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BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES
UNITED STATES OF AMERICA
DEPARTMENT OF LABOR

2003 MAR 11 AM 11:25

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

IN THE MATTER OF)
)
GARY L. FISER)
)
Complainant)
)
v.)
)
TENNESSEE VALLEY AUTHORITY)
)
Respondent)

Case No. 97-ERA-59

DECLARATION OF JAMES E. BOYLES

James E. Boyles subscribes and declares:

1. I am currently employed by the Tennessee Valley Authority (TVA) as a Senior Human Resource Consultant in the corporate Nuclear Human Resources (NHR) organization, a position I have held since November 1994. I have been employed by TVA since 1980. My responsibilities include providing guidance to management in Nuclear Power on labor relations and human resource issues. My responsibilities require that I work with and have access to the personal history records (PHR) of TVA employees. I have personal knowledge of the matters stated herein.

2. During the spring of 1996, I was aware of the reorganization taking place in the Operation Support Group, which included combining the Radiological Controls and Chemistry Services organizations. I was also aware that new

CLEAR REGULATORY COMMISSION

Docket No. 50-390 Official Ex. No. 5775
In the matter of TVA

Staff ✓ IDENTIFIED ✓
Applicant _____ RECEIVED ✓
Intervenor _____ REJECTED _____
Other _____ WITHDRAWN _____
DATE 6/18/02 Witness _____
Clerk BHM

50-390-5775

job descriptions were being written for the new Radiological Controls and Chemistry Services organization.

3. One of the functions of the Human Resource organization is to analyze the duties in a new job description to determine if the position is substantially the same as an existing position. Under Federal regulations, if the positions are substantially the same, the incumbent of the existing position is entitled to transfer or "rollover" into the new position. If the positions are different, then it is TVA policy to post a vacant position announcement (VPA) and allow employees to apply and compete for the new position.

4. Ben Easley, a Human Resource consultant under my supervision, compared the new position description for the Program Manager, Chemistry (PWR) position with the description for the existing Chemistry and Environmental Protection Senior Program Manager position, the position held by Gary L. Fiser. Mr. Easley informed me that the two positions were different and that the new position would require the posting of a VPA. A copy of the position description for the new Program Manager, Chemistry (PWR) position is attached hereto as exhibit 1.

5. Before a VPA was posted for the new position, Gary L. Fiser told me that he felt that he had been given his position as a part of a settlement of an earlier Energy Reorganization Act (ERA) complaint. He also said that the new position was the same position as the one he held, that his settlement guaranteed him that job, and that he would file a new ERA complaint if TVA posted a VPA for the new job description.

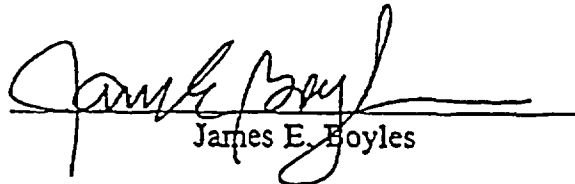
6. Upon reviewing the settlement agreement of Mr. Fiser's earlier ERA complaint, we determined that TVA had agreed to place Mr. Fiser in a certain position and that TVA had in fact placed him in that position. However, the agreement made no guarantee of job security, continued employment, or that the position would

continue in existence. We further determined that Mr. Fiser had voluntarily left the position in 1994 when he applied on and was selected for a different position. We also determined that the position specified in the agreement was eliminated in 1994 when it was vacated by Mr. Fiser.

7. At my request, Mr. Easley reviewed and confirmed his conclusion that the new position was not substantially the same as the position then held by Mr. Fiser and that a VPA should be posted. Consequently, I informed Mr. Fiser of the results of our review and that a VPA would be posted for the position.

Pursuant to 28 U.S.C. § 1746 (1994), I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 15 day of January, 1998.


James E. Boyles

000046500

NAME

(First) (Middle) (Last)

SSN

EFFECTIVE DATE

PRINCIPAL ACCOUNTABILITIES:Areas of Responsibilities:

- SQN, WBN (PWR) Secondary Chemistry Program
- Post accident sampling systems
- Cooling tower chemistry
- Software control program
- Analytical Working Group Management for all TVAN sites
- Multi-Site Technical contract Management such as Ecolochem, Dionex, PASS services for all TVAN sites

Principal Accountabilities :

- Provide technical and programmatic expertise for implementation of the TVAN chemistry program at individual sites.
- Provide direction as needed for project manager's managing projects at SQN and WBN. Oversee the activities of other personnel assigned support functions for meeting the responsibilities of this position.
- Function as the TVAN senior technical expert to the sites in the areas of PWR Secondary chemistry control.
- Function as the TVAN senior technical expert and provide direction in the implementation of such programs as Molar Ratio Control, Secondary Chemistry Optimization, and zinc injection.
- Assist Management with interpretation of chemistry policy - review and concur with site procedures and other TVAN documents that may impact the programs. Promote optimum consistency among site programs.
- Recommend chemistry program goals and specifications that are consistent with best industry practices, and assist with the implementation of actions to achieve them. Direct the performance of site evaluations of the chemistry program to ensure consistency and compliance with established requirements.
- Direct review and concur with root cause analyses for identified site chemistry program problems, direct the development of corrective action plans, and coordinate the implementation of approved corrective actions.
- Concur with the performance of regulatory and licensing reviews of chemistry issues, recommend TVAN responses or positions, and concur with responses to external organizations.
- Develop and conduct specialized seminars on chemistry technical topics as requested and conduct periodic training related observations / provide recommendations for improvements as necessary.
- Provide long-term / large scope project support to WBN and SQN for major chemistry projects. Provide short-term plant problem response to the sites as requested.
- 0. Perform long-term data trending and assessment of key WBN and SQN Secondary chemistry data. Provide appropriate feedback and corrective action proposals as necessary. Prepare an annual WBN and SQN chemistry report with review and concurrence with site staffs and issue.
- 1. Function as a TVAN representative to the EPRI PWR Secondary water chemistry committee, PWR Owners Group Chemistry Committee, and appropriate industry & regulatory workshops/conferences/ seminars. Coordinate the release of chemistry data to outside organizations as authorized.
- 12. Serve as a Chemistry specialist, dose assessor, or RAC/RAM in the event of a radiological emergency. Remain on call 24 hours a day unless relieved by other appropriate personnel during emergency events.
- 13. Actively engage in plant tours, personnel interviews, observation feedback and working meetings during routine operations and plant outages. Coordinate with sites for INPO evaluations and responses.
- 14. Function as team leader and provide technical expertise in support of the Quarterly Chemistry Team assessments for TVAN sites.
- 15. Chair Analytical Working Group for all TVAN sites.
- 16. Develop multi-site contract technical specifications and act as technical contract manager for applicable contracts such as makeup water, Dionex services, PASS services, bulk chemicals for all sites.
- 17. Act for the Corporate Radiological and Chemistry Control Manager in his/her absence.
- 18. Provide effective communications of the Corporate Chemistry Program to the TVA nuclear sites.

MIN QUALIFICATIONS:

The incumbent should have a bachelor's degree or the equivalent in chemistry, environmental sciences, or chemical engineering, including formal training and experience in management. The incumbent shall have at least eight years of professional experience in applied chemistry, with experience at an operating nuclear power plant preferable. The incumbent should have a detailed knowledge of modern analytical and radioanalytical equipment and methods used for performing all required chemistry analyses at PWR and BWR sites which includes equipment operation and capabilities. He/she must possess a very good knowledge base in the areas of PWR and BWR chemistry control guidelines requirements. An advanced degree and ten years experience at the professional or managerial level are desirable.