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NUCLEAR REGULATORY COMMISSION

Title: Interview of Joseph Ward Leavines

Docket Number: (not assigned)

Location: St. Francisville, Louisiana

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CASE NO. 4 - 15 - 005

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF INVESTIGATIONS

INTERVIEW

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IN THE MATTER OF: :

INTERVIEW OF : Docket No.

JOSEPH WARD LEAVINES : (not assigned)

:

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Friday, July 21, 1995

Riverbend Station

Conference Room

5485 U.S. Highway 61

St. Francisville, Louisiana

The above-entitled interview was conducted at 8:30
a.m., when where present:

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1 ON BEHALF OF THE NUCLEAR REGULATORY COMMISSION.

2 JONATHAN ARMENTA, JR., Investigator

3 DENNIS BOAL, Investigator

4 U.S. Nuclear Regulatory Commission

5 Office of Investigations

6 611 Ryan Plaza Drive, Suite 400

7 Arlington, Texas 76011

8
9 ON BEHALF OF THE ENTERGY OPERATIONS, INC.:

10 DOUGLAS E. LEVANWAY, ESQ.

11 Wise Carter Child & Caraway

12 600 Heritage Building

13 Jackson, Mississippi 39205

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P R O C E E D I N G S

(8:35 a.m.)

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2
3
4 MR. BOAL: For the record, this is an
5 interview of Mr. Joseph Ward Leavines, whose date of birth
6 is [REDACTED]. He is employed by Entergy Operations,
7 Incorporated as manager of nuclear safety and assessment.

8 Today's date is July 21, 1995, and the time is
9 approximately 8:35 a.m.

10 Additionally present at this interview is Mr.
11 Jonatnan Armenta, Jr., investigator, NRC, Office of
12 Investigations, Region IV; Mr. Dennis Boal, investigator,
13 NRC, Office of Investigations, Region IV; Mr. Douglas E.
14 Levanway, attorney with Wise Carter Child & Caraway,
15 attorney for Entergy Operations, Incorporated, as well as
16 representing Mr. Leavines here as counsel.

17 Is that your understanding and agreement, Mr.
18 Leavines?

19 MR. LEAVINES: It is.

20 MR. BOAL: This interview is being tape
21 recorded by court reporter, Ms. Sandra McCray, and is a
22 voluntary interview pertaining to alleged violations of 10
23 CFR 50.7.

24 Mr. Leavines, at this time, could I ask you to
25 please stand and raise your right hand, so I can
administer an oath.

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1 Whereupon,

2 JOSEPH WARD LEAVINES

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

5 EXAMINATION

6 BY MR. BOAL:

7 Q Mr. Leavines, could you tell us your
8 educational background, please.

9 A I have a bachelor's degree in nuclear
10 engineering.

11 Q And the date of your degree?

12 A 1973, May 1973.

13 Q When did you first come to work at Riverbend
14 Station?

15 A Let's see. I joined GSU in June of that same
16 year, '73. Riverbend wasn't under construction then, so I
17 came in 1979, in July, on site. I had worked previous to
18 that time, about 1977, in the nuclear licensing
19 department, working to get the construction permit, so I
20 was associated with the project then.

21 Q All right. For the period 1990 forward, could
22 you tell us your job titles and supervisors here at
23 Riverbend.

24 A From 1990, I think we had a reorganization at
25 that time. I went to work for Bill Odell as supervisor of

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1 independent safety engineering group and then stayed in
2 that position. I think Mr. Jim Booker came in sometime
3 later. I am not sure of the exact date, and then Entergy,
4 of course, took over in 1993, and I began working for Jim
5 Fisicaro and then sometime after that was promoted to
6 manager of nuclear safety and assessment.

7 Q You were manager of nuclear safety and
8 assessment in 1994?

9 A Yes.

10 Q The items that we would like to cover in our
11 interview here pertain to a process initiated by Entergy
12 Operations, Incorporated sometime in the summer of 1994,
13 as we understand it, and it is called the management
14 planning and review ranking process. Are you familiar
15 with that process?

16 A Uh-huh. I am.

17 Q Could you tell us how you first heard about
18 that process.

19 A Well, I can't recall if I had heard about it
20 before the training sessions but the first details I got
21 on it was a training session with human resources here on
22 site.

23 Q Do you recall when that was?

24 A No, I really don't. I think it was sometime
25 later in the summer or early fall, before we actually

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1 implemented the thing.

2 Q Did you have employees that you supervised?

3 A Yes.

4 Q And did you have employees that you then
5 ranked under this process?

6 A I did.

7 Q How many employees did you have?

8 A I had a total in the group of 19. I didn't
9 rank all those. I had supervisors that ranked their
10 personnel. I had some nonsupervisory personnel, direct
11 reporting to me. I think the number there was about,
12 leaving out the classified because they don't fall into
13 this program, I think I had about two supervisory and four
14 non, so it would be about six people, six or seven people
15 that I personally ranked, and then the balance of those
16 folks were ranked by the personnel that supervised them.

17 Q In your understanding of the training and
18 discussion about this ranking process, what was the
19 purpose of this process?

20 A Well, it was designed to -- well, to go back,
21 in the history of the company, it had not been at all
22 usual that anybody was ranked in the lower parts of the
23 available systems, and they felt like that that wasn't
24 correct, that we probably, you know, skewed somewhat in
25 our ranking system. That was true in GSU prior to the

1 Entergy merger as well, and this was an attempt to cause
2 kind of an across-the-board ranking of all the
3 similarly -- similar level personnel to occur, so that you
4 knew who your best performers were and who your not-so-
5 good performers were and got that information out.

6 Q Do you recall what the main indicators were
7 that were going to be used in this process?

8 A I don't understand. Indicator? What was
9 that?

10 Q Right. I believe -- well, I am making
11 reference to performance and potential.

12 A Oh, yes.

13 Q Those appear to be the two.

14 A You had your nine blocks of ranking and you
15 had a relative potential and performance. You had
16 performance at three levels and potential at three levels,
17 just matrixed, and depending on relative high, medium or
18 low in each of those categories, determine what block you
19 put people in.

20 Q In your memory of the training and discussion
21 about the ranking process, was there any direction to
22 target or single out a group of individuals or personnel
23 for placement in the lower tiers?

24 A Oh, no. Other than by performance, you mean?

25 Q Yes, sir.

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1 A No.

2 Q Do you recall if there was any discussion,
3 either in the training or in your participation in the
4 actual process, about individuals who may have had a label
5 as a whistleblower?

6 A Oh, no.

7 Q In your experience here at Riverbend Station,
8 are you aware of some people who have a label as a
9 whistleblower?

10 A I know of some instances where people, you
11 know, had to use the available recourses there, but as far
12 as a label that they carried with them or something. No.
13 I mean, you just knew of it, but --

14 Q Do you know if those people are treated any
15 differently?

16 A No. In fact, one of them works for me and
17 wasn't treated differently.

18 Q Mr. Leavines, behind you on a board, we have
19 what we believe is kind of a summary of how the ranking
20 process worked, starting with A, the first-line supervisor
21 would actually create the initial list, and then, B, that
22 supervisor would meet with his peers and actually do what
23 they called the roll-up. As we understand, the roll-up
24 was merging all the -- a bigger list, and then that would
25 move on up to apparently supervisors would then meet with

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1 their managers, and they would form a list, a merged list,
2 called the roll-up.

3 Is that your --

4 A That is generally how it worked. The first
5 two were within a group like my group, nuclear safety, and
6 the third one there where you are talking about -- you
7 have labeled here, QA licensing assessment and EP, would
8 be the roll-up at Jim Fisicaro's level, where we would
9 look at similar job titles across the board here.

10 I didn't really employ the second one there.
11 I had two supervisors, so it wasn't -- and one of the
12 supervisors is a senior staff engineer, so I had to be
13 directly involved in his actual ranking process. And we
14 didn't have a formal roll-up with the two supervisory
15 personnel within my group. It was just -- I was cognizant
16 of everyone and the way they were ranked there, so we
17 didn't have that. We rolled them up at this level C here,
18 QA, licensing, assessment and EP. But that is generally
19 how it laid out.

20 BY MR. ARMENTA:

21 Q Mr. Leavines, who were the two supervisors,
22 did you say?

23 A Vince Klco was -- he is a senior staff
24 engineer. He is acting as a supervisor in performance
25 assessment training area, and --

1 Q Does he have people that answer to him?

2 A Right.

3 Q How many?

4 A He has got -- let's see. He has got four
5 counting the co-op back there.

6 Q And who was the other supervisor?

7 A Mike Malik.

8 Q At the time -- we are talking at the time --

9 A That is at the time, and that is still true.
10 They are both still in those positions.

11 Q And do you have another supervisor right now?

12 A No.

13 Q Does Mr. Gates work for you?

14 A No. He works in nuclear licensing.

15 Q How many people answer to Mr. Malik?

16 A He had eight at one time. I think he has got
17 seven now, right now.

18 Q And Mr. Rougeux?

19 A He was a senior engineer reporting directly to
20 me. He has been transferred to Mr. Malik's group.

21 Q Is his position open or not?

22 A No. We closed those. Mr. Daily [phonetic]
23 transferred. You are pointing to the blocks there with
24 Rougeux and Daily in it. Those two senior engineers were
25 transferred into -- Rougeux went into Malik's group, as I

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1 mentioned, and Daily went into the licensing group.

2 We then let those positions close, and the
3 reason we did that was because it looks -- that aligns us
4 more like Grand Gulf's structure in their similar group.
5 We found we could have some efficiencies there and didn't
6 need to -- you know, what that does is it avoids having to
7 lay people off; you just attrit the open positions if you
8 don't need them, so we are doing some of that kind of
9 thing.

10 Q So at one time, you did have 19 employees.

11 A Uh-huh.

12 Q You are down to eleven maybe?

13 A Yes. Add them -- yes. About eleven or
14 twelve. Something like that.

15 Q About 13?

16 A Uh-huh.

17 Q Approximately? Okay. That is fine.

18 A I can get an exact number if you want. I
19 just -- or count them.

20 Q I just wanted to get an idea of where we stood
21 in the chart. Thank you.

22 BY MR. BOAL:

23 Q Do you recall if you were involved in
24 informing individual employees that they had been ranked
25 block 9?

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1 A Uh-huh.

2 Q Do you recall the direction you received in
3 how to invoke that process?

4 A Yes. I think we received a letter on that,
5 which was -- gave us some real basic outlines about how to
6 do that. And it was to just let them know that they had
7 been ranked, essentially ranked at the 9 level, explain
8 the gravity of it to them, and what the procedure would be
9 from there forward, and what their options were.

10 They had an option for a several package,
11 which they could take or not take -- it was entirely up to
12 them -- or to go on an improvement plan, and that is
13 pretty much basically it.

14 Q As our investigation has evolved, we
15 understand that this ranking process actually evolved from
16 the first time it was presented to the time it was
17 enacted, and one of the subjects we recall that changed is
18 initially there was no mention about the severance
19 package, but in February, the severance package was
20 presented.

21 Do you recall how that change was effected?

22 A That seems right to me. I don't really
23 remember the details. I don't remember anything about a
24 severance package up front; just at the time when it came
25 time to actually tell people the ranking. I knew it was

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1 available then. But I don't recall any discussion of it
2 prior to that.

3 Q In your experience, do you feel that the
4 supervisory and management personnel were provided the
5 same information about this ranking process as the
6 employees were?

7 A Pretty much, yes, because we had a -- there
8 was a time -- we have a problem called Key Communicator.
9 I don't know if anybody has explained that to you before,
10 but it is kind of a system where people are designated
11 throughout the organization to communicate key programs
12 and things as they come out.

13 And we had an output from the Key Communicator
14 program as I recall that came out. I am in the chain of
15 people. I got that and went over the whole process with
16 all my folks. They had all the salient points, just like
17 the supervisors and managers did.

18 Q When you informed employees that they were
19 ranked in block 9, how many did you --

20 A One. I just had one.

21 Q Do you recall that meeting that you had with
22 that employee?

23 A I do.

24 Q Did that employee express surprise, or did he
25 accept the ranking, or how would you characterize it?

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1 A He seemed like he was surprised and certainly
2 didn't accept the ranking.

3 Q What would you attribute that to, that
4 reaction to?

5 A I think -- you know, and this is something
6 that he and I discussed at some length. I think that
7 arises from the difference that he has in his perception
8 of what the job is and what the paradigm for the job is
9 now.

10 His -- as I said to him, his is more of a --
11 kind of a functional sort of perspective on the job, that
12 there ought to be certain routine things that he will do
13 and take care of, where as the Entergy perception for a
14 supervisor is more of a leader and a visionary and an idea
15 type person, that you are the one that tends to drive the
16 improvement of your processes and your people and so
17 forth, rather than just kind of caretaking a function.

18 And his -- you know, he does the caretaking
19 portions reasonably well, but the drive portions aren't
20 there. I don't think he fully understood that paradigm
21 for the job, so I think that is where the -- his confusion
22 arose.

23 Q In your experience here at Riverbend Station,
24 do you believe this ranking process achieved the goal that
25 it was trying to achieve or designed to achieve?

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1 A I think so. It is probably about as close as
2 you could get.

3 Q Do you -- in your experience, do you feel that
4 it was an objective -- and I realize "fair" is a very
5 subjective term, but you know, a fair way of accomplishing
6 the ranking?

7 A Yes. And I think maybe I can give you a
8 little perspective on that, and that is that if you go
9 back to the GSU days before the merger and you look at how
10 people were rated then, there would be -- periodically
11 there would be attempts to try to force a bell curve kind
12 of thing, you know, in population in general, but we had
13 never had a mechanism like this to roll the population
14 together.

15 So you were in a position of trying to do that
16 specifically perhaps with a small group of people, and it
17 oftentimes wouldn't fit. If you only have two or three
18 people, they don't necessarily fall out along the curve.
19 They may all fall towards the top end or the middle or
20 whatever.

21 So this process at least gave you something
22 to -- where you could get the whole population together,
23 and you had a chance of seeing something statistically,
24 correct and significant and fair, if you want to use that
25 subjective term with regard to laying this out.

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1 It is not a pleasant process, that sort of
2 thing isn't. I think that is why people tend to avoid the
3 ranking personnel lower.

4 Q One of the concerns that we are looking at a
5 little more closely about the ranking process is whether
6 or not there were checks and balances in the process that
7 would prevent a prejudice against whistleblower type
8 individuals, basically since that is our jurisdiction.
9 Did you see that kind of process involved in the ranking
10 process?

11 A Sure. Just what you described on the board,
12 the roll-up there never really let this be just one
13 person, one supervisor's opinion of any one individual or
14 even group of people. You had to roll it up and justify
15 where these folks fell, either on the very high end or the
16 low end.

17 We talked more, quite frankly, about the
18 people at the very top of the process and the very bottom
19 of the process. For example, you get questions like, Why
20 do you feel that person ought to be ranked in block 1 or
21 2? What has he done to justify that ranking? You know,
22 how do you -- why do you assess his potential in that way?

23 Because I think we wanted to be sure that when
24 we put people on the fast track towards success, towards
25 putting them in, you know, positions of greater

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1 responsibility that we were making the right choices.

2 And then conversely, on the bottom end, we
3 didn't want to, you know, have someone arbitrarily and
4 inaccurately put some person who might be a valuable
5 employee into a rank that would -- could potentially take
6 him away from the company. So that is why they did the
7 roll-up like that, and it checks and balances in
8 questioning all along the way there.

9 We didn't really talk about things like -- you
10 know, the whistleblower business wasn't really mentioned.
11 We didn't single people out, talk about them individually
12 and say, Well, did you rank him that way because of that;
13 no one ever -- that never came up to my recollection. We
14 talked about things about, What is this guy's performance?
15 Why do you say his performance is that way? Why do you
16 say his potential is this way, if they were at either end
17 of the spectrum?

18 MR. BOAL: Jonathan, do you have some
19 questions you would like to ask?

20 MR. ARMENIA: Yes. I have some questions.

21 BY MR. ARMENTA:

22 Q Do you recall the first couple of years as the
23 director or manager -- I think those terms are used
24 inverted with GSU --

25 A Yes. The GSU director level is the equivalent

1 of the EOI manager level. And, yes. Do I recall --

2 Q Yes. The first two years that you performed
3 evaluations on your employees.

4 A Yes. It goes all the way back to when I was a
5 supervisor.

6 Q Which is 19- --

7 A Yes. That went back as far as 1979 when I
8 came on as a supervisor of personnel here on site during
9 construction time.

10 Q All right. The most recent GSU appraisal that
11 you might have had, let's say, in '92 and '93 perhaps --
12 maybe '91, '92; I am not going to get too technical on the
13 dates. But the most recent last two performance
14 appraisals, do you still recall that method of evaluation
15 and employee performance appraisal?

16 A Reasonably well, yes.

17 Q And you stated earlier you are familiar with
18 the ranking process.

19 A Uh-huh.

20 Q How well -- how familiar are you with the
21 appraisal, the new EOI employee performance evaluations?

22 A The PPRs?

23 Q PPRs.

24 A I am pretty familiar with that too. I had to
25 do those as well.

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1 Q What is the major difference between now and
2 then?

3 A The PPRs we do now and the ones that we did at
4 GSU, those times?

5 Q Yes, sir.

6 A Let's see. We had -- there were several
7 systems that we used in GSU. One did not employ any kind
8 of numerical system for evaluating people. Then we
9 evolved into one that did employ that. I will use that
10 last one, since that is the most recent one.

11 The PPR doesn't have a numerical evaluation
12 system in it. It has goals and objectives that you
13 measure people against. That is just kind of go/no-go;
14 did you do it or not, sort of thing. And then it has
15 another section where you look at the key behaviors that
16 they exhibit, while these things are being accomplished.

17 The other system had a numerical ranking
18 system that you looked at a number of characteristics
19 associated with their performance and then ranked them --
20 I forgot exactly whether it is 1 through 4 or what, but
21 you ranked them through -- with a rank number, and then
22 that ended up getting multiplied by a weighting factor for
23 that particular behavior. And all that evolved out of the
24 job description and was kind of done by computer actually.

25 When you described how you -- you know, levels

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1 of freedom to act and things like that in your job that
2 you had, that did two things. It gave you a rating for
3 the job, which had to do with salary and that sort of
4 thing, and it also spun off these ranking things, the
5 weighting factors.

6 So that was kind of more numerical in a sense
7 over there, and this one over here was more of a, Let's
8 look at our goals and objectives, and then let's look at
9 these key behaviors on the side, and meld those two
10 together to get a rating. So one is sort of qualitative;
11 the other one is sort of -- somewhat numerical, although
12 there is qualitative aspects of selecting a number, too,
13 1, 2, 3 or whatever.

14 Q Would you say then that the -- surely the
15 mechanics, structure from the current is more, I guess --
16 there is more mechanics to the current one and more
17 structure to the current one than there was to the old
18 one?

19 A As far as any kind of ranking is concerned,
20 yes. Now, there was a lot of structure and mechanics
21 associated with just the individual evaluation that you
22 would give someone in the old one, just like there is in
23 the new one.

24 The difference is with -- you do the PPRs, and
25 that is kind of an in-isolation sort of thing, where you

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1 look at the individual's goals and objectives and his
2 behaviors. Then we do the ranking, where we roll people
3 up against their peers, to see how, given that they, you
4 know, performed in a certain way as documented by the PPR,
5 how they compare to the other folks.

6 So they are kind of like -- they are not
7 separate processes. They are linked, but they are not
8 really the same -- if I am making that --

9 Q When you say they are not separate processes
10 but they are linked, we are talking about -- I need to
11 make sure; I need to understand what you are talking
12 about, because we want to make sure we are clear.

13 A Right.

14 Q When you say they are linked, you mean the
15 ranking process and the PPR.

16 A Yes. They have to be linked, because you have
17 got to have at least a starting point with regard to
18 someone's performance, to be able to compare them to
19 someone else in a similar job classification. So that is
20 almost a given. You have got to -- you have to know what
21 the performance levels of the individual are and how he
22 went about achieving the things he did before you can
23 begin to compare them to other people. So they are linked
24 that way.

25 Q Is that what you were told and instructed,

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1 that that is the way it is? Or is this something that you
2 developed?

3 A Well, that is -- I don't recall being -- I don't
4 recall hearing much about how those two related in that
5 way, but that is just how they have to be. Simple logic
6 tells you that is the way it is. I don't recall being
7 told anything, you know, think of them that way, but --

8 Q Well, I am just trying to find out ho other
9 supervisors may view these or other managers may view
10 this. Would it surprise you that other managers have a
11 different viewpoint of this?

12 A Might -- yes, it -- well, depending on how
13 different it is, it might surprise me.

14 Q Would you say that the ranking process would
15 probably be maybe administered in mechanically different
16 ways?

17 A From group to group?

18 Q Yes.

19 A It is possible, I suppose.

20 Q Mr. Boal asked you about how many people you
21 had ranked, and we talked about two supervisors with six
22 employees. What I would like to ask you to do, if -- to
23 the best of your recollect, Mr. Leavines, looking at the
24 board that Mr. Boal pointed out earlier, kind of take me
25 step by step in how Mr. Mike Malik was ranked.

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1 A Okay. He --

2 Q Let's go a step beyond that. Let's first take
3 care of one of his staff employees.

4 A One of his staff employees?

5 Q Yes. What happened?

6 A Mike would have ranked that individual
7 himself.

8 Q All right. What do you mean by ranked?

9 A Okay. You would look at -- here is this
10 handout right here. There are several ways you can do it.
11 One way you can do it is to just take people based on your
12 analysis of their performance and their potential and rank
13 them 1 through however many people you have got and then
14 divide that in thirds. That is a picture of it right
15 there.

16 MR. ARMENTA: For the record, I am
17 illustrating the blue cover supervisor management planning
18 review ranking process directive. And we are looking at
19 this page where it says, The ranking process, and steps of
20 guidelines and rules be continued.

21 BY MR. ARMENTA:

22 Q You have A column, B column, C column, and you
23 have got your numerical list of employees -- or let me
24 say. Every employee is assigned a number.

25 A Right.

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1 Q You list them and then in B, you have your
2 performance column, and C, you have your potential column.
3 Is that correct?

4 A Right. That is what you have got there.

5 Q I wanted to explain that for the record; I
6 want you to kind of give me step by step.

7 So Mr. Malik gets his list of employees, and
8 if there is -- let's just take a good number here; seven,
9 for example.

10 A Okay.

11 Q He has got seven employees, and he is going to
12 list them 1 through 7. Then what?

13 A Then he will -- he knows what their
14 performance levels are, so he can rank them 1 through 7
15 that way, and then he can turn around --

16 Q And how does he know what their performance
17 levels are?

18 A That is his job as a supervisor, is to
19 evaluate his -- one of his jobs is to evaluate his
20 employees' performance, and at EOI, that is an ongoing
21 process. It is not just -- you don't just do that once a
22 year or something. You are supposed to be doing that
23 periodically.

24 Q To your understanding, how does he accomplish
25 that task?

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1 A Well, he can formally accomplish it with the
2 PPR process, whereby he looks at the goals and objectives
3 that have been set for the employee and compares their
4 actual performance against.

5 Then he will move into the key behaviors
6 section of the PPR and rank their behaviors or evaluate
7 their behaviors there as either exceeded, met, or as an
8 opportunity for improvement in their behaviors as they
9 accomplish those tasks over there in the goals and
10 objectives section.

11 And then out of that you can roll up an
12 overall rating for the individual. Not a rank, but a
13 rating.

14 Q So this list, Mr. Malik has of one of
15 employees, and he doesn't rank them. He just --

16 A Well, that is so he can do this column B,
17 performance right here. So, say, he has done this PPR
18 process or he has just been constantly given feedback and
19 checking their progress against goals and so forth. He
20 knows how he is going to rate these people 1 through 7 in
21 his group with regard to performance, and that lets him
22 make up column B. That tells him, you know, how they rate
23 there with performance relative to one another.

24 Q Okay.

25 A Then potential is over on the other side.

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1 That is -- he would about that by looking at their
2 background, their -- key behaviors would come into that to
3 some degree, as to how they interact with customers and so
4 forth, and then their educational levels and that sort of
5 thing would also come into play with regard to their
6 ability to advance to the next rating, and does that
7 rating require, you know, a degree or not; do they have a
8 degree or not, that sort of thing.

9 So all that would roll up, and then he would
10 take them 1 through 7 there, and you would get a list that
11 would look something like that, you know; would have names
12 and columns.

13 Q For the purposes of this illustration, I said
14 seven; let's take nine. I think that will be our magical
15 number, nine employees. Is it correct to say then that
16 the employee who is assigned numerical number 1 on B
17 column, performance, is probably the top performer and the
18 employee assigned numerical 9 would be the -- at the
19 bottom, maybe nine notches behind the first one.

20 A Yes.

21 Q I mean, he may be good, but he may be nine
22 notches behind the first one. Is that correct?

23 A Yes. That is right. Conceptually, you are
24 right on the mark there. The spread could be very narrow
25 in performance, or it could be pretty wide.

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1 Q In other words, we are not saying that he is a
 2 poor performer, but it is just like when you get an A or
 3 an A-plus or an A-minus, what is the difference, but it is
 4 the numerical order. Is that correct? You can have a
 5 student that might have gotten a 90 -- it is still an A --
 6 and one that got a percent 100 -- he is right on the mark.
 7 But they are still A students.

8 A Right. That could happen.

9 Q That could work, and it could work that you
 10 might have your A, B, C or a very poor performer, too.

11 A Yes. You could have A, B, C, and F. That is
 12 right.

13 Q And in your C column under potential, you have
 14 the same numerical assignment.

15 A Right.

16 Q Okay. We are -- I think we are straight on
 17 this step. What happens then? Mr. Malik has this list.
 18 He has got nine employees. Okay.

19 A And he and I go over that.

20 Q You set up a meeting.

21 A Sit down, talk about it, look at what he has
 22 got.

23 Q Just on the one -- you and him alone?

24 A Yes. Just he and I. We didn't do it with he
 25 and I, and Vince and his group, because the numbers of the

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1 people aren't that high. He didn't have to do that. Some
2 of the job classifications were different enough that you
3 really couldn't compare people across those, so, you know,
4 I had the total of the two groups from talking with the
5 two individual supervisors and my own director. You know,
6 we looked at that and agreed upon those, as to where he
7 had actually ranked people and, you know, what blocks he
8 would put them into.

9 Then --

10 Q How did you accomplish that?

11 A We just sat and talked about it basically, sat
12 there and talked about, why do you have this person in
13 that block; what is the justification; what is the reason.
14 It is kind of a check to make sure there is some logic
15 behind some thought that has gone into it, that they
16 haven't just arbitrarily, you know, stuck people into
17 blocks, but rather have considered -- really considered
18 their performance and their potential and that kind of
19 thing; that they have, in fact, executed the process
20 correctly.

21 Q Was there a worksheet or did you work off the
22 PC screen or worksheet or --

23 A I don't think we used PC screen. I think it
24 was just handwritten stuff that we had.

25 Q And -- okay. Once you were assigned this

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1 upper or middle and lower tier, what happens then?

2 A Well, you roll up then to the next group,
3 where --

4 Q Which is?

5 A Which is you are at C level here now, where
6 you have got the QA, licensing, assessment, and EP roll-up
7 for the nuclear safety department.

8 Q And who participates and how and give me --
9 explain.

10 A That is your -- you get your first-line
11 supervisors, your managers, and the director of the
12 department together and look at the -- well, actually the
13 first-line supervisors didn't have to come into that one,
14 I don't think, but we had a lot of them there, if I
15 recall.

16 We then take a look at all the same job
17 classifications, and that is where we get into the
18 business of, let's say, one group has got 1 through 9, but
19 they are the A-plus to the A-minus range. Well, they are
20 not going to ultimately end up ranked low if you have got
21 other people in the whole spectrum that are all the way
22 down at the F range. So that is where you try to take
23 care of that.

24 That is -- to me, that is the key difference
25 between the old way we did it, where we tried to force-fit

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1 it in each individual group in GSU days, versus now, where
2 we do try to come and take a look at all the guys in
3 one -- you know, people in one job classification, to see
4 if we can't see some statistically significant sample of
5 people and where they fit.

6 So you don't end up saying, Well, I have --
7 let's say I have nine A-minus to A-plus people, and I have
8 got to rank one of the A-minus people as an F arbitrarily
9 in that same group. You avoid that by doing this, the
10 roll-up here. So --

11 Q So were any of Mr. Mike Malik's staff ranked
12 9s?

13 A No. Didn't rank any 9s.

14 Q In Mr. Malik's assessment, evaluation of his
15 employees, you concurred.

16 A Yes.

17 Q And that is how you established that your nine
18 employees, if they are nine or whatever the number is,
19 would be ranked.

20 A That is right.

21 Q Were they given numerical ranks, or were they
22 given just tier ranks?

23 A They were given numerical ranks at that stage.
24 We put them in specific blocks. You have got the blocks
25 over here on the side, put them in specific cells. That

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1 is right. And they are not told -- to make it clear, they
2 are not told at that point. We are still, you know,
3 internal to the management chain working on these things
4 right there at that point.

5 Q Did you have any 7 or 8 employees?

6 A Yes. We had some 7s and 8s. We had, I think,
7 8s in both groups, both Mike's and Vince's group, and I
8 have got those specific numbers, if that is of interest to
9 you.

10 Q Well, and let me just detour for a minute her
11 on this subject here. That is not to lose focus of where
12 we are at with the ranking, but let's just detour here.
13 On the 7 and 8s, if Mr. Klco's and Mr. Malik's employees
14 that were ranked 8s, let's say they are borderline between
15 going down to the very bottom 9 or perhaps progressing to
16 the next level, 7, it could go either way.

17 But what happens to an employee who is an 8
18 and performs his goals, his corrective action or -- I
19 don't know if they have -- what do they have? PPR --

20 Q They have PPR. Everybody has a PPR goals and
21 objectives.

22 A Let's say they achieve his goals, his product
23 measured by his productivity; he achieves his goals. But
24 that 9 is going to meet and/or exceed his goals, and
25 consequently that 9 turns to be a borderline 8, and that 8

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1 could possibly, the fact that he did not exceed but met
2 his goals, turns to be a 9. Could that conceivably
3 happen?

4 A That could happen at the latter stage of the
5 process.

6 Q So that employee then, in turn, ranks a 9.

7 A That could happen.

8 Q Do you think that by telling the employee 8
9 that he was an 8, he perhaps might have been pushed to do
10 better?

11 A Well, we didn't -- you didn't have to tell him
12 he was an 8 in order to convey that message to him. If
13 you had someone ranked as an 8, you didn't tell him he was
14 an 8, but you would sit down with him and in the process
15 going through the PPR with him, it would become -- if you
16 did it properly, it would be come abundantly clear to him
17 that his performance needed to improve.

18 He would know he was not a 9, because he knows
19 the rules of the program, say, that the 9s will be
20 informed of that fact and the others will not be informed
21 of where they are, so he would have that information, but
22 he would also know from the feedback that you gave him
23 that some improvement is needed.

24 Q Did that -- my understand initially of the
25 program said, Well, you can go ahead and tell your

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1 employees what the ranking is, but then it was reversed
2 and said, Well, stop.

3 A Uh-huh.

4 Q Did that bother you initially?

5 A It did a little bit. Yes.

6 Q Why?

7 A Well, what you had there was some groups who I
8 believe actually did tell the people their specific block
9 numbers, and my recollection was it evolved from, You can
10 tell them, or maybe no direction was given and people just
11 took it upon themselves to tell folks where they -- what
12 block they were in, to another position where you could
13 tell them the tier, and then finally it says, Don't tell
14 them any of that; just give them their normal PPR process,
15 and they will know they are not a 9 because they haven't
16 been told that.

17 The thing that bothered me about it was the
18 inconsistency. You would have some groups that knew the
19 blocks, some that knew the tier and some that didn't know
20 any of that. They should all really be on the same
21 footing there. I don't think it materially affected the
22 way they were ranked or rated or any of that, but that
23 thing ought to be consistent all the way across. I guess
24 my sense of orderliness was offended a little by that.

25 Q You were eventually ranked, weren't you?

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1 A Uh-huh.

2 Q I take it you didn't take a severance option
3 pay and you are still here, so we could probably say you
4 are not a 9.

5 A I am not a 9.

6 Q And you said an employee would probably know
7 where he stands, based on his PPRs. If your boss, Mr.
8 Fisicaro --

9 A That is correct.

10 Q -- is telling you, Well, Joe, we need to
11 improve in this area and this area -- I don't know if that
12 happened or not, but if that would have happened, said,
13 Joe, listen, we are -- the department is just kind of
14 behind, and Malik's function here is not functioning like
15 we had planned; it is already six months into the PPR, and
16 it doesn't look too good, Joe; we need to get this
17 improved -- does that -- would that worry you?

18 A Oh, sure. That wasn't the case, but if it
19 had --

20 Q I mean, if that would have happened at that --

21 A If I had feedback other than -- well, let's
22 back up a minute. Jim Fisicaro gives feedback in areas of
23 performance improvement all the time to everybody, from
24 his best-ranked employees to the bottom. It is just the
25 way he does business, which I think is a good way to do

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1 it.

2 But if he had given me feedback like you
3 described, which is, This function is not going right and
4 that one is not going properly, you know, such that it was
5 real clear to me that I wasn't meeting or was on the verge
6 of not meeting minimum acceptable standards, that
7 certainly would get me energized very quickly.

8 Q Do you think that would be a reason perhaps to
9 let people know how they rank, just in case -- just to
10 know personally? If you were in that scenario --

11 A You would be actually as a human curious to
12 know that, but in terms of would people be more edified, I
13 guess, by knowing their block and be better able to know
14 what they had to do, I don't see that it made any
15 difference.

16 For those folks that were in the block 7 or
17 the 8 arena, and they got their PPRs, we didn't tell them,
18 of course, because by the time we gave them, that was the
19 direction. It was real -- abundantly clear to them. They
20 would make statements to the effect that they understood
21 they had things they needed to do.

22 Q Are you totally convinced then that you don't
23 need to know the ranking number?

24 A Yes. I am convinced, both from that
25 interaction and my own personal interaction. I could

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1 guess pretty accurately, I think, where I rank, and I also
2 need to know what I need to do in my job, so I am not
3 uncomfortable with not knowing that specific number.

4 Q Would it surprise you if you were ranked a 6?

5 A Oh, yes.

6 Q And that a 7 could bump you? Do you think
7 that if EOI on the next ranking came up and said, Look, we
8 are going to change this; we are going to let people know
9 what their ranking is, would you be satisfied with that?

10 A If they did it that way?

11 Q Yes.

12 A If they did it that way everywhere?

13 Q Across the board.

14 A That would be all right, yes. As long as we
15 did it the same way. I don't think it would add -- what
16 it would do -- the only thing I see it would do for us is
17 it would eliminate any lingering questions anyone had in
18 their mind about what is my exact number.

19 But in terms of the way I do business and the
20 way I understand that most supervisors do business, I
21 don't think it would materially add anything to getting
22 the job done; that is, communicating to people what they
23 need to do.

24 Q Would say that would help morale; rather than
25 to decline, increase morale, if they knew?

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1 A I don't think morale -- I think morale
 2 probably dipped a little bit because of the uncertainty
 3 associated with the process, but I don't think it stayed
 4 down there, so I don't know that it would have any real
 5 effect on it. I guess it might; I don't know.

6 Let's put it this way. An individual might be
 7 materially affected by it if he were -- if he tended to do
 8 like I do, which is I rate myself -- historically have
 9 always rated myself lower than my supervisors did, a bit
 10 more critical, I guess, of my own performance, and if you
 11 heard a number, then you would say, Well, so I am not
 12 rated that low after all. It might help those kinds of
 13 folks.

14 Q All right. Let's get back on track here, and
 15 we have just finished number C there with your staff
 16 employees, and you are at the review panel board meeting.
 17 Is that correct?

18 A Right.

19 Q Now, let's just put that on hold here. Let's
 20 just hit that mouse click and just put it aside here and
 21 let's go back to Windows here and let's go back to
 22 supervisor, ranking your supervisors. You obviously had
 23 two supervisors, and -- I am trying to think --
 24 engineering has a bunch.

25 A Uh-huh.

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1 Q So your task was perhaps less time-consuming.
2 Let me put it that way.

3 A Right.

4 Q I am not saying less difficult, but less time-
5 consuming.

6 A Right.

7 Q With two supervisors, what did you do? What
8 are your instructions? How are you going to start?

9 A Can we go back up to the --

10 Q Yes Let's go back. Okay.

11 A I had both supervisors, of course, and
12 nonsupervisory personnel, so I didn't rank those all
13 together. I ranked the -- I actually ranked the senior
14 staff personnel that I had at the time together with the
15 supervisors --

16 Q Okay. I think it would be necessary for you
17 to name them and number them.

18 A We had Sean Desai, Vince Klco, and Mike Malik.
19 Mike was the supervisor; the other two were senior staff
20 engineers, which is a technical level position that is
21 equivalent to a supervisor, I think, essentially in pay
22 and job points and that sort of thing.

23 Q Okay.

24 A So I ranked those three together, and then the
25 other folks with their various job classifications, along

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1 with their other -- you know, their equivalents. But we
2 were talking -- you want to talk about the supervisors
3 specifically.

4 Q Yes. Right.

5 A For me that is three people. It is very
6 simple. I don't have to go and didn't really go through
7 any formal, Let's make a list of three people, and then
8 put them 1, 2, 3. I knew. I had rated these people, gave
9 them their performance evaluations. I knew right where
10 they stood already, so, I mean, it was just a -- it wasn't
11 any formal process I personally had to go through. I knew
12 where they sat. I had done all my homework, I guess you
13 could say.

14 Q You didn't have any staff employees ranked 9.
15 Did you have any supervisors ranked 9?

16 A Yes.

17 Q Who did you rank 9?

18 A Mike Malik.

19 Q Was he a 9 in performance and potential, or
20 just --

21 A I actually had him -- let's back up a minute.
22 To be precise, I had him at 7. He ended up as a 9 later
23 in the process, when we got into the roll-up. I put him
24 at a 7. His performance didn't match, as I think I
25 mentioned before, the paradigm of what a supervisor should

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1 be.

2 And just fundamentally, briefly, all the
3 driving force for the group changes and improvements had
4 to come from me. Typically he would execute what I gave
5 him, but that is too functionary of a kind of an approach
6 to being a supervisor. He needed to lead, and we have had
7 these discussions back and forth, back and forth.

8 So his primary problem wasn't that he doesn't
9 show up on time or he refuses to do his work or anything
10 overt like that. It is more his behavior and how the
11 functions get done.

12 Q And that would fall under what, Mr. Leavines?

13 A Well, that is all over on the performance
14 side. Let's take the PPR now. We are looking at his
15 goals and objectives, and then his key behaviors, which I
16 think -- I don't know that they have those in there; I
17 don't think they do have that in the PPR, but you use that
18 to get your performance. That is why I say the two are
19 linked.

20 You have got to have something to judge
21 performance on. That is the PPR process. And then the
22 potential falls under things like education and his
23 personal drive and things like that. So now we are
24 ranking performance. I saw his potential as, you know
25 medium, second block there, myself, and his performance

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1 at the bottom of the ranking, based on the PPR and
2 essentially his contribution to how things were going
3 there in the group. So I had him down there at that
4 point. Then we went to the roll-up process.

5 Q All right. I will come back to this issue a
6 little bit later, but let's go back to the mouse and let's
7 get back on track here with the -- now you are at the
8 roll-up process, the ranking process. You have got three
9 supervisors. By the way, how did your other supervisors
10 rank?

11 A I had -- well, the other two aren't really --
12 they are not supervisors. Remember, they are the senior
13 staff personnel. One of them ranked top tier, and the
14 other one was in the middle.

15 Q Okay. You got your list with three
16 supervisors, and I am sure, like you said a few minutes
17 ago, it wasn't that difficult of a task. You only had
18 three, and it was just you that was doing the ranking, the
19 rating. But then you had Mr. Malik's -- did he hand you a
20 list; did he hand it to -- you said that he had a
21 handwritten note.

22 A Uh-huh.

23 Q Did he hand it to you or how did you keep track
24 in your mind?

25 A Oh, I had a copy of that when we came to the

1 meeting here.

2 Q Okay. Did you merge -- did you have two lists
3 then, or did you keep your list in your mind, or -- you
4 need to be specific.

5 A Yes. I had my -- anybody other than
6 supervisors -- well, actually I think I put them all on
7 the list. I think I had everybody in the whole group on
8 the list. I will have to go back and look. I know I had
9 Vince's people and Mike's people on a list, you know, and
10 I think I rolled all the senior or engineering personnel
11 and, you know, the other classifications all up on that
12 same list.

13 Q Was that E-mail or cc: --

14 A No. That would just be handwritten stuff,
15 which I think I still have.

16 Q Okay. That information, when you -- all
17 right. You have got this master -- can I call it a master
18 list or combined merge list or --

19 A Merged list.

20 Q What is the next step here? You have got
21 this, and --

22 A We have that. I have got that. Now it is
23 time to come together here at the roll-up.

24 Q Which is C.

25 A Here at level C.

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1 Q And I think you met at this room. Right?

2 A Right. In this very room right here. That
3 roll-up actually is like two pieces. One you do, you
4 know, everybody but the supervisors, and the supervisors
5 are in on that.

6 Q Okay.

7 A And then they leave and the managers remain
8 along with the director, and you do the supervisory
9 personnel. So that is where we are with that list, and,
10 you know, I guess if you want to know how it was done
11 functionally, we -- let's see. First, I think we had an
12 initial meeting of the group in the -- not in this room
13 but over in the licensing video conference room, kind of a
14 preliminary meeting. We did some of the -- put the names
15 up, that kind of thing.

16 Q When you say "we" --

17 A "We" was the whole -- it would be Jim Fisicaro
18 and all his direct reports.

19 Q Okay. The managers.

20 A And we put the names up, made our -- put them
21 really where we had ranked them, and then I think we did
22 some preliminary adjustment there and discussion. We had
23 that list, the adjusted list, and we came to this room to
24 do our final discussion on all of that. And we had an HR
25 representative with us too, to help us through that

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1 process.

2 Q Was it the same HR representative, or was Mr.
3 Spitzfaden or Mr. Lacour at your meeting?

4 A I think we had both Newton and Richard in this
5 meeting in this room. I am trying to remember who we
6 had -- I think it was -- might have been just Newton, but
7 I am not certain, in the first meeting.

8 Q In the first meeting. Okay.

9 A So, anyway, here we are in this room.

10 Q In this room. And I guess I am going to ask
11 you to, to the best of your recollection, kind of go back,
12 think who was sitting where, and tell me who was present.

13 A Let's see. Who was sitting where and who was
14 present. That is going to be hard. Of course, I know I
15 was there, and I know that -- I am pretty sure Newton was
16 there; I know Richard was there, Richard Lacour.

17 Q Okay.

18 A I believe every direct report was there. I
19 think --

20 Q When you say direct, are you talking about --

21 A To Jim Fisicaro. That would be George Zinke,
22 Otto Bulich, and myself, Bill Smith. I am trying to
23 remember which supervisors were there. I believe -- I am
24 not sure if all the QA supervisory personnel were present,
25 or whether just George was there, George Zinke, so I am a

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1 little unclear on that. But I don't think Otto brought
2 all of his licensing supervisory personnel with him
3 either. So we had something of a mix there.

4 Q And --

5 A I know Ken Giadrosich was there and Roger
6 Backen, I believe was there. Yes, he was there, of the
7 supervisory personnel. And as far as where they were
8 sitting, I --

9 Q Mr. Fisicaro was present?

10 A Yes, he was here.

11 Q Was Mr. McGaha present?

12 A No. He wasn't here.

13 Q So the top level ranking official was Mr.
14 Fisicaro.

15 A That is right.

16 Q Okay. I think that at this point, I am
17 comfortable and familiar with the fact that at the first
18 meeting when you ranked your staff employees, supervisors
19 were present. Once that rolled out, then you eliminated
20 your -- you asked your supervisors to leave, because we
21 are going to rank them. Is that correct?

22 A That is right.

23 Q So you are left with your documentation, your
24 worksheet, and your counterparts.

25 A Right. That is right.

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1 Q And the purpose for that is to your rank your
2 supervisors, how many you have, how many Mr. Zinke has,
3 how many Mr. Bulich has, how many Mr. Smith, and so on.

4 A That is right.

5 Q Okay. When it came down to Mr. Malik, how
6 long has it been -- well, first, let me -- if we are going
7 to talk about Mr. Malik, how long has he been work for
8 you?

9 A He has been in -- he was actually assigned
10 before June, but he didn't really get there until June of
11 that year. He had left, went overseas, I think, to visit
12 his family for a period of time, that sort of thing, so he
13 really kind of reported for duty about -- around about the
14 first of June, I think.

15 Q June '94?

16 A Yes. '94.

17 Q So --

18 A And this was going on -- I think this was
19 sometime in October that we were doing this, if I remember
20 right, so --

21 Q Now, he went to work for you as a supervisor
22 in --

23 A Oh, in-house events analysis.

24 Q Who was the supervisor prior to that?

25 A There was none. That was formed up there, ...

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1 he was put into that position.

2 Q Who was taking care of that assignment?

3 A I was doing all that personally.

4 Q So was that a new assigned position or not?

5 The job was being done. You just formed a new --

6 A Right. We formed a new group, added some
7 personnel in there. Actually what had happened is the
8 corrective program was under Mr. Malik when he was in QA,
9 supervisor of -- I forgot what the title was exactly, but
10 anyway we can look that back up, but --

11 We then moved some of the personnel out of
12 that group into my area, and --

13 Q Out of QA --

14 A Brought them out of QA.

15 Q -- and brought them to nuclear licensing.

16 A Yes. Primarily administrative people and some
17 of the QA engineering personnel, a few of those.

18 Q And they worked for you.

19 A They came over to work under Mike. We formed
20 all that at once.

21 Q Oh, I see. Okay.

22 A Up to that time, we had been given the
23 process, the corrective action process, in my group. I
24 had the independent safety engineering group and the
25 performance assessment group. We called all of that

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1 nuclear safety assessment group, NSAG, and with that
 2 group, even though that wasn't our original function, we
 3 were instructed to see what we could do to try to improve
 4 the corrective action process, and that was, in part,
 5 done, I think, because we had evaluated that process in
 6 some detail and kind of pointed out its flaws, made some
 7 recommendations about how to correct it, that sort of
 8 thing.

9
 10 So we had it and were working on it and
 11 computerizing it, changed the procedure, that sort of
 12 thing. Then we could see the administrative burden and
 13 all that was going to be such that the independent safety
 14 engineering group functions weren't going to continue at
 15 their original high level if we didn't bring some staff in
 16 to take over the -- to run the corrective action program
 17 in my group.

18 So we created the nuclear safety assessment
 19 group and brought Mike in to run the IHEA portion of it,
 20 had the ISEG and the PAT, performance assessment and
 21 training groups, so that is how NSA came into being
 22 basically, and Mike came over to do that corrective action
 23 program portion of it.

24 Q I think you might have mentioned it, but it
 25 just didn't register up here. The corrective action
 program, is it still under a different -- under group,

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1 under somebody's direction?

2 A It is under -- it is still under Mike's group,
3 under him. It was under him in QA. It moved over in our
4 area. We changed it fundamentally, did some things to it,
5 and then he moved over and we brought some staff in for
6 him, and he has that program, and still does.

7 Q So he was familiar with the program.

8 A Right.

9 Q And I am sure that now working -- now,
10 categorically, the only major difference would probably be
11 who he answers to, a different -- outside of QA and
12 perhaps maybe some mechanics.

13 A Right.

14 Q Is that correct?

15 A The mechanics of the process. The mechanics
16 were quite different than they used to be.

17 Q Do you think that perhaps within a 12-month
18 period, that would be a period that would be adequate to
19 you to determine whether an employee has done well or not?

20 A Uh-huh.

21 Q Would you think that six months would be too
22 short of a time?

23 A No, I don't think so. Depending on the
24 employee. See, in Mike's case, he had been in that job as
25 a supervisor for a number of years, so one would expect at

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1 least some standard, minimum level of performance and
2 drive, because it is not that different from what he had
3 been doing. It is just a change in location.

4 And when he came over and began to work in the
5 program and we began to interact, you know, that
6 deficiency in drive, I guess you could say, the -- where
7 he takes over the program, becomes the vision for it,
8 pushes it forward and proves that -- doesn't have to defer
9 to me or ask me for, you know, lots of input to keep it
10 going, that would --

11 Q He can just take off with it.

12 A He can just take off with it, and having been
13 on that program for quite a number of years, you know, you
14 would expect that -- it is not like -- if he had come in
15 brand new from a totally different function, then
16 certainly there would have to be some kind of period of
17 time where you spun up, but we took the program from --

18 I guess we got it in '93, October '93, with
19 the group that I had before we made this change, and we
20 brought it up to speed and made the changes to it, and
21 instituted all that sort of thing in just a matter of a
22 few weeks, and got it rolling pretty good, and then
23 evolved it onto the computer systems that we have and that
24 kind of thing. We did that sort of thing pretty rapidly
25 And his having been very familiar with it before, you

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1 would expect similar performance.

2 Q Mr. Leavines, knowing that you have been
3 working for RBS for a little bit over 20 years and have
4 seen major changes in management philosophy, even within
5 GSU, different vice president philosophies, and to the
6 most current EOI, would that experience that you have as a
7 staff employee, supervisor, and as a director and/or
8 manager, is it correct to assess that sometimes employees
9 may perform perhaps medium to below average, and that a
10 contributing factor would probably be their management,
11 their directors, the people he answers to?

12 Is it possible that that could happen and then
13 switch to a different totally department with new
14 managers, and there is some improvement? Can that happen?
15 I mean, am I correct to assess something like that could
16 happen?

17 A Certainly. Speaking hypothetically, I don't
18 see any reason why that can't. Sure.

19 Q Before Mr. Malik came to work for you, were
20 you aware of any of his perhaps friction -- of his
21 friction with other QA employees within his group?

22 A I was aware in general of Department of Labor
23 concern that was going on there, and that as part of that
24 concern, he was going to -- or resolution of that concern
25 he was going to come into my group, and that there has

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1 been some kind of friction. I did not know any of the
2 details of that, and in fact, I know his former supervisor
3 and did not speak with him about it, and --

4 Q His former supervisor being --

5 A Ken Giadrosich.

6 Q Okay.

7 A And didn't, in fact -- when I talked with Ken
8 about it briefly, I told him that I not only didn't want
9 to talk further about it, because my instructions were
10 fresh start for Mr. Malik, but I didn't even what his
11 personnel records or to know the ratings that Mr.
12 Giadrosich gave him, so we didn't even transfer any of
13 that data.

14 But, yes. I did know generally that there was
15 some kind of problem or friction there that had resulted
16 in him having to go outside the company, use those paths,
17 and that as a resolution to that, he was going to come
18 work in my group, fresh start.

19 Q Are you aware that he currently has an
20 allegation against -- with the NRC, which is why we are
21 talking to you?

22 A Yes.

23 Q Are you aware of that?

24 A I am generally aware of that.

25 Q Were you made aware by anyone of his

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1 differences between Mr. Giadrosich and Mr. Malik?

2 A Other than what I already said, no.

3 Q Yes.

4 A No details of it.

5 Q Did Mr. Giadrosich mention anything other than
6 what we mentioned here?

7 A No. Just that generally they had that
8 problem, and I said, I don't want to know any more
9 specifics or anything about that, because, you know, you
10 can't avoid bias if you take on a lot of that background,
11 so --

12 Q So a few minutes ago you told me that Mr.
13 Malik was in corrective action program in QA.

14 A Uh-huh.

15 Q He was familiar with the system and working
16 for you, should have picked it up at perhaps a -- not as a
17 newcomer, but someone that was familiar with the program.

18 A Right.

19 Q Did you take that into account when you were
20 rating him or ranking him?

21 A Oh, yes. Certainly. That gave me the basis
22 of where to start with. Had he been a new employee who
23 was, say, transferred into QA or transferred into my group
24 from a totally different function that made him completely
25 unfamiliar except, you know, peripherally as everybody is

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1 with corrective action at a nuke plant, you know, then you
2 couldn't say, Well, right away I expect you to know
3 everything about this process and program and regulatory
4 background to it and all that.

5 I couldn't expect that of a brand new
6 employee, but of one who had been involved for a number of
7 years, there shouldn't have to be any real spin-up time on
8 that.

9 Q How much of the new start that you mentioned a
10 few minutes ago did you apply to Mr. Malik's ranking? My
11 point being that if you are going to rank him as a new
12 start working for you, but you took into consideration
13 that he historically he had been working on that, were you
14 then applying his past or giving him a new start? How
15 much of this new start did you apply to Mr. Malik?

16 A The new start was in the sense of, How is he
17 rated right now, and does that influence me with the way I
18 would rate him or rank him. And all of that, I
19 assiduously avoided any knowledge of any of that with Mr.
20 Giadrosich.

21 But insofar as his prior experience was
22 concerned, it would have been completely inappropriate for
23 me to assume that he was brand new to corrective action,
24 and then to say, Well, you know, take a year and learn the
25 process, because, A, we didn't have a year, and, B, that

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1 would not have been correct, because he had been quite
2 intimately involved with that process for quite some time.

3 So the new start was with regard to anything
4 to do with his performance and how he was rated or ranked
5 or what problems he might have had there. I just assumed
6 he was going to come in as a knowledgeable individual and
7 take this program on and go with it based on the
8 experience level he has got.

9 Q Is it true that Mr. Fisicaro has explained at
10 one time or another that the new system did not -- did you
11 ever hear this to this effect from Mr. Fisicaro at any
12 other meetings that the system has not allowed an employee
13 to be evaluated for a full year because of the ranking
14 system was implemented late summer or early fall, and
15 consideration was going to be -- not consideration, but
16 the time that an employee would be evaluated would be
17 actually a short time. Is that correct?

18 A I guess I don't understand that.

19 Q In other words, did the process, the ranking
20 process, allow you a full year evaluation time?

21 A Oh, no. To rank?

22 Q Yes.

23 A No. We asked -- you know, it came in in about
24 the summer, and we were doing it in the fall, so nobody
25 had a year under that program for ranking purposes.

1 Q And if you said that the ranking is linked
2 together with the performance rating so you actually had
3 ranked an employee that had been on the job less than 12
4 months. Is that correct?

5 A Under my supervision, that is right.

6 Q Okay. Didn't you tell me a few minutes ago or
7 earlier that an evaluation process normally would take
8 about a 12-month period?

9 A Well, they are on a 12-month cycle.

10 Q But it wasn't the first time.

11 A No. You evaluate people constantly.

12 Q Well, the ranking was evaluated on a 12-month
13 process the first time.

14 A The ranking is ranking, and evaluation is day-
15 to-day evaluation of performance. That goes on all the
16 time, constant flow of information back and forth between
17 the supervisor and the employee. Then periodically you
18 have, every year you have a point in time where you say,
19 It is now time to give a formal -- actually twice, you
20 give a mid-cycle PPR formally, and then you give a formal
21 one at the end of the cycle. Those are just formal ways
22 of documenting where you stand at those points in time.

23 Q On this next ranking process, will there be
24 almost 12 months since the last ranking?

25 A Yes. The ranking process.

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1 Q The first time it wasn't based on 12-month.
2 Is that correct?

3 A No. The ranking hadn't been around for 12
4 months, and in the case of Mr. Malik, whom we were just
5 talking about, he had not been under my direct supervision
6 for 12 months at the point of ranking. It had been about
7 six months.

8 Q But he had been an RBS employee and had been
9 in the corrective action program for many years.

10 A Many years. I have known him, you know, from
11 probably the time he came on board, so --

12 Q I want to -- now I want to get back -- okay.
13 Well, there's two other things that we have got --

14 MR. BOAL: Excuse me. Would you all be
15 interested in a short break?

16 THE WITNESS: I would.

17 MR. ARMENTA: Okay.

18 MR. BOAL: It is approximately 9:45 a.m.

19 (Whereupon, a short recess was taken.)

20 MR. BOAL: It is now approximately 10:08 a.m.,
21 and after a short break we are back on the record.

22 Mr. Armenta?

23 BY MR. ARMENTA:

24 Q Mr. Leavines, I think we were discussing the
25 issue of Mr. Mike Malik in regard to -- we had finished

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1 discussing his performance in the corrective action
2 program, that he had been under QA, and when he came to
3 work for you, he knew the work; he was familiar with the
4 system, the corrective action program, but started working
5 a new directive. Is that correct?

6 A Under me. Right.

7 Q Leaving that behind, now go back to the
8 original part of the interview, is that we have got Mr.
9 Malik and we have got supervisors here at this room in the
10 review panel, and I think you mentioned that Mr.
11 Spitzfaden, Mr. Lacour, Mr. Zinke, Mr. Bulich, Mr. Smith,
12 Mr. Giadrosich, Mr. Fisicaro, yourself; for the ranking of
13 the supervisors, there were no supervisors present. Is
14 that correct?

15 A Right.

16 Q Okay. Do you think we might have missed
17 somebody else in that?

18 A There could be. I know there weren't any
19 supervisors who were being ranked in there. I don't know.
20 I can't recall if we had anybody in there. I didn't keep
21 an attendance list or anything.

22 Q Was there anybody taking notes at that time?

23 A I don't think anybody was taking notes. My
24 recollection was that Richard Lacour had the rankings in a
25 laptop, and that he was there to -- he had that to adjust

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1 that if we did any adjusting to it and as we did the roll-
2 up, but I don't think anybody actually took any notes,
3 like minutes or something like that.

4 Q Did you observe -- well, first of all, did you
5 take any personnel records, anything of that sort?

6 A No. Other than I just had the ranking stuff,
7 handwritten sheet.

8 Q Did you observe anybody else?

9 A No. I can't say they didn't, but I can't say
10 they did. I just didn't look.

11 Q And were you instructed at that time or were
12 the other managers under the same impression that you
13 were -- I am saying, did you get that feeling that
14 everybody else was -- that you were ranking employees
15 based on a new fresh start-up, only the last 12 months, or
16 just on --

17 A Well, you were -- everyone was ranking based
18 on performance and potential, and then the performance
19 element of it would have come out of however you did your
20 performance appraisal of the individuals, and that could
21 have been back over a year if they had been working for
22 them for a year.

23 Q Time period, you could go back into his
24 history.

25 A Yes. Back a year or so. Like if you had a

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1 formal review on the individual and you wanted to use, saw
2 maybe no material change in performance up to date, that
3 kind of thing.

4 Q Does that mean to you, for example, Mr. Zinke
5 if he had had employees that had been working there for
6 five, six years, they perhaps could go back for over a
7 year beyond that one year?

8 A That wasn't my understanding. I thought we
9 would go back about a year, but I can't recall precisely.

10 Q Okay.

11 A And after you go back a certain point in
12 time -- this is just my thoughts on it -- you would -- it
13 could become somewhat irrelevant, you know, if you go back
14 three or four years; how they were performing back then
15 might not be too relevant to what they are doing today,
16 because people can change on the way they are performing.

17 Q All right. Well, we are at that meeting, so
18 kind of guide us as to where we go next. We are at the
19 review panel board; we are discussing supervisors now. I
20 am going to focus on Mr. Malik. Your turn.

21 A Well, we are sitting there; we were talking
22 about the supervisors; we put them initially in the block.
23 I think we had something on the board and either wrote
24 their names or yellow-stickied their names up in the
25 blocks that we all had them in individually.

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1 Q Who did that, sir?

2 A Who physically put them up there? I don't
3 know if it was Jim that wrote them or Newton. I can't
4 remember.

5 Q Were they already on the board?

6 A Somebody stood up and -- that I can't remember
7 either, whether they were already there when we got here,
8 or -- no, I don't think they could have been, because we
9 went right out of the first meeting and into this one, and
10 we couldn't have had them up there on the board, because
11 then the supervisors who were present in the first part of
12 the meeting would have seen them.

13 So we must have had to write them or stick
14 them up there, and that wouldn't take very long.

15 Q Did you advise Mr. Fisicaro of who your picks
16 were -- I mean, not who your picks were, but how you had
17 ranked or rated your employees?

18 A Sure. I told --

19 Q Prior to which meeting? To that meeting --

20 A Oh, in that meeting? No. That is really
21 about the first time, unless we discussed it in that
22 preliminary meeting that I mentioned before, that we had
23 in the licensing conference room. We probably discussed
24 it some there.

25 Q I guess what I want to know is that if Mr

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1 Fisicaro had any indication prior to the beginning of
2 that -- when you started from the stickies that you said,
3 did he have any indication how you were going to rank Mr.
4 Malik? Did you tell him before that at any time?

5 A I don't think he did. I can't recall any
6 discussions that we had about that before that time. You
7 know, it is imperfect; my memory is imperfect on that, but
8 I don't recall anything significant, where we sat down and
9 had a meeting and said, Let's talk about Mike Malik or any
10 of my other supervisors, about how you are going to rank
11 them, that kind of thing. I don't recall anything like
12 that.

13 Q Okay. What happened next?

14 A Well, again, we had them all on the board
15 there, everyone in their different area. We had to -- we
16 have, you know, a forced ranking system. We have to come
17 up with around 10 percent in the block 9 and then
18 distribute the others out accordingly, so now we are going
19 to essentially do sort of the same thing and make a list
20 of 1 through however many there are and see who the bottom
21 folks are going to be and who the top folks are going to
22 be.

23 Q How did you accomplish that?

24 A Well, you know, some of it would fall out. I
25 think might have been in the block 9 already. We then

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1 compared the others with regard to performance and
2 potential and had kind of a brief discussion around the
3 table, and rankings were suggesting; you know, adjustments
4 were suggested.

5 And I had Mike in the block 7, and it was
6 suggested that, given who all the other folks were and
7 where they were ranked, and that we had to have a 10
8 percent ranking, that he more properly belonged in the
9 block 9. I think there was another individual in there
10 already. I think so.

11 And I had to concur, based on what I knew of
12 the other supervisors and the discussion that we had, that
13 were we to rank some folks 9, that number of people 9,
14 that that would be how it would be.

15 Q Okay. Is it true and correct to assess that
16 the management official, whether it be a supervisor,
17 first-line supervisor or a director-manager, that first-
18 level supervision as the greatest -- would have the
19 greatest weight or say-so, to say, Look, I know this
20 employee; he works for me; I want him as rank 7? Would
21 that be correct to assess that every manager at least had
22 that --

23 A You would have pretty high level of influence,
24 no doubt, at the first-line supervision, because they are
25 obviously positioned in the best way to know.

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1 Q What influenced you to rank him two notches
2 down?

3 A Well, it is really one notch over in
4 potential, and it was again the comparison to the other
5 individuals that were there. Given that we had to rank
6 some number into block 9, given who were there to be
7 ranked, and also given the fact that I had him, you know,
8 low in performance, but felt that by he and I working
9 together, hopefully we could bring that up, you know,
10 going to the 9 -- now you are talking about a question of
11 potential and not performance.

12 I was convinced about his performance being at
13 that level, and, you know, I had hope of -- and still
14 do -- through the improvement plan, had hope of somehow
15 remediating that and getting the performance up where we
16 needed it. But at that point in time, compared to
17 everybody else, I did not have an objection to putting him
18 in 9.

19 Q When I asked you here how he was moved from a
20 7 to a 9, two notches down, two numbers down, you said he
21 was moved one block because of his performance --

22 A Well, he was at --

23 Q I guess for the record I want to explain that
24 what Mr. Leavines is saying, that on this grid that we are
25 talking about is the same page that is on this

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1 manager's -- management planning and review ranking
2 process book, and that is under the grid that shows the
3 potential and performance, and you are talking about group
4 7, which is the middle bottom cell.

5 A Right.

6 Q Moved over to the extreme right bottom cell,
7 which is group 9. That is what you mean by being moved
8 one cell.

9 A Yes. I think of it -- you can think of them,
10 I suppose, you know, numerically 1 through 9, but I tend
11 to think of them, whenever you are making a move like
12 that, that in the area of performance, there wasn't any
13 move to be made. That is -- you know, your 4, 7, and 9
14 are all at the bottom level of performance.

15 The potential area is the place where I had
16 him out of the 9 and in the 7, and that is somewhat more
17 subjective, given that we had, you know, again, to rank
18 people and have the forced ranking to the 9 category. Had
19 he been in block 8 in my estimation, that is, a middle
20 performer, it would have probably been harder for me to
21 say, I agree with going to 9, because now you are talking
22 about my judgment of his performance. I am being asked to
23 move that judgment down, and that is an easier judgment
24 for me to make than a potential, as compared to everybody
25 else.

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1 regard to Mike, it is kind of unusual. He probably had an
 2 unusually large amount of exposure to Mike, and that is
 3 because the process that Mike ran, the corrective action
 4 process, has as one of its elements a corrective action
 5 review board that Mr. Fisicaro is on, and Mike's job, one
 6 of his duties would be to run the meetings of that board,
 7 and the presentations in that board.

8 And Jim would have been at all of those up to
 9 that point just about. You know, might have missed one or
 10 two here and there, so he had an ample opportunity to see
 11 him in action, so to speak, in that aspect of his job
 12 performance. So he had a lot of exposure to him and his
 13 performance.

14 Q Are you talking about those CARB meetings?

15 A Right.

16 Q CARB, corrective action review board meetings?

17 A Right. That is right.

18 Q Were you present at those meetings?

19 A Just about every one of them.

20 Q Did you ever -- who was present at those
 21 meetings?

22 A It would depend on the meeting, but, of
 23 course --

24 Q Who was generally present?

25 A Generally present would be Mr. McGaha's direct

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1 reports, which would be the director level personnel, and
2 a significant number of the managers that reported to them
3 would typically be there.

4 Q Would you be there?

5 A Yes.

6 Q Would other managers -- you said managers --

7 A George Zinke would typically be there. Otto
8 Bulich would be there. Typically Bill Smith would not,
9 because his function is pretty far removed and pretty, you
10 know, specific, and it is not -- obviously EP interacts
11 with the plant, but it is not so much a part of the
12 corrective active process, so typically he wouldn't be
13 there.

14 But you would see the operations manager, the
15 system engineering manager, several of the managers from
16 inside plant engineering, typically the director of that
17 group. Mike Sellman, the general manager of plant
18 operations, would also be there on many occasions, people
19 like that.

20 Q What did you notice that makes you believe
21 that Mr. Fisicaro may have been dissatisfied with Mr.
22 Malik's performance at these CARB meetings?

23 A Well, my own observations of his performance,
24 you know, notwithstanding any feedback that Jim might give
25 me or give directly to Mike, you know, by way of coaching

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1 would be that oftentimes he did not control those meetings
2 very well.

3 Q When you say control those meetings --

4 A The meetings need to proceed towards a
5 specific direction; that is to find the root cause and the
6 corrective actions for whatever event or incident that we
7 are looking at. And if they proceed in peripheral areas,
8 then it is the job of the person managing the meeting to
9 stop that and bring them back into focus with regard to
10 getting the root cause and corrective actions.

11 Q Okay.

12 A It is also the job of the supervisor of that
13 group to interact on enough of a level with our people
14 that work for him to assure that the product that is
15 brought to the meeting is complete and doesn't have a
16 number of outstanding questions associated with it, such
17 that it has to get tabled, and there were in those days
18 back then quite a number that would get tabled for want of
19 having the proper upfront preparation. And oftentimes the
20 meetings would diverge into other areas and efforts to get
21 it back weren't really that good or successful.

22 Q Would you say that most of the people present
23 at those meetings were above Mr. Malik's level?

24 A Sure.

25 Q From the president -- I mean, vice

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1 president --

2 A He typically did not attend. Vice president
3 typically did not attend.

4 Q All the direct reports to the vice president
5 would be people perhaps -- I don't know if Mr. Sellman was
6 there or Mr. Leonard or -- I mean, I am --

7 A Mr. Fisicaro.

8 Q Mr. Fisicaro, direct reports to the vice
9 president, and managers, which are pretty high on
10 management level.

11 A Uh-huh.

12 Q Did that -- would you think that that would
13 make a person nervous?

14 A Well, given that I did that same job before
15 the reorg, before we brought Mike over and I was promoted
16 to manager and I did it at the supervisor level, I could
17 say that it would give you -- make you a little nervous,
18 yes. But I was successful in doing that, accomplishing
19 that, I think. I feel like I was.

20 Q Did Mr. Malik ever come to you and tell you
21 about this? In other words, he noticed this, and did he
22 come to you and tell you about this?

23 A About what?

24 Q About Fisicaro's dissatisfaction or anything
25 to that effect.

1 A Well, he often would get feedback from Jim,
2 but I usually was there, so we didn't have -- Mike may
3 have come and talked with me about specific --

4 Q What did you do about it?

5 A About with Mike?

6 Q Yes.

7 A Well, if I was at the meeting, I would either
8 reinforce the -- whatever feedback was given or what have
9 you.

10 Q When Mr. Malik approached you?

11 A I don't recall that he did -- I don't recall
12 specific instances where he did approach me about that.

13 Q You don't recall any?

14 A Not really, no. Probably he did, but it would
15 have been something like a general feedback session, where
16 I would tell him what my thoughts were about how he could
17 improve or what have you, that sort of thing. I don't
18 recall any specific times that stick out in my mind.

19 Q Do you know if other employees were focused on
20 these issues? In other words, were there other people
21 there at these meetings that also saw the same thing that
22 Mr. Fisicaro saw?

23 A Yes. I would say that we got feedback from
24 some of the attendees to the meeting, that -- on occasion
25 that that wasn't very well prepared, and here we had to

1 table it, or I didn't get the package in time, so I didn't
2 have time to review it; we need to do better in that area,
3 that kind of thing.

4 Q And you can't recall any time Mr. Malik came
5 to you and said, Look, this is what is happening; this is
6 why I am doing this -- as far as seeking your direction?

7 A Well, of course, we had a lot of interaction
8 with regard to direction and improvement, yes. But, I
9 mean, I can't recall -- nothing specific jumps out like,
10 On this date, we had a major discussion of some kind
11 that -- you know, there were lots of them.

12 Q My questions are directed to the intention.
13 Do you -- if anything stands out that Mr. Malik would say,
14 Well, I know he was worried about the way he conducted it
15 himself at these CARB meetings, I know that he wanted to
16 satisfy Mr. Fisicaro but he was nervous, but that is why
17 he came to me, he talked to me, and we discussed it. In
18 other words, Mike was worried about Mr. Fisicaro's
19 dissatisfaction and he was aware of it; he came to you for
20 help.

21 Does this ring a bell? Does anything to this
22 effect --

23 A Well, of course, he would come to me for
24 guidance, and again, we would give -- I gave him that all
25 along the way. Yes. I mean, I can't -- all I am saying:

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1 is I can't single out any particular day that stands out
2 that he came in and said, you know, he was at his rope's
3 end or something like that. It was, you know, the typical
4 supervisor/employee interactions that would go on there.

5 Q Now, was this an isolated instance, or did
6 this happen meeting after meeting?

7 A It happened pretty frequently; not every
8 meeting, but, you know, frequently enough.

9 Q Being that he was your employee, what
10 corrective action did you take?

11 A I would sit with him and tell him, You have
12 got to spend more time on these packages; you have got to
13 make sure that we get the full root cause, that we found
14 the problems. The typical kinds of issues that he was
15 seeing come up in the meetings that weren't satisfactorily
16 resolved, you know, on a particular CARB would give him a
17 clear indication of the sorts of things he ought to be
18 looking at in future packages, that kind of thing.

19 Q And these CARB meetings are important because
20 they are your customers, as I recall.

21 A Yes. We call the CARB our customer.

22 Q In other words, engineering, maintenance is
23 represented and so forth. So actually you want to keep
24 them happy; you want to -- that is the project, the
25 corrective action program.

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1 influence you to -- under the performance level, to mark
2 Mr. Malik --

3 A Uh-huh. Right.

4 Q Okay. I asked you earlier, Mr. Leavines --
5 where is it? -- whether you thought that 12 months was
6 sufficient for an employee to reassess himself and show
7 his performance measure of productivity, work, and you
8 said yes. And I even asked you about six months, and you
9 said that six months should be also sufficient, but for
10 the sake of benefit of an employee, let's give him 12
11 months.

12 There are several records I want to present to
13 you, and going over my paperwork that I brought with me
14 this trip, I do not have some of the paperwork, so I am
15 going to reserve the right, if you are willing to talk to
16 us again --

17 A Sure.

18 Q -- to go over some of the paperwork involving
19 Mr. Malik. But at this time, I want to go over what I
20 have.

21 A Okay.

22 Q First of all, there is -- well, maybe I -- I
23 am going to talk about it. There is a customer survey
24 that is issued to the customers, and this customer survey,
25 its purpose is to get a feedback from these customers as

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1 to how corrective action program is function, how are we
2 addressing your problems, and are we getting to the root
3 cause of it. Is that correct?

4 A Uh-huh. Among other things, that is right.

5 Q Was ther a recent customer survey done for
6 the corrective action program?

7 A There was.

8 Q And what was the results of that corrective
9 survey program?

10 A Generally pretty favorable.

11 Q Favoral --

12 A Uh-huh.

13 Q Would you say that -- did you have any
14 negative feedbacks from some of your customers, as you
15 recall?

16 A There would always be a few in some category
17 that they didn't like certain parts of the program.

18 Q But, in general --

19 A In general, positive.

20 Q -- would you say it ranked pretty high?

21 A Yes.

22 Q And this is something that Mr. Malik is in
23 charge of?

24 A Uh-huh.

25 Q And this was done within the last 12 months.

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1 A Right.

2 Q Okay. There is also -- I want to address to
3 your attention -- excuse me for being so disorganized.
4 This is a publication that Entergy prints out, and it
5 talks about the recent NRC inspection that was conducted
6 on the corrective action program as late as June 20, 1995,
7 which would be about 12 months since Mr. Malik came on
8 board.

9 A Uh-huh.

10 Q It says here -- I am reading off of it, and I
11 want to show it to you in a minute, but the title is, "NRC
12 Says Corrective Action Program" -- and it has got
13 quotations -- "Working Well." It is sort of like a report
14 card on the review of the action program.

15 A Uh-huh.

16 Q And I am just going to quote a little portion
17 of it. It says that, "The team said" -- meaning the NRC
18 team -- indicated that "employees are identifying the
19 right issues on condition reports, making good root cause
20 determinations, and taking effective corrective action to
21 prevent recurrence." And it goes on about the quality
22 assurance audits, material conditions, managers performed
23 good self-assessments.

24 Is this a good report card for your group?

25 A Sure.

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1 Q Is this a good report card for Mr. Malik?

2 A Not necessarily.

3 Q Why?

4 A How well that program goes can be and in this
5 case is largely independent of his performance, and the
6 reason for that is that program is absolutely vital to
7 Riverbend. Without a good corrective action program, we
8 are never going to effect the recovery that we laid out in
9 our plans.

10 Now, where Mike comes in in this is, What did
11 he contribute to achieving that report card. And in my
12 estimation, his contributions have fallen considerably
13 short of what they ought to have done for a supervisor in
14 that position.

15 Q In spite of this publication?

16 A Right. The reason for that is pretty simple,
17 pretty straightforward, that that program was not going to
18 be allowed to fail by either myself or by Mr. Fisicaro,
19 and we were going to, to the degree necessary, intervene
20 in the process to cause it to be successful.

21 Now, this is a major point of misunderstanding
22 between Mr. Malik and myself with regard to his
23 performance. He indicates that the program is doing well,
24 therefore, he is doing well. His contribution to the
25 program is the issue, and it hasn't been of sufficient

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1 merit that I could just let him run the program.

2 I have had to intervene in the CARB meetings,
3 in the process whereby the packages are put together, all
4 too often in order to get the product to the level it
5 needs to be. I should be able to remotely monitor what is
6 going on, and he should be driving that process, and that
7 is the difference. I have intervened; Mr. Fisicaro has
8 intervened, with the assistance of the members of the CARB
9 and management here at the plant.

10 We have together, as a team, caused this thing
11 to be reasonably successful. Mike's contribution hasn't
12 been what we had hoped it would be, and we are trying to
13 remediate that, trying to come to an understanding and try
14 to get some improvement, so that he will take over;
15 basically get in the driver's seat and run the thing.

16 So therein -- I will philosophize for a
17 moment. There is a paradox associated with programs like
18 that and people in charge of them, and that is that
19 whatever you could lay out in the way of things that have
20 to be accomplished have to also be measured against the
21 behaviors of the individuals responsible for accomplishing
22 those things, because for some programs like this, the
23 items that are laid out to be accomplished to effect an
24 improvement, they are going to be accomplished, whatever
25 it takes.

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1 If it takes too much of my involvement or too
2 much of Mr. Fisicaro's involvement, then we have to look
3 to the first-line supervision for some improvement. And
4 that is the case here.

5 Q Are you familiar with the publication? Do you
6 need to see it?

7 A No. I don't to see it.

8 Q Did you -- what you just finished telling me,
9 has it been conveyed to Mr. Malik?

10 A Absolutely.

11 Q In writing?

12 A We have -- yes. In his PPR, the last one that
13 I gave him.

14 Q When was this?

15 A That was towards the end of the year or -- end
16 of the first of this year, his formal one at year's end.

17 Q Towards the end of the year, 1994?

18 A Uh-huh.

19 Q So if that PPR was issued in 1994 and this
20 report comes out in 1995, that shows an improvement. I
21 mean, bottom-line speaking, that shows an improvement. Is
22 that correct?

23 A An improvement in his performance?

24 Q In the corrective action program.

25 A Certainly the program itself has improved

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1 quite a bit. You know, a little history on that: All the
2 changes to the program that affected the improvement, the
3 long-term performance improvement plan items, the
4 institution of the CARB process, the changes in the
5 database that allowed us to track our actions better, all
6 of those things were instituted essentially by myself with
7 the staff I had on hand before Mike became much involved
8 in the process.

9 So we set the thing on the right course and
10 drove it along in that direction, myself and the employees
11 of the group, and Mike, when he came on board, we were
12 hoping he would step in there and continue that
13 improvement and add to it, as opposed to simply executing,
14 you know, specific directions and that kind of thing, and
15 that is the thing that hasn't materialized.

16 And I know it is a fine point. It is
17 difficult to conceive sometimes if you are the supervisor
18 of a program and it is doing well, why aren't you doing
19 well, but that is the case here. And that is part of the
20 difficulty in talking with Mike about it.

21 Q Taking the other side of this issue, that if
22 the program had received a bad review, your group would
23 have looked not as well.

24 A Absolutely.

25 Q And streamline down to Mr. Malik as the

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1 corrective action program coordinator.

2 A Probably if that program had not done well, I
3 think most of the weight of that would fall on me
4 personally.

5 Q Okay Did you take a look at the NRC
6 inspection report on that?

7 A It wasn't been issued yet.

8 Q Have you --

9 A We had an exit meeting, but the report itself
10 hasn't been issued.

11 Q Okay

12 A And, yes. When I get it, of course I will
13 read it.

14 Q And I am speaking out of turn.

15 I haven't talked to you before today. Is that
16 correct?

17 A No.

18 Q Was it your understanding that NRC had an
19 ongoing investigation regarding the allegation Mr. Mike
20 Malik had filed discrimination issues against EOI?

21 A Investigation? I don't know that I knew about
22 an investigation. I knew he had filed an allegation, but
23 I didn't know whether you were underway doing an
24 investigation or not.

25 Q Did Mr. Fisicaro not inform you?

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1 A I don't think he did specifically. I
2 looked -- I was given a copy of the letter that had the
3 allegations in it, but then after that, I just really
4 haven't had much feedback as to how it is progressing,
5 that kind of thing.

6 Q I am not referring to any DOL action, Mr.
7 Leavines. This is just, I guess -- I guess what I want to
8 know is if you knew that I was here at the site on behalf
9 of Office of Investigations for the NRC and one of my
10 investigations was Mr. Mike Malik. Were you aware of
11 that?

12 A Yes. I think I heard that through licensing,
13 that you were here and that that was probably one of the
14 things you were looking at.

15 Q Are there any records outside of his PPR and
16 his personnel file that may have been developed since June
17 of '95 to the present?

18 A June '95 this year?

19 Q This year. In other words, for about a month
20 and a -- for the last 15 days, have any record
21 documentation been created or changed of his development
22 process?

23 A We have his improvement plan that we have gone
24 over and made some notes on.

25 Q And how is that going?

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1 A The functions are being accomplished, as you
2 would expect. You know, we are not going to allow that to
3 no occur. He has -- I would have to characterize his
4 efforts as being somewhat improved, that he has made a --
5 what I think is a good-faith effort to try to improve his
6 performance, to take more part in the process and to have
7 something to do with the improvement of it and the driving
8 of it.

9 He is not entirely successful yet, and I
10 conveyed that to him, and I think he is beginning to
11 understand how that how his behavior fits into that.
12 But I am not seeing -- if I had to characterize it right
13 now, I would say I am no seeing a let-down or anything
14 like that, or, you know, a wait-and-see attitude anything
15 of the kind. He is in there trying, so you have to give
16 credit for that.

17 Q And I think I said earlier that on my next
18 visit, I would like to go over some of the -- I asked for
19 any and all of his documentations, his records, to see --
20 to reflect his performance and how he has been doing, and
21 I will go over some of those records with you next time.

22 The other issue was that --

23 MR. ARMENTA: I would like to at this time
24 pass on to Mr. Boal if he has any questions.

25 MR. BOAL: Sure.

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1 BY MR. BOAL:

2 Q Mr. Leavines, backing up a little bit to the
3 ranking process, do you know of the source of that ranking
4 process?

5 A I am trying to remember how it was rolled out.
6 I think there was a very high level work group or
7 committee that devised the process. I think Mr. Hance was
8 involved in it. I just don't recall all the details right
9 now, but I do know that it was evolved at a higher level
10 and then propagated into the organization.

11 Q Do you know if it had a history of working
12 someplace else, or was this a complete initiation for it?

13 A I recall being told that other companies had
14 used this and success with it. I can't recall which ones
15 they were right now. I don't believe that it was an
16 entirely new -- you know, just thought up here at Entergy
17 and used for the first time here.

18 Q And once again going back to this meeting
19 where you ranked -- where it was the roll-up for your
20 supervisors, I think on the board there it is C. You said
21 originally you went into that meeting, Mr. Malik was a 7,
22 but as a result of the discussion in the meeting, he was
23 moved down -- moved over to a 9.

24 A Uh-huh.

25 Q Can you recall who provided you the additional

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1 discussion about Mr. Malik? You said Mr. Fisicaro was
2 one. Were there others that --

3 A I think -- I don't know that very many other
4 people chimed in on that. I don't think that they did,
5 before we moved him over. I think there was kind of a
6 general assent around the room that that looked proper,
7 and probably it was more in the context of, you know, the
8 whole spectrum of people.

9 Q Do you recall how many supervisors you all
10 merged in that roll-up meeting?

11 A Let's see. I have the number back at my desk.
12 I think about six, six or seven. I can get the exact
13 number if you like.

14 Q Well, let us just use the high number for an
15 example, seven. And as a result of that meeting, there
16 were seven supervisors and two were put in block 9. That
17 appears to have exceeded the 10 percent figure that we had
18 seen.

19 A Uh-huh.

20 Q Was there any discussion about that result in
21 that meeting?

22 A Not really, no.

23 Q Was there any uncomfortableness that you
24 sensed, that you were exceeding or starting out in placing
25 people in that area?

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1 A No. I don't think so. I think there was
2 probably awareness of it, but I don't think anyone through
3 that that was, you know, excessive or unjust or anything
4 like that. It was going to be rolled up again, you know,
5 with the supervisors on site, no --

6 Q Do you recall who the other block 9 was?

7 A I believe it was [REDACTED] was the other
8 block 9.

9 Q Did you have work experience with Mr. [REDACTED]

10 A When he was in QA and I was in other roles, we
11 would interact, as you will, with QA, but that is pretty
12 much it; just those kinds of things.

13 Q At that meeting, did you have input into his
14 ranking?

15 A No. I didn't say anything about his. I don't
16 recall saying anything about his ranking.

17 Q Can we take that to mean you agreed with his
18 ranking as being a 9?

19 A Uh-huh. Because I think he came in as a 9,
20 ranked as a 9. So his direct supervisor, which I believe
21 is Jim, had ranked him, you know, at the beginning as a 9.

22 Q And from your experience, you didn't see any
23 reason to disagree with that or --

24 A No.

25 Q -- discuss it.

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1 A No. I didn't -- he did not stand out as an
2 exemplary performing or something like that, that I would
3 have had occasion to say, Now, wait a minute; I have seen
4 him do these things or those things. You have got it
5 wrong or something like that; nothing like that.

6 Q In your experience in this meeting, do you
7 believe that by having the discussions about the personnel
8 assigned to block 9, that the check and balance to assure
9 that they were there based on performance and potential
10 and not for other reasons was in place and used?

11 A Yes. There wasn't any other kind of
12 discussion at all, other than performance and potential.

13 Q Now, we realize that this is a detail that is
14 kind of -- time tends to cloud, but I believe you said
15 when you went into that meeting, you weren't sure exactly
16 how the names got on the board or whether you put them
17 there or someone else did. But when you went into that
18 meeting, did you have some document with you?

19 A I think I had my -- just my list of the
20 rankings or the blocks that we had selected for all
21 personnel. Remember, we had -- at the outset of the
22 meeting, we talked about everybody at all levels, and then
23 when we were through with that part, the supervisors left
24 and we did that part, so I had my sheet that had those
25 the names and the numbers for everybody in the group.

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1 including supervisors, so that I could assure that they
2 all went, you know, in the right spot to start with,
3 before we started talking.

4 Q In our earlier discussions about this ranking
5 process, an emphasis appeared to be placed upon the word
6 "relative ranking," rather than just ranking by itself.

7 A Uh-huh.

8 Q Is that your experience also?

9 A Uh-huh.

10 Q That relative ranking was a part of this
11 ranking process or a necessary part or -- an integral
12 part? I am sorry.

13 A Yes. I think it was.

14 Q Do you know if your peers had a similar list
15 to yours?

16 A With them at the meeting?

17 Q Yes, sir.

18 A I don't know. I can't say for certain, but I
19 presume they would have had. I mean, it just seems
20 logical that you have your list with you.

21 Q Now, one of the things that Jonathan and I are
22 tasked with doing is to try and establish the facts if we
23 can. One of the things we heard about this ranking
24 process that was relayed to us was that EOI wanted this to
25 be a paperless process. Had you heard that kind of

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1 statement or inference or anything?

2 A No. As in not keep a record of it?

3 Q Right. In --

4 A No. I don't recollect anything like that
5 being said. It didn't have forms and things like the PPR
6 does, so maybe in that sense paperless, but as in don't
7 put anything down in writing --

8 Q Right.

9 A No, nothing like that. I don't see how you
10 could accomplish it without it.

11 Q Well, as part of our investigation, Jonathan
12 and I would like to request that we view the documentation
13 that you took to that meeting, if you can find it or have
14 it.

15 A I can. Sure.

16 BY MR. ARMENTA:

17 Q Mr. Leavines, I just remembered what I was
18 going to ask you earlier, and it is along the -- going
19 back to the review panel meeting that Mr. Boal is talking
20 to you about. What was Mr. Giadrosich's input on Mr.
21 Malik?

22 A I think he had something along the lines of
23 assent to say, like, Yes, that seems right, or some words
24 like that. But I think that was after we had moved him to
25 block 9.

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1 Q In other words, what you are saying, Mr.
2 Giadrosich' input about Mr. Malik's rating that you
3 brought did not affect his ranking.

4 A That is right. That is my recollection.

5 Q Your recollection is that Mr. Fisicaro gave
6 most of that input.

7 A Right.

8 Q Were you at any time instructed during that
9 meeting or took as an instructive command by Mr. Fisicaro
10 to move Mr. Malik to a 9?

11 A No. As in, You will move him there regardless
12 of your own personal convictions or whatever?

13 Q As a direct instruction.

14 A No. He said, Don't you think he belongs
15 there, or some words to that effect, given who we see
16 ranked where we do, and I had to assent to that. I
17 thought that that was more appropriate. He did not order
18 me to put him there. No.

19 Q Had he not said anything, would Mr. Malik
20 probably have been left at the 7?

21 A Probably

22 Q Is Mr. Fisicaro --

23 A And then, of course, that was the process, is
24 to get together and say things and relatively rank them.

25 Q Did you question or did you raise an issue

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1 with Mr. Fisicaro about that?

2 A The only issue that I recall having raised was
3 since I knew that he had come over to the group as part of
4 the DOL agreement, I wanted to make sure that everyone
5 understood that that had taken place, and that it was
6 fairly recent, just kind of remind him of that, and say
7 that I was confident in my ranking or rating of his
8 performance, but that that could be an issue later for us.

9 That was by way of suggesting that if we want
10 to consider him that, we might want to not rank him as a
11 9. But we all agreed that, no, we will just forget about
12 that issue altogether; we will do it strictly on
13 performance and our discussion here to do with performance
14 and potential, to be fair to everybody else.

15 MR. ARMENTA: Thank you. I don't have any
16 more questions, but I think we would like to talk to you
17 again.

18 THE WITNESS: Okay.

19 MR. ARMENTA: I am through.

20 BY MR. BOAL:

21 Q Mr. Leavines, I would like to ask you a
22 general question right now. Could you give us your
23 opinion about this interview process that you are going
24 through today with Jonathan and I.

25 A General opinion or --

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1 Q Yes.

2 A Well, "general" would be a good word. It is
3 kind of general in nature. I mean, I have never engaged
4 in one of these before, didn't really know exactly what to
5 expect. It is just a general exchange of information to
6 the best I can recollect. To that degree, it is okay, as
7 long as you keep it in that context and understand I may
8 not remember things exactly.

9 If it were -- and I don't know if it is --
10 whether it is similar to court proceedings or what. I am
11 not familiar with it. I would expect more rigor if it
12 was. In other words, we would go and try to get whatever
13 written evidence or whatever things like that that we
14 could, to more solidly establish, rather than just rely on
15 people's memory with regard to how processes were executed
16 that many months ago.

17 But if you have got to do an investigation, I
18 guess this is one way of doing it.

19 Q Would -- you know, realizing that your
20 position and your job here at Riverbend Station is toward
21 production, geared towards making the plant run and stuff,
22 would you consider this time that you have spent here to
23 negatively impact on your ability to conduct your tasks,
24 such as today?

25 A Well, it takes time away obviously, but the

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1 process, I guess, upon which it is founded is part of the
2 checks and balances and the safety net that we have, in
3 the event people are not allowed to raise safety issues or
4 what have you. You have got to have that process.

5 It is not a problem here, as far as I am
6 concerned. There isn't anything of that kind going on
7 here, but you can't just ignore it. You have got to be
8 there and ready and willing to listen to people who feel
9 like that may be the case.

10 So to that end, my job is -- yes. It is
11 related to power production, but if you look at the title
12 of the job, it is nuclear safety and assessment. I am
13 more towards the end of oversight of nuclear safety, so I
14 think maybe I understand this process and need for it a
15 little better maybe than somebody from the plant who is
16 more directly related to production line.

17 You know, in the strictest sense, I am
18 spending hours here that I am not spending on my job, but
19 I can accomplish my job with -- this does not adversely
20 affect me being able to get my job done.

21 Q Do you believe it would adversely impact you
22 in future decisions, say, future personal decisions where
23 you might say, Well, if I do X to such and such person, it
24 may result in the NRC coming down here and talking to me,
25 and therefore, I need to rethink this?

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1 A Meaning if I felt someone had a performance
2 problem and that they might avail themselves of this
3 process, I wouldn't address that with them?

4 Q Yes.

5 A No.

6 Q Yes, in the future.

7 A It would be hard, and certainly as a human,
8 that would be in my mind. I can't say it wouldn't. But I
9 think I have enough discipline and professionalism to
10 override that. I mean, you have to be fair to everyone in
11 the group. If you have someone who is not performing and
12 maybe they have got this issue and you know about it, and
13 you say, Well, I will not address their performance
14 problems, you are being unfair to several people.

15 You are being unfair to everybody else that is
16 being ranked or rated with that individual, because he is
17 now not held to the same standard, and you are being
18 unfair to him, because you are not identifying the issue
19 with him, and he cannot improve if you do not do that.

20 So those things, I think, outweigh any of
21 those other considerations about maybe I would have to sit
22 in one of these things again or whatever.

23 MR. BOAL: Mr. Leavines, has Jonathan or I or
24 any other NRC representative threatened you in any manner
25 or offered you a reward in return for this statement?

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1 THE WITNESS: No.

2 MR. BOAL: Have you provided this statement
3 freely and voluntarily?

4 THE WITNESS: Yes.

5 MR. BOAL: We would like to -- we are getting
6 ready to close this interview, but before we do, we would
7 like to offer you an opportunity to add information or
8 provide us with information that we haven't covered that
9 you feel may help us in accomplishing our investigations
10 here, if you think of anything to help us.

11 THE WITNESS: I can't really off the top of my
12 head think of anything. I think we have been over just
13 about every issue with regard to how the process was run
14 and what part I played in it with regard to Mike and I
15 presume anybody else.

16 The only issue that might -- that you may not
17 be clear on might be the relationships of the PPRs to the
18 process, but I think I would have to ask you if you are
19 clear on that, how that works and how they are related to
20 one another; they are separate but they are linked. You
21 know, you use the PPR as a tool to help you determine
22 performance, which is just one element of ranking. It is
23 not the ranking process; it is not a part of it, but it is
24 an input to it.

25 That is the only thing that I thought of, out

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1 of the whole discussion, that might not have been clear.
2 But if it seems clear to you, then I guess that is about
3 all I have got.

4 MR. ARMENTA: We are not saying it is clear to
5 us. We just have not comments.

6 THE WITNESS: Okay.

7 MR. BOAL: Mr. Levanway?

8 MR. LEVANWAY: Well, I guess I will follow up
9 on that then, because I have heard statements made by the
10 investigators here that they have heard different things
11 about this, and I haven't heard those same statements, and
12 I haven't heard inconsistencies. So I guess I want to
13 follow up with you on that.

14 EXAMINATION

15 BY MR. LEVANWAY:

16 Q You were asked the question, I think, by Mr.
17 Armenta about whether you would agree that the mechanical
18 process by which ranking occurred was done differently by
19 different supervisors, and this followed on the discussion
20 about the PPR process.

21 A Uh-huh.

22 Q I want you to read -- I am handing you here
23 under the -- in the blue book here, where it says, number
24 2, "The ranking process, steps and guidelines," and this
25 is the page having to do with, Rank the population by

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1 current performance.

2 A Uh-huh.

3 Q And ask you to read under the definition of
4 performance the first two paragraphs there.

5 A Okay. It says, "Employee performance is a
6 measure of work results achieved during the current year.
7 This assessment is made by the employee's immediate
8 management against work objectives and job accountability
9 as established during the performance planning and review
10 process.

11 "Start by assessing the 1994 performance for
12 each employee. Review objectives and accountabilities,
13 results of interim reviews, employee self appraisals, and
14 any other material relevant to the employee's
15 performance."

16 Q Do you have any reason to think that anyone
17 who participated in the ranking process as a supervisor
18 failed to follow these general guidelines in terms of
19 assessing performance?

20 A No.

21 Q And would you agree with me that as far as you
22 know everyone followed mechanically the same process by
23 which people were ranked from first to worst in terms of
24 both performance and potential?

25 A As far as I know, that is right.

1 Q And I think you have said already the
2 performance -- the PP&R process is separate, but it may be
3 a source of information on which a supervisor would inform
4 themselves about performance, one of many sources that you
5 could or could not use.

6 A That is right.

7 MR. LEVANWAY: That is all I have.

8 MR. BOAL: It is approximately 11:03 a.m., and
9 this interview is concluded.

10 (Whereupon, at 11:03 a.m., the interview in
11 the above-entitled matter was concluded.)

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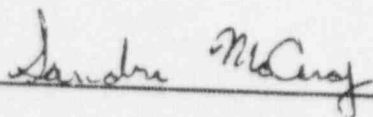
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: JOSEPH WARD LEAVINES

Docket Number(s): --

Place of Proceeding: St. Francisville, LA

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Sandra McCray

Official Reporter

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