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**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: Tennessee Valley Authority

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Docket Number: 50-390-CivP et al.

Location: Rockville, Maryland

Date: Wednesday, September 11, 2002

Work Order No.: NRC-521

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SECY-02

1 UNITED STATES OF AMERICA  
 2 NUCLEAR REGULATORY COMMISSION  
 3 ATOMIC SAFETY AND LICENSING BOARD  
 4

5 ) Docket Nos. 50-390-CivP  
 6 TENNESSEE VALLEY AUTHORITY ) 50-327-CivP 50-328-CivP  
 7 ) 50-259-CivP 50-260-Civ.P  
 8 (Watts Bar Nuclear Plant, ) 50-296-Civ.P  
 9 Unit 1, Sequoyah Nuclear )  
 10 Plant, Units 1&2, Browns ) ASLBP No. 01-791-01-CivP  
 11 Ferry Nuclear Plant, Units ) EA 99-234  
 12 1, 2, & 3 )  
 13 )

14 Nuclear Regulatory Commission  
 15 Two White Flint North  
 16 11545 Rockville Pike  
 17 Rockville, Maryland  
 18

19 Wednesday, September 11, 2002

20 The above-entitled matter came on for  
 21 hearing, pursuant to notice, at 9:00 a.m.

22 BEFORE:

23 CHARLES BECHHOEFER, Chairman

24 ANN MARSHALL YOUNG, Administrative Judge

25 RICHARD F. COLE, Administrative Judge

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 WASHINGTON, D.C. 20005-3701

1     APPEARANCES OF COUNSEL:2             On Behalf of the Nuclear Regulatory Commission:

3                     DENNIS C. DAMBLY, Attorney

4                     JENNIFER M. EUCHNER, Attorney

5                     Office of the General Counsel

6                     U.S. Nuclear Regulatory Commission

7                     Washington, D.C. 20555

8                             -and-

9                     NICHOLAS HILTON, Enforcement Specialist

10                    Office of Enforcement

11                    U.S. Nuclear Regulatory Commission

12                    Washington, D.C. 20555

13

14             On Behalf of the Tennessee Valley Authority:

15                    BRENT R. MARQUAND, Attorney

16                    JOHN E. SLATER, Attorney

17                    Tennessee Valley Authority

18                    400 West Summit Hill Drive

19                    Knoxville, Tennessee 37902-1499

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## I-N-D-E-X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Heyward R. Rogers	5162	5202	5253	
Tom McGrath	5261	5309	5351	5350
H. Keith Fogleman	5353			

## E-X-H-I-B-I-T-S

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>IDENT</u>	<u>REC'D</u>
<u>TVA</u>			
125	Supervisor's Handbook	5377	5379
142	H. Keith Fogleman's Resume	5356	5357
144	Heyward Rogers' Resume	5164	5164
<u>Staff</u>			
115	Rogers Deposition	5211	5238
147	Motion for Summary Decision	5335	5335
148	Order Denying Motion for Summary Judgment	5335	5335

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

(9:08 a.m.)

1  
2  
3 CHAIRMAN BECHHOEFER: Good morning, ladies  
4 and gentlemen.

5 MR. MARQUAND: Good morning.

6 CHAIRMAN BECHHOEFER: Today, as I'm sure  
7 you know, is September 11th, 2002, which is one year  
8 after the events of September 11 last year. Along  
9 with the Commission Chairman, who did this 15 minutes  
10 ago, I ask everybody here to observe a moment of  
11 silence to honor the victims of the attacks of last  
12 year.

13 (A few moments of silence in honor of the  
14 victims of the September 11, 2001 attacks on the  
15 United States.)

16 CHAIRMAN BECHHOEFER: Thank you.

17 This morning there is heightened security  
18 in this building, and all non-NRC employees have to be  
19 escorted everywhere they go in the building. So  
20 anyone, when they leave the courtroom, this is the TVA  
21 people at least, they will have to be escorted  
22 anywhere they go.

23 JUDGE YOUNG: Including to the cafeteria.

24 CHAIRMAN BECHHOEFER: Including even to  
25 the bathroom, not in the stalls, but --

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1 (Laughter.)

2 MS. EUCHNER: Thank goodness.

3 CHAIRMAN BECHHOEFER: Anyhow, there will  
4 be someone around to escort TVA people.

5 We have received from the court reporter  
6 a bunch of exhibits from Chattanooga that were  
7 entered, used in Chattanooga. We haven't examined  
8 what we got --

9 JUDGE YOUNG: Just today?

10 CHAIRMAN BECHHOEFER: Just five minutes  
11 ago. These include the CDs that we couldn't find the  
12 extra copies of and which the staff actually handed to  
13 the reporter.

14 These are not sorted, however, nor are  
15 they stamped. These are the ones that we were having  
16 the most problems with.

17 JUDGE YOUNG: Is there a date? Are they  
18 all from one day?

19 CHAIRMAN BECHHOEFER: Well, this lists a  
20 day.

21 JUDGE COLE: This is copies of 168 and 169  
22 of the Staff Exhibits.

23 CHAIRMAN BECHHOEFER: This lists May 2,  
24 but I don't know if they're all from May 2 or not.

25 Anyway, we inquired about these earlier,

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1 and the reporter didn't have any knowledge of any  
2 exhibits, but, lo and behold, they found some.

3 JUDGE YOUNG: But we have different court  
4 reporters.

5 CHAIRMAN BECHHOEFER: Right, right.

6 MR. DAMBLY: I'm sure those CDs made  
7 interesting drive-time in a car radio.

8 (Laughter.)

9 CHAIRMAN BECHHOEFER: Before we begin this  
10 morning, are there preliminary matters that any party  
11 wishes to raise?

12 MR. DAMBLY: None for the staff.

13 MR. MARQUAND: None for TVA.

14 CHAIRMAN BECHHOEFER: Okay. Mr. Marquand  
15 or Slater, as the case may be?

16 MR. SLATER: We call Rick Rogers.

17 MR. ROGERS: Good morning.

18 CHAIRMAN BECHHOEFER: Good morning.

19 WHEREUPON,

20 HEYWARD R. ROGERS

21 was called as a witness by Counsel for the Authority,  
22 and having been first duly sworn, was examined and  
23 testified as follows:

24 CHAIRMAN BECHHOEFER: Thank you.

25 DIRECT EXAMINATION

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1 BY MR. SLATER:

2 Q Mr. Rogers, could you state your full name  
3 for the record, please?

4 A My name is Heyward R. Rogers.

5 Q And where are you employed, Mr. Rogers?

6 A Employed at TVA.

7 Q Could you tell us when did you first  
8 become employed at TVA?

9 A In October of 1978.

10 Q What is your current position?

11 A I'm the Design Manager for Engineering at  
12 Sequoyah Nuclear Plant.

13 Q When did you become the Design Engineering  
14 Manager?

15 A In May of 2001.

16 Q Between 1978 and today, have you held any  
17 different positions?

18 A Yes, a number of positions.

19 Q What is your educational background, sir?

20 A I have a mechanical engineering degree  
21 from the University of Tennessee at Chattanooga.

22 Q Now prior to coming here today, were you  
23 asked to put together a resume?

24 A That's correct.

25 Q Did you do that?

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1           A       Yes, I did.

2                   MR. SLATER: Your Honors, I would like to  
3 show the witness TVA Exhibit 144.

4                               [Whereupon, the above-referred-  
5 to document was marked as TVA  
6 E x h i b i t     1 4 4     f o r  
7 identification.]

8                   BY MR. SLATER:

9           Q       Mr. Rogers, could you tell us what TVA  
10 Exhibit 144 is?

11           A       This is my resume that I provided you.

12           Q       And does it reflect the positions, all the  
13 positions that you've held, at least most of the  
14 positions you've held between 1978 and today?

15           A       Yes.

16           Q       Does it also reflect your educational  
17 background?

18           A       Yes.

19                   MR. SLATER: Your Honors, at this time I  
20 move that Defendant's 144 be admitted.

21                   CHAIRMAN BECHHOEFER: Any objection?

22                   MS. EUCHNER: No objection.

23                   CHAIRMAN BECHHOEFER: TVA Exhibit 144 will  
24 be admitted.

25                               [Whereupon, the above-referred-

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1 to document marked as TVA  
2 Exhibit 144 for identification  
3 was received in evidence.]

4 BY MR. SLATER:

5 Q Mr. Rogers, turning your attention to the  
6 June-July timeframe of 1996, were you asked to sit on  
7 a selection review board for some selections  
8 concerning Chemistry Program Manager and some other  
9 positions?

10 A Yes, I was.

11 Q Could you tell the Board how you were --  
12 tell us how you became a member of the board.

13 A Wilson McArthur was a peer of mine. I was  
14 working in Chattanooga at the time as a Technical  
15 Support Manager. He asked me to sit in on a selection  
16 review board for him, and I agreed to do so.

17 Q To add some context to that, how much time  
18 were you given between the time of the request from  
19 Mr. McArthur and the time that you actually sat on the  
20 Board and had the interviews?

21 A It was a couple of days.

22 Q Was it just for one particular position  
23 that you were asked to sit on the selection review  
24 board?

25 A No, Dr. McArthur had a number of

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1 positions. We were in the process of reorganizing our  
2 corporate offices, and my Department as well as his  
3 Department was going through a reorganization. He had  
4 several positions, five or six positions, to fill, and  
5 he asked that I serve on the selection review board  
6 for all those positions. Those positions included  
7 Chemistry, Environmental, Rad Chemistry or Rad Con.  
8 Those are the major ones that I recall.

9 CHAIRMAN BECHHOEFER: Were the boards the  
10 same for all of those?

11 MR. ROGERS: The same personnel on the  
12 selection boards.

13 CHAIRMAN BECHHOEFER: I mean each board.

14 MR. ROGERS: Yes, sir.

15 CHAIRMAN BECHHOEFER: Thank you.

16 BY MR. SLATER:

17 Q In 1996, when you were asked by Dr.  
18 McArthur to sit on the review board, what was your  
19 position at that particular time?

20 A At that time I was the Maintenance Support  
21 Manager. My group that I was in, and I went to  
22 corporate in '95, I was the Technical Support Manager.  
23 In '96, we reorganized. My group was RIFed. I  
24 reapplied on a job and I was selected as the  
25 Maintenance Support Manager. So at the time of the

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1 selection I believe I was the Maintenance Support  
2 Manager.

3 Q I have sitting in front of you Joint  
4 Exhibit 20. It's in Volume 3 of the Joint Exhibits.  
5 And if you would, turn to page 1. If you look to the  
6 bottom, it's "GG", a number of zeroes, and "1." Do  
7 you see that?

8 A Yes, I do.

9 Q On that first page there is a listing of  
10 positions. Do you see that?

11 A Yes.

12 Q Are those positions the positions that you  
13 were asked to sit on the SRB to evaluate the  
14 interviews of the candidates?

15 A Yes, those look like the right positions.

16 Q And there are five positions there, is  
17 that correct?

18 A That's correct.

19 Q It's the Chemistry Program Manager BWR,  
20 Chemistry Program Manager PWR, the Rad Con -  
21 Programmatic, Rad Con Technical Support, and Rad  
22 Waste/Environmental Protection, is that correct?

23 A That's correct.

24 Q There has been some suggestion during this  
25 hearing that you may not have been the proper person

1 to sit on the selection review board, and I want to  
2 ask you some questions about your qualifications to  
3 evaluate the candidates for these positions.

4 Let's start with the Chemistry PWR  
5 position. Could you explain to the Board why or how  
6 you were qualified to sit on the SRB and to fairly  
7 evaluate the candidates who appeared as interviewees?

8 A Okay, I have 24 years of power plant  
9 experience at Sequoyah and Watts Bar for TVA, and I  
10 also hold a Shift Technical Advisor Certification and  
11 a Senior Reactor Operator Certification. In addition  
12 to that, of course, my college background included  
13 chemistry, but as part of the SRO and STA  
14 certifications there were chemistry courses as part of  
15 those, educational courses.

16 JUDGE YOUNG: Excuse me.

17 MR. ROGERS: Yes.

18 JUDGE YOUNG: "SRO" and "S" --

19 MR. ROGERS: Shift Technical Advisor is  
20 the STA and SRO is the Senior Reactor Operator.

21 JUDGE YOUNG: Thank you.

22 MR. ROGERS: Okay.

23 In addition to that, I also worked closely  
24 with our Steam Generator Group at different times in  
25 my career, and as part of that group, chemistry, an

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1 understanding of chemistry was important to assure the  
2 integrity of steam generators for PWR or Pressurized  
3 Water Reactors.

4 BY MR. SLATER:

5 Q Could you tell us, when did you work  
6 closely with the chemistry folks?

7 A In various groups. I worked with  
8 chemistry as part of my work when I was in compliance,  
9 which was, looking at the resume here, in the '81 to  
10 '86 timeframe, as an Instrument Engineer. My position  
11 there required me to prepare licensee event reports,  
12 root cause analysis evaluations, which included  
13 aspects of the plant that touched chemistry and  
14 obviously other portions of the plant.

15 Q Could you tell us how your SRO  
16 certification aided in the qualifications to sit on  
17 the SRB to evaluate the PWR position?

18 A SRO certification included courses in  
19 chemistry as well as part of the position's  
20 responsibility was to interface with chemistry for the  
21 Shift Manager or the Shift Engineer, depending on what  
22 time of the course that we were in, where TVA today  
23 they're called Shift Managers, and discussions with  
24 chemistry was a daily portion of that job to  
25 understand where the plant was for primary and

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1 secondary site of chemistry and to ensure that we were  
2 in specifications for those parameters, and consulting  
3 with the Shift Manager and make recommendations for  
4 any changes with chemistry.

5 Q And could you tell us how your STA  
6 certification aided in making you qualified to sit on  
7 the SRB?

8 A Those requirements for the Shift Technical  
9 Advisor were similar to the SRO requirements;  
10 responsibilities were held concurrently.

11 Q Prior to the meeting of the SRB, were you  
12 handed some materials? Were you given some materials  
13 to help in evaluating or that you used during the  
14 interview process?

15 A At the time of the selection review board,  
16 when I got to the room for the selection review board,  
17 we were handed a notebook with different information  
18 concerning the positions that were to be interviewed  
19 for that day.

20 Q Could you tell us what kinds of  
21 information or what information was in the notebook?

22 A If I may refer back to my --

23 Q Sure.

24 A -- book here, if I may? It was VPAs, or  
25 the Vacancy Position Announcements, as part of this

1 notebook, and the Candidates' Vacancy Position Form,  
2 which was a TVA-9824 form.

3 Q Is that the application?

4 A That's the application form. There were  
5 questions for each of the positions. There was a  
6 blank sheet for grading to the questions for each of  
7 the individuals.

8 Q Now we just talked briefly about your  
9 qualifications to evaluate the candidates for the PWR  
10 position, PWR chemistry position. Were you also, in  
11 your opinion, qualified to sit and judge the  
12 interviews in the other positions that are set forth  
13 on page 1 of Joint Exhibit 20?

14 A Yes. These positions are Program Manager  
15 positions. They serve really two roles. They were  
16 positions that interfaced with our three sites, Watts  
17 Bar, Sequoyah, and Browns Ferry in the respective  
18 areas, such as Rad Con and Environmental and  
19 Chemistry. They interfaced with the managers and  
20 technical people at those sites.

21 I had a number of years as an engineer at  
22 the sites as well as manager experience, and then  
23 also, again, my SRO/STA background of providing the  
24 interface with each of these areas, including Rad Con  
25 and Environmental groups as well as the Chemistry

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1 groups.

2 Q Who else sat on the SRB with you?

3 A Charles Kent, who is the Rad Chem Manager  
4 for Sequoyah; James (sic) Corey, Rad Chem Manager for  
5 Browns Ferry, and myself. Dr. McArthur was there, who  
6 was the selecting manager, but did not participate in  
7 the questioning of candidates, and there was also a  
8 Human Resource Manager there.

9 Q Is that Milissa Westbrook?

10 A That's correct.

11 CHAIRMAN BECHHOEFER: The three people  
12 were the only people on the board that you mentioned:  
13 Mr. Kent, Mr. Corey, and yourself?

14 MR. ROGERS: That's correct.

15 BY MR. SLATER:

16 Q Prior to the start of the interviews, did  
17 you have any conversations with Kent or Corey about  
18 how to evaluate the candidates as they responded to  
19 the interview questions?

20 A No, I did not.

21 Q Did anyone suggest to you how to evaluate  
22 the candidates?

23 A No one did.

24 Q Could you tell us what your method -- the  
25 method you used to evaluate the candidates?

1           A       Yes.    Each of the candidates had to  
2 respond to a certain number of questions, and I graded  
3 the candidates based on their technical responses to  
4 the questions as well as their demeanor, if you would,  
5 through projecting themselves in the question.

6                        These positions were positions that had to  
7 interface with a number of people on the site,  
8 managers, from plant managers down to the engineers or  
9 worker levels.    So, in addition to the technical  
10 understanding of the issues, I felt that they also  
11 needed to understand how to conduct themselves and  
12 present themselves to management.    So I graded them in  
13 both categories.

14           Q        Prior to interviewing any of the  
15 candidates, did anyone give you any input with respect  
16 to the past experience, past work history, of any of  
17 the candidates?

18           A        No.

19           Q        Did you review any past history or past  
20 work experience of any of the candidates?

21           A        No.    We just got the book that day as we  
22 walked into the room for the selection review board.

23           Q        Now at some point in time you and the  
24 other board members agreed upon a number of questions  
25 that would be asked during the interview, is that

1 correct?

2 A That's correct.

3 Q If you will turn over to page 42 --

4 A Okay, I'm there.

5 Q On pages 42 and 43, is that the list of  
6 the questions?

7 A Yes, these are the questions that were  
8 asked for the PWR Program Manager.

9 Q Okay. There are some questions that are  
10 circled on both pages. What's the significance of the  
11 circling?

12 A Circling identifies the questions that  
13 were to be asked. The selecting manager, Dr. Wilson  
14 (sic), put together a series of 16 questions, and  
15 prior to the interviews being taken, the selection  
16 review board picked out the questions that we were  
17 going to ask.

18 We didn't have time, nor saw the need, to  
19 ask all 16 questions, but we chose the ones that we  
20 thought were pertinent to the jobs, and we also added  
21 one additional question, which was Item No. 17. So we  
22 chose questions one, two, seven, nine, eleven, twelve,  
23 fifteen, sixteen, and, again, as I said, we added  
24 question seventeen. That question dealt with defining  
25 molar ratio.

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1 Q Who suggested adding question seventeen?

2 A I do not recall specifically who.

3 Q Was there a consensus of the board members  
4 that the question --

5 A The team agreed that that was an  
6 appropriate question for the particular position. I  
7 do not know who suggested the question.

8 Q Now to the right of the circled questions  
9 there are some initials.

10 A Yes, those initials represent -- that's in  
11 my handwriting, and those represent the individual who  
12 was going to ask that specific question. For  
13 instance, questions one, two, and seven have "HRR"  
14 beside it, and those are my initials. Then question  
15 nine, eleven, and twelve have "CK," and that  
16 represented Charles Kent, and then fifteen, sixteen,  
17 and seventeen had "JC," and that represented James  
18 (sic) Corey.

19 Q Now as to the candidates who were the PWR  
20 Chemistry Program Manager position, prior to you  
21 sitting on the SRB did you know Gary Fiser?

22 A Yes, I knew Gary Fiser.

23 Q Could you tell us how you knew Gary Fiser  
24 prior to sitting on the SRB?

25 A Gary was the Chemistry Manager at Sequoyah

1 in the early nineties, if I recall correctly. I was  
2 the Acting Technical Support Manager, and he was  
3 Chemistry Manager, and we periodically interfaced.

4 Q What about Sam Harvey?

5 A I knew who Sam was. I had some interface  
6 with him. He worked out of corporate, and he  
7 occasionally came to the sites to assist the Chemistry  
8 group.

9 Q What about Chandra?

10 A Chandra was a BWR person who worked with  
11 mainly Browns Ferry. I knew who he was, but did not  
12 have a great deal of interface prior to this  
13 particular time. In my short period at corporate, I  
14 had a little bit more interface with him, but prior to  
15 that time I had very little interface.

16 Q And prior to the interviews and prior to  
17 you scoring the candidates, were you aware of any  
18 protected activity of Gary Fiser?

19 A No, I was not.

20 Q Were you aware of any safety concern that  
21 he might have raised?

22 A No.

23 Q Were you aware or did you know of Mr.  
24 Fiser's 1993 DOL complaint?

25 A No.

1 JUDGE YOUNG: Did you hear any references  
2 to any complaint or anything like that in the  
3 discussion before you started?

4 MR. ROGERS: There were no references to  
5 any of those type of things in the discussion of the  
6 selection review board.

7 JUDGE YOUNG: I mean before you actually  
8 started, out in the hallway or anything like that?

9 MR. ROGERS: No.

10 CHAIRMAN BECHHOEFER: Was there any  
11 reference to a 1996 DOL --

12 MR. ROGERS: No.

13 CHAIRMAN BECHHOEFER: -- complaint that  
14 Mr. Fiser had filed?

15 MR. ROGERS: No, sir.

16 BY MR. SLATER:

17 Q Could you tell us, when did this board  
18 meet? I mean not when, but time of day.

19 A Time of day, if I recall, was in the  
20 afternoon. It was after lunch, one or two o'clock  
21 timeframe, and we met up until about 6:00 or so that  
22 evening, going through the processes.

23 Q Were the other members already there when  
24 you got there?

25 A Yes, they were.

- 1 Q Do you know why they were already there?
- 2 A It appeared that they had been in what we  
3 call a peer team meeting, and I came at the designated  
4 time and they were already there in the room. So I  
5 just joined them at that point in time.
- 6 Q So I take it that you're not a member of  
7 the peer team? You weren't?
- 8 A No, I'm not. This was a Rad Con Chemistry  
9 Manager peer team that basically includes the  
10 representatives, the managers of those departments at  
11 each of the three sites, plus the Corporate Manager,  
12 and that would be Wilson McArthur.
- 13 Q Now I believe you said that there were two  
14 other people present during the interviews, Ms.  
15 Westbrook and Dr. McArthur?
- 16 A That's correct.
- 17 Q Did Dr. McArthur participate in any way in  
18 the questioning of any of the interviewees?
- 19 A No, he did not ask any questions.
- 20 Q Did he participate at all with respect to  
21 any aspect of the interview process while you were  
22 there?
- 23 A Not during the interview process. Prior  
24 to the process, he did give us books and told us that  
25 these were the positions that he had to fill, and that

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1 these were the questions, and the selection review  
2 board picked out the questions, the ones I mentioned  
3 that were circled, and from there Dr. McArthur  
4 listened.

5 JUDGE YOUNG: I'm sorry, from there, Dr.  
6 McArthur what?

7 MR. ROGERS: Listened.

8 JUDGE YOUNG: Listened?

9 BY MR. SLATER:

10 Q Now we just talked about the circled  
11 questions. I believe you said that you and the other  
12 board members decided to cull the list down to nine?

13 A That's correct.

14 Q In your opinion, was this list of nine  
15 questions a fair way to evaluate the candidates for  
16 the PWR Chemistry position?

17 A Yes, these questions had both questions  
18 that were directed at the individual's managerial  
19 experience as well as his ability to address technical  
20 questions and where he felt his strengths and  
21 weaknesses were.

22 Q Would you point out to the Board which  
23 questions you considered went to the candidate's  
24 managerial experience and which ones would point to  
25 the technical ability or abilities of the candidates?

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1           A       Questions one, two, and seven were, quote,  
2       "managerial."   And let's see, number nine, and  
3       question sixteen.   The technical questions were more  
4       from questions eleven, twelve, fifteen, and seventeen.

5           Q       Why did the board believe that questions  
6       twelve and seventeen were important to ask during  
7       these interviews?

8           A       Twelve and seventeen --

9           MS. EUCHNER:   Objection, Your Honors.   Mr.  
10       Slater can ask the witness why he believes the  
11       questions were important, but I don't think Mr. Rogers  
12       can testify as to what Mr. Kent and Mr. Corey were  
13       thinking.

14          MR. SLATER:   Your Honor, I --

15          MS. EUCHNER:   He should limit the question  
16       to what Mr. Rogers thought.

17          MR. SLATER:   Your Honor, I believe they  
18       met and they came to a consensus as to which questions  
19       should be asked.

20          JUDGE YOUNG:   Why don't you rephrase your  
21       question in terms of what was said by the others that  
22       would have led him to --

23          BY MR. SLATER:

24          Q       Were there any discussions concerning  
25       questions -- among the board members -- concerning

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1 questions twelve and seventeen?

2 A Questions twelve and seventeen were  
3 questions directed at secondary site chemistry for the  
4 plant. The reason we chose those questions was  
5 because secondary site chemistry was important to the  
6 integrity of our steam generator tubes.

7 Denting, of course, is an industry-known  
8 phenomenon where you get impurities built up between  
9 the tube sheets or the tube support plates and the  
10 steam generator tubes, and the impurities cause a  
11 stress corrosion on the tubes. Basically, that's  
12 called "denting." You put a stress on the tubes, and  
13 if you had a flaw existing, pre-existing flaw, you  
14 could actually have a tube burst or a tube leak there.

15 Of course, molar ratio control was also  
16 important to us because that's one of the methods that  
17 we use to control the chemistry of our secondary site  
18 steam-generated water to ensure that we minimize the  
19 effects of, I guess, crevice impurity build-up.

20 JUDGE YOUNG: Are you now talking about  
21 your own opinions or was there a discussion among the  
22 three of you about why to select those questions?

23 MR. ROGERS: This is my opinion as well as  
24 the opinion of the selection review board. We did  
25 discuss --

1 JUDGE YOUNG: And you base your conclusion  
2 that it was the opinion of the board on what?

3 MR. ROGERS: We agreed that denting was  
4 important, discussed that denting was important to  
5 secondary site chemistry at a PWR, as well as molar  
6 ratio control.

7 BY MR. SLATER:

8 Q Who was the first candidate to be  
9 interviewed?

10 A I believe Mr. Fiser was, based on looking  
11 at page GG00036. This is the order of the interview  
12 schedule.

13 Q Could you tell the Board what was your  
14 impression of Mr. Fiser's interview?

15 A I'll refer back to my notes --

16 Q Okay.

17 A -- my book here, if I may.

18 Some of the general comments, the overall  
19 comments that I had made on this particular  
20 individual's responses was that he was not technically  
21 clear on addressing the issues, and I had mentioned  
22 chemistry index and denting.

23 I had also noted his communication, that  
24 Mr. Fiser was rather long-winded and not to the point  
25 responding to questions and that he seemed much more

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1 relaxed, to the point of uninterested at the  
2 interview, and I was surprised at that really.

3 Q Why were you surprised at that?

4 A As I said earlier, I had worked with Gary  
5 at Sequoyah, and Gary -- I considered Gary a very  
6 effective manager in chemistry. I thought he did a  
7 good job while he was there. My discussions with Gary  
8 in chemistry matters, Gary seemed a very technically-  
9 competent individual.

10 Q And if you would turn over to page 44,  
11 tell us what that page is.

12 A That page represents the ratings that I  
13 gave Fiser on the questions that were identified  
14 earlier.

15 Q Could you tell us what your ratings --  
16 well, first of all, what was the rating scale?

17 A The rating scale was from one to ten, ten  
18 being the highest, and then we rated each individual,  
19 I rated each individual on each of the questions that  
20 were asked. Individuals answered the question, and  
21 then, once the interview was over, we graded, I graded  
22 the questions.

23 Q After you graded the questions, did you  
24 have any discussions with the other members as to what  
25 your rating was?

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1 A No. I don't recall that.

2 Q Did anyone try to influence what your  
3 rating should be?

4 A No. I graded my own questions then, and  
5 the other board members graded their own questions,  
6 and there was no collusion between any of us on the  
7 questions.

8 Q Could you just for us read into the record  
9 what your rating or ratings were for each of the  
10 questions for Mr. Fiser?

11 A Question one I rated a five. Question two  
12 I rated a five.

13 JUDGE YOUNG: For me, it might be helpful  
14 if, as you do that -- I see that you've written notes  
15 by each of the questions on pages 42 and 43, and I  
16 can't read all those. Since they're being presented  
17 to us, perhaps you could read what you've written by  
18 each one, as you tell the score?

19 MR. ROGERS: I'll attempt to read my own  
20 writing. It's been a while, but I believe I can do  
21 that.

22 Question one dealt with strengths of the  
23 individual, and I had made a note that the strength  
24 was people skills to get things done. I rated that  
25 question a five.

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1 JUDGE YOUNG: What is that up at the very  
2 top of the page?

3 MR. ROGERS: That is a note I had made  
4 when he had answered a question. I believe it must  
5 have been number nine, that "escalate, must go to Rad  
6 Chem Manager and his boss."

7 JUDGE YOUNG: "Escalate"?

8 MR. ROGERS: "Escalate."

9 BY MR. SLATER:

10 Q Now, Mr. Rogers, also as to question  
11 number one, there was another note underneath  
12 "strength" there. Do you see that?

13 A Yes, and I believe that goes with question  
14 number two.

15 Q Okay.

16 A Question number two talks about the  
17 weaknesses, and that talks about his answer dealt with  
18 trusted people too much was his weakness. See, I drew  
19 an arrow down to that.

20 Q Well, how did that, in your opinion, rate  
21 as a five versus something else?

22 A Well, Gary didn't, Mr. Fiser did not come  
23 across as, though he understood where his weaknesses  
24 were, he indicated that he trusted people too much,  
25 which is unclear as to what he was meaning that that

1 was a weakness. At least to me it was unclear.

2 Q Continue, please.

3 A Question seven deals with describing some  
4 projects that this individual initiated, helped to  
5 complete, in chemistry areas, and he mentioned at the  
6 Watts Bar Station Chemistry he had worked on a project  
7 there including equipment. He mentioned another Watts  
8 Bar Chemistry on sodium throws.

9 JUDGE YOUNG: It says, "sodium"?

10 MR. ROGERS: "Throws." That's basically  
11 about return -- if you had like in a mixed bed or  
12 something, and the bed was collecting impurities, and  
13 it may change the pH on it, and it may give off sodium  
14 products and it would contaminate your steam  
15 generator.

16 JUDGE YOUNG: And that's down on the  
17 righthand side you're reading?

18 MR. ROGERS: Yes, I'm reading down this  
19 column on the righthand side over here.

20 JUDGE YOUNG: Oh, I see.

21 MR. ROGERS: And I can't really read what  
22 that note under it says.

23 Then it says, "INPO," it looks like  
24 "Coordinator." I can't really make sure; my copy's  
25 kind of weak. Some kind of findings "not having

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1 chemistry. Wrote 12 PERs." PERs are corrective  
2 action program documents, Problem Evaluation Reports.

3 Then the Count Room was his biggest area  
4 of concern. Those dealt with question --

5 JUDGE YOUNG: And then underneath it?

6 MR. ROGERS: -- seven. And what I had  
7 under there is that he mentioned that those areas that  
8 he had worked in Watts Bar, kind of his interfaces  
9 with EPRI, the Electrical Power Research Institute,  
10 Westinghouse, and steam generators. "SG" stands for  
11 steams generators.

12 JUDGE YOUNG: He would have had contact  
13 with a steam generator group at TVA or steam  
14 generators --

15 MR. ROGERS: Just working with the steam  
16 generator folks at Sequoyah, and I don't recall if he  
17 mentioned any other utility or not.

18 Question nine talks about the  
19 responsibilities and the level of responsibilities of  
20 this position, how it would contribute to the success  
21 of the program.

22 Right after that I made a note that, No.  
23 1, that he believed that the role reflects the  
24 chemistry program; No. 2, that it doesn't mean to go  
25 behind the Chemistry Manager's back, and, No. 3, "must

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1 be in the field." I had made an arrow up to question  
2 three, "must do things" -- I can't make out the next  
3 notes there -- "as declaring into startup chemistry."

4 JUDGE YOUNG: "Declaring into startup  
5 chemistry"? In other words, it's been completed, so  
6 that the startup can go forward?

7 MR. ROGERS: Yes, that's what I -- I mean,  
8 that's what I would have to say it was. I don't  
9 remember the exact words that he used.

10 Question eleven talked about describing  
11 two chemistry concerns -- I'm just trying with my  
12 bifocals here to read these questions.

13 JUDGE YOUNG: You can pull this closer  
14 (referring to the microphone).

15 MR. ROGERS: . Again, I'm back on question  
16 eleven dealing with chemistry concerns.

17 Keeping up with technology looks like one  
18 I had mentioned out to the right there, such as molar  
19 ratio control and -- I can't read what those top words  
20 are. "Not sure what new, urgent" -- or whatever --  
21 "on the horizon," I think is what it says. I think  
22 what I remember him saying, he wasn't sure trying to  
23 keep up what new issue might be on the horizon in the  
24 chemistry world.

25 Question twelve dealt with determining or

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1 defining what denting was and how does it occur. I  
2 made a note out to the right that that was sludge  
3 build-up at penetration of tube sheet and support  
4 plate.

5 I made a note underneath of it that  
6 "support unit one has denting" in like C-1 there. I  
7 assume that meant row one, one of our major areas.

8 And in "primary," I guess that's  
9 "constituent" or "primary" -- I'm not sure what that  
10 next word is. "Not sure with the iron," and then  
11 question mark after "iron."

12 At the bottom of the page were some  
13 general notes again. I had made a bullet that said,  
14 "overly gregarious, not to the point. No one was --  
15 had trouble staying, focusing on one issue or one  
16 question." In other words, he rambled.

17 Question fifteen dealt with chemistry INPO  
18 index, what its significance was, and I had made a  
19 note out to the right that said: There are two for  
20 molar ratio control and one not on molar ratio  
21 control, or "MRC," as it shows here.

22 And then, "Provides industry number for  
23 certain atoms such as sodium and iron, et cetera." I  
24 can't make out those next notes out to the right  
25 there.

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1                   And the next bullet says, "Changes, gets  
2 tighter."

3                   The next bullet says, "Allows you to see  
4 how you stack up against industry."

5                   And the next bullet dealt with "Not  
6 familiar with Sequoyah, number owned, or what to  
7 expect" -- something "to be" -- I can't tell what that  
8 next little blurb there meant.

9                   JUDGE YOUNG: "WB"?

10                  MR. ROGERS: That could be Watts Bar.  
11 That's possible.

12                  And then under that same question I had --  
13 well, let's see now, under question sixteen dealing  
14 with management experience, he had 24 years in the  
15 business, was a Chemistry Manager at Sequoyah for four  
16 years. His best training was at Sequoyah, Manager,  
17 and his next bullet was, "Must know how to handle  
18 people." "Ups and downs" is what the arrows mean.  
19 "How to present your case" is my note under that.

20                  Then question seventeen dealt with  
21 defining molar ratio control and its primary  
22 indicators in control. I made a note that he gave a  
23 definition related to sodium control related to number  
24 of atoms -- or, excuse me, atomic number. Then  
25 "adjusted by getting sodium down."

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1 Do you want me to talk about the overall  
2 comments? I think I mentioned most of those.

3 BY MR. SLATER:

4 Q Yes, please, why don't you?

5 A Okay, overall comments, I had noted, as I  
6 said earlier, that the bullet here, "Technically was  
7 not clear on addressing issues." I pointed out  
8 chemistry index and denting, and then, "Communication  
9 was too long-winded, not to the point."

10 The next bullet dealt with strengths and  
11 weaknesses; almost directly opposed or opposite, I  
12 believe I meant there.

13 And I made a note at the bottom that said,  
14 "Seem relaxed."

15 Q Now if you turn over to page 44 --

16 A Okay.

17 Q -- and if you would, explain to us how  
18 your notes or your impressions from the interview  
19 support the ratings that you gave for each question.

20 A Well, for instance, question number one,  
21 at the time I rated him five. It didn't seem like he  
22 knew, understood where his strengths were, as well as  
23 question two dealing with his weaknesses, he didn't  
24 seem to be very specific of understanding what his  
25 weaknesses were and how he would have to deal with

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1 those or be able to work around those to make them  
2 more work to his advantage. So I rated him basically  
3 neutral or five in that area.

4 On question seven, I also rated him a  
5 five. He seemed to be rambling quite a bit on this  
6 particular area and did not ever come to a point where  
7 he could show how the areas that he worked on  
8 specifically helped in the chemistry area.

9 Question nine, I rated him seven, was up  
10 more toward the top. That dealt with some of his  
11 responsibilities that he had had.

12 Question eleven, again, rated it six.  
13 That dealt with his understanding of chemistry  
14 concerns at Sequoyah. He seemed to have a reasonable  
15 understanding, so I rated him six on that.

16 Question twelve, defining denting, I  
17 thought he did a fair job on that, understanding  
18 denting.

19 Question fifteen, on the chemistry index,  
20 I did not think he did quite as well on that question.  
21 Being the experience that he had as the Chemistry  
22 Manager at Sequoyah, I felt he probably should have  
23 understood that or given a more straightforward answer  
24 on that question.

25 On question sixteen, I rated him a five

1 also, in that he, again, rambled a great deal,  
2 particularly as far as dealing with how to deal with  
3 people, and I felt he wasn't able to show how his  
4 management experience or how he could manage people,  
5 which would be important in this particular job.

6 Then question seventeen dealt with molar  
7 ratio control. Again, I thought he did a fair job  
8 with that one. I rated him a seven in that.

9 Q Now if you would, could you compare Mr.  
10 Fiser's interview to the interview of Mr. Harvey?

11 A Mr. Harvey's notes --

12 Q Start at page 56.

13 A Over a few pages? Page 56?

14 Q Yes, sir.

15 A Okay. Again using my notes here, on the  
16 second page, which would be page 57, I noted overall  
17 that Mr. Harvey was technically very sound. He  
18 understood denting and molar ratio.

19 I had noted in communications that he was  
20 very confident, had very good verbal skills, and  
21 another bullet I had was that he knew his strengths  
22 and weaknesses and how to use them.

23 Q And could you turn over to page 58? Is  
24 that the page containing the ratings for each of the  
25 questions for Mr. Harvey?

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1 A That's correct, these are.

2 Q Could you explain to the Board your  
3 particular ratings for each of the questions on page  
4 58?

5 A Again, I rated the questions as the  
6 individual answered them, and the same questions were  
7 asked because it was the same position.

8 Dealing with his strengths, he talked  
9 about his experiences that he had at previous power  
10 plants at Brunswick and Hatch, and that he had gained  
11 -- he understood secondary chemistry and raw water  
12 corrosion. I rated him a nine on his response to that  
13 question.

14 On question two dealing with his  
15 weaknesses, he felt his weakness was BWR because he  
16 had been out of -- I can't make out what my little  
17 note there meant on that one -- and that PWR was the  
18 Count Room, was an area that he felt he could  
19 strengthen himself on. I had rated a nine since he  
20 understood where he was in those areas.

21 JUDGE YOUNG: What's the Count Room?

22 MR. ROGERS: The Count Room is where  
23 chemistry uses to count samples basically, when they  
24 are looking for -- grab samples and they can take it  
25 to the Count Room and use an ion chromatograph or some

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1 other type of instruments to count isotopes or  
2 whatever.

3 JUDGE YOUNG: Where the data is collected  
4 and analyzed and trended, and so forth?

5 JUDGE COLE: Not just radioactivity level?

6 MR. ROGERS: It could be either one.

7 Question seven, it's dealing with  
8 programs. He had talked about his work with Calgon,  
9 which is a vendor for cleaning up demineralized water,  
10 making demineralized water. He had talked about his  
11 work with Ecolochem and also --

12 JUDGE YOUNG: Back on Calgon, what's the  
13 word under "Calgon"?

14 MR. ROGERS: "Contract."

15 JUDGE YOUNG: "Contract." Thank you.

16 MR. ROGERS: And then the third bullet  
17 looks like "secondary optimization at Sequoyah"  
18 project, I believe that he worked on while he was in  
19 corporate with our Sequoyah chemistry folks. And I  
20 rated him an eight on that particular one.

21 Question nine, again, that was  
22 responsibilities. I have made some notes here that,  
23 above the question I had made a note that he had  
24 responded back that, whatever it takes to solve the  
25 problem, from getting in the field to doing big

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1 picture, and then after that, after the question, I  
2 made a note that "the multi-functional role. He would  
3 improve the program and decrease the cost, take big  
4 picture look and not get lost in details."

5 And I made a note down the side of the  
6 page that he would find that the key was to find the  
7 resource to solve the problem. He gave a Sequoyah  
8 example. And I had rated him a -- that was question  
9 nine -- I rated him an eight on that.

10 Question eleven, dealing with chemistry  
11 concerns, he talked about steam generator degradation,  
12 and I cannot read those next words: something  
13 "chemistry."

14 Under that, he talked about hydrogen  
15 chemistry and zinc degradation. He understood the  
16 causes and concerns.

17 I guess up to the left of that page I had  
18 said, "Was familiar with Watts Bar's numbers in steam  
19 generator chemistry." And I had rated him a nine on  
20 that question.

21 Question twelve dealt with denting, and he  
22 talked about the fact related to the support plates  
23 and steam generators, unprotected magnetite at the  
24 tube, and something "to cracking" -- I guess  
25 "susceptible to cracking" is what that word is. And

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1 I had rated him nine on that question.

2 Question fifteen, industry INPO index, he  
3 was familiar with the content and its purpose. He  
4 gave examples of what has affected TVA in the INPO  
5 chemistry index. That's what "ICI" stands for.

6 Then the next bullet says, "ICI is good  
7 for common-ground check, not necessarily good to say  
8 good chemistry. It's got to be relational." In other  
9 words, what he was saying is that it gives you a  
10 relationship to other plants other than chemistry. I  
11 rated him an eight on that. Excuse me -- yes, an  
12 eight on that one.

13 And on question sixteen related to  
14 management experience, he indicated that "the last  
15 five years as a program" -- and I'd have to -- I don't  
16 recall specifically what that meant to me at the time,  
17 but it meant something to me.

18 "Goes over wide range of people. Must  
19 make customers happy." And based on that response, I  
20 had rated him eight. Whatever other words he used,  
21 these are just my notes I had here.

22 And "what is the molar ratio control"  
23 question, I had just made a note there that he knew  
24 some history. I had rated him nine on that one.

25 BY MR. SLATER:

1 Q If you would just keep your finger on page  
2 58, if you can just turn back to 44, and could you  
3 tell us what overall total score you gave Mr. Fiser?

4 A Mr. Fiser's grade was 51 of 90.

5 Q And how does that compare on page 58 to  
6 the score for Mr. Harvey?

7 A Mr. Harvey's was 77 of 90.

8 Q As to all of the other interviews that  
9 came after Mr. Fiser and Mr. Harvey, did you use the  
10 same process and method to evaluate how they responded  
11 to the questions that were asked during their  
12 interviews?

13 A Yes, I did. I rated each individual based  
14 on their technical response and their presentation of  
15 the response.

16 Q And that was for the folks who interviewed  
17 for the PWR job, the BWR job, also the Rad Con  
18 positions, and the Rad Waste positions, is that  
19 correct?

20 A That's correct.

21 Q Now could you tell us, after the  
22 conclusion of all the interviews, what did you do?

23 A I gave my book to Wilson McArthur.

24 Q Did you have any discussions with Mr.  
25 McArthur about how you graded the candidates?

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1 A Nothing specific.

2 Q What do you mean?

3 A Well, basically, we just said we graded  
4 them and here are the grades, and my notes are  
5 attached there, and if you have any questions, give me  
6 a call.

7 Q Upon leaving, did you know who had scored  
8 highest with respect to any of the positions?

9 A No.

10 Q And why is that?

11 A We didn't discuss any of the grades among  
12 the selection review board. Normally, it's up to the  
13 selecting manager to take those grades or those notes  
14 and use those in making his selection.

15 MR. SLATER: If I could have a moment,  
16 Your Honors?

17 (Pause.)

18 MR. SLATER: No further questions.

19 JUDGE YOUNG: Do you need a break?

20 MS. EUCHNER: Your Honors, I need a break  
21 to prepare my cross.

22 CHAIRMAN BECHHOEFER: Okay. Before we  
23 take a break, let me just ask one question. I would  
24 like to ask just one question before we break, Mr.  
25 Rogers.

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1                   Were there any guidelines or standards to  
2 determine how you graded from one to ten, such as like  
3 five, "knew some of it but not all of it" or anything,  
4 any specific guidelines for how you got either one to  
5 ten or some level in between?

6                   MR. ROGERS: I graded those based on the  
7 way I felt I would answer the questions and my  
8 knowledge of the questions and how I would answer the  
9 managerial questions. I did not have a checklist, if  
10 you would, but it's based on my experience and my  
11 understanding of the questions, how they should be  
12 answered. That's the way I graded each individual.

13                   CHAIRMAN BECHHOEFER: I see. Did you have  
14 any discussions before the board meeting started with  
15 either the other board members or with perhaps Dr.  
16 McArthur as to how you should, how you determine what  
17 the scale would be for each question?

18                   MR. ROGERS: No, we did not discuss how we  
19 would grade each question. The sheets indicated it  
20 would be zero -- or one to ten, and just grade them  
21 one to ten, based on the response to the question.  
22 There was no discussion about how you would grade each  
23 question. It was up to the individual selection board  
24 member to grade each individual candidate.

25                   CHAIRMAN BECHHOEFER: I see, but no

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1 specific guidelines as to what constitutes a five or  
2 seven --

3 MR. ROGERS: No, sir.

4 CHAIRMAN BECHHOEFER: -- or eight?

5 MR. ROGERS: No, it was up to the  
6 individual selection board member.

7 CHAIRMAN BECHHOEFER: Okay, thank you.

8 MR. SLATER: Could I have a follow-up  
9 question?

10 CHAIRMAN BECHHOEFER: Yes. Yes, you may.

11 CONTINUED DIRECT EXAMINATION

12 BY MR. SLATER:

13 Q Prior to sitting on this particular SRB,  
14 had you sat on others?

15 A Yes, I had.

16 Q And the manner in which you graded the  
17 interviewees in this particular SRB, could you compare  
18 that to how you did it in others?

19 A In the same manner. Again, it was based  
20 on how the individual responded to the questions  
21 technically and also how they presented themselves in  
22 response to the question. And I've sat on interview  
23 boards both for technical positions as well as  
24 managerial positions.

25 Q In the others did anybody tell you how or

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1 suggest to you any guidelines or process in which to  
2 evaluate the responses to the questions?

3 A No. Selection review boards, each  
4 individual grades the candidates by themselves based  
5 on their own understanding of the issues that's  
6 presented and the individual, how he presents himself.  
7 That's the whole purpose of a selection review board,  
8 is to get the different opinions and input for the  
9 selecting manager from three or four different people,  
10 so that he can make a good choice based on that.

11 Q Thank you.

12 CHAIRMAN BECHHOEFER: Thank you.

13 Let's take a 15-minute break, which means  
14 about 10:25.

15 (Whereupon, the foregoing matter went off  
16 the record at 10:13 a.m. and went back on the record  
17 at 10:33 a.m.)

18 CHAIRMAN BECHHOEFER: Back on the record.

19 Ms. Euchner.

20 CROSS EXAMINATION

21 BY MS. EUCHNER:

22 Q Mr. Rogers, I'd like you to turn to TVA  
23 Exhibit No. 144 which is your résumé.

24 A Okay.

25 Q Earlier you testified that in 1996 at the

1 time that this selection review board took place that  
2 you just had become the maintenance supervisor. Is  
3 that correct?

4 A Yes, that position as technical support  
5 manager I show here went away in about that timeframe  
6 and when we reorganized and the position was retitled  
7 as maintenance support manager. I didn't show that  
8 specifically on the résumé here but that was the way  
9 it was retitled.

10 Q So what the résumé should read would be  
11 January 1995 to approximately summer of 1996 technical  
12 support and then summer of 1996 to April 1997  
13 maintenance support?

14 A Yes.

15 Q During that timeframe, who was your  
16 immediate supervisor?

17 A For the first part of that, it was Don  
18 Moody. Then Don Moody became ill and Tom McGrath took  
19 over the position. My direct supervisor when I was  
20 technical support manager though was David Goetcheus.  
21 Don Moody was the next level up.

22 Q And in the 1996 reorganization then Mr.  
23 McGrath became your first line supervisor.

24 A Yes, he was the direct supervisor at that  
25 point.

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1 Q Mr. Slater on your direct testimony took  
2 you through your chemistry training and other  
3 experiences. Have you ever worked as a chemist?

4 A No.

5 Q Have you ever supervised a chemistry  
6 department at TVA?

7 A No.

8 Q It's noted on your résumé and in your  
9 testimony that you have the certifications for senior  
10 reactor operator and shift technical advisor. Did you  
11 ever work as an SRO?

12 A No, that's a certification so I do not  
13 have a license from NRC. I have a certification. But  
14 I did work as a shift technical advisor on shift with  
15 operations.

16 Q And when was that?

17 A That was during the timeframe that the  
18 résumé shows I was in the compliance section. That's  
19 between 1981 and 1986. What that position did was you  
20 worked your normal job and then periodically you would  
21 go on shift with operations as a technical advisor.  
22 You would spend a few months on shift and then you  
23 would rotate back off and go back on shift  
24 periodically. So you would go back and forth between  
25 your normal job and the shift technical advisor

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1 position with operations.

2 JUDGE YOUNG: If I could just interrupt  
3 here and back up just a second. Could you explain to  
4 me your understanding of the difference between  
5 certification and licensure for the senior reactor  
6 operator?

7 THE WITNESS: Yes, NRC issues a license to  
8 people who pass the NRC exam for senior reactor  
9 operators. The SRO certification is within TVA's  
10 house itself. We take all the same screening that an  
11 SRO would take except we do not sit for the NRC exam.  
12 TVA issues a SRO certification based on their training  
13 program. You get all the training as an SRO but you  
14 just don't sit for the exam that NRC has.

15 JUDGE YOUNG: Thank you.

16 JUDGE COLE: Do they have a similar  
17 program for the shift technical advisors?

18 THE WITNESS: Yes, the shift technical  
19 advisors, it's the same program.

20 JUDGE COLE: Does NRC license the shift  
21 technical advisors or just the reactor operators?

22 THE WITNESS: No, just the senior reactor  
23 operators.

24 JUDGE COLE: Thank you.

25 MS. EUCHNER: I'd like you now to turn to

1 Joint Exhibit No. 20 which is the notebook you used  
2 for the selection. When did you get this notebook?  
3 Did you get it on the day of the interviews or prior?

4 THE WITNESS: The day of the interviews  
5 when we came to the interview board.

6 BY MS. EUCHNER:

7 Q When you got it, did you read any of the  
8 information in it?

9 A I just looked at who the interviews were  
10 going to be and then I looked at the questions as I  
11 went through each of the positions.

12 Q Did you read the candidates' rèsùmès?

13 A No.

14 Q Did you read the vacant position  
15 announcements?

16 A No.

17 Q Did the position descriptions for these  
18 positions appear anywhere in this book?

19 A I will have to look. They don't appear to  
20 be.

21 Q You testified earlier that the questions  
22 that the board asked of the candidates were pertinent  
23 to the PWR chemistry area. If you didn't read the  
24 vacant position announcement or see a position  
25 description for the position, how did you know that

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1 these questions were pertinent to the position you  
2 were interviewing for?

3 A I was familiar with the aspects of having  
4 a PWR and VWR chemistry person as well as some of  
5 these other positions based on similar positions prior  
6 to this timeframe and understanding that their role  
7 was to interface with the chemistry folks at Sequoyah  
8 and I understood their role at Sequoyah.

9 Q I'd like you to turn now in the notebook  
10 to page 175 towards the back of the book.

11 A Okay.

12 Q The questions that were asked that day, I  
13 believe you testified earlier that you felt that they  
14 fairly well covered what the PWR chemist would be  
15 doing and that they would be representative of what  
16 they would be looking for for someone to hold this  
17 position. Is that correct?

18 A Yes, they are relative to the position and  
19 how the individual would carry out his  
20 responsibilities and they would allow enough  
21 information to probe the individual to see if he was  
22 capable of carrying out those responsibilities.

23 Q And you felt that it was representative of  
24 what all those responsibilities would be.

25 A Yes.

1 Q On page 175 of Joint Exhibit No. 20, can  
2 you please read the duties section?

3 A "Provide senior technical direction,  
4 expert support, oversight and program project  
5 management in the chemistry programs of TVAN  
6 facilities, develop programmatic requirements for  
7 chemistry management programs. Incumbent serves as a  
8 primary liaison between TVAN sites and TVAN corporate.  
9 Incumbent manages the implementation of directives,  
10 standards and policies and regulations at all TVAN  
11 sites. Incumbent is the PWR chemistry contact for  
12 insuring that high standards are set and maintained at  
13 both corporate and the TVAN sites."

14 Q Would you say that's a fairly broad  
15 description of the PWR chemistry manager position?

16 A Yes, I would.

17 Q Does it say anywhere in the description of  
18 those duties anything about steam generator chemistry?

19 A No, it doesn't.

20 Q Does it say anything about secondary  
21 chemistry?

22 A No, not specifically.

23 Q Then why did the questions that were asked  
24 solely relate to steam generator and secondary  
25 chemistry?

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1           A       For the individual to be able to develop  
2 programmatic requirements for chemistry and for being  
3 able to be the liaison between the sites and the  
4 corporate folks, an individual would have to  
5 understand secondary side chemistry, primary side  
6 chemistry and things such as the effects on steam  
7 generators. Otherwise he would be ineffective at  
8 being to interface with the sites and being able to  
9 insure that the program's policies and standards would  
10 be the right ones for TVA to insure that we have the  
11 right chemistry for our plant.

12           Q       You just stated not just secondary and  
13 steam generator but primary chemistry. Did the  
14 questions you asked cover primary chemistry?

15           A       No direct questions with primary  
16 chemistry, no.

17           Q       And that's included in this broad  
18 description of duties, is it not?

19           A       Yes, it is.

20           Q       You testified earlier that when you graded  
21 each of the candidates that the way you determined  
22 what score you would give is based on how you would  
23 answered the question, is that correct?

24           A       How I would answer it and how I would  
25 expect him to answer the question.

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1 Q How would Mr. Fiser or for that matter any  
2 of the other candidates know what you personally would  
3 have thought was the correct answer to those  
4 questions?

5 A Again this was my judgement on how I  
6 expected them to answer the questions.

7 Q And what if Mr. Kent and Mr. Corey had  
8 totally different expectations for answering the  
9 questions?

10 A They graded the individual based on their  
11 knowledge and understanding of the answer as I graded  
12 the individual myself based on my understanding of the  
13 question and how I expected the person to answer the  
14 question.

15 Q The three of you never discussed either  
16 prior to or some time during the interviews to make  
17 sure that you were all being consistent in your  
18 grading?

19 A That's correct. We did not discuss  
20 anything like that.

21 Q You testified that you never got any  
22 guidance on how to score the candidates. Is that  
23 correct?

24 A That's correct other than one to ten.

25 Q This isn't the only selection review board

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1 you have served on, is it?

2 A That's correct. This is not the only one.

3 Q About how many would you say you served  
4 on?

5 A Probably six or seven. Maybe as many as  
6 ten including some since this particular one.

7 Q In any of those, does the selecting  
8 manager ever give guidance as to what he or she is  
9 looking for in the candidates?

10 A No, not in the ones I've been in.

11 MS. EUCHNER: I'm going to have Staff .  
12 Exhibit No. 115 marked. .

13 (Whereupon, the above-referred  
14 to document was marked as  
15 Staff's Exhibit No. 115 for  
16 identification.)

17 MS. EUCHNER: Mr. Rogers, do you recall  
18 last November I took your deposition in this case?

19 THE WITNESS: Yes, in Chattanooga.

20 BY MS. EUCHNER:

21 Q What you have in front of you, is that a  
22 transcript of that deposition?

23 A It appears to be.

24 Q I'd like you please to turn to page 32.  
25 The number are a little light at the top so you are



1 going to have to look pretty carefully but line one  
2 starts with "...procedures. It's been guidance from  
3 our human..." if you can't read the page numbers.

4 JUDGE COLE: Would you repeat again what's  
5 at the top of the page?

6 MS. EUCHNER: Line 1 says, "...procedures.  
7 It's been guidance from our human..."

8 JUDGE COLE: The typewriter must have run  
9 out of ink.

10 JUDGE YOUNG: Okay, I found it.

11 JUDGE COLE: What page number? Thirty?

12 JUDGE YOUNG: Thirty-two.

13 THE WITNESS: Can I go ahead? I found it.

14 MS. EUCHNER: Your Honors, have you all  
15 found it?

16 JUDGE COLE: Yes, I started counting from  
17 the front.

18 MS. EUCHNER: Do you recall during the  
19 deposition that I asked you a number of questions  
20 about your prior experiences serving on selection  
21 review boards?

22 THE WITNESS: Yes, I do.

23 BY MS. EUCHNER:

24 Q And I asked you whether prior to  
25 interviews, the members of the selection review board

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1 either themselves or with the selecting manager  
2 discuss the questions. Do you recall that?

3 A It looks like it's on this page here, yes.

4 Q And do you recall that on this page you  
5 told me that the selecting manager might give guidance  
6 as to what he was looking for in a correct answer?

7 A Yes, basically what I said here if I can  
8 look at this, it says "selecting manager goes through  
9 the questions..." I'm reading about halfway down the  
10 page. For instance I said "Brett, you're going to ask  
11 questions one, two, three and I went around the table.  
12 Then the selecting manager says here is the kind of  
13 things I might be looking." He might give some  
14 guidance and that's true if he wants to but typically  
15 that's not normally done but he could, has I guess in  
16 the past. I just don't recall anyone at this  
17 particular point in time right now.

18 Q So what you are saying is at the moment  
19 you don't recall anybody doing that. But in your  
20 deposition you did remember in the past someone having  
21 done that.

22 A For the McArthur board, there was no  
23 guidance given. That's what I was talking about.

24 Q But for boards in general, the selecting  
25 manager can and in the past has given guidance.

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1           A       Yes, if he wants to but for that  
2 particular board Dr. McArthur did not give any and  
3 that was what I was referring to.

4           Q       Let's go now to the questions for the  
5 chemistry PWR and that's on page 42 of Joint Exhibit  
6 No. 20.

7           JUDGE YOUNG: What was the page again?

8           MS. EUCHNER: Forty-two. You testified  
9 earlier that for a position such as this, management  
10 skills were important because you would be interfacing  
11 a lot with the sites. Is that correct?

12           THE WITNESS: Yes.

13           BY MS. EUCHNER:

14           Q       What sort of management skills would be  
15 important for this sort of position?

16           A       You would need to know how basically  
17 processes worked at the plant. He would need to be  
18 able to present a case clearly, very succinctly. He  
19 needed basically to recognize when problems existed,  
20 to be able to do an overview and be able to point  
21 those out to management. He would need to be able to  
22 make presentations to management and also be able to  
23 provide guidance to the management, make  
24 recommendations to them when they need to make changes  
25 to programs or processes or possibly even people.

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1 Q Are interpersonal skills important for  
2 that?

3 A Interpersonal skills would be important to  
4 that job.

5 Q If someone had problems with interpersonal  
6 skills, that would be relevant in determining whether  
7 they would make a good chemistry manager.

8 A It could influence the way his particular  
9 program manager is working. That's correct.

10 Q Would mistreatment or harassment of female  
11 employees be relevant to determining whether someone  
12 would have the relevant interpersonal skills for this  
13 job?

14 MR. SLATER: Objection. Beyond the scope  
15 of direct examination.

16 MS. EUCHNER: Your Honors, he questioned  
17 him about management skills being important. Mr.  
18 Rogers just testified that interpersonal skills are  
19 part of that. I believe he opened the door.

20 CHAIRMAN BECHHOEFER: Objection overruled.

21 MS. EUCHNER: Do you need for me to repeat  
22 the question, Mr. Rogers?

23 THE WITNESS: Would you repeat the  
24 question?

25 BY MS. EUCHNER:

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1 Q Would either mistreatment or harassment of  
2 female employees be a relevant interpersonal skill in  
3 considering whether someone could handle this job  
4 well?

5 A Harassment of any type is not appropriate  
6 for managers regardless of the position.

7 Q When you interviewed Mr. Harvey and asked  
8 him the question about his weaknesses, did he mention  
9 interpersonal skills as a weakness?

10 A Not that I recall.

11 Q The question about weaknesses which reads  
12 "Indicate weaknesses that you need to address if you  
13 fill this position" how do you rate that question?  
14 What's a one for that question and what's a 10. If  
15 you have no weaknesses, you get a 10. Or if you have  
16 a lot of weaknesses, you get a 10?

17 A No, I based the answer on if the  
18 individual knew what his weakness was and how he would  
19 use that to his advantage. In other words, if I have  
20 a weakness, I want to be able to recognize I have that  
21 weakness and be able to use that weakness not in a  
22 negative way but within a positive way. To try and  
23 make a positive out of my weakness and recognize that  
24 since I have that weakness, I know that I need to work  
25 on that and develop that in different ways. So an

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1 individual who recognizes his weakness and understands  
2 that and is able to use that either in a positive way  
3 to his advantage and also seeks out ways to improve  
4 himself. That's what I was looking for.

5 Q How would you know when the candidate was  
6 answering that question whether they even knew what  
7 their real weaknesses were or whether they were  
8 communicating to you what their true weaknesses were?

9 A I was looking at how the individual  
10 responded. Did he say my weakness is X and I  
11 recognize that and this is the way that I deal with  
12 that weakness and here's what I'm doing to improve  
13 myself to overcome that weakness?

14 Q So essentially you weren't looking to the  
15 substance of the answer. You were looking to  
16 demeanor, self-confidence.

17 A I was looking to see did he understand  
18 that he had a weakness and did he understand what that  
19 weakness was and what it meant to him in that  
20 particular position. I truly don't know if that's his  
21 weakness or not if I didn't know the individual  
22 personally and had seen him in action so I couldn't  
23 attest to whether he was accurate or not or he just  
24 gave me an answer. I wanted to see how he or she  
25 answered the question and how they stated they would

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1 utilize that particular weakness to improve or to be  
2 able to improve themselves or work toward positive  
3 aspects of that weakness.

4 Q So essentially in your own personal  
5 scoring, you didn't care whether they were giving you  
6 their true weaknesses. You were just going to grade  
7 them on what they told you.

8 A It wasn't that I didn't care. I just  
9 didn't have the ability to make the assessment of  
10 whether it was true or not true without spending a lot  
11 of time with an individual. This was an interview  
12 situation so you are asking an individual a question.  
13 They are responding back to me. I'm having to assess  
14 okay this individual recognizes the question I'm being  
15 asked and is able to respond to it.

16 Q On page 42 of the questions and these are  
17 your notes with the questions for Mr. Fiser. Under  
18 question two, you have a note that says "trust people  
19 too much" as Mr. Fiser's weakness. Were you aware  
20 that in the past Mr. Kent and Dr. McArthur were people  
21 that Mr. Fiser had trusted and cost him his job at  
22 Sequoyah?

23 A No.

24 Q Would it surprise you that he didn't  
25 elaborate more on what his weakness was with the two

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1 of them in the room?

2 A All I can say is Gary answered the  
3 question. He answered the question and I didn't think  
4 he understood what his weakness was.

5 Q For question number nine for Mr. Fiser,  
6 you have a note that says "doesn't mean to go behind  
7 the chem manager back." Is that correct? Is that  
8 what that says?

9 A Question nine?

10 Q Question nine.

11 A Yes, my sub note two or circle number two  
12 there indicates doesn't mean to go behind chemistry  
13 manager back.

14 Q You said that you had interactions with  
15 Mr. Fiser back when he was Sequoyah chemistry manager,  
16 correct?

17 A That's correct.

18 Q And I believe you testified that you  
19 thought he did a good job and that he was an effective  
20 Sequoyah chemistry manager.

21 A Yes, I did.

22 Q Are you aware that in the early '90s, do  
23 Mr. Jocher and others consistent undermining as  
24 Sequoyah chemistry manager and going behind his back  
25 to higher up management that Mr. Fiser ultimately lost

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1 his position as Sequoyah chemistry manager?

2 A No, I was not aware of that.

3 Q Would it have impacted his answer knowing  
4 that in the past he had had people do exactly that?

5 A I can't answer for him if he felt that  
6 would impact his answer.

7 Q If you would have had that knowledge,  
8 would that have impacted your score of Mr. Fiser on  
9 that question?

10 A No.

11 Q You don't think that knowing that in the  
12 past he had been in that exact situation that him  
13 acknowledging that that could potentially be a problem  
14 demonstrates awareness on his part as to what a  
15 corporate chemistry manager should be doing?

16 A You will have to rephrase the question.  
17 I'm not sure what you are asking.

18 Q You just said that knowing that in the  
19 past a corporate chemistry manager had gone behind Mr.  
20 Fiser's back and undermined his authority at the site  
21 would not have changed your view of his answer to that  
22 question. What I'm asking you is that isn't that a  
23 relevant consideration for a corporate chemistry  
24 manager to know how to appropriately handle working  
25 with the site chemistry managers and not going behind

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1 their backs but instead working closely with them to  
2 solve any problems.

3 A I'm not sure whether I remember the  
4 conversation six or seven years ago but I had to grade  
5 it back then. I don't remember exactly what the words  
6 were.

7 Q Is supporting plant management a good  
8 thing for a corporate chemistry manager?

9 A Is supporting plant management? Yes.

10 Q Would doing something to undermine plant  
11 management be a bad thing for a corporate chemistry  
12 manager?

13 A You couldn't undermine any other manager  
14 but you can be direct to a manager and say the wrong.  
15 You have to know how to present it.

16 Q Question number 12, the question about  
17 denting, you stated earlier that a good answer was one  
18 that would have been the way you answered it. How  
19 would you have answered this question?

20 A I would have expected them to describe,  
21 and as I recall Fiser did a pretty fair job on this  
22 one here, that denting basically is where you build up  
23 impurities in the tube-to-tube sheet area and  
24 basically cause stress erosion on the other tube in  
25 this crevice area and cause stress on the tube and

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1 basically have the potential of causing cracks in the  
2 tube. That's basically what denting is.

3 Q Would you have expected the candidates to  
4 go beyond that basic answer to state how you can  
5 minimize denting or prevent it in the future?

6 A For this particular position, I would have  
7 accepted to go a little further than that. Yes.

8 Q So even though the question didn't ask him  
9 to go any further, you would have assumed that he  
10 would know that he was supposed to go further.

11 A Yes, I would think he would have explained  
12 it better than what I just did.

13 Q Okay. I just have asked you to explain  
14 what you were looking for in an answer. Now you just  
15 told me that you would have expected him to go further  
16 than what you just answered.

17 MR. SLATER: Objection. I believe she  
18 followed that up with what is denting. I think she  
19 narrowed the question.

20 MS. EUCHNER: I believe I asked him to  
21 give me what he thought his answer to this question  
22 was. I didn't read the question.

23 MR. SLATER: And then she attached to it  
24 what is denting.

25 MS. EUCHNER: That's essentially what the

1 question is.

2 MR. SLATER: There were two questions.

3 MS. EUCHNER: Then I asked an additional  
4 question that does not appear in this question and he  
5 said he would have expected an answer to that  
6 question. But he didn't give it to me.

7 MR. SLATER: There were two questions on  
8 the table.

9 JUDGE YOUNG: Which were?

10 MR. SLATER: The first one was what do you  
11 expect --

12 JUDGE COLE: How would you answer the  
13 question?

14 MR. SLATER: Then there was a follow-up to  
15 it before he could answer that particular question.  
16 She then asked "What is denting?"

17 MS. EUCHNER: All right. I have no  
18 problem allowing the witness to --

19 CHAIRMAN BECHHOEFER: Answer all three.

20 JUDGE YOUNG: I think they all get to the  
21 same general point.

22 CHAIRMAN BECHHOEFER: Yes.

23 MR. SLATER: I think he's entitled to  
24 answer one at a time.

25 MS. EUCHNER: All I want him to answer is

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1 what he would expect a complete answer to this  
2 question that he would have given a 10 to. That's all  
3 I need to know from him.

4 THE WITNESS: I would have expected him to  
5 describe denting and the mechanisms that cause denting  
6 in steam generator tubes.

7 MS. EUCHNER: Okay, and for my next  
8 question, would you expect him to go beyond that to  
9 say what actions are necessary to take to minimize  
10 denting?

11 THE WITNESS: I do not recall what  
12 specific follow-up questions I may have asked at that  
13 particular time. But if at that particular time I  
14 wanted to know more, I would have asked a follow-up  
15 question. It may not have been written down here. If  
16 I didn't feel like he had proceeded further enough  
17 along that I wanted to hear, I would have asked a  
18 follow-up question verbally.

19 JUDGE COLE: You would do that even though  
20 Mr. Kent that was in charge of that question and  
21 asking the question.

22 THE WITNESS: Yes. Selection review board  
23 members can ask follow-up questions if they wish.

24 JUDGE COLE: Okay.

25 JUDGE YOUNG: To what extent was your

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1 score for Mr. Fiser based on the answer to the  
2 question of what is denting? And to what extent was  
3 it based on answers to any follow-up questions?

4 THE WITNESS: I'm not sure I can recall  
5 that far back as to whether it was based on any  
6 follow-up questions or not but again I tried to grade  
7 him based on how he answered denting and its  
8 mechanisms and how does it occur. I don't recall if  
9 there was a follow-up question or not. I cannot tell  
10 that now from my notes here.

11 JUDGE YOUNG: Do you recall what  
12 inadequacies you perceived in his answer?

13 THE WITNESS: I cannot discern that now  
14 from my notes here.

15 JUDGE YOUNG: Do you recall whether you  
16 felt that he did not understand what denting was or  
17 did not completely understand what denting was or is?

18 THE WITNESS: As I noted on the next page,  
19 I said he was not technically clear on addressing  
20 denting so I would be speculating now on what he  
21 exactly said.

22 JUDGE COLE: You would what?

23 THE WITNESS: I would be speculating now  
24 on what he said six or seven years ago because I don't  
25 remember exactly what he said six or seven years ago.

1 When I graded the question, I graded it based on the  
2 fact of what I heard at that particular time and I  
3 don't recall the specific words. I apologize but I  
4 just don't recall specific words. I just didn't feel  
5 at the time six or seven years ago that he was  
6 technically clear in addressing denting. I'm not sure  
7 what aspects of it I was --

8 JUDGE YOUNG: If you could clarify for me  
9 please if you were asked the question today and you  
10 are being asked the question today, define the term  
11 "denting" and where and how does it occur, what would  
12 your answer be that would be expected to give yourself  
13 a perfect score on that.

14 THE WITNESS: I would describe it as how  
15 denting occurred again from a build-up of impurities  
16 in the crevices. I would describe how that process  
17 works and you have low-flow regions between the tube  
18 sheet and the tube and that it is impurities in those  
19 areas. Because of the nucleate boiling and the film  
20 boiling going on there, you get impurities that --

21 JUDGE YOUNG: The nuclear boiling and the  
22 pin --

23 THE WITNESS: Film boiling.

24 JUDGE YOUNG: Film?

25 THE WITNESS: Yes, F-I-L-M. Film boiling

1 on the surface of the tube. Those two areas because  
2 of a low flow get impurities that played out on the  
3 tube and between the tube and the tube sheet. That  
4 puts a stress on the tube itself. That stress is  
5 called denting. That stress can cause openings or  
6 leaks and/or tube ruptures in steam generator tubes  
7 such as happened at Ginna a number of years ago.

8 JUDGE YOUNG: What impurities are you  
9 talking about?

10 THE WITNESS: We're talking about anions  
11 and cations: sodiums, potassiums and also you can  
12 transport iron particles or copper particles from the  
13 rest of your piping into secondary side. You can have  
14 copper in your feedwater tubes or your condenser tubes  
15 and of course the iron particles off the carbon steel  
16 pipe which is typically what your secondary side is  
17 made up of. Those could also become deposited in  
18 there.

19 It's similar to boiling a pot of water and  
20 you boil a pot of water basically down and you'll see  
21 the white residue on the side of the pot. That's your  
22 deposit, your impurities, that would boil out. That's  
23 what basically happens in this crevice area because of  
24 the low flow, impurities boil out and you start  
25 building them up and sufficiently fill that void and

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1 it starts building a stress if you would on the tube  
2 itself.

3 JUDGE YOUNG: Thank you.

4 CROSS EXAMINATION (con't)

5 BY MS. EUCHNER:

6 .Q You stated in your earlier testimony that  
7 demeanor played at least a part in how you rated each  
8 of the candidates. To what extent did demeanor play  
9 a role in the scores you gave each person?

10 A I looked to see how the person composed  
11 himself, how he presented the questions, was he direct  
12 and to the point. I looked at that for each of the  
13 questions whether it be for the managerial questions  
14 and the technical questions. It was a portion of the  
15 answers. I was looking to see how they responded  
16 really on all questions but more so probably on the  
17 management questions but also how he addressed the  
18 board and was he attentive and focused and succinct in  
19 responding to the question.

20 Q Did you deduct points for someone who  
21 wasn't like that?

22 A Yes.

23 Q And you added points for someone who was?

24 A Yes, someone who was more direct and  
25 succinct and to the point I gave him greater marks

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1 than the one who was not and who did not come to the  
2 point.

3 Q Even if they both gave the same technical  
4 answer.

5 A Even if I had someone who gave exactly the  
6 same answer. That's what I believe your question is.  
7 If I had person A giving one answer and if person B  
8 gives the same exact answer but their demeanor isn't  
9 the same, yes, I would have graded the individual with  
10 the better approach slightly higher than the one  
11 without.

12 Q Did you score each question as you asked  
13 the question or did you wait until the end of the  
14 interview and then go in and fill the score sheet out?

15 A I believe it was at the end that I scored  
16 them.

17 JUDGE COLE: At the end of all the exams  
18 or just after you finished Mr. Fiser for example?

19 THE WITNESS: After Mr. Fiser, Mr. Harvey  
20 and Mr. Chandra and so forth. After each of their  
21 interviews, I graded each of those questions.

22 JUDGE COLE: So when you finished Mr.  
23 Fiser, you then graded all his questions before you  
24 went to the next examinee.

25 THE WITNESS: Yes, sir, that's correct.

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1 MS. EUCHNER: In your notes for each one  
2 of the circled questions, do you indicate what the  
3 candidate's demeanor was for each question?

4 THE WITNESS: Not specifically for each  
5 question necessarily. I do have overall notes that I  
6 noted on here.

7 BY MS. EUCHNER:

8 Q So did you use your overall notes in  
9 determining the demeanor for how to score each  
10 question or did you recall what Mr. Fiser's demeanor  
11 was for question one as opposed to what his demeanor  
12 for question two?

13 A Both.

14 Q So I believe you testified earlier that  
15 you felt Mr. Fiser was kind of laid back and quiet.  
16 Is that correct?

17 A He wasn't quiet. He was laid back.

18 Q Laid back? Relaxed?

19 A Laid back, relaxed, yes.

20 Q So you felt that he was too laid back and  
21 relaxed for this interview. Does that mean he got a  
22 lower score on every question you asked him because of  
23 that attitude?

24 A It impacted each of the questions, yes.

25 Q So you essentially deducted his score on

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1 each question simply because you thought he was too  
2 relaxed.

3 A Yes, his presentation to each of the  
4 questions was not formal and he didn't sit up and  
5 present himself as I would expect him to presenting to  
6 a selection review board and to management. I would  
7 expect him to be attentive and sit up straight and to  
8 address the points directly. All of his answers and  
9 in all the interview he did not do that.

10 Q If you could turn now to page 44, this is  
11 your score sheet for Mr. Fiser. Earlier today, Mr.  
12 Slater took you through each one of those scores and  
13 you testified as to why you gave Mr. Fiser each of  
14 those scores. Do you recall that testimony?

15 A Yes, Mr. Slater asked me to go through and  
16 describe my notes to each one of these questions to be  
17 relative to the score back here.

18 Q I believe you read your notes first at  
19 Judge Young's request.

20 A Yes.

21 Q You read each note and then you went back  
22 and Mr. Slater asked you about the score. You  
23 testified as to more specific information than was in  
24 your notes. Do you recall when I took your deposition  
25 back in November I asked you the exact same questions

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1 about each one of these questions?

2 A No.

3 Q All right. Let me see if I can get you a  
4 page number. I think it's starting on page 61 towards  
5 the bottom.

6 CHAIRMAN BECHHOEFER: Which exhibit is the  
7 deposition?

8 MS. EUCHNER: One-fifteen. Staff 115.

9 THE WITNESS: Page 61?

10 MS. EUCHNER: Yes.

11 MR. DAMBLY: Maybe I can ask while  
12 everyone is looking for that. Do you need a break at  
13 this time, Judge? I thought you said 11:00 a.m.

14 CHAIRMAN BECHHOEFER: Yes, it would be  
15 useful.

16 MS. EUCHNER: We can take a break now.

17 CHAIRMAN BECHHOEFER: Okay. About ten  
18 minutes please. Ten minutes should be enough. Off  
19 the record.

20 (Whereupon, the foregoing matter went off  
21 the record at 11:17 a.m. and went back on  
22 the record at 11:40 a.m.)

23 JUDGE YOUNG: On the record. Are you  
24 ready?

25 MS. EUCHNER: Yes.

1 JUDGE YOUNG: Go ahead.

2 BY MS. EUCHNER:

3 Q We are looking at Staff Exhibit 115 which  
4 is your deposition. If you look on the bottom of page  
5 61 the very last line, it says "Question. Do you  
6 recall anything else of his answer other than what you  
7 wrote there?" Your answer was "No. Not at this point  
8 in time."

9 Then again at the bottom of that page on  
10 line 21 I ask you "Can you explain to me why you gave  
11 Mr. Fiser a five? Answer. Well, I don't know at this  
12 point in time. It's been too long, I mean, since I  
13 interviewed the guys." Do you recall that?

14 A Yes.

15 Q Can you explain to me why it was today  
16 when Mr. Slater asked you why you gave Mr. Fiser a  
17 five you had recollection of things other than your  
18 notes, but when I asked you ten months ago you didn't  
19 have any recollection?

20 MR. SLATER: Objection. That's a  
21 mischaracterization of my question.

22 MS. EUCHNER: Mr. Slater took him line  
23 through line through this score sheet and said why did  
24 you give Mr. Fiser a five, why did you give him a  
25 five. Mr. Rogers responded. I did the same thing at

1 his deposition. Every time I asked I got told I don't  
2 recall.

3 MR. SLATER: He responded based on  
4 referring back to his notes.

5 MS. EUCHNER: He went further than his  
6 notes today.

7 JUDGE YOUNG: I think it may be difficult  
8 to go back since we don't have a transcript to look  
9 at. I tend to think that the door was opened to  
10 giving explanations of why.

11 MR. SLATER: She's asking it for further  
12 information. I didn't ask Mr. Rogers to give further  
13 information. I just asked him why did he give Mr.  
14 Fiser and Mr. Harvey X, Y, Z scores. He went back and  
15 referred back to his notes.

16 MS. EUCHNER: Well, I believe if you read  
17 on the bottom of page 62, my question is "Can you  
18 explain to me why you gave Mr. Fiser a five?" The  
19 answer was "I don't know at this point in time." That  
20 is not what he answered to Mr. Slater today.

21 JUDGE YOUNG: Did Mr. Rogers have his  
22 notes in front of him during the deposition?

23 MS. EUCHNER: Yes, Your Honor, he did  
24 because if you read through all of the sections I had  
25 him do exactly what he did today and read his notes to

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1 me. That way I could make sure I was reading them  
2 properly. Then I asked him the question "Why did you  
3 give Mr. Fiser or Mr. Harvey this score." Every time  
4 I asked that question I got told "I don't know other  
5 than what my notes say."

6 JUDGE YOUNG: Mr. Rogers, what further  
7 explanation can you provide on why you gave him the  
8 score you did and why you might not have known at the  
9 time of the deposition and whether there was any  
10 difference between what you thought then and what you  
11 answered earlier today.

12 THE WITNESS: Again, Your Honor, I graded  
13 the question based on the individual's response to the  
14 question. I read the question a few moments ago and  
15 read my notes and tried to interpret my notes here so  
16 that you could understand my notes. I still do not  
17 recall any additional details other than what my notes  
18 say. I was just trying to interpret my notes for you.

19 BY MS. EUCHNER:

20 Q Well, can you explain to me then why you  
21 didn't interpret your notes for me when I asked you  
22 the same exact questions that Mr. Slater asked you?

23 MR. SLATER: Objection, Your Honor. Maybe  
24 she should have asked him that question in the  
25 deposition.



1 MS. EUCHNER: I asked him the same  
2 question that you asked him pretty much verbatim. He  
3 decided to come up with new information for you and  
4 didn't do that for us.

5 MR. SLATER: Your Honor, again --

6 CHAIRMAN BECHHOEFER: Just to clarify for  
7 the record, I understand at least you had these notes  
8 available during your deposition.

9 THE WITNESS: Yes. I had this book at the  
10 deposition.

11 CHAIRMAN BECHHOEFER: Thank you.

12 (Judges confer.)

13 JUDGE YOUNG: We'll allow you to go a  
14 little way with it.

15 CHAIRMAN BECHHOEFER: The objection is  
16 overruled at this point. You may ask the question.

17 MS. EUCHNER: Could you give me a moment,  
18 Your Honor?

19 BY MS. EUCHNER:

20 Q If you look back at page 62 of the  
21 deposition at the bottom of the page where I ask you  
22 "Can you explain to me why you gave Mr. Fiser a five?"  
23 and you answered me "I don't know at this point in  
24 time." Do you know why you gave Mr. Fiser a five?

25 A I gave Mr. Fiser a five based on the

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1 answers he gave me at that point in time to the  
2 questions.

3 Q Could you be more specific than that as  
4 you were earlier in your testimony?

5 A I can read you the notes that I have here  
6 on the page.

7 Q Well, how about why don't you interpret  
8 your notes the way you did when Mr. Slater asked you  
9 the question? Or do you feel unable to do that?

10 A Which question do you want me to look at?

11 Q We're starting with question number one.

12 A Again, the question was "What strengths do  
13 you have?" The answer that I had or the note that I  
14 had -- and again these are not detailed notes. These  
15 are just some comments that I had made here.

16 I noted that strength was people skills to  
17 get things done. I had graded him a five. Again,  
18 based on his response, I gave him a grade of five.  
19 That's all I can say at this point.

20 Q Again, the top of page 63 I asked you if  
21 you could recall why you rated Sam Harvey a nine.  
22 Your response was "Well, it would have been based on  
23 his response to the question at the time." Then I  
24 asked you if you could recall anything else. You said  
25 no.

1                   Earlier today when you discussed why you  
2 gave Sam Harvey a nine are you again saying that you  
3 were basing that testimony solely on your notes? You  
4 were interpreting your notes essentially.

5           A        I graded Mr. Harvey based on the answer  
6 that he gave at the time.

7           Q        So essentially what you're telling me  
8 today is that you can't remember anything about why  
9 you scored Mr. Fiser or Mr. Harvey the way you did  
10 other than what's in your notes.

11          A        What I said was I graded him based on his  
12 response to the question he gave me at the time. I  
13 made a few bullets on the sheet of paper, but bullets  
14 are not enough for me to recall his entire response to  
15 the question.

16          Q        So you can't give any specifics.

17          A        No.

18                   MS. EUCHNER: Your Honors, I move to have  
19 Staff Exhibit 115 entered into evidence.

20                   MR. SLATER: No objection.

21                   CHAIRMAN BECHHOEFER: Without objection,  
22 the Staff 115 will be admitted.

23                                   (The document referred to  
24                                   having previously been marked  
25                                   for identification as Staff's

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1 Exhibit 115, was received into  
2 evidence.)

3 JUDGE YOUNG: Have you given them to the  
4 Court Reporter?

5 MS. EUCHNER: Yes. She's already marked  
6 them. Although did you mark them as admitted?

7 REPORTER: I do it afterwards.

8 MS. EUCHNER: Okay. They were already  
9 marked. I don't know whether they've been tabbed as  
10 admitted.

11 JUDGE YOUNG: If you want to do it later,  
12 you can do it later. But just to save you --

13 REPORTER: I have been.

14 JUDGE YOUNG: Oh, you have been? Okay.  
15 So if it's not too much trouble.

16 REPORTER: It's more trouble to hold up  
17 the proceeding.

18 JUDGE YOUNG: Okay. Great. That's fine.  
19 Go ahead.

20 CHAIRMAN BECHHOEFER: Are we tabbing them?

21 MS. EUCHNER: They're already marked, Your  
22 Honor. I have nothing further.

23 MR. SLATER: No further questions.

24 CHAIRMAN BECHHOEFER: Before we ask  
25 questions, you don't have additional questions?

1 MR. SLATER: No, sir.

2 JUDGE COLE: Just a couple of questions,  
3 Mr. Rogers. We heard questions about your  
4 qualifications in chemistry. Do you recall those  
5 questions, sir?

6 THE WITNESS: Yes.

7 JUDGE COLE: You indicated that a lot of  
8 your chemistry training was associated with your  
9 certification as an SRO and as a shift technical  
10 advisor. What sort of chemistry training did you get  
11 in preparation for those positions?

12 THE WITNESS: Those classes were formal  
13 classroom training in part of the overall course that  
14 was provided by TVA. I think it was about a 44-week  
15 course. Two or three weeks of that was chemistry. I  
16 don't recall how many. I think two weeks was  
17 chemistry.

18 JUDGE COLE: When you say "two weeks of  
19 chemistry" is that eight hours a day for two weeks?

20 THE WITNESS: Yes.

21 JUDGE COLE: All right, sir. Was the  
22 chemistry of a fundamental nature or was it geared  
23 specifically towards the technology as to just what  
24 you needed to use in your job position were you to  
25 function as an SRO or as a shift technical advisor?

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1 THE WITNESS: It was geared toward power  
2 plant operation. Chemistry plays a part in the power  
3 plant operation of the primary and secondary side of  
4 chemistry and how it's used and how it's controlled.

5 JUDGE COLE: In your service on these  
6 review boards, you have indicated that you served on  
7 six or seven review boards.

8 THE WITNESS: Yes, sir. I don't remember  
9 the exact number but in that neighborhood or maybe  
10 even more.

11 JUDGE COLE: The particular review board  
12 that we talked about today, the one that involved Mr.  
13 Fiser, began at noon and went until 6:00 or 7:00.

14 THE WITNESS: Sometime after lunch and  
15 then went until that evening, yes.

16 JUDGE COLE: With your other review boards  
17 that you served on, do you recall what the starting  
18 time was?

19 THE WITNESS: Depending upon when the  
20 selection manager set up the review board. Sometimes  
21 they might be in the morning, sometimes in the  
22 afternoon.

23 JUDGE COLE: Well, the ones that you  
24 served on, what were the times, sir? Do you recall?

25 THE WITNESS: They varied depending on

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1 what review board it was. They weren't always at the  
2 same time. There's no specific time for a selection  
3 review board to occur. If for instance the  
4 maintenance manager was selecting a position, he might  
5 have picked his time at ten o'clock in the morning or  
6 he might pick two o'clock in the afternoon depending  
7 on what his availability and what the availability of  
8 the selection board were.

9 JUDGE COLE: All right, sir. But you  
10 served on six or seven. What times did they start?

11 THE WITNESS: Again, some started in the  
12 morning, some started in the afternoon. I'm not sure  
13 what you're asking me because --

14 JUDGE COLE: Well, did most of them start  
15 in the morning and this one was an unusual time to  
16 start at noon?

17 THE WITNESS: An afternoon SRB is not  
18 unusual. It could happen. I've sat on afternoon  
19 selection review boards and I've sat on morning  
20 selection review boards.

21 JUDGE YOUNG: Would it be unusual to go  
22 into the evening?

23 THE WITNESS: It was unusual to have five  
24 or six positions in one selection review board.  
25 Typically you're selecting one position. The

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1 selection review board deals with that one position  
2 and that's all you deal with. It was unusual that you  
3 went through a whole series of positions that you were  
4 selecting for so we had a lot of candidates to cover.  
5 That was the unusual part about that one.

6 JUDGE COLE: So it was rare to go into the  
7 early evening for a review board.

8 THE WITNESS: For that length of time.

9 JUDGE COLE: All right, sir. Thank you.

10 CHAIRMAN BECHHOEFER: Following up on the  
11 timing question, I have a few questions about that.  
12 From this schedule we have in Joint Exhibit 20 page  
13 four, the schedule says that it starts at 12:00 for  
14 board preparation and then it runs through 8:00 p.m.  
15 Wouldn't it be somewhat unusual to have a review board  
16 meeting scheduled to last at least until 8:00 p.m.  
17 which I presume is after the normal work day?

18 THE WITNESS: Yes, sir. It is unusual for  
19 review boards to go that long. As I said, it was  
20 because of the number of candidates and positions that  
21 were to be interviewed. Dr. McArthur being the  
22 selection manager chose to do them all at one time.  
23 I told him I could support him.

24 CHAIRMAN BECHHOEFER: Would there be any  
25 occasions when a board meeting would start at 9:00 or

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1 10:00 a.m. and maybe have a break for lunch and resume  
2 in the afternoon?

3 THE WITNESS: Yes, sir.

4 CHAIRMAN BECHHOEFER: So that practice was  
5 also followed.

6 THE WITNESS: Yes, sir. Occasionally that  
7 would occur.

8 CHAIRMAN BECHHOEFER: I understand when  
9 the particular review board was set up initially it  
10 was set up with someone other than yourself. Is that  
11 correct? A Mr. Cox.

12 THE WITNESS: At the time I was not aware  
13 of that.

14 CHAIRMAN BECHHOEFER: I see. Because we  
15 have been told down in Chattanooga that it was  
16 initially set up to include Mr. Cox. His schedule  
17 didn't permit him to serve at this late hour. A bunch  
18 of questions were asked. Why didn't they change the  
19 hour? Why wasn't a different date chosen? A bunch of  
20 questions along that line.

21 To my satisfaction, I never received a  
22 very satisfactory answer. But from what you're  
23 saying, it was more or less up to, in this case, Dr.  
24 McArthur who would have set the schedule and  
25 determined that it should be followed. Am I correct?

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1 THE WITNESS: Yes, sir. Dr. McArthur set  
2 the schedule and the time and asked me if I could  
3 support that. I said yes I could. This was a couple  
4 of days before the timeframe. At the point in time,  
5 I went down to the particular room and proceeded on.  
6 Normally the selecting manager sets the time and the  
7 place. He confirms that the board members can be  
8 there. It's the typical process.

9 CHAIRMAN BECHHOEFER: I see. If the board  
10 had initially been conceived of as not including  
11 yourself but Mr. Cox, would you have known why? Mr.  
12 Cox apparently just couldn't meet the schedule. Do  
13 you know of any reason why the schedule would have  
14 been adhered to, the starting at noon as stated here  
15 rather than trying to change the schedule to try to  
16 accommodate Mr. Cox's needs?

17 THE WITNESS: I'm not aware of any of  
18 those proceedings. I was just asked to come in and  
19 support him. I was able to do so. Being a peer with  
20 Dr. McArthur in the corporate organization, we  
21 supported each other. I was trying to support him in  
22 his endeavor here. So I'm not aware of any reasons  
23 why he didn't accommodate Mr. Cox. Does that answer  
24 your question?

25 CHAIRMAN BECHHOEFER: Yes.

1 JUDGE YOUNG: I wanted to clarify  
2 something if I could with you related to some earlier  
3 testimony. Do you recall any occasion where Mr. Fiser  
4 back early on I guess, I'm not sure of the exact date,  
5 but several years prior to the events that we're  
6 talking about now whether he had ever come to you or  
7 you had any discussion with him about the diesel fuel  
8 oil tanks and a perceived problem with how they were  
9 set up and how the recirculation --

10 THE WITNESS: I don't not recall any  
11 conversation particularly with Gary on that. Do you  
12 have any more details? I don't recall any particular  
13 conversation associated with that.

14 JUDGE YOUNG: I think he would have been  
15 with Mr. Don Adams and told you that the diesel tanks  
16 had not been recirculation properly and indicated that  
17 he wanted to write a SCAR, significant corrective  
18 action report, I think is the right language, with  
19 regard to that. Do you recall any discussion with him  
20 about that at any time?

21 THE WITNESS: No, ma'am, I do not.

22 JUDGE YOUNG: Thank you. Judge Bechhoefer  
23 was suggesting would you like to see the transcript  
24 where you describe that? Do you think that might help  
25 you recall whether that happened?

1 THE WITNESS: I don't think it would. I  
2 don't recall any particular conversation with Gary on  
3 that particular subject. Is there a reference to any  
4 particular SCAR number or particular timeframe or  
5 anything like that in there?

6 JUDGE YOUNG: I think there's an exhibit  
7 related to this. Isn't there?

8 MR. MARQUAND: There are several, Your  
9 Honor.

10 JUDGE COLE: You are aware of the problem  
11 with the sampling of the diesel tanks.

12 THE WITNESS: I'm not aware of any  
13 problems now with the sampling.

14 JUDGE COLE: No. A previous problem where  
15 they were not in conformance with the ASTM testing  
16 procedures for sampling diesel tanks.

17 MR. DAMBLY: If it helps, it's TVA Exhibit  
18 146. It has Mr. Roger's signature in a couple of  
19 places.

20 THE WITNESS: If I could refer back to a  
21 document, maybe that will help me.

22 JUDGE YOUNG: It's one of the ones that's  
23 not on the original volume.

24 THE WITNESS: What he's given me is TVA  
25 Exhibit 146. It's a CAQR which is a corrective action

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1 document at that timeframe back in it looks like 1989.  
2 If you'll give me a moment to look at it if I can  
3 remember it.

4 JUDGE YOUNG: Also, if you recognize the  
5 handwriting on there, you might indicate that.

6 THE WITNESS: This appears to be a  
7 corrective action document associated with a technical  
8 specification that was in place at the time for a  
9 surveillance requirement sampling of the seven day  
10 diesel fuel oil storage tanks. It appears that the  
11 issue was that the sampling was not consistent with  
12 the Sequoyah sampling methods. This was written it  
13 looks like Don Amos who was a chemistry engineer at  
14 the time. He has since retired from the company.

15 JUDGE COLE: Did you say Don Amos or Don  
16 Adams?

17 THE WITNESS: It looks like Amos. A-M-O-S  
18 is what it looks like. It's the initiated by person.

19 JUDGE COLE: You have my copy.

20 THE WITNESS: Oh, I'm sorry. It's A-M-O-  
21 S, Don Amos. There was a Don Amos and there also was  
22 a Don Adams. Don Adams still works for the plant.  
23 Don Amos is retired.

24 JUDGE YOUNG: As you're looking at that,  
25 let me ask another question and see if I can clarify

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1 a time sequence. I'm looking at the transcript for  
2 June 11 on pages 2746 through 2748. Was there a plant  
3 manager named Cal Vongrove?

4 THE WITNESS: Cal Vondra? V-O-N-D-R-A I  
5 believe is the way he spelled his last name.

6 JUDGE YOUNG: When was he the plant  
7 manager if you recall?

8 THE WITNESS: I'd have to go back and look  
9 at some records. I don't recall off the top of my  
10 head. We had a number of plant managers through a  
11 period of years there.

12 JUDGE YOUNG: Okay.

13 THE WITNESS: He came to us from another  
14 plant, Hope Creek, and he stayed with us a short  
15 period of time.

16 JUDGE YOUNG: Do you think it could have  
17 been at the same time as this Exhibit 146 was done  
18 which was, it says September 1989? Do you think it  
19 could have been around that same time?

20 THE WITNESS: It could have been.

21 MR. DAMBLY: Mr. Rogers, do you see page  
22 17, 18 and 19 of that document?

23 THE WITNESS: Yes.

24 MR. DAMBLY: Is that your signature?

25 THE WITNESS: Yes. Those are my

1 documents. I was part of the Plant Reporting Section  
2 as the supervisor. Those were my responsibilities.

3 JUDGE YOUNG: At that point and if Counsel  
4 can help me here also, do you recall what Mr. Fiser's  
5 position was?

6 THE WITNESS: In '89?

7 JUDGE YOUNG: Yes. The reason I'm asking  
8 is I would like to get clear for myself who or what  
9 persons in what positions would be the ones who would  
10 ordinarily sign these things.

11 THE WITNESS: Well, the section that  
12 Counsel over here mentioned, pages 17, 18 and 19 of  
13 this exhibit, that was the responsibility of a  
14 different group than chemistry which was the  
15 responsibility of the Plant Support Superintendent  
16 group which I was in charge of which included a Plant  
17 Reporting Section and a couple of other sections.  
18 They were responsible for dealing with operability  
19 requirements and recording the licensee event reports  
20 to the NRC. This evaluation here was documenting that  
21 evaluation done by an engineer that worked for me at  
22 the time.

23 JUDGE YOUNG: And the engineer was?

24 THE WITNESS: It looks like James Kent.

25 JUDGE YOUNG: Where is that signature, on

1 which page?

2 THE WITNESS: Page 17, 18 and 19.

3 JUDGE YOUNG: Okay. So do you recall what  
4 Don Adams' position was at that time?

5 THE WITNESS: Don Adams and Don Amos both  
6 worked in the chemistry department.

7 JUDGE YOUNG: Mr. Fiser was their  
8 supervisor.

9 THE WITNESS: Gary was the chemistry  
10 supervisor. They would have worked for him when he  
11 was chemistry supervisor. I don't recall if he was  
12 chemistry supervisor specifically in '89 or not. It  
13 was in that timeframe though.

14 JUDGE YOUNG: If he was their supervisor  
15 and let's assume that he was, was there any standard  
16 practice as to whether the supervisor or the people in  
17 Don Amos' and Don Adams' positions would have been the  
18 one to sign?

19 THE WITNESS: Do you have a copy of this  
20 in front of you?

21 JUDGE YOUNG: Yes.

22 THE WITNESS: If you go down to the bottom  
23 of the first page there, it shows the prepared by and  
24 a supervisor. You can see Don Amos' printed name and  
25 then Don Adams signed as a supervisor. Typically the

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1 way you do these particular documents here is a person  
2 prepares it and then a supervisor signs it, initials  
3 it. Don Adams evidently was signing here as the  
4 supervisor for whoever that was or he was the  
5 supervisor. I'm not sure which.

6 JUDGE YOUNG: Was there a hierarchy such  
7 that Don Amos could have reported to Don Adams and Don  
8 Adams could have reported to Mr. Fiser?

9 THE WITNESS: Yes, ma'am. Typically in  
10 the chemistry section and there was the lab section  
11 which had chem lab supervisors. Then there was the  
12 technical section. That technical section had a  
13 supervisor. They would report to the chemistry  
14 managers. So you had two reporting places. Don Adams  
15 was the technical supervisor for a long time. He may  
16 have been supervisor at this point in time. Since he  
17 signed this, I would have to assume that he was.

18 JUDGE YOUNG: So even if Mr. Fiser was Don  
19 Adams' supervisor at that time by virtue of being the  
20 chemistry supervisor, would it have been normal or  
21 abnormal for Mr. Fiser to have signed or not signed  
22 it?

23 THE WITNESS: Mr. Adams could sign this  
24 document by procedure if he was the direct supervisor  
25 of the individual who prepared it.

1 JUDGE YOUNG: Does this tell you anything  
2 about whether Mr. Fiser would have known about this or  
3 had any role in it just from looking at it? Is there  
4 anything that would indicate that?

5 THE WITNESS: I don't see anything that  
6 jumps out at me that says he was made aware of it or  
7 he signed this document unless you can point something  
8 out. I don't see anything here. Typically department  
9 managers like that are made aware of these types of  
10 issues, high visibility issues.

11 JUDGE YOUNG: Do you recall anything about  
12 this in terms of having any discussions with Mr. Adams  
13 and Mr. Fiser expressing any hesitance on your part to  
14 filling out the corrective action report?

15 THE WITNESS: I don't recall any  
16 particular conversations. I'm not aware of any  
17 hesitancy on my part to complete the document. I'm  
18 required to do so by procedure.

19 JUDGE YOUNG: Thank you.

20 (Judges confer.)

21 JUDGE YOUNG: Any follow-up questions, Mr.  
22 Slater?

23 MR. SLATER: Yes, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. SLATER:

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1 Q Mr. Rogers, just a follow-up to one of  
2 Judge Bechhoefer's questions about the number of  
3 interviews that were done by your SRB in July 1996.  
4 Do you recall during that timeframe a number of major  
5 reorganizations going on at TVA?

6 A In '96, there were major reorganizations  
7 across TVAN in that timeframe including my own  
8 organization.

9 Q There were a number of positions to be  
10 filled during that time.

11 A Yes there was.

12 Q These positions were being evaluated  
13 through the SRB process. Is that correct?

14 A Yes. TVA used the selection review boards  
15 for management positions at that timeframe.

16 Q You also indicated that this selection  
17 with Mr. Fiser and Mr. Harvey was a little unique. Do  
18 you remember that? A little different.

19 A As far as the number of people being done  
20 at that time, yes.

21 Q What's the typical number of positions in  
22 your experience that are filled by SRBs at any one  
23 sitting?

24 A Normally at one sitting as I mentioned  
25 earlier we do one position typically at a time. You

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1 may have four or five candidates that you have to  
2 interview, but it's typically one position at a time.

3 Q Just to clarify one additional point. As  
4 a SRB member, is it your job to evaluate the answers  
5 that are provided to the questions asked?

6 A Yes. The job is to grade the individual  
7 based on the answers provided at the time that it was  
8 given.

9 Q The role of the SRB is not to take into  
10 consideration past work history and past work  
11 experience.

12 A No. The way the process works as I  
13 understand the process is the selecting manager has a  
14 position that is vacant. He works with the human  
15 resources department and gets approval to put the  
16 vacancy announcement out for bid if you would. Then  
17 candidates apply on the vacancy announcements. All  
18 the applicants then are put together by the human  
19 resource department.

20 They put a spread sheet together for you  
21 for the selecting manager. Then from that spread  
22 sheet and the resumes or whatever is provided, the  
23 vacancy announcement application sheet and anything  
24 that's attached to it by the applicant is given to the  
25 selecting manager. He then goes through there and

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1 sets up what are the minimum qualifications of the job  
2 and any other qualifications that he believes are  
3 required for that position.

4 Then he goes through and screens the  
5 candidates. If individuals do not meet the screening  
6 criteria then they're screened out. The ones that  
7 screen in if you would are the ones that typically are  
8 interviewed for the position. Then from those that  
9 are selected to be interviewed, the selecting manager  
10 sets up a selection review board. Usually it's made  
11 up of peers. It could be peers of the individual  
12 that's going to be in that position or it could be  
13 ones who he may report to, not directly but a higher  
14 level position in other words.

15 Those people come together and ask the  
16 questions that the selecting group manager has put  
17 together for that particular position. The selection  
18 review board members grade the individual based on the  
19 responses to the question. That information is  
20 typically given to the selecting manager.

21 That selecting manager uses that  
22 information along with the other details that he has,  
23 that is the resumes and the vacancy announcement and  
24 the work history of the individual and the performance  
25 evaluations and whatever. He uses that information

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1 and consulting with the human resource department  
2 makes his selection based on the best candidate for  
3 the position. That's typically how the process works.

4 Q One last question. As to the other SRBs  
5 on which you have served where those SRBs were filling  
6 only one vacancy, was that because those typically are  
7 assembled to one position that has been vacated  
8 through retirement or promotion?

9 A Yes. Normally only in your group you may  
10 have a position where somebody moves off to another  
11 job or leaves the company or whatever it might be.  
12 That's the position you need to fill. Typically in  
13 the organization you have attrition of some type  
14 whether it be retirement or whatever and then you fill  
15 those positions. It's typically one at a time that  
16 you fill.

17 In this particular case here, we had a  
18 reorganization where for instance in my organization  
19 we had two groups and that whole department was  
20 reorganized down to one group. They all received RIF  
21 (PH) notices. We all had to reapply on jobs that were  
22 put on the board for the remaining organization that  
23 was left. The same thing occurred in the group that  
24 Wilson McArthur had as well.

25 Q When you became the manager of your group,

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1 did you have a number of positions that you filled?

2 A Yes. During the '96 reorganization, as I  
3 said, the group that I was in was two groups. It  
4 boiled down to one. I had to apply on my job. I had  
5 to sit in front of a selection review board and was  
6 interviewed and was selected for the job.

7 When I was selected for that job, my  
8 responsibility was to fill the positions that worked  
9 for me. I had eight or nine positions under me. I  
10 had to fill those. I used the selection review board  
11 process for those eight or nine positions as well. I  
12 did those on an individual basis.

13 Q Thank you.

14 JUDGE YOUNG: Who was on your SRB that  
15 selected you?

16 THE WITNESS: I'm sorry. I don't remember  
17 specifically. I could probably dig up the  
18 documentation because I'm sure it's there somewhere.  
19 Typically it was peers, possibly somebody from the  
20 plant, probably somebody from corporate organization.  
21 It was dependant on who was available and who I  
22 thought were the right type of people that this  
23 particular person might interface with. For instance,  
24 I had --

25 JUDGE YOUNG: I'm talking about the one

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1 that selected you.

2 THE WITNESS: Oh, I'm sorry. I thought  
3 you meant for the ones that worked for me at the time  
4 who did I have for those. Who was on my selection  
5 review board? I don't remember for sure.

6 JUDGE YOUNG: Who was the selecting  
7 official?

8 THE WITNESS: I don't remember. It may  
9 have been Tom McGrath, but I don't remember. I'd have  
10 to go back and look at the records to be sure.

11 JUDGE YOUNG: And you don't remember who  
12 was on the board that selected you.

13 THE WITNESS: No.

14 JUDGE YOUNG: Thanks.

15 MR. SLATER: No further questions.

16 MS. EUCHNER: Nothing further.

17 CHAIRMAN BECHHOEFER: Mr. Rogers, you are  
18 excused. We thank you for your appearance.

19 THE WITNESS: Thank you. Here are your  
20 documents.

21 (Witness excused.)

22 JUDGE YOUNG: Did you all get those back?  
23 I'd say come back at 1:30 p.m.

24 (Judges confer.)

25 JUDGE COLE: We're off the record.

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1 CHAIRMAN BECHHOEFER: Off the record.

2 (Whereupon, at 12:25 p.m., the above-  
3 entitled matter recessed to reconvene at 1:52 p.m. the  
4 same day.)

5 CHAIRMAN BECHHOEFER: Okay. Back on the  
6 record. Mr. Marquand or Slater.

7 MR. MARQUAND: Yes, Your Honor. TVA calls  
8 Tom McGrath.

9 CHAIRMAN BECHHOEFER: Mr. McGrath, welcome  
10 back.

11 THE WITNESS: Thank you.

12 CHAIRMAN BECHHOEFER: You're still under  
13 oath.

14 THE WITNESS: I understand that.

15 MR. MARQUAND: And, Your Honor, we  
16 recognize that Mr. McGrath was called as part of the  
17 Staff's case in chief, and that we examined him at  
18 that time. We are calling him as part of our case in  
19 chief, and we're also calling him to respond to  
20 testimony that was placed in the record after his  
21 testimony back in, I guess it was April.

22 CHAIRMAN BECHHOEFER: April, I think.

23 MR. DAMBLY: I guess just to start things  
24 off then, I thought he was called as part of their  
25 case in chief the last time, where they went in

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1 through all the NSRB Minutes and a whole bunch of  
2 other stuff that we didn't. I mean, if they want to  
3 recall him for rebuttal purposes or whatever, I don't  
4 have a problem, but I don't think we need to start  
5 over with his testimony.

6 MR. MARQUAND: I don't intend to do that.

7 MR. DAMBLY: We already went through that  
8 last time.

9 MR. MARQUAND: We hope to have him in and  
10 out of here before the end of the afternoon.

11 JUDGE YOUNG: If any specific instances  
12 arise that cause you to raise specific objections,  
13 just raise them at that point.

14 MR. MARQUAND: There will, obviously, be  
15 some overlap with what he testified previously, but  
16 I'm hoping to add some additional insights into his  
17 thought processes, especially as to matters as to  
18 which there's been testimony since the last time he  
19 testified. So, obviously, there's some overlap, but  
20 that's only necessary to set the stage, or direct all  
21 the parties' attention to the subject matter we're  
22 discussing.

23 JUDGE YOUNG: Understood.

24 MR. MARQUAND: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY MR. MARQUAND:

2 Q Mr. McGrath, I have placed before you  
3 Joint Exhibit 44. It is a September 20, 1999 letter  
4 from the Nuclear Regulatory Commission, signed by  
5 Loren Plisco, to John Scalice of TVA. And if you  
6 would turn to page, the page that's Bate's marked AB-7  
7 of that document. It should be the last page of that  
8 document.

9 According to the transmittal letter, that  
10 is a summary of the Office of Investigation's report.  
11 And according to the first page of the letter, that  
12 summary forms the basis for the NRC's conclusion of an  
13 apparent violation. And I want to direct your  
14 attention to some specific language in the summary of  
15 the OI report.

16 Do you see in the second paragraph of the  
17 summary, the last sentence that says, "In his DOL  
18 complaint" - Mr. Fiser - "the employee named as  
19 parties to his discrimination, the individuals who  
20 served as committee member, Nuclear Safety Review  
21 Board, and Chairman NSRB in 1993."

22 A Yes, I see that.

23 Q And you understand that that reference to  
24 the Chairman of the SRB is you.

25 A That's correct.

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1 Q And if you would also look at the fourth  
2 paragraph of this summary. You see where it says, "In  
3 late 1995 and early '96, the two individuals who  
4 served as NSRB Committee Member and Chairman in '93,  
5 and who were named as culpable parties in the  
6 employee's '93 DOL complaint, were placed as RADCON  
7 Chemistry Manager, and Manager of Operation Support."  
8 Do you see that?

9 A Yes.

10 Q And you understand that the reference to  
11 the Chairman in '93, and the reference to the Manager  
12 of Operation Support refers to you.

13 A Yes, that's correct.

14 Q Now if you would turn over a couple of  
15 more pages to Joint Exhibit 49. If you will turn to  
16 the second page of that document. In the top  
17 paragraph, in the very last sentence of that top  
18 paragraph, do you see where it says -- this is a  
19 letter, by the way, directed to you. Correct?

20 A Correct.

21 Q Indicating that the NRC was issuing a  
22 Notice of Violation against you. Correct?

23 A That's correct.

24 Q All right. And in this top paragraph,  
25 they're talking about the pre-decisional enforcement

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1 conference. And do you see the last sentence that  
2 says, "You also clarified that the NRC's September 20,  
3 1999 letter was inaccurate in stating that you were  
4 named as culpable party to Mr. Fiser's '93 DOL  
5 Complaint." Do you see that?

6 A Yes.

7 Q So you understood -- you understand now  
8 that the NRC was saying we were wrong. You weren't  
9 named as a culpable party in Fiser's '93 DOL  
10 complaint.

11 A That's correct.

12 Q And you've also seen Fiser's '93 DOL  
13 complaint, and do you understand that he didn't name  
14 you. Is that correct?

15 A That's correct.

16 Q All right. Now aside from the fact that  
17 the Staff's assertions were just wrong about your  
18 involvement in his '93 complaint, I want to ask you  
19 about your involvement in some other matters.

20 MR. DAMBLY: I'm going to object to the  
21 question as mischaracterizing what's in here, and what  
22 was already testified to. It didn't -- it said he  
23 wasn't named. The Staff is not in error that he was  
24 involved, and there's been plenty of documents  
25 introduced, including Mr. Fiser's infamous, I guess,

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1 it's Joint Exhibit 27. And we heard the tape played  
2 about Mr. McArthur's statements of Mr. McGrath's  
3 stuff, so I don't think it's fair to say the Staff was  
4 in error in relying on apparently the DOL statement in  
5 the second complaint, that he was named as a party in  
6 the first complaint. He wasn't named as a party, but  
7 he certainly was culpable in the first complaint. And  
8 that's just a mischaracterization of what he just went  
9 through.

10 JUDGE YOUNG: You've clarified that.  
11 Questions aren't evidence, obviously, anyway, but was  
12 that part of the question that was pending, or that  
13 referred back to the question?

14 MR. DAMBLY: That was part of the question  
15 he was just asking him.

16 MR. DAMBLY: Well, if counsel wants to  
17 argue about it, I'm going to inquire of counsel, my  
18 question specifically referred to Joint Exhibit 44,  
19 the summary of the OI report that said in his  
20 complaint, in his DOL complaint the employee named as  
21 parties to his discrimination McArthur and McGrath.  
22 Now if counsel wants to show me where my statement is  
23 inaccurate, or where the OI report is correct in that  
24 regard, I would like to know that at this time.

25 JUDGE YOUNG: Mr. Dambly, as I understood

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1 what you said, you were objecting to characterizing  
2 the 1993 complaint as not involving Mr. McGrath. What  
3 you wanted to clarify was that even though Mr. McGrath  
4 was not named, that the Staff did not agree that he  
5 was not involved.

6 MR. DAMBLY: That was exactly my point,  
7 and that's not what is being covered in these  
8 documents. These documents, the Staff admitted yes,  
9 he wasn't specifically named. And they were in error  
10 in the OI report when they said he was. That's  
11 different than he was not involved.

12 MR. MARQUAND: I didn't -- I don't believe  
13 I said that. If I did --

14 JUDGE YOUNG: Well, why don't we just  
15 rephrase the question, and limit it to what --

16 MR. MARQUAND: I don't think I asked a  
17 question yet, and there was an objection. My question  
18 is, I said I would like to discuss, and ask Mr.  
19 McGrath about his involvement in certain matters.

20 BY MR. MARQUAND:

21 Q Mr. McGrath, did you have involvement in  
22 the decision to rotate Mr. Fiser, or to send Mr.  
23 Fiser from his position as Sequoyah Chemistry  
24 Superintendent to the Corporate Chemistry position in  
25 1992?

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1           A       No, I had no involvement in that decision.  
2           I was not even aware that that decision was made until  
3           after the rotation had occurred.

4           Q       All right.     You just mentioned the  
5           rotation.   Let me ask you about that.   You're aware  
6           that there was a rotation between Gary Fiser and Bill  
7           Jocher.   Did you have any involvement in the decision  
8           with respect to that rotation?

9           A       No, I had no involvement in that.   I  
10          didn't become aware of it until after it actually  
11          occurred.

12          Q       In the fall of 1992 -- you're aware that  
13          -- we had testimony, you're aware that Mr. Fiser went  
14          downtown and was the Acting Corporate Chemistry  
15          Manager at the beginning, at the inception of this  
16          rotation.   You're aware of that today.

17          A       I'm aware of that today, yes.

18          Q       All right.   And subsequently there's been  
19          testimony that in the fall of '92, Mr. Fiser was  
20          removed from that Acting Corporate Chemistry Manager  
21          position, and placed in a Chemistry Program Manager  
22          position.   Did you have any involvement in that  
23          decision, or in his removal from that position as  
24          Acting Corporate Chemistry Manager?

25          A       No, I had no involvement in that.   In

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1 fact, in my jobs I had at that time, I didn't even  
2 normally deal with Corporate Chemistry. I don't think  
3 I was even aware it happened.

4 Q In the fall of '92, Mr. Fiser received a  
5 performance appraisal, and that's when merit increases  
6 and bonuses were handed out. And Mr. Fiser has  
7 complained that his performance appraisal was lower,  
8 and he received a lower merit increase than he thinks  
9 he was entitled to. Did you have any involvement with  
10 his performance appraisal in the fall of '92?

11 A I had no involvement with his performance  
12 appraisal. In fact, in all the time I've been at TVA,  
13 I've only had involvement in the performance  
14 appraisals of individuals who were direct reports to  
15 me.

16 Q Did you have any involvement in the  
17 decision of how much, or whether to lower the merit  
18 increase or bonus that Mr. Fiser received in the fall  
19 of '92?

20 A No, I did not. And again, that is not  
21 something that I would have involvement in, unless the  
22 person -- I was a supervisor of the individual.

23 Q All right. In the late fall/early winter,  
24 December '92, there was testimony about a conversation  
25 between Robert Beecken, who was then the Sequoyah

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1 Plant Manager, and Mr. Fiser. We've seen a transcript  
2 or purported transcript of that, and there is a  
3 recording of that that's been entered in the record.  
4 And in that conversation, Mr. Beecken informed Gary  
5 Fiser of various problems he perceived with Sequoyah  
6 Chemistry, and informed Mr. Fiser that because of  
7 those perceived problems, he did not think that Mr.  
8 Fiser should return to Sequoyah as a Chemistry  
9 Superintendent. Do you have any knowledge of the  
10 basis for Mr. Beecken's decision in that regard?

11 A No, I don't. I was not aware that there  
12 was such a conversation. I was not aware that Mr.  
13 Fiser was under consideration for resuming in the  
14 position of Chemistry Manager at Sequoyah.

15 Q So did you have any -- make any  
16 recommendations one way or the other to Mr. Beecken  
17 about whether Mr. Fiser should be allowed to return in  
18 that position?

19 A No, I did not. I didn't make any  
20 recommendations or any opinions, nor did Mr. Beecken  
21 ask me for any.

22 Q All right. There has been testimony in  
23 this proceeding that in the -- in June/July '93 time  
24 frame, Charles Kent was having discussions with Gary  
25 Fiser about a job as the Sequoyah Chemistry Manager.

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1 Did you have any recommendations or input into Mr.  
2 Kent's decision not to select, or recommend, or place  
3 Mr. Fiser in that position?

4 A No, I did not. Again, I was not aware he  
5 was being considered for the position. I did not  
6 provide any input to Mr. Kent, nor did Mr. Kent ask  
7 for my opinion.

8 Q When Mr. Fiser testified in this  
9 proceeding, one of the judges, and it may have been  
10 Judge Young, asked Mr. -- Mr. Fiser was discussing  
11 issues he was involved with at Sequoyah, and was  
12 suggesting that Mr. Beecken had some animosity towards  
13 him for those concerns.

14 In response to Judge Young's question - I  
15 believe it was Judge Young. And I apologize if it was  
16 one of the other judges. One of the judges asked Mr.  
17 Fiser how he knew that Mr. Beecken had animosity  
18 towards him. Mr. Fiser testified about a problem with  
19 diesel generator fuel tanks several years before. And  
20 the problem had to do with the fact that the sampling  
21 procedure didn't comply with Sequoyah's tech specs or  
22 the ASTM standards.

23 Now what I'd like to ask you is, did you  
24 ever discuss with Sequoyah plant management or Mr.  
25 Beecken, whether Gary Fiser should be disciplined for

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1 his involvement, or lack of involvement in that issue?

2 A No, I did not discuss that with Mr.  
3 Beecken or anyone else in Sequoyah management. In  
4 fact, I did not discuss even that topic, I mean the  
5 topic of the diesel tank sampling with any of the  
6 Sequoyah management.

7 COURT REPORTER: I'm sorry. You're  
8 breaking up.

9 THE WITNESS: I said I did not discuss  
10 that particular problem with Mr. Beecken. I did not  
11 discuss with him anything about Mr. Fiser's  
12 involvement. And, in fact, I did not discuss that  
13 particular issue, which I think was in an LER, with  
14 anyone in Sequoyah's management.

15 BY MR. MARQUAND:

16 Q All right. You're aware that when you  
17 assumed the position of Acting Manager, General  
18 Manager of Operation Support that Mr. Fiser and  
19 Chandra, and Sam Harvey, and Sorrelle had a position  
20 description of Chemistry and Environmental Program  
21 Manager.

22 A Yes. The one correction I'd have to that,  
23 I think Mr. Sorrelle you're referring to here is David  
24 Sorrelle. I don't think he was any longer on the  
25 staff at that time.

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1 Q But you did have people with Chemistry and  
2 Environmental Specialists or Program Manager  
3 positions?

4 A That's correct.

5 Q All right. There's been testimony by Mr.  
6 Fiser that he didn't perform environmental duties, or  
7 if he did, that they were 5 percent or less of his  
8 assignments. As the manager of the organization which  
9 he was in, did you have an expectation that those  
10 environmental functions that were in that position  
11 description, in those position descriptions would be  
12 performed?

13 A Yes. It was the responsibility of the  
14 Chemistry and Radiological Control Manager, who was  
15 Mr. Grover at the time, to get the responsibilities of  
16 his department done. Exactly how he divided those  
17 among his employees was his decision.

18 Q Did Mr. Grover or anyone else ever tell  
19 you that the environmental responsibilities of the  
20 Chemistry and Environmental group was not being done?

21 A No, no one informed me of that.

22 Q Now I'd like to turn to 1996 in the  
23 matters that we're here about; that is, the selections  
24 for the PWR Chemistry Program Manager position.  
25 Before that selection was made, were you informed that

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1 Tresha Landers had made some allegations against Sam  
2 Harvey?

3 A No, I was not.

4 Q When did you learn about that?

5 A Wilson McArthur told me about that, I  
6 believe it was several weeks after the selections had  
7 been made. And if I could add, at the time, he  
8 characterized it to me as allegations which were not  
9 substantiated, but as part of the review, a decision  
10 had been made that it would be useful for Mr. Harvey  
11 to take some training related to inter-personal  
12 relationships. I don't recall exactly what the  
13 training was called.

14 Q Prior to the selections taking place, were  
15 you aware that Ron Grover had put a memo in, or sent  
16 a memo to personnel for inclusion in personnel's file  
17 on Mr. Harvey, documenting that such an allegation had  
18 been made?

19 A No, I was not aware of such a memo.

20 Q Did Mr. Grover tell you about the  
21 allegations?

22 A No, he did not.

23 Q Did he tell you that he had sent a memo to  
24 Sam Harvey's file?

25 A No, he did not.

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1 Q How and when did you learn about that  
2 memorandum?

3 A I did not learn about that memorandum  
4 until some of the preparation for this case years  
5 afterwards.

6 Q Prior to the selections taking place, were  
7 you aware that Dave Voeller, the Chemistry Manager at  
8 Watts Bar, had some concerns about Sam Harvey's inter-  
9 personal skills?

10 A No, I was not aware of such a problem.

11 Q Did Mr. Grover ever acquaint you with the  
12 fact that he thought Mr. Harvey had some problems with  
13 inter-personal skills?

14 A No, he did not.

15 Q At some point did you learn of a telephone  
16 conversation between Sam Harvey and Dave Voeller, in  
17 which Sam Harvey conveyed to Mr. Voeller the  
18 impression he would be selected -- he would be the one  
19 selected for the PWR Chemistry Program Manager  
20 position?

21 A I did not learn of that discussion until  
22 several years later. I don't recall at this time  
23 whether it was -- I may have been asked about it  
24 during the OI investigation, or it may not have been  
25 until the preparations for the enforcement conference.

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1 I don't remember exactly which one, but it was several  
2 years later.

3 Q Do you have --

4 CHAIRMAN BECHHOEFER: Are you referring to  
5 OI or OIG?

6 THE WITNESS: OI, NRC OI.

7 CHAIRMAN BECHHOEFER: NRC OI. Okay.

8 BY MR. MARQUAND:

9 Q Do you have any knowledge why Sam Harvey  
10 may have felt that he would be the individual who was  
11 selected?

12 A No, I do not.

13 Q Did you ever give Mr. Harvey any reason to  
14 think that he would be the one that was selected?

15 A No, I did not.

16 Q Did you give anyone else any reason to  
17 think that Sam Harvey may be the one who should be  
18 selected, or would be selected?

19 A No, I did not.

20 Q In June of '96 when Mr. Harvey, when Mr.  
21 Fiser approached Ed Boyles and threatened to file a  
22 Department of Labor complaint if a VPA was posted for  
23 the Chemistry Program Manager position, and when Mr.  
24 Boyles told you of that threat, did Mr. Boyles tell  
25 you that Gary Fiser claimed that the new position was

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1 exactly the same as the position he received as a  
2 result of the '93 settlement?

3 A Mr. Boyles informed me that Mr. Fiser felt  
4 that if we posted it, we would be in violation of the  
5 settlement of his prior DOL case. I would say  
6 primarily with regard to what the position was.

7 Q All right. Did you make an attempt to  
8 compare the position descriptions?

9 A No, I did not. Not knowing what the prior  
10 DOL case was, and those are not documents that are  
11 made, the case, the settlements of them, readily  
12 available. At my request, Mr. Boyles referred that to  
13 the personnel in Human Resources who handled the DOL  
14 cases, and they along with, I believe, assistance from  
15 the Office of General Counsel, made that review to see  
16 if there was anything -- whether it be the position or  
17 anything else we were doing that would be in  
18 violation, or inconsistent with that settlement.

19 Q Did the review by Human Resources and  
20 Labor Relations, and the Office of General Counsel,  
21 satisfy you that posting the job would not be  
22 inconsistent with the settlement?

23 A Yes.

24 Q Throughout this proceeding, there have  
25 been questions whether or not it might be possible for

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1 a manager to write a position description in such a  
2 way, that the intent or the new position description  
3 would have to be posted for competition? Do you  
4 understand my preface? With respect to the PWR  
5 Chemistry Program Manager job, did you write the  
6 position description for that job?

7 A No, I did not write that position  
8 description.

9 Q Did you edit it?

10 A No, I did not edit it.

11 Q Did you even see it before the selections  
12 took place?

13 A No, I did not see it, and it was  
14 consistent with similar level positions throughout the  
15 Operation Support Group, which at that time was being  
16 reorganized, and there were a dozen or more new  
17 positions. And with the exception of the positions  
18 which would be direct reports to me, I did not review  
19 any of those position descriptions.

20 Q Did you give instructions on what should  
21 be included, or not included on that new position  
22 description?

23 A I gave no direction specific to any one  
24 position description, no directions at all on the  
25 Chemistry ones. The only direction I gave people

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1 generally was that the position descriptions needed to  
2 reflect the job of the individuals. We had had a few  
3 problems on some of the older position descriptions  
4 throughout the entire organization, that they were  
5 written very vaguely, and very generally, and were not  
6 a good representation of what the actual  
7 responsibilities of the position were.

8 Q Did you make the decision to post the VPA  
9 for that position?

10 A Well, all of the positions that were  
11 impacted by the reorganization in Operation Support,  
12 and those revised position descriptions were sent to  
13 Human Resources for review. Human Resources came  
14 back, and based on their review, said that all of  
15 those positions needed to be advertised. We did not  
16 discuss the basis for any - the only one at that time  
17 that I questioned was one position, where I knew there  
18 was only one individual in the company qualified, but  
19 they told me the rule still said you had to post it,  
20 so we went ahead and posted it.

21 Q Do you know who the Human Resource who  
22 made the decision to post those jobs was?

23 A The decision was conveyed to me by Ed  
24 Boyles, and I believe Ed Boyles made that decision  
25 based upon the recommendation of his staff. And I'm

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1       sorry, I just drew a blank of the name of the  
2       individual who did most -- Ben Easley, I believe, was  
3       the person who at least did those reviews for him, is  
4       my understanding.

5               Q       I show you TVA Exhibits 55 and 56. Mr.  
6       McGrath, I will represent to you that TVA Exhibit 55  
7       are position descriptions and vacant position  
8       announcements for positions created in Operation  
9       Support in the 1996 reorganization. And I will also  
10      represent to you that TVA Exhibit 56 are the position  
11      descriptions for the positions that were eliminated in  
12      the 1996 reorganization of Operation Support.

13              Now we've already had considerable  
14      testimony about the fact that Wilson McArthur was  
15      placed in the Rad Chem Manager position without a VPA  
16      being posted, or competitive selection occurring. Are  
17      you aware of any other new positions created in  
18      Operation Support in '96 that were not competitively  
19      bid?

20              A       All of the others, except the position you  
21      referred to with Mr. McArthur were competitively bid.

22              Q       And to the extent that my record keeping  
23      is complete, then TVA Exhibit 55 shows all of these  
24      new positions and the VPAs for those jobs. Is that  
25      right?

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