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1 OFFICE OF THE SECRETARY
2 RULEMAKINGS AND
3 ADJUDICATIONS STAFF

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

DEPOSITION

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

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The deposition of CHARLES E. KENT, JR., was taken by the Nuclear Regulatory Commission, pursuant to Notice, commencing at 1:15 p.m. on Wednesday, November 28, 2001 at the offices of Tennessee Valley Authority, Room 313, Mount Eagle Building, 11th and Market Streets, Chattanooga, Tennessee.

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U.S. NUCLEAR REGULATORY COMMISSION
50-390 Official Exh. No. Staff 74
TVA
IDENTIFIED ✓
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WITHDRAWN
WITNESS
DATE 6/13/02
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P-R-O-C-E-E-D-I-N-G-S

MR. DAMBLY: This is a deposition in the matter of Tennessee Valley Authority, ALSVP Number 01-791-01-CivP.

I am Dennis Dambly, counsel for the NRC staff. If you could swear the witness, please.

Whereupon,

CHARLES E. KENT, JR.

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

EXAMINATION

BY MR. DAMBLY:

Q Alrighty. Would you please state your name.

A Name is Charles E. Kent, Jr.

Q And where are you presently employed?

A I'm presently employed at TVA Sequoyah Nuclear Power Plant.

Q What's your position?

A I'm the radiological and chemistry control manager.

Q Alrighty. Prior to coming here today, did you do anything to prepare for this deposition?

A I had a meeting with the TVA attorneys on Monday.

Q Did you review any documents?

A I reviewed my statements to the DOL investigator, our internal investigation, and the NRC investigator, OI investigator, and also the transcript of the discussions we

1 had in Atlanta.

2 Q All right. According to what I have, you gave a
3 statement to the TVA IG in August of '93. Did you look at
4 that one?

5 A I -- I don't remember the date on the document that
6 I -- that I reviewed. I don't remember if I reviewed -- if I
7 had more than one discussion with him or not, but I did
8 review the -- the discussion. I believe it was the final
9 discussion. Probably about that time frame.

10 Q There was a '93 and a '94 and a '96 that you gave
11 to the IG. Did you look at all three of those?

12 A I think the only one I looked at was the one in
13 '93, for the '93.

14 You're welcome.

15 Q And you said you looked at the DOL?

16 A Yeah, the investigator; right.

17 Q And the -- and the one that you gave to Ms. Benson
18 of OI for the NRC?

19 A Yes. That's correct.

20 Q All right. When you were interviewed by the IG of
21 TVA, what do they advise you of when they take a statement?

22 A Well, generally, they advise you that you're under
23 oath, and that, you know, obviously that -- you're expected
24 to be truthful and honest and open about the investigation.
25 And they generally tell you that they're going to record

1 the -- the statement and document it. And the purpose of the
2 investigation. Basically that's it.

3 Q Did they ever show you your statements afterwards?

4 A No, I did not -- I don't think I ever saw my IG.
5 The one from the TVA IG, I don't think I ever looked at that
6 statement afterwards, until I reviewed it for this meeting.

7 Q Okay. So the -- the three different ones that you
8 gave to the IG you hadn't seen until just I guess Monday,
9 yesterday, or two days?

10 A To the best of my recollection, that's true. I did
11 see Mr. Strickland, the DOL investigator's, his notes of our
12 discussion. They were his notes, they weren't mine. It
13 wasn't transcribed. And I was -- I was asked to review those
14 and sign off on them, and I did at the time.

15 Q And when was the first time you saw the -- the
16 transcript of the statement you gave to the NRC OI
17 investigator, Ms. Benson?

18 A I'm really not sure. It -- it may have been -- I
19 may have seen it before our enforcement conference, may have
20 looked at that as one of the documents. I would have
21 probably reviewed that before our enforcement conference.
22 But until -- from that time till this time, Monday.

23 Q Okay. And prior to the enforcement conference, did
24 you -- you looked at the DOL statement?

25 A Probably.

1 Q Do you remember looking at any of the IG
2 statements?

3 A I don't remember looking at them; no.

4 Q Alrighty. Let's go over -- what is your
5 educational background?

6 A I have a Master's -- a Bachelor's and a Master's
7 degree in physics.

8 Q From where?

9 A My Bachelor's degree is from Austin Peay, and my
10 Master's degree is from University of Mississippi.

11 Q Okay. And when did you -- well, between the
12 Bachelor's and Master's, did you work or did you go straight
13 through school?

14 A Straight through school.

15 Q When'd you graduate with your Master's?

16 A '72.

17 Q '72. And what'd you do after graduation?

18 A In '72 I went to work for the State of Tennessee in
19 their radiological physics program as a licensing inspector.
20 I worked for them until -- went to work for them in February
21 of '72. Worked for the state until about December of '73. I
22 went to work for the U.S. Army electronics command at Ft.
23 Monmouth, New Jersey, as a commander of health physicist and
24 design, research, and development of weapon systems.

25 Q That was a -- a civilian position?

1 A Civilian position; uh-huh. And I was with the army
2 in various capacities like that until about March of '76.
3 March of '76, I went to work as a health physicist for Oak
4 Ridge Associate Universities, which is a DOE contractor in
5 Oak Ridge doing training programs for the NRC and DOE. And
6 then in November of '79, I left ORAU to join TVA in TVA's
7 corporate organization.

8 Q November of '79 you joined TVA?

9 A Right, uh-huh.

10 Q In what position?

11 A I was a health physicist, staff health physicist.

12 Q And how did you come to get that job?

13 A Oh, the staff HP job?

14 Q Right.

15 A Gee, I don't remember exactly. I think I sent a
16 resume to TVA and I -- I'm assuming that they sent it out to
17 their organizations who would -- would have a need for health
18 physicist, and I was called in for two interviews. And I was
19 offered two different jobs, and I selected the one in the
20 corporate office.

21 Q Okay. Do you recall what grade you started in?

22 A I started as a C-4:

23 Q C-4?

24 A As C-4. In TVA's position grading system, the
25 technical, non-management positions, that was the highest

1 non-management position.

2 MR. MARQUAND: Be a represented position.

3 Q Thank you. And "represented" meaning in the
4 bargain unit?

5 A Yeah. But in TVA...

6 MR. MARQUAND: Engineering bargaining unit.

7 A ...it's engineering level.

8 MR. MARQUAND: That's the top end of the...

9 THE WITNESS: Right.

10 MR. MARQUAND: That's the highest level.

11 THE WITNESS: That was the highest grade, non-
12 management position in the company.

13 BY MR. DAMBLY:

14 Q Okay. And is there a difference between an SC
15 position and a PG?

16 A That is SC.

17 Q Well, I know it's...

18 A Yeah, PG is -- is management.

19 Q Is management?

20 A Right. A PG is a management job.

21 MR. MARQUAND: It was.

22 A It was at that time; right. That was...

23 MR. MARQUAND: No, now it was until '96.

24 MR. DAMBLY: Well, we're in '79.

25 MR. MARQUAND: In '79 it was an M scale.

1 THE WITNESS: Oh, yeah, they called it -- it was an
2 M scale. You had SC -- SC scale for your scientists and
3 engineers, and M scale for managers.

4 BY MR. DAMBLY:

5 Q And -- and back then in '76 an M scale for
6 managers, that was a -- a people manager, or a program
7 manager, or it could be either one?

8 A Could be either; uh-huh.

9 Q Okay. Now, how long were you in the staff HP
10 position?

11 A I was in the staff HP position from -- well, from
12 November of '79 until probably late '80, maybe, or early '81.
13 And I was promoted to a management job then for radiological
14 emergency planning. And I was in that position for
15 approximately two years, until we completed all of our
16 initial planning and startup of our plants after the post-TMI
17 changes in emergency planning.

18 Q Okay, now, that position was -- that's in
19 headquarters in Chattanooga?

20 A Right, that was in headquarters. It was actually
21 headquarters for -- health physics was in Muscle Shoals at
22 that time.

23 Q Muscle Shoals?

24 A Muscle Shoals, Alabama.

25 Q Okay. And you said you were promoted. Was that --

1 was that a management level position?

2 A It was a management level position; uh-huh.

3 Q Was there a vacancy announcement posted?

4 A I'm sure there was.

5 Q I mean, you filed an application, you competed?

6 A Well, I'm assuming so. I mean, that was a long
7 time ago. I really, you know, don't recall the details of
8 it. But...

9 Q Okay. And then what would your grade have been at
10 that time?

11 A I believe it was an M-6 on the scale we had at that
12 time. M-6. It was the next level above the SC level in the
13 management scale.

14 Q And were you managing people or a program or both?

15 A Essentially both. We had people, and -- and I was
16 responsible for the program. But also had people to direct.

17 Q How many people?

18 A Well, it was a relative small group. I think we
19 had a staff of about ten, total.

20 Q And they were all direct reports to you?

21 A Gee, it's been -- let me try to remember how we
22 were organized. I had a supervisor who was the head of the
23 emergency planning group. Then there was myself, and I -- I
24 believe everybody else in the group, except the secretary,
25 reported to me.

1 Q Okay. And you were in that job for two years?

2 A Approximately two years; uh-huh.

3 Q And then what -- where'd you go?

4 A Then we -- we implemented a position within our --
5 within the corporate organization then. It was called policy
6 and evaluation, a group. And the intent of the group was to
7 establish policies for the company, and long-term direction,
8 and radiological protection. And then to do internal
9 assessment, self-assessments of programs. And I was offered
10 the -- the lead of that group.

11 Q When you say you were offered, was there a vacancy
12 or was this somebody called you up and say, "We've got this
13 new position. We'd like you to take it"?

14 A I believe it was at that time there was a new group
15 being formed. I believe that I was asked if I was
16 interested, and I obviously said yes. And I was given the
17 position.

18 Q Okay.

19 A I believe that's the case.

20 Q Was that the same grade level or a higher grade?

21 A I believe it was the same grade level.

22 Q Okay. And you were a manager in that group...

23 A Yes.

24 Q ...of people, and the program as well?

25 A Yes.

1 Q How big was your staff at that time?

2 A It was a relatively small group. I'd say we had --
3 we had no more than six people in the group.

4 Q And this is still down in Muscle Shoals?

5 A Yes.

6 Q Okay. And how long were you in that job?

7 A From about -- that would have been '83 to '85. And
8 in '85, we reorganized the entire function of health physics
9 in nuclear. Actually, we did -- part of that reorganization
10 transpired in probably '80 -- in the '84 time frame. And in
11 that restructuring, at -- prior to that time, all health
12 physics with the company was under the direction of a central
13 organization. And at that -- at that time in about '84, we
14 decentralized that function.

15 And when we did that, we basically -- all of the
16 people that worked at the various plants became direct
17 reports to the plant organization. And our organization was
18 actually totally independent of the plant organization. And
19 as -- in the beginning, totally independent of the nuclear
20 power -- the division of nuclear power. We were a part of
21 the corporate staff.

22 Q That was the policy and evaluation position?

23 A Yes. Well, and the entire health and safety
24 function was part of corporate staff, and the policy and
25 evaluation was part of TVA's health and safety organization.

1 Q Okay.

2 A And so we became -- we became totally independent
3 from the power production organization in about -- that was
4 about '84. Then in -- then in about '80...

5 Q Okay, now, you lost me there. In -- up from '81
6 through '84 or whatever, when you were in Muscle Shoals...

7 A Right.

8 Q ...that was corporate function?

9 A Corporate function.

10 Q And it wasn't part of -- it wasn't site-specific?

11 A It was not a part -- right. It was not site-
12 specific. All of the health physics people in the company at
13 that time---and we had a staff at Browns Ferry, obviously,
14 and one at Sequoyah and one at Watts Bar, even though it was
15 pre-license for Watts Bar---we had a training organization
16 for training all of the people at the plant. That was a
17 centralized function.

18 We had an internal QA organization to the
19 department. And that was a corporate level function. At the
20 time we reorganized in '80 -- approximately '84, all the
21 plant organizations went away from the Office of Health and
22 Safety, and became a part of the plant staff. They were
23 stationed at the plant prior to that, but they actually
24 reported to health and safety. So they were like tenants on
25 the site, responsible for the health and safety of the

1 employees, but independent of the plant operating
2 organization.

3 Q Okay.

4 A So then -- so then they were moved under the plant
5 operating organization, and -- and that left the rest of the
6 organization again totally independent of the nuclear power
7 division.

8 Q And did your job change in '85?

9 A Not substantially. Because the policy and
10 evaluation roles were essentially the same.

11 Q Okay. When did you get out of that position?

12 A I -- in '85 we again restructured the organization.
13 And all of the corporate functions in -- that were related to
14 the nuclear power plants were centralized within the nuclear
15 power division, and an Office of Nuclear Power---I believe is
16 what they called it---was formed in Chattanooga. There was
17 before that a division of nuclear in the power production
18 group. And -- and at that time the Office of Nuclear Power
19 was formed in Chattanooga. Our function -- all the health
20 physics function was taken from the Office of Health and
21 Safety and moved into the Office of Nuclear Power.

22 Q And did you physically move from Muscle Shoals?

23 A Yes. Yeah, we all relocated to Chattanooga, or
24 everybody who -- who wanted to relocate, relocated in
25 Chattanooga.

1 Q Okay. And with that relocation, were you still, I
2 guess, the manager for policy and evaluation?

3 A I don't remember exactly what the title was.
4 Functionally, it was a very similar position. I had
5 oversight of program development, policies, and self-
6 assessments, those kind of things still.

7 Q Did you have essentially the same staff you had
8 before the move to Chattanooga?

9 A There were some moves within the group. I think it
10 was a little bit larger group when we moved to Chattanooga,
11 because we did pull in some other functions as we centralized
12 in Chattanooga. So I think we had a little bit larger group
13 then.

14 Q Okay. Did -- did you add any functions under you
15 at that point?

16 A I don't -- no substantive functions, I wouldn't
17 say.

18 Q Were you still an M-6?

19 A No, I believe when we -- when we made that move
20 from Chattanooga to -- when we did that reorganization, we
21 relooked at all the positions and the grade structure, and
22 there was an attempt to standardize our position grading with
23 that of what already existed in nuclear division at that
24 time. And I believe at that point my position was a -- what
25 we would call an M-8, I guess, at that time.

1 Q M-8?

2 A M-8. It was two grades higher than a 6. I believe
3 that's correct.

4 Q Okay. Was there a -- a vacancy announcement and a
5 posting, or when they moved you up you just -- they upgraded
6 your position two grades?

7 A I think when I moved up, I just upgraded my
8 position. I don't believe there was a vacancy notice.

9 Q Okay. And do you recall what your title was in
10 '85?

11 A In '85 in Chattanooga. I think I was a manager of
12 policy and programs or something -- something to that effect.
13 As you can tell, we've had a lot of reorganizations within
14 TVA.

15 Q It's pretty much a government pastime.

16 A I've had a number of titles.

17 Q Okay. How long were you in that position?

18 A Actually, I wasn't in that position very long.
19 Maybe a year after we moved to Chattanooga. In July of '80
20 -- June or July of '86, I was offered the opportunity to go
21 to Watts Bar to help get the plant ready for startup as the
22 radiological -- I think at that time it was called the
23 radiological control superintendent, or that's the equivalent
24 current position, is the health physics manager at the site.
25 And I accepted.

1 Q Okay. Now, is this a posted vacancy, or an offer
2 was made to you?

3 A I actually don't remember. I don't remember
4 interviewing for the position. I do remember telling them
5 that I -- I was interested in the position.

6 Q Do you recall whether you submitted a resume or
7 anything?

8 A I don't recall. I mean, I -- you know, it was a
9 relatively small community within the company and everybody
10 knew everybody and had worked with everybody for at least
11 five to ten years. So, I mean, it was a well -- it was a --
12 everybody was a known.

13 Q Do you recall who offered you that position?

14 A Well, I'm sure it would have come from the Watts
15 Bar plant management -- plant manager, because the position
16 reported to the plant manager. But it was part of a -- that
17 was also part of a restructuring of positions again in
18 nuclear central office. And at that time, I could have -- I
19 had the option of either staying in -- in corporate and -- or
20 going to the site, and I elected to go to the site. I felt I
21 could do more good at the site, so I elected to go to the
22 site then.

23 Q Okay. And do you recall, did you -- did your
24 grade change at that time?

25 A If I'm not mistaken, those positions in '86 were

1 probably -- they may have been PG-8 or 9. At that time I
2 think we were talking about PG, but it's the same thing.

3 MR. MARQUAND: We went to PG in '89.

4 THE WITNESS: In '89? Okay.

5 A They would have been M-8 or 9 positions, I think.
6 So probably not. I didn't want to make the move for a
7 promotion. That wasn't why I wanted to make the move, so it
8 didn't really -- it wouldn't matter to me.

9 Q So you either stayed at an M-8 or you might have
10 gotten a grade increase?

11 A I might have gotten a grade increase, but I can't
12 recall.

13 Q Okay. And how long were you in that position at
14 Watts Bar?

15 A I was in that position at Watts Bar until '88. In
16 '80 -- in late '87, it became obvious that we were not going
17 to restart Watts Bar on the schedule that had been proposed
18 when I went to Watts Bar, and we had a staff of about 81
19 people in health physics at a non-operating plant with
20 nothing to do. So I went through a process of identifying
21 where we could place people, and RIF'd everybody in the
22 organization except nine, including myself. Gave myself a
23 RIF notice. And I took a position at Browns Ferry. A lower
24 grade position at Browns Ferry.

25 Q And how did the position at -- at Browns Ferry come

1 about?

2 A I believe what we were doing is, there was a --
3 there was an effort within the company to -- to strengthen
4 the technical staffs at the different sites. And Browns
5 Ferry had a need. Actually, Browns Ferry had a particular
6 problem and they asked me to go to Browns Ferry on a
7 rotational assignment in late '88, or in probably early '88,
8 late '87. And I went down there and helped them with that
9 problem for about probably six to eight months. And when
10 that assignment was over, they asked me to stay as the -- I
11 believe at that time it was called the field operations
12 manager.

13 Q Backing up a second, the radiological control
14 supervisor or superintendent at Watts Bar?

15 A Uh-huh (affirmative). Yes.

16 Q Did you have any duties or responsibilities in the
17 chemistry area?

18 A No.

19 Q In the environmental area?

20 A No.

21 Q Just all health physics?

22 A Uh-huh (affirmative).

23 Q Okay. Now, the RIF you conducted, was the RIF you
24 conducted prior to you going down to Browns Ferry for the
25 six- to eight-month rotation?

1 A I believe it was -- I believe it was after. I
2 think what happened, I had proposed that we reduce the staff.
3 And it took the company six or so months to make a decision
4 to do that. There was a lot of things in play at that time.
5 So it took a -- it was a pretty significant commitment to
6 start reducing staff at a plant that you were, you know, in a
7 process of bringing online, sent a -- you know, a message.
8 So it took us a while to make that decision. So while we
9 were making that decision, I went on assignment to Browns
10 Ferry and helped them.

11 Q And you were the manager that was actually, I
12 guess, in charge of the RIF that occurred?

13 A Yes. Right. It was my department; right.

14 Q You had all 81 people under you at that time?

15 A Yes.

16 Q And you went down to nine?

17 A Yes, we left nine people there to be the core staff
18 for -- I mean, obviously we were going to finish the plant
19 and continue the work, but we didn't have enough work for 81.
20 And we -- the program we laid out was a nine-person
21 maintenance program.

22 Q Okay. And how did you get down to nine?

23 A We did a couple of things. We offered people
24 opportunities to transfer into identified positions at other
25 sites, voluntary transfer. That was one of the mechanisms.

1 All of the people except the managers were of course
2 represented, so we have a -- an agreement, a union agreement
3 on how we do those kind of things. We complied with the --
4 with the agreement. And if you have an identified position
5 that's essentially identical to the one the person's in, you
6 can give them an opportunity to transfer. We had several
7 people take that opportunity. I'd say probably 25 or so of
8 the 80 -- 81...

9 Q Moved to different sites?

10 A ...moved to different sites voluntarily. The rest,
11 we gave RIF notices.

12 Q Okay. And the nine that remained?

13 A Right.

14 Q Did they compete for those positions, or were they
15 just based on seniority following a normal RIF schedule?

16 A Based on seniority following a normal RIF
17 proceedings.

18 Q Okay.

19 A We -- we identified the classification of people
20 that we needed to stay in the core, and then everything fell
21 based on normal RIF proceedings.

22 Q Now, then you went to Browns Ferry as the field ops
23 manager?

24 A Uh-huh (affirmative).

25 Q And that was in...

1 A That was in '88.

2 Q '88? What was your responsibilities at Browns
3 Ferry?

4 A I was responsible for -- at that time, the rad
5 control department had two major functional areas: field
6 operations and rad protection, which was a technical staff
7 room, technical support group. Technical support group did
8 dosimetry, ALARA, those kind of things. And the field
9 operations was all the HP technicians, you know, that do
10 round-the-shift coverage, job rad protection and things like
11 that.

12 Q Okay. And this was a lower grade than your prior
13 position?

14 A Yes.

15 Q You remember what grade it was?

16 A I think it was an 8. I believe at the time I was
17 at Watts Bar I must have been a 9, because I believe the
18 Browns Ferry job was an 8.

19 Q And how did you get into that position? Was there
20 a vacancy you applied for, or because of the reduction,
21 somebody...

22 A I believe it was because of the reduction, there
23 was an identified vacancy at Browns Ferry. And because of
24 the reduction, I was offered the position as a part of that
25 reduction.

1 Q Okay. The field ops manager position had existed
2 prior to your filling it at Browns Ferry?

3 A Yes.

4 Q Okay. I guess we got you up to '88 at Browns
5 Ferry. When's your -- your next job?

6 A Then in about -- let's see, it was September or so
7 of '89, the health physics manager, my boss at Browns Ferry,
8 was promoted to the -- I believe he became the maintenance
9 superintendent. And I was offered an opportunity to take his
10 position as the -- or I was asked if I was interested in his
11 position as the rad control superintendent.

12 But I had made a decision I really didn't want to
13 stay at Browns Ferry long-term, and that would have been a
14 real commitment to them, so I didn't choose to do that. So I
15 applied on a position at Sequoyah and moved to Chattanooga
16 and took the Sequoyah position.

17 Q And what was the position at Sequoyah?

18 A It was the radiological protection manager's job,
19 the other of the two, direct reports to the superintendent.

20 Q And that was a -- a posted vacancy that you applied
21 for?

22 A I believe it was.

23 Q Okay. Do you recall, is that in essence a lateral?

24 A It was a lateral; yeah.

25 Q Okay. Again, the -- the function that was under

1 you at that time was...

2 A Was ALARA technical staff. I was responsible for
3 dosimetry, ALARA planning, instrumentation, calibration,
4 maintenance, procedure development, those kind of technical
5 support functions.

6 Q Okay. I guess we'll get there, but have you been
7 at Sequoyah ever since then?

8 A Yes.

9 Q Okay. How long were you the rad protection
10 manager?

11 A I was the rad protection manager from about
12 September of '89 until November -- I believe it was November
13 of '90.

14 Q Then what happened?

15 A And in November of '90, the radiological control
16 superintendent left the company to take a position with
17 another company, and the plant manager offered me the
18 superintendent's position and I accepted it.

19 Q Okay. That was the -- the job you'd been offered
20 at Browns Ferry but didn't take with them?

21 A Right.

22 Q And you became the rad con superintendent?

23 A Right.

24 Q Was that a promotion?

25 A Yes.

1 Q To what?

2 A I believe at the time that position was a...

3 MR. DAMBLY: Is this when the system switched,
4 Brent, in '89?

5 MR. MARQUAND: Sometime in '89 it was renamed, the
6 M schedule, to a PG schedule. And instead of going from 1 to
7 13, it went from 1 to 11, plus senior managers and officers.

8 A The position was, I believe at that time, a PG-10
9 or 11. I'm not sure which.

10 Q Okay. And that -- that was a promotion?

11 A Yes.

12 MR. MARQUAND: 10 or 11 was the top -- 11 was the
13 top of the PG scale.

14 MR. DAMBLY: Right.

15 Q Did -- was there a vacancy announcement, and did
16 you apply and compete for the job?

17 A I don't believe there was a vacancy announcement.

18 Q Do you happen to know -- have you ever reviewed
19 your -- what do they come them? Personal history...

20 MS. EUCHNER: Record.

21 Q ...record, PHR?

22 A I don't think so.

23 Q Oh, okay. I was just kind of wondering if you had,
24 to your knowledge, in all these different positions, did you
25 have a position description?

1 A Oh, yes. Each one had a position description. I
2 got a position description each time I changed jobs, a new
3 one that detailed the function of that job. And you're
4 required to sign it and your supervisor signs it, so I knew
5 what my role was in each of those jobs, and -- and it was
6 defined.

7 Q And what was the function as rad con
8 superintendent?

9 A I was responsible for all aspects of the radiation
10 protection program at Sequoyah.

11 Q So you would have managed whoever got the former
12 job you had, the rad protection manager?

13 A Yes.

14 Q That was a subordinate?

15 A Right. That's right.

16 Q Did you have any chemistry or environmental
17 responsibilities?

18 A No, not at that time.

19 Q Okay. Then what was your next position?

20 A I was in that position until 1993. And in 1993, we
21 reorganized the plant staffs, and we moved the chemistry
22 organization from the operations department and combined it
23 with the rad con organization, and formed the radiological
24 and chemistry control organization.

25 Q Okay. And what job did you end up with?

1 A I was the radiological and chemistry control
2 manager. And at that time we added both chemistry and
3 environmental responsibilities to my function.

4 Q Did you -- was that a promotion?

5 A Yes.

6 Q To a what?

7 A I'm assuming that that's when my job became a
8 senior management position.

9 Q Okay. And did they -- when they combined the
10 organizations and created the rad con and chemistry control
11 organization, did they post a vacancy for that position, the
12 management position, or they just added functions to you?

13 A They just added functions to me and I think
14 reclassified my position, basically. That -- if I remember
15 correctly, that's about the gist of it.

16 Q Okay.

17 A Since it was a new organization, I had to basically
18 start from scratch and develop the organization.

19 Q And prior -- this is the first time in TVA
20 experience that you had chemistry responsibilities?

21 A It's the first time in my -- yes, my association
22 with TVA. I mean, they may have been that way prior to 1979
23 at some point.

24 Q Oh, okay.

25 A I wasn't part of it.

1 Q Did you have any background in chemistry when you
2 got that job?

3 A Not specifically. I mean, I -- as a Master's
4 degreed physicist, I was -- I had had chemistry in college
5 and was familiar with chemistry, but I didn't have any
6 specific training in nuclear power plant chemistry, other
7 than what the company would have given me as part of our --
8 some of our technical training program. And at that time I
9 was SRO certified, had an SRO certification, so I had had a
10 lot of training in -- in that area.

11 Q When did you get your SRO certification?

12 A In '87 while I was at Watts Bar.

13 Q Okay. And how did you get an SRO certification?

14 A TVA had a program, a training program, and they
15 would -- they would basically select or offer opportunities
16 to managers that they thought would -- it would be a good
17 career move for them. And it was about a 14-month program.

18 Q Then when you got certified as an SRO, did you ever
19 actually stand watch as an SRO?

20 A No. No. No, it was a certification, not a
21 license.

22 Q Oh, okay. You weren't -- you weren't licensed, you
23 just...

24 A No, I was not licensed.

25 Q Okay. I was going to say I thought we only

1 licensed people that were actually going to stand watch.

2 A No. We did everything but take the exam for the
3 license.

4 Q Okay.

5 A That's the way the program was -- that was...

6 Q Well, now, when you -- when you got this -- your
7 chemistry and environmental functions added to in '93, did
8 you have a -- a -- well, what did your organization look like
9 under you in '93?

10 A Okay, well, when -- when we restructured in -- in
11 '93, I think it was about February or so of '93, we combined
12 the organizations. And I was offered some latitude. This
13 was the first of the sites to make this move. And we were
14 trying to sort of break new ground with how we were going to
15 do it. So I was offered by the site management a fair degree
16 of latitude in how to structure the organization.

17 So I decided that I wanted to structure the
18 organization so that I would have five direct reports, I
19 believe. I was eliminating the radiological control
20 superintendent position which I had held before, and I would
21 have reporting to me the radiation protection group which was
22 a technical rad con group; the field ops group, the rad ops
23 group, basically; a chemistry technical group which was
24 parallel to the rad con; a chemistry ops group; and the rad
25 waste environmental group.

1 Prior to that reorganization, environmental was a
2 collateral function with chemistry. It was -- it was one of
3 those things that sort of they did, but it really didn't have
4 a lot of focus.

5 Q So prior to the -- the reorg in '93, the -- the
6 chemistry managers, if you will -- was there a chemistry
7 manager?

8 A There was a chemistry superintendent.

9 Q Superintendent?

10 A Uh-huh (affirmative).

11 Q Was that Mr. Fiser back then?

12 A Fiser held that position at one time.

13 Q Okay. And when he -- when he held that position,
14 it would have had environmental with it?

15 A Yes. He had all of the -- well, the corporate
16 organization had a pretty strong environmental function at
17 that time. The sites really had very little, other than more
18 or less monitoring. And that's one of those things that's
19 kind of evolved over the years, I won't say because of what
20 we did, but that might have had something to do with it.

21 We -- we weren't -- we didn't think we had the
22 right focus on environmental. We had a lot of non-
23 compliances in the environmental area in PDS permit-type
24 reports and things like that. And -- and so we -- we
25 basically decided we wanted to put together a professional

1 environmental management group to help us get a handle on
2 program and improve the quality of the program. And so that
3 was part of that reorganization.

4 Q And that went under that -- that rad waste and
5 environmental?

6 A Rad waste; that's correct.

7 Q Now, you had a chemistry and a -- and a chemistry
8 operations?

9 A Right.

10 Q What was the difference between those two?

11 A Well, the chemistry technical manager was
12 responsible for, in a parallel way, what the rad protection
13 manager was responsible for: the chemistry technical staff,
14 the people who developed the procedures, who looked at long-
15 term planning in the chemistry area, that kind of thing. And
16 then the chemistry ops group was the shift operations folks.

17 Q Now, at the time you set those up in '93...

18 A Yes.

19 Q ...who was in the various positions?

20 A Well, just prior to that reorganization took place
21 in '93 -- well, let me back up a little bit, because you
22 asked about Fiser.

23 Gary Fiser had been at the plant until sometime in
24 '92. And my involvement with him probably in '92 was really
25 sort of just cursory. I mean, I knew him, and he was

1 responsible for chemistry and I was rad protection. And the
2 most significant interface we had was when his guys didn't do
3 what I thought they ought to about -- in terms of
4 radiological work practices.

5 But he left and went to corporate, and a gentleman
6 by the name of Bill Jocker came out to the site on a
7 rotational assignment and took the chemistry superintendent
8 position. And when we decided to do this reorganization, it
9 was agreed, and Bill -- Bill Jocker wanted it that way, that
10 he would go back to corporate and take his permanent role as
11 the corporate chemistry manager.

12 And at that time, I would have had then a -- I'm
13 trying to think of who was -- who was there. Rob Ritchie,
14 who is currently a direct report of mine, was in the group,
15 and he I think would have been the chemistry ops supervisor.
16 And I was trying to recruit and fill the chemistry technical
17 supervisor's position. I may have had somebody acting in
18 that role while we were looking for a full-time person. But
19 I believe I did not have anybody in that role initially.

20 Q Now, that was the '93 reorg. Are you still in that
21 same position?

22 A Yes.

23 Q So you've been -- since '93 you've been the rad con
24 and chemistry manager at -- or superintendent or whatever
25 time was.

1 A The manager at Sequoyah; right.

2 Q At Sequoyah.

3 A Uh-huh (affirmative).

4 Q And that's been a PG senior position all along?

5 A Yes.

6 Q Okay. Must be nice being in the same job for a
7 while.

8 A I think it's been good for me and the plant.
9 Stability has its advantages.

10 Q I was just thinking.

11 MR. MARQUAND: Turn about's fair play.

12 MR. DAMBLY: I know. I just thought of something.
13 Okay.

14 BY MR. DAMBLY:

15 Q Other than the -- the RIF that occurred from
16 Muscle Shoals, have you ever either yourself been RIF'd or
17 managed a RIF at any other time at TVA?

18 A Yes.

19 Q When?

20 A Gee. In the '80 -- probably '88, '86 to '90 time
21 frames, I may have been involved in three or four or five
22 RIFs. Almost every year, you know, it seems like there was
23 reduction in those days. As a matter of fact, my first
24 function as a -- when I went to Browns Ferry was to RIF part
25 of the staff at Browns Ferry. So I showed up the day we

1 handed out the RIF notices, so I got to deliver the RIF
2 notices to the people I didn't know. But...

3 Q People loved to see you coming, did they?

4 A They did. They did. I was very -- I was very good
5 at giving out RIF notices. Very polite. Yeah. I mean,
6 that's the way it goes sometimes.

7 Q Okay. And in those, was the procedure followed
8 similar to the procedure you talked about with the -- when
9 they got rid of Muscle Shoals?

10 A Oh, yes.

11 Q I mean, it actually wasn't Muscle Shoals, it was
12 when they got rid of...

13 A When I reduced the staff at Watts Bar.

14 Q ...reduced the staff at Watts Bar. Yeah.

15 A And we -- right. We had -- there is a process you
16 go through for a reduction in force. We followed it to the
17 letter, as best as I can remember. Our HR people --
18 personnel are really good about holding our feet to the fire
19 on things like that. And we want to do it right. And I
20 believe that was -- and I wasn't really involved in the
21 process at Browns Ferry prior to arriving on the site and
22 handing out the paperwork. But I'm -- I feel pretty
23 confident that the process was followed appropriately there,
24 too.

25 Q I guess you -- you talked at one point about a

1 chemistry technical supervisor position and a chemistry
2 superintendent. Are those the same position or different
3 positions?

4 A No, the chemistry superintendent position, as -- as
5 we have it now, is one level above the technical supervisor's
6 job.

7 Q How about back in the '90 to '93 time frame?

8 A Well, the '90 to '93 time frame, the superintendent
9 position would have been one level above. I don't think we
10 actually had the organization structured that way where we
11 had a -- I wasn't responsible for it, so I really can't
12 recall exactly how it was laid out. But I don't think it was
13 structured quite that way, with a chemistry technical group
14 and a chemistry ops group.

15 Q When's the first time you---and whatever experience
16 you want to relate with each one of these people---but when
17 did you first come to know Mr. Fiser?

18 A I believe it was when I transferred to Sequoyah in
19 a permanent capacity in '89. I don't -- I don't recall
20 having met him before '89.

21 Q Okay. And in '89 you and he were peers?

22 A We were at the same level, right, had the same
23 level position. He was chemistry superintendent and I was
24 the rad con superintendent. And I believe our jobs were the
25 same grade. Mine may have been a grade higher than his.

1 He -- he reported to the ops manager and I reported to the
2 plant manager. So I -- I sort of think my job was probably a
3 grade higher than his just because of reporting
4 responsibilities and things like that.

5 Q And you -- you didn't have any supervisory
6 responsibilities with regard to Mr. Fiser?

7 A Oh, no. No, none.

8 Q Did that change?

9 A No, I never supervised Mr. Fiser.

10 Q So by the time you took over the chemistry
11 function, he was at corporate?

12 A He had been -- right, he had been at corporate a
13 year or so.

14 Q How about a -- Mr. Corey?

15 A Mr. Corey. I knew Mr. Corey probably in, I'd say,
16 '80 -- well, gee, I can't remember if it was '83 or '85. I
17 hired him into TVA when he came to TVA. So whenever that
18 was. Might have been '83, might have been '85 time frame.

19 Q And that would have been as part of that health
20 physics organization?

21 A Right.

22 Q Mr. Cox?

23 A Mr. Cox joined the company in -- I'm trying to
24 remember. I think it was probably after I left Watts Bar. I
25 think he actually replaced me in that position once the plant

1 got to the point where, okay, it's time to go restaff the rad
2 protection organization, which was probably in the early
3 '90s. Probably in the early '90s or maybe might have --
4 might have been around '93 or so whenever Jack joined the
5 company. He came into that position from B. C. Summer. And
6 so I -- that's the first time I had any knowledge of him.

7 Q Okay. He never worked for you?

8 A No, never worked for me.

9 Q Mr. Corey did?

10 A I think the way John came into the company, I
11 believe I hired him, and shortly after I hired him in the
12 company, we formed a laboratory. We built a new laboratory
13 in East Tennessee to do instrument calibration repair,
14 centralized dosimetry functions and things like that. And --
15 and John moved to that group. He was really interested in
16 dosimetry, had done dosimetry in -- in school, things like
17 that. And he was really interested in that. And he went to
18 that group to be sort of the dosimetry supervisor.

19 So, even though I believe I recruited him into the
20 company, I basically recruited him into the company for a
21 different position, because he was -- he was almost
22 immediately moved into the dosimetry job, if I recall.

23 Q Okay. How about Mr. Jocker?

24 A Mr. Jocker came into the company sometime probably
25 in the '80 -- I'm going to say '86 to '88 time frame, into

1 the corporate organization, and I met him then and had some
2 interface with him. Not a great deal. But I did -- I did
3 know him to see him. But that's about it.

4 Q And then he came out to -- to the site?

5 A Right, then he came to the site in '92. And I -- I
6 knew him then about like I knew Fiser, that he was the
7 chemistry manager, I was the rad con manager. We worked
8 together on several initiatives to try to improve plant
9 performance. We were trying to reduce dose by implementing
10 submicron filtration, and so he and I worked closely together
11 on some of those projects. So I -- you know, I -- I was
12 involved with him from that perspective.

13 Q Okay. You never supervised Mr. Jocker, though?

14 A Technically, I don't think I did. The organization
15 was given to me -- chemistry organization was given to me
16 prior to his departure from the site. I think he was there
17 for about 30 days or so after I assumed responsibility for
18 chemistry, and that was really more or less a transition type
19 function.

20 Q Okay. How about a Mr. Bynum?

21 A Mr. Bynum?

22 Q Uh-huh (affirmative).

23 A My first interface with Mr. Bynum I believe was
24 when he assumed the role of what would now be site vice
25 president. I don't know what they called it back in those

1 days at Sequoyah. He was -- he functioned in that role for a
2 period of time.

3 Q And you would have been a subordinate?

4 A Right, I would have been a subordinate, two levels
5 down, at least. Yeah, two levels down. I was a plant
6 manager's direct report; he was a direct report to the site
7 VP. And actually at that time I think it was called site
8 director.

9 Q Okay. Sam Harvey?

10 A Sam Harvey, I believe, came to work for the company
11 about in the late '80s. I believe it was in the late '80s.
12 Might have been early '90s. I can't remember. I didn't
13 really have much interface with Sam until, of course, I
14 became involved with the chemistry program.

15 And one of the major things that I did, after
16 assuming responsibility for the program was to coordinate
17 a -- what we called a chemistry improvement plan. It was a
18 comprehensive, long-range plan with short-term, intermediate,
19 and long-term objectives. And I worked with Sam and Jocker,
20 almost everybody in the company that had anything to do with
21 anything that would impact chemistry, which we put together
22 in a working group to put together this plan.

23 And, because our steam generators were not in that
24 good a shape at that time, and we knew that if we didn't do
25 something pretty quickly, we were probably going to have some

1 real problem with Unit 1 steam generators. So we -- we
2 needed a very aggressive program to deal with that issue.
3 And I -- I think I met Sam at that time.

4 Q Okay. Chandra? I'll let somebody else spell it.

5 A Oh, yeah, I know what you mean. It's Chandra to
6 me, too.

7 Q Okay.

8 A I don't remember when Chandra came to -- came to
9 the company. He was sort of late in the game in terms of the
10 time frame we're talking about. Came into the corporate
11 organization, had a background in BWR chemistry. And -- and
12 I think was pretty knowledgeable of accounting systems, gamma
13 spectroscopy and those kind of things. And I got to know him
14 because he was part of the corporate chemistry organization
15 and, you know, we interfaced with all those guys on a fairly
16 regular basis on one issue or another.

17 Q Okay. Mr. Rogers? Strike that.

18 A Oh, Rick Rogers; Hayward R. Mr. Rogers was -- I
19 believe, when I first came to Sequoyah, Rick Rogers was there
20 as a engineer (sic) -- engineering supervisor in the
21 technical support organization. I don't know exactly what
22 his title was, but I believe he was in a supervisory level
23 position in the site technical support organization, which is
24 now part of the engineering group.

25 Q And you never supervised him?

1 A No, I did not. I knew him, and over the years
2 worked with him, like all the other technical groups on site
3 in the various projects that we had common interest in.

4 Q How about Mr. McArthur?

5 A Wilson McArthur came -- well, I'm sure you know
6 when he came to -- I can't remember exactly when he came to
7 TVA. But he came into the corporate organization as a
8 technical support. Don't know what level position it was,
9 but it may have been a senior level position at the time when
10 he came in from outside the company.

11 And he was -- I think when he first came in, he may
12 have had engineering and a number of groups in corporate
13 organization. And I -- I got to know him a little bit in
14 that role. Later, got to working more closely with him as he
15 got more involved in the radiological protection and
16 chemistry pieces of the program.

17 Q Tom McGrath?

18 A I believe my first interface with Tom McGrath -- I
19 don't remember the time frame, but I think he was involved in
20 our different safety review -- review board functions. And I
21 got to know him as a part of that when he had that role. And
22 so we -- we interfaced on a regular basis with NSRB members
23 and -- in terms of their program reviews and oversight of all
24 of our functions on site. So I think I first got to know him
25 in a role like that. He was part of our corporate

1 organization, I believe.

2 Q Gordon Rich? I think it's Gordon.

3 A Yes. I first met Gordon in 1993. Gordon was part
4 of the Trojan Nuclear Plant organization, and he was being
5 recruited by TVA. The corporate guys brought him in to -- to
6 interview him, and offered me a chance to interview him,
7 also. I think they thought he'd be a good person for one of
8 the sites, and so they wanted as many of us as -- as could to
9 talk to him.

10 So I talked to him, also, in '93. And I -- as a
11 matter of fact, I think in '93, when I talked to him, I still
12 had that technical support manager -- I know I did. I had
13 that technical support manager vacancy and I discussed, you
14 know, the option of -- of if he was -- if he would be
15 interested in a position like that. We discussed that, and
16 eventually made him an offer.

17 Q Now, the technical support manager, that's the
18 chemistry technical support manager?

19 A Right.

20 Q In reading things, sometimes I saw technical
21 support and sometimes I saw chemistry technical support on...

22 A Right.

23 Q Didn't know if we had two different positions.

24 A No, that was it.

25 Q Okay. And I have no clue how to pronounce it.

1 Go -- what's that name?

2 MS. EUCHNER: Oh, Goetcheus?

3 Q Goetcheus.

4 A Oh, David Goetcheus. David Goetcheus is -- my
5 first interface with him, he was -- I believe he was in the
6 corporate organization. I really didn't have much to do with
7 him at all until I got involved at Sequoyah on a -- on a
8 permanent basis. He was responsible for essentially
9 technical support and direction of steam generator
10 maintenance activities.

11 And my interface with him, because steam generator
12 maintenance is such a big task for us, and outages was
13 related to initially, the radiological protection aspects of
14 that, and then ultimately what we'd do -- once I took over
15 the chemistry program, what we'd do, from a chemistry
16 perspective, to help preserve and lengthen the life of our
17 steam generators. So I really got involved with him in '93.

18 Q Somebody want to spell Goetcheus?

19 MS. EUCHNER: G-o-e-t-c-h-e-u-s; is that right?

20 MR. MARQUAND: I believe that's correct.

21 MS. EUCHNER: Okay.

22 THE WITNESS: I believe that's...

23 (Off the record.)

24 MR. DAMBLY: Back on the record.

25 BY MR. DAMBLY:

1 Q With respect to Mr. McArthur, in the time frame of
2 I guess '80 -- well, let's say '90 through '93, his function
3 in corporate and yours at Sequoyah, were you -- were you
4 peers? Do you recall, I mean, if he had the same corporate
5 functions as you had at Sequoyah?

6 A I would say yes. I think he has -- his span of
7 control, programmatically, was a little larger than mine
8 prior to '93.

9 Q And then in...

10 A He had emergency planning, I think, and industrial
11 safety. Maybe security, too, in that time frame. So he had
12 a larger span of control than I did.

13 Q Okay. And then in -- in the '93, '94 time frame,
14 you picked up...

15 A Right.

16 Q ...additional function; he lost functions?

17 A I think there was a restructuring in corporate at
18 some time around that same time period, and I believe that
19 security was pulled out. He kept EP and all the rad chem
20 functions. And emergency planning. I believe that was the
21 gist of it, was emergency planning and rad -- the
22 radiological chemistry control function -- functional areas.

23 Q I was under the impression in '94 he -- he had the
24 rad con functions and Grover had the chemistry and
25 environmental functions.

1 A I really -- you know, I never -- I never saw him as
2 a peer of Grover's. Now, he may have been on paper in
3 corporate a peer of Grover's, but I really never saw him in
4 any of my relationship with him as a -- as a real peer of
5 Grover's. Now, it may have been because of his previous role
6 as a technical support director in corporate, you know, that
7 I...

8 Q But you...

9 A We just didn't keep up that closely with the
10 corporate organization to be able to make an informed comment
11 about how they were structured. Until he -- until he assumed
12 the same roles I had, then we were pretty much in lockstep
13 from then on.

14 Q In the -- in the '94, '95 time frame, when you used
15 to have these peer review meetings here.

16 A Yes. Right, peer meetings.

17 Q Peer meetings.

18 A Uh-huh (affirmative).

19 Q Who from corporate attended those meetings?

20 A Wilson generally was the -- was the key
21 representative from corporate that attended the meetings.

22 Q Was Grover at those meetings?

23 A Grover or others attended from time to time.
24 They -- I mean, they would -- you know, depending on what we
25 were doing, we may have -- we might have had a training

1 representative at the meeting, at least for part of the
2 meeting, or -- or some of the chemistry staff. Some of our
3 lower level staff attended those meetings. We -- we
4 encouraged as much as we could a fairly broad participation
5 in those meetings. So we would -- a lot of times we'd have
6 two or three or four extra people in the meetings.

7 Q And so in the '94, '95 time frame, you didn't
8 understand or -- that Grover and McArthur were on the same
9 level?

10 A Well, I'm not going to -- I wouldn't -- I wouldn't
11 characterize it exactly that way. It just -- you know, that
12 wasn't an issue. It never came up as an issue, so I don't --
13 it didn't matter to me what level they were on. You know,
14 Wilson was the primary interface that we had with corporate.
15 We were a lot more involved with Wilson than anybody else in
16 corporate, let me put it that way.

17 Grover was often in our peer team meetings, I'd say
18 a fairly regular attendee and -- during -- about that time
19 period, and representing the chemistry interest, corporate
20 chemistry interest. So I -- you know, I guess they probably
21 may have been peers. I just didn't really think of them --
22 never thought of them as peers.

23 Q In -- going back to your interactions with Fiser,
24 when you came to Sequoyah you had rad con and he had
25 chemistry as managers?

1 A Uh-huh (affirmative). Right.

2 Q And then he left, and was it in '91?

3 A He left I think in '92 and went to corporate.

4 Q And Jocker came for you?

5 A Jocker came out.

6 Q So then there was a reorg where you set up these --
7 you assumed the overall function then. And the chemistry
8 technical support manager, which was the job that Fiser and
9 then Jocker had had...

10 A Actually, Fiser and Jocker both had served in the
11 role as chemistry superintendent, the position that I wanted
12 to do away with as a part of the reorg. I didn't need the
13 position, and there was nobody in it, because Jocker was
14 going back downtown. And I had previously had the rad con
15 superintendent job, so I wasn't going to refill it. So the
16 proposed organization, which -- which we functionally
17 implemented at the site, but -- but never really got approved
18 corporate-wide, was myself and five direct reports, with no
19 superintendent level positions.

20 Q Okay. So the -- the chemistry superintendent would
21 have been a position above the chemistry technical support
22 manager?

23 A That's correct.

24 Q And did that organization get set up as -- as you
25 envisioned it in '93?

1 A We implemented it with the approval of our site
2 vice president and plant manager. And sometime in probably
3 later in '93 -- I believe it was later in '93, in an effort
4 to achieve standardization, the other sites were beginning to
5 pick up the same kind of roles. Like I say, we were the
6 first to do it.

7 Then -- then those changes were proposed and made
8 at the other sites, to combine the rad con and chemistry
9 organizations. And in doing that, there was a -- then we
10 started having a lot of discussion about how we wanted to
11 structure things and what was really best for everybody.
12 Because we had -- there was different personalities in
13 positions all across the company, and you kind of have to
14 build on the strengths and weaknesses of, you know, each
15 individual's group's players.

16 We had a lot of discussion about how we would
17 ultimately structure the organization. And in the end, when
18 we did reach a standard org -- organization, it was approved
19 as an organization that would have three direct reports to my
20 position: a rad con superintendent, a chemistry
21 superintendent, and a rad waste environmental superintendent.

22 Q Okay. And that was finally approved, standardized
23 when?

24 A That was probably in late summer or fall of '93, I
25 think. Late summer or fall of '93.

1 Q Okay. And what position was Mr. Fiser in that he
2 got RIF'd from in '93?

3 A He -- you know, it was my understanding he was in a
4 corporate staff position. A technical staff position in
5 corporate.

6 MR. MARQUAND: On paper he was the previous
7 chemistry superintendent.

8 Q And -- and just so I got it straight, he was the
9 chemistry superintendent. He and Jocker switched, they
10 rotated.

11 A Uh-huh (affirmative).

12 Q It was -- it wasn't a permanent switch? It was not
13 intended to be?

14 A Well, I wasn't really involved in that, so I really
15 don't -- I really don't have any -- I really don't have any
16 information about what kind of arrangements were made between
17 he and Jocker. When -- when Jocker was at the plant, I know
18 that initially he wanted to stay at the plant and wanted to
19 head the rad chem organization. That didn't come about, and
20 he went back downtown.

21 Q He wanted the job you ended up with?

22 A Right.

23 Q And when he didn't get it,...

24 A Right. He went back downtown.

25 Q ...he went back downtown?

1 A Uh-huh (affirmative).

2 Q Okay. Was there a -- a RIF associated, to your
3 knowledge, with the -- I guess it was '93 reorg?

4 A Not to my knowledge. I mean, I did -- I had no...

5 MR. MARQUAND: Fiser -- Fiser received a RIF notice
6 from his job as chemistry -- whatever position he had from
7 Sequoyah.

8 MR. DAMBLY: Okay.

9 MR. MARQUAND: You've got a copy of that as part of
10 the Jocker investigative file.

11 MR. DAMBLY: All right.

12 BY MR. DAMBLY:

13 Q Who -- who issued the notice?

14 A I was not involved in it.

15 Q Well, were you the supervisor of that function...

16 A So I -- I don't know.

17 Q ...at the time this notice was -- was issued?

18 A Yes, I was -- well, I assume. What's the date?

19 MR. MARQUAND: I don't remember.

20 A Yeah. I don't know the date. I mean, if I -- I
21 would -- I was responsible for chemistry program from
22 approximately February the 23rd.

23 Q That's approximate?

24 A Red letter day for me, I think. I may be off a day
25 or two, but about February 23rd is when the -- the letter

1 came out from the site, -- site vice president reorganizing
2 the -- the function.

3 Q Why is that a red letter day?

4 A Well, I took on a whole lot more headaches on that
5 day.

6 Q Okay. So, Mr. Fiser was -- received a RIF notice
7 from his position at Sequoyah, you didn't have anything to do
8 with that?

9 A Right. And I don't know that I was aware that he
10 got a RIF notice from Sequoyah.

11 MR. MARQUAND: I don't know if it was a RIF or
12 surplus. He was sent to ETP, and I don't know if he actually
13 got a -- he was surplused from his job, and I don't know if
14 we used that term at that time. But they decided the job
15 was -- like Charles said, that they didn't want it, and he
16 was whatever they called it then. Whether it was a RIF, or
17 go to ETP, or surplus, or what. He got something.

18 MR. DAMBLY: Do not pass Go, to not collect 200...

19 MR. MARQUAND: Yeah.

20 THE WITNESS: Well, I -- I know that about that
21 time, somewhere in the '93, '94 time frame, he was in what
22 was called the transitional...

23 MR. MARQUAND: ETP; employee transition.

24 THE WITNESS: ...ETP, employee transition program.

25 BY MR. DAMBLY:

1 Q But you don't know how he got there?

2 A Yeah. Those...

3 MR. MARQUAND: Okay, he got -- he got sent to ETP.
4 I don't believe he actually got -- he was not actually
5 terminated from TVA, I don't believe. But it would have --
6 it was a precursor to being RIF'd.

7 MR. DAMBLY: Okay.

8 MR. MARQUAND: Because his job was automated. I
9 may be wrong, but you can check that in the file.

10 BY MR. DAMBLY:

11 Q. Okay. What knowledge do you have of Mr. Fiser's
12 '93 DOL complaint?

13 MR. MARQUAND: What knowledge does he have now or
14 what knowledge did he have at some -- at some other point in
15 time?

16 MR. DAMBLY: Well, we'll -- we'll go with now, and
17 then we'll back up to when -- well, let's start at the
18 beginning.

19 BY MR. DAMBLY:

20 Q When did you first learn he'd filed a complaint or
21 that he might file a complaint?

22 A Probably in '93. I mean, I don't -- I don't know.
23 I'm assuming that -- that I would have known in -- in '93 if
24 he filed a complaint. I mean, I think if he filed a
25 complaint in '93, I would have probably known sometime in

1 '93. He probably would have told me, you know, that he had
2 filed a complaint.

3 Q Okay. And that was why you were interviewed by the
4 TVA IG in '93?

5 A Yes..

6 Q Actually probably '94, too; although I'm not sure.

7 A I believe that's -- I believe that's correct.

8 Q What was your understanding of why he filed a
9 complaint, what his complaint was?

10 A I don't know that I actually ever saw anything that
11 really detailed the complaint. I never really asked any
12 questions about it. It's my belief that he filed the
13 complaint alleging that he had been involved in protected
14 activities and felt like he was removed from his position
15 because of that.

16 Q Okay. And why -- why did the TVA IG interview you?
17 What did you have to do with...

18 A Well, the questions that I was asked was all
19 related to how we restructured the chemistry organization,
20 why we made certain decisions about not having a chemistry
21 superintendent, those kind of things. And -- and then a
22 conversation I had with Gary about that time in the fall of
23 '93 when I tried to recruit him to a position at the site.

24 Q Okay. Did you discuss his '93 DOL complaint in the
25 '93, '94 time frame with any managers, any other managers of

1 TVA?

2 A Gee, I would -- I'd -- I couldn't tell you. I
3 mean, I really don't recall, you know. It's...

4 Q Do you have any recollection of his complaint
5 having anything to do with the NSRB?

6 A No. Well, I -- I am aware now, after having
7 reviewed -- but talking about at that time?

8 Q Right.

9 A I'm aware now that, after having reviewed material,
10 that -- that there was a connection with NSRB function.

11 Q At that time...

12 A I was not aware at the time.

13 Q Okay. Did you ever talk to Wilson McArthur about
14 it, about the '93 DOL complaint?

15 A You talking about ever?

16 Q Ever.

17 A I -- I can't recall any specific conversations we
18 could have had about it. I mean, I don't know why I would
19 have talked to Wilson about it. It wasn't really a -- an
20 issue that was of concerned to me, except I was being
21 interviewed.

22 Q And again, when did you learn that Mr. Fiser was
23 either RIF'd or surplusd in '93 space?

24 A Oh, I knew he was -- I knew he was in the employee
25 transition program, if that's the term we used at that time.

1 At least in the fall of '93. Sometime in the late summer or
2 fall of '93 I would have known he was in that program because
3 I contacted him while he was in that program.

4 Q But you didn't know at that time that he'd actually
5 been surplused from a Sequoyah job?

6 A I believe that's correct; I did not know what
7 position he was in when he was placed in ETP.

8 Q Now, and we'll get to the interview with Fiser, but
9 first, going back to Gordon Rich.

10 A Uh-huh (affirmative).

11 Q And your first involvement was in the '93 time
12 frame with Mr. Rich?

13 A I believe that's correct.

14 Q Okay. Could you tell us again what that was.

15 A Well, corporate was interviewing Gordon for a
16 position, and we -- at that time we were recruiting fairly
17 heavily from the Trojan staff. They were down staffing, and
18 we -- we thought that was a real good opportunity to pick up
19 some very good people for the company. So we were recruiting
20 people from Trojan in a large number of positions.

21 Gordon was one of those people that was identified,
22 and he was brought in by corporate for an interview. And I
23 was offered the opportunity to interview him, so I did. And
24 that's when I -- that's the first encounter I had with him.

25 Q Okay. And...

1 A I don't remember the exact date.

2 Q So you -- you interviewed him?

3 A Yes.

4 Q What was the result? How many times did you talk
5 to him? How'd it work?

6 A I probably talked to him -- I actually think he
7 came back to TVA twice, and I talked to him two different
8 occasions when he was on interview trips.

9 Q Okay. And what was the outcome of those?

10 A Well, ultimately I offered him a position. And so
11 did corporate. I thought he was -- I thought he was a pretty
12 good guy. He had -- had a lot of good experience from
13 Trojan. And I offered him the technical support -- I believe
14 I offered him -- yeah, it was -- I offered him the technical
15 support manager's position. The chemistry technical support
16 manager position.

17 Q So in the organization you envisioned, one of the
18 five direct reports?

19 A Right.

20 Q The -- maybe I'll show it to you. Although I think
21 you handed it out a minute ago. In '93, when you were
22 interviewed by the IG, they say, "Kent stated he was pleased
23 with the experience and ability of Rich and endorsed Rich
24 with his recommendation for the position to SQN upper
25 management. Kent expected to have Rich hired in this

1 position once the paperwork finally cleared the site, ER&D
2 personnel. Kent advised that the paperwork process was
3 working through the month of March, and Kent expected Rich to
4 receive official offer toward the end of the month, end of
5 March, or early April 1993.

6 "Kent advised that at the time they were making an
7 offer to Rich for the SQN chemistry technical support
8 manager's position, corporate was also making Rich an offer
9 of the same pay to fill the position vacated by Jocker's
10 resignation, corporate chemistry manager."

11 Then in '94, when IG interviewed you, "Kent stated
12 that after an attempt to hire Gordon Rich, who became
13 corporate chemistry manager at SQN," talks about going on
14 to -- to Fiser, but said, "In addition, Kent did not want to
15 hire Rich as the SQN chemistry manager, because not only did
16 he feel like Rich was not a driver, but Kent also felt Rich
17 was being pushed on him by Dan Keuter, vice president" -- or
18 is that Keuter?

19 MR. MARQUAND: Keuter.

20 THE WITNESS: Keuter.

21 MR. DAMBLY: That's another Euchner.

22 MS. EUCHNER: K-e-u-t-e-r.

23 BY MR. DAMBLY:

24 Q "...vice president of operations services."

25 Now, were you happy with him or you didn't want

1 him?

2 A Well,...

3 MR. MARQUAND: Start at the beginning.

4 A ...let me start at the beginning. Gordon was
5 obviously -- when I interviewed him the first time, I was
6 impressed with his experience at Trojan. He had many years
7 of experience at Trojan. He had obviously seen a lot of
8 problems with steam generator chemistry, because that's one
9 of the things that got Trojan shut down. He -- so he had a
10 lot of key experience that maybe was good precursor
11 experience for us to have, because we were in -- on the
12 learning curve in that area.

13 We hadn't seen the problems Trojan and a few other
14 plants have seen with OD stress corrosion cracking and those
15 kind of things. And, you know, that was something we were
16 really keenly interest in because we -- we knew that -- that
17 if it was going to show up at our plant, it was just about
18 the right time for it to start showing up. And we had to get
19 ahead of it. We felt like we had to get ahead of it in order
20 to preserve our steam generator. So Gordon had a lot of
21 technical experience. And I felt like that Gordon would be a
22 valuable person to have on staff in a role like the chemistry
23 technical manager's job.

24 I did not think that I needed and didn't want a
25 chemistry superintendent, and I didn't think Gordon would

1 necessarily be a good person in that role, because I felt
2 like Gordon was -- he was -- he was very -- he was very mild
3 mannered and very laid back, and I didn't -- I wasn't
4 impressed that he was the kind of person it would take to
5 push for the changes we had to make in the program at that
6 time.

7 MR. MARQUAND: He was very pleasant.

8 A Yeah. And so I -- so the answer is, I guess, both.
9 I -- I did like him, I did think he had a lot of technical
10 ability. I thought he would make a good supervisor at the
11 level of the chemistry technical support manager. But I
12 wasn't really interested in him that much -- well, I didn't
13 want to have another position.

14 And I think when I was interviewed, that's -- I
15 don't -- I don't know that I ever saw that interview. But if
16 -- but if I did, I think the way the question was worded and
17 how I was trying to respond was I wasn't really overly
18 impressed with his aggressiveness and -- and some of the
19 abilities and qualities I thought the person needed at that
20 time to be successful in a higher level role.

21 Q It -- the comment that you felt he was being pushed
22 on you by Dan Keuter.

23 A Yes.

24 Q How'd that come about?

25 A Well, I mean, I think Dan was from Trojan, knew a

1 lot of the people out there, really thought Gordon was a good
2 person, really wanted to place Gordon in the plant
3 organization, really wanted me to bring Gordon in as a
4 chemistry superintendent. I didn't really want a chemistry
5 superintendent. Dan was really wanting me to have a
6 chemistry superintendent, I think because he didn't think I
7 could get Gordon any other way but as a chemistry
8 superintendent. Because technically it would be a step-down
9 for Gordon from his Trojan job.

10 Q Of course, then again, if you're about to be
11 unemployed, step-down, step-up is somewhat irrelevant.

12 A Well, so I was -- I was resistant -- you know, I
13 was resistant to some degree jumping on that band wagon.

14 MR. MARQUAND: He had just eliminated the -- the
15 chemistry superintendent job, and he's telling you he didn't
16 want -- didn't want it.

17 A Plus in the new organization...

18 Q But...

19 A Go ahead.

20 Q ...did you interview him for that job? I mean, I
21 understand, from reading this stuff, that you interviewed him
22 for the tech support manager position.

23 A That's true. That's exactly right.

24 Q And that's the only position you discussed with
25 him?

1 A That's true. He may have -- Gordon may have asked
2 me, in -- in our interview, about a position like a
3 superintendent's job, and if he did, I would have told him
4 we're not going to have a chemistry superintendent. Because
5 at that time I was holding firm that we weren't going to do
6 that. You know, sometimes you hold firm until you get run
7 over. The big machine. Big machine wants us to standardize,
8 so we give -- we give in eventually.

9 Q Okay. And then, subsequent to Rich accepting a job
10 in corporate, the corporate chemistry manager, I guess in
11 '93, was -- do you know who that position would have reported
12 to? Was that -- is that the position that Grover ultimately
13 ended up in?

14 A Uh-huh (affirmative). Yes, I believe it is. Yeah,
15 when -- when Gordon came to Sequoyah, then I believe Grover
16 moved directly into that job.

17 Q That was -- he took the job that Jocker had been
18 in?

19 MR. MARQUAND: Grover didn't come till '94.

20 Q Yeah. Jocker was in, then Jocker left and...

21 A Gordon.

22 Q ...Gordon took that job?

23 A Right. Then...

24 MR. MARQUAND: Then they recruited Grover.

25 A Yeah, then Grover, after Gordon.

1 Q At some point -- okay. Again, in the '94---'94?---
2 '94 IG interview, says, on Page 3, "According to Kent, Fiser
3 was aware that the chemistry manager position was being
4 eliminated when he," paren, "(Fiser) was asked to become the
5 technical support manager. But he, Fiser, felt that he was
6 going to stay in corporate. Likewise, Kent stated he
7 and Beecken and Fenech..."

8 A Fenech.

9 Q That's -- Beecken is B-e-e-c-k-e-n, and Fenech is
10 F-e-n-e-c-h. "...believed Fiser would stay downtown."

11 Was -- was Fiser offered the technical support
12 manager, the chemistry technical support manager position at
13 some point prior to the surplusing?

14 A Trying to remember the exact sequence. I think...

15 Q Let me back up to the previous paragraph.

16 A Okay.

17 Q Says, "In regard to the new organizational
18 structure, Kent felt that the chemistry technical support
19 manager would be the key position in chemistry program.
20 Prior to Fiser's RIF, Kent had asked Fiser about taking the
21 technical support manager position. However, Fiser told Kent
22 that he, Fiser, did not want the job because it would be a
23 lower level position."

24 A I believe that's correct.

25 Q So you did in the...

1 A I believe I talked to Fiser about it, and I think
2 -- my recollection is I discussed it with him, and he felt it
3 was a step-down, even though it was the same grade as his
4 previous job as superintendent. Because when we
5 restructured, we increased the accountability of all those
6 positions, and they actually went up one grade. So I think
7 the job I offered him as a chemistry technical manager, the
8 one I discussed with him as a chemistry technical manager was
9 the same grade that he had been as a chemistry
10 superintendent.

11 Q Was that a PG-8 or a PG...

12 A 9, I think.

13 Q ...9?

14 MR. MARQUAND: I think the 9 was the new job,
15 wasn't it?

16 THE WITNESS: Yeah, the chemistry technical support
17 was a 9. I believe that's correct. I believe his old job as
18 superintendent had been a 9. Because my job as
19 superintendent I think had been a 10. So I believe I was a
20 grade higher. A 10 or 11. I was a grade higher than
21 chemistry.

22 Q Okay. And again, with regard to the RIF---I'll say
23 RIF because that's what's in here---it says, "According to
24 Kent, Fiser was the only individual RIF'd when the new
25 organization was implemented. Kent explained that the new

1 organization only called for the elimination of the chemistry
2 manager position and the rad con manager position. Prior to
3 being named rad con chemistry manager, Kent was rad con.
4 Since the rad con manager position had not been filled since
5 Kent was promoted, there was no one to RIF from that
6 position."

7 A That may -- in that context, that's true.

8 Q But...

9 A There was only position -- only one position
10 eliminated in that...

11 Q Okay, now, earlier you had indicated you didn't
12 know that that's where Fiser was RIF'd from?

13 A Well, you know, I don't know exactly how the --
14 those are -- I don't believe those are my words. That's not
15 a transcript, that -- I was responding to questions. I don't
16 know how the question was asked, so I -- I really can't -- I
17 really can't tell you that -- that I said he was RIF'd or...

18 That was the only position within that organization
19 that had an incumbent -- that had had an incumbent that was
20 eliminated. In my perspective at that time, Fiser was in the
21 corporate organization. He was stable in the corporate
22 organization and he was satisfied in the corporate
23 organization.

24 So I had no -- in my view, I had no chemistry
25 superintendent incumbent, I had no rad con superintendent

1 incumbent, because I had been in that position. So therefore
2 eliminating those two positions was no impact. So when I put
3 the new organization together, I didn't want anybody in-
4 between me and the guys that were going to be basically
5 developing and implementing the program. I didn't want a
6 one-on-two type organization, essentially.

7 Q Now, in terms of Fiser being stable in the
8 corporate organization, as I understand things, Fiser and
9 Jocker switched positions. So I guess Fiser at one point was
10 the corporate chemistry manager.

11 MR. MARQUAND: Yes.

12 A I'm -- I'm...

13 Q Then Jocker went back to that job, and then Rich
14 got that job. What job did you think Fiser had in corporate?

15 A I thought it was -- I thought Fiser had -- and I
16 believe that reflects -- that discussion at least reflects
17 that when I discussed the issue with Fiser of him potentially
18 coming out and taking the technical support job, that he was,
19 he felt, secure in a corporate job and that's what he wanted
20 to do. He didn't want to take the chemistry technical
21 support job.

22 Q At the time you had that discussion with him, was
23 Jocker still on site, or had Jocker gone back to Chattanooga?

24 MR. MARQUAND: When was the discussion?

25 Q Well, that's...

1 A I -- I believe...

2 Q ...it's prior to the RIF, so...

3 A ...I believe it would have been after Jocker went
4 back to Chattanooga. Jocker was only on site one month after
5 I took over chemistry. So I don't believe it was -- we had
6 that conversation in March.

7 Q And do you know when the -- well, I guess you
8 don't -- you didn't even know there was a RIF, so you don't
9 know when it took place?

10 A No, I do not know when Gary was placed in ETP.

11 Q Okay.

12 A You know, I -- somebody may have told me at some
13 time in the past, but I didn't have any knowledge of it then,
14 and don't have any recollection of it now.

15 Q Okay. And subsequent to that, there was another
16 interaction between you and Mr. Fiser about taking the, I
17 guess, chemistry technical support manager job?

18 A I think the second discussion we had, you know,
19 Gary was a member of the corporate staff. I had a lot of --
20 we talked a lot about a lot of different things during that
21 time period, after I had assumed responsibility for
22 chemistry. I did have a discussion with him about a position
23 at Sequoyah after he went to ETP. That's the second
24 discussion I think you're talking about.

25 Q Yeah. I guess at that point the chemistry manager

1 position?

2 A At that point, I believe, we had agreed on a
3 standard org, and we would have a superintendent, and I
4 believe I was discussing with Gary the superintendent's
5 position.

6 Q Okay. Tell me what you recall about those
7 discussions and how it worked out or didn't.

8 A I forget who was the plant manager and VP at that
9 time. But I believe that -- I know for a fact there was a
10 lot of pressure to implement the standard organization. I
11 did not have an incumbent in this standard org chemistry
12 superintendent position.

13 My manager was encouraging me significantly to get
14 on with it and do something about that. Probably because I
15 had been really resistant in this whole concept of having a
16 superintendent for so long, and the decision was finally made
17 that was the way we were going to do it. I think in my -- my
18 delay in finding a good candidate may have been perceived as
19 reluctance to move ahead. So I was under a little bit of
20 heat to get that done.

21 So I -- I was looking -- I believe I was looking
22 really hard for a candidate for that job, and I was having
23 very little luck finding a good candidate for the position.
24 So Gary got placed in ETP. And knowing that he was in ETP,
25 and reconciling in my own mind that, you know, we were going

1 to -- that's the way the organization was going to be, and
2 while I -- I really wanted somebody...

3 My -- my thoughts were basically this: If I'm
4 going to have a superintendent, I want the superintendent to
5 run the program. I don't want to have -- that means my job
6 is not going to be the guy who's going to be hands-on
7 involved in running the program. I wanted somebody who would
8 do that. I didn't want to have somebody in the job, and then
9 me have to do it anyway.

10 But I was having a real hard time recruiting a
11 person in that position. So I resolved that, while Gary had
12 his weaknesses, he also had -- had some strengths that he
13 could contribute to the program.

14 Q What were his weaknesses?

15 A He was very mild -- he was, again, a very mild-
16 mannered individual, not very aggressive, in my opinion. And
17 by that time, I had done a lot of looking into issues related
18 to chemistry, and why we were where we were, and why certain
19 things hadn't worked, and that kind of thing. And -- and I
20 believe part of the -- of the reason that we were where we
21 were with the chemistry program was that things weren't
22 really pushed that needed to be pushed. They were maybe laid
23 on the table, but it was laying on the table and, you know,
24 somebody else take them up and run with them. And I think
25 that was his -- I think that's his -- that was his weakness.

1 That was what I perceived as being his weakness.

2 Well, in spite of all that, though, I felt like I
3 could work with him. And I felt like I could compensate
4 where he was weak. And while it wasn't what I really thought
5 would be the ideal situation, I approached Gary about that
6 position.

7 Q Okay. What'd Gary say?

8 A He -- he came out to my office and we talked. I
9 don't know how long. Maybe 30 minutes, maybe an hour. And
10 in that -- in that time period, he told me that he was very
11 pleased that I thought of him for the job. I think he said
12 that. And I think he said that he was concerned, though,
13 that -- because he knew what I was trying to do. I had
14 explained it all to him and he knew what I really wanted to
15 do with the organization and where I thought we really needed
16 to go, because we had -- we had talked about that.

17 And he was a little bit concerned that -- based on
18 his statement, he was a little bit concerned that him coming
19 back into the organization, that he would be a liability to
20 me more than an asset. And those are essentially his words.
21 He thought he would be more of a liability than an asset. He
22 thought he wasn't thought highly of by site or corporate
23 management, and that if he was a part of the organization,
24 we'd have a more difficult time than if I had somebody else
25 in there.

1 And I told him I was not aware of any, you know,
2 real, I guess, feelings or -- or lack of confidence or
3 anything like that on the part of corporate management,
4 because as far as I knew, when he left Sequoyah, it was -- it
5 was a rotational assignment to corporate that later became a
6 permanent assignment. But -- and I thought that he had --
7 that that was actually driven by more actions Jocker took
8 than anybody else.

9 Q And how -- how was it driven by actions Jocker
10 took?

11 A Well, when Jocker was in corporate chemistry, he
12 was very critical of things that were going on at the site.
13 And...

14 Q Was that just Sequoyah, or all the sites?

15 A Well, specifically Sequoyah. I was not involved in
16 all sites, so I wouldn't have that information. But I knew
17 he was very critical of what was going on at Sequoyah.

18 Q Well, let me back up on you. When you had your
19 peer meetings, peer team meeting, whatever, did that issue
20 ever come up about Jocker being critical for everybody, or
21 just Sequoyah?

22 A No. Up until that time, chemistry was not part of
23 our peer group. We had no interface with him in the peer
24 meeting. Only after we reorganized.

25 Q Sorry to interrupt you.

1 A That's okay. That's a good -- that was a good
2 thing to clarify.

3 At any rate, my perception was that -- that Jocker
4 had been extremely critical of the site programs, and the
5 decision was made, well, if you can do better, you go fix
6 them. So Jocker was moved to the site, Gary was taken
7 downtown. So I didn't really look at that -- I mean, I
8 always thought of Gary, before he went downtown, even though
9 my interface with him wasn't extremely -- you know, I wasn't
10 really closely involved with him.

11 I was knowledgeable of him, and every time I'd
12 approached him about an issue he had been cooperative and
13 understanding. And, you know, he seemed intelligent. I
14 had -- I had observed him in a role as a -- as an outage --
15 one of the outage managers and I thought he did a good job in
16 that role during one of our outages, and I had had some
17 interface with him in that role.

18 So, you know, I didn't know management at the site, you
19 know, thought badly of him. I really perceived the whole
20 issue being, you know, here's a guy throwing rocks. We're
21 going to take this guy who's throwing rocks and see if he can
22 do any better. So I told Gary. He -- I think Gary asked me
23 to check around.

24 Q Before you get there,...

25 A Yes.

1 Q ...did the guy throwing rocks do any better?

2 A No, not really.

3 Q Okay.

4 A Essentially, at the end of his term we had the same
5 problems we had before. And -- and then some.

6 Q Okay.

7 A So the -- so I -- I talked with Gary. And at
8 his -- at his, I think, request I agreed to ask around.
9 Because I didn't have the same perception. And so I -- I
10 believe I talked with Rob Beecken, who was the plant manager
11 at the time, and said, "What would you think if I brought
12 Gary back out here?"

13 And I don't believe -- I think Rob told me he
14 wouldn't have any problem if that's what I wanted to do. I
15 believe he told me, you know, Gary is a really mild-mannered
16 person. You know, he's -- he's not a real aggressive type
17 individual. But Rob also knew my style of doing things, and
18 I think he felt like that we could be successful.

19 So he said, "I'll -- if that's what you want to do,
20 I'll support you."

21 So I called my other primary counterpart, which was
22 Wilson McArthur, and asked him the same question. I said,
23 "Are you aware of anybody who -- or anything that would
24 prevent Gary from being successful at Sequoyah?" And I -- I
25 basically told Wilson what Gary had told me. And he -- he

1 said he didn't know, but he'd check around.

2 Q Did he get back to you?

3 A Yes, about I think it was two or three days later,
4 you know, maybe something like that. Wilson called me back
5 and -- and told me that he had checked around, and that it
6 was true that Gary wasn't highly thought of in corporate.
7 But that he would support whatever decision I wanted to make.
8 And if -- if I felt like it was the right thing to do, that
9 he would -- he would back me up on it and give me his support
10 on doing that.

11 Q And as a result, what did you do?

12 A As a result of that, I called Gary, because I told
13 him I'd get back in touch with him. And he came back out to
14 my office and we talked again. And I told him basically what
15 I'd found out. And we agreed that -- I guess we agreed. We
16 discussed it, and in essence agreed that it wouldn't be the
17 right decision for -- for Gary or us.

18 Q Did McArthur tell you who he talked to in
19 corporate?

20 A No. No, he did not.

21 Q You didn't inquire?

22 A I did not inquire. It didn't really matter to me,
23 you know. I was just interested as: Is there some reason
24 that would validate Gary's concern that he wasn't highly
25 thought of, that would maybe be a negative impact on the

1 program? So it didn't really matter to me who -- who might
2 have felt that way.

3 Q Okay. And I know you may be the wrong person to
4 ask, since you don't seem to recall the RIF. But if -- if
5 Mr. Fiser was surplusd or RIF'd from the chemistry manager
6 position, was in the ETP, and the position was reinstated,
7 why wasn't he returned to the position automatically?

8 MR. MARQUAND: It wasn't reinstated.

9 A Well, it was -- it was a different position at a
10 higher level with a different level of accountability and
11 responsibility. So it was really a different position.

12 Q What was different about it?

13 A Well, for one thing, the accountabilities and
14 responsibilities were different.

15 Q How?

16 A We -- we really beefed up the technical
17 organization. We increased the requirements in the position
18 description for experience, and I don't know that we -- we
19 may have changed the educational requirements, too. The
20 expectations for that position were clearly different than
21 what had been in the past.

22 What had been in the past was a position at a PG-9
23 level at that time, that reported to a operations manager or
24 ops superintendent, who then, I think, reported to another
25 level to the plant manager. And the way the organization had

1 functioned, there was a lot of support from the ops
2 superintendent to the chemistry program. A lot -- a lot of
3 required support.

4 A lot of decisions were -- decisions weren't
5 independently made at the chemistry superintendent level in
6 the old organization. And our vision for the new
7 organization was that we were going to increase the level of
8 accountability and responsibility of that position, and that
9 would be a much more -- a much higher level position, and
10 that was reflected in the way the job was evaluated, and it
11 graded out at least one grade higher than the old job.

12 Q Okay. Now, in the revised, upgraded position, that
13 position reported to you?

14 A Yes.

15 Q And there was a level between you and the plant
16 manager?

17 A No. No.

18 Q You went directly to the plant manager?

19 A Yes.

20 Q Okay. Again, going to the '94 IG interview, on the
21 last page under miscellaneous, good place as any, I guess.

22 A Uh-huh (affirmative).

23 Q Sort of like those other duties, "as assigned,"
24 kind of a thing. Says, "Kent does not believe Fiser was
25 RIF'd because of filing safety concerns. Instead, Kent

1 believes Fiser was RIF'd because he was not the right person
2 for the chemistry program and had numerous performance
3 problems."

4 Now, do you recall making a statement like that to
5 the IG?

6 A I would say yes, I made that statement or something
7 to that effect, if the IG has it documented in their
8 interview.

9 Q Well, what performance problems did he have? I
10 mean, I thought you told me you -- you weren't aware of any.

11 A I think the things that -- if -- if I can recall
12 that interview, I believe the IG asked me a specific question
13 and I responded to it. And the question would have been do
14 you think Fiser -- this is my crude recollection of a '93
15 interview which, you know, I've slept a lot since then. Was
16 to the effect that: Do you believe that Fiser was RIF'd
17 because he raised safety concerns or for some other reason?
18 That would be my response.

19 I don't believe he was RIF'd because he'd raised
20 safety concerns. I'm personally not aware of anybody who's
21 ever been RIF'd because they raised safety concerns. I know
22 that's illegal, for one thing. And I don't think our company
23 would support that.

24 Q You familiar with the Jocker case?

25 A Yes.

1 Q How familiar are you with the Jocker case?

2 A I don't know the details of -- of what was going on
3 in the corporate office. But I am -- I am aware that Jocker
4 resigned his position and later filed a complaint.

5 Q Do you know how the complaint was resolved?

6 A It was resolved in his favor.

7 MR. MARQUAND: It was settled.

8 A It was settled. That's true. It was settled. I
9 don't know that it ever came to ultimate resolution, other
10 than settled. Right. Was settled out.

11 Q And do you know of NRC involvement in that case?
12 The NRC actions that came out of that case?

13 A There were some, because I believe one of the --
14 one of the things that -- that was -- and you guys can
15 straighten me out if I misspeak here. I believe there was
16 one related issue that I was somewhat involved in, in that
17 case. And it had to do with chemical traffic control --
18 reported chemical traffic control problems. And there was an
19 NRC enforcement conference on that. And I went and made a --
20 I was part of the team that went down to talk about that with
21 the NRC.

22 Q Are you ever aware of any orders being issued
23 against Mr. Bynum?

24 A Oh, as a result of Jocker being removed? Yes.

25 Q What was your understanding of why the order was

1 issued?

2 A Well, I never really saw the order. It was my
3 understanding that---and I believe it was Jocker---that the
4 NRC found that Jocker had---trying to pick the right words---
5 participated in protected activities and was discriminated
6 against, I guess, is the words I would use.

7 Q And the order against Mr. Bynum was because of
8 what, as far as you knew?

9 A That he was involved in that in some manner.

10 Q Okay. Now, back to the statement that you would
11 have made in '94 to the IG that Fiser wasn't RIF'd because of
12 filing safety concerns. He wasn't the right person, and he
13 had numerous performance problems.

14 A In that case I was talking about the -- the plant
15 performance issues and the -- the problems with the program
16 and the -- really, the failure to deal with those issues that
17 -- that were -- that existed at the site. That was my
18 perception. And so I was asked: Do you think he was RIF'd
19 because of -- or removed from his position, whichever was the
20 question, because he filed safety concerns. And I said -- I
21 would have said no, I don't think he was. I think if he was
22 removed from his job, it was because of performance issues,
23 not because he filed safety concerns.

24 Q Okay. And -- and to your knowledge, when you're
25 involved in a surplusings or reduction in force, where does

1 performance issues come into play?

2 A Technically, I believe surplusings and position is a
3 decision that's made by management that says we don't -- no
4 longer need this position. That decision is primarily made
5 for business reasons. Programmatic changes and things like
6 that. I don't know that performance issues have a part to
7 play in that.

8 Q Well, can you -- can you be RIF'd from a position
9 for poor performance?

10 A No. You can be terminated from a position for poor
11 performance. I don't think performance, per se, is
12 justification for a RIF. Because when you RIF, you actually
13 eliminate the job and the function, not just the person, and
14 then go get somebody else to put in it.

15 Q In '94 there was a corporate chemistry
16 reorganization.

17 Well, by the way, do you -- do you have any idea or
18 knowledge or understanding of how Fiser got out of ETP and
19 back into corporate chemistry?

20 A No, not really. I don't know that I've ever
21 discussed it with anybody.

22 Q Do you have any idea it had anything to do with his
23 '93 DOL complaint?

24 A Oh, well, yes, I do. I do know, now that you
25 mention it that way. I know -- I am aware that Fiser filed a

1 complaint in '93, and as a result of that complaint, I
2 believe it was settled. I don't believe there was ever any
3 finding against the company on that. But I believe, as a
4 part of that, to resolve that complaint, Gary was offered a
5 corporate position from ETP. And that's how he -- that's how
6 he got the position in corporate. That's how he was back in
7 corporate from ETP.

8 Q Okay. And I gather -- I think at the time, at
9 least as I understand it, Grover was the corporate chemistry
10 manager.

11 MR. MARQUAND: Not till '94. He didn't come till
12 '94.

13 A I don't know when that -- all those transitions
14 took place.

15 Q When did -- when did Fiser get the settlement?

16 MS. EUCHNER: The settlement was in '94.

17 MR. MARQUAND: I don't know if Fiser -- if it was
18 settled before or after Grover came.

19 MR. DAMBLY: I think my recollection, from reading
20 Grover's stuff, is he was already in the position when Fiser
21 came. But if not, it would have been Rich that would have
22 been in the position?

23 MR. MARQUAND: Rich was already at Sequoyah in '93.

24 BY THE WITNESS:

25 A Yeah, Rich came to Sequoyah in -- I believe in

1 late '93. After Gary did not -- you know, we -- we talked
2 before, I had the discussion with Gary. After that didn't
3 work out, about that time, I think, Gordon expressed an
4 interest in coming to the site. He had -- he had taken -- he
5 had taken a corporate job, the corporate chemistry manager
6 job.

7 Q The one vacated by Jocker?

8 A The one vacated by Jocker. But I believe his
9 preference really was to work at the site. And so when he
10 saw that we weren't able to fill the position, he expressed
11 an interest in the position. And I expressed an interest in
12 getting him. So we hired him into that position from
13 corporate. And that created the vacancy that...

14 Q Into the site?

15 A Into the site superintendent's job.

16 Q The site chemistry superintendent?

17 A Right.

18 Q One of your two or three direct reports at that
19 time?

20 A Yeah, right. In the standard org, I had three
21 direct reports. That was one of them.

22 Q Okay. Now, how -- when you hired Rich back out to
23 the site in whatever, the '93, '94 time frame...

24 A Uh-huh (affirmative).

25 Q ...was that a vacancy that was announced and

1 advertised and...

2 A I believe we had posted that job.

3 Q Did you set up an SRB?

4 A I don't believe I was able to find any good
5 candidates for that job. So when Gordon expressed interest
6 in it, I think he was the only candidate for the job. I
7 don't believe Gary even applied on the job. I had talked
8 with Gary about the job as an expression of interest, to see
9 if he was interested in it. But -- and I do recall it was
10 posted. And Gary did not apply on it.

11 Q You talked to -- you talked to Gary about this
12 position after you'd had the discussion with him about taking
13 the chemistry technical whatever...

14 A Yes, my...

15 Q ...support position, which was in the '93 time
16 frame?

17 A Both of them happened probably in the '93 time
18 frame. I talked with him earlier...

19 Q So you talked to him about that one earlier, and
20 you talked to McArthur and you were informed it wouldn't be a
21 good idea, and you and Gary...

22 A No. No, that was later. I talked with Gary I
23 believe early in -- earlier in '93 about the chemistry
24 technical support job. And he didn't want it because he felt
25 it was a step down.

1 Q Right.

2 A I think he told me, "If -- if that was the
3 superintendent's job, I'd be interested. But since it's not,
4 I don't want to -- I'd be going backwards. I don't want to
5 step down. I'm satisfied where I am." So he stayed where he
6 was.

7 Later, after the standard org had the chemistry
8 superintendent level position in it---actually it was called
9 chemistry manager at that time---after the chemistry
10 manager's position was implemented, I talked to Gary again.
11 That's when he expressed the concern that he might be a
12 liability to the program if I brought him out there.

13 I had already posted the job, I think, when I had
14 that conversation with Gary. And Gary did not apply on the
15 position because, I assume, as a result of our conversation,
16 he decided it wasn't the right thing to do. He did not apply
17 on the position.

18 And if I recall correctly, when we had our
19 conversation, he told me he was -- he was in ETP and he knew
20 he was, you know, sort of on his way out. But I think he
21 told me he had some private business, things he was getting
22 involved in, and that's what he had decided he wanted to do.
23 He did not apply on it.

24 Gordon did submit an application on it. He was, I
25 think, the only qualified candidate that applied for it.

1 Sometimes in our positions we'll have -- technicians will
2 apply on everything, you know. Obviously they're not going
3 to meet the qualifications, but they like the practice of
4 applying on high level jobs. So they do that, and I'm sure
5 that happens everywhere.

6 Q Everybody has to have a hobby.

7 A Yeah. But Gordon I think was the only qualified
8 candidate, so I don't believe we had a -- a selection review
9 board because of for that reason.

10 Q Okay. So then Gordon would have only been
11 downtown, as it were, in the corporate chemistry manager
12 position for...

13 A Six months.

14 Q ...six months?

15 A Yeah. I believe that's right.

16 Q Then, and when we talked about Rich earlier, that
17 you did not want to hire Rich as the SQN chemistry manager
18 because not only didn't you feel like Rich was a not a
19 driver, but Kent also felt Rich was being pushed on him by
20 Dan Keuter. Then I lost...

21 Why don't we take a couple minute break.

22 (Recess.)

23 BY MR. DAMBLY:

24 Q Let's see if I can get this straight, now. Now,
25 looking at the '94 interview, and on the last page, says, "On

1 July 15th, Kent contacted Rich about the..." '93. I'm sorry.
2 "...about becoming the SQN chemistry manager. The position
3 closed on August 19th, 1993, and Rich was selected. Kent
4 advised that Fiser did not apply on the posted chemistry
5 manager position, and if he had applied, Fiser would have
6 been given fair consideration."

7 So, I mean, help me out here so I can see if I can
8 understand this. First, Rich came, and you talked to Rich,
9 but that was when it was still the technical support manager
10 position?

11 A That's correct.

12 Q And then when he didn't want it, then he took the
13 corporate chemistry manager. Then you got forced upon you a
14 Sequoyah chemistry manager job, and you talked to Fiser about
15 that?

16 A Yes, that's correct.

17 Q And you talked to McArthur and whatever, and you
18 and Fiser decided it wasn't in everybody's best interest.
19 Subsequent to that you posted, and then selected Rich?

20 A I don't really remember the dates of when the job
21 was posted. Did that document when the job closed (sic)?

22 Q It says closed August of -- August 1993.

23 A Normally we would leave them open for 30 days, so I
24 would assume that we posted it sometime in July.

25 Q Okay.

1 A And...

2 Q And you had talked to -- to Fiser back in early
3 July?

4 A Yeah, probably about the time I knew I was going to
5 post the job, or maybe right after I posted it. Let me --
6 let me clarify something for you, I think. Because I -- I
7 believe I -- I can -- this is a complicated thing so I can
8 understand that it's not easy to see how all these things fit
9 together. And you asked me about Keuter earlier, and I told
10 you I -- he was -- I thought he was trying to push Gordon on
11 me to begin with.

12 When -- in '93, when the decision was made to
13 combine the two organizations, I did not want those two
14 organizations. I did not want to be responsible for
15 chemistry. The plant manager came to me three or four
16 different times and talked to me about doing it, because he
17 knew, and I did, too, that chemistry was not getting the
18 proper focus in operations.

19 It wasn't -- it just -- it was a low priority for
20 operations. I mean, they've got a lot of big things to do,
21 and chemistry was one of those ancillary sort of
22 responsibilities. As important as it is to the site, it
23 still was not getting the focus it needed. And the
24 management team over there wasn't causing that focus to be
25 given.

1 So I understood what he wanted. But I told him I
2 wasn't ready, I didn't -- didn't have rad con where I wanted
3 rad con, and I didn't want to take on another big burden.
4 And I knew it was going to suck up most of my time.

5 Q And who was that plant manager?

6 A Beecken.

7 Q Beecken.

8 A Rob Beecken.

9 Q Where was Keuter?

10 MR. MARQUAND: He was downtown.

11 A He was in corporate.

12 Q He was in corporate. Okay.

13 MR. MARQUAND: He was McArthur's boss.

14 A Yeah.

15 Q Okay.

16 A So after about the third or fourth time when your
17 boss comes to you and tells you he wants you -- he really
18 wants you to do this, you know, you finally have to start
19 thinking about it. And so I agreed reluctantly to do it. But
20 it was under the condition that I be given a whole lot of
21 flexibility in how I structured it and how I ran it. Because
22 I felt like, after he started talking to me originally, I did
23 a little bit of looking at the kind of problems the program
24 had, some reports we had done on the program, outside
25 assessments we had made of the program.

1 And I had a pretty good feel for one of the
2 weaknesses the program really had, was we really didn't have
3 much technical strength. There was very little bench
4 strength, real brain power in the organization. Most of the
5 real brain power had left the company. There was a real
6 brain drain. And so I -- I knew we really had to focus on
7 getting -- recruiting back some real brain power for the
8 group.

9 And the other thing was apparent to me, at least I
10 believed to be the case, was that there hadn't been a real
11 driver in terms of pushing the issues, escalating them to the
12 right level, and -- and getting people to focus on those
13 issues. That was one of the things that I was pretty good
14 at. And I think that's why Rob, you know, wanted me to do
15 that.

16 So I -- I felt like if I was going to take that on,
17 I was going to do it on my terms. And, you know, when you're
18 negotiating---and I did have a little bit of negotiating
19 power at that time---and Rob agreed, and so did Mr. Fenech,
20 who was the site vice president. They agreed to let me
21 structure it the way I wanted to.

22 So I laid out the organization with the five direct
23 reports, presented it to them. They bought in and told me to
24 go for it as expeditiously as I could. So here I've got the
25 endorsement of my plant manager and my site vice president to

1 do something that I wanted to do. If I'm going to do it, you
2 know, and you're going to inspect me and now hold me
3 accountable for chemistry, it's going to be done on -- you
4 know, I'm going to do a good job, but I'm going to do it the
5 way I want to do it.

6 And then I've got this guy Keuter from downtown,
7 who was really trying to run the company from the
8 corporate -- from his corporate position. He was trying to
9 run the sites from his corporate job. He didn't have direct
10 responsibility, but he was really good at telling, as if
11 directing, different people at different levels in the site
12 organizations, "You do this, you do this, you do this." And
13 he did -- he pulled that on me a couple of times.

14 Well, I -- I remember one day in -- in our
15 cafeteria I dumped on him real big and told him who my boss
16 was. And if he wanted to get some word to me about
17 something, he could go through my management. Because I felt
18 strongly that wasn't the way we needed to do business.

19 (Off the record.)

20 BY MR. DAMBLY:

21 Q Okay, wherever you were.

22 A Okay. So at that point in time, just to kind of
23 put it -- anything that Dan Keuter would have come to me
24 with, I would have -- if he'd have offered me an ice cream
25 bar, I would have thought there was a hook in it somewhere,

1 you know. I probably would have turned it down.

2 So I -- I looked at any overture from him to place
3 anybody in my organization as a way of influencing what I --
4 the way I did business. And he really wanted Gordon out
5 there. Because he thought -- I know now he -- I believe now
6 he thought Gordon would be a real positive influence on the
7 program, that he could make a major contribution to the
8 program. And I think Dan really wanted to see Gordon out
9 there for that reason. But his methods turned me off really
10 significantly. So I -- I resisted almost anything he would
11 come up with, I would resist.

12 So that's why there -- there appears to be a lot
13 of, "I don't want Gordon in this position." It's I did not
14 want Gordon in that leadership role in the super -- in a
15 management -- top level management job because I didn't want
16 that top level management job, period. And I -- I fought it
17 with everything I had, thinking all along that I had my plant
18 manager's and site vice president's -- well, knowing all
19 along I had their endorsement that we weren't going to do
20 business that way. You have told us what you want. We're
21 going to back you.

22 And actually, it was -- I don't remember exactly
23 when I finally decided to give in. But I had -- I had this
24 new organization laid out, I had people actually in positions
25 functioning. But their positions weren't approved. The

1 organization wasn't even signed off on.

2 So functionally they were doing what I wanted them
3 to do, but Joe Bynum had to sign the piece of paper saying
4 this is an approved organization. And he wouldn't sign it.
5 Because he thought we needed to have -- and maybe Dan had
6 told him. Maybe he had influenced him. He thought we needed
7 to have the three direct reports. And so Joe was kind of
8 pocket vetoing the organization.

9 So one day I was at the end of my string. I'd put
10 up with it as long as I could, you know. I decided the only
11 way I'm going to be able to move forward is to give in. So
12 Joe was on site. I approached him and I told him that I was
13 willing to accept the organization that I thought he and the
14 other guys wanted. And, you know, if he would approve it,
15 then I would take the three direct reports and we would go
16 with that. And he said fine, and he approved it that day or
17 the next day with those three direct reports.

18 Q And at that time Rich was already in corporate?

19 A At that time Rich was already in corporate. So,
20 and I believe Dan was lobbying Joe the whole time, "Hey, we
21 need to do this. This is really the best thing for the
22 program." And so I would have resisted almost anything those
23 guys put forward, because I didn't really want to go that
24 way.

25 Now, as far as the discussion there, I talked

1 with -- just to kind of clarify, I talked with Rich early in
2 '93 about the technical support job. He declined it and went
3 to corporate. I looked at -- I looked for several -- at
4 several other places outside and inside the company for a
5 person for that job, was not successful. I talked to Gary
6 about that job, and he declined it because he thought it was
7 a step down.

8 Later in that year, within six months, I wasn't
9 able to get support from corporate for finalizing the
10 organization so I could make some moves I needed, so I did
11 what I thought was the politically expedient thing and the
12 best thing for the program, in retrospect, because we had to
13 get forward -- we had to move forward. I agreed to what they
14 wanted me to do. And -- and then implemented and developed
15 and wrote job descriptions and everything for these three
16 management level jobs and got them approved.

17 Up until that time, the only position description
18 approved in my organization was mine. The rad chem manager's
19 was approved, but none of the others had been approved in the
20 new organization. They were all being basically sat on
21 pending this resolution of what we were going to have.

22 So once that -- once I caved in, so to speak, and
23 we decided to have the -- have a chemistry manager and a rad
24 con manager, rad waste and environmental manager, then I very
25 aggressively pursued filling that position. And looked

1 across the company and outside, was not able to find an
2 outside candidate that I thought would do a good job. There
3 was people -- there's always somebody who will take a job
4 like that, but they weren't the quality of person that I
5 wanted.

6 And about that time period, Gary was -- I knew was
7 in ETP, and so I contacted him and talked to him about the
8 position. We had the discussion that I related to you
9 earlier and decided that wasn't the best thing. I think it
10 was a mutual decision, that that wasn't the best thing for
11 the group.

12 And I -- I really believed at that time that Gary
13 was concerned about improving the program, and whoever was in
14 it really being able to make a contribution, and that
15 based -- you know, I took him at his word. He thought he
16 would be a liability. So we agreed that that wouldn't be the
17 right thing to do or the best thing for the program. And he
18 had other interests he wanted to pursue, anyway.

19 About that same time, Gordon already in -- in
20 corporate chemistry as the corporate chemistry lead position
21 manager, had a revelation about what corporate life is like,
22 and decided he really was a plant guy. He really wanted to
23 work at the plant. And so we -- we talked. And after Gordon
24 expressed an interest, I went to Wilson and I said, "Hey, I
25 want you to know Gordon has expressed an interest in coming

1 out to the site in this job." I said, "What do you think?
2 Will you support that?"

3 And Wilson, as he has always done, said, "If you
4 think that's the best thing for the program, I'll support it
5 and we'll go get some -- we'll do whatever we have to, to
6 support you in that regard." So Gordon applied on the job
7 and I hired him into it.

8 Q Okay. Now, you had said earlier that you didn't
9 think Rich was a driver.

10 A Right. Exactly. I did not think he was a driver.
11 I told Wilson that when -- when I interviewed Gordon the very
12 first time for the tech support job. I told -- I told
13 everybody who asked me for a reference on him. And if -- if
14 they asked me to fill out a form or something with comments
15 from our interview, I would have written it down. I don't
16 remember if I did or not, but I -- I told them exactly the
17 same thing.

18 I said, "He's -- I think he's technically a very
19 sound person. But he's not a driver. He's very mild-
20 mannered." And even there was some, you know, chit-chat
21 amongst, I guess you might call it, some of the managers at
22 the plant that that's the kind of chemistry -- that's what
23 chemistry people -- you know, that's how they are. They're
24 all sort of that way.

25 Well, that's not really what I had envisioned for

1 somebody in that role if I was going to have a chief, you
2 know, a real chemistry manager. I envisioned, if I'm going
3 to have a chemistry manager, I'm not going to have to do a
4 lot of the driving and the making things happen. I want
5 somebody -- I expect somebody else to do that.

6 Well, when I wasn't successful in getting that, and
7 because we needed to move forward with -- we had already laid
8 out a very aggressive five-year plan for the plant. But we
9 needed -- we needed support for that, and this lack of focus
10 caused by organizational uncertainties and the inability to
11 go get every -- just everything nailed down was causing us
12 some problems.

13 And so I -- I decided the best thing for the
14 program was to go with it, and I would fill in where Gordon
15 lacked. And, as it turned out, we did complement one another
16 very well, and it was very successful. He was very
17 successful at Sequoyah. He had excellent people skills, and
18 that was needed for the group at that time. So it -- it
19 really worked out good for us.

20 But that's the reason I didn't want him in that
21 position, was because I felt like if I was going to have to
22 do -- provide that much support, then I didn't really need
23 that position, and that's why I didn't want it to start with.

24 Q Would it be fair to say, based on what you said
25 there, you had sort of the same view of Fiser and Rich; they

1 both were technically strong, but not drivers?

2 A Yes. In terms of their personalities and the --
3 yeah. Very, very similar. Gordon I think was technically
4 stronger than Fiser, but both very soft-spoken, very mild-
5 mannered. Gordon was a little more organized than Fiser was.
6 But that's one thing I had to coach him on the whole time he
7 was here.

8 Now, he's an excellent person. Don't get me wrong.
9 And I really hated it when he left. And he recently left and
10 went to Salem Hope Creek. But he was an excellent -- he
11 turned out to be an excellent person and we had a great
12 relationship, and he really made a positive contribution.
13 But I did have to do exactly what I thought I would have to
14 do. I had to -- I had to be his strongman on a lot of
15 things.

16 MR. MARQUAND: That's why you get the big bucks.

17 A And I guess that's why I get the big bucks.

18 Does that help?

19 Q Yes, it did.

20 A Okay.

21 Q Being a former chemistry person myself, I -- I can
22 appreciate the mild nature that we all have.

23 A Boy, I wish I'd known that earlier.

24 Q Back in my days as a chemical engineer. Not quite
25 the same as chemistry. It's close. Okay.

1 Now, I think I got us to where you got Rich out at
2 the site, and Fiser's downtown.

3 A Uh-huh (affirmative).

4 Q Back in as a result of the settlement in a
5 chemistry program manager position, corporate. And I take it
6 at -- at that point, Chandra and Harvey were also in the
7 corporate chemistry organization?

8 A Yes.

9 Q And they would have all been providing assistance
10 to all the sites?

11 A The way -- the way things sort of evolved, and I
12 don't remember -- really remember the time line, but what
13 evolved out of the corporate organization was a structure
14 that had a primary support person for each site.
15 Essentially, one of the corporate staff people were assigned
16 to support each site.

17 And so Sam Harvey was assigned to support Sequoyah
18 by corporate. Gary Fiser was assigned to support Watts Bar.
19 And Chandra, because he's the only one that had the real BWR
20 experience, was assigned to support Browns Ferry. And so
21 that's just kind of the way the organization evolved, was --
22 was with a corporate person.

23 And the kind of things they worked on or they --
24 they supported us in, is they were really charged with
25 looking in the industry, looking for trends, looking for

1 operating experience, looking at issues that -- that we
2 needed to be dealing with and, you know, helping us in that
3 regard.

4 If we had an issue with a contract that was like
5 a -- we could more effectively implement a contract on a
6 company-wide basis rather than a -- just a site basis, they
7 would be the one to take the lead and negotiate this company-
8 wide contract, that kind of thing. So it was really a -- it
9 was an important, a valuable support role. It was -- it was
10 a valuable support role.

11 Q So from say '93 to -- well, not to the present
12 because Harvey's not here anymore, but till Harvey left, he
13 was the basic person providing you support?

14 A Yes, uh-huh.

15 Q Did his functions change, in terms of the support
16 you got, after the selection in '96 where he became the PWR
17 chemistry guy? I mean, did he provide you different support
18 than he provided you as the chemistry guy?

19 A Well, before, I think -- I think before that
20 selection, while there was sort of a evolution (sic) of
21 roles, it wasn't clearly defined that that was their role.
22 That kind of canonized this is your role. You're to do this.

23 Up until that time, Sam would also have been, and
24 Gary would also have been, and Chandra, supporting various
25 pieces at all three sites. But it sort of evolved, because

1 of the real needs at the individual sites, every site had a
2 different kind of problem.

3 At that time, our problem was secondary plant
4 chemistry which was real important for the steam generator
5 preservation. Sam had more experience in that area than
6 anybody else, so he kind of naturally evolved to be the one
7 to get more involved with us in negotiating -- we had -- as
8 part of our long-range plan, we had a number of major issues
9 of improving our water quality for makeup water, all those
10 kind of things.

11 And Sam was a key player in helping us implement,
12 develop the contracts, negotiate with the vendors, a lot of
13 things like that. So he -- he just kind of evolved into
14 that. And then after that reorg in corporate, when they were
15 selecting those positions, then -- then that really sort of
16 became -- that was his full-time job.

17 Q But the kind of support services, I guess is
18 what -- the chemistry support service, whether it be from
19 Harvey, Fiser, Chandra, the combination, or whatever,...

20 A Uh-huh (affirmative).

21 Q ...that corporate was providing before '96 and
22 after '96, did something change? The nature of the support
23 they were giving you?

24 A We had a number of discussions with corporate,
25 McArthur and others, and what the role of corporate should

1 be. About that time frame, we were -- we were concerned
2 that -- I think there was a concern in the company as a
3 whole, in nuclear as a whole, that we didn't want corporate
4 to be just a body shop for the sites. We didn't want
5 corporate to be a -- I guess you might call it a pool of
6 people that the sites called on to come out and augment the
7 staff. That wasn't the role that anybody really wanted for
8 corporate.

9 So we were trying to define what corporate's role
10 really ought to be. And in that process, we had a number of
11 conversations with Wilson and -- and with Grover and others,
12 that this is what we think the roles of the -- of the various
13 organizations should be and how we should interface with
14 corporate.

15 We even had what we called I guess intergroup
16 agreements. We had signed agreements that said -- memos of
17 understanding: This is what our roles and relationships are
18 going to be. And that was all sort of evolutionary to get
19 where we finally ended up. So there were changes throughout
20 that time period.

21 Q And at the time you interacted with the three of
22 them, prior to '96, how much environmental work did Harvey or
23 Fiser or Chandra do for you? If any.

24 A Well, prior to that reorganization, what -- a
25 couple of things had taken place. One was in '93, when I

1 took over responsibility for the program, I realized that the
2 environmental piece, even in chemistry, had been lost, just
3 like chemistry had been lost in operations. It was a low
4 priority compared to plant chemistry. So there was only one
5 person involved part-time. So...

6 Q Who was that?

7 A I believe it was Debbie Bodine. I believe she was
8 the one who was primarily involved in that at that time.

9 Q At Sequoyah?

10 A At Sequoyah. So what we did is we said, okay,
11 the -- the environmental program is going to be just as good
12 as the rad con program and just as good as the chemistry
13 program. If we're going to be excellent over here, we're
14 going to be excellent over here. And to get excellent over
15 here, it's going to take a commitment of resources.

16 So when we redesigned the site organization, we put
17 five people in environmental. And that's what we have today.
18 And we have an excellent environmental program. I mean, we
19 turned it around within two years. It was -- went from dirt
20 to excellent, role model type program.

21 Well, we -- so prior to that, with there only being
22 a part-time environmental person at the site, there was a
23 real heavy involvement from corporate. And that person was
24 David Sorrell, was the individual's name. He was the
25 corporate environmental -- he was a full-time environmental

1 person on the corporate staff. Professional environmental
2 person, not just a chemistry add-on duties. That was his job
3 and always had been, and that was where he was really
4 trained. And he was providing excellent environmental
5 support to the sites.

6 Now, we had supplemented with a lot of staff and
7 support from our own, within our own organization. But David
8 was really a real key player. Right about the time of -- I
9 guess it's in the '96 time frame, same kind of time frame,
10 David left to go to Muscle Shoals, and took a job at Muscle
11 Shoals. So there was a vacuum in corporate in environmental.
12 That support -- the big -- the key support went away.

13 We had a lot of people who were sort of
14 knowledgeable and had been involved just with David on
15 projects and things like that at the sites, but we didn't
16 have a David Sorrell anymore. So there was a change in
17 environmental support right about that time from corporate.
18 And a change also from the site. Because our reliance on
19 corporate changed too at that time. So there were a number
20 of changes that took place in that area.

21 Q So the -- from the -- we'll say '93 to '96 time
22 frame, to the extent that corporate was providing you
23 environmental support, it was coming from David Sorrell?

24 A Major. Major was from David Sorrell. Like I said,
25 I think the other guys were involved in specific pieces from

1 time to time. Because after -- well, as -- as it sort of
2 evolved that one person was providing most of the on site
3 support, I think that person got involved in a lot of the
4 issues within rad chem, where they could contribute.

5 And that was one of those things that we were
6 negotiating back and forth with corporate on, is what should
7 your role be in environmental, and how should you be involved
8 with the site. What do we need from you and what do we need
9 to be doing for ourself. So there was a lot of that kind of
10 thing going on during that whole time period.

11 Q Okay. And post-'96, did corporate provide
12 environmental support?

13 A Let me -- let me say I don't -- I don't know the
14 exact date that Sorrell went away and we implemented the new
15 organization with the PWR, BWR, et cetera. But when we
16 implemented that organization, one of the purposes of it was
17 to find a replacement for the role that David had been
18 implementing in terms of site-wide, TVAN-wide issues.

19 And so that was a piece of it, was how -- how to do
20 that within that -- within that group of people, within what
21 was left in that group of people. There was support from
22 corporate, but it was -- it was less after that
23 reorganization.

24 Q Do you recall, either prior to the reorg or
25 subsequent to the '96 reorg, getting environmental support

1 from I believe it's Diedre Nida?

2 A Yes. Diedre had -- Diedre was a chemistry person
3 at Sequoyah early on. And I think her whole career had been
4 at Sequoyah in the chemistry program. And had been involved,
5 like a lot of the chemistry techs and lower level staff, in
6 environmental monitoring and that kind of thing, because that
7 was part of the chemistry program back then. She may have
8 had part-time responsibility for it at some point before I
9 got involved in it.

10 About -- I don't remember exactly when she did it,
11 but she left and took a position I believe in Knoxville in
12 the corporate chemistry staff, and worked in that role for a
13 year or two years. And then came back to corporate rad chem,
14 and was a -- one of the players in corporate rad chem that
15 provided support to the site in the environmental area.
16 Because...

17 Q You have a corporate chemistry group in Knoxville
18 that's different than...

19 A We have a corporate environmental organization.
20 Yeah, it's -- we have a big environmental organization in --
21 well, I say "big"; high level in Knoxville that provides
22 environmental support for all of TVA fossil plants and
23 everything. Environmental permitting.

24 The fossil side of the organization and the other
25 groups within TVA never really had the -- the kind of direct

1 staff that the nuclear plants had after '93 when we
2 reorganized. We -- we kind of ran ahead of everybody else
3 with five or six dedicated people, environmental. And so
4 they -- everybody else was getting their support basically
5 out of Knoxville, I think, in that time frame.

6 Q Did Sorrell, when he was the full-time
7 environmental, he supported all three sites?

8 A Yes. More on -- he was -- he was sort of our
9 primary interface with the state agencies, state regulatory
10 agencies. At that time, when he was downtown, the site
11 organizations really had very little direct involvements with
12 the state permitting agencies. David had an excellent
13 relationship with them, and we decided that that was the best
14 way for the company to -- to function, for TVAN to function,
15 was to let him continue in that role, because he had a good
16 relationship with them and he did an excellent job of it.

17 Once he left, the sites realized that there was no
18 replacement for that relationship, you know. You can't just
19 go build relationships by giving somebody a job. There was
20 no replacement for that.

21 So the sites again had to look at we've got to take
22 on some more responsibility ourselves. So we did. And we
23 started -- our interface with the state's become much more
24 involved. But we still needed and we still felt that it was
25 important to have a coordinating corporate role, so that my

1 group's not off negotiating with the state for something, and
2 Watts Bar's trying to negotiate with them for something, and
3 we're going after different things or with different motives
4 or at the -- at the same time, and we're draining state
5 resources to support us as a company. So that was a concern
6 and that was part of the whole evolution of what those roles
7 and responsibilities should be.

8 Q Okay. Now I guess I'm somewhere around '96. At
9 some point you interacted with Mr. Harvey about leaving
10 corporate and coming out to -- to the site. Tell me what you
11 remember about that, how it came about, when it came about.

12 A I believe that -- Sam interfaced primarily with
13 Gordon Rich and the staff, not with me. His primary
14 interface was...

15 Q Well, actually, if you -- just one second, because
16 I forgot to ask this.

17 A Yes.

18 Q Rich left downtown and came out to you July, August
19 of '93?

20 A It was late '93. Maybe September. But it was late
21 '93.

22 Q Was there a gap downtown where there was nobody in
23 that position, or was there somebody between Rich and Grover?

24 A I really can't recall. Any -- I don't -- I don't
25 recall. I remember Gordon coming to the site and -- and

1 Grover sort of being in that lead role. I don't know what
2 the time frame was between those events. Again...

3 Q You don't remember anybody else being in that role?

4 A I don't really remember anybody else being in that
5 role. Remember, I mean, they may have rotated it for a
6 while. I don't know.

7 But just remember, you know, we were -- this was
8 '93. We were making major changes in the site programs, and
9 I didn't have time to look up from my book, you know. I was
10 working on the site. They can take care of their stuff. You
11 know, I'm focused on what's going on out here. So there
12 could have been a lot of things transpiring everywhere else
13 that I would have been oblivious to because I didn't have
14 time to -- to deal with it and didn't choose to look at it.

15 Q Okay. So now back to Harvey and Sequoyah.

16 A Okay. Well, Harvey's primary interface with the
17 plant was through Gordon and the staff. And about that time
18 frame, the '96 time frame, Gordon informed me that Sam was
19 concerned there was I guess talk and knowledge that they were
20 going to restructure corporate. And that, as a result of
21 that restructuring, some positions may be eliminated. And
22 Sam felt like he was the guy who was going to go, if anybody
23 went. And so he was concerned that he would lose his
24 position and he would have to leave the company.

25 And it wasn't that he wasn't capable of going

1 anywhere he wanted to. He just happened to like it here, he
2 wanted to stay in the Chattanooga area. 'And he didn't want
3 to relocate unless he had to. So he -- he and Gordon had
4 talked. And Gordon had come to me and asked me is there any
5 way we could bring Sam out to the site.

6 I really -- I mean, he was making valuable
7 contributions to our program. Is there any way we can bring
8 him out to the site. And I -- I said, "Well, I don't know."
9 I don't think we had a position that we could put him in. I
10 don't think I had a vacancy at that time that I could, you
11 know, post a job and offer -- you know, offer a position on
12 that he could bid on.

13 But I said, "I'll talk to his management." So I
14 remember Grover being at the site one day shortly after that,
15 and he and I talked, and I asked Grover, I said, "Would you
16 be willing -- if it's true that there's going to be a
17 corporate reorganization and there's likely to lose somebody
18 (sic), would you be willing to transfer Sam out here? Just
19 transfer him and his function. I mean, he was primarily
20 supporting my site. Can you transfer him and his function to
21 Sequoyah? And maybe that'll help everybody." That's
22 probably the way I put it to -- to him.

23 Grover said he thought it was a good idea. He'd go
24 -- he'd pursue it with his management. I -- I'm assuming,
25 and now I know from, you know, things that have been

1 transpired and -- and documented, that he did talk to his
2 management. He came back to me within maybe a week at that
3 time, and told me that he had talked to I believe it was
4 McGrath and Wilson about it. And I don't know -- well, I'm
5 not sure about Wilson, but I know he talked to McGrath about
6 it because he told me he talked to McGrath about it.

7 And he said that McGrath said no, that wasn't the
8 right way to deal with it. Said if I wanted to hire him at
9 the site, I could post a job and I could hire him into it.
10 Well, I had no intention of posting a job. I didn't -- I
11 didn't -- it wasn't that important to me to go to my site
12 management and try to get authorization for an extra head
13 count to post a job. So I decided I'm not going to pursue
14 it. So I didn't anymore.

15 I asked -- I asked Grover one time, "Will you look
16 into it?" He went to his management, and he came back and
17 reported that his management said they did not want to --
18 they didn't think that was the right way to move a person
19 from corporate to site. And it's probably because they
20 didn't want to get rid of the function, which you would have
21 to do if you -- even if you let somebody voluntarily
22 transfer, the function has to go with them, because that's
23 what you're saying is, you know, their job and everything
24 related to it goes away. So I understand that.

25 So I said fine. I'm not going to go post a job.

1 And I told Gordon I'm not going to post a job, I'm not going
2 to go ask for another vacancy to be permitted to post a job.
3 And we'll see what happens with the reorganization.

4 Q In your '96 IG interview, you indicated you had a
5 position. Says, "Approximately one year ago..." Let's see.
6 "Kent was concerned..." Let's -- I'll just read you the
7 first two paragraphs.

8 "Kent advised that it was under -- his
9 understanding that TVA corporate would be going through some
10 reductions and he was aware that certain positions would be
11 eliminated. One of the chemistry managers out of corporate,
12 Sam Harvey, worked mainly with SQN. Kent was concerned and
13 wanted to keep Harvey's expertise and support of SQN. They
14 have a chemistry position at SQN that Harvey could have
15 filled, and to date they still have not filled that position.

16 "Approximately one year ago they lost a chemistry
17 person at SQN, and they still have not filled the position.
18 Kent said this was partly due from the pressure exerted by
19 corporate to go to a standardized organization throughout the
20 three nuclear sites. The other two nuclear sites did not
21 have a chemistry position assigned."

22 Now, did you have one or didn't you have one?

23 A What was the timing on that?

24 Q This is 1996 IG interview.

25 A Do you know what the date on the interview was?

1 Q August 15th, 1996. And I will tell you that your
2 year later, when there -- or six months later, eight months
3 later when you talked to DOL, you indicated that -- that you
4 didn't have a position. I'm wondering what happened between
5 the two interviews about whether you did or you didn't have a
6 position.

7 A My recollection is I did not have a position. Now,
8 I don't know how the questions were asked that generated that
9 information, but I will tell you that if I'd have wanted to
10 have posted a job to hire Sam Harvey, it was my belief at
11 that time that I would have gone to my site vice president
12 and got authorization to do it. And there may very well have
13 been discussions about elimination of the job because of the
14 standard org issues. And there -- and there were some of
15 those. We -- we had that up until probably '98 time frame.
16 We had -- the various sites had not fully implemented what
17 was the approved standard org.

18 You know, when we approved the standard
19 organization in '90 -- late '93, that standard organization
20 had in it -- I believe it was done all at the same time, two
21 program managers in chemistry. It was -- it was my vision,
22 and I'm really the one in the company who laid it out to
23 start with, that those two program managers would be high
24 level managers that could be assigned responsibility for any
25 area of the program that needed major focus.

1 And initially it was our thought that one of them
2 would probably be over the chem ops piece; one would be over
3 the chemistry technical piece, reporting to the chemistry
4 manager. All of the sites didn't jump on that right away.
5 Even though we had a standard org, sites were permitted a lot
6 of flexibility in how they implemented the standard org. It
7 was sort of a: Here's a menu you can choose from. If you
8 choose not to fill it, you don't have to. But here's the
9 menu. If you do fill it, this is the way it's going to be
10 filled, and this is what the PD will be, the job description,
11 and this is how it will be implemented.

12 Some of the sites didn't want -- didn't want to
13 fill all those jobs because they were concerned about head
14 count issues. At all the sites there were reductions. You
15 know, we were looking at reduction type issues all across
16 TVAN. There was a lot of pressure on eliminating positions.

17 Now, whether or not the job that Bruce Fender had
18 previously -- he had been one of my technical program
19 managers at -- at the site. Whether or not that position was
20 vacant at the time, and I had in effect lost it, because --
21 lost the ability to just fill it at my will because of
22 these -- the pressure upon head count, I -- I can't recall.
23 I don't even know if Bruce was there. I can't remember when
24 Bruce left. I didn't go back and research any of that, so I
25 don't know when Bruce left.

1 Q Well, in your OI interview on October 22nd of 1998,
2 with the -- Ms. Benson, it says, "And during this time in
3 1996, prior to posting Mr. Fiser's positions, what positions
4 did you have open or available at Sequoyah in the chemistry
5 department?"

6 Answer: "I had one position open at about that
7 time that was vacated by a gentleman by the name of Bruce
8 Fender."

9 A Fender. Uh-huh (affirmative).

10 Q "He had -- we had hired him from Carolina Power &
11 Light, and he worked for us approximately a year. He and his
12 wife decided to move back to Carolina, and so he left."

13 A Uh-huh (affirmative). Yeah, I remember Bruce --
14 Bruce was there. He left. I don't remember the exact
15 timing. If that position was -- if -- you know, if I'd have
16 felt like that position was available to me to fill, it may
17 have been on the org chart, on the standard org. But if I'd
18 have felt like it was available to me -- to me to fill, I
19 could have posted it easily enough for Sam Harvey.

20 I didn't feel like I had that flexibility. And
21 I -- you know, right now, you know, five years later, I can't
22 recall all the conversations I might have had with anybody
23 about it. But I didn't think I had the option to post a
24 vacancy to fill it with Sam.

25 I mean, I thought Sam was doing us a good job. And

1 I -- in retrospect, I think that with him doing us a good
2 job, had I really -- had I had the flexibility, I would have
3 probably posted the job for him. But I didn't. And I didn't
4 choose to go pursue it.

5 And it may have been that -- that Bruce left. I
6 was told to keep the head count, because we did -- we did
7 some reductions in '96 and '97 at Sequoyah, and I lost some
8 heads out of my organization. And I might have known that
9 was coming, and I wasn't going to go hire somebody else
10 knowing --

11 As a matter of fact, I -- I believe those stops
12 were there that I wasn't going to go hire somebody else,
13 knowing I would have to cut somebody else later on. So I
14 didn't feel like I had the flexibility. Whether on paper
15 there was a vacancy or not, I can't recall. I don't feel
16 like I had the flexibility to fill it, and I wasn't willing
17 to go fight for the ability to fill it.

18 Q And do you recall indicating to -- again to TVA IG
19 in '96 that you were concerned and wanted to keep Harvey's
20 expertise in support of SQN?

21 A Well, again, I don't know exactly how the question
22 was put to me. I explained exactly what my involvement was.
23 Gordon came to me, said he was -- he was -- that Sam was
24 afraid he was going to lose his job. Sam was an important
25 element of providing support to the site. Would I pursue

1 getting him out there. And I did to the extent that I
2 described to you. That was it.

3 I mean, so my level of concern was I'll ask his
4 boss if he's willing to transfer him. If he's not, that's
5 it. I dropped it at that. I mean, that's not -- I don't
6 consider that to be high level concern. I mean, had I really
7 been concerned, I would have done more than ask his boss. I
8 would have gone to McGrath, I would have gone to my boss to
9 get a vacancy. I would have done some things that would have
10 expressed that concern. I really wasn't that concerned,
11 obviously. Now, I don't know that it's totally erroneous,
12 either, for the IG statement to say that I was concerned,
13 because I did intercede. I'm just saying...

14 Q Did you talk to McGrath?

15 A No.

16 Q You also indicate that, "Kent said that he and
17 Gordon Rich at SQN initiated a verbal request to Tom McGrath,
18 corporate senior manager over chemistry, requesting that
19 corporate transfer Sam Harvey's position to SQN because they
20 had a vacancy at SQN."

21 A That was through Grover. We went through Grover.
22 We didn't have -- I don't -- I don't recall, I don't think
23 Gordon did, and I'm -- I'm, you know, 99.9% sure I had no
24 conversations with McGrath about it. I talked to Grover. He
25 was our -- he was our interface. He pursued it, came back to

1 me and reported the answer was no. I think that's where we
2 dropped it.

3 Q Was your corporate organization---not corporate,
4 I'm sorry---site organization in '96 the same one that Bynum
5 had approved in '93?

6 A I can't say for sure. I believe it is pretty much,
7 because the functional elements of that '93 org, without
8 the -- without the chemistry and rad con manager job, was a
9 rad protection technical, a rad operations position, and
10 chemistry technical, a chemistry operations position, and a
11 rad waste and environmental position. Those existed from the
12 time I took over chemistry functionally, until today.

13 And at Sequoyah they've been exactly that way. The
14 only time that somebody wasn't functioning in one of those
15 roles would have been if I lost somebody. And really, the
16 only person I've lost from one of those key positions in that
17 time interval has been Bruce Fender. He's the only person
18 that left the organization from '93.

19 Q What job was he in?

20 A He was the -- I believe he was filling the
21 chemistry technical job at that time. I had him in that
22 program manager job. That's my recollection.

23 Q Okay. That was the position below the chemistry
24 manager position?

25 A Below the chemistry manager job; right.

1 Q The one that Fiser turned down at one point?

2 A Right. So functionally -- well, let me -- in terms
3 of standard organization, functionally, Sequoyah was the
4 first site to implement the standard org fully. We did -- we
5 did it -- we basically had the leadership in developing it
6 and proposing it and getting it approved, and we felt like we
7 were obligated to implement it. We did, to the letter,
8 implement standard org as much as we could.

9 (Off the record conversation.)

10 A So we fully implemented that standard org. The
11 other sites did not. They drug their feet on a lot of
12 things. And it was years getting all of the positions filled
13 in the other organizations at the other sites.

14 And still there are some differences. You know,
15 Watts Bar, because they're a one-unit plant, has deviated
16 from the standard org from the beginning, with their
17 management's approval. You know, they -- they say, well,
18 they don't need this much support in this area, so they still
19 aren't 100% aligned with the standard org. But it's real
20 close now. So it's been five years and we still aren't 100%
21 there. But Sequoyah has essentially been in line with the
22 standard org since the beginning.

23 Q Okay. So that technical support manager position
24 that Mr. Fender held back in '94, '95, some -- still exists
25 today?

1 A Yes.

2 Q And it was vacant when Harvey -- you talked to
3 Harvey or Harvey talked to you?

4 A According to that at that time frame, you know, it
5 appears it was vacant. That Bruce had left at that time
6 frame, and there was nobody really filling that role.

7 Now, the idea of those two program managers was you
8 could -- and that's the reason we wrote the jobs the -- if
9 you look at those job descriptions, they really are pretty
10 flexible. They don't say technical chemistry manager,
11 operational chemistry manager. They both are program
12 managers. And the intent was you can put them where you need
13 them.

14 Some plants will need a lot more support in the
15 operational side of the house than they will on the technical
16 side of the house. So you may not fill a technical job. Or
17 you may take the guy who's your second program manager and
18 assign him to do special projects, which is what we have done
19 now. We are doing that right now.

20 We've still got the two program managers. One of
21 them has been over the technical group. The other one, up
22 until about, I guess, six to eight months ago was over the
23 operational group. We -- we did some -- we made some
24 switches because of needs, and the one over the operational
25 group is now doing special projects for us.

1 So that was really the function of those -- of
2 those two jobs all along and -- from our -- from our intent.
3 And I really don't -- you know, like I said, in '96, on paper
4 I may have had a position that had been vacated. Whether or
5 not my management would have let me fill it, I don't know. I
6 can't recall.

7 Q And that's a position that existed from '93 to the
8 present?

9 A Right, it was there in...

10 Q And it's been filled, other than the year or so
11 that -- after Fender left?

12 A Essentially; yeah. That -- that position, I think,
13 has been filled essentially continuously since we first laid
14 it out.

15 Q Except for a year period?

16 A Except for the period of -- you know, of absence
17 when -- when Bruce left and we were deciding what to do with
18 it.

19 Q And so if you had one, and Harvey was providing you
20 support and you were happy with Harvey,...

21 A Uh-huh (affirmative).

22 Q ...why couldn't you have put him in the job? Why
23 did you have to go to corporate to get permission?

24 A Well, I didn't have to go to corporate to get
25 permission to put him in the job. I -- I only asked

1 corporate if they would transfer Sam and his function to the
2 site. If they would do that, then I was willing to absorb
3 Sam into my site organization.

4 And I believe, thinking about it -- and, you know,
5 I haven't answered this kind of question in a long to, so
6 give me a little bit of leeway here. I believe that when I
7 was approached with that idea of bringing Sam out, I thought
8 about whether or not he would be the right person to have in
9 that technical role.

10 I think I talked to some of my staff about bringing
11 Sam out in that technical role. And I believe I got some
12 negative feedback from the staff that he would be the right
13 person for that particular job. And so I stuck with my guns
14 that if corporate wanted to transfer him out in the role he
15 had, I would be glad to take him because he was doing a good
16 job for us. But I wasn't going to pursue posting a job and
17 hiring him into it.

18 Now, if -- that may be why I didn't post that job.
19 You know, I may have had the vacancy, and I may have decided
20 I'm not going to put Sam in that job because I've got
21 negative feedback. I do -- I do recall asking some of my
22 staff people about Sam in that role, some people that were on
23 that technical staff, and they gave me some negative feedback
24 about his supervisory skills. And so I -- I didn't do it.

25 I didn't -- for whatever reason, I did not decide

1 to post the job or to pursue getting permission from my site
2 management to post the job to offer it to Sam or anybody
3 else. And I really can't recall the details of that.

4 Q Did anybody ever relate to you that Mr. McGrath or
5 Mr. McArthur wanted to keep Harvey at corporate?

6 A Huh-uh (negative). I don't think so.

7 Q Never heard any -- any comments to the effect that
8 they want to keep his expertise at corporate and not send it
9 to any site?

10 A No. As best I can recall, the only conversation I
11 can recall on that was that McGrath had responded.

12 (Off the record conversation.)

13 BY MR. DAMBLY:

14 Q Back on the record. Let me see if I can find it
15 here. Okay. Page 2 of the '96 IG interview, the first full
16 paragraph says, "Based on their long-term organizational
17 goals, Kent felt that he still had this position available
18 and needed someone with Sam Harvey's qualifications to fill
19 the position. Kent's initial thought was that if they
20 planned on making some cuts at the corporate level,
21 transferring Harvey's position to SQN would allow corporate
22 to retain more qualified personnel without eliminating people
23 and position."

24 Then it says, "All of the discussions concerning
25 the transfer of Harvey and his position to SQN occurred

1 before any of the reorganizational process or downsizing
2 discussions for the chemistry organization."

3 I guess I've got a question on both. The first
4 sentence, which does seem to say that you wanted Harvey or
5 someone like Harvey to come and fill that position, if you
6 could address that, given what you told me a minute ago.

7 A I -- I thought Sam was doing a good job to support
8 Sequoyah, just as I described earlier, and I was willing to
9 pursue his transfer to Sequoyah for the benefit of Sequoyah
10 and the rest of the team to the extent I approached his
11 management with that request. That's it.

12 I mean, Sam was doing a good job for us. Don't get
13 me wrong. I went to his supervisor, based on a request from
14 Gordon, to see if I could get Sam transferred out to the
15 plant. I did that. I asked the supervisor, the supervisor
16 pursued -- pursued it with his management, and the decision
17 was made, "We don't want to transfer him and his function."
18 That's as far as I was willing to go to get him into the
19 plant.

20 Now, you know, as far as the -- that statement, I
21 don't know if I ever even had a chance to look at that
22 statement after it was written. I'm not sure I even had a
23 chance to look at it, to help make sure it was accurate or
24 not. That is what I know I did, and that's all I did. And
25 that was the extent of my desire to get Sam at the plant.

1 I really, you know -- I believe that I had been
2 pretty successful over the years at getting what I wanted.
3 If Sam Harvey was the thing I wanted, I think I could have
4 got Sam Harvey. I don't believe I had this burning desire to
5 have Sam come to the site, that was so strong that I was
6 willing to do whatever it took to get him, because I wasn't
7 willing to do that.

8 I was willing to go to his management and ask, "If
9 you want to transfer him and his function, you know, then
10 he's doing a good job for us, we'll be glad to take him. I
11 hadn't even got approval from my site to let me -- to bring
12 him out there yet. I was pursuing it with his management.
13 "Are you willing to do that?"

14 And I never -- I don't think I ever went to my
15 management and touched base with plant manager, site VP, or
16 anybody about bringing Sam out. It was strictly my interface
17 with his supervisor, "Are you willing to transfer his
18 function?" If they were willing, then I would take the next
19 step and go to my -- I think my planning was or thinking was
20 I would take the next step and go to my management, get their
21 blessing on it.

22 And at that point I think I was -- would have been
23 willing to do that. But I don't think I was willing to go
24 fight for a head count to put him in, whether it was one of
25 my existing ones or a new one that I would have to get.

1 Because I didn't. I didn't do that.

2 Q When you have, in your organization out at the
3 site, this approved organization with all the positions,
4 whatever, and you're going to fill positions on the approved
5 organization, who do you have to get approval from?

6 A Right now, God. God only can approve filling a
7 vacancy. I'm not kidding you. Today I have several...

8 Q Is that an 800 number?

9 A No. All I know is, I fill out a piece of paper,
10 and it goes by way of many, many priests to finally get
11 approved. The -- the VP of nuclear operations has to approve
12 every -- every hire. I mean, at one time if I had 130 people
13 in my organization and I had three vacancies, it was nothing
14 for me to go say, "Post the job. I'm going to fill these
15 three vacancies." I go out and do it. No questions asked by
16 anybody else. No involvement by anybody else. But for the
17 last say, you know, three or four years at least, it has
18 taken the VP of nuclear power to approve every vacancy,
19 filling any vacancy in the organization.

20 Q And who is that? Is that Scalice?

21 A Carl Singer.

22 Q Singer.

23 A I don't know...

24 MR. MARQUAND: He's nuclear operations, not...

25 A Nuclear operations. I don't know that -- that

1 Scalice doesn't have to approve it. I just know Carl has to
2 go approve them, because Carl is the obstacle that I'm
3 working through on several right now. And have been for
4 months and months.

5 Now, at -- the way we -- the way we typically do
6 business -- and it comes and goes. There's ebbs and tides in
7 this kind of thing, you know. Sometimes upper management
8 will decide they don't need to be so involved in the details
9 and will back off and will delegate, if you want to put it,
10 what I think is appropriate level of responsibility to line
11 management and we take care of our business. Sometimes upper
12 management feels like that they need to be involved in those
13 kind of decisions, and they step in and -- and take the
14 ability to do that.

15 I mean, I think a site vice president -- I probably
16 shouldn't be saying this, but I think a site vice president
17 at a nuclear power plant ought to be able to fill a vacancy
18 on his site if he wants to. That is not possible. Now, I --
19 and what has happened over the years is there have been times
20 when if my head count was 128 or 132 or whatever, I had all
21 the flexibility I needed to fill and move people in those
22 positions.

23 There have been times that every time a vacancy was
24 created, it gets swept away into a -- essentially a holding
25 pond. And in order to be able to fill it, you've got to go

1 fight for it. Because we're trying to downsize the
2 organization through attrition, so every attrition is a
3 potentially opportunity not to fill a job, to reduce
4 generating costs. And that's the -- that's the mode we've
5 been in for years and years and years.

6 Q Well, you indicated a couple of minutes ago that
7 for the past three, maybe four years, you've had to get this
8 higher level approval. But five years ago, when...

9 A I don't remember -- I don't remember if that was in
10 place five years ago or not. You know, I don't know why I
11 felt like I wouldn't pursue beyond if you want to transfer
12 the function to me, I'm willing to take Sam out here because
13 he's doing a good job for us. I really don't recall why I
14 wouldn't go any further than that. It could be that I didn't
15 like Sam that much, you know. Or it could be that I didn't
16 think he was that great, you know.

17 MR. MARQUAND: Well, the other thing, Counsel, is
18 there's a lot different -- a lot of difference between
19 posting the job that they had approved, and the function that
20 they had approved, versus transferring a totally different
21 job and a different function out there.

22 MR. DAMBLY: No, I understand that. That was going
23 to be my next questions.

24 BY MR. DAMBLY:

25 Q To me, when -- what you're talking about is kind of

1 mixing apples and oranges. My understanding, if you transfer
2 a person in a function, the -- what I would call the FTE or
3 the slot for that job goes from one organization to the
4 other.

5 A Exactly.

6 Q So even if you're at ceiling, your ceiling just
7 increased one.

8 A By one; that's right.

9 Q But you keep talking about transferring that
10 because you had a vacancy, and that does seem to be a certain
11 incongruity there, because if you had a vacancy, you don't
12 have to transfer him and his function, you could have put him
13 in the vacancy.

14 A Not knowing how the question was asked, I don't
15 know. Not having the context of the question, I don't know
16 why I would have responded that way. I mean, if I was asked,
17 "Did you have a vacancy?" you know, and I thought I did
18 because of Fender being gone, I may have said, "Yes, I had a
19 vacancy."

20 If asked, "Did you want Sam Harvey to come to the
21 site?" then my answer would have been,

22 "Yes, I tried to get Sam to come to the site. I
23 tried to get his management to transfer him to the site."
24 Now, does that mean I had a vacancy that I wanted to put Sam
25 in and I pursued doing that? No, I did not do that. I did

1 not pursue getting Sam in my vacancy. I pursued having Sam
2 and his function transferred to my site to the extent I
3 described to you, and that's it.

4 Q Did anybody ever tell you you didn't have a
5 vacancy?

6 A No, I don't think I asked.

7 Q Well, I asked, and my recollection about it that I
8 have in front of me is at the predecisional enforcement
9 conference, the information we got from you all and from HR
10 was somehow you were mistaken and there really wasn't a
11 vacancy there.

12 A Well, and that's -- the situation is very much like
13 I probably described. You know, on paper I may have had a
14 position. In reality, every time a person left you had to
15 go -- they re-baselined your organization. You had to go
16 redefend why you wanted to fill any given position.

17 So it may -- everybody may be right and everybody
18 wrong in that regard. I may not have had -- and I don't
19 think I had the flexibility to go fill that position at that
20 time, or I -- I may have -- I don't know why I wouldn't have
21 pursued it with Sam. But I didn't. I didn't pursue filling
22 any vacancy I would have had, with Sam. I only pursued
23 getting him and his function transferred to the site. His
24 management said they didn't want to do it.

25 Q And the -- and the Fender job is one that's been on

1 your org chart since '93, through the present?

2 A Yes. Uh-huh (affirmative). But, like I said,
3 roles change and -- and we have some flexibility, and I
4 really can't recall exactly what we were going through at
5 that time with why we -- why we didn't fill Bruce's job right
6 away. It could have been that we were looking within the
7 staff as to who we might develop into that position. I
8 really -- I just don't have that recollection.

9 Q I'm just trying to understand the -- the statement
10 that we heard in '99 that you didn't have a vacancy. I
11 mean...

12 A Well, my...

13 Q ...if that slot has been there forever, that slot
14 was there. It may have -- you may have not -- decided not to
15 fill it, but it didn't disappear from the organization.

16 A Well, on the standard org that box is there.
17 That's true. It's always been there. But I'll tell you
18 right now, last -- couple of years ago I had 134 people in my
19 organization. My approved head count was 134. If you look
20 at my approved head count today, it's 127.

21 Now, I didn't get rid of anybody. I had people
22 attrit. Those heads aren't showing up on my organization.
23 They're showing up in a pool at the site VP level, and he has
24 the discretion to decide who gets to pursue filling them and
25 who doesn't.

1 So if I want to fill one of them, I have to put in
2 a request, go -- go to the site VP to get approval to use one
3 of those head count to bring somebody in, and then we have to
4 go through the process of posting, selecting, and go all the
5 way to corporate, then, to get approval to actually make an
6 offer to somebody.

7 So it's a very convoluted and complex process. And
8 I don't really remember all the details of what was going on
9 in 1996, how we were actually doing business then.

10 Can you tell me, did I sign that thing?

11 Q No, I don't think you signed it.

12 MR. MARQUAND: No. Those are -- those are notes of
13 it, of the interview.

14 MR. DAMBLY: This is the typical IG report of
15 interview statement.

16 MR. MARQUAND: The IG sometimes does go back to
17 witnesses and show them the statement and give them
18 opportunity to edit it and sign it.

19 THE WITNESS: You know, and had I had the
20 opportunity, I would have tried to clarify any points like
21 that, that may -- may have, I felt, needed to be clarified.

22 MR. DAMBLY: Your IG would be much different than
23 ours if they ever give you a chance to go back.

24 MR. MARQUAND: Well, they do.

25 THE WITNESS: Oh, really?

1 MR. MARQUAND: They do frequently. They call them
2 confirmed O2s.

3 MR. DAMBLY: Ours just take their word for it.

4 BY MR. DAMBLY:

5 Q But, okay, the -- maybe the last thing for today.
6 That'll make you feel good. There was a statement --
7 actually you made it in a couple -- you made it in I think
8 the '93 or '94, and you also made it again, must have been in
9 '97. Where's the '90 -- which one am I on, now.

10 Says, "Kent was not aware of any safety concerns
11 brought up by Fiser prior to the selection process, and was
12 not influenced in any way that Fiser had filed a previous DOL
13 complaint." And in an earlier -- and probably in the '93,
14 '94, you made a comment also about he hadn't filed any
15 concerns.

16 Tell me, when -- when you say "safety concerns,"
17 what are you talking about?

18 A Well, not knowing the context of that question, I
19 guess I'll have to assume what I was responding to. But
20 if -- if I was asked did -- are you aware of any nuclear
21 safety related issues that Gary Fiser would have filed, then
22 I would have said, "No, I'm not aware of any. I'm not aware
23 of him filing any."

24 That doesn't mean that he didn't write corrective
25 action documents, that he didn't initiate those kind of

1 documents that document problems, because everybody does
2 that. I mean, we -- we all do that. But I wouldn't consider
3 those to be what I would think of as safety concerns. So
4 that's -- that's probably the context of how I would have
5 looked at it.

6 I write PERs all the time. Everybody that works
7 for me documents what we call problem evaluation reports. We
8 all write those kind of things. I initiate them, myself; my
9 technicians initiate them. Every level in my organization
10 initiates those. So we don't think of that as a safety
11 concern issue.

12 The ability to do that is real important, you know.
13 And if somebody was told, "You can't do that," then I would
14 probably consider that as a -- as a safety concern issue.
15 Because the ability to be able to document and get issues
16 dealt with is one of those critical issues we have to defend.
17 But I wasn't aware of any safety concerns that Fiser had
18 initiated or raised.

19 Q So, I mean, you don't know if he filed PERs or
20 he...

21 A Oh, I know he did. I'm sure he did. Everybody
22 did.

23 Q But you consider that not what you consider -- I
24 mean, tell me again what you consider raising a safety
25 concern.

1 A Well, I would probably consider raising a safety
2 concern an employee's ability to document a problem. The
3 inability to do that, I think it would be considered -- I
4 would consider it a safety concern. The ability to raise
5 issues that may be contrary to the way we're doing business,
6 you know, just in general. That would, I consider, be a -- a
7 safety concern because of the potential there. Even though
8 if the issue is not really critical, the ability to do it is
9 critical, to raise the issue is critical.

10 Issues that really affect the safe operation and
11 function of the plant I would -- any issue like that; the
12 ability of equipment to perform its design function. Those
13 kind of things I would consider to be safety concerns. If we
14 have -- if people are trying to raise and document those kind
15 of problems, then I would -- I would probably look at some of
16 those. I mean, if you're documenting that a pump doesn't
17 work or that it broke, that's not a safety concern. If
18 you're documenting that a pump is broken. We won't fix it or
19 we can't fix it or we haven't tried to fix it, then that may
20 be a safety concern, depending on the safety related nature
21 of the pump. That's sort -- you know, that's sort of the way
22 I would look at it.

23 Q And do you understand writing a PER to be protected
24 activity?

25 A The ability to write one; yes, I would say it would

1 be.

2 Q Or writing one?

3 A Every one?

4 Q If somebody -- if somebody wants to retaliate
5 against you for writing one, would that be, in your mind, a
6 2-11 violation, a DOL complaint, whistle blower
7 discrimination, whatever you want to call it?

8 A Yes, I'd say it would be. Because the ability to
9 document is real important to what we're doing. That's what
10 we're all about, is safe operation of the plant. And the
11 ability to document problems without fear of recrimination of
12 any kind is critical to that.

13 So I would consider any action against somebody for
14 documenting a problem to qualify, whether the problem was
15 important or not. Whether it was a real safety issue or a
16 trivial issue. We have to defend the ability to do it. And
17 I'm not aware of anybody---Gary, in particular---having a
18 problem with having the ability to do it.

19 Q Okay. What about filing DOL complaints? Is that
20 protected activity?

21 MR. MARQUAND: You mean Section 2-11 Department of
22 Labor complaints.

23 Q Yeah, I'm sorry. Section 2-11 Department of Labor
24 complaints, or going to the NRC?

25 A Oh, yeah, that's protected activity.

1 Q And if you file a DOL complaint, like Mr. Fiser's
2 '93 complaint, did you understand nobody could do anything
3 because he filed that complaint?

4 A Sure. I would have thought it would have been
5 inappropriate to take any action against anybody for filing a
6 complaint with the Department of Labor or the NRC or the EPA
7 or whoever you want -- or going to QA or whoever you want to
8 go to. If you've got an issue, taking action against the
9 person for doing that would be of the same significance as
10 saying to somebody, "You can't document this problem." That
11 would be a protected activity, I would agree.

12 Q Are you aware of any managers at TVA who have filed
13 DOL Section 2-11 complaints?

14 A I guess the only -- I'm not -- as far as the 2-11,
15 I'm not sure. I believe that...

16 MR. MARQUAND: Was that -- that was just a
17 reference to Department of Labor complaints that are NRC
18 related as opposed to clean air, clean water.

19 THE WITNESS: All right. Okay, I got you.

20 BY THE WITNESS:

21 A I am aware that there are several people in -- at
22 different levels in the organization that have filed
23 complaints that I would think would be of that nature. Not
24 knowing the specifics of all of them; but yes, I would say I
25 am aware. I think.

1 Q And management people?

2 A Yeah.

3 Q Other than, I guess, Jocker was a manager at the
4 time he filed.

5 A Jocker was a manager.

6 Q But anybody file one that's still a manager at --
7 at TVA that you know of?

8 A No, I'm not aware of any. But I'm not aware of
9 that many people who've filed them, either. I mean, I know
10 of Jocker and Gary. I don't know if the guy -- there was a
11 guy at Watts Bar once, but I don't really know if he was a
12 manager at the time or not. So I really -- you know, I'm not
13 aware of any manager that's filed one that is either still
14 employed or not employed with TVA, other than the ones we've
15 talked about.

16 MR. DAMBLY: Well, with that we could adjourn
17 until...'

18 MR. MARQUAND: I need to ask a question.

19 MR. DAMBLY: Sure.

20 MR. MARQUAND: Of you.

21 MR. DAMBLY: Of me?

22 MR. MARQUAND: Of you. And I'd like to do it on
23 the record. You asked Mr. Kent if he was aware of any safety
24 concerns raised by Mr. Fiser. And we're not aware of any
25 contention of any safety concerns that Mr. Fiser raised that

1 he's been discriminated against because of raising.
2 Certainly he didn't allege that in his complaint either in
3 '93 or in '96. And the NOV doesn't say anything about it.
4 And if you all are contending that he's been discriminated
5 against for raising safety concerns, I'd like to know that,
6 and I think you need to go on the record that that's your
7 position.

8 MR. DAMBLY: Well, you may think that, but beyond
9 that...

10 MR. MARQUAND: Well, I think we're entitled to know
11 your contentions.

12 MR. DAMBLY: I think we're clearly contending that
13 Mr. Fiser was discriminated against for engaging in protected
14 activity.

15 MR. MARQUAND: Right. And we'd like to know...

16 MR. DAMBLY: Whether or not you want to consider
17 the NSRB stuff and his, you know, refusal to -- what he
18 thought a set of procedures which he would have to violate
19 immediately, if you consider that -- I don't know if you want
20 to call it safety concerns or not, but it's clearly within
21 the ambit of what's covered, you know, by 50.7. As -- as is
22 his complaint...

23 MR. MARQUAND: Well, is that what your contention
24 is, then?

25 MR. DAMBLY: Well, yeah, you can -- I mean, Mr.

1 Fiser's statement -- you've got his statements and what he
2 alleged happened as a result in -- in filing the complaint in
3 '93, which would be sufficient as a basis to allege
4 retaliation in '96.

5 MR. MARQUAND: Well, my question is not what Mr.
6 Fiser filed. My question is what is the staff's contention
7 in this case? I mean, we've seen the notice of violation,
8 we've seen the OI report which you don't seem to want to
9 defend. We want to know what the staff's contention is for
10 the basis for the violation, and are you changing your
11 contention at this point in time?

12 And, I mean, if you're taking Fiser's filing and
13 saying that's what it is, that's fine. But we just -- we
14 just want to know what your contention is.

15 MR. DAMBLY: Well, we're not changing anything
16 that's in the NRV. He engaged in protected activity in '93.

17 MR. MARQUAND: By filing a DOL complaint?

18 MR. DAMBLY: Well, for purposes of this, that would
19 be sufficient. He also engaged in protected activity in his
20 interactions with the NSRB.

21 MR. MARQUAND: Okay. But, I mean, that's -- your
22 contention is that that's the protected activity upon which
23 you contend -- for which you contend he was discriminated
24 against, not some other unknown PER or safety concern that he
25 supposedly raised at that time?

1 MR. DAMBLY: No. No, I'm not raising any unknowns,
2 because I don't -- don't know any, either. I mean, the stuff
3 that's in the record is the stuff we're dealing with.

4 MR. MARQUAND: But, I mean, the staff's evaluation
5 of the '93 complaint was that there was no protected activity
6 in '93 upon which that complaint was based.

7 MR. DAMBLY: I don't think the staff did an
8 investigation in '93.

9 MR. MARQUAND: Well, I mean, that's what the record
10 says.

11 MR. DAMBLY: Well, that's -- that's true. That's
12 what -- somebody concluded, I suppose, because they didn't do
13 an investigation in '93. Subsequently, they did an
14 investigation and came to different conclusions, I guess.

15 MR. MARQUAND: Okay.

16 MR. DAMBLY: And with that, why don't we adjourn
17 till 8:30 in the morning and we can discuss a lot of fun
18 stuff.

19 (Whereupon, the deposition was concluded at 5:35
20 p.m.)

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Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Deposition of Charles E. Kent

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

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1
2 MR. DAMBLY: It's November 29th of the
3 year 2001. Resumption of the deposition of Charles
4 Kent. Not that I need to, but I remind you you're
5 still under oath.

6 THE WITNESS: Right. I understand.

7 Whereupon,

8 CHARLES E. KENT, JR.

9 appeared as a witness herein and, having been
10 previously duly sworn, was examined and testified as
11 follows:

EXAMINATION

12
13 BY MR. DAMBLY:

14 Q I think we finished yesterday finally with
15 Mr. Harvey's transfer.

16 A Uh-huh (affirmative).

17 Q Okay. Subsequent to that, you knew there
18 was a reorg going to be coming up, and somehow you
19 ended up on SRB. How'd that happen?

20 A I was requested to serve on the SRB by I
21 believe Wilson McArthur.

22 Q And do you know when you were requested to
23 serve?

24 A I believe that I was requested to serve at
25 the peer team meeting in the month before. We talked

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1 about it, and I believe he informed us that there was
2 going to be one, and we agreed that we would have it
3 after our peer team -- the next peer team meeting. So
4 it'd been -- I knew about it approximately a month in
5 advance. I believe that's the case.

6 Q Okay. Did you do anything to prepare to
7 be on it?

8 A No, not really.

9 Q Did you have any discussions with McArthur
10 or McGrath or...

11 A No.

12 Q ...any of your peers?

13 A No.

14 Q Mr. Cox, Mr. Corey?

15 A No, I can't recall any discussions with
16 any of them before the morning of the interviews.

17 Q Okay. And when was -- when did you learn
18 Mr. Cox was not going to be on the panel?

19 A The morning of the interviews, immediately
20 before the interview panel was to start.

21 Q Prior to that, you had no idea that Mr.
22 Rogers was going to be one of the members?

23 A I can't really remember if -- if Wilson
24 had told us that -- that Rick was going to be on the
25 panel or not. I didn't seem real surprised when he

1 was there, because I don't know that I would have
2 known everybody that was supposed to be on the panel.
3 I mean, I knew I was going to be on it, and the other
4 peer team members, but generally we will select other
5 people from other areas to be on panels. So I wasn't
6 surprised to see Rick there. Whether I knew he was
7 going to be there or not, I can't remember. I don't
8 really think -- we didn't discuss it in any kind of
9 detail.

10 Q Okay. From your experience with selection
11 review boards at TVA, is there any normal number of
12 members?

13 A Well, in most of the panels I've been on,
14 there've been more than three or more members on the
15 panel. Whether or not there's a normal number, no, I
16 can't really say. But I would say three or more is my
17 experience.

18 Q And how many have you sat on at TVA?

19 A I don't know. Half a dozen, dozen,
20 something like that.

21 Q Prior to the panel for the chemistry PWR
22 and BWR positions in '96, prior to that panel, how did
23 other panels that you were on generally work? What
24 was the mechanics, if you will?

25 A Generally, the interviewees were scheduled

1 over a period of whatever the panel was going to sit
2 for. And the panel would have provided to them a
3 series of questions that you'd want to ask each
4 interviewee. And the panel was conducted by bringing
5 the interviewees in one at a time and going down a
6 list of questions, grading their responses on those
7 questions. And then HR was generally -- I believe HR
8 was always present at the panels. And we'd turn in
9 the results of our ratings to the HR representative
10 and they would tally the results and provide it back
11 to the selecting manager.

12 Q Okay. On the other panels prior to this
13 one you sat on, did you get a selection review board
14 packet of some kind?

15 A I believe so.

16 Q What -- what generally was in those?

17 A Generally it would have the -- the list of
18 positions that you're going to be interviewing for, or
19 the -- some kind of a description of the position, a
20 listing of the candidates that were going to be
21 interviewed, maybe a schedule of when the interviews
22 with laid out, and any material that the candidate
23 would have submitted with their application for the
24 position. Sometimes it would be just the application
25 sheet, it might have been the application sheet and a

1 resume, depending on what they submitted with their
2 application.

3 Q Did you normally have service reviews in
4 those packages?

5 A No, I don't think so. I don't recall
6 looking at service reviews in an SRB.

7 Q And normally how far in advance of
8 actually the interviews would you get that packet of
9 material?

10 A I believe, you know, in almost all cases
11 it was the -- the morning of the interviews or just
12 prior to. Because normally we'll -- these boards will
13 be convened at different locations and, you know, you
14 may be going to Browns Ferry to make a -- to do a
15 selection for them, and you wouldn't have anything
16 with you until you got there. And when you got there
17 for the board, they would hand everybody out a packet
18 with the information on all the candidates.

19 Q Okay. Now, you mentioned the list of
20 questions. Were -- when you were on other boards,
21 were you involved in preparing the questions?

22 A Generally not.

23 Q Generally not. Do you know who normally
24 would prepare the questions?

25 A The selecting supervisor, generally.

1 Q And was the selecting supervisor normally
2 part of the review board?

3 A The selecting supervisor, in all the ones
4 I can remember, was always there, present. Whether or
5 not they actively participated, I can't really recall
6 in every case. I would say in some cases they did
7 actively participate, and some cases they didn't. Or
8 they may not have.

9 Q When we're talking actively participate,
10 you talking asking questions?

11 A Asking questions and -- right, that kind
12 of thing.

13 Q Did -- did they ever rate the -- the
14 candidates, turn in a rating sheet like you would on
15 a -- as a board member?

16 A I really -- I really can't recall. I
17 don't know if -- the ones I've been on, if they
18 actually turned in a sheet or not.

19 Q And what's your understanding of the
20 purpose of the review board?

21 A It's to assess relative qualifications of
22 the various candidates for the positions involved
23 based on, you know, their responses to the questions
24 that have been laid out.

25 Q And so basic -- and did you, prior to

1 interviewing candidates, review the package of
2 material, resumes that they had?

3 A Immediately prior to?

4 Q Yes.

5 A Yes. Yeah, immediately prior to, as I
6 recall, the selection review board that we're talking
7 about...

8 Q Well, any of them that you were on.

9 A Well, any of them, I would say generally,
10 for a selection review board, when we were given the
11 packet of information we would generally sit down,
12 look at the packet of information, look at the
13 candidates, the order of review, review the -- spend
14 more time on the questions and trying to understand
15 what the intent of the question was that you were
16 going to ask all the candidates. More of the -- more
17 of that than on the actual qualifications of the
18 individuals.

19 I don't think I've ever sat on a selection
20 review board where I didn't know -- to some degree
21 already have prior knowledge of -- of some of the
22 individuals that were involved. Especially since, you
23 know, I've been with the company for almost 24 years.
24 So I would have a lot of knowledge of a lot of the
25 people in -- in the company.

1 Q Normally you'd be picked to sit on review
2 boards for positions with which you were familiar?

3 A Right, within my area of responsibility.

4 Q When you sit on a review board, again
5 prior to the one in '96, and you ask questions, well,
6 you said try and gain their -- or learn the intent of
7 the questions, but was there a board meeting normally
8 before to go over the questions and what was being
9 looked at, or are you talking about you did that
10 individually?

11 A No, I think generally the practice, and,
12 you know -- would have been that the -- the selection
13 review board would have sat down a few minutes---and
14 we're not talking, you know, a long period of time---
15 but a few minutes just prior to the interviews and
16 looked at the questions and given the board members
17 any opportunity to ask for clarification on the
18 questions, if there was something -- you know, what's
19 really -- what are you trying to get at here with this
20 question, you know. What's the intent of this. That
21 kind of thing.

22 Q Was there sort of a -- an understanding
23 amongst the members beforehand as to what would be an
24 outstanding answer versus a mediocre answer versus a
25 poor answer, what you were looking for in response?

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1 A I don't think we ever went into that kind
2 of detailed discussion of the questions. I don't --
3 I don't remember doing that in any selection review
4 board.

5 Q And again, prior to this one, when you
6 were on a review board and you asked a question and
7 you knew the individual,...

8 A Uh-huh (affirmative).

9 Q ...and maybe the individual had worked
10 with you and done an outstanding job on something, and
11 they gave you a bad answer on -- or not a really great
12 answer on the question, but you were familiar that
13 they, in fact, knew that, had done it, had done it
14 well for you, did you take that into account in -- in
15 scoring an answer to that question, or do you just go
16 on what they tell you face-to-face that day, and
17 ignore whatever else you know?

18 A I would do -- I would do my best to ignore
19 whatever else I knew, go with the answer to the
20 question that day. And, I mean, obviously the intent
21 is to be objective and do an objective review of -- of
22 all the candidates. And so I -- I believe that,
23 regardless of my prior knowledge of the candidate, I
24 would have asked a question and scored the candidate
25 on his response to that question. If it'd been an

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1 average response, it would have gotten an average
2 score.

3 Q Now, you used the word "objective review."
4 Is there something not objective about a person with
5 20 years outstanding service reviews and whatever,
6 taking that into account in deciding how to rate them?

7 A Well, I think the intent of the selection
8 review board is to -- is to look at the candidates in
9 this snapshot and in light of the questions that
10 you're asking them that day. It's the selecting
11 supervisor's job to look at everything else. That's
12 not the selection review board's job. Selection
13 supervisor is supposed to look at all of their
14 service, the sum total of all their service,
15 performance, and that kind of thing, and then make a
16 final decision. The board's job is to assess the
17 candidates against the -- the questions that have been
18 laid out for the board.

19 Q Certainly. And you've been a selecting
20 official also?

21 A Yes.

22 Q When a review board would give you a -- a
23 list, and Candidate A got 70 points and B got 65 and
24 whatever, you would go back and review the service
25 reviews and background, the resume, the person's

1 employment history in deciding whether to take A or B,
2 or do you always go with whatever the number is?

3 A I think I would go back -- I mean, it is
4 the selecting supervisor's responsibility to evaluate
5 not only the recommendations of the board, but other
6 elements of that person's service that may not have
7 been dealt with in the questions that the board saw.
8 Because the board questions generally are technical
9 questions. There's a lot more to whether you select
10 a person than just those technical issues. So I
11 think, as a selecting supervisor, I would have gone
12 back, looked at performance, looked at other elements
13 of that person's service, and then taken the board's
14 recommendation as a recommendation. Because
15 ultimately it's the selecting supervisor's
16 responsibility.

17 Q Okay. When you sit on a board, and prior
18 to this one---well, we can talk about this one too,
19 for that matter ---and you have knowledge of the
20 candidate, and so you ask a question and the
21 individual responds with what I'll call puffing, and
22 make a response, "Well, I've done this, I've done
23 that, you know. I was the highest rated engineer for
24 whatever in this area," do you do anything to verify
25 that, or do you use your personal knowledge, if they

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1 gave you a great answer but you know it's not true,
2 does that come into play at all?

3 A I don't -- I don't know that -- the
4 questions probably wouldn't be designed to permit
5 puffing, if they're technical questions and they would
6 be asked -- asking about a technical issue. And if a
7 candidate were to go into a great deal of elaboration
8 on all the things they'd done, I think you'd have to
9 try to see if they really answered the question or
10 not.

11 I mean, the fact that you've got 42 years
12 and you've done all these things and you got an award
13 for something in 19, you know, '85 may be irrelevant
14 to really does the candidate understand the issue that
15 this question is attempting to get to. So you have to
16 kind of evaluate that. But...

17 Q And if you're dealing with a management
18 job where you'd have both technical questions and
19 management questions, how you deal with people, what
20 you've done, who you've managed, whatever,...

21 A Uh-huh. (affirmative).

22 Q ...so it's not a, "Can you tell me what
23 the molar ratio is?" question. But in that case, you
24 just take at face value whatever they -- they tell
25 you, if you know what they've told you isn't true, can

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1 you take that into account? Do you verify their
2 responses in any way?

3 A As a member of a selection review board,
4 no, you don't -- there is no verification process.
5 You would evaluate the candidate's response to that
6 question and document it, and there's no follow-up
7 process that would end up verifying what they've told
8 you. If someone puffed up their credentials and, you
9 know, tried to elaborate on things beyond, there would
10 not be any -- to my knowledge, any follow-up from the
11 selection review board. I've never participated in
12 one where we went back after the process and did any
13 kind of verification of that information.

14 Q Did you ever participate in one where
15 somebody, to your knowledge, maybe overstated their
16 management skills, abilities, whatever?

17 A Not really. I can't really recall one
18 where someone was -- grossly overstated what they
19 thought their qualifications would be.

20 Q If you were, could you take that into
21 account in evaluating their response? If you were
22 aware that they had overstated?

23 A In other words, if I had personal
24 knowledge that an individual was lying about an issue,
25 was not being truthful about an issue that he was

1 being asked, and it was not a technical issue, because
2 obviously...

3 Q Right.

4 A ...that's a pretty much black-and-white...

5 Q He said, "I was the team leader that did
6 XYZ," and you know he was a member but he wasn't the
7 leader, in other words.

8 A And you had personal knowledge that you
9 knew...

10 Q Personal knowledge of that.

11 A ...the individual was not a team leader;
12 as a matter of fact, only attended a team meeting once
13 and that kind of thing. Yeah, I think you would -- I
14 mean, I believe as a selecting official I would factor
15 that in. I mean, as a -- as a board member. If I had
16 that knowledge, I would -- I would probably document
17 that on my sheet, you know. He said this, but I rated
18 him a five or a seven or whatever because I happen to
19 know that this guy was on this team and he only
20 attended a meeting once and he didn't have the role
21 had said he did.

22 Q And would you have a discussion with other
23 team -- normally, when these are -- after the person's
24 been questioned, is there a group discussion of that
25 individual and his or her responses to the questions

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1 and how everybody viewed those?

2 A I would say it may vary, depending on what
3 the -- what the selection review board is challenged
4 with doing at that particular time. It wouldn't be
5 uncommon to have -- after you've reviewed a group of
6 candidates for a particular job or a -- or a specific
7 candidate for a job, to have a short discussion that
8 would say, "Well, you know, I thought the guy was
9 really open with his answers and, you know, he seemed
10 to be very articulate in the way he expressed
11 himself," and -- and that kind of thing. But that's
12 the extent of it, I believe.

13 Q Have you ever, as a result of one of
14 those, changed any of the number scores you've given?

15 A No.

16 Q No. Okay, then we'll get to this one.
17 The morning before the interviews, you had one of your
18 peer group meetings?

19 A Right.

20 Q And after the meeting, is that when you
21 got the package?

22 A After the meeting; yeah. We did not have
23 the package until we arrived at the interview room
24 just prior to the interviews starting.

25 Q Okay. Did you have any discussion with...

1 After the meeting, but before the
2 interviews with -- you found out Cox wasn't going to
3 be there. Did you have any discussion with him, or
4 how did you find that out?

5 A He told us. We were -- I believe we
6 were -- all of us---John, Corey, myself, Jack Cox, and
7 Wilson McArthur---the four of us, which was really the
8 key pieces to the peer group, we were standing outside
9 in the corridor, just outside the room we were going
10 to do the interviews in.

11 And I believe they were providing lunch
12 for us that day because we were -- we had broken from
13 our peer team meeting and gone right into the
14 interviews. And then it was -- the plan was laid out.
15 It was going to be all evening, into the late evening
16 for that interview session, because we were probably
17 interviewing for four or five positions, and I don't
18 know, maybe a total of 20 candidates that day.

19 So we were standing outside in the hallway
20 just prior to entering the room for the interviews or
21 having lunch, and Jack informed -- he didn't really
22 make an announcement, he just said, "I'm not going to
23 get to be here this afternoon. And I had -- I had a
24 prior commitment." He didn't elaborate on what his
25 prior commitment was, but he did say he wasn't going

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1 to get to be there this afternoon. And that's how I
2 found out he wasn't going to participate.

3 Q Okay. Did he make any other comments at
4 that time?

5 A He said something to the effect that, "For
6 whatever it's worth," and I think those were just
7 about his words, "For whatever it's worth, I -- Gary
8 has worked for us at Watts Bar for the last year or so
9 during the startup process, and he did a good job."

10 Q Make any comment, "He's the one I would
11 select," or anything like that?

12 A No, I don't remember him making a comment
13 like that. Just -- I think the context was, you know,
14 "Gary has done a good job for me at Watts Bar. I hate
15 that I can't be here to be on the board, but just for
16 whatever it's worth, Gary's done a good job for me at
17 Watts Bar supporting us during our startup here in our
18 last year."

19 Q We were -- we've been told, and I'm sure
20 you've heard, as maybe back in the enforcement
21 conference days, that there was a issue (sic) about
22 Mr. Cox -- maybe it was Mr. McGrath indicating he
23 should be disqualified because he was biased. Do
24 you...

25 A I would have known nothing about that

1 discussion, other than what may have been said at --
2 at the enforcement conference. I would -- I had no
3 prior knowledge of that until that kind of discussion.

4 Q Did you take Mr. Cox's statement to
5 indicate a bias on his part?

6 A No, I didn't really. I mean, I -- I took
7 it at that time, and I remember thinking when he said
8 that, that, 'Well, gee, if he wanted to have any input
9 he should stay and participate in this board, you
10 know.' Because that's the place to, you know -- if
11 you want to have a say, him saying the guy did a good
12 job for him in the hallway added nothing, really, to
13 the process. It was irrelevant, you know. It didn't
14 matter what he thought about it. If he wasn't on the
15 board, he -- he would have no input, and the fact that
16 Gary did a good job for him, for whatever project,
17 would have no influence on the way I looked at the
18 candidates.

19 Q And to the extent Mr. Harvey had done a
20 good job for you, you didn't take that into account
21 when you sat on that board, either?

22 A No, I didn't.

23 Q As far as -- as far as you're aware, there
24 would be no reason to disqualify Mr. Cox from sitting
25 on the board just because he said, "Gary's done a good

1 job for us"?

2 A No, I don't think so, because I believe
3 that the intent of the board is to look at the
4 candidates on that day, against that set of questions;
5 give them, you know, your primarily technical
6 questions; evaluate their responses. And the fact
7 that he had worked up there during startup, I think
8 Jack would have been objective and would not have made
9 that a major influencing factor in the way he rated
10 the guy. So I wouldn't have felt bad about him
11 participating. As a matter of fact, I was
12 disappointed he wasn't participating.

13 Q Did he appear disappointed not to be able
14 to spend the rest of the day and evening with you?

15 A Well, you know, I don't know what his --
16 what his personal commitment was, but I did get the
17 impression that when he said, "I hate -- I hate that
18 I can't stay," that he really did. Because he thought
19 that was part of his responsibility, just like all of
20 us did, and he would have like to have stayed and
21 participated. And I think he would have been willing
22 to have stayed up to some point; then he would have
23 had to left, and I believe the decision probably had
24 already been made that that wasn't the best thing
25 for -- for him to do.

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1 Q Okay. So, while you all were having lunch
2 there, do you recall making any statements to Mr.
3 McArthur or heard by Mr. McArthur and Mr. Corey about
4 Mr. Fiser's past DOL complaints?

5 A Yes, I did make a statement about that.

6 Q What did you say?

7 A I was talking to Wilson McArthur. And it
8 was, again, just prior to going into the -- to the
9 room there. And I -- I basically said to Wilson, you
10 know, just sort of matter-of-factly, "Since there's
11 this DOL issue, it might -- it might be best for the
12 process if you observed more than participate in the
13 selection review board."

14 Q And why did you say that?

15 A I thought it would be better for -- for
16 the process, because Wilson was the supervisor who
17 made the decision to post the job. Gary had already
18 told me that he had filed a complaint because Wilson
19 had posted the job, and I thought it would be best,
20 for that process, if Wilson just sat back and let the
21 board do the ratings, and him not actively
22 participate. So that's what I told him.

23 And he -- he may have already thought
24 about that in advance and -- and decided not to
25 participate. But he said that he was not going to

1 participate. And that's the way it -- that's the way
2 it worked. So whether he did it because I told him --
3 I suggested that, or he'd already made up his mind, I
4 don't know. We never really discussed that.

5 Q And Mr. Corey overheard this conversation?

6 A I assume so. I mean, we were -- I wasn't
7 really talking to Corey, but it was like four of us
8 sitting like we are around this table, only we were
9 standing. And I just looked over at Wilson and made
10 the statement to Wilson. He could have overheard me.
11 I think he did overhear me.

12 Q You think it's appropriate to bring up
13 somebody's DOL complaints before you go into a rating
14 panel that involves rating them? Or a review board.
15 I'm sorry.

16 A Well, it wasn't -- I did not make the
17 statement to bring up an issue that an employee had
18 filed a complaint. That wasn't the intent of the
19 statement. The intent of the statement was if the
20 selection review board process would appear more
21 objective to everybody if the manager in this case --
22 the selecting manager did not really actively
23 participate in the SRB. That was the intent of the
24 statement.

25 I wasn't announcing to the group that Gary

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1 had made a -- had filed a DOL complaint. I wasn't
2 trying to influence the group because of Gary making
3 a DOL complaint. I was simply suggesting to McArthur
4 that that SRB process I thought would be improved in
5 terms of its overall objectivity and things like -- or
6 appearance of objectivity, if he, as the selecting
7 supervisor, did not actively participate, because he
8 made the decision to post the job and Gary had filed
9 a complaint about that.

10 Q Ultimately, whether he participated on the
11 review board or not, he was going to make the
12 selection.

13 A Definite -- well, ultimately, he was going
14 to be a part of the -- the ultimate selecting process.
15 That's true. Now, HR was also part of that -- he's
16 not -- the selecting supervisor doesn't necessarily
17 have the one and only final say. There is a process
18 of review, independent review by HR, also, that --
19 that is intended to make sure that the selecting
20 supervisor has done a good job of evaluating all these
21 things. But yes, Wilson ultimately had the
22 responsibility for making a selection.

23 Q Has HR ever overruled one of your
24 selections?

25 A I can't recall specific examples, but I

1 can recall numerous times that I have gone to HR with
2 a recommendation, and we have had some detailed
3 discussions of why certain things were -- people were
4 rated a certain way. And on occasion, I believe I
5 have changed the -- my decision about selecting
6 individuals as a result of that interview with HR,
7 that process.

8 Q In -- in TVA space, who has the ultimate
9 authority to make a job offer? The manager, HR?

10 A The selecting supervisor has the -- I
11 believe has the ultimate authority. You're
12 responsible for the selection, you're responsible for
13 the people, once you get them. HR is an advisor to
14 us. If HR makes a recommendation, I think we have to
15 very strongly consider their recommendation.

16 I believe if -- if a manager felt strongly
17 enough about a candidate, and HR had made a
18 recommendation against that candidate for some reason,
19 I believe, you know, we probably ought to just -- you
20 certainly need to really consider their input, and --
21 and may want to go talk to the next level up in
22 management to -- to get another point of view.

23 Q And what kind of bases could HR have for
24 recommending against a candidate?

25 A I think generally, in my experience, if

1 there is -- if there is a recommendation of HR about
2 the selection of an individual candidate or a group of
3 candidates, it would probably be more along the lines
4 of trying to differentiate between candidates that
5 were closely qualified and -- and maybe making sure
6 that we were taking into account appropriately things
7 like EEO and issues like that. That's for the most
8 part, I think.

9 Q When you...

10 A Because the selecting supervisor should
11 have or had at least had the opportunity to review any
12 and all information about the candidates they wanted
13 to. So there really shouldn't be anything hidden that
14 only HR knows about a candidate.

15 Q Well, would a selecting official normally
16 know about grievances, EEO complaints, DOL complaints
17 that an individual would have filed?

18 A Not necessarily. I mean, they -- you
19 know, they might, but not necessarily.

20 Q If they were supervising them at the time
21 they filed them, obviously...

22 A He probably is. But when you go pull a
23 person's PHR, I don't think I've ever -- I've looked
24 at a lot of PHRs in the past, and I've never seen in
25 a PHR any reference to the person filing a grievance

1 or filing any other kind of complaint. I mean, it may
2 be in a person's PHR, but if it is, by the -- when
3 they give you the file...

4 You go to HR to get those files. They're
5 not just laying around where anybody has access to
6 them. I would, you know -- I've never seen any of
7 that information in there. So I -- I have not been
8 able to detect, from the kind of review a supervisor
9 would do of an individual's PHR, whether they'd ever
10 filed a grievance or anything like that.

11 Q Has anyone at any time who is selecting
12 official from HR or OGC ever told you that an
13 individual being considered had filed a -- an EEO
14 complaint or a DOL complaint or some kind of labor
15 grievance?

16 A No, I don't think so. I can't recall. I
17 don't believe they -- they have. I don't believe they
18 would.

19 Q Just occurred to me. Did -- were you ever
20 aware that Mr. Fiser had taped people back in the '93,
21 '94 time frame?

22 A No, I wasn't at that time. Now, since
23 everything we've been through, I have heard it said
24 that he did. But I was not aware of that.

25 Q I guess there was an issue that was

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1 brought up at the PEC about some -- one peer team
2 meeting that he attended for Mr. Grover, and he was
3 asked to leave at some point.

4 A Yes.

5 Q Do you recall that?

6 A Yes, I do.

7 Q And what was the purpose for asking him to
8 leave?

9 A Not -- not in every peer team meeting, but
10 some peer team meetings the -- the key peers, which
11 are the rad chem managers at the three sites---and
12 after McArthur became the rad chem manager in
13 corporate, McArthur was kind of considered one of
14 those key peers---often have business to discuss
15 that's not public information.

16 And it doesn't matter who else is -- is at
17 the meeting in attendance. You know, if it's Gary
18 sitting in for Grover, or Grover sitting in for
19 Grover, or Wilson sitting in for Wilson, you know,
20 prior to that elevation of his role, the three of us--
21 -Corey, Cox, and myself---excuse people from meetings
22 when we didn't want to discuss something in their
23 presence.

24 You know, it might be we were looking
25 long-term at personnel issues, staffing issues, things

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1 that we didn't want to become public information. And
2 we often did that, and still do. We -- we still have
3 closed parts of our meeting where other people don't
4 participate.

5 Q And this one in particular, Mr. Fiser was
6 excused because he really didn't have any involvement
7 in the issue?

8 A Right.

9 Q Not because you didn't trust him?

10 A Oh, no. He was excused because he didn't
11 need to be involved in the issue.

12 Q Well, now we've got up to the wonderful --
13 give you the package here they say is the --
14 supposedly your selection booklet that was provided us
15 by TVA as the packet you had on that day with your
16 material. I'm going to ask you to take a look at
17 that, see if that looks to you like -- you can go
18 through it a page at a time, if you want to. If
19 there's anything that you don't recall being in there
20 and anything missing.

21 A Well, it's got my name on it, and I don't
22 know that my -- mine had my name on it.

23 Q Oh, okay.

24 A It's -- there's a tab in the front here
25 that has a lot of information in it that is my

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1 responses---I believe that's my handwriting---to the
2 question. So that obviously wasn't there. There's a
3 summary thing in here, it looks like, on responses
4 that obviously wasn't there. There's a list of
5 questions that would have been there, but not with the
6 markings that this one has on it.

7 Q Is there a -- the one that says "BWR"?

8 A Right. That would have been in the
9 package, the questions, I believe, but not with the --
10 with the markings of which ones are circled and -- I
11 don't really remember now the checkmarks, what the
12 meaning of all this is. But it would have been in
13 there without the markings and the checkmarks. And
14 then there's -- everything in this front tab, I
15 believe, is -- was not in the original package.

16 Q Everything -- well, I mean...

17 A All this stuff. I don't believe any of
18 that, in its -- in the form its in right here, was in
19 the package.

20 Q Okay. Now, the -- however, the -- the
21 handwritten notes there?

22 A Those are my notes. They obviously would
23 have been generated during that meeting.

24 Q During the meeting?

25 A Yes.

1 Q Okay. So I'm going to have -- I guess
2 maybe could make it -- anything in here that wasn't
3 there when you were done with the package?

4 A Oh, okay. Well, I wasn't -- this summary
5 page right here.

6 Q Okay. Summary -- it starts off...

7 A "Wilson McArthur."

8 Q ...McArthur.

9 A That would not have been in there.

10 Q Okay.

11 A All of the handwritten pages would have
12 been in there. These look like they're all my ratings
13 of the individuals, so they would have all been there.
14 None of these -- none of these summaries for each
15 position would have been there. That looks like that
16 was prepared after our meeting as a summary of our --
17 the results of our interviews. That was all -- that's
18 all...

19 Q Those PWR...

20 A Yeah.

21 Q ...that was done after by somebody else?

22 A By somebody -- right, that's all done
23 after by somebody else.

24 MR. MARQUAND: Was it your handwriting
25 here?

1 THE WITNESS: No, I didn't -- I didn't do
2 this. We -- we did not tally -- tally any of the
3 ratings for any of the candidates in our meeting. We
4 only rated them, turned in the sheets. We did not do
5 any aggregation of any information on any candidate.
6 And until it was announced much later, none of the
7 members had any idea who was going to be selected for
8 any of the positions.

9 BY MR. DAMBLY:

10 Q Okay, so when you say you turned in your
11 sheets, the -- the numbers -- when you have Sam
12 Harvey, the first handwritten sheet that I have
13 here...

14 A My handwritten sheet; yes.

15 Q ...your handwritten sheet, and it has
16 numbers down the -- I guess the questions numbers, 1,
17 2, 4, 9, 11...

18 A Right.

19 Q ...12. And then next to those is a nine
20 next to one and a nine next to two.

21 A Right.

22 Q You wrote those down?

23 A I wrote those down.

24 Q Did you -- did you tally them at the
25 bottom?

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1 A No, that's not my -- I did not tally them.
2 We did not -- I don't believe we tallied any of the
3 scores on any of the candidates. As I recall this
4 meeting, when -- we took notes, each of us, as each
5 candidate responded to each question. And Question 1,
6 as an example, I would have made these notes, and I
7 would have given that rating for this candidate. And
8 then I would have done the rest to the bottom of the
9 page.

10 And then at the -- after the last question
11 was asked, which looks like it was Question #16, I
12 would the turned in this sheet. And none of the notes
13 on the bottom of the page are mine, or I wouldn't
14 have -- I did not add up any scores or anything.

15 Q Okay.

16 A No one did. We didn't -- that's not the
17 way we work.

18 Q So that on each one of your handwritten
19 ones where there's summaries at the bottom, tallies,
20 if you will...

21 A Someone else did that afterwards.

22 Q ...someone else did that?

23 A Yeah.

24 Q Interesting in making the copies, I
25 believe Mr. Fiser's page has two sides, doesn't it?

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1 A Yes, it does.

2 Q Unfortunately I only copied one side,
3 but...

4 A I've got both sides.

5 Q You've got both sides? Do the others have
6 just one side, I think?

7 A Well, let's see. Essentially 17 questions
8 on that one. Sam Harvey's -- no, Chandra's has two
9 sides, at least in the copies I have here.

10 Q How about Harvey's?

11 A Harvey's was the first one. I think it
12 only had one side. Looks like -- well, it went
13 through Question 16. It may be a -- oh, there is.
14 Yeah, there's a -- there's a second side on Harvey's,
15 too.

16 Q Okay.

17 A So I guess it just depended on how much
18 information I decided to write down on each, you know.
19 Actually, if you're looking through this package,
20 about half of them have information on both sides.

21 Q So the stuff that was in the little packet
22 in the -- in the folder there on the first sheet about
23 Wilson McArthur's position or whatever, you -- that
24 wasn't there?

25 A No. I don't -- I don't know that I've

1 seen this before.

2 Q The questions for the program manager,
3 chemistry, the one through 14, I guess, that wasn't...

4 A This sheet?

5 Q Right.

6 A That would have been in...

7 Q That was in the packet?

8 A Right.

9 Q But not in some -- and you didn't do the
10 circling?

11 A This may be my circling. Because what --
12 what we -- one of the things we did, when we went into
13 the meeting, is we decided who was going to ask which
14 question. We just sort of picked among the team. And
15 what we were trying to do is rotate the questions
16 around so that the individual wouldn't be responding
17 to the same person all the time.

18 And so we would -- we would, like, pick
19 for instance Question 1 is a Kent question; Kent
20 question is #2. We'll let him ask the first two, and
21 then somebody else would have asked the next two;
22 somebody else would ask the next two. Something like
23 that. So these -- these may very well -- not knowing
24 where this particular sheet came from, these were
25 probably put on there by one of the board members to

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1 indicate the questions they were going to ask.

2 Q Okay. Do you remember which ones you were
3 responsible for asking?

4 A Not really.

5 Q And when somebody asked a question, say
6 you were responsible for asking a question, you asked
7 it and the individual answered, the other board
8 members free to chime in and -- with follow-up, or did
9 you maintain some kind of discipline, I guess?

10 A I don't believe there was a -- a guideline
11 that we discussed that said we wouldn't do that. I
12 can't really recall that happening. If at all, very
13 little. Generally, the individual who was tasked with
14 asking the question would ask the question, and the
15 rest of us would listen and rate the response of
16 the -- of the candidate. I can't recall following up
17 on any questions myself that anybody else asked.

18 And if I was responsible for asking the
19 question, I think I -- I would have probably asked the
20 question. If I didn't think it was understood, I
21 would have followed up with the candidate to make sure
22 that, you know, they -- they gave me what they had to
23 give or gave the team what they had to give. But I
24 don't recall following up and interjecting on anybody
25 else's questions.

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1 Q If I could ask you to go through we'll say
2 Mr. Harvey and Mr. -- their sheet, Mr. Fiser's sheets.
3 Unfortunately, I can't read this. It's not
4 necessarily your writing, but the copy is -- that was
5 in the -- in the binder there is...

6 A Sometimes I can't read my writing, so...

7 Q Well, your writing is better -- looks
8 better than mine.

9 A That wouldn't be a -- it wouldn't be an
10 embarrassment to me if you couldn't. Okay.

11 Q Okay. And the -- and the Question #1, I
12 gather -- these are the questions, at least through
13 14. There must be another sheet of them someplace.

14 A That was the BWR questions. There is a --
15 there was a PWR sheet. And I believe -- I don't --
16 the questions may have been similar on both sheets,
17 depending on which -- here's the BWR.

18 Q If I recall, the -- well, maybe you can
19 pull out the PWR sheet. And I think that's the same
20 set of questions, only you ask one more question for
21 the BWR than the PWR. But the questions should be in
22 that binder somewhere.

23 A Let's see. Should have been, I would have
24 thought, behind the tab with the candidates. Here you
25 go.

1 Q Okay. And we can -- we can confine
2 ourselves to the PWR questions.

3 A Okay.

4 Q I think the first question is: "What
5 strengths do you have that will benefit this
6 position?" Is that what's on your sheet?

7 A Yes.

8 Q Can you tell us what -- what you wrote
9 down there for Mr. Harvey and Mr. Fiser, what you
10 recall about their responses, and -- and basically why
11 you gave one a nine and one a seven-and-a-half.

12 A Well, on Mr. Harvey's, you know, if I can
13 decipher my writing, and these were -- I mean, what it
14 says is, "Knowledge of S&G chemistry, knowledge of raw
15 water, plant experience." And then it looks like I've
16 got "clear" or "clean." I can't tell from what this
17 is.

18 In response to this question, "What
19 strengths do you have that would benefit this
20 position?" we were talking about PWR chemistry
21 position, Harvey would have been describing what he
22 thought he could bring to the job, and these are --
23 these are my notes about what he said; not what he
24 said. He wouldn't have said, I don't think, "I have
25 knowledge of S&G chemistry," and I wrote that down.

1 He would have described things about his experience
2 and his ability that would have given me the
3 impression that he had knowledge of S&G chemistry.
4 And I wrote -- that's when I wrote down that note.

5 Same thing for raw water and plant
6 experience. I mean, that -- at the time, that was my
7 cryptic note, that I responded to something he said
8 about plant experience. And then I rated him, and I
9 rate him a nine based on the sum total of his
10 response. Not necessarily what I wrote down on this
11 page, but the sum total of his response at that time.

12 Q Okay. With Mr. Fiser, can you read at all
13 what -- what's down there?

14 A No, I can't. It -- it says something
15 about people skills. I'm sorry, I can't read your --
16 I can't tell what the first part is.

17 Q Unfortunately, I was trying to go over
18 this last night myself, and I was going blind. So...

19 MR. MARQUAND: Do you want us to go off
20 the record? We may have a -- we can check and ask.

21 MR. DAMBLY: Do you have the original?

22 MR. MARQUAND: I asked Knoxville to send
23 me my copy, and it should be -- should by now have
24 gotten to the hotel.

25 MR. DAMBLY: If you -- if you've got it,

1 somehow -- because obvious -- I mean, we can
2 discuss -- I think we can go through the Harvey,
3 because most -- well, good portions of that are -- are
4 legible, I guess. But I got to tell you, I couldn't
5 read a whole lot of what was on the Fiser. I mean, it
6 was -- because I am interested in -- if he could
7 recall...

8 BY MR. DAMBLY:

9 Q Maybe he can recall, without looking at
10 your notes, what the difference between the two
11 responses was that led you to believe that one
12 deserved a point-and-a-half more than the other one.

13 A I really can't -- for that particular
14 question, based on, you know, I -- not being able to
15 decipher my notes here, I don't -- I really can't
16 recall why I would have rated -- exactly what went
17 into rating Fiser a seven-and-a-half. I mean, it was
18 the rating of the sum total of my -- my judgment and
19 his response to that question. I was trying to see if
20 there was another question that was readable, but on
21 it I can't hardly read the one on Sam, first one.

22 So I -- I would just have to say that, you
23 know, based on the way the candidates responded to the
24 question at the time, I gave them a rating. And it
25 was obviously somewhat relative rating, because I

1 knew -- I knew, I guess, what I would have expected in
2 my own mind in terms of a response. And I gave Sam a
3 nine, and I gave, obviously, Gary a seven-and-a-half.

4 Q Okay, find out what...

5 A And even with detail -- I mean, these were
6 the crispest copies you could get, I don't -- I don't
7 know that I'd be able to give you any more details
8 about what particular element of his response would
9 have caused me to rate him a certain way. Because
10 it's a lot more than just necessarily what a person
11 says. It's how they communicate, how confident they
12 are about what they say. There's a lot of things that
13 would, I think, go into influencing how -- how well a
14 person responded to a question.

15 Q Well, in Question 9 -- let's see if I can
16 read Harvey's 9. Let's see if I can read Fiser's.
17 No, we can't read Fiser's.

18 Well, you -- do you recall -- and I --
19 this is a difficult question. Let's look at Question
20 9. "Describe the level of responsibility this
21 position should have in contributing to the success of
22 the site chemistry programs."

23 Do you recall what it was between Mr.
24 Harvey and Mr. Fiser that would have, I guess -- in
25 that case, I think, you gave Mr. Harvey a nine and Mr.

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1 Fiser a seven.

2 A Well, in looking -- in looking at what
3 I've written down, I can read Mr. Harvey's response a
4 lot better than Mr. Fiser's. There are a few things
5 you can pick out from this. And overall, I think --
6 obviously I can't recall the details of the
7 conversation we had at -- at this meeting.

8 But looking at what I -- my notes here, it
9 appears that Mr. Harvey would have described his role
10 and responsibility as -- as having been one related to
11 oversight, and providing technical expertise. That's
12 what that note would have been. Keeping a "big
13 picture" look at what's going on at the sites,
14 providing input or independent technical view.

15 I think that's what that next one is.
16 Working around problems. Not being stumped.
17 Utilizing -- utilizing industry experience and doing
18 whatever it takes to resolve problems. Providing
19 advice. That's my note.

20 So I -- I would have thought that what Sam
21 was communicating to us was that he saw his role as
22 being one of being an oversight and technical support
23 role; providing a high level of technical expertise to
24 the sites; helping keep a "big picture" look at what
25 was going on; helping us identify problems based on

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1 industry experience and looking at industry events and
2 things like that; providing feedback and input to the
3 sites.

4 Because we get -- generally at the sites
5 you get very focused on day-to-day issues and day-to-
6 day performance problems. And it becomes more
7 difficult to have the resource sitting back with a --
8 with sort of a "big picture" look at -- at things, and
9 keeping up on a day-to-day basis with what's going on
10 in the industry and who else is having problems
11 similar to what we were having and running down those
12 contacts and finding out what they're doing about it,
13 bringing that information back to the plant. That was
14 sort of what this job was all about. And I think he
15 did a pretty good job of explaining that that's what
16 he saw this role of being.

17 Q Did the job involve people skills? Was
18 that a necessary part to this job?

19 A It wasn't a supervisory job. It would
20 have involved people skills to the extent that you --
21 you need to be a good communicator. You have to be
22 able to -- I think this position was one where you
23 were required to be able to deal with a lot of
24 individuals across the organization.

25 In this case, this position would have

1 been dealing with people both at Sequoyah and Watts
2 Bar, so it would have been -- you know, you've got
3 even more individuals to work with. And part of it
4 would have required some people skills in terms of
5 being able to negotiate between those two sites,
6 common solutions to -- to common problems. You know,
7 you would have been a facilitator of that, I think, in
8 this role.

9 As an example, if -- if we were having a
10 problem at Sequoyah and Watts Bar wasn't experiencing
11 a problem yet, and the individual in this job -- I
12 would have seen that individual as being one to -- to
13 help go out in the industry, find out what's going on,
14 bring back that information, make recommendations to
15 the site. And then, if those recommendations are the
16 right thing to do and we decide to implement them,
17 help them take that lesson learned, so to speak, and
18 transporting it to the other site so they don't have
19 that problem in the future. And so there was a --
20 there would be a lot of interface, relational type
21 skills required.

22 Q In evaluating a candidate---Mr. Harvey, in
23 particular---did you take into account in any way, in
24 their responses to these questions -- his responses...

25 As I recall yesterday, you told me that a

1 month or two earlier than that there was this transfer
2 issue.

3 A Right.

4 Q You had talked to people at your site, and
5 they weren't thrilled about having Sam come out as a
6 manager.

7 A Right.

8 Q Did -- did that -- did you take that into
9 account in evaluating his responses and how he worked
10 with people, or you just divorced that totally and see
11 what he says?

12 A I don't recall taking that into
13 consideration in -- in grading his response. This
14 position is not a supervisory position. He wouldn't
15 have been supervising any individuals within my
16 department, or in corporate, either, for that matter.
17 In terms of his ability to communicate with -- with
18 others, to communicate issues and to facilitate the
19 resolution of problems, I think I -- I, you know --
20 the way he expressed himself in this meeting,
21 that's -- you know, that would have had a heavy
22 weighting on how I evaluated his response.

23 But the fact that one -- there may have
24 been a personality conflict between -- and that
25 happens sometimes. You just got people that rub

1 people the wrong way. The fact that that happened
2 with an individual that happened to work for me and
3 him, I don't think would have had anything to do with
4 his ability to perform well in this job.

5 Q Can you recall anything about Mr. Fiser's
6 either overall answers, demeanor, or whatever, that,
7 you know, you recall stands out from his interview?
8 I mean, obviously you rated him quite a bit lower on
9 I think every -- every question, a point or two, so
10 different or -- I mean, is there a general demeanor
11 issue?

12 A I -- if I can, you know, recall the -- and
13 I can't picture in my mind the interview with him to
14 any real degree of accuracy. I think all of our
15 memories are not as good as we'd like for them to be.
16 But I -- I believe I can recall that interview to the
17 extent that he was much more casual about it than
18 Harvey was, for instance. I think his -- his demeanor
19 I would have -- I believe I can recall his demeanor as
20 being sort of laid back and -- and really not very
21 intense in his -- in his desire to answer the question
22 and -- and, you know, be crisp and clear in his
23 responses and those kind of things.

24 I believe, from looking at what I can see
25 on the page, that, you know, there's a number of notes

1 on here that would indicate that -- well, I've got a
2 note down here. It says, "Doesn't interface with
3 management, very rarely," something. And then there's
4 a note that says, "What -- what we do when we can't
5 control." I can't make out the other part of that.

6 I think, overall, one of the things that
7 would have influenced my rating of Mr. Fiser would
8 have been probably his -- his laid back demeanor. I
9 think he tried to provide more talk-around responses
10 than direct responses to technical questions. He did
11 say, in response to one question, that one of his
12 weaknesses was lack of follow-up and follow through.

13 And that's -- you know, that's a pretty
14 important characteristic for anybody in a responsible
15 position, is that you -- you have the ability to plan,
16 follow up, and follow through on issues. And he -- he
17 admitted that that was a weakness of his. I -- I
18 think -- I believe that was an accurate assessment,
19 you know, that he made of himself.

20 Q And I'm kind of interested in that
21 question, by the way. "Indicate weaknesses you need
22 to address if you fill this position."

23 What's a good answer to that, that would
24 get you a ten? "I have none"?

25 A No, I don't think...

1 Q Or if you're honest, you get a lower
2 score? I mean, it -- it's kind of...

3 A No, I don't think so, necessarily. I
4 believe -- I believe that that question was probably
5 put in there to see if people know, you know, what
6 weaknesses they have and what things that they think
7 they need to be worried about in a position like this
8 one.

9 And I think we would have probably rated
10 a candidate -- I think I would have rated a candidate
11 better on -- see if I can see what -- for Mr. Harvey,
12 for instance, I -- I rated him a nine on that
13 question. And he basically said that he was dated on
14 some issues. There's been -- there's been several
15 years since he has had any involvement with certain
16 kinds of things, technical issues that would have been
17 important to us as a company. And I think, you know,
18 that would -- that would have indicated that he was
19 behind -- behind the -- behind in the technology on
20 that area. And I thought that was a good response, I
21 guess.

22 And he said he -- looks like to some
23 degree he had something, poor experience and no recent
24 focus on -- on some issue. May have been hydrogen
25 water chemistry or zinc. I'm not -- but I think, you

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1 know, he -- he responded, and the way he responded at
2 the time, the what he said, the how he said it, I
3 rated him a nine.

4 Same thing for Mr. Fiser. The way he
5 responded, the what he said, the how he said it, I
6 rated him a -- I rated him a seven. The specifics of
7 those conversations I can't recall.

8 Q This is not meant to be a trick question
9 because I don't know the answer, but in answer to
10 Question #2, would it be better for somebody --
11 because I look at I think Chandra, also, had, "Need
12 more detail system training." And that got him a --
13 an eight, I guess. Is it -- is it better somehow to
14 indicate you've got a technical weakness rather than
15 a -- what I'll call a managerial, people, whatever,
16 weakness? I guess it's easier to fill one than the
17 other. I don't know, you know.

18 MR. MARQUAND: Why don't you just ask him
19 why he rated one...

20 MR. DAMBLY: I did.

21 MR. MARQUAND: Well, then he answered it.

22 BY THE WITNESS:

23 A I mean, I really -- based on what I have
24 today, and this is five years post, you know, SRB.
25 It's lucky -- I'm lucky I can remember that there was

1 an SRB. If we hadn't of talked about it so many times
2 in the last several years, I probably wouldn't know
3 there was an SRB that I sat on.

4 I probably -- it was a -- this is not --
5 was not a major life event for me, going to this SRB.
6 I can't recall the details of all the conversations we
7 would have had. I -- all I can say is that I did the
8 best job I could do, taking the sum of an individual's
9 response at that time, and giving them a rating based
10 on that response. And as objective as I could be, I
11 did that for all the candidates we interviewed.

12 Q And I appreciate it. Six years have gone
13 by.

14 Subsequent to the completion of an
15 interview, and this could be -- could have been for
16 any board, did the members discuss the responses of
17 the individuals?

18 A I believe the way the process worked was
19 we brought a candidate in, we asked them the questions
20 that we had agreed we'd ask each of the candidates for
21 that particular job. Individually we rated the
22 candidates. At the end of each candidate, when they
23 left, I believe, we very briefly had a conversation of
24 overall, you know, response of the candidate, whether
25 or not, you know, they were -- they communicated well,

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1 you know, how they would -- you know, those kind of
2 things. Just sort of an overall perspective of the
3 candidate from their conduct in that session.

4 I apparently didn't make many notes about
5 that. I don't know if I made any on any of these
6 sheets. So, you know, that wasn't related to the
7 individual ratings. It really didn't have any effect
8 or input, as far as I can tell, on -- on the way the
9 overall ratings were calculated out, because as soon
10 as we finished the ratings, we turned in our sheet.
11 So I...

12 Q And I gather Ms. -- Ms. Westbrook made a
13 list of strengths and weaknesses in this discussion?

14 A She may have. And she may have documented
15 that from those discussions that we had in our -- you
16 know, the team's discussions right afterwards. You
17 know, like, for instance, if a certain candidate was
18 really a good communicator or something like that, we
19 probably would have made that comment. And she was
20 probably taking notes. I -- I did not attempt to take
21 notes, and don't really -- don't really know that I've
22 ever looked at any notes she took.

23 Q As to your process, somebody asked an
24 individual a question or you asked the question, they
25 gave a response, you made a note, wrote a number down,

1 and that was -- that's the sheet that went in?

2 A That's right.

3 Q Had no influence from what anybody else
4 did, or what they said before or after? Just what the
5 candidate responded at that point?

6 A Exactly. That's exactly right.

7 (Off the record.)

8 MR. DAMBLY: Okay, let's go on the record,
9 I guess, if you want. Okay, I'm -- I'm finished with
10 my questions. Thank you for your patience and time.
11 If there's anything you want to add or if Mr. Marquand
12 has any questions...

13 MR. MARQUAND: I think he had a
14 clarification.

15 BY THE WITNESS:

16 A Yeah, just a point of clarification from
17 yesterday. And also we didn't, I don't think, talk
18 about this package of information. This was in the
19 package, also.

20 Q What -- what information?

21 A It postdates the -- this is apparently the
22 selection letter.

23 Q Oh.

24 A It postdates -- it obviously wasn't there.

25 Q Okay.

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1 A The thing that I wanted to make clear from
2 yesterday was two things. One is, you asked me what
3 material I had reviewed. I had -- and I think I told
4 you I reviewed the -- my OIG -- internal TVA OIG
5 interview. It was from '96.

6 Q Right.

7 A I did not review any prior information of
8 that.

9 Q I think that's what you told me.

10 A Okay. I wanted to make sure I was
11 accurate.

12 And the other was, I wanted to make clear
13 on the issue of transferring Harvey, when I said I was
14 willing to take a transfer from Harvey from corporate
15 to the site, I meant body, function, head count,
16 budget, all of that. You know, I -- I expected if
17 they were going to -- if they wanted to send him out
18 to the site, I got the budget for him, everything. So
19 that was really the intent, you know.

20 It wasn't like if you'll give me the guy,
21 I'll be glad to take him and absorb him into my
22 organization. It's: I need body, function, head
23 count, and budget. Because I would not have had the
24 budget to have covered his salary. And I just wanted
25 to make sure that the record was clear that when I was

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1 willing to do that, it was -- he brings all his stuff
2 with him, including his payroll. And I didn't know we
3 were -- that you understood that was my intent, when
4 I said I was willing to accept that transfer.

5 Q I think that was my understanding at the
6 end of the day...

7 A Okay, good.

8 Q ...of your position. I still have a
9 problem, because in the IG interview and then the OI
10 interview, you made the big point of having a vacancy
11 that he could fill. And I still have -- there's a
12 difference obviously between filling a vacancy and
13 transferring a person and all of his -- his slot, his
14 budget, his everything with it. As I was saying
15 yesterday, it's apples and oranges, and I...

16 A Right.

17 Q And so why were you talking about the --
18 talking about Mr. Fender's vacancy in regard to that
19 Harvey transfer, if that was not the issue?

20 MR. MARQUAND: Somebody asked him that.

21 A Somebody asked me that. I believe
22 somebody -- I was asked did I have a vacancy. And I
23 would have said probably yes, I have a vacancy. And,
24 you know, if I was asked which one it was, I could
25 have told them it was the -- the one that Fender had

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1 vacated. But I wasn't willing to put, for whatever
2 reason, Harvey in that position. I was willing to
3 take Harvey because he was providing support to the
4 site, if I got his head count and his money
5 transferred to the site.

6 And I believe at that time, in '96, we --
7 just as corporate was downsizing, we were going
8 through similar constraints all through TVAN. And it
9 would have been very difficult to have justified an
10 additional position when you're -- when you're going
11 through that kind of planned reductions or very tight
12 control of head count. So that's the context in which
13 I said I will take him if you want to transfer him.

14 Q Okay. And just then one more comment.
15 Your '96 IG interview...

16 (Off the record.)

17 Q On the first page, big, bold headlines,
18 "Transfer of Sam Harvey from corporate to SQN." The
19 first paragraph states, "Kent advised that it was his
20 understanding that TVA corporate would be going
21 through some reductions, and he was aware that certain
22 positions would be eliminated. One of the chemistry
23 managers out of corporate, Sam Harvey, worked mainly
24 with SQN. Kent was concerned and wanted to keep
25 Harvey's expertise and support of SQN. They have a

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1 chemistry position at SQN that Harvey could have
2 filled, and to date they still have not filled that
3 position."

4 Now, that says to me that you told TVA IG
5 you wanted Harvey, you were concerned about it, you
6 had a vacant position that he could have filled. And
7 then you go on to explain how come that didn't come
8 about. But...

9 A I -- I think an explanation of that, as --
10 as I tried to communicate earlier, I believe that
11 Harvey felt like he was going to potentially lose his
12 position in corporate. I didn't know that that was
13 fact or not. That was his perception; that there was
14 going to be a reduction and he would not be staying.
15 He communicated that to my staff.

16 I -- I dealt with Harvey personally very
17 little. He communicated primarily with my subordinate
18 managers. They communicated to me that he felt that
19 way, and asked if I would intercede and attempt to
20 have him transferred to the site. And I -- I did
21 that. I interceded with his supervision and gave them
22 an opportunity, if they wanted to transfer him and his
23 function and his budget and his head count to the
24 site, that I would be glad to have him at Sequoyah.

25 If asked did I have a vacancy at Sequoyah,

1 I obviously answered yes, I have a vacancy. And that
2 is a position that he possibly could have filled. I
3 made no effort to put him in that vacancy and -- and
4 had no intent of putting him in that vacancy. And I
5 think the IG's notes there, I think, are consistent
6 with that.

7 Because if you read it, it says I had a
8 position that I could have put him in. That is true.
9 I had a position that I could have put him in. I --
10 had I been willing to do whatever it took to make that
11 happen. I did not attempt to do that at all, and
12 apparently wasn't willing to, for whatever reason.
13 But I was willing to accept him as a directed transfer
14 under the process for transferring employees, with
15 budget and head count, to the site.

16 Q Okay.

17 A Okay?

18 Q Thank you.

19 (Recess.)

20 EXAMINATION

21 BY MR. MARQUAND:

22 Q Mr. Kent, I would like to direct your
23 attention to the subject of the discussions you had
24 with Ron Grover about the possibility of transferring
25 Sam Harvey to Sequoyah. During the break, I showed

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1 you Page 105 to 107 of the December 10th, 1999
2 predecision enforcement conference transcript to
3 refresh your recollection.

4 Could you tell us if you recall how this
5 discussion with Mr. Grover regarding transferring Sam
6 Harvey -- a possibility of transferring Sam Harvey was
7 an issue?

8 A As I recall, I was in transit between two
9 buildings on -- at Sequoyah site, and I -- I ran into,
10 met Ron Grover on the sidewalk. And we talked for a
11 moment, just chit-chat stuff, business related type
12 stuff. And I -- I knew that Ron and my staff or --
13 and Gordon and Sam had been talking.

14 And Ron, I believe, asked me -- told me
15 that -- that there was a likelihood that they would be
16 reducing the staff in corporate, and would I be
17 willing to move Sam Harvey to the site. And I
18 responded as I have stated already, that I would be
19 willing to take Sam at the site if they were willing
20 to transfer him out there. And he agreed that he
21 would pursue with his management the -- that transfer.
22 That's the extent of that.

23 The next time I talked to him, he informed
24 me that his management decided that wouldn't be the
25 appropriate way to -- to move Sam. They didn't want

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1 to do a -- essentially a directed transfer. But the
2 extent of my pursuit of Harvey was that conversation
3 on the sidewalk that day.

4 Q Thank you. No further questions.

5 (Whereupon, the deposition was
6 concluded at 10:20 a.m.)
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