

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Interview of (b)(7C)c

Docket Number: 4-2006-035

Location:
Fulton, Missouri

Date: Wednesday, November 1, 2006

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Pages 1-64

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF INVESTIGATIONS

INTERVIEW

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INTERVIEW OF :

(b)(7C)c

CASE NO. 04-2006-35

(CLOSED) :

-----X

Wednesday, November 1, 2006
Callaway Nuclear Plant
Fulton, Missouri

The above-entitled interview was conducted at 1:00 P.M.

BEFORE:

Special Agent, STEVE ROMERO

FOR THE CALLAWAY NUCLEAR PLANT:

PILLSBURY, WINTHROP, SHAW, PITTMAN, LLP
2300 N. Street, NW
Washington, DC 20037
202-663-8000

By: Mr. J. Patrick Hickey

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

1 MR. ROMERO: For the record, this is an
2 interview of Mr. (b)(7C)c middle initial (b)(7C)c last name
3 (b)(7C)c who is employed at Callaway Nuclear Plant. The
4 date is November 1st, 2006, and the time is
5 approximately 1:04 p.m. Mr. (b)(7C)c, could you please
6 state and spell your full name for the record?
7

8 MR. (b)(7C)c (b)(7C)c

9 (b)(7C)c

10 MR. ROMERO: Okay, sir. What is your
11 job title?

12 MR. (b)(7C)c I'm the (b)(7C)c

13 (b)(7C)c

14 MR. ROMERO: Okay. Present at this
15 interview are Special Agent Steve Romero for the
16 Nuclear Regulatory Commissions's Office of
17 Investigation, Region 4, Arlington, Texas. Also
18 present is Mr. (b)(7C)c who is being interviewed;
19 Mr. Patrick Hickey who is an attorney and is
20 representing Mr. (b)(7C)c and also Callaway Nuclear
21 Plant. The court reporter is Ms. Lisa Banks.

22 And this interview is being
23 tape-recorded and will be transcribed by Ms. Banks or
24 Neal Gross and Associates. The purpose of this
25 interview is to ascertain facts concerning an

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1 allegation regarding discrimination against a [b7C]
2 [b(7C)c] for raising safety concerns.
3 Mr. [b7C], will you please stand and
4 raise your right hand?

5 (Witness sworn.)

6 MR. ROMERO: Okay. These questions are
7 concerning Mr. Hickey's presence. Does your employer
8 require you to have an attorney present when you talk
9 to the NRC?

10 MR. [b7C]: No. They do not require me
11 to have an attorney present.

12 MR. ROMERO: Okay. Is Mr. Hickey acting
13 as your personal representative today?

14 MR. [b7C]: Yes.

15 MR. ROMERO: Did you select him or did
16 the company select him for you?

17 MR. [b7C]: He was selected by the
18 company, and I endorse his presence here.

19 MR. ROMERO: Okay. So you agree to have
20 him present?

21 MR. [b7C]: So I agree -- yes. I agree
22 to have him here.

23 MR. ROMERO: Okay. These questions are
24 for Mr. Hickey. Mr. Hickey, who is your employer?

25 MR. HICKEY: I'm with the firm of

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1 Pillsbury Winthrop Shaw Pittman, Washington D.C.

2 MR. ROMERO: Okay. Are you acting as
3 Mr. (b)(7C)c personal representative today?

4 MR. HICKEY: I am. I also represent
5 AmerenUE and will represent other witnesses in this
6 proceeding.

7 MR. ROMERO: Okay. Sir, do you
8 believe -- first of all, if a personal -- a potential
9 conflict does arise, sir, during the course of this
10 interview today, sir, what would you do, sir?

11 MR. HICKEY: I would have to address
12 that with Mr. (b)(7C)c and we'd resolve it appropriately.
13 But I don't anticipate any such conflict.

14 MR. ROMERO: Okay. All right. This is
15 for you, Mr. (b)(7C)c Mr. (b)(7C)c do you understand
16 that Mr. Hickey represents other parties that are
17 associated here at Callaway that are also part of this
18 investigation?

19 MR. (b)(7C)c Yes. I do.

20 MR. ROMERO: Okay. With that
21 understanding, do you still want Mr. Hickey as your
22 representative here today?

23 MR. (b)(7C)c Yes. I do.

24 MR. ROMERO: All right. Thank you, sir.

25 DIRECT EXAMINATION BY MR. ROMERO:

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1 Q. All right, sir. For the record, sir,
2 could you please tell us what your educational
3 background is?

4 A. (b)(7C)c
5 (b)(7C)c
6
7

8 Q. Okay. Sir, have you had any training
9 subsequent to that concerning your field of training
10 here at Callaway?

11 A. I have completed a substantial amount of
12 training at Ameren over the (b)(7C)c years that I have worked
13 at Ameren. I came to work at Ameren as an (b)(7C)c
14 (b)(7C)c

15 (b)(7C)c In fact, I subsequently helped to
16 develop the initial training program at Callaway Plant
17 for the (b)(7C)c

18 I went through (b)(7C)c training
19 program, obtained a (b)(7C)c Also
20 went through the upgrade program to upgrade my license
21 to senior reactor operator. I have been through
22 various management courses as a supervisor with the
23 company. I'm currently an (b)(7C)c so
24 I'm on a rotation as (b)(7C)c

25 (b)(7C)c

1 (b)(7C)c So --

2 Q. All right, sir. For the past ten years
3 what is your employment background, sir?

4 A. I'm sorry. For the past?

5 Q. Past ten years.

6 A. The past ten years have all been with
7 Ameren Union Electric and AmerenUE. Specifically, in
8 the last ten years I've primarily been a (b)(7C)c

9 (b)(7C)c

10 (b)(7C)c I was in the position of

11 (b)(7C)c

12 (b)(7C)c I was an (b)(7C)c

13 (b)(7C)c

14 I was a (b)(7C)c

15 supporting the (b)(7C)c Was promoted to

16 (b)(7C)c I'm not sure exactly.

17 It was towards the end of (b)(7C)c beginning of () I was

18 an (b)(7C)c for approximately three

19 years. I rotated back to the (b)(7C)c

20 (b)(7C)c

21 And in (b)(7C)c I returned back to the (b)(7C)c

22 (b)(7C)c and in early (b)(7C)c became the (b)(7C)c

23 (b)(7C)c That was the point where

24 the (b)(7C)c began to report to me.

25 And my job title and responsibilities

1 were modified somewhat in December of [redacted] when I
2 became the (b)(7C)c [redacted]

3 (b)(7C)c And at that point, I took on some of the

4 (b)(7C)c [redacted]
5 [redacted]

6 (b)(7C)c [redacted]

7 Q. How long have you been in your current
8 position?

9 A. As I described, really, from the

10 (b)(7C)c [redacted]

11 (b)(7C)c [redacted] And my current job title
12 was changed in December of [redacted]

13 Q. Okay. Sir, and what are your
14 responsibilities?

15 A. I'm responsible for the (b)(7C)c [redacted]

16 (b)(7C)c [redacted]
17 [redacted]

18 [redacted] earlier this year. I supervise the [redacted]

19 (b)(7C)c [redacted]
20 [redacted]
21 [redacted]
22 [redacted]
23 [redacted]

24 (b)(7C)c [redacted] would say. They report to me.

25 And I'm responsible for the (b)(7C)c [redacted]

1 (b)(7C)c
2
3

4 (b)(7C)c We basically split that up, and I
5 have a counterpart that is the (b)(7C)c

6 (b)(7C)c that takes care of more of the
7 administrative-type work in our department, such as

8 (b)(7C)c
9

10 So if it's (b)(7C)c
11 typically I'm responsible for it. If it's more
12 project-related, then my counterpart is responsible for
13 that.

14 Q. Okay. Sir, and who do you report to,
15 sir?

16 A. I report to (b)(7C)c

17 Q. Okay. And what is his title?

18 A. He is the (b)(7C)c

19 (b)(7C)c

20 Q. Okay. Sir, do you know a Mr. (b)(7C)c

21 (b)(7C)c

22 A. Yes. I do.

23 Q. And, sir, how long have you known him?

24 A. I have known (b7C) since roughly 1989,
25 1988-1989. He came to work for the company as a new

1 employee at the time.

2 Q. And that's how you got to know him?

3 A. Yes.

4 Q. Okay. All right. And have you ever
5 supervised Mr. (b)(7C)c

6 A. Yes.

7 Q. And when did you first begin supervising
8 him?

9 A. I was temporarily upgraded to (b)7C
10 (b)(7C)c in -- my dates are going to be approximate
11 here because --

12 Q. Yes, sir.

13 A. -- it's been a little while.

14 Q. For the record, sir, if you don't
15 have the dates just say approximately this year, if you
16 don't know for sure.

17 A. Approximately January of 1998. And when
18 I replaced an (b)(7C)c to allow him to
19 work on refueling preparations, (b)7C and one other
20 operating supervisor at the time worked for me while I
21 was in that position for approximately three months.

22 That was the first time that I supervised (b)7C

23 And then, when I became the (b)7C

24 (b)(7C)c which was

25 April, approximately, of (b)7C following our refueling

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1 in the spring of 2004, which was -- I believe that
2 ended approximately in June of 2004 -- (b)(7C) went back
3 on shift as an (b)(7C)c at that point,
4 and he reported to me then.

5 Q. So he's been reporting to you since
6 April of 2004?

7 A. That is correct. Up until he was
8 rotated to our work control center, and that happened
9 approximately September of this past year, so September
10 of '06.

11 Q. Okay. Sir, did Mr. (b)(7C)c ever bring
12 to your attention a safety concern regarding another
13 employee by the name of Mr. (b)(7C)c that he was
14 inattentive in the ~~control room~~?

15 A. No.

16 Q. He never brought that to your attention?

17 A. Not that I recall.

18 Q. Has anyone ever brought that to your
19 attention, sir?

20 A. Yes.

21 Q. Can you tell me who?

22 A. I had -- ~~Dave~~ Hollabaugh brought that to
23 my attention as the supervisor of Employee Concerns.
24 Also had a reactor operator bring that to my attention,

25 (b)(7C)c

1 Q. Okay. Let's start with Mr. Hollabaugh.
2 When did he bring this to your attention?

3 A. That was in January of this year.

4 Q. And what did he tell you?

5 A. He -- I'm sorry. Let's back up. And
6 would you please restate exactly what the question was
7 again?

8 Q. Okay. I had asked you initially, sir,
9 if anybody had brought that matter to your attention,
10 and you stated that Mr. Hollabaugh and (b)(7C)c
11 had. And my next question was, when did Mr. Hollabaugh
12 bring that to your attention? And you stated it was
13 January 2006. And then I said, "What did he tell you
14 exactly when he brought it to your attention?"

15 A. Okay. And we're talking about an issue
16 with inattentiveness on shift; is that correct?

17 Q. Yes. Concerning Mr. (b)(7C)c

18 A. Concerning Mr. (b)(7C)c Okay.
19 Mr. Hollabaugh came to me and said that a concern had
20 been raised with inattentiveness to duty and
21 interviewed me -- by Mr. (b)(7C)c -- and interviewed
22 me and asked me questions regarding Mr. (b)(7C)c and
23 his performance.

24 Q. So you were interviewed by
25 Mr. Hollabaugh?

1 A. That's correct.

2 Q. Okay. And he was interviewing you for
3 an investigation he was conducting?

4 A. That's correct.

5 Q. And he told you that at the onset,
6 before he talked to you?

7 A. Yes.

8 Q. Okay. And when he was interviewing you,
9 that's when he told -- I want to know what he told you,
10 exactly how he -- I mean, what did he bring up? How
11 did he bring it up to you?

12 A. He came to me and told me that an
13 allegation had been made that Mr. (b)(7C)c was
14 inattentive to duty, and that he was investigating that
15 allegation. He asked me questions like, had I ever
16 observed Mr. (b)(7C)c being inattentive to duty. Had
17 people come and talked to me about Mr. (b)(7C)c being
18 inattentive to duty? Or I had -- you know, had I
19 observed that and basically what I knew about that.

20 Q. Okay. So what did you tell
21 Mr. Hollabaugh concerning his questions, the ones you
22 just stated that he asked you?

23 A. I told him that (b)(7C)c had
24 come to me and asked -- and made a comment to me that
25 the (b)(7C)c that work on Mr. (b)(7C)c crew had expressed

1 a concern with [b7C] attentiveness, and that [] had
2 asked me to look into that.

3 Q. Okay. When did [(b)(7C)c] bring
4 that to your attention?

5 A. That was in December of '05.

6 Q. Okay. And when he brought that up to
7 you, what did he tell you, exactly?

8 A. He told me that the [b7C] had some
9 concerns with [b7C] ability to be alert in the control
10 room.

11 Q. Okay. And when he told you that, sir,
12 what did you tell him in return when he told you that?

13 A. I told him that I would follow-up and
14 look into it.

15 Q. Did you follow-up and look into it, sir?

16 A. Yes. I did.

17 Q. What did you do, sir?

18 A. I went to [(b)(7C)c] who was the
19 [(b)(7C)c] working with this crew, and I
20 asked [(b)(7C)c] if there were any concerns
21 expressed by the reactor operators on watch regarding
22 Mr. [(b)(7C)c] attentiveness.

23 Q. And what did he tell you?

24 A. He told me that they had not expressed
25 any concerns. I also asked him if he observed any

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1 behaviors that caused him to be concerned, and he told
2 me no.

3 Q. And Mr. **b7c** would've been their
4 supervisor, the supervisor -- **(b)(7C)c**

5 **(b)(7C)c** Correct?

6 A. **(b)(7C)c** That's correct.

7 Q. Okay. And he would've been over those

8 **(b)(7C)c**

9 A. That's correct.

10 Q. Mr. **b7c**

11 A. Yes. That's correct.

12 Q. Okay. I'm just asking this question,
13 sir. Why didn't you ask any other personnel such as
14 the **b7c** on that shift?

15 A. Based on the schedule rotations, I had
16 to look for people that I could contact. And **b7c**
17 **b7c** was a person that I was able to get a hold of
18 to talk to. And my practice is to work with the --
19 work through supervision, and I wanted to get firsthand
20 from Mr. **b7c** what he had observed and what concerns
21 were raised.

22 Q. Did Mr. **(b)(7C)c** ever tell you that
23 the **b7c** didn't want to go to the supervisor but wanted
24 to express this to someone else?

25 A. No.

1 Q. No?

2 A. No. He did not.

3 Q. Okay. So when you checked into it, you
4 just checked into it with one person, which would've
5 been (b)(7C)c

6 A. I talked to (b)(7C)c That's
7 correct.

8 Q. All right. And Mr. b7c informed you
9 that he did not see any problems with Mr. (b)(7C)c
10 being inattentive in the control room?

11 A. That's correct.

12 Q. All right. Nor did he have any
13 information about any b7c making any type of comments
14 or complaints to him about that issue?

15 A. He did -- I don't know if he was aware
16 of any other comments or concerns. He did not express
17 any to me.

18 Q. When would this have taken place, sir,
19 this conversation with Mr. (b)(7C)c

20 A. It was at the end of December. It was
21 near the Christmas holidays.

22 Q. End of December of 2005?

23 A. Yes.

24 Q. Okay. And once you obtained that
25 information from Mr. (b)(7C)c did you then provide that

1 information to Mr. (b)(7C)c?

2 A. Yes. I did.

3 Q. Oh, you did? When did you provide that
4 to him?

5 A. It was after the holidays. It was the
6 first part of January.

7 Q. Okay. And did you summons him -- did
8 you have him come to your office, or how did this
9 occur?

10 A. I really don't recall where I met with
11 him at.

12 Q. Okay. Would it have been a face-to-face
13 meeting?

14 A. It was a face-to-face discussion. Yes.

15 Q. Okay. And then, what did you tell him?

16 A. I told him that I had talked with (b)(7C)c
17 (b)(7C)c and that the (b)(7C)c had not expressed any

18 concerns. And he said -- he seemed a little bit
19 surprised by that and said he was going to follow-up
20 and get back with the (b)(7C)c and ask them about it.

21 Q. Mr. (b)(7C)c said that he was going to
22 follow-up with the (b)(7C)c

23 A. That's correct.

24 Q. Okay. Did he -- let's go back to his
25 reaction. He just had a reaction of being surprised.

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1 Is that what your interpretation was?

2 A. He seemed like he was surprised that I
3 said there was nothing that I was told, that there was
4 no concern or nothing was observed.

5 Q. Okay.

6 A. And that's just my, you know, observance
7 of --

8 Q. Oh, I understand.

9 A. -- his facial expression.

10 Q. And that's what I'm asking you, sir.

11 A. You know, like, hmm, I need to go back
12 and talk to those guys.

13 Q. Okay. And do you know if Mr. (b)(7C)c
14 ever did go and follow-up with any of these (b7C)

15 A. No. I don't know.

16 Q. You didn't know -- you don't know
17 because he never told you or nobody ever told you that
18 he had followed up with them?

19 A. I don't know because he did not tell me
20 that he did. I also know that this issue came out on
21 the table not too long after that. It was at the end
22 of January. And so --

23 Q. That would've been the end of January
24 2006?

25 A. Yes.

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1 Q. Okay. So let's go back to
2 Mr. Hollabaugh. He was doing an investigation
3 pertaining to that allegation. Correct?

4 A. That's correct.

5 Q. Do you know what the findings --
6 investigative findings were pertaining to that
7 allegation, done by ECP?

8 A. Yes. I do.

9 Q. Can you tell us for the record what it
10 was, sir?

11 A. The -- I was, along with Mr. (b)(7C)c
12 asked to come down to Mr. Thibault's office
13 approximately the 30 -- or 30th or 31st of January of
14 '06, and was informed that the investigation revealed
15 that there was some basis there. Indicated that there
16 was some concern or some truth such that we were
17 directed to remove Mr. (b)(7C)c from watch standing
18 duties.

19 Q. When was Mr. (b)(7C)c removed from watch
20 duty?

21 A. Immediately. That day.

22 Q. On January -- it would've been the day
23 that you --

24 A. The day that I met with Mr. Thibault, we
25 did that that -- I actually met with Mr. (b)(7C)c the

1 next morning. But we immediately made the decision to
2 remove him from shift duties. I don't recall where he
3 was in his watch rotation at that time. I do recall
4 that he was not on watch that day. And I do recall
5 that I met with him -- with [b7C] the very next morning.
6 And we removed -- I informed him that he was removed
7 from watch standing duties.

8 Q. Okay. Sir, Mr. [b(7C)c] -- who is
9 Mr. [b(7C)c] sir?

10 A. Mr. [b(7C)c] is the [b(7C)c]
11 [b(7C)c] He is my boss.

12 Q. Okay. Did Mr. [b(7C)c] ever have a
13 conversation with you pertaining to Mr. [b(7C)c]
14 stating that he was aware that there had been
15 complaints made about Mr. [b(7C)c] about being
16 inattentive in the [control room]?

17 A. [b7C] and I had a general discussion
18 about there being some concerns with [b7C]'s alertness.

19 Q. When did that take place, the initial
20 conversation pertaining to that subject?

21 A. I really -- I'm not certain.

22 Q. Would it have been prior to December of
23 2005?

24 A. Yes.

25 Q. Can you -- would it have been January

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1 2005, that early on?

2 A. No. I don't believe it was that early
3 on. I think it was most likely sometime through the
4 summer.

5 Q. So it would've -- summer would be
6 defined as -- see if you agree with me -- between June
7 and August. Would that be the correct characterization
8 that you're trying to make, sir?

9 A. Again, I can't be certain. It was
10 sometime in the latter part of the year.

11 Q. And did Mr. (b)(7C)c ever tell you where
12 he had learned this information from?

13 A. Where he had gotten the information --

14 Q. Yes, sir.

15 A. -- from? I do not recall him
16 specifically telling me anyone that raised a concern
17 with him regarding Mr. (b)(7C)c attentiveness.

18 Q. So what were these general
19 conversations? Can you tell me what the scope of them
20 were, what was said?

21 A. (b)(7C)c

22 (b7C) And (b)(7C)c had a close working
23 relationship with (b7C) based on his previous work
24 history. In other words, (b7C) had worked for (b7C) in
25 the past on shift. And (b7C) was a person for (b7C) to

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1 talk to about his (b)(7C)c issues.

2 [redacted] approached [redacted] and asked him about
3 how things were going at (b)(7C)c

4 (b)(7C)c And I

5 don't know for a fact how much discussion took place
6 there. I don't believe that (b7C) was willing to share
7 much, if anything, with (b7C) on that.

8 Q. Did Mr. (b7C) tell you, "Well, I've
9 received complaints that Mr. (b)(7C)c is inattentive in
10 the [control room]"? Did he ever tell you that?

11 A. No. He never told me that he received
12 complaints that (b)(7C)c was attentive -- was not
13 attentive or inattentive in the [control room]. We did
14 have a conversation, and it could've been more than one
15 conversation, about (b7C) having trouble remaining alert.
16 And I may -- I'm drawing -- making a difference here,
17 because I don't know how we're defining inattentive.
18 (b7C) was having some trouble -- in other words, like I'm
19 sitting here looking at you right now, and perhaps I
20 would do this (indicating).

21 Q. Well, I mean, if you would do that, I
22 mean, having trouble staying awake, that's -- you know
23 what I'm saying?

24 A. That is struggling to remain alert.

25 Q. Okay. So he had told you that he had --

1 he knew this information. But how did he know this
2 information?

3 A. Apparently someone had brought that to
4 his attention.

5 Q. But you don't know who?

6 A. I don't know who he specifically had
7 talked to.

8 Q. He didn't disclose that to you?

9 A. Not that I recall.

10 Q. Okay. And what did Mr. (b)(7C)c say he
11 was going to do about that?

12 A. He, as I mentioned, went to (b7C) and was
13 going to talk to (b7C) And --

14 Q. When did this conversation between
15 Mr. (b)(7C)c and Mr. (b)(7C)c take place?

16 A. I don't know. Again, it was in the
17 latter part of '05.

18 Q. Okay.

19 MR. HICKEY: I understand that you need
20 to get some background information about the context of
21 your current investigation. But all these questions
22 about Mr. (b)(7C)c and Mr. (b)(7C)c and their dealings
23 with them, I guess I'm wondering whether they really
24 bear on the question of whether Mr. (b)(7C)c in 2006
25 was the victim of some kind of discrimination.

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1 MR. ROMERO: We can go ahead and go off
2 the record. Going off the record.

3 (WHEREIN; a short recess was taken.)

4 MR. ROMERO: Okay. We're back on the
5 record. The time is 1:32 p.m.

6 BY MR. ROMERO:

7 Q. All right, sir. Let's move on, sir.
8 Did you -- are you the person that --

9 A. And before we --

10 Q. Okay. Go ahead, sir.

11 A. Before I go on, I haven't had a chance
12 to completely answer your last question.

13 Q. Okay.

14 A. So I just want to make that clear, that
15 I haven't completely answered your questions about who
16 may have brought anything to my attention and what was
17 done with that information. So I just want to make
18 that clear, that I haven't been given the opportunity
19 to completely answer that.

20 Q. Okay. Go ahead and finish that, then,
21 sir.

22 A. Okay.

23 Q. And then we'll --

24 A. The other entity that brought to my
25 attention b7C alertness was the training staff. And

1 (b)(7)c was having some trouble remaining alert in
2 training. And I was made aware of that by the training
3 staff. And --

4 Q. Okay.

5 A. -- that was part of my discussion with

6 (b)(7)c also.
D7L

7 Q. Who was on the training staff, sir? You
8 said training staff. I need to know who the people
9 are.

10 A. (b)(7)c is one name that comes to
11 mind. And, really, and (b)(7)c was the
12 coordinator for that.

13 Q. Do you recall when this -- when they
14 provided you this information?

15 A. This was in the summer. Again, Summer
16 of '05.

17 Q. And what did Mr. (b)(7)c tell you, sir?
18 Did they tell you together or separately?

19 A. We have a -- at the time, we were having
20 an end-of-training-cycle meeting with the continuing
21 training instructors. And in that meeting they brought
22 that to my attention, that (b)(7)c was having -- was
23 struggling in a few of the classes remaining alert.

24 Q. In their class?

25 A. In the class.

1 Q. So these -- (b)(7C)c
2 told you this during this --

3 A. That is my recollection.

4 Q. Right. Okay.

5 A. And I -- as best I can remember, those
6 are the people that talked to me about (b)(7C)c
7 attentiveness or inattentiveness.

8 Q. Okay. So they would've told you this in
9 2005, the summer. And then, what did you do with that
10 information? Did you provide that to your --

11 A. That was information that I discussed
12 with (b)(7C)c And as I mentioned just a few
13 minutes ago while we were off the record, I haven't
14 really discussed with you the reasons why (b)(7C)c and I
15 handled this the way we did.

16 Q. Okay. Go ahead, sir. Tell us why you
17 handled it --

18 A. Okay. And I'll try to be brief with
19 this. I explained, in our organization -- that I came
20 back to the (b)(7C)c
21 And then, in the (b)(7C)c because of some
22 performance issues we had in our department, (b)(7C)c
23 (b)(7C)c made the decision to create the position that I
24 was put in -- into, which was an (b)(7C)c
25 (b)(7C)c position, which put me over the shift

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(b)(7)c

1
2 However, it was a -- just a functional
3 working title and not really a -- an organizational
4 structure type title, meaning that I had some
5 responsibility to coordinate and oversee what was going
6 on, but I did not necessarily have the true line
7 authority, so to speak. In other words, if you looked
8 at an organizational chart in our company, I would -- I
9 was a (b)(7)c that was put (b)(7)c
10 (b)(7)c to monitor what they're doing.

11 We had a concern that involved a

(b)(7C)c

(b)(7C)c

(b)(7C)c

12
13 and so forth, pretty
14 significant. (b)(7C)c was closer to this person
15 than I was from a personal relationship. And the --
16 based on the significance of it and the way our work
17 schedules fell out, (b)(7C)c took the lead on addressing
18 (b)(7C)c performance.

19 So that is why I did not -- in that time
20 period, I didn't -- did not necessarily proactively
21 approach that. (b)(7C)c and I talked, and (b)(7C)c said, "I'm
22 going to take -- I will take care of this. I will talk
23 to (b)(7C)c " And I accepted that. So you
24 wondered why his direct supervisor did not intervene.

25 Q. Right.

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1 A. That is the why.

2 Q. Okay.

3 A. Okay.

4 Q. So the person you're talking about when
5 you were getting into all of those issues was

6 Mr. (b)(7C)c Right? You were talking about Mr.

7 (b)(7C)c

8 A. I'm talking about Mr. (b)(7C)c Yes.

9 Q. Right. That he dealt with him because
10 he knew him better.

11 A. That --

12 Q. Plus, he had a (b)(7C)c

13 (b)(7C)c Right?

14 A. That's why (b)(7C)c dealt with (b7C)

15 (b)(7C)c as opposed to me dealing directly with (b7C)

16 (b)(7C)c

17 Q. Okay. All right. All right. Now, once

18 Mr. (b)(7C)c -- were you familiar that Mr. (b)(7C)c had

19 gone to Mr. (b)(7C)c told him about Mr. (b)(7C)c's

20 inattentiveness?

21 A. No.

22 Q. You were not aware at all?

23 A. No.

24 Q. Mr. (b)(7C)c never told you that?

25 A. No. He did not tell me that (b7C) had

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1 come to him and expressed concerns.

2 Q. Okay. Did anybody else tell you that

3 Mr. (b)(7C)c had gone to Mr. (b)(7C)c

4 A. No. I don't recall anyone telling me
5 that.

6 Q. When did you ever find out that he did?

7 A. When did I find out that --

8 Q. That Mr. (b)(7C)c had gone to

9 Mr. b7c and made the allegations about Mr.

10 (b)(7C)c

11 A. What I heard as a side conversation with

12 one of our other (b)(7C)c that

13 there was discussion about b7c alertness. And I

14 believe b7c and b7c had had a discussion about that.

15 But neither b7c nor b7c came directly to me and said,

16 "I have a concern with this." And neither of them said

17 to me, "I went to b7c -- I" -- that either of them had

18 went to b7c and expressed a concern about that.

19 Q. Okay. So you weren't aware of

20 Mr. (b)(7C)c making any type of allegations to

21 Mr. (b)(7C)c

22 A. And when you say --

23 Q. Of the --

24 A. -- "allegation" you say --

25 Q. I'm talking about --

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1 A. You mean just going --

2 Q. -- going --

3 A. -- expressing a concern?

4 Q. Expressing any concern concerning

5 Mr. (b)(7C)c being able to -- struggling to stay awake
6 or inattentive.

7 A. That's correct. I was not aware that

8 (b)(7C)c had specifically went to (b7c) and talked
9 to him about (b7c) alertness.

10 Q. And this discussion you had with

11 Mr. (b7c) -- was it (b7c) Could you -- what was the
12 name?

13 A. (b)(7C)c

14 Q. Okay. You had this discussion with him
15 when?

16 A. I really have no idea. It would've been
17 in the -- again, in that six-month period, second --

18 Q. So --

19 A. -- half of '05. But it was a general --
20 more like a -- it was a peer scuttlebutt discussion.
21 It was not coming to me and say, "I'm concerned about
22 this."

23 Q. Okay. All right. Are you the person to
24 give Mr. (b)(7C)c his evaluation?

25 A. (b)(7C)c

1 (b)(7C)c
2
3
4

5 Q. Okay. Let me ask you a question, sir:
6 Are supervisors -- Mr. (b)(7C)c is considered a
7 supervisor. Correct?

8 A. Correct.

9 Q. He would receive -- if a supervisor or
10 anybody that's non-bargaining -- I don't know. What's
11 the terminology? Let me get that terminology first.

12 A. Management employee?

13 Q. Management employee. How do they
14 receive bonuses? Based on what? What is it based on?

15 A. What kind of bonus are we speaking of?

16 Q. Well, jeez. I don't know what the
17 exact -- do you receive bonuses based on your
18 performance?

19 A. We are all in a bonus program that is
20 tied to key performance indicators for the company, the
21 division, and the department.

22 Q. What does KPI payout mean?

23 A. KPI payout means key performance
24 indicators; and the payout is the money that's awarded
25 to employees based on the performance of the company,

1 the division, and the department, and the individual.

2 Q. So would a supervisor's performance have
3 a bearing on the amount of money or if they get a
4 bonus?

5 A. For the -- the performance of the
6 company -- again, it's -- there -- it's tiered. Okay.
7 So the way it works is, the company establishes key
8 performance indicators, and then they're -- it's
9 divided up into percentages. First of all, the company
10 has to achieve a certain earnings per share level.

11 At that point, then, we look at the
12 division. In our case, the nuclear division. The
13 nuclear division had -- and I don't know the numbers --
14 four or five performance indicators established that
15 drove our payout for our KPIs. For example, one of
16 them -- and I'm just going to give an example. I'm not
17 going to say this is one of them.

18 Q. Right.

19 A. This is an example. Our refuel was
20 scheduled to be less than 65 days. Our refuel was
21 sixty-three and a half days. So if that was a KPI --
22 and I don't believe it actually was -- then we would
23 get a payout commensurate with whatever was allocated
24 to that particular item.

25 Q. Okay.

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1 A. One that I -- that we did have was
2 related to our dose for the year, our cumulative
3 exposure, and we did make that particular KPI. It was
4 less than what our threshold was. So we were allotted
5 a percentage of payout for that. Then it gets broken
6 down to the department.

7 So in my department, we had performance
8 indicators for number of refueling milestones that we
9 met. And as a department, we all -- all of us together
10 supported that initiative, so either the whole
11 department made that KPI or they did not make the KPI.
12 In our case we made the KPI. Then we went down to the
13 individual level.

14 And the reason I'm explaining it this
15 way is this is where each individual has control over
16 his KPI. We had a goal for numbers of observations we
17 did of our employees over the year, and we established
18 a number. If you did "X" number of observations, then
19 you met the requirements for that KPI that was
20 established. Okay. So really, it was based on the
21 individual's performance; it was based on the
22 division's performance; it was based on the
23 corporation's performance.

24 Q. Okay. And who would be the person that
25 would determine how much a certain employee would get

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1 as far as that bonus, that KPI payout bonus?

2 A. We use a system that's called Merit Net
3 (ph). It is our pay system. It's a pay calculator
4 type thing.

5 First of all, our Board of Directors
6 meets in February and determines what the official
7 earnings per share is. That determines the thresh --
8 whether or not we even met the point where we can pay
9 out performance indicator type pay. Our division --
10 our managers and vice presidents -- look at the
11 corporate -- or not the corporate, but the division
12 performance indicators, and they make a call on whether
13 or not those were met, and then there's a percentage
14 tied to those.

15 Then the ones that are internal to the
16 department, the department -- so me, (b)(7C)c
17 b7c who is my counterpart -- generally we would
18 determine which department-level indicators were met,
19 and then we would determine those that we supervised.
20 For example, I would determine whether, in this case,
21 (b)(7C)c -- I would determine whether b7c
22 (b)(7C)c met the requirements for the individual KPIs
23 that we had -- for example, number of observations. I
24 would make that call, if he met 100 percent of that or
25 whatever.

1 Q. Did he -- how did he do in 2005? Did he
2 receive a bonus, a KPI --

3 A. Well, my recollection is that he met the
4 requirements to receive a KPI, to receive the bonus.

5 Q. Okay.

6 MR. HICKEY: When you say 2005, are you
7 talking about a bonus paid in 2006 for the performance
8 of 2005?

9 MR. ROMERO: It's called the 2005 bonus
10 payout. I don't know if they pay --

11 MR. HICKEY: Okay.

12 MR. ROMERO: -- it out in 2006. I
13 believe that this would've been paid out prior to --

14 THE WITNESS: It is.

15 MR. ROMERO: -- I mean, after 2005.

16 MR. HICKEY: Right.

17 MR. ROMERO: But it would've been before
18 this date, before November 2006.

19 MR. HICKEY: Right. Because the 2005
20 bonus payment comes after the end of that year.

21 MR. ROMERO: Right.

22 MR. HICKEY: And so it's paid out in
23 early 2006.

24 THE WITNESS: It's paid on March 15th of
25 the following year.

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1 MR. ROMERO: Okay.

2 BY MR. ROMERO:

3 Q. And my question to you, sir -- so you've
4 already answered one of my questions. You said that
5 you would've been the one that would've been
6 responsible for evaluating if Mr. (b)(7C)c would've
7 received a KPI payout. Correct?

8 MR. HICKEY: Related to his individual
9 goals.

10 MR. ROMERO: Well, he's the supervisor,
11 and he already made that statement, that he does it
12 based on that. Right? Correct?

13 THE WITNESS: In the system, in the
14 Merit Net system, I identified that -- I identify how
15 each individual performed on their key performance
16 indicators.

17 BY MR. ROMERO:

18 Q. And do you recall how he did?

19 A. I don't recall the specific value. I
20 recall that he did meet -- my recollection is that he
21 met the majority of the requirements for that.

22 Q. Did he ever come and inform you or talk
23 to you and say, "Hey, I don't believe that I received
24 what I believe I should've received"?

25 A. I don't remember. I don't remember him

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1 coming to me and specifically saying that. I do know
2 that our corporation made a decision to differentiate
3 between those that were rated [needs improvement] and
4 those that were -- that -- those that were rated above
5 that in terms of how the KPI was paid out.

6 So when I did my baseline KPI
7 performance and pay recommendation -- and I guess I
8 should call it a recommendation as opposed to an actual
9 final determination of payment -- my determination of
10 payout was that he would receive the bonus commensurate
11 with the objectives that he had met.

12 Q. All right. Okay. So it is tied to his
13 performance evaluation, then. Right? Because you were
14 talking about [needs improvement]. That would've been
15 documented on the evaluation that he received for that
16 year.

17 A. That is the way that it was handled. I
18 was not -- I did not know it was going to be handled
19 that way when I did the performance indicator pay
20 portion roll-up.

21 Q. You didn't know that?

22 A. I did not know that that bonus was not
23 going to be paid.

24 Q. Is it something they didn't pass out to
25 the managers, or you just didn't get that information?

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1 A. That decision had not been made at that
2 time.

3 Q. About being tied to needs -- the people
4 who got (b)(7)c wouldn't receive that full
5 amount?

6 A. That's correct. That decision had not
7 been made at the time that I did salary review, roughly
8 in February/March time frame. I don't remember exactly
9 when it was.

10 Q. Do you know if Mr. (b)(7C)c ever went to
11 Mr. (b)(7C)c and stated that he didn't believe that he
12 received the amount of bonus that he felt he should've
13 received?

14 A. I don't -- no. I don't know if (b)(7C)c
15 went to him and talked to him. I know that they had
16 discussion. I don't know if (b)(7C)c specifically went to
17 (b)(7C)c and talked to him.

18 Q. Okay. Let's talk about the evaluation
19 itself. (b)(7C)c

20 (b)(7C)c

21 A. (Witness nodded.)

22 Q. How did he do on his 2004 evaluation?

23 A. He was marked as (b)(7C)c

24 Q. Did he have any -- I know I've seen the
25 evaluation. It has -- what is it? -- five different

1 levels. Correct?

2 A. I believe that's correct.

3 Q. Right. And the meets expectation is in
4 the middle, and then you have the needs to improve.

5 Correct? And they're all --

6 A. That's correct.

7 Q. And there's different categories on
8 there. Correct?

9 A. Yes.

10 Q. Do you recall, on the 2004 -- and I know
11 you don't have it in front of you -- but do you recall
12 if he had received any marks in any category stating
13 that he needed improvement in 2004?

14 A. I don't recall specifically.

15 Q. But you do know his overall rating was

16 (b)(7C)c

17 A. Yes.

18 Q. All right. And how was his 2005
19 evaluation?

20 A. His 2005 evaluation had areas marked on
21 it as (b)(7C)c and also the overall rating
22 was (b)(7C)c

23 Q. And then that's the rating you're
24 talking about, how it would've affected his 2005 KPI
25 buyout. Correct?

1 A. That is -- that rating was subsequently
2 tied to the way the KPI bonus was paid out.

3 Q. So if he would've known the information,
4 that it would've been tied -- that the KPI buyout for
5 2005 would've been tied to that criteria, which stated
6 that if you were overall (b)(7C)c that you
7 wouldn't receive the full amount, would you have given
8 him something different?

9 A. No.

10 Q. So then why did you tell -- you said
11 earlier you didn't know the information, you didn't
12 have the information when you made the rating that that
13 would've affected the KPI buyout that he was given as
14 far as the bonus.

15 A. Because there was no link -- I was
16 provided no information that there was a direct link
17 between the overall rating in the performance appraisal
18 and how the bonuses were going to be paid out. That
19 was a decision that was made at a later date by our
20 vice president.

21 Q. And for the record, sir, Mr. (b)(7C)c
22 had never come to you and told you, "Hey, Mr. (b)(7C)c
23 has been inattentive in the ~~X~~control room~~X~~." Right? He
24 had never told you that. Correct?

25 A. He had never come to me and directly

1 told me that. No.

2 Q. Okay. And so, that would not have had a
3 bearing for you giving him that rating?

4 A. It hadn't. It's not related at all.

5 Q. Okay. All right. Or the conversations
6 that you did have with Mr. (b)(7C)c

7 A. Regarding?

8 Q. Regarding when Mr. (b)(7C)c told you,
9 "Hey" -- well, Mr. -- first of all, for the record,
10 Mr. (b7c) never told you that Mr. (b)(7C)c had come
11 to him.

12 A. That's correct.

13 Q. Right?

14 A. That's correct.

15 Q. All right. So you wouldn't have had any
16 connection with that?

17 A. That's correct.

18 Q. Am I summarizing this correctly?

19 A. You are correct that (b)(7C)c never
20 told me that (b)(7C)c had come to him and
21 expressed a concern. Therefore, you're also correct
22 that there could be no relationship between (b7c) rating
23 of (b)(7C)c and any discussion that (b7c) may have
24 had with (b)(7C)c because I was not aware of that.

25 Q. Were you ever instructed by

1 Mr. (b)(7C)c -- Mr. (b)(7C)c is your supervisor.

2 Correct?

3 A. Uh-huh.

4 Q. Were you ever instructed by

5 Mr. (b)(7C)c -- and I'm talking about you, Mr. (b)(7C)c --

6 A. Uh-huh.

7 Q. -- to give Mr. (b)(7C)c a lower

8 evaluation because he had come to him and made the

9 allegation about Mr. (b)(7C)c

10 A. No.

11 Q. That never occurred. Correct?

12 A. Never -- that never occurred.

13 Q. And you gave him his rating based on

14 what?

15 A. Based on his job performance.

16 Q. And nothing else?

17 A. That's correct.

18 MR. HICKEY: I have one other question,

19 because you brought out the fact that the evaluations

20 for 2004 and 2005 reach different conclusions. And I

21 wanted to ask Mr. (b)(7C)c

22 (b)(7C)c

23 (b)(7C)c whether you were given any direction from

24 management about the overall performance appraisal

25 process and how it should be implemented for the 2005

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1 performance appraisals.

2 THE WITNESS: Okay. I guess what I'd
3 like to do is just talk through that process, how it
4 evolved, if --

5 MR. HICKEY: Sure.

6 THE WITNESS: -- I could do that.

7 MR. ROMERO: Go ahead.

8 THE WITNESS: At roughly the end of
9 December, beginning of January, I prepared initial
10 performance appraisals for all of the (b)(7C)c
11 that work for me. I obviously prepared one for (b)(7C)c
12 (b)(7C)c on the initial appraisal that (b)(7C)c
13 (b)(7C)c in draft form as meets expectations. I had
14 mixed feelings on that, frankly, because I felt like he
15 was borderline.

16 However, given the way that we have done
17 performance appraisals over the years that I have
18 worked here, typically if you're rated (b)(7C)c
19 (b)(7C)c there's a very large gap in performance.
20 And (b)(7C)c I
21 did have in the written comments some significant
22 comments regarding his performance, particularly
23 related to standards, expectations, ownership and
24 initiative. I felt like he's very lacking in those
25 areas, and as a leader of people, a leader of crew,

1 those are key attributes to be successful.

2 On the 10th of January, we had a
3 performance appraisal calibration meeting that our vice
4 president and director of plant operations and some of
5 our managers and department heads attended. That --
6 and the purpose of that meeting was to do a calibration
7 of performance appraisals to basically raise the bar in
8 the interest of improving the performance of our plant,
9 because our plant performance had been poor.

10 And one of the opening statements that
11 our vice president made -- I believe it was our vice
12 president; it could've been our director of plant
13 operations -- made is that our performance appraisal
14 system doesn't seem to make sense because we have -- 80
15 percent of our people or more are rated meets
16 expectations or above, yet we're a poor performing NPOW
17 3 plant. And it's just not possible that we're being
18 objective enough and critical enough of the performance
19 of our employees.

20 And the purpose of us having this entire
21 group meet was to talk through that and talk about
22 individuals and get input and perspective from others
23 on people that we were rating. It was also stated that
24 the final decision for the rating rested with the
25 supervisor that was completing the evaluation. So in

1 this case, for (b)(7C)c

2 In that discussion, what was described
3 to us as being meets expectations is a person that
4 comes to work every day, does their job every day,
5 requires no real intervention or oversight from the
6 supervisor, meets commitments and all those sorts of
7 things.

8 And then we talked about individuals.

9 (b7C) is one of the people that we talked about. And I
10 got input from a few folks that had some concerns
11 similar to concerns I had with his ownership of
12 training and making effort to improve in training; some
13 responses via e-mails that were less than professional;
14 some documents that he generates and the level of
15 professionalism of those; meeting commitments like
16 making sure his crew remains qualified; and I'm not
17 having to constantly follow-up behind him and say,
18 "Hey, make sure this happens," or, "You need to take
19 care of such and such before, you know, tomorrow" type
20 things.

21 And when we discussed meets
22 expectations, one of the minimum requirements there is
23 that you meet all your commitments. (b7C) clearly
24 doesn't -- does not meet that definition. And it made
25 it very simple for me to say, "This is one of those

1 people that doesn't belong with the 60 percent" or
2 whatever -- of that 60 percent we had right in the
3 middle here. He's one of the ones that needs to move
4 over one notch to the left and be rated as [b7C]

5 [(b)(7C)c] So that's how we got to that.

6 I went back, based on the feedback from
7 our leadership team and my own opinion, and went back
8 and revised the performance appraisal. And then I
9 submitted it to [(b)(7C)c] for approval. Actually,
10 we sat down and talked about it, and he gave me some
11 feedback. And I made some further adjustments to it
12 and made adjustments to the wording. And then he
13 approved it, and then I discussed it with [b7C]

14 But the decision of where [b7C] fell
15 [(b)(7C)c] it was a clear
16 call. It wasn't -- I had no question in my mind that
17 that's where it belonged. And the difference between
18 2004 and 2005, really, is standards and expectations
19 that we as a site have implemented.

20 MR. HICKEY: And when you completed the
21 meeting on January 10th that you've just been
22 describing where all this discussion took place, where
23 was [b7C] rating at the end of that meeting?

24 THE WITNESS: At the end of that
25 meeting, he was in the [(b)(7C)c] category of

1 the supervisors we reviewed.

2 MR. HICKEY: Were there others in that
3 category --

4 THE WITNESS: Yes. There were.

5 MR. HICKEY: Other (b)(7C)c

6 THE WITNESS: Yes. There were.

7 MR. HICKEY: Peers of (b)(7C)c

8 THE WITNESS: Yes. (b)(7C)c was in
9 that category, and (b)(7C)c was in that category.

10 There were a couple of other (b)(7C)c

11 BY MR. ROMERO:

12 Q. What -- okay. This occurred January
13 10th, 2006?

14 A. Yes.

15 Q. Okay. And you said the leadership. Can
16 you tell me who this leadership team is, the names of
17 the --

18 A. The --

19 Q. -- individuals that are on this
20 leadership team?

21 A. Well, I use that term generically.
22 There's not -- we don't have what we call a leadership
23 team. But I'm talking about our vice president, Adam
24 Hefflin (ph); I'm talking about our director of plant
25 operations, which is Thibault; I'm talking about --

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1 Q. What's his first name?

2 A. Ludwig Thibault.

3 Q. Ludwig.

4 A. (b)(7C)c was not there that day. He-
5 was off site. I don't remember if he was on vacation,
6 but he was not present at the meeting. Chris Younie
7 was there. Ron Roselieus was there.

8 MR. HICKEY: Any HR people?

9 THE WITNESS: Right. HR people were
10 there. Betsy Fennigan and I cannot recall his name
11 right now. Dan Regelean, I believe it is. The two HR
12 people facilitated the meeting.

13 BY MR. ROMERO:

14 Q. And who were the people that gave you
15 feedback about Mr. (b)(7C)c) during this meeting -- you
16 were having this meeting?

17 A. I specifically remember getting feedback
18 from (b)(7C)c I remember getting feedback
19 specifically from (b)(7C)c There is no one else
20 that specifically comes to mind that had something to
21 say that stuck in my mind.

22 Q. And so, when you revised it, you went to
23 Mr. (b)(7C)c and you had a discussion with Mr. (b)(7C)c
24 about revising this evaluation. Correct?

25 A. Yes.

1 Q. And did Mr. (b)(7C)c fully agree with
2 you, concur with you? Or what did he say?

3 A. I made some further adjustments based on
4 his feedback, and my recollection is that I actually
5 adjusted it a little bit in the positive direction.
6 Based on the feedback I had gotten in the calibration
7 meeting, I had moved over into the (b)(7C)c
8 category on several items. And we sat down and went
9 through those and talked about them. There were a few
10 of them where, you know, we said, "Well, this -- maybe
11 this one should be over here."

12 And I think the adjustments we made
13 actually raised the rating in a couple spots. But
14 there were certainly numerous areas marked b7c
15 (b)(7C)c that resulted in the overall rating being

16 (b)(7C)c

17 Q. So then Mr. (b)(7C)c would have to sign
18 off on it to concur with it. Correct?

19 A. That's correct.

20 Q. And he did?

21 A. And he did.

22 Q. And then --

23 A. I took it back and made the revisions
24 that we discussed and brought it back to him for his
25 approval, and he approved it.

1 Q. And then you spoke with Mr. (b)(7C)c
2 You presented it to him. Correct?

3 A. That's correct.

4 Q. Do you recall when that occurred? It
5 will be on the form, if you don't recall.

6 A. It was on the 16th of February, I
7 believe.

8 Q. Okay. And what was Mr. (b)(7C)c
9 reaction?

10 A. He -- my understanding -- and (b)(7C)c told
11 me that he had mentioned to (b)(7C)c that we had rated him
12 as (b)(7C)c prior to us sitting down on the
13 16th of February, so (b)(7C)c knew that that was what the
14 rating was going to be. So (b)(7C)c came in, sat down. We
15 discussed it. It was obvious to me that he wasn't
16 happy, he was not pleased. He wasn't surprised because
17 he knew that was going to happen.

18 He didn't really have a lot to say. I
19 suggested to (b)(7C)c that he take his copy of the
20 appraisal and think about it, you know kind of digest
21 it a little bit, and then we could get back together
22 and talk later about it, and he said okay. And so,
23 that's where we left that at.

24 Q. Did you have a second meeting with him?

25 A. We had a second meeting. It wasn't

1 until after [b7c] and [b7c] had talked there in the first
2 part of March. I was gone on vacation the whole first
3 week of March. And with the rotation of the schedules,
4 I did not -- we did not get back together until the
5 first part of March.

6 Q. And then what took place in that
7 meeting?

8 A. Well, let me set the -- kind of frame
9 this. I was on vacation the first week of March. I
10 came back to work on the 13th of March. [b7c] grabbed
11 me that morning and said, "Hey, I had a blow out with
12 [b7c] last week and -- about his performance appraisal
13 and about his performance." And my understanding is
14 that [b7c] basically told [b7c] to go home and think
15 about what -- how he felt about the performance
16 appraisal and just things in general, then they would
17 get together and talk again the following week.

18 So I was back on Monday. And I told
19 [b7c] -- you know, well, [b7c] told me, he said -- he was
20 really concerned about [b7c] in terms of the direction
21 he was headed, because he was really going in a
22 negative direction, I'm going to say, regarding
23 attitude and so forth, based on the information [b7c]
24 gave to me. And [b7c] encouraged me to make -- to get
25 with [b7c] right away and sit down and talk to him.

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1 And, you know, I had been gone for a
2 week, and I had come in that Monday and it hit me cold.
3 And I did not want to try to just at the drop of a hat
4 sit down and have a discussion like that, so I made --
5 I talked to [b7c] that day, and I said, "[b7c] I
6 understand we need to get together and talk. How about
7 if we get together tomorrow morning and we sit down and
8 talk?"

9 And we sat down and talked on Tuesday
10 morning. And so, he had a little bit longer to kind of
11 think about all that had transpired. He came into my
12 office. We sat down and we had what I would call a
13 very good, open, frank discussion. We talked about how
14 he and I communicate with each other. We talked about
15 how maybe we've misunderstood each other or he has
16 misinterpreted some of the things that I have said or
17 done. We talked about how we could improve the way we
18 communicate and work together. We aired out some, I
19 guess -- apparently, there was some baggage associated
20 with how we've communicated over the last several
21 months. And we came to some agreement on how we were
22 going to go forward.

23 And I -- because I was concerned about
24 us having a common understanding, one of the things I
25 asked [b7c] to do was to sit down and write down what he

1 understood we talked about and what we agreed to do, or
2 what his perception of the meeting was, and asked him
3 to send that to me. And I did the same thing. I sat
4 down and wrote up my perception of what had taken place
5 and I sent that to him. And we both said, yeah, that
6 pretty much describes what we talked about, and kind of
7 tried to use that as a stepping stone to go forward,
8 you know, and to improve both our working relationship.
9 And what I was really interested in was how could I
10 motivate him to improve his job performance, because I
11 wanted him to improve his job performance.

12 Our company has a process, then, that we
13 use to work through people rated as (b)(7C)c
14 So b7C and I had some regularly-scheduled meetings in
15 development plan type work we have been doing since
16 then to follow-up on his (b)(7C)c rating.

17 Q. But he's -- is he still under you, sir?

18 A. No.

19 Q. No?

20 A. He's not.

21 Q. He's reporting to someone else?

22 A. That's correct.

23 Q. So he'll be reviewed by someone else?

24 A. He is working on this plan with someone

25 else. He worked for me for nine months of 2006, so

1 I'll have a lot of input into his performance appraisal
2 that gets done in 2007. And I have written one
3 follow-up appraisal since -- because the process
4 requires an interim appraisal. I've written one
5 interim appraisal for him. That was at the end of
6 August, I believe.

7 Q. How was that?

8 A. He had moved up in some individual
9 areas. I left him marked as (b)(7C)c overall,
10 and I sat down with him and explained to him why and
11 gave him very specific things to work on to get that
12 moved up. And what I told him was I felt like he was
13 on the right track. I believe I had him marked in, I
14 believe, it was nine areas (b)(7C)c, and we
15 only had two remaining. But they're the two hardest
16 ones because it has to do with initiative and ownership
17 still and that follow-through stuff. And that's where
18 he's got to try to focus his attention.

19 Q. Do you know if Mr. (b)(7C)c has suffered
20 any type of adverse actions for bringing forth his
21 allegation to Mr. (b)(7C)c or to the ECP?

22 A. No.

23 Q. You don't know of any?

24 A. No.

25 Q. Do you know if there's been any other

1 managers that have in any way could be interpreted as
2 giving him some type of adverse action for bringing up
3 that allegation?

4 A. No.

5 MR. ROMERO: Mr. Hickey.

6 MR. HICKEY: I don't think I have
7 anything more.

8 BY MR. ROMERO:

9 Q. Okay. Do you have anything to state,
10 sir? Anything that you want to follow-up on, sir, or
11 fully explain? This is your opportunity, sir.

12 A. I guess I'll ask Pat. I'm not sure that
13 we've clearly described how the KPI program works.

14 Q. Okay. If you want to --

15 MR. HICKEY: Let me see if I can help
16 with this.

17 CROSS-EXAMINATION BY MR. HICKEY:

18 Q. KPIs are these key performance
19 indicators. And you said that there are some that are
20 company-wide. Is it correct that unless the entire
21 company meets those, then no one in the company gets
22 any payment --

23 A. That's correct.

24 Q. -- for those? Similarly, for the
25 nuclear division, unless the nuclear division meets the

1 nuclear division's KPI goals, no one in the nuclear
2 division -- you, Mr. (b)(7C)c no one -- gets any bonus
3 payment for that; is that right?

4 A. Or they would be --

5 Q. Or it would be reduced.

6 A. -- would be reduced based on the areas
7 where you fell short.

8 Q. Right. And same thing for the
9 department. Those are all things that where the
10 payment is across the board and everybody gets it or
11 nobody gets it or they all get the same portion?

12 A. That's correct. It's the same for
13 everybody in the department.

14 Q. And so the only portion of the KPI bonus
15 that is tied specifically to the individual relates to
16 his individual KPI goals; is that right?

17 A. Correct.

18 Q. And you, as the supervisor of
19 Mr. (b)(7C)c evaluated whether -- or the extent to
20 which Mr. (b)(7C)c in 2005 met or didn't meet his KPI
21 goals?

22 A. That's correct.

23 Q. And your recollection is that in general
24 you concluded that he did meet them?

25 A. That's correct. He did meet the KPI

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1 requirements.

2 Q. And when you reached that conclusion,
3 was it your expectation that he would receive a bonus
4 payment for his individual KPI performance?

5 A. Yes. That's correct, also.

6 Q. Okay. Later you learned that was not
7 going to happen.

8 A. Later, I learned that at the executive
9 level, the vice president or chief nuclear officer
10 level, a decision was made that those rated needs
11 improvement would not receive a portion of their bonus.

12 Q. Did you participate in that -- in making
13 that decision?

14 A. No.

15 Q. Were you asked about it?

16 A. No. I had no input on that decision.

17 Q. Okay.

18 MR. ROMERO: Let's go off the record,
19 Lisa.

20 (WHEREIN; a short recess was taken.)

21 MR. ROMERO: Okay. We're back on the
22 record, and the time is -- what is it? -- it's 2:15
23 p.m. The interview of Mr. b7c.

24 REDIRECT EXAMINATION BY MR. ROMERO:

25 Q. Mr. b7c, can you please tell me for

1 the record -- we've been talking about the KPI payout
2 bonus program that you have here at Callaway. Can you
3 tell us for the record, sir, what is the criteria? How
4 does it work? Does every employee -- are they promised
5 a bonus?

6 A. The bonus is not a promise. The bonus
7 is established each year. And the bonus really is made
8 up of two components. I'll go into this in detail.

9 One component, again, is the corporate
10 part of it. That's 50 percent. The other 50 percent
11 has to do with the division and the individual portion.
12 In the -- we use a program that I mentioned earlier
13 called Merit Net, and it is a computerized process that
14 allows us to document how we're allocating bonuses and
15 pay raises. And it gives guidelines for how -- how we
16 should allot money based on the way a person is rated.

17 In the case for a (b)(7C)c
18 rating, the guideline in the program is to consider
19 reducing the KPI bonus because of the rating. When
20 (b)(7C)c) and I did the salaries, we chose not to
21 reduce the bonuses as a result of the rating. We did
22 not reduce those, and it was our intention and it was
23 our understanding going forward when we submitted
24 the -- our pay information on up in through the
25 organization for approval that that bonus was -- we

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1 were recommending that those bonuses be paid.

2 Q. Okay. And in this case you were
3 recommending that Mr. (b)(7C)c bonus would've been
4 paid?

5 A. That's correct.

6 Q. Correct?

7 A. That's correct.

8 Q. Was Mr. (b)(7C)c ever informed or
9 promised by you or any other person in management here
10 at Callaway that he would've been receiving a certain
11 amount for his KPI bonus?

12 A. I had a discussion with b7c that
13 related to the -- when I discussed -- I need to think
14 about that just for a second. I know that at some
15 point I made a comment to b7c when he was rated b7c
16 (b)(7C)c that to my knowledge that was not going to
17 affect the KPI bonus. I told him that to my knowledge
18 that was not going to affect that. I also made the
19 statement that things are always subject to change.

20 Q. When did that discussion take place,
21 Mr. (b)(7C)c

22 A. I can't say exactly. It would've been
23 in the February/March time frame.

24 Q. Okay. February/March --

25 A. February/March time frame.

1 Q. -- of 2006?

2 A. Yes.

3 Q. Okay. Do you -- did you ever see
4 anything that was put out -- something similar to this
5 (indicating) concerning the KPI buyout that these were
6 the numbers? And I believe these would've been the
7 numbers for your area.

8 A. I'm sure that I received this e-mail.

9 It's addressed to ops management. (b)(7C)c

10 administers that for us. So these are -- as I was
11 describing earlier, these are the KPIs that we used for
12 our department.

13 Q. For the record, I'm showing Mr. (b)(7C)c a
14 copy of an e-mail that I had received which shows the
15 KPI numbers for the KPI bonus program. Correct?

16 A. That's correct. So in our department we
17 used procedure quality corrective action budget, outage
18 milestones, observations, which was an individual,
19 department clock resets and crew clock resets to
20 determine how we were paying out our KPI. Now, this
21 portion actually makes up -- I believe it's 50 percent
22 of the total.

23 So if -- in (b)(7C)c example here, based
24 on how we did as a department and then as an
25 individual, a person that shows 95 percent based on

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1 what's shown on this sheet of paper would be receiving
2 95 percent of the 50 percent that's allotted to the
3 department. There's an additional 50 percent that is
4 based on the division and how the division did.

5 Q. Okay.

6 A. And I believe we did -- and it looks
7 like it -- looking over -- what we have here is we did
8 very well department-wise. There were a couple of
9 division goals that we did not meet. And I think that
10 the maximum payout in our department was on the order
11 of low 90 percent -- 92, 93 percent. So an individual
12 that did everything right and met all their individual
13 stuff here, added in with the department and then added
14 in with the division, would've been at approximately 92
15 percent. And I could be off by a little bit either way
16 there, but that is about what it was.

17 MR. HICKEY: Ninety-two percent of the
18 50 percent?

19 THE WITNESS: No. Ninety-two percent of
20 the total.

21 MR. HICKEY: Including --

22 THE WITNESS: Of the total.

23 MR. HICKEY: -- including the company
24 goals?

25 THE WITNESS: Including the company

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1 goals.

2 BY MR. ROMERO:

3 Q. So when these bonuses are paid, sir, are
4 they a percentage of a person's salary?

5 A. Yes.

6 Q. And so, do you recall what percentage
7 that Mr. (b)(7C)c received for his 2005 bonus?

8 MR. HICKEY: What he did receive?

9 MR. ROMERO: Yes.

10 THE WITNESS: No. I do not know what he
11 received.

12 BY MR. ROMERO:

13 Q. You don't know those numbers?

14 A. I do not know that number.

15 Q. Well, let me ask you another question,
16 sir. Looking at this, sir, would a person be able to
17 calculate what they were going to be getting as far as
18 a bonus based on this e-mail?

19 A. Yes.

20 Q. Oh, they would be?

21 A. They would be able to come very close to
22 calculating that. And I can take the time to read
23 this, and it probably would -- or I could probably
24 explain it if you would like for me to.

25 Q. Well, that was just my question. And

1 the answer is yes. Right? They would be able to?

2 A. I'm saying generally, yes. Meaning you
3 could --

4 Q. Approximately.

5 A. -- come in -- you could get very close
6 to that. Yes.

7 Q. Okay. So a person could use these
8 calculations and come up close to the amount they feel
9 that they would receive?

10 A. Actually, based on this e-mail, since
11 this e-mail is specific to the operations department
12 KPIs, a person could use this e-mail to determine
13 approximately how much of the department portion they
14 would receive. In other words, the 50 percent of the
15 total.

16 Q. It's 50 percent of the total is their
17 bonus?

18 A. Yes.

19 Q. Okay. Do you know if Mr. (b)(7C)c
20 specifically was ever promised or given a figure on how
21 much he would receive for his KPI bonus payout --

22 A. No.

23 Q. Via e-mail or someone sitting down and
24 talking to him?

25 A. No. I don't have any knowledge of

1 anyone giving him a specific figure.

2 Q. You never gave him a specific figure or
3 percentage?

4 A. Not that I recall. Not that I recall.

5 Q. One last time just to summarize it, sir,
6 is that you gave him that evaluation based on the
7 evaluation on what he had done as far as criteria
8 concerning his work. Correct?

9 A. Yes. That's correct. Based on job
10 performance.

11 Q. And nothing to do with him raising any
12 type of allegations?

13 A. It would've been impossible for me to do
14 that because I didn't know he was the person that made
15 the allegation until March.

16 Q. Until March.

17 A. Until March -- my discussion with (b)(7)c
18 (b)(7)c in March. I'm going to say on the 13th of
19 March.

20 Q. And you had already given him that
21 evaluation?

22 A. Yeah. The appraisal was already
23 approved, signed by (b)(7)c discussed with (b)(7)c. It was
24 already complete. I had no idea that he was involved.

25 Q. Okay.

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1 MR. ROMERO: Any more questions,
2 Mr. Hickey?

3 MR. HICKEY: No.

4 MR. ROMERO: Mr. [b7C] anything else?

5 THE WITNESS: No.

6 MR. ROMERO: Okay. I just have a couple
7 of closing questions. Mr. [b7C] have I or any other
8 NRC representative threatened you in any way or offered
9 you any rewards in return for the statement you've
10 given today?

11 THE WITNESS: No.

12 MR. ROMERO: Okay. Have you given this
13 statement freely and voluntarily?

14 THE WITNESS: Yes.

15 MR. ROMERO: Okay. This interview is
16 concluded, and the time is approximately 2:24 p.m. The
17 date is November 1st, 2006. Thank you, sir. I
18 appreciate it.

19 THE WITNESS: Thank you.

20 (WHEREIN; the interview was concluded at
21 2:24 p.m.)

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