better to make one major cut to
2 reach their goal, and then wait would be over for the
3 employees. His goal was to reach the level projected
4 for 2001 during the restructure and reorganization
5 process of '96."

6 And there's a similar comment in the
7 statement you gave to DOL, and I believe the one you
8 gave to OI, that you wanted to reach the 2001 cuts in
9 '96.

10 A Well, like I say, if we could have
11 logically done that, I would have done it. I wanted
12 to take the logical first step to go get us there.
13 There were items, like I mentioned to you, as I got --
14 as they got into the review. For example, in the area
15 of training there were enough open questions that that
16 was not something that we could really resolve as to
17 what was the proper role of corporate chemistry, and
18 that we weren't going to get -- I mean, not
19 corporate -- corporate training. And that we could do
20 it.

21 There was a position, like I mentioned to
22 you, in the rad waste environmental whereas we looked
23 at and the feeling was it looks as though, with what's
24 going on right now, we're going to need to keep that
25 position for another couple of years. Then we won't

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1 need it.

2 Okay, so as you got into working the
3 details, found out that, no, at this time we're not
4 able to do that. I did not intend it as a, yes, we
5 must cut 40%. And as you see by the actual numbers,
6 we did not do that. If -- if the evaluation had
7 showed that we could have logically gone there, then
8 we would have. And as the evaluation of time -- as it
9 fell out in the steam generator area, we needed to add
10 people.

11 Q Do you recall McArthur and Grover -- and
12 I guess we haven't talked about Grover. Who's Sam
13 Grover? Or Ron Grover. I keep saying that. I don't
14 know why. Ron Grover?

15 A Well, you asked me earlier what position
16 he was in.

17 Q I did ask you that?

18 A Yes.

19 Q Okay. So did they come to you with a plan
20 to meet the 17% reduction?

21 A They -- one organization that they brought
22 to me, that kept all the people, which McArthur
23 indicated that he really didn't agree with, but felt
24 that he should show it to me, in order to -- I don't
25 know how they would have made the 17% on the money.

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1 They probably would have been cutting training and
2 travel to almost nothing to get there.

3 But my main concern with what they brought
4 is they were not doing what they'd asked. Remember,
5 now, we can go back to what Kingsley had asked to do,
6 was what should this organization look like. What do
7 you -- what organization do you need to do the
8 functions of this group?

9 The first thing they brought to me was not
10 an organization, but what do I need to do the
11 functions of the organization. It was -- here's --
12 here's a way -- here's an organization that we think
13 we can reduce our budget by 17%. Which was not what
14 I'd asked for. And it was not what Kingsley had asked
15 me to do.

16 Q And the question occurred to me just a
17 second ago when you were talking about part of the
18 problem with corporate was it was staff
19 supplementation. And jobs that supported only one
20 site should be at the site. Why was the chemistry BWR
21 position not put on the site? That one BWR in Browns
22 Ferry.

23 A You talking -- you're asking about the
24 subsequent organization?

25 Q Right.

1 A What I did not say before was that we were
2 doing something that's -- if it'd be supporting only
3 one site, it was areas where we were doing things
4 which you might think a position -- like one of the
5 things in maintenance was a certain report that had to
6 go to IMPO. Corporate was preparing it, I think, for
7 Sequoyah, but Browns Ferry and Watts Bar were doing it
8 themselves. We were questioning why. Everybody has
9 to submit this report. Why is corporate doing this
10 report for Sequoyah. There were -- there were items
11 like that, and that's what I meant to be one site.

12 When you get the -- to the reorganization
13 later, and the number of people, while we split the
14 role of BWR-PWR, there are a lot of similarities
15 between them. And that does supply you some
16 redundancy in your -- in your backup out of corporate,
17 because people do have to take leave, they're sick
18 sometime (sic). And for a position like chemistry,
19 which could involve responding to an emerging problem
20 at a site, you don't like to get so small that if
21 somebody's on vacation you've lost your ability to
22 help.

23 Q Okay. You also made a comment, and I
24 think it's in all three of your interviews, which has
25 always struck me as a little odd. That you wanted to

1 complete the downsizing within a year because this
2 would have less of an impact on employees, and
3 employees would appreciate this. And somehow, for the
4 ones that no longer had a job and health insurance and
5 whatever, I'm not sure why they wouldn't have rather
6 stuck around for a year or two for the slow death than
7 the immediate death, so...

8 A I had, over the years in nuclear, seen
9 examples of where people would fill positions, as they
10 came vacant, that they knew very well were going away
11 the next year.

12 And also, if we know where we're going, I
13 agree -- and you may not agree. It's a matter, I
14 guess, personal opinion (sic). Is that it is far
15 easier on people if you say, "This is where we're
16 going. We all know where we're going. And we can go
17 ahead and make some decisions and move on." As
18 opposed to a situation that says, "Okay, we'll cut 'X'
19 percent this year; next year, we'll get some other
20 goal. That means one or two of you are going next
21 year. Don't know which ones."

22 Now, I'm not sure, on my own, if I was
23 trying to plan for how do I -- you know, how do I do
24 things for my family and stuff, I'd rather know, and
25 go ahead and make my plans, than been sitting there

1 thinking about, 'Well, you know, am I going to have a
2 job two years from now? How do I plan for that?'
3 It's got to -- and that's -- that is my own personal
4 opinion.

5 Q But, I mean, is there -- if you publish
6 this is what it's going to look like in 2001, and
7 we're going to have "X" number of these, and "Y" of
8 these, and "Z" of those, and the interim goals are
9 reducing one of each of these for the next three
10 years. So, I mean, people that's not -- we're doing
11 17% next year. We'll figure out something different.
12 They know what the plan is. You think they would
13 rather lose all of those in the first year than at
14 least have an opportunity for two or three years maybe
15 looking for another job?

16 A Well, historically, we have said that in
17 a given year -- the plan wasn't real specific on what
18 the middle years would be at that particular time;
19 okay? So, you're still open to many uncertainties.

20 For example, if we get into eliminating
21 jobs, and the various we have to live with, whether or
22 not next years would affect you may depend on whether
23 or not Ed continues -- decide to continue to work
24 here, because maybe he has veterans preference that
25 makes him more here in the same job; and if he's still

1 here, you go. But if elected to move somewhere else,
2 maybe you don't go, because the person who was -- has
3 the job now is junior to you. So I -- so I don't see
4 how that gives people any particular comfort as you
5 move on.

6 But, I mean, we're talking about, hey, you
7 may not agree with my opinion. I was just telling
8 people, in looking at the basis of why I wanted to go
9 and do that, that was a factor in my decision. But it
10 was also -- it was not the driving factor. The main
11 driving factor was that Kingsley had asked me to move
12 this organization to where it needed to be long-term.

13 Q Was there a subsequent reorganization
14 after this -- the one that we were just looking at the
15 numbers for?

16 A There was an organization, I believe -- I
17 believe it was about late 1997. And...

18 Q Were you no longer there at that time
19 or...

20 A That -- well, that was the -- that was the
21 reorganization that eliminated the position of the
22 general manager of ops support. But, I mean, I --
23 that was the -- that reorganization was done where a
24 team was put together. It was cross -- as a -- and I
25 mentioned this to you earlier, okay, it was cross-

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1 functional, included corporate people, site people.
2 It included some managers. It include employees, like
3 engineers. And it worked from go out to the
4 customers, find their needs.

5 Based on that, determine what functions we
6 need to do in corporate. Bounce that against
7 functions corporate is doing now, and then recommend
8 an organization that has corporate doing functions
9 that align with customers' needs.

10 That particular reorganization left the
11 rad con-chemistry area exactly the same way it came
12 out of the 1996 revision. Which really says to me
13 that revision we did, that reorganization we did there
14 was very well aligned with the needs of the customers.

15 Q And when there was the subsequent in the
16 '97 (sic) that eliminated the management job that you
17 were in, did you get a RIF notice, or were you
18 transferred out of that job before then?

19 A Well, you -- you asked me that previously,
20 and I told you...

21 Q Oh, I did?

22 A Yes, you did.

23 Q I'm getting senile.

24 You didn't get -- you were transferred
25 before that occurred?

1 A When the reorganization was going to
2 happen, I was assigned to the special project to work
3 on my tritium project, as I told you earlier.

4 Q Let's go off the record.

5 (Off the record.)

6 BY MR. DAMBLY:

7 Q Back on the record.

8 The chart I showed you before with the
9 head count before and after has chemistry
10 environmental head count before, five; and head count
11 after, three. Do you know who the five were before?

12 A The five by name? It was -- the five were
13 probably Grover -- the three chemistry and
14 environmental people, they were Harvey, Fiser, and
15 Chandra. I think there was one environmental...

16 Q Diedre Nida?

17 A ...that -- that may have been less. I
18 think there was one just environmental job or it
19 was -- I'm not sure what the title of that position
20 was.

21 Q Okay. And unfortunate (sic), I had an org
22 chart, and I thought I had another one, but we bound
23 the one in yesterday that showed, I think, Grover, and
24 had a vacant position; three PG-8 chemistry and
25 environmental, Harvey, Chandra, and Fiser; and then

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1 Diedre Nida as a PG-7, I think. And then it shows
2 three afterwards.

3 You didn't count that vacant position as
4 one of the five? Because it would have had five under
5 Grover.

6 A That's -- I believe that is a list of
7 actual head count before and after.

8 Q Okay.

9 A Not...

10 Q Not position count?

11 A ...not positions. I think that's how that
12 chart -- I didn't make the chart. I can't tell you
13 for sure, because I don't know how they counted.
14 Because that organization being just chemistry didn't
15 exist afterwards. So I'm not -- they might have put
16 the rad chem manager in that piece, or they may have
17 put the rad waste environmental.

18 How many people are listed in that for rad
19 con?

20 Q Afterwards?

21 A Afterwards.

22 Q Well, under the chemistry and
23 environmental afterward, it has three.

24 A And how many are listed under rad con?

25 Q Rad con started out with five and ended up

1 with five.

2 A I can't tell you. Those numbers don't
3 quite seem to...

4 Q Okay.

5 A I just don't know the answer to that. I'd
6 have to go back and look at the org charts to answer
7 that.

8 Q I was wondering if the -- the three
9 afterward included Grover.

10 A I don't know.

11 MR. MARQUAND: He was on their budget
12 afterwards.

13 Q His position was supposed to be
14 eliminated.

15 A Yes, but I did not make up that table. I
16 can't...

17 Q Okay.

18 A ...I don't know the answer as to whether
19 that includes Grover or not.

20 Q Okay. Getting to the reorg, itself, and
21 the -- and the combination of the rad con and
22 chemistry and environmental, two management positions
23 into one, the Grover and McArthur positions, are you
24 aware that those were eliminated, and it was designed
25 to be a rad chem manager after that; right?

1 A The rad chem manager position already
2 existed. The management structure at that time was a
3 rad chem manager, and the rad con and chemistry
4 environmental manager both reported to that position.

5 Q And you were eliminating the...

6 A You recall earlier that we talked about
7 that.

8 Q Right.

9 A And that was the position Mr. Sorrell had
10 been in on an acting basis, who was retiring.

11 Q Right. And you eliminated -- you were
12 going to eliminate the -- the Grover and McArthur
13 positions?

14 A That's correct.

15 Q Okay. Tell me how McArthur got to the
16 Sorrell position without competition.

17 A McArthur came and asked me a question
18 relative -- question as to why he had to compete
19 with -- I don't remember exactly how he phrased the
20 question, but it was related to his having been in the
21 position before.

22 Q And what did you do?

23 A I asked HR. It seemed to me at the time
24 to be a reasonable question, because I was aware that
25 they had gone through a step of a reorganization that

1 eliminated that rad chem position, and then when Don
2 Moody took over as operational support, he recreated
3 it a short time after it had been eliminated. >From
4 one reorganization I had been involved in a few years
5 before, at least, I had stuck in my mind that a senior
6 HR manager had told me that if you eliminate a
7 position, eliminate the person out of it, and some
8 short time later recreate the position, that the --
9 the incumbent who had previously been in it has rights
10 to that position.

11 So when McArthur asked me that, I said,
12 "Sounds like a reasonable question. I'll ask HR." So
13 I asked Ed Boyles.

14 Q What did Ed Boyles tell you?

15 A Ed eventually came back to me, after they
16 had looked at it, and I don't remember how long after.
17 It was maybe probably a couple of weeks later or
18 something. Came back and said that it had been
19 evaluated by HR, and in fact, that Wilson did have the
20 right to that position. And that he should be
21 assigned to it.

22 Q Did they tell you why he had a right to
23 that position?

24 A You know, what I'm recalling now, I know
25 at the enforcement conference Ed Boyles stated the

1 reason was that his -- his position description of
2 record was equivalent to the rad chem manager
3 position, and that's why they made that decision.

4 Q Do you recall, in '96 space, what he told
5 you?

6 A I don't recall the specific conversation.
7 I think he told me we could do it. I'm not sure I
8 pursued with him exactly why, because the answer that
9 he gave me, when he came back, was consistent with my
10 understanding from this previous reorganization. And
11 at that time I may have just -- I think I just assumed
12 the reason was the reason that I thought when I
13 referred it to him.

14 Q Okay.

15 A So I'm not sure I actually -- I know I
16 didn't really delve in with him to say, "Exactly why
17 did you decide this?" I think I assumed the reason
18 that he did it was the -- the reason I had referred it
19 to him.

20 Q Okay. You don't recall anybody in '96
21 telling you that -- anything about this position
22 description stuff?

23 A I just don't remember. I mean, they might
24 have, but I don't remember. They could have told me
25 that.

1 Q And also...

2 A I think what's important to remember here
3 is since I got back an answer that was consistent with
4 my understanding of the rules that I'd been previously
5 told, I don't recall delving into the exact details of
6 why they came to that conclusion.

7 Q Did Ben Easley ever talk to you about
8 that?

9 A No, he did not.

10 Q He never told you that position needed to
11 be posted?

12 A No, he did not.

13 Q Prior to the actual reorganization, do you
14 recall any -- an incident where there was some
15 interaction about sending Sam Harvey to Sequoyah,
16 transferring him or his position?

17 A Well, to discuss what exists, and so we
18 understand, you know, in corporate we had three
19 chemistry specialists who had identical position
20 descriptions. They were not aligned to any specific
21 site. There were three people in the same position
22 description.

23 I had heard---and I don't recall exactly
24 who told me, it may have been McArthur, it may have
25 been David Goetcheus---that there were some

1 discussions with Sequoyah about transferring Harvey
2 out there. That Grover was having discussions with
3 Sequoyah about it. So I called Grover to ask him what
4 was going on. He -- and he told me he was looking at
5 transferring Harvey out to Sequoyah. I believe, as
6 Mr. Kent stated in the enforcement conference, that
7 that -- that transfer was suggested by Grover.

8 What I told Grover at the time was that
9 there was not any way we could do that. I had three
10 people in the same position description. There is not
11 a way where I can pick one of those people and just
12 transfer them to another site -- to a site. If the
13 site had a position -- and we subsequently found out,
14 which was reported in the enforcement conference,
15 there was no vacant position at the site. The --
16 which actually created another obstacle I didn't know
17 at the time.

18 But what I told Grover was you can't --
19 there is no way that I know of that you can transfer
20 one person, where there are three people in the same
21 position description, and just take a corporate
22 position which is written to support all the sites,
23 and just transfer that to a site. And if Sequoyah had
24 a position, they just needed -- if they posted that
25 position, certainly any one of those individuals could

1 have applied on it.

2 See, the lack of a vacancy created another
3 problem. Without a vacancy, we would also get into --
4 transferring a head count and budget from corporate to
5 a site was far beyond my authority to do. That would
6 require going all the way up to senior management,
7 both in corporate and the site, to get agreement to do
8 that. But, I mean, we never pursued it that far.

9 And, but I told Grover we could not do
10 that. And after I talked with Grover, I called Ed
11 Boyles to tell him what went on, to confirm that I'd
12 given Grover the right answer. And that was the end
13 of it. What I'd say is that it was -- it was not at
14 all a -- a big deal. I think that's -- somebody
15 suggested making a transfer. You could not do it
16 under the rules. After that particular conversation,
17 I never heard about it again. No one at Sequoyah ever
18 talked to me about it.

19 Q Okay. And you understood the transfer to
20 be of Harvey, his position, and his function, or did
21 somebody say, "We're thinking -- we've got a..." Did
22 anybody at the time tell you, "We have a vacancy"?

23 A It was -- it was just a it was -- I
24 understood it as being his position -- I mean, the
25 transfer -- there was no way you could just transfer

1 that to the site. That if Sequoyah had a vacancy,
2 they needed to advertise it.

3 Q Okay. And it would be up to Sequoyah, not
4 up to you, to determine whether they -- whether they
5 had one, and whether they had to post it or not?

6 A That's correct.

7 Q I mean, you had no control over...

8 A I had no control.

9 Q ...Sequoyah personnel practices?

10 A That's correct. And it said, as -- as I
11 told you before, as we pointed out in the enforcement
12 conference, there was no vacancy in Sequoyah
13 chemistry.

14 Q Well, much like the position description
15 issue which was first brought up in the enforcement
16 conference, the lack of a vacancy was also first
17 brought up in the enforcement conference. Mr. Kent
18 has testified on a few occasions that he had one. But
19 you recall the discussions being about transfer of a
20 function and not...

21 A That's correct.

22 Q You never made any statements to anybody
23 you wanted to keep Harvey in headquarters, or in --
24 I'm sorry, in corporate?

25 A The only -- I made a statement that we

1 needed to keep the function in corporate.

2 Q At the time of the reorg in '96, there was
3 a policy requiring all position -- all vacancies, PG-1
4 through PG senior, to be posted, absent waivers. Do
5 you recall that?

6 A The exact rules on what did or did not
7 have to be posted, I relied on HR to give me the
8 advice on that.

9 Q Well, had you ever seen that memorandum
10 issued in '93?

11 A I don't recall seeing such a memorandum.

12 Q How many vacancies were you involved with
13 from '93 to '96?

14 A Well, what I remember now is the ones
15 related to that reorganization. And that one on the
16 reorganization, we provided all the new position
17 descriptions to HR, and just as they were doing for
18 all the other changes in corporate at the time, they
19 reviewed them all and they made the determination on
20 what did or did not need to be posted.

21 I do recall one position in my contract's
22 organization where I recall that we had to get a
23 waiver because it was a situation where we were going
24 to promote a minority female into a developmental
25 position. And by -- that -- I mean, HR told me, then,

1 that required an approval rather than posting the
2 position.

3 So I -- I knew there was one that required
4 an approval to do that. I just -- I just don't
5 remember -- you know, I don't remember seeing a
6 specific memo. And the -- mostly the normal practice
7 was to post positions, unless there was a reason not
8 to. I don't...

9 Q And when you were dealing with the issue
10 of Harvey going to the -- to the site, you said they'd
11 have to post that so everybody could compete?

12 A In answering that, I assumed if the site
13 had a position they could post it. The real -- the
14 decision on them -- if you look at this from a
15 corporate side, I have three people in the identical
16 position. I knew of no way that I could select one of
17 those people and move them somewhere else, whether it
18 was in corporate, at a site, or whatever, and just
19 move them.

20 I tell you one thing I was particularly
21 concerned about. Knowing that we were going to reduce
22 the number there, regardless of which person, if you
23 somehow picked a person and pulled them out, you
24 would, in effect, be protecting that person and
25 telling the remaining two, "You have to compete. This

1 person's got a job. You two remaining people have to
2 compete for the new job."

3 As a matter of fact, with the new job
4 position, the decision to post those was made on what
5 the job description said. It had nothing to do with
6 the number of people. When you post positions like
7 that, anyone can apply on those jobs. In fact, I
8 believe on each of those positions there were about
9 half a dozen people who had applied on the jobs. And
10 there were people other than the three chemistry
11 specialists in corporate, within the company, who were
12 qualified to take that position.

13 So if you pick any one of the three,
14 doesn't matter which one it was, and move them
15 somewhere else, in my opinion you would be, in effect,
16 preselecting that person because you're saving that
17 person from having to compete, and forcing the other
18 two to compete. But I didn't...

19 Q But you wouldn't -- you wouldn't have been
20 the selecting official for...

21 A Would not have been involved at all.

22 Q Okay. And when you had two people that
23 were both PG-11s, McArthur and Grover, and you took
24 one and put him in the position rather than a
25 competition amongst the two, why is that different?

1 A Well, I believe, as was explained by HR,
2 I think we -- and we discussed this before, so I'll
3 keep it very short. McArthur's position description
4 of record was equivalent to that position. So by the
5 HR system, as I understood it, McArthur, on paper, was
6 already in that position. So that's...

7 Q That's as you understood it in 1999? You
8 didn't mention anything about position description of
9 record in your OI, your IG, or your DOL interviews.

10 A Okay. No. But as I told you a few
11 minutes ago, though, when they told me you do not have
12 to, it was totally consistent with my understanding,
13 from the prior time I had been involved in a similar
14 question with HR, and knowing the sequence of events
15 where McArthur's position had been eliminated and
16 essentially recreated just a few months later, that in
17 that set of circumstances the individual who was in it
18 would have rights back to the job.

19 When I got the answer from them, I assumed
20 that's why it was okay. Because I knew that from
21 something that had come up a few years before that.
22 And at that time, I just made that particular
23 assumption. And HR can tell you much better exactly
24 why and how they determine things are equivalent. But
25 it was a totally different case than the one about the

1 chemistry managers. This was not a question about do
2 you post or not post. It was a question of whether
3 the person was really effectively still in the job.

4 Q Well, in the case of Mr. Fiser, you were
5 aware beforehand, because Mr. Boyles, I guess, and
6 maybe Easley or Reynolds came to you and said,
7 "Fiser's saying he's entitled to that position. It
8 shouldn't be posted because it's the one he got in his
9 DOL settlement."

10 Do you recall those conversations?

11 A Mr. Boyles came to me, after Fiser had
12 talked with him, and said that Fiser was saying that
13 he will submit a DOL case if we post the new position
14 because it was inconsistent with his settlement. I
15 did not know what his settlement agreement was. After
16 that, Boyles and I agreed that we would -- we would --
17 and we held up posting until we had the situation
18 reviewed by the people in HR that deal with labor
19 relations, with the Department of Labor issues, who
20 deal with the settlements, and also with OGC, to
21 determine whether or not there was anything we were
22 doing here that was indeed in violation of that
23 settlement.

24 Q Do you recall them telling you that Fiser
25 said the position that's being posted is the one he

1 got as a result of the settlement of his '93
2 complaint?

3 A I don't remember.

4 Q In your 1996 interview with the TVA IG,
5 under selection panel for vacant positions, Page 4,
6 "Normally an HR officer from corporate will also serve
7 on the selection committee. Easley was assigned to
8 serve on a selection committee. However, when the
9 selection involved a chemistry manager..."

10 Am I on the wrong page? Oh, I'm sorry.
11 Above that. Still on the wrong page.

12 A Oh.

13 Q I'm sorry. I'm on Page 3. And knew I
14 just read it a second ago, and it disappeared.

15 "When the PDs were being written, he
16 learned from Ben Easley," and this is your statement.
17 Your the "he." "...HR office, that Sam Harvey had
18 expressed a concern the PDs were slanted in such a way
19 that they would favor Fiser. Just prior to posting of
20 the positions, two issues arose. First they learned
21 that Harvey was concerned that the PD was written to
22 favor Fiser's background and abilities; and second,
23 Fiser had talked with Boyles, HR officer, prior to the
24 posting of the position, and Fiser told Boyles that if
25 a position was posted, he would file a DOL complaint.

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1 Fiser told Boyles this position was his position as
2 part of a previous DOL settlement."

3 Do you recall Boyles telling you that...

4 A At -- at this point now, five years later,
5 I recall Boyles telling me that he told him it was
6 inconsistent -- you know, not in accordance with the
7 settlement. Exactly what words he said to me, I don't
8 remember right now.

9 Q But, I mean, at this point you'd just had
10 discussions about McArthur, and because he'd
11 previously held a position, he had rights to it if
12 they recreate it. Now you get word from Boyles that
13 Fiser's saying, "I previously held the position.
14 They're recreating it. I have rights to it." And you
15 didn't see any parallels or you didn't say, well...

16 A Well, what I did in both positions was
17 totally consistent on my part; okay? As I referred
18 the thing to -- I referred it to HR. In referring it
19 to HR here, as opposed to Boyles just handling it
20 himself, we agreed he would bring in those people who
21 were familiar with the DOL, and also bring in OGC, and
22 have them evaluate that and provide an evaluation.

23 There in -- in my -- relative to what I
24 told you before, a very big difference here had to do
25 with the timing. In my -- what I assumed was the

1 basis---and as we've discussed already and I told you
2 HR said wasn't the basis, just my assumption, I guess,
3 was wrong---is that I thought that recreation of the
4 position that McArthur was in had occurred very
5 shortly thereafter, within a few months.

6 And my understanding from the prior time
7 is the timing of it was the -- the prior issue from
8 several years before, the timing was the issue at the
9 time. And that's what I thought -- that's what I
10 assumed was the basis, then, for the McArthur one,
11 which actually turned out to be an incorrect
12 assumption.

13 This one here again, the issue came up,
14 and consistent with what I did with the McArthur's
15 question, is to try to refer that back to the experts
16 in the -- in the company within HR and OGC who were
17 familiar with this, and would then make a decision.

18 Q And who were those experts you referred it
19 to?

20 A One -- one was Brent. But, you know,
21 Ed -- Ed Boyles took care of it. I'm not exactly sure
22 who we -- he talked to people who were in the labor
23 relations portion of HR. I just don't remember,
24 this -- this many years later, the name of the
25 specific person he talked -- person or persons he

1 talked with.

2 Q Did you, after you assumed the manager of
3 ops support position in '95, have any discussions with
4 Ron Grover about your views of Fiser, his abilities,
5 his performance?

6 A No. I -- I recall only one discussion
7 with hmi. It had to do with a situation in which at
8 one time, I believe, when Grover was away for a couple
9 of days, Fiser had called to tell me about a problem,
10 and I had asked him to get back to me with some
11 further information. And I -- you know, it was
12 like -- it was like to get back to me tomorrow. You
13 know, I asked him to get back by some time. He didn't
14 do that. I recall talking to Grover about that,
15 and -- but I also recall Grover was telling me that he
16 was the one who made the decision not to let Fiser get
17 back to me because they thought they didn't have
18 enough information yet to answer my question. That
19 was the only recollection I had of any conversation
20 with Grover relative to Fiser's abilities.

21 Q Okay. Don't ever recall indicating to
22 Grover in any way that Fiser was a problem?

23 A No, not at all.

24 Q All right.

25 A I had -- I had no reason to believe that

1 Fiser was a problem. I really had very little
2 visibility of the exact work of those people. And, in
3 fact, I was -- I was aware that in his performance
4 rating at the end of the prior year, that Grover had
5 ranked him very highly.

6 Q And do you ever recall making any -- any
7 statements back in your NSRB days that they needed to
8 fire Gary Fiser?

9 A No, I do not recall making any such
10 statement.

11 Q Did you make any such statements? In the
12 course of your career...

13 A No. You know...

14 Q ...how many times have you said somebody
15 should be fired?

16 A The only times I've done that is prior to
17 when I was at TVA, when I fired them.

18 Q Okay. So if you had said it, you would
19 remember it?

20 A Yes, I'd remember it. I've fired two
21 people in my life. I remember it very much. And it's
22 not a decision that I take lightly.

23 Q And going back to the -- did Grover ever
24 talk to you about wanting to compete for that
25 position?

1 A He may have talked to me after we had
2 already made and announced the decision for McArthur.
3 But I -- I don't remember a specific conversation, but
4 he might have said -- he might have talked to me. But
5 afterwards; not prior to the action that had been
6 taken.

7 Q And as a manager in...

8 (Off the record conversation.)

9 BY MR. DAMBLY:

10 Q As a manager in TVA, do you have like
11 performance goals, objectives? Or did you?

12 A Yes.

13 Q Did you have EEO performance goals and
14 objectives?

15 A The ones that...

16 MR. MARQUAND: You mean individually or at
17 the corporate level?

18 MR. DAMBLY: Him as a manager. I mean, I
19 know in my -- I have an element and standard that
20 deals with...

21 BY THE WITNESS:

22 A At a -- at an organizational level, there
23 has normally been a goal on percentage. It had to do
24 with new hires and percentage of those being hired
25 with women and minorities. I -- those type ones are

1 normally assigned -- a portion of our performance is
2 how well our organization does. So that's an
3 organizational goal.

4 Q Thank you. But are there any
5 individual -- now, "goal" may be the wrong word. But,
6 you know, requirements where you were evaluated on
7 your sensitivity to EEO issues and things of that
8 nature?

9 A There's always part of our performance
10 appraisals that have to do with people skills. I
11 don't recall, in the current system, that there's one
12 specifically labeled that way, although it would
13 probably be considered within the scope of a lot of
14 the more general items.

15 Q You mentioned earlier you were aware of
16 this one waiver situation where a -- I guess either a
17 woman or a minority woman was -- they got a waiver so
18 they didn't have to post a job and she could be put in
19 it.

20 A That's correct.

21 Q Show you a document dated March 23rd,
22 1993, to those listed, announcement of vacancies in a
23 manager and specialist pay schedule, revised selection
24 waiver policy. Take a look at it, see if you recall
25 that.

1 (The witness reviews certain material.)

2 A Okay, now, you asked me do I recall seeing
3 this document?

4 Q Yes.

5 A No. I also notice I'm not on the
6 distribution of it, either.

7 Q Okay. Did anybody ever apprise you of the
8 policy that was to post all vacancies? And more
9 importantly...

10 A You just -- you just asked me this about
11 20 minutes ago.

12 Q More importantly, the waivers. What
13 constitutes the basis in here for a waiver? You just
14 read it. Same as the one that you're familiar with,
15 where the woman got the promotion?

16 A That particular document is what -- is --
17 I mean, that is talking about a waiver related to...

18 Q A vacancy.

19 A ...a vacancy. But you seem to be
20 referring back to McArthur's. And we need to
21 recognize here that there was no vacancy. That HR's
22 evaluation was that McArthur effectively was still in
23 that position. So a -- a policy relating to how you
24 handled filling a vacancy would not even be applicable
25 in that position. This -- this particular memo has no

1 relevance to that particular position.

2 Q Well, what you just said, you said HR told
3 you that McArthur was effectively in that position.
4 McArthur was assigned and permanently in the rad con
5 control manager PG-11 position at the time these
6 decisions were made. They didn't tell you he was in
7 the other job, they told you he had rights to it.

8 A Well, that's what I mean by being
9 effectively in it. His position of record says that's
10 where he was.

11 Q That there was a vacancy, and the way a
12 determination was made to fill it was HR told you you
13 could put McArthur in there without competition, based
14 on the prior position he...

15 A My understanding was not that I could put
16 McArthur in there without competition; it was that
17 McArthur had a right to the position. Essentially, it
18 was McArthur's position.

19 Q Well, in conducting the reorg, did you
20 look at it as a manager and say, "Okay, I have a black
21 manager and a white manager at the same grade. And
22 now we're going to have -- eliminate those two jobs
23 and have one manager at a higher grade. And what
24 should I be doing about this from the overall goals?
25 TVA, minority, whatever, fairness."

1 A Let me just ask you one question. What's
2 the relevance of that to this violation?

3 Q Well, I'd like a answer (sic) to the
4 question. Did you look at it?

5 A I pursued what I should do on it from
6 initially when we did the reorganization. In general,
7 HR told me we should advertise. Therefore, it would
8 have been advertised, and McArthur, Grover, any one of
9 the three site rad chem managers, anyone of them could
10 have applied on that job. And in which case we would
11 have gone ahead and let them apply, evaluate their
12 applications, and go through.

13 The first thing that came up relative to
14 that, as I said, was McArthur's question. Then I
15 referred McArthur's question to HR and got the answer
16 back. My understanding was that -- that I did not
17 have a choice at that point in time. My only
18 choice -- McArthur had the rights to the position, so
19 in effect, that took away the vacancy.

20 The next question you're asking me, at
21 that point, in my mind, isn't relevant, then, because
22 I no longer have a vacancy that I could be filling.
23 There were various opportunities for Grover. Just
24 like over in the maintenance area, when the second
25 manager didn't get the job, they applied on another

1 job with them in the organization and were selected
2 for that. Grover certainly had the ability to go and
3 do that.

4 And so I guess, explain it to you where I
5 saw it, we were heading down the line of it would
6 have -- it would have been advertised, until McArthur
7 raised the question. When I referred McArthur's
8 question to HR, my understanding, when I got the
9 answer back, is I didn't have a choice. McArthur
10 needed to go in within the HR rules.

11 Q Okay. Would it surprise you to know that
12 Mr. Boyles testified in deposition two weeks ago that
13 if a person's in a position, they take another
14 position because the one they were in was eliminated,
15 and subsequently it's recreated, they have no rights
16 to that position?

17 A I don't know what Mr. Boyles said.

18 Q Is that consistent with what he told you
19 in '96?

20 MR. MARQUAND: Objection. That's been
21 asked and answered. You asked him what he told him;
22 he told you what that is. Let's -- let's move on,
23 Counsel.

24 Q Is that consistent with what he told you
25 in 1996?

1 A Again, my understanding is that because of
2 his position of record being equivalent to the one, it
3 was McArthur's position. I'm sorry, one thing, that
4 this has been discussed so many times over the last
5 five years, can I tell you was that said to me in
6 Conversation A or Conversation B, I'm just going to
7 have to tell you I really don't remember exactly when
8 that was first told to me.

9 Q In your dealings with McArthur and Grover,
10 do you have any knowledge of whether -- McArthur had
11 previously supervised Mr. Fiser; is that correct?

12 A Yeah, I guess, based on documents that
13 I've read since then, yes, he did.

14 Q And Mr. Grover at that time supervised Mr.
15 Fiser in '96, '95, when you were the ops support
16 manager?

17 A Yes, Mr. Grover was Fiser's supervisor.

18 Q Did you have any conversations or
19 knowledge as to whether Mr. Grover thought more highly
20 of Mr. Fiser than he did of Mr. Harvey?

21 A Mr. Grover never had any conversation with
22 me about it. My recollection is that his performance
23 appraisal for the prior year was slightly better than
24 Harvey's.

25 Q Okay. Mr. McArthur ever talk to you about

1 his opinion of -- of Mr. Fiser?

2 A I don't recall any conversation with him
3 about it.

4 (Off the record conversation.)

5 BY MR. DAMBLY:

6 Q Selection review boards, have you served
7 on any in your time at TVA?

8 A Yes.

9 Q How many?

10 A I don't know.

11 Q Lots?

12 A Probably at least a dozen.

13 Q Have they all functioned essentially the
14 same?

15 A Within nuclear they have all functioned
16 very same (sic) for quite a number of years, anyway,
17 once we started getting procedures in place for how to
18 do it. Like when I moved over to bulk power trading,
19 they -- well, they initially did it slightly
20 differently, actually. Though the last couple I was
21 involved in there were essentially done the same way
22 nuclear does it.

23 Q Okay. And how are they done or how are
24 they supposed to be done in nuclear?

25 A The normal way to hold a board is that the

1 select -- the selecting officer will pick a board.
2 It's normally three people, although I don't think
3 that's a specific requirement. But it is normally
4 three people.

5 The board will also -- the selecting
6 manager, with the help of HR, will usually put
7 together a -- questions for the board to use.
8 Although, from what I -- the board members,
9 themselves, after reviewing it, do have the ability to
10 perhaps delete questions or add questions.

11 Normally, the selecting manager doesn't
12 ask any of the questions. The role of the selecting
13 manager is to -- normally to listen, perhaps is the
14 one who answers questions from the person being
15 interviewed, if they have questions relative to what's
16 involved in the job or like that.

17 The -- the board is typically set up such
18 that the same board member will ask the same question
19 of each person. It's set up so all the people can ask
20 the same questions. The board members are asked to
21 give scores on each of the questions. And the human
22 resources facilitator will normally compile the
23 answers.

24 Q Compile the answers or compile the scores?

25 A Compile -- sorry, compile the scores.

1 For cases where I've been involved in them
2 where we're doing one interview and that's it for the
3 whole day, they will sometime right at the end just go
4 ahead and collect the numbers, put them up on the
5 board so the selecting manager can see who comes out
6 first, second, third. For ones with multiple ones,
7 usually don't -- you know, you're doing multiple
8 positions and a lot of interviews in the day, they
9 usually just collect the data and compile it later.

10 Based upon that, that recommendation is
11 made to the selecting manager. The -- the --
12 normally, the board -- the screening ahead of time of
13 the applications and things, which is done by the
14 selecting manager and HR, as to who will get to be
15 interviewed is -- well, first off, all the people who
16 are being interviewed are -- they have to meet the
17 minimum qualifications. Those selected for the
18 interviews are usually the ones best qualified, so
19 they're pretty close on their qualifications.

20 That results in normally being select --
21 the selection is the person that is recommended by the
22 board. Selecting -- the selecting manager doesn't
23 have to select that, but I know that HR will want to
24 make sure you have -- they want to make sure you have
25 very good justification for not doing that, because

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1 that -- that process is really put together in nuclear
2 in such a way to eliminate the ability of a manager
3 just to sit down, personally do interviews with nobody
4 else there, and perhaps just select a friend for the
5 job. So that -- that's -- it was put in place to make
6 sure there was a fair assessment.

7 Q Okay. Would it be, in your experience,
8 okay for the selecting official, after interviews, to
9 say, "Okay, I see John Smith here came out second
10 place or third place, but when I look at his record
11 over 20 years, he's got all outstanding appraisals,
12 he's been, you know, engineer of the year and got
13 awards, and he's done everything else. Apparently he
14 had a bad day with the interviews. I'm going to look
15 at the record as a whole and make that selection."

16 Is that legitimate?

17 A Yes, you could do that.

18 Q Is...

19 A But let me say it'd be somewhat unusual,
20 in that particular case, that if one candidate, based
21 on their past record, was so much better than the
22 others that, even with a poor interview, you'd put him
23 there, you may not even held the interviews. One --
24 okay, one of the last ones that I did before I left
25 bulk power trading, one person was so far more

1 qualified than anybody else, it just would have been
2 a waste of everybody's effort to go through the
3 interviews. And so we did -- and HR gives a lot of
4 scrutiny to anyone that you want to not do interviews
5 on. But they agreed that that individual was so much
6 more qualified than anybody else, that you did not
7 even need to do the interviews. So the situation you
8 said would be very rare for it to come up, but within
9 the rules, I believe you could do that.

10 Q And who has the -- the final say on the
11 selection? Does HR have to approve it, the selecting
12 official, is there joint power?

13 A I'm not sure what the procedure says, but
14 effectively it's joint. The selecting official makes
15 it, but HR concurs with it, that that is a reasonable
16 selection and that the selection has been done in
17 accordance with all the rules.

18 Q Now, when you're on a selection review
19 board, is there usually any discussion beforehand
20 amongst the board members as to, you know, "We've got
21 these ten questions. On Question 1, a good answer
22 would be this," or this would get a seven score or an
23 eight score or a five score? Or is everybody just
24 kind of on their own to figure out where, between one
25 and ten, to give any given answer? And like the old

1 American Bandstand, I give it 75 because you can't
2 dance to it or...

3 A I have never -- I haven't seen much
4 discussion with that, but typically the board members
5 are familiar enough with the area that they know what
6 one is. May have recalled one, when I was in bulk
7 power trading, where the nature of one question was
8 such that one of the members wasn't sure of one area.
9 This is a lot of different things. And -- and asked
10 the question about what's this question getting after.
11 But, typically, I've not seen that happen.

12 Q Are board members supposed to disregard
13 all personal knowledge before the interviews?

14 A Yes.

15 Q So the purpose is to score just that
16 answer?

17 A Yes.

18 Q And if you're on a board and the answer
19 involves somebody saying they were responsible --
20 well, the letter we looked at concerning Mr. Jocher,
21 where you said he had nothing to do with this, and you
22 were on the board, and Mr. Jocher said he had done all
23 this stuff. Can you take that into account?

24 A I would think you could take into account
25 if you know a person gave a factually incorrect

1 statement, that perhaps you would know that
2 essentially they were lying to the rest of the board.
3 I would feel that it would be appropriate for you to
4 inform the other board members of that. But that's a
5 factual thing; okay?

6 Q Well, if you ask a technical question and
7 you know the person knew the answer because they'd
8 worked on that -- on a project on that before and had
9 done a good job, and they screwed it up somehow, could
10 you take that into account?

11 A I'm not sure I understand the question.

12 Q Well, if it's a technical question of some
13 kind, "Tell me about denting on steam generators," and
14 the person responding to that had worked for you at
15 your plant on that issue, done an outstanding job,
16 seemed to be just on the ball, and they gave you a
17 crappy answer at the board, could you go, 'I know he
18 knows better than that,' and take that into account?
19 Or do you go, 'Oh, sorry, crappy day. You get a one
20 or a four or whatever'?

21 A You're supposed to give him an evaluation
22 based on the answer.

23 Q Okay. What involvement did you have in
24 selecting the boards -- the board, I guess, for a lot
25 of positions, but the one involved in the -- in the

1 chemistry positions?

2 A Initially I was aware of what the board
3 would be. McArthur had told me that he was going to
4 use the three site rad chem managers because we were
5 interviewing I believe it's for five different
6 positions, which kind of covered the whole gamut of
7 those individuals' responsibilities.

8 The involvement that I had at the -- came
9 at a time when McArthur came and told me -- this is
10 only a few days before the interviews, and said that
11 Cox had removed himself because of a schedule conflict
12 and would not be able to participate in the -- in the
13 boards.

14 Q Okay.

15 A Now, I got involved then because we had to
16 decide what to do. HR's recommendation was we try to
17 return to three board members. I think the concern
18 was two you could end up with a tie. So, but anyway,
19 but -- but normally we use three. So their
20 recommendation was that we get a replacement.

21 We were -- we talked about potential
22 candidates. Again, someone consistent with the board
23 who would be able to interview both rad con and
24 chemistry related positions. We asked if we could get
25 the Watts Bar assistant plant manager, and it turned

1 out he was not available. And so we elected to pick
2 someone from corporate who had a broad technical
3 background, which ended up being Rick Rogers.

4 Q And are you familiar with any statements
5 that Mr. Cox made about Mr. Fiser relative to that
6 selection?

7 A When McArthur told me that -- that Cox had
8 taken himself off the board, he told me that Cox had
9 stated that he had already made up his mind, and for
10 the chemistry position and one other---I believe it
11 was the rad waste environmental---in both of those he
12 had already decided who he felt should get the job.

13 That was not something I pursued, because
14 he had already taken himself off the board. If he had
15 not taken himself off the board, we would have had to
16 pursue that to see what did he really say, what did he
17 mean, and could -- and could he serve impartially on
18 the board. But we didn't have to do that because he
19 had already removed himself from the board.

20 Q When did you understand him to have made
21 that comment? Mr. Cox.

22 A The day that he said he could not -- I
23 know it was the day he told McArthur that he could not
24 serve on the board, because it was part of the same
25 conversation.

1 Q And your recollection was that McArthur
2 told you that Cox said he had made up his mind, he
3 knew who should be selected?

4 A That's what I recall. However, let me --
5 that had no bearing whatsoever on Cox not being on the
6 board, because he had already removed himself from the
7 board.

8 Q But do you recall any attempts to -- or
9 thoughts about rescheduling when Cox couldn't make it?

10 A Well, the first thought we had, and we
11 were only, I believe, two or three days away, is since
12 we're interviewing for five positions with multiple
13 applicants on every position, plus between the board
14 and the HR support for the board, that we'd be
15 talking, on a few days notice, of attempting to
16 reschedule probably at least 15 people.

17 And we did need, since this was getting
18 towards the end of July and -- we did need to get on
19 with filling the positions to support the fiscal year
20 coming up. And it typically can take you as much as
21 two months to get someone, if you're -- if you select
22 someone who's already in another position, to get them
23 released from the position and over. From a
24 timeliness, we needed to get on.

25 We had, in this particular case, said we

1 had already delayed this whole thing because of the
2 questions on posting Fiser. So we were already
3 running behind schedule, so we didn't have time to
4 reschedule, it was not practical to reschedule.

5 The only other thought I had is that, in
6 addition to the practicality of rescheduling to meet
7 Cox's -- we then have this new issue which Cox raised,
8 which we'd also have to get resolved. So it added
9 somewhat to reinforcing the impracticality of being
10 able to do a timely rescheduling.

11 Q Do you recall dealing with HR on this
12 panel, the issue, whatever, to make sure that no one
13 that was involved in Fiser's earlier DOL complaints
14 were involved in this selection process?

15 A What I had talked to HR about was making
16 sure that there was no one who was really intimately
17 involved in those were being involved. Recognize that
18 I never saw the case until the NRC sent me the
19 violation in September 1999 which falsely accused me
20 of being named in the -- in the case, at which time I
21 asked OGC if they would now let me see it.

22 I recall asking HR is there anyone there.
23 Now, HR got back is that there was -- that there
24 weren't any problems with the board. Having
25 subsequently read that violation several years ago, I

1 believe their judgment in that regard was correct.
2 Because when you read it, I mean, there is mention of
3 McArthur and Kent, but McArthur and Kent are both
4 mentioned in a line that is highly favorable to Fiser,
5 as I think McArthur is defined as an ally; Kent was
6 defined as someone who wanted to bring him back and
7 give him a job at Sequoyah. And there were no
8 allegations against either one of them.

9 So in reading it several years earlier, I
10 think HR made the right decision, in that there was no
11 one on the board who was intimately involved in the
12 prior DOL.

13 Q Were you aware that McArthur and Kent had
14 both been interviewed as part of that case?

15 A No, but I don't -- that -- my concern was
16 that someone who perhaps had been, you know,
17 accused -- I mean, I'd use that. But I don't consider
18 the fact that they just happened to be interviewed to
19 mean that they were intimately involved.

20 Q Are you aware that just prior to the
21 review board meeting Mr. Kent told Corey about Fiser's
22 DOL, mentioned his DOL complaint?

23 A Well, all I know about that is what I read
24 subsequently, and I believe that Mr. Kent has said
25 that he made a statement which was intended to make

1 sure people knew that they had to be fair regarding
2 that. In fact, I believe Kent said that Fiser was the
3 one who told him about his complaint. I believe
4 Harvey's statement says Fiser told him about the
5 complaint.

6 So, I mean, when I read it later, my
7 interpretation of that was that Kent was probably
8 aware that Fiser had told many people, and that it was
9 fairly common knowledge, and that he wanted to
10 emphasize to the other board members, "Now, we got to
11 make sure we don't take this into consideration."

12 But relative to it prior to the board
13 convening, making their selections and everything
14 else, I had not heard anything at all about that.

15 Q Had you ever heard that -- from Mr.
16 McArthur or anyone else, that Mr. Fiser was taping
17 conversations?

18 A McArthur mentioned that to me once, that
19 he had -- I forget what he said. He told me he had
20 been told that Fiser was taping some conversations.

21 Q Do you recall when that was?

22 A Not exactly, but it may actually have been
23 after we had -- after the selection board. But I'm --
24 I'm really -- I really am not sure as to when it was.

25 Q Let's go off the record.

1 (Off the record.)

2 BY MR. DAMBLY:

3 Q Earlier, when we talked about selection
4 review boards and you talked about the procedures
5 becoming formalized, are you aware of written
6 procedures that apply to selection review boards?

7 A Well, I'm out of nuclear right now, so I
8 don't know exactly what they have in nuclear.

9 Q Back when you were in nuclear, back in the
10 '96 time frame?

11 A I'm not sure whether it was -- whether it
12 was written in a formal procedure or not at the time.
13 I really just don't remember.

14 Q Okay. The only other questions, you -- as
15 I understand it, and I'm trying to remember where we
16 got this, but when you announced the reorg in '96, you
17 had an all-hands meeting, so to speak, and you gave
18 out overheads. You had overheads about what the -- at
19 that meeting, as I understand it, is when you
20 announced that Dr. McArthur was going to be this rad
21 con-chemistry guy?

22 A It probably -- I'm not sure if I didn't
23 tell somebody before that, but I -- I know I told the
24 whole staff. I may have told other people prior to
25 that, but I don't remember.

1 Q Did Grover know that before then?

2 A I don't remember.

3 Q I mean, you know, we talked, and you --
4 you indicated Grover came to you afterwards. Did he
5 have any reason to know beforehand that he should have
6 talked to you?

7 A I really don't remember. I might have
8 talked to him before that. I don't know.

9 Q Okay. And when he did talk to you, did
10 you say, "Let's go back to HR and check this out," or,
11 I mean, did that raise any concerns on your part?

12 A Since it'd already been through HR, I --
13 I do not remember any of the specifics of the
14 conversation that I had with him.

15 EXAMINATION

16 BY MS. EUCHNER:

17 Q Mr. McGrath, as a result of the
18 reorganization, Mr. Grover was left without a
19 position; correct?

20 A That's correct.

21 Q Do you know what happened to him after
22 that?

23 A He was put on an assignment where he was
24 loaned to IMPO.

25 Q Okay. And do you know how he got the

1 assignment to IMPO?

2 A I became aware of the fact that he was
3 interested in that. And I really can't remember how
4 I became aware of it. I -- I don't think he told me.
5 I think someone else may have told me. But I don't
6 remember exactly.

7 Initially, I had pursued with the -- the
8 group who handled our interface with IMPO, because I
9 knew they were always looking for people who were
10 interested in this, and told them about Grover's
11 interest, to which they were quite happy in hearing it
12 because we were in need of sending someone to IMPO.
13 The exact details of how that got worked out, I really
14 wasn't involved in the administrative part with IMPO.
15 It was all then handled by this other organization.
16 The specifics relative to -- relative to pay grade,
17 things like that, Grover ended up talking with Phil
18 Reynolds about that.

19 Now, somewhere along the line I know that
20 I -- I'm fairly certain I may have concurred with a
21 memo that said he was going, but it -- it was -- it
22 was not a document I prepared, as I recall. How --
23 what the arrangements were were all agreed to by then.
24 But since at the time we were doing it he was still in
25 my organization, I needed to sign off and agree with

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1 that.

2 Q Do you know whether he was sent to IMPO as
3 a result of threatening to file an EEO complaint?

4 A It seems to me that sometime later, and I
5 don't know how much later, I heard from someone that
6 as part of his discussions with Phil Reynolds, that he
7 threatened to do that. I really can't remember who
8 told me that. And it was sometime later. But the
9 initial idea of him going to IMPO got started because
10 someone told me he was interested in doing it.

11 Q I have nothing else.

12 MR. DAMBLY: Thank you very much. I don't
13 know if Mr. Marquand has any questions.

14 MR. MARQUAND: No, I do not.

15 (Whereupon, the deposition was concluded
16 at 12:10 p.m.)

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