

NUCLEAR REGULATORY COMMISSION

Title: Deposition of Phillip L. Reynolds

Docket Number: 50-390-CivP et al.

DOCKETED
USNRC

2003 MAR 11 PH 3:58

Location: Chattanooga, Tennessee

OFFICE SECRETARY
RULE MAKING AND
ADJUDICATIONS STAFF

Date: Thursday, November 8, 2001

Work Order No.: NRC-103

Pages 1-54

NEAL R. GROSS AND CO., INC.
Court Reporters and Transcribers
1323 Rhode Island Avenue, N.W.
Washington, D.C. 20005

Template = SEC Y-028

SECY-02

CLEAR REGULATORY COMMISSION

Docket No. 50-390 Official Ex. No. Staff 112
In the matter of TVA
Staff IDENTIFIED
Applicant _____ RECEIVED _____
Intervenor _____ REJECTED _____
Other _____ WITHDRAWN _____
DATE 6/17/02 Witness _____
Clerk BHM

Vertical text on the right margin, possibly a stamp or handwritten notes, including the word "RECEIVED" and some illegible characters.

(202) 234-4433



.



.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES OF COUNSEL:

On behalf of the Nuclear Regulatory Commission:

DENNIS C. DAMBLY, Attorney
JENNIFER M. EUCHNER, Attorney
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

On behalf of Tennessee Valley Authority:

BRENT R. MARQUAND, Attorney
JOHN E. SLATER, Attorney
ED VIGLUICCI, Attorney
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

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

(12:48 p.m.)

MR. DAMBLY: This is a deposition on November 8 in the matter of TVA, Atomic Safety & Licensing Board Panel Number 01-791-01-CivP.

Whereupon,

PHILLIP L. REYNOLDS

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

MR. DAMBLY: It's interesting, I looked one time and did you know the penalties for lying under 1001 are higher than for perjury? If you lie to the government when you're not under oath, it's worse than if you're under oath. I thought that was a little strange.

(Laughter.)

MR. DAMBLY: They may have corrected that, but -- go ahead, swear me in, I'll get a shorter time.

EXAMINATION

BY MR. DAMBLY:

Q Would you please state your name for the record?

A Phillip L. Reynolds.

Q And where are you employed?

A I'm employed by the Tennessee Valley

1 Authority in Chattanooga, Tennessee.

2 Q How long have you been with TVA?

3 A I have been with TVA 14 -- a little more
4 than 14 years.

5 Q You started in --

6 A 1987, April 6, 1987.

7 Q And what position did you start at?

8 A I was hired in as a Labor Relations
9 Specialist.

10 Q Good job. And was that here in
11 Chattanooga?

12 A Yes, it was here in Chattanooga.

13 Q Going back, prior to coming to TVA, what's
14 your professional experience?

15 A Prior to coming to work for TVA, in -- I
16 don't remember the exact months -- in 1985, I was
17 employed by Arizona Public Service at the Palo Verde
18 Nuclear Generating Station as industrial relations
19 specialist -- I believe that was the title.

20 Prior to that, in the 1975 or '76 time
21 frame, I was initially employed at the Clinton Nuclear
22 Station for the construction company, which at that
23 time was Baldwin Associates, and I held positions --
24 started out in the payroll department and held a
25 variety of positions and ultimately, my last position

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 held there was manager of the human resources
2 organization for the construction company.

3 Q Okay. What's your educational background?

4 A I have a Bachelor's degree in -- I have a
5 double major in social work and psychology from
6 Southern Illinois University.

7 Q That'd be a good thing to have in labor
8 relations.

9 A Along with patience.

10 Q Yeah. Okay. You joined what was -- just
11 go through your career history at TVA.

12 A TVA. Like I said, I joined TVA in 19 --
13 April 6, 1987 as a Labor Relations Specialist. I
14 spent approximately six months in the Chattanooga
15 office. I was subsequently assigned to the Sequoyah
16 Nuclear Plant in the '88 -- late '87, early '88 time
17 frame. I spent --

18 Q That was labor relations?

19 A Yeah, I was assigned there as a Labor
20 Relations Specialist. In -- gosh, '90, '91 time
21 frame, I was -- changed positions, came to the
22 Chattanooga -- back to Chattanooga, was -- I think I
23 was called Manager of Employee Relations. I had the
24 fitness for duty program, equal employment opportunity
25 program and I had responsibility for Department of

1 Labor complaints and there may have been something
2 else that I may not remember -- that I don't remember
3 off the top of my head.

4 I subsequently -- gosh, a year or two
5 later, when they formed what was called the Generating
6 Group, where they combined the nuclear and fossil
7 organizations under Mr. Kingsley at that time, I was
8 named a Manager of Labor Relations for the Generating
9 Group.

10 Q That's like the '93 time frame?

11 A Yeah, probably. And then in '94 time
12 frame, I assumed the responsibilities of -- the
13 position then was called Manager of Employee
14 Relations. I had all the HR activities for the -- the
15 Generating Group split and it went back to just a
16 nuclear group and a fossil group -- and I was Manager
17 of Employee Relations for the nuclear organization and
18 I had -- the sites were a dotted line reporting
19 relationship to me and a hard line reporting
20 relationship to the site vice president, and I had the
21 corporate -- Chattanooga office reporting directly to
22 me.

23 And then in '95 time frame, I was --
24 became the General Manager of Nuclear Human Resources,
25 I had safety, training, human resources, labor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 relations reporting to me at that time and I reported
2 to the Chief Nuclear Officer.

3 About two years ago, in '98 or so, I was
4 promoted to Vice President of Nuclear Support and I
5 had the whole human resource function, business
6 services, the concerns resolution program and security
7 reporting to me.

8 And about -- I think in July of this year,
9 I was -- became the Vice President of Operation
10 Support for the Chief Operating Officer's Organization
11 and I have human resources, safety and technical
12 training for the Chief Operating Officer's
13 Organization, which includes fossil, nuclear,
14 transmission, power supply, river systems operations
15 and engineering and then bulk power training and those
16 kinds of things.

17 Q Okay. Back to when you were the Manager
18 of Employee Relations in Chattanooga in '90, '91, you
19 had fitness for duty and DOL complaints. Are we
20 talking the ERA kind of complaints or anything to do
21 with Department of Labor?

22 A I was the -- at that time, we had a large
23 number of -- I think at that time, was it 210s -- we
24 had a large number of 210 complaints. And I came in
25 to help manage through that process.

1 MR. MARQUAND: Other types of DOL
2 complaints are fairly infrequent.

3 BY MR. DAMBLY:

4 Q In the '94, '95 -- well, even before that
5 -- when is the first time you worked with Mr. Boyles?

6 A Gosh, my first contact with Mr. Boyles was
7 when I went to Sequoyah in that '88 time frame. Mr.
8 Boyles was, at that time the organization's name was
9 Employee Concerns Organization. Mr. Boyles was the
10 employee concerns representative at Sequoyah and just
11 because of space, the area they were in, I had an
12 office assigned there also. That's how I first got to
13 know him.

14 Q How about Mr. Easley?

15 A Gosh, I guess I've known Mr. Easley from
16 when I first started to work at TVA, I believe he was
17 in the human resource organization at that time. So
18 that would have been my first contact. I didn't
19 really get to -- didn't have much interface with him
20 until later on in my career, but you know, knew who
21 Ben was and those kind of things.

22 Q And how about Mr. McGrath?

23 A You know, I met Mr. McGrath when he
24 initially came to work at TVA, you know, kind of
25 infrequent contacts beyond that. I mean, he was on --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I don't remember what position he hire in to, but just
2 kind of more in a -- not until I came downtown in that
3 '91, '92 time frame did I have much contact with him,
4 so it was more on a professional level than anything.

5 Q And Mr. McArthur or Dr. McArthur?

6 A You know, it'd be the same kind of
7 scenario, just more or less when I came downtown and
8 if he was here at that point in time. I'm not even
9 sure when Mr. McArthur hired in.

10 Q Okay, how about Mr. Fiser?

11 A I knew Mr. Fiser when -- when I was out at
12 Sequoyah initially in that '88, '89 time frame -- I
13 don't know if he was there when I first went out
14 there, but I remember him being out there as a
15 chemistry -- either chemistry superintendent or
16 chemistry manager out at the Sequoyah Nuclear Plant
17 and I worked with him out there. So I've known Mr.
18 Fiser since '88, '89 time frame.

19 Q Mr. Harvey?

20 A I think I've met him once.

21 Q Now at some point, did you become I guess
22 supervisor, manager, whatever, over Boyles and Easley?

23 A Yes, I did.

24 Q When was that, which job?

25 A That would have been when I was the

1 Manager of Employee Relations after the split of the
2 Generating Group, so it would have been I think in
3 that '94 time frame that I referred to.

4 Q Okay.

5 A And I may be off a few months here, but
6 that was the progression of my titles or my jobs, but
7 I think '94 time frame seems to --

8 Q Okay, and in the '94 time frame, was
9 Boyles a direct report to you or was there management
10 in between?

11 A He probably would have been a direct
12 report to me, I believe.

13 MR. MARQUAND: What about Naomi Lindsey?

14 THE WITNESS: Oh, yeah, that's right.
15 I'm trying to think -- Mr. Boyles, at one time, and I
16 don't know the -- I can't tell you the sequences for
17 sure -- at one point in time, I reported to a
18 gentleman who was the Vice President of Employee
19 Relations for the Generating Group. Mr. Boyles was
20 his staff assistant. When I took that job in '95,
21 replacing him, I'm not positive but I believe I had --
22 there's somebody who filled my old job as Manager of
23 Employee Relations and that position at that point in
24 time in that '95 time frame would have reported to --
25 Brent said Naomi Lindsey was in that Manager of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Employee Relations and I was the General Manager of
2 Human Resources.

3 Q So Ms. Lindsey would have reported to you
4 --

5 A Would have reported to me and then Mr.
6 Boyles would have reported to her.

7 Q And where would Ben Easley have been in
8 that organization?

9 A I believe he probably would have reported
10 to Mr. Boyles at that point in time.

11 Q And Milissa Westbrook, did she report to
12 Boyles or did she have a different --

13 A You know, I don't remember the exact time
14 frame, but I know Mr. Boyles had a staff that included
15 Milissa and Ben and Pat Crowe and Debbie Lane and one
16 other person.

17 Q I'm sure, at this point in time, you're
18 aware of Mr. Fiser having filed a couple of DOL
19 complaints.

20 MR. MARQUAND: At what time?

21 MR. DAMBLY: Today -- oh, yeah.

22 A Yes, sir, I am.

23 MR. DAMBLY: I wasn't talking about '90
24 whatever he had.

25 THE WITNESS: I was involved in his first

1 complaint and his subsequent complaint.

2 BY MR. DAMBLY:

3 Q Okay, so when he filed the one in '93, you
4 knew about it then.

5 A Yes, I did.

6 Q And that was because you had that function
7 under you, the DOL complaints still or --

8 A Right. Yeah, I had -- you know, I was
9 either in the Employee Relations role or I had the DOL
10 complaints reporting directly to me. So I was aware
11 of the complaint at that point in time.

12 Q And you were also -- when did you learn
13 about the '96, would that have been sort of
14 contemporaneously also?

15 A Yeah, I mean, you know, it would have been
16 through the -- I had an individual that worked for me,
17 it was either Kathy Welch or Donna Green, that had a
18 position called Federal Appeals Officer. You know,
19 our process was they would get the complaint and
20 they'd come brief me, I'd brief management, I'd
21 prepare a letter to go to the IG for their
22 investigation. So it would have been kind of our
23 normal process about the way we went about things.

24 Q Okay. Getting back to the '93 complaint,
25 that complaint was settled when TVA made Mr. Fiser an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 offer of his position -- the position he was
2 complaining about?

3 A Yeah, I think , as I remember that
4 complaint, Mr. Fiser had been in a position as
5 chemistry superintendent or chemistry manager at
6 Sequoyah. There was -- I believe there were some
7 issues regarding his performance and being able to
8 improve the chemistry program at Sequoyah. We had a
9 gentleman in the central office named Bill Jocher and
10 we rotated those two individuals -- Mr. Jocher went to
11 Sequoyah and Mr. Fiser came into the Chattanooga area.

12 In, you know, the time frame is '92, '93,
13 I'm not sure, but we had gone through -- I had talked
14 about when we were down at the enforcement conference,
15 you know, our head count had traveled from about
16 12,000 people in the '88 time frame to I think today
17 we're at 2900 and some. But you know, every year we
18 were pretty much having some reductions in force and
19 what happened is Mr. Fiser was just rotated and we
20 didn't change, you know, his job descriptions and his
21 duties and when we started to go through the reduction
22 in force, we found him on the wrong position
23 description and I knew I didn't have a very good case
24 in front -- if he filed an MSPB complaint, I wouldn't
25 have a very good case, so we went back and -- and he

1 subsequently filed a DOL complaint and so I went back
2 and recommended to management that we make him an
3 offer of a position, to resolve his issues.

4 Q The '94 -- I don't know if I should call
5 it reorg or not -- at some point in the '94 time frame
6 after Mr. Fiser came back as a chemistry program
7 manager, there was a combination I guess of chemistry
8 program manager position and the environmental program
9 into a chemistry and environmental program management.
10 Did you have any involvement in that?

11 A You know, I wouldn't have been involved in
12 writing position descriptions or posting them. I do
13 know at one time that we had had the chemistry
14 organization and environmental organization separated
15 and then we combined them and then subsequently in the
16 '96 time frame again, we separated the organizations
17 again.

18 So, I don't know, did I answer your
19 question?

20 Q You weren't personally involved -- I don't
21 even know, was that just an internal -- that was not
22 a RIF or anything, that was just they took -- did
23 anybody lose their job in that '94?

24 A Oh, I don't know. It could have, I mean
25 the process you've got to go through is if they are --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and I may mess the terms up, but if they don't have
2 rights to the position or it's not a transfer, then
3 yeah, at that time we would have issued them a RIF
4 notice and then we would have applications on the jobs
5 and things like that. I don't know the details of
6 what actually occurred, but in general, that's what
7 would have occurred.

8 Q The question -- within the human resources
9 organization at TVA since you've been involved,
10 particularly in management positions, what kind of
11 training do you provide to incoming HR specialists,
12 labor relation specialists, whatever, you know, within
13 that organization in OPM RIF regulations, that sort of
14 stuff?

15 A I can speak for my own experience, if that
16 would be helpful to you. When I came to TVA in '87,
17 Mr. Runyan came in sometime shortly after that and
18 being out at Sequoyah, you know, I guess at the end of
19 fiscal year '87 or somewhere in there, Mr. Runyan
20 announced that we were going to have some reductions
21 and we had things like double severance and additional
22 years of credit and stuff like that. And we had to go
23 through a reduction in force. I kind of remember
24 pretty well that all of us were kind of sitting in the
25 office saying, you know, what are we supposed to do.

1 Because we weren't too sure, because it wasn't a
2 position that TVA had been -- or the folks in that
3 office had been through very often.

4 You know, we made calls to our attorneys
5 and we learned that process, we read the regulations,
6 you know, we looked at contracts and we went back to
7 our legal staff and labor relations staff and got
8 interpretations. We made some, you know, mistakes.
9 We had a lot of Merit Systems Protection Board
10 complaints filed the first time out at Sequoyah, I
11 think we had something like 150 or something like
12 that.

13 And then as a result of that, the
14 attorneys -- our Office of General Counsel -- based on
15 the number that we were getting and what the numbers
16 in the future looked like that we were going to
17 continue to go down. I went through a training
18 session with them about how to prepare the MSPB
19 package, what the RIF regulations were, what had to be
20 contained in it and all that. So that's how I got my
21 training.

22 Most of the people who are here today have
23 been through that training and I only have maybe two
24 or three new folks in the organization, so I've got,
25 you know, kind of the seasoned veterans on hand now

1 that can help people walk through those situations.
2 Hopefully, we won't have any more of those, but you
3 know, I've got some seasoned people who have been
4 through those situations.

5 That's how I learned and we all kind of
6 learned as a group together, I would say.

7 Q I've got to believe Ms. Westbrook is an
8 expert because not only has she done it from the
9 employee relations side, but since she's been RIF'd
10 six times, she's got a pretty keen knowledge of --

11 A Yeah, she's -- I've probably even issued
12 her one or two.

13 Q That will certainly get your curiosity up
14 to learn about it.

15 Now jumping right into the good old '96 --

16 A Okay.

17 Q -- reorg -- '95, '96 reorg, the one that
18 resulted ultimately in the second DOL complaint for
19 Mr. Fiser.

20 A Okay.

21 Q How did that reorg come about?

22 A I'm going to have to speak to it from the
23 standpoint of where the whole nuclear organization was
24 rather than just a specific job because I had
25 discussions or we as a senior management team had a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 lot of discussions about that.

2 We had been -- I think at that point in
3 time we were getting ready to start Watts Bar. Browns
4 Ferry 3 was complete. The organization had kind of
5 placed itself that it was going to have to move from
6 kind of a construction-driven organization to an
7 operation-driven organization.

8 In that, you know, in 1988, we had started
9 this series of downsizing, that we had taken the
10 organization from, you know, 11-12,000 -- you know,
11 high 11 to almost 12,000 people, to that point we were
12 maybe around 4000 folks. And we had gone through a
13 tremendous amount of -- well, you know, we had 135 DOL
14 complaints, most of anybody in the country. You know,
15 I was getting 150 to 200 MSPB complaints annually at
16 the locations, I had over 1000 grievances. And if you
17 looked at those in terms of classifying them by what
18 was the cause of them, it was I got RIF'd.

19 So knowing that you're getting ready to
20 move to an operational, five units operating, you
21 wanted to do -- Oliver and I had a lot of discussions
22 about we had to find ways to stabilize the workforce.
23 We had a new chairman coming on who was concerned
24 about all the letters and the issues that were raised
25 from employees about the instability of the

1 organization and we had been using Tim Martin &
2 Associates to kind of match our staffing numbers up
3 because we had a target to go to like half a person
4 per installed megawatt, was kind of the target we had
5 at that point in time.

6 We decided as a senior management team,
7 this '96, '97 time frame, we're done. No more
8 reductions in force, we're going to be at that point
9 where our workforce is going to be starting to mature
10 and we're going to have to start going the other way,
11 we're going to have to start hiring people.

12 So in that, we wanted to look at
13 engineering in total, at the corporate office and in
14 site locations. We also had, you know, pretty -- our
15 labor cost was a little out of whack with the rest of
16 the industry and what we'd seen in benchmarks. So
17 that was another issue that we were concerned with.
18 So we were looking at engineering, we looking at all
19 the corporate office functions and those were probably
20 the two primary areas. And that would have -- you
21 know, that probably involved about 900 folks in those
22 areas, of the engineering and corporate office.

23 Q And that 900 -- not a reduction of 900 but
24 900 --

25 A 900 positions that we were taking a look

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 at, that's what I'm saying there.

2 So based on that, Mr. Kingsley said look,
3 we know what the 2000 number are -- and everybody
4 concurred with it, we know where we're going in 2000,
5 you know, let's make this cut now, you know, let's not
6 drag this on for another four years. We're moving to
7 the operational side of this organization, we need
8 some stability within our organization and the
9 employees need to kind of recover and heal the wounds,
10 so to speak.

11 So with that, we went in and started
12 looking at all the organizations and, you know, where
13 we needed to make reductions. I'm thinking like in
14 the Chattanooga area, there was somewhere between 50
15 to 100 employees or positions that were eliminated.
16 That's a ballpark figure, it's somewhere around that.

17 Q And this was -- in '96, if I understood
18 what you said, Mr. Kingsley made the decision to go
19 from what they actually had on board, I guess, to what
20 you wanted in 2000 --

21 A As close --

22 Q --in '96.

23 Q Correct. As close as we could get to the
24 2000 numbers, so we didn't have this continuous -- you
25 know, that we'd have a RIF in '96, another one in '97,

1 another one in '98, another one in '99, if we didn't
2 get to those numbers. He said I've got to stabilize
3 the workforce and everybody agreed with him on that,
4 because we were all kind of tired of going through
5 that. It was some pretty tough times.

6 Q I was under the impression from the PEC we
7 had with Mr. McGrath, that he had the option to come
8 down between '96 and 2000 and he decided for his
9 organization, for the same reasons you just said, that
10 he would do it all at once. But the impression he
11 gave us, from what he told us, he could have spread it
12 out, he just didn't want to linger in that, but to do
13 it all at once.

14 A That was pretty much the decision that we
15 had as an organization, to do that, from my
16 recollection. I remember Oliver getting a lot of heat
17 from the chairman about when are you going to be done,
18 Oliver. I remember those Board presentations of our
19 business plan in there too.

20 Q Now did you yourself have any -- the
21 organization, that chart at that time, what was your
22 relationship with Mr. McGrath? Were you on the same
23 level, above?

24 A I was a direct report to Mr. Kingsley, I
25 think that Mr. McGrath probably would have reported to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the senior VP of Nuclear Ops, who would have either
2 been Ike Zeringue or Dan Naumann, I think. And the
3 reason I'm a little bit vague on that is that Ike came
4 in from Browns Ferry, was senior VP of Nuclear Ops,
5 was here for a short period of time and Oliver sent
6 him up to Watts Bar to help with restart and all that,
7 but -- so Mr. McGrath and I -- he probably reported to
8 the senior VP where I reported to Oliver.

9 Q Because you were a VP at that point?

10 A No, I was not, I was General Manager.

11 Q General Manager.

12 A Yes.

13 Q Was there a VP for HR at that point?

14 A No, there was not. I was the -- the time
15 I took the job, another thing they did within TVA-wide
16 was they reduced the number of officers in the
17 company. They had about 80 and they went to 35 or
18 something like that.

19 Q The 2000 goals, if you will, the numbers
20 that you were going to come down, were those matched
21 up by positions or were they matched up, this
22 organization, the chemistry group needs to drop X
23 number, the environmental group needs to drop, rad con
24 needs to drop -- was it that specific or that group?

25 A It was -- and I don't know how familiar

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you are with the Tim Martin studies that we had --

2 Q Is that the Tim Martin that used to be in
3 Region I for the NRC or is it a different Tim Martin?

4 A No, this is a different Tim Martin, I
5 think. He's a guy out of Virginia that does -- his
6 specialty -- well, in fact, he just went out of
7 business, sold his business. His specialty is he will
8 go in and he'll give you information regarding, you
9 know, plants in the United States, you know, what
10 their staffing levels are overall -- I mean long-term,
11 short-term contractors they may have -- and then he
12 will break it down into functional areas. So it could
13 be into maintenance or maintenance planning or
14 chemistry, environmental. And from that we
15 established -- and what he does is, you know, here's
16 what the average is, here's what the best staffing
17 levels are and then here's what the -- I don't
18 remember the right word he used, but it was kind of
19 like the virtual organization. I mean, if you took
20 the maintenance shop from Monticello and the
21 engineering from Browns Ferry and you put this
22 composite together, it had these numbers.

23 Our target was always to get to kind of
24 what the best performing plants and their staffing
25 numbers were. But he would be able to break it down

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 for you, like in human resources or whatever areas,
2 but it would be a number -- his only separation would
3 primarily be was it admin or clerical versus
4 professional. You know, it wouldn't go down to how
5 many chemists or how many mechanics and that kind of
6 thing.

7 Q This is an org chart called Nuclear
8 Operations Support, Radiology and Chemistry Control
9 and it's dated 2/13/95 and it says an organization
10 under Mr. Moody and I guess down at the bottom, you've
11 got rad con, chemistry and I forget what the third one
12 is.

13 A Environmental, rad monitoring and
14 instrumentation.

15 Q Okay. Now in the 2000 numbers, would
16 there have been a number for the bottom three groups
17 combined or would it have been broken down into rad
18 con needed to only be so big and chemistry needed to
19 only be so big? Was there discretion in the manager
20 to decide okay, I've got to come down by three, I'll
21 pick one from each or three from one, or do you
22 recall?

23 A I don't recall if there were specific
24 numbers for the rad control or the chemistry or
25 environmental. There could have been, but I don't

1 know off the top of my head.

2 Q Okay, just off the top of your head, do
3 you recall how much discretion individual managers
4 had, I guess not at the first level, but above them,
5 that had more than one --

6 A I was one of those and I can relate to you
7 my experience. I had a -- in this time frame, I had
8 a staff of about 55. Part of it was driven by what my
9 Tim Martin numbers were and part of it was driven by
10 what my next yr's budget was. So I made decisions
11 that, you know, maybe I'll drop a labor relations
12 person and I'll keep another admin person, you know.
13 Generally a manager had that latitude to make the
14 staffing mix, I guess would be the right word, about
15 what they needed in the organization.

16 Q If you saw there was going to be -- you
17 were back in the old days and there was going to be a
18 bunch of RIFs, you had the latitude to keep more
19 people that were in that specialty rather than
20 something else.

21 A Right.

22 Q Okay. With regard to when you're going to
23 do either a -- I guess these were called --

24 A Surplus.

25 Q -- surplus as opposed to reduction, but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you followed the same procedures basically?

2 MR. MARQUAND: You mean to identify the
3 people?

4 THE WITNESS: As to who would get a
5 surplus notice?

6 MR. DAMBLY: Right.

7 THE WITNESS: Yes, it's essentially the
8 same process.

9 BY MR. DAMBLY:

10 Q If you had called it a RIF, it wouldn't
11 have affected people differently other than they'd go
12 out the door immediately instead of a year down the
13 road?

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

15 Q If you had done a reduction in force in
16 '96 --

17 A It would have been the same results as the
18 surplus, yes.

19 Q Okay. I mean the difference was the
20 people who didn't end up with a job in the surplus
21 went to TVA Services for a year; if it was a reduction
22 in force, they would have gone 30 days I guess or 60
23 out the door.

24 A Yeah. Employees had an opportunity to
25 extend their employment if they wished to.

1 Q Now within the organization --

2 A Within the Department of Human Resources?

3 Q Well, the group that was downsizing,
4 Nuclear I guess is what we were calling it. I guess
5 you split back into, at this point, --

6 A At the time this happened, I was the
7 General Manager of Nuclear Human Resources.

8 Q Okay, and -- well, I'm looking at
9 Milissa's notes -- and at that point, the nuclear
10 organization had -- there wasn't one generating group,
11 you were back to nuclear --

12 A No.

13 Q For this reorganization, the process, who
14 makes decisions on -- who made decisions on new
15 positions that needed to be posted versus
16 interchangeable positions for which you'd go through
17 the register -- that process?

18 A The individual human resource officers,
19 like Milissa Westbrook, were the ones who would make
20 that determination.

21 Q And did you get involved in those
22 decisions?

23 A I got involved in one.

24 Q Mr. Fiser?

25 A No, actually I wasn't involved in Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Fiser's -- after the fact, I was of course.

2 Q Oh, you're talking about Mr. McArthur's?

3 A Mr. McArthur's. I was briefed by Mr.
4 Boyles and Mr. Easley on that.

5 Q Okay. And why did you end up involved in
6 that one?

7 A It was a fairly high profile, senior
8 manager position, there had been -- you know, I
9 believe at that time, in the -- you know, at the time
10 he'd went through that job, there was a lot of turmoil
11 in the chemistry organization and Mr. Fiser had filed
12 a complaint -- had filed previous complaints and
13 things like that, but primarily because it was a
14 senior manager position, they came to me with the
15 recommendation and I concurred with their
16 recommendation on it.

17 Q What was their recommendation?

18 A They had -- and I may be off on years
19 here, but I think I can explain the sequence -- in the
20 early '90 time frame, Mr. McArthur had had a position
21 that included chemistry, environmental, had security
22 in it and maybe industrial safety and something else,
23 I don't remember exactly what it was. But there had
24 been -- I think maybe it was '91 -- and that was kind
25 of his job position of record. And you know, he'd

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 held that job for a period of time and then we had
2 split chemistry and rad con and I can't tell you if he
3 was -- maybe he was in rad con, I think, and then when
4 we recombined it in this reorganization, Mr. Easley
5 had researched it and found that Mr. McArthur's
6 position description had never changed and based on
7 the advice that -- I'm talking about the advice from
8 Mr. Easley and my concurrence with his and Mr. Boyles'
9 decision, that if we ran a RIF and called this new --
10 called this position that was going into the
11 organization as chemistry and rad con manager, that
12 they felt like because of Mr. McArthur's previous job
13 description and his job description of record, he had
14 rights to that position.

15 Q If you could explain for me -- because
16 I've heard that before and I appreciate it, I just
17 don't understand. In the TVA organization, is this a
18 function of the fact that either there never was a
19 position description written for I guess the
20 radiological control manager job that he was in or is
21 it a function that if you held this one job before and
22 it came back into being, you had some kind of rights?

23 A It was because there was -- excuse me --
24 a screw up. When he left that original position and
25 went into -- and I don't remember the sequence, if it

1 was rad con manager -- my folks should have written
2 him or had a new position description -- you know, one
3 of these documents -- prepared for him, he signed off
4 on it and his supervisor signed off on it. They
5 didn't do that and they messed up. So we didn't do
6 our job very well.

7 Q I guess, you know, one of the questions is
8 was there ever a PD written for that job, because I
9 think, at least if my memory is correct, Mr. McArthur
10 thought there was one and somehow it was not there.
11 He did get performance -- I got at least one
12 performance appraisal for him with elements and
13 standards for a director of radiological control.

14 A Uh-huh.

15 Q How would one have elements and standards
16 in a performance appraisal for a job that they weren't
17 in, I guess?

18 A I'm trying to -- what happened is when he
19 moved into that new position, we should have written
20 him a job. I think -- I don't know who his -- I can't
21 read the initials, so I can't tell you who he was
22 reporting to at that time -- at this time. But they
23 assigned objectives in a performance appraisal and
24 assigned him those things to do during the year. I
25 mean I don't -- in my opinion as a human resource

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 person, if I got a position -- if I had a performance
2 appraisal that was just essentially a regurgitation of
3 the employee's position description, it's probably not
4 a very good performance appraisal, because you give an
5 employee broad and general things to do and then you
6 get specific things you want to work on that year and
7 goals that you want to achieve, and you know, projects
8 to take forward. And those are the kinds of things
9 that you ought to be evaluating somebody on an annual
10 basis -- if that makes sense.

11 MR. MARQUAND: In other words, people were
12 given assignments much more specific than is stated in
13 the position description.

14 BY MR. DAMBLY:

15 Q Although for those who are under OPM, I
16 think the elements and standards are supposed to flow
17 from the duties of the position, which is supposed to
18 flow from the PD. If somebody developed elements and
19 standards for a job -- I guess one question I've got
20 then, back when Mr. McArthur -- in an earlier org
21 chart -- you guys provided us a lot of org charts,
22 which is helpful --

23 A We used to have a lot of them.

24 Q This must be the post -- I'm trying to
25 find the one for when Mr. McArthur had the -- Dr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 McArthur had the -- I think he had rad con under him
2 in '90. Was there a person that was like the rad con
3 control manager under Mr. McArthur back in '90, '91
4 time frame? I thought I had a chart with that on it.

5 A I have no idea.

6 Q The reason I was asking the question is if
7 you had a person -- when Dr. McArthur had this manager
8 technical programs that had the functions under it
9 that he then re-inherited I guess in '96 and under
10 that technical program manager, there was a rad
11 control manager with similar duties to the
12 responsibilities that Dr. McArthur had when he was rad
13 control manager, would your process be to get that PD
14 and say this is the PD for the position, or do you
15 guys have -- each individual has to have a PD assigned
16 to their name somehow, with their name written on it?
17 I mean we would have a generic grade 15 attorney
18 position and if you don't -- if you get promoted to a
19 15, that's your PD. We didn't put it in your file, so
20 you don't have one. I don't know if I'm being clear.

21 A I think I understand.

22 MR. MARQUAND: I'm not sure I understand
23 and I'm not sure the record is clear what the question
24 is.

25 BY MR. DAMBLY:

1 Q Do you have generic PDs?

2 A At that point in time, I had probably
3 close to 15-1600 managers in the organization. I also
4 had close to 15 to 1600 individualized position
5 descriptions. I now have about 1000 managers in the
6 organization and I now have 300.

7 So my response to your question is every
8 person had a PD that was written for when they took
9 the job or when they were in the job, so they were
10 individualized, they were not, you know, a generic,
11 you are a manager in nuclear power position. They
12 were individualized. Does that answer the question?

13 Q Yes.

14 A Very good.

15 Q Back in that time frame when you were
16 doing like the reduction for '96, I think OPM has
17 booklets and whatever in which they suggest that if
18 you're going to do a RIF, you do some preplanning and
19 make sure employee records are accurate and things
20 like that, if that's what you're going to use as your
21 basis for -- did TVA do any of those kinds of
22 activities?

23 A I am not aware of us doing any preplanning
24 or activities, I the -- I'm not aware of any, no.

25 Q Okay. And I take it, because I've heard

1 it from Mr. Marquand a few times, TVA's position is
2 with Dr. McArthur that even though he clearly was not
3 in the position of manager, technical programs in
4 1996, he was the rad con manager, and he clearly had
5 a PD that had nothing to do with his job, was not his
6 job, that somehow in determining what official
7 position he's in, you have to use something that you
8 know is wrong as the basis for making those kinds of
9 decisions.

10 A I had to use what would be considered --
11 if I'd gone in front of a Merit Systems Protection
12 Board judge, you know, my experience there had been
13 that they didn't really care what an individual did,
14 they took me back to what was their official position
15 on record contained in their personal history record.
16 So based on that decision, you know that's -- I don't
17 know if that's the one -- but that technical programs
18 manager and the recommendation from Mr. Easley and Mr.
19 Boyles was, you know, we feel this is his position of
20 record, be tough to defend anything else, we think he
21 has rights to the job. You know, I discussed it with
22 them and I concurred with them.

23 Q Okay. Now were you also involved in a
24 comparison of the duties in this technical program
25 manager job and the corporate radiological and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 chemical manager -- chemistry control manager job to
2 determine they were interchangeable?

3 A Is that the --

4 Q The old one and the one that he got.

5 A I did not go down and go through line by
6 line on each one of the PDs, I relied on -- Mr. Boyles
7 and Mr. Easley had done the comparison and looked it.
8 I discussed their recommendation but I didn't go
9 through the individual PDs, no.

10 Q Do you, in your position, in dealing with
11 your subordinates, is there a difference in how you
12 view, for interchangeability purposes, management
13 positions and human manager positions -- people
14 managers as opposed to a technical manager? Mr.
15 Fiser versus Dr. McArthur. Dr. McArthur managed
16 people, Mr. Fiser managed chemistry programs,
17 environmental programs. It says manager but he didn't
18 manage anybody.

19 A Uh-huh.

20 Q Managed a technical program. So when
21 you're making interchangeability determinations, is
22 there a difference in how one would look at the job
23 description and the duties that are listed and how
24 much direct connect there would have to be between the
25 PDs for a technical manager versus a people manager?

1 A My response to you would be that the
2 review of a senior manager who is managing three or
3 four functional areas versus a review that you would
4 do over a manager who is managing a programmatic area,
5 that the review you conduct would be -- you know, is
6 more functional, managing the rad con area, managing
7 the rad con area. I mean it would be manages or
8 provides advice on BWR chemistry issues, provides
9 advice on BWR chemistry issues. It's more of a
10 functional analysis that you do in job-related
11 activities rather than saying that because they manage
12 people, it's different. I mean, I think that the
13 analysis that you do and how you make a determination
14 are the same.

15 Q Maybe boiled down to its essence, would
16 TVA or would you take the position if you manage an
17 organization, let's say you're at X level and you've
18 got four direct reports and they cover three or four
19 technical areas and there's another position that's
20 been created that's at the same level as the one this
21 person is in and it has two of the same and two
22 different technical areas, would you take the position
23 that a manager can manage both and managers are
24 basically fungible across at a certain level; or if
25 you are managing rad con in one place and then there

1 was a chemistry opened up, would you say no, then you
2 can't do that? I mean, do you look at managers as
3 basically fungible or do they have to be managing the
4 same functions for it to be --

5 A Functional areas -- if I can expound. You
6 know, I've got a situation going on right now where I
7 have -- we are looking in the nuclear organization,
8 where I have a business service manager and we are
9 taking a look at moving the -- combining our business
10 services which does all our budgeting and tracks
11 against how much we're spending on work orders and all
12 that, and combining or bringing into that organization
13 our corrective action program, you know, more from the
14 analysis part of it -- what pieces of equipment are
15 breaking on a continuous basis and where we're writing
16 corrective actions for. I'm having the same
17 discussions today in that -- does John Walker, a
18 manager of business services -- if I move the
19 corrective action program over there, have I created
20 a new job or is it a job that needs to be -- it's a
21 vacant job and I need to do some kind of selection for
22 that position.

23 So I'm going through that issue right now
24 with that job. Does that make sense?

25 Q It'd be helpful if you tell me what your

1 decision is, but --

2 A I haven't made it yet because I'm not
3 sure.

4 Q Okay.

5 A And another one of the factors entering
6 that is that, you know, it really doesn't change the
7 market price of the job, it's not changing the grade
8 level, so to speak, but we're sitting here really
9 struggling with this issue; you know, is this a new
10 job or is it not a new job. And if it's not a new
11 job, then I think John Walker has rights to it, but if
12 it is a new job, then I'm probably going to be in a
13 senior management selection arena.

14 Q And it's not like this is any secret
15 because I think I asked these questions at the PEC,
16 but if you compare McArthur's '90 job and McArthur's
17 '96 job, there's a lot of -- several significant, I
18 guess, areas that he had maybe in '90 that he doesn't
19 have and some that he didn't have in '90 that he does
20 in '96. Certainly there's no one-for-one by any
21 stretch. In fact, a comparison, quite frankly, of
22 Fiser's environmental -- chemistry and environmental
23 manager and chemistry management positions are a whole
24 lot closer.

25 A Yeah, I guess one thing we looked at in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that is that when Mr. Fiser, when I offered him the
2 position in that '93 time frame for chemistry
3 manager's position and then we subsequently combined
4 chemistry and environmental, we made a determination
5 at that time that those jobs probably ought to be
6 posted, because we thought they'd changed enough.

7 Mr. Fiser applied on one of those
8 positions and was selected and then -- you know, so we
9 do the reverse, we go back and split them again and
10 you kind of go back and say well, you know, when you
11 combined them, you said they'd changed enough that you
12 had to post it, so you're splitting them, you probably
13 ought to post them again.

14 Q And I guess the one question I asked
15 before and you didn't know and I don't know, maybe
16 Brent does, when you combined them in '94 and all the
17 people had to then apply for them, if you combined say
18 three chemistry program manager positions and one
19 environmental program manager position and made four
20 chemistry and environmental program manager positions,
21 there was nobody really left out, you had four people
22 and four jobs and you posted it, might have been a
23 different situation than if you had five and were
24 going to four or three, because somebody is going to
25 be odd man out. I don't know if that was involved in

1 '94 or not.

2 MR. MARQUAND: I think we gave you that
3 selection package and you could determine how many
4 people applied who weren't selected.

5 MR. DAMBLY: In '94.

6 MR. MARQUAND: And that would show you the
7 odd man out.

8 THE WITNESS: I don't remember that.

9 BY MR. DAMBLY:

10 Q Do y'all have any rule of thumb you use as
11 to what percentage of duties would have to stay the
12 same for a position to be interchangeable?

13 A You know, my rule of thumb has been it has
14 to be the preponderance. For me to give you a
15 percentage, you know, I've never worked from a 75 or
16 60 percent or anything like that. I've had a rule
17 that it has to be a preponderance and bounce it off
18 your peers and make sure they think it's
19 interchangeable also. You know, always when in doubt,
20 talk to your attorneys too.

21 Q Dangerous thing to do.

22 MR. MARQUAND: Dangerous for the attorneys
23 too.

24 THE WITNESS: You know, I've spent two
25 days with these guys now, so I can't talk to bad about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 them.

2 MR. DAMBLY: Particularly when
3 preponderance, at least in the sense we normally use
4 it, is anything over 50 percent.

5 BY MR. DAMBLY:

6 Q So I'm assuming you're not meaning if
7 you've got more than 50 percent, that that's a
8 preponderance.

9 A I'm sorry, if there's more --

10 Q If there's a similarity, if there's a
11 tracking of duties from one position to the other and
12 from the old position to the new, more than 40 percent
13 of the duties come over, that's not what you're
14 talking about for preponderance?

15 A Yeah, I wouldn't sit there and say, you
16 know, it's 50.7 percent that makes it preponderance,
17 I think it needs to be -- you know, and I understand
18 that my judgment on that can be overturned too, like
19 in MSPB, but you know, we've tried to see where there
20 was a clear correlation and a preponderance of the
21 duties moved with the new job.

22 Q Maybe along those lines, when you look at
23 a PD and you do a comparison between two PDs, do you
24 assume in that comparison that each function listed --
25 say he's got 10 responsibilities, do you assume that

1 each one is 10 percent of the job?

2 A No, I don't. I mean it depends on -- I'll
3 give you a good example, the guy who took my job as
4 Vice President of Nuclear Support has security
5 business services. You know, securities right now is
6 more than 10 percent of his job.

7 Q I'd be willing to bet that, yeah.

8 A So I mean, it can fluctuate in terms of
9 that, but you know, just because there's 10 items
10 listed on it -- because, number 10 is probably going
11 to be other duties as assigned, you know, I wouldn't
12 say that there's a numerical value of 10 percent for
13 10 activities to make 100 percent.

14 MR. MARQUAND: And it may be -- you've
15 been focusing on the identity of functions between the
16 two job descriptions, it may be that there may be a
17 function of one of the job descriptions that is so
18 much weightier or something else that it throws it
19 apart.

20 MS. EUCHNER: But how would you know that?

21 MR. MARQUAND: That's why you go to the
22 specialist.

23 MR. DAMBLY: How would the HR person know
24 who -- I mean what percentage of the time a given
25 individual is putting on this duty versus this duty,

1 which is -- there's clear testimony, I'm sure you're
2 aware, that in spite of the fact that there was some
3 desire to put environmental and chemical together, or
4 chemistry together, the three guys who had been doing
5 the chemistry did 95 percent of the time chemistry and
6 five percent environmental, and the guy who was doing
7 environmental did almost full time environmental and
8 very little chemistry. So in point of fact, you know,
9 there's testimony in the record that Mr. Fiser was
10 spending 95 percent of the time on chemistry, which
11 would seem to be a preponderance. If you're weighting
12 actually what the job description was having him do,
13 by anybody's definition, 95 percent is going to come
14 out a preponderance.

15 A Uh-huh.

16 Q I mean how is the HR specialist supposed
17 to know whether that's the case or --

18 A Where they're spending their time at, is
19 that the question? You know, the HR folks are
20 assigned areas -- just like in this case, Mr. Easley
21 was assigned the chemistry and environmental
22 organization. He had other duties, I can't tell you
23 what they were off the top of my head, but they have
24 a fairly close working relationship with those
25 organizations and have a pretty -- I mean, you know,

1 we work with them on doing salary adjustments to
2 disciplinary letters to performance appraisals to
3 helping them write new job descriptions. So they have
4 a pretty good feel of their organization in terms of,
5 you know, where people are spending their time and
6 those kind of things. I mean, you know, there's no
7 kind of guide chart that says are they spending this,
8 it's a -- human resource work in some respects is a
9 little bit of an art -- some science.

10 Q Is it true, as we've been told, that when
11 they did this combination back in '94 that resulted
12 first in the combined chemistry and environmental,
13 that that was basically almost a training or a hopeful
14 that you could cross pollinate the two groups into all
15 being able to do everything?

16 A I don't know if it was that or not. I
17 mean, I think it was, you know -- it was also part of
18 staff sizes are coming down, we've got to find a way
19 to do more with less people, let's combine some areas
20 and see if they can perform those duties. But, you
21 know, in terms of making one out of two, I don't know
22 the answer to that, the discussion.

23 Q You were not involved at all, I take it,
24 in the actual selection process in '96 for the new
25 position that Mr. Fiser --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 A No, I was not. I'm rarely involved in the
2 selection process, because I've got lots of them going
3 on all the time.

4 Q And that's a lucky thing for you, I'm
5 sure. With respect to TVA policy, is there any
6 difference in posting for PG-1 through 11 positions
7 and the PG-senior positions?

8 A At this point in time or --

9 Q Well, back in the '94 through '96 time
10 frame.

11 A There was a -- and I'm not sure if it was
12 a lawsuit or a settlement or whatever, but anyway,
13 there was an individual by the name of Wes Molly, who,
14 through whatever, and it may have been a lawsuit,
15 claimed that minorities were not getting proper
16 opportunities for advancement in the organization.
17 TVA sent out a -- it became a TVA policy, initially I
18 believe, to post all positions 1 through 8 -- pay
19 grade 1 through pay grade 8. Some time after that,
20 they had a revision to that where they said let's --
21 we're now going to post all vacant positions 1 through
22 senior level, so it excluded the officer level and
23 that kind of thing. That's what I'm familiar with.

24 Q Okay. There wasn't anything that said we
25 have more leeway on posting senior positions than 1

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 through 11 positions?

2 MR. MARQUAND: What he's saying is
3 originally there was.

4 A Originally it was just 1 through 8.
5 Subsequently it went to 1 through seniors. Now was
6 there any leeway?

7 Q The subsequently occurred before '94? I
8 think the memo went out in '93.

9 A I don't know for sure. I mean I know
10 there were a sequence of events that it was 1 through
11 8 and then it was 1 through senior and time frames
12 that it occurred, I don't know.

13 Q Let me show you a document that you signed
14 or approved.

15 A Okay. Business practice.

16 Q Business practice dated '93 that says 1
17 through senior.

18 A Okay, yeah, all vacant permanent, i.e.,
19 duration of one year or longer, PG-1 through senior
20 management and specialist positions must be posted for
21 not less than seven working days TVA-wide prior to
22 being filled. Okay.

23 MR. MARQUAND: Now this isn't a TVA
24 policy, this is a TVA Nuclear business practice.

25 MR. DAMBLY: Okay, but that's --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 THE WITNESS: Yeah, but it was generated
2 as a result of a TVA-wide document that was sent out.

3 BY MR. DAMBLY:

4 Q But this was the controlling business
5 practice in the '94, '95 time frame, '96 time frame
6 for what had to be posted.

7 A Yeah.

8 Q Back in the '96 reorg, how many people did
9 you have working for you and how many did you have to
10 cut through a RIF?

11 A I seem to think I had approximately -- in
12 the Chattanooga office, I had about 35 and I took that
13 down to about 17, somewhere in there.

14 Q Okay, and that was all done one time?
15 There wasn't a series of RIFs?

16 A I believe so -- you know, I'll tell you
17 this, when I took over the organization in that '95
18 time frame, when I became General Manager, I had about
19 55 folks, so I'd taken it from 55 down to ultimately
20 that 17. So that went a bit in the '95 time frame and
21 then '96, '97, I took it from like 35 to 17. I think
22 that's when Ms. Westbrook got one of her letters.

23 Q Nowadays people have an excuse for not
24 opening their mail, so that's --

25 Okay, going to the '96 chemistry position

1 and Mr. Fiser's DOL complaint --

2 A Okay.

3 Q -- after you heard that he'd filed it --
4 actually I think, if I remember correctly, he told Mr.
5 Easley or Mr. Boyles that if they posted that
6 position, he was going to file one. Did anybody come
7 and talk to you about that before he actually filed?

8 A I don't know if they did or not. They may
9 have, but, you know, I don't know.

10 Q Did you have any involvement, either then
11 or when he actually filed it, with the people involved
12 in making the selection and the selection review
13 board, whatever, somehow through Mr. Easley or Mr.
14 Boyles, in making sure they did things right? Did you
15 give any directions to be especially careful?

16 A No, I didn't give them any directions to
17 be especially careful. The -- I went through the
18 packages after the filing of the complaint and looked
19 at the information. But I would expect -- you know, my
20 expectations and I think if you talked to any of my
21 folks, they'd tell you this -- is that I've only got
22 one kind of rule, you'd better do the right thing.
23 And I have and to this day have a lot of confidence in
24 the integrity of Mr. Boyles and Mr. Easley that they
25 would do the right thing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Q I think awhile back when we were talking
2 about Dr. McArthur's position, you indicated that
3 Boyles and Easley came to you and recommended that he
4 was entitled to roll over.

5 A Yes, that's true.

6 Q But for some reason, I'm under the
7 impression that Mr. Easley disagreed and thought that
8 position should be posted. Had that been somehow
9 resolved before they talked to you?

10 A When -- you know, I can remember -- I was
11 sitting on the sixth floor at Lookout Place over there
12 and I remember sitting in Mr. Boyles' office one day
13 and he and Mr. Easley talking to me about it. I
14 concurred with their decision and it has only been
15 since we've gone through these proceedings and, you
16 know, even the enforcement conference, was I aware
17 that Mr. Easley ever said anything that this job
18 should not be posted. I'll tell you this, he never
19 came to me and said, you know, this is wrong, we
20 should post this job, or any of that.

21 Q Okay. Were you involved in setting up the
22 TVA Services Organization at all?

23 A No. I mean I had briefings on it and
24 things like that, but I was not involved in its
25 interworkings or where it was located or any of that

1 stuff.

2 Q I had I guess the impression from a more
3 recent conference that there was union involvement in
4 setting that up, there was a negotiated process, is
5 that --

6 A As I recall, there was some discussions
7 with the unions and negotiations with them regarding
8 the establishment of a services organization and this
9 issue of surplussing people into it and the one year
10 period of time and the options. You know, any time
11 you're affecting terms and conditions of employment,
12 you have to sit down and talk to the union. So I
13 wasn't involved in those discussions, but yeah, there
14 was discussions. I would get briefings on what was
15 going on with that.

16 Q It just occurred to me a minute ago -- is
17 TVA Services or was TVA Services Organization -- did
18 that -- did people from both the nuclear side and the
19 non-nuclear side end up there or was it a function of
20 the nuclear part of TVA?

21 A No, it was applicable to all TVA
22 organizations. The initial what we called employee
23 transition program was initially run out of the
24 corporate human resource organization and then they
25 set up kind of a separate services organization but

1 I'm not even sure where it reported out of, but it was
2 where whether you were nuclear or fossil or
3 transmission or river ops person, you went to the TVA
4 Services Organization.

5 Q Okay. The '96 complaint that Mr. Fiser
6 filed, if I understand correctly, at some point, you
7 offered him the chemical program manager PWR position
8 in settlement?

9 A I don't know if he had filed the complaint
10 or not at that point in time, he may have. I had had
11 some ongoing -- like I said, I knew Gary from back in
12 the chemistry organization, I had worked with him on
13 settling the other one, I always felt like I had a
14 pretty good rapport with him. He came by to see me or
15 we met, I don't know if I told him to come see me or
16 whatever, but he and I met and, you know, just kind of
17 general discussions and we were under -- you know, as
18 you probably well know, we were under a lot of
19 scrutiny from the NRC because we had so many DOL
20 complaints. And you know, I'd go down to Atlanta for
21 these enforcement conferences and what have you done
22 to try to settle these and resolve these complaints.
23 And we had hired an individual who was kind of
24 reporting to the Board but working with Mr. Kingsley
25 -- Hudson Reagan -- that was a special advisor on

1 these complaints, and these kind of things. And we
2 took a posture that our first objective was to try to
3 resolve them. I think the NRC had also kind of
4 changed the -- or was looking at changing what became
5 escalated actions and some of those things and did you
6 try to mitigate it and all that.

7 So at that point in time, my mode of
8 operations was if I can get in there and try to settle
9 the case, whether I'm right, wrong or indifferent, go
10 do it. And I went and discussed the issue with Mr.
11 Kingsley, you know, so I could get approval to do it,
12 and he said, you know, Phil, if it'll keep us from
13 getting -- if we can resolve a complaint, let's try
14 and do it, let's go ahead and offer him a position and
15 see what happens. So yeah, I did offer him a position
16 as a chemistry program manager, I don't know if it was
17 PWR or what, but yeah, in the chemistry organization,
18 working back in his job to try to resolve his
19 complaint.

20 Q Now --

21 A I'll tell you what, I don't think that was
22 contingent upon him resolving the complaint, I think
23 I just offered him a job, quite frankly. I didn't
24 have a settlement agreement or anything like that.

25 MR. MARQUAND: It was not a settlement.

1 THE WITNESS: I just offered him a job.

2 BY MR. DAMBLY:

3 Q And was this before the selection of
4 Harvey was made?

5 A Gosh -- it was after. Because he was
6 headed to the services organization and we were having
7 some discussions with him about how much severance and
8 he had made a monetary offer to me of, gosh, you know,
9 quite a bit of money and years of service credit and
10 things that I was not able to do. So I offered him a
11 job, yeah.

12 Q If he had taken the offer, what were y'all
13 going to do with Harvey? Or were you planning to
14 carry an extra position?

15 A I was -- at that point, we were planning
16 on just carrying an extra position.

17 Q Oh, okay.

18 MR. MARQUAND: Counsel, you realize I've
19 let you inquire about that, but I would object if you
20 attempted to offer that at trial.

21 MR. DAMBLY: Yeah, I appreciate that.
22 Although I guess now since he said it wasn't an offer
23 of settlement, I guess you wouldn't have much of a
24 basis to object.

25 MR. MARQUAND: It'd be the same as Rule

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 404, it's not a settlement offer.

2 (Brief pause.)

3 MR. DAMBLY: It looks like we may well be
4 finished. Let's take a quick minute.

5 (Brief pause.)

6 MR. DAMBLY: We're finished.

7 (Whereupon, the deposition was concluded
8 at 2:09 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25