

**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: Pre-decisional Enforcement Conference  
RE Joe Shea

Docket Number: IA-2020-008

Location: teleconference

Date: Thursday, June 25, 2020

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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PRE-DECISIONAL ENFORCEMENT CONFERENCE

RE

JOE SHEA

(DOCKET NO. IA-2020-008)

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THURSDAY

JUNE 25, 2020

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The conference was convened at 8:00 a.m.,  
George Wilson, Director, Office of Enforcement,  
presiding.

NRC STAFF PRESENT:

GEORGE WILSON, Director, Office of Enforcement

ALEX ECHAVARRIA, Office of Investigations

IAN GIFFORD, Office of Enforcement

SARA KIRKWOOD, Office of the General Counsel

SCOTT LUINA, Office of Investigations

CHRIS MILLER, Office of Nuclear Reactor  
Regulation (NRR), Division of Reactor  
Oversight

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1 MARK MILLER, Region II, Division of Reactor  
2 Projects

3 DAVID SOLORIO, Office of Enforcement

4 CATHERINE THOMPSON, Office of Enforcement

5

6

7 ALSO PRESENT:

8 JOE SHEA, Respondent

9 SID FOWLER, Pillsbury Winthrop Shaw Pittman,  
10 on behalf of Mr. Shea

11 MEGHAN HAMMOND, Pillsbury Winthrop Shaw  
12 Pittman, on behalf of Mr. Shea

13 ANNE LEIDICH, Pillsbury Winthrop Shaw Pittman,  
14 on behalf of Mr. Shea

15 MICHAEL LEPRE, Pillsbury Winthrop Shaw  
16 Pittman, on behalf of Mr. Shea

17 BETH WETZEL, Complainant

18 TIMOTHY WALSH, Pillsbury Winthrop Shaw  
19 Pittman, on behalf of Mr. Shea

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Director, Office of Enforcement

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

8:01 a.m.

1  
2  
3 MR. WILSON: Good morning, everyone. My  
4 name is George Wilson, I'm the Director of the Office  
5 of Enforcement.

6 Before we get started, Ian Gifford will  
7 review the details of today's video conference and  
8 answer any questions. Ian?

9 MR. GIFFORD: Thank you, George. I'll  
10 just walk you through a few features of Webex on your  
11 screen. I see that everyone has joined using their  
12 computer. You can switch to phone if you'd like by  
13 selecting the gray audio button at the bottom of the  
14 attendee list and swap audio, but we prefer computer  
15 if possible.

16 If you'd like to see all of the  
17 participants you can click the participant tab in the  
18 top right corner. You'll then see a list of all of  
19 the attendees for today's meeting.

20 You can hover your own name and you'll see  
21 a microphone and video. To the right you can select  
22 those to mute and unmute yourselves, and turn on and  
23 off your video.

24 If you are unable to turn off your audio,  
25 the host will mute you if there's background noise.

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1 Just be aware that if the host has muted you, you  
2 won't be able to unmute yourself, and so if you are  
3 having difficulties and believe that you've been muted  
4 by the host, please see the chat feature at the bottom  
5 and select a message to the host requesting control of  
6 your own audio.

7 If the chat box does not automatically  
8 open for you, you would just select chat at the top  
9 and you'll see the chat box open up under the list of  
10 attendees.

11 Rather than seeing the list of names, if  
12 you would like see thumbnails of the videos that are  
13 present, you can look at the little box that has three  
14 horizontal lines. It's a drop-down menu; select the  
15 drop-down menu, and switch from list to thumbnail and  
16 that will show you the active videos, in addition to  
17 the active speaker that's in the larger video box at  
18 the top right.

19 This is what it should look like after you  
20 click the participant button. You would see the  
21 different thumbnail video feeds.

22 During the presentation, if you'd like to  
23 switch to full-screen mode in the bottom left portion  
24 of your screen, you see a tab that says full screen,  
25 you would select that and this would be your new

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1 screen display.

2 You would have a drop-down menu that  
3 appears at the top of your screen, if you hover your  
4 mouse over the center top.

5 And you can see the features of mute, you  
6 can also select participants and you'll see a video  
7 box in the top right corner, you can expand that video  
8 box by dragging the bottom left corner to make it  
9 larger or smaller.

10 If it's covering a certain portion of the  
11 PowerPoint slide you'd like to see, you can drag that  
12 video all over the screen.

13 You can also select participants and get  
14 a larger view where you see all the thumbnails of all  
15 of the videos, in addition to the active speaker.

16 If you're running a dual monitor setup,  
17 you can also drag that pop-up window over to a second  
18 screen so that it doesn't cover any of the PowerPoint  
19 slides.

20 If you do not want to see the PowerPoint  
21 slides and would like to prioritize video, in the top  
22 right corner of the video screen there's two arrows  
23 that point to the top right and bottom left corner.

24 That would expand the video to the full  
25 screen. That's what it would look like there, and you

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1 would see all of the active thumbnails of the videos  
2 along the bottom. It'll display five at a time.

3 You can select the right and left arrows  
4 under those thumbnails if you want to scan through  
5 other videos. This is the screen that we recommend  
6 using after the caucus, for the Q&A portion of the  
7 meeting.

8 I think that covers it, George. If you'd  
9 like to take it back?

10 MR. WILSON: Thank you.

11 The purpose of today's teleconference is  
12 to obtain information that would be used to determine  
13 if a violation of discrimination occurred, which was  
14 contrary to the requirements of 10 CFR 50.5 and 10 CFR  
15 50.7 in employee protection.

16 It is important to note that this pre-  
17 decisional conference is an important step in our  
18 four-step process. We want to offer you an  
19 opportunity to make statements to us so that we can  
20 fully and thoroughly process if you're non-compliant.

21 Our role is not to debate the facts with  
22 you, but to receive and process information that is  
23 pertinent. We will use today's information along with  
24 information you submitted prior to the meeting today  
25 to inform the final enforcement decision.

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1 In a few moments, I'll go over the agenda  
2 and provide some public meeting guidance. I'd like to  
3 begin with introductions. Would those NRC staff  
4 please introduce yourselves?

5 MS. THOMPSON: Catherine Thompson, Office  
6 of Enforcement.

7 MR. SOLORIO: Dave Solorio, Office of  
8 Enforcement, Branch Chief.

9 MR. GIFFORD: Ian Gifford, Office of  
10 Enforcement.

11 MR. M. MILLER: Mark Miller, Region II.

12 MR. C. MILLER: Chris Miller, Office of  
13 Nuclear Reactor Regulation.

14 MR. SOLORIO: Please repeat, Chris.

15 MR. C. MILLER: Chris Miller, Office of  
16 Nuclear Reactor Regulation.

17 MS. KIRKWOOD: Sarah Kirkwood, Office of  
18 the General Counsel.

19 MR. ECHAVARRIA: Alex Echavarria, Office  
20 of Investigations, Region II.

21 MR. LUNIA: Scott Luina, Office of  
22 Investigations, Region II.

23 MR. WILSON: Would individuals from TVA  
24 please introduce themselves?

25 MR. SHEA: My name is Joe Shea, TVA. I'll

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1 let my counsel introduce himself. Mr. Walsh?

2 MR. WALSH: Thank you, this is Tim Walsh  
3 from Pillsbury. On the phone, also from Pillsbury, we  
4 have Mike Lepre, Anne Leidich, Sid Fowler, and Meghan  
5 Hammond.

6 And here in the room with me is TVA Chief  
7 Nuclear Officer, Timothy Rausch.

8 MR. WILSON: Thank you. The court  
9 reporter, are you online? Thank you.

10 The agenda for today's teleconference  
11 consists of opening remarks by me, followed by an  
12 enforcement policy overview by Catherine Thompson, and  
13 then an overview of the case specifics by Dave  
14 Solorio, the supervisor having oversight in this  
15 discrimination concern.

16 Following Mr. Solorio's overview of the  
17 case specifics, you will be provided an opportunity to  
18 present information for NRC's consideration.

19 The NRC staff looks forward to  
20 understanding your perspectives on these issues and  
21 we'd also like you to tell us if you believe there are  
22 any errors of the understanding of the facts and  
23 circumstances, and discuss any aggravating or  
24 mitigating circumstances that we should consider.

25 Following your presentation, the NRC staff

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1 will caucus in a separate breakout room on WebEx, and  
2 upon our return we will ask additional questions as  
3 necessary. You will also have access to a separate  
4 breakout room if you wish to use.

5 At the end of this teleconference, I will  
6 be making closing remarks on behalf of the NRC and  
7 this meeting will be adjourned.

8 Now let's cover some of the meeting  
9 guidelines of this conference. In accordance with our  
10 normal practice, any written material you provide  
11 today will be placed in the NRC's document management  
12 system. It'll be withheld from public disclosure  
13 until this matter is concluded. NRC representatives  
14 may ask questions as they deem necessary after the  
15 caucus.

16 This meeting is being transcribed,  
17 therefore, it's important that all individuals speak  
18 clearly and identify themselves to assist the  
19 transcriber.

20 In case the transcriber has follow-up  
21 questions, please remain in the teleconference for a  
22 few minutes after the meeting adjourns.

23 The written transcript will provide the  
24 NRC with a record of the information that is presented  
25 today and will be used in reaching a final agency

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1 decision in the matters that we will discuss.

2 The transcript is not normally released to  
3 the public, however, if requested under the Freedom of  
4 Information Act, release would be considered, subject  
5 to redactions allowed by the Freedom of Information  
6 Act.

7 In accordance with the NRC enforcement  
8 policy and manual, this conference is closed to public  
9 observation because it involves the findings of an NRC  
10 Office of Investigations report that has not been  
11 publicly disclosed, and involves personal issues  
12 related to discrimination.

13 With the exception of the transcript  
14 already mentioned, no portion of this PEC shall be  
15 recorded. And in addition, information discussed in  
16 this PEC cannot be discussed in the public domain by  
17 NRC staff, TVA staff, or other concerned individuals.

18 Today, no final NRC decision will be  
19 discussed, made, or announced at this meeting. The  
20 parties will be informed in writing if the NRC decides  
21 to take an enforcement action.

22 Based on the availability of the  
23 transcript and supplemental information you may  
24 provide, we plan to make a final determination by the  
25 end of July.

1 Does anyone have any questions regarding  
2 the agenda or leading guidelines that I just  
3 described?

4 MR. SHEA: I do not.

5 MR. WILSON: With that, at this time, Ms.  
6 Thompson will provide an overview of the enforcement  
7 policy, followed by Mr. Solorio's overview of the case  
8 specifics.

9 MS. THOMPSON: We are conducting today's  
10 teleconference to obtain information related to an  
11 apparent violation of the NRC's employee protection  
12 rule, 10 CFR 50.7, and 10 CFR 50.5 for deliberate  
13 misconduct.

14 The NRC has determined that you apparently  
15 engaged in deliberate misconduct because Tennessee  
16 Valley Authority, an NRC licensee, discriminated  
17 against the former manager of emerging regulatory  
18 issues, Ms. Wetzel, for engaging in protected  
19 activities. Your actions resulted in a termination of  
20 Ms. Wetzel.

21 To ensure a safety conscious work  
22 environment, a high value is placed on employees being  
23 free to raise nuclear safety concerns, regardless of  
24 the merits of the concern.

25 The NRC's authority is limited to taking

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1 an enforcement action against the licensee or  
2 contractor, would we make a finding of discrimination.

3 As appropriate, enforcement actions  
4 include issuing a notice of violation, assessing a  
5 civil penalty, issuing an order, modifying an NRC  
6 license, or, in criminal cases, referring to the case  
7 to the Department of Justice for prosecution.

8 Over the years, the NRC has made referrals  
9 to DOJ and they have prosecuted some cases.  
10 Additionally, nuclear workers may seek personal remedy  
11 regarding discrimination cases via the Department of  
12 Labor.

13 Because this subject matter involves pre-  
14 decisional discrimination information and findings by  
15 our Office of Investigations, this teleconference is  
16 closed to the public.

17 Ms. Wetzel was invited to attend the  
18 teleconference and she is also on this teleconference.  
19 She will be given the opportunity to provide comments  
20 for NRC's consideration.

21 It is important to note that this  
22 teleconference is pre-decisional and is an important  
23 step in our enforcement process. We want to offer you  
24 an opportunity to make statements to us so that we can  
25 fully and thoroughly process the apparent violation.

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1           Our role is not to debate the facts with  
2 you, but to receive and process the information that's  
3 presented today.

4           This teleconference will provide an  
5 opportunity for the NRC to ask clarifying questions  
6 and it will provide you the opportunity to comment on  
7 the information that is provided in the conference  
8 letter, to provide or to present additional relevant  
9 information, such as aggravating or mitigating  
10 circumstances, and to also discuss corrective actions  
11 that have been taken, or are planned.

12           Presently, the concern is being processed  
13 in accordance with our guidelines on escalated  
14 enforcement. In accordance with Section 6.10 of the  
15 enforcement policy, the issue might be dispositioned  
16 at a Severity Level-I, -II, or -III violation.

17           The NRC is considering a notice of  
18 violation or a ban. A notice of violation describes  
19 the NRC requirement that was violated, the  
20 circumstances of the violation, the severity level of  
21 the violation, and may require a written response.

22           The NRC considers issuing a ban to a  
23 licensee official when their actions are deliberate  
24 and result in the NRC no longer having reasonable  
25 assurance that license activities will be conducted in

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1 an adequate manner.

2 Bans are typically fixed at one, three, or  
3 five years. When the NRC determines the length of a  
4 ban, we consider the position of the individual in the  
5 organization and the significance of the underlying  
6 violation.

7 We will conduct an internal agency panel  
8 to make a final decision. In addition to what has  
9 previously been developed by the NRC's Office of  
10 Investigations, we will consider information presented  
11 today.

12 If the agency determines that a violation  
13 of 10 CFR 50.5 and 10 CFR 50.7 occurred, you will  
14 receive a public notification of the agency's  
15 enforcement action. Additionally, the NRC will issue  
16 a press release.

17 The possible outcomes for escalated  
18 enforcement actions include the issuance of a notice  
19 of violation, or the issuance of an order for a one to  
20 five-year ban.

21 Additionally, a potential outcome is that  
22 no enforcement action is taken by the NRC. Dave?

23 MR. SOLORIO: Good morning, can you hear  
24 me okay, Joe and Nathan?

25 MR. SHEA: Yes, I can.

1 MR. SOLORIO: Thank you. At this time,  
2 I'll provide a summary of the apparent violation and  
3 then I'll turn things over to you, Joe.

4 The purpose of the NRC Investigation 2-  
5 2019-015 was to determine whether Ms. Wetzel was the  
6 subject of employment discrimination for participating  
7 in a protected activity, in violation of the NRC's  
8 employee protections, specifically 50.7.

9 The NRC determined that Ms. Wetzel was  
10 apparently placed on paid administrative leave on  
11 October 15, 2018 and terminated on January 14, 2019,  
12 in part for engaging in protected activities.

13 Between 2016 and '17, Ms. Wetzel raised  
14 numerous safety concerns, including violations of Part  
15 26 fatigue rule at Watts Bar, failure to adhere to the  
16 Fukushima requirements at Sequoyah, concerns regarding  
17 a Watts Bar 2 surveillance extension request, and  
18 failure to meet NRC commitments in Information Notice  
19 2017-03 to identify Anchor/Darling double-disc gate  
20 valve susceptibility to failure at Browns Ferry.

21 Ms. Wetzel also raised concerns about a  
22 chilled work environment. Ms. Wetzel also wrote  
23 condition reports and discussed safety issues during  
24 meetings. All of these above are protected  
25 activities.

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1 NRC staff reviewed the evidence gathered  
2 during the NRC OI investigations, and determined the  
3 actions taken against Ms. Wetzel were an apparent  
4 violation of the NRC's rule prohibiting deliberate  
5 misconduct, 10 CFR 5.55(a).

6 Based on the evidence developed during the  
7 investigations and subsequent staff analysis, it  
8 appears that you, as the vice president of regulatory  
9 affairs, engaged in deliberate misconduct that caused  
10 an NRC licensee to be in violation of 10 CFR 50.7,  
11 employee protection.

12 Next slide.

13 10 CFR 50.55(a) states in the relevant  
14 part that any employee of a licensee may not, one,  
15 engage in deliberate misconduct if it causes, or would  
16 have caused, if not detected, a licensee or applicant  
17 to be in violation of any rule, regulation, or order,  
18 or any term, condition, or limitation of any license  
19 issued by the Commission.

20 10 CFR 50.7(a) states in the relevant part  
21 that discrimination by a Commission licensee against  
22 an employee for engaging in certain protected  
23 activities is prohibited.

24 Discrimination includes discharge and  
25 other actions that relate to compensation terms,

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1 conditions, or privileges of employment.

2 Next slide. Between October 15, 2018 and  
3 January 14, 2019, you apparently engaged in deliberate  
4 misconduct that caused TVA, an NRC licensee, to  
5 discriminate against a former corporate employee for  
6 engaging in protected activity.

7 Specifically, Ms. Wetzel engaged in  
8 protected activity by raising concerns of a chilled  
9 work environment to you and a TVA attorney during a  
10 TVA Office of General Counsel investigation.

11 After becoming aware of this protected  
12 activity, you, as the Vice President of Regulatory  
13 Affairs, placed Ms. Wetzel on paid administrative  
14 leave and played a significant role in terminating  
15 her.

16 Your apparent actions were based at least  
17 in part on Ms. Wetzel engaging in protected activity.

18 George?

19 MR. WILSON: Thank you, Dave. Mr. Shea,  
20 we're ready for your presentation.

21 MR. SHEA: Thank you, Mr. Solorio, thank  
22 you, Mr. Wilson.

23 Before we start, just for the recorder,  
24 I've been advised that my microphone is very sensitive  
25 and page-turning can be distracting, so if there's any

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1 problem with that please let me know.

2 Other than that, I will get started.

3 Good morning. As you've just heard, my  
4 name is Joe Shea and I am the Vice President of  
5 Nuclear Technology Innovation at the Tennessee Valley  
6 Authority, TVA.

7 During the period of time we'll be  
8 discussing today, I served as the Vice President of  
9 Regulatory Affairs and Support Services at TVA.

10 I want to thank you all for the  
11 opportunity to discuss the allegations raised in the  
12 NRC's March 2, 2020 notice of apparent violation  
13 during this pre-decisional enforcement conference.

14 I have great respect for the NRC's  
15 enforcement process and for the integrity that I have  
16 seen the NRC staff and executives bring to that  
17 process, dating back to my first exposure to the NRC's  
18 enforcement process when I was a junior NRC employee  
19 back in the early 1990s.

20 I take the allegations that the NRC has  
21 lodged against me very seriously. As I will discuss  
22 in detail today, it is absolutely wrong to conclude  
23 that at any time I deliberately took actions that I  
24 knew would cause the Tennessee Valley Authority to  
25 discriminate against Ms. Wetzel for engaging in

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1 protected activities.

2 The charge against me is simply not true  
3 and you will see that demonstrated in my  
4 contemporaneous emails, notes, and documents you have  
5 before you.

6 I will show you that my actions, with  
7 respect to Ms. Wetzel, were aimed at remedying a  
8 situation where one of the managers in my organization  
9 was engaged in inappropriate conduct directed at her  
10 supervisor, Erin Henderson.

11 As a leader, I have a responsibility to  
12 all of my employees to ensure they do not come to work  
13 in a hostile work environment or a harassing  
14 workplace, and I had that responsibility to Erin  
15 Henderson.

16 The TVA Code of Conduct that is in place  
17 today, and was also in place in 2018, makes clear that  
18 if harassment is found to have occurred, appropriate  
19 disciplinary action, up to and including termination  
20 of employment, will be taken.

21 The TVA 2018 Code of Conduct is provided  
22 in Exhibit 1. The NRC itself says in its safety  
23 culture of traits for a respectful work environment,  
24 that leaders should not demonstrate or tolerate  
25 bullying or humiliating behaviors.

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1           Moreover, the statements Ms. Wetzel made  
2 to me were simply unprofessional and unacceptable for  
3 a manager to make in any workplace, much less a  
4 federal agency, which TVA is.

5           Today, we'll walk through my actions, and  
6 the organization's actions, with respect to Ms.  
7 Wetzel. By way of outline for my presentation, first  
8 I will give you a brief background of myself and my  
9 own experience raising nuclear safety concerns.

10           Then my attorney will give an overview of  
11 the legal matters related to this case. Next, I will  
12 discuss how Ms. Wetzel made statements to me on  
13 multiple occasions, about Ms. Henderson, that I  
14 believe were neither true, nor raised in good faith.

15           Then I will show you how, when faced with  
16 those statements, I repeatedly and consistently asked  
17 for assistance from the appropriate TVA resources,  
18 namely the Office of General Counsel and Human  
19 Resources on how to address Ms. Wetzel conduct.

20           Throughout this presentation, you will see  
21 I was focused on Ms. Wetzel inappropriate conduct, not  
22 any protected activities she may have engaged in.

23           Indeed, none of these issues are nuclear  
24 safety issues, these are internal personnel issues I  
25 was addressing, and seeking help to address, within my

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1 own organization.

2 I will show you that I had no preconceived  
3 notions when I first referred Ms. Wetzel's conduct to  
4 OGC and HR as to what the outcome may be.

5 And I will show you that I followed  
6 applicable TVA processes, namely the TVA Executive  
7 Review Board, to ensure adverse employment action  
8 against Ms. Wetzel was taken for appropriate reasons,  
9 and not because of her protected activity.

10 Finally, I will show you why I simply  
11 would not have engaged in the conduct alleged here.  
12 In a moment, my attorney will provide a short  
13 discussion of the legal standards that apply here, and  
14 preview why no violation of 10 CFR 50.5 occurred.

15 But before he does that, I want to  
16 emphasize to you, the board members, that I have been  
17 honored and privileged to have been able to have a  
18 career of nearly 40 years in public service and I  
19 strongly want to continue in that.

20 Indeed, to the best I can recount, every  
21 job I have held since I was 18 has been in public  
22 service, or in support of public service, at the  
23 local, state, or federal level.

24 In brief, I have served a little over 5  
25 years in the United States Navy, approximately 19

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1 years at the United States Nuclear Regulatory  
2 Commission.

3 My time at the NRC included service to the  
4 Office of Nuclear Reactor Regulation, and Nuclear  
5 Material Safety and Safeguards, as a licensing project  
6 manager; in the Office of the Executive Director for  
7 Operations, as Chief of the Regional Operations  
8 Section; and the Office of Nuclear Security and  
9 Incident Response as the Director of Nuclear Security  
10 Policy; and finally, in Region II, in roles that  
11 included Director of Reactor Projects, Reactor Safety,  
12 and Fuel Facility Inspection.

13 For nearly the last ten years, I've  
14 continued in public service at the Tennessee Valley  
15 Authority, and I'll briefly describe some of my tenure  
16 at TVA later in the presentation.

17 Across these years of service, I have  
18 first been instructed, then learned to experience, and  
19 then taught and nurtured the critical importance of  
20 being able to ask questions if I feel I lack  
21 knowledge, and to reasonably expect an answer; of  
22 being able to raise a concern if I am unsure of  
23 something or I think something is not right, and to  
24 have my concern addressed; and ultimately, being able  
25 to express, with all my skill and passion, an issue

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1 where I believe my team or organization are standing  
2 at a danger, and expecting no harm will come if I have  
3 raised the issue within the highest ethical standards,  
4 including with integrity and sincerity.

5 I truly believe that I have adhered to  
6 these principles throughout all of my career.

7 I will certainly never claim that I am  
8 perfect, and this experience has prompted me to  
9 reflect closely on the facts and circumstances we are  
10 here today to discuss.

11 I would like to firmly reiterate that  
12 retaliating against someone for raising a nuclear  
13 safety issue would be against everything I have ever  
14 learned, experienced, and espoused in my lengthy  
15 public service career. And it didn't happen here.

16 While I provide some discrete examples of  
17 where I have had the opportunity to raise concerns  
18 that are reflective of a range of my personal  
19 experiences, I offer these examples to you in an  
20 effort to show that I personally know what it's like  
21 to raise concerns that others may not want to hear.

22 These examples have instilled in me the  
23 sensitivity towards and appreciation for others who  
24 themselves raise such concerns.

25 In 2012, while serving in my capacity at

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1 TVA as Vice President of Licensing, TVA was under  
2 extremely regulatory pressure to submit a high-quality  
3 license application for a transition to National Fire  
4 Protection Association Standard 805 on a non-  
5 negotiable NRC deadline.

6 At that time, I was struggling mightily  
7 with my TVA peers, who I believe were not supporting  
8 a sufficient quality standard in terms of completeness  
9 and accuracy.

10 Those senior management and executive  
11 peers kept reporting to the Chief Nuclear Officer that  
12 our submittal was on schedule, when myself and my  
13 subordinates knew that it was not.

14 The CNO at that time was nearly  
15 exclusively focused on ensuring the application was  
16 submitted on time.

17 That put me, the most junior member of the  
18 nuclear executive leadership team, in the position of  
19 informing my senior vice president that we were off  
20 schedule, contradicting the reports of my peers.

21 However, I went into his office, armed  
22 with facts developed by my subordinates, presented the  
23 issue and recovery plans, and I was supported. And I  
24 think this example shows how I was not afraid to speak  
25 up on behalf of my team when I see an issue.

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1           In 2007, as Division Director in NRC's  
2           Region II Office, I had a significant disagreement on  
3           the NRC's position on an apparent violation against an  
4           individual in the nuclear industry.

5           To my recollection, I provided my view of  
6           the facts supporting my concerns to the relevant NRC  
7           leadership, including the Acting Regional  
8           Administrator and the Director of the Office of  
9           Enforcement.

10          The discussion was professional but  
11          passionate, and very strong words were used  
12          professionally, but very strongly.

13          I mentioned this instance because in this  
14          case, while my view did not prevail, as I hoped it  
15          would, I was given the opportunity to raise those  
16          concerns and did not suffer consequences.

17          That resonates with me all these years  
18          later because that's how I want others to view their  
19          interactions with me, that they can have professional  
20          but passionate discussions and know that the same  
21          outcome of no consequence will result.

22          And finally, one of the most lasting  
23          memories I have in my professional life occurred when  
24          I was serving as staff to the NRC's then-executive  
25          director for operations.

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1           At an annual NRC leadership forum, the EDO  
2 reacted to a presentation regarding diversity concerns  
3 among the staff, which reaction disturbed some of the  
4 agency's senior leaders.

5           My view, as a leader, even the EDO  
6 couldn't address an issue if he wasn't made aware of  
7 it, including one that had potentially significant  
8 impact to the health and culture of that agency.

9           So, I found the EDO in a quiet setting and  
10 presented the facts as they had been presented to me  
11 by other senior leaders, and as I had observed them.

12           And while visibly stunned, the EDO reacted  
13 with a degree of gratitude that I had had the courage  
14 to be the one to bring this issue to his attention,  
15 and I suffered no adverse consequences.

16           Collectively, these experiences, and many  
17 others that I have experienced across my career, have  
18 instilled in me the value of being able to raise  
19 concerns without fear of retaliation.

20           My team at TVA also felt they could raise  
21 issues to me without fear of retaliation, and at least  
22 one example from this time period is provided to you  
23 in Exhibit 2.

24           These experiences also support my  
25 confidence that I have never intentionally retaliated

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1 against anyone who participated in protected  
2 activities. And I am also confident that today's  
3 discussion will bear out that my actions, vis-a-vis  
4 Ms. Wetzel, were ethical, in concert with processes  
5 such as they existed, and supported by counsel from  
6 leaders and support organizations.

7 I will now turn it over to my attorney to  
8 speak on my behalf.

9 MR. WALSH: Thank you, Joe. I'm Tim Walsh  
10 of the Pillsbury Law Firm.

11 As Joe's representative here today, I want  
12 to emphasize for the NRC the high legal standard that  
13 must be met to make a finding of deliberate misconduct  
14 here.

15 In order to make such a finding, the staff  
16 must determine that an individual intentionally sought  
17 to cause a violation of a Commission requirement.  
18 Here, in 10 CFR 50.7, it is a very high standard.

19 As Joe will show you today, his actions  
20 come nowhere close to that standard. The NRC has  
21 alleged that Joe has engaged in deliberate misconduct  
22 under 50.5 that caused TVA to violate the employee  
23 protection requirements of 50.7.

24 The Commission's regulations, orders, and  
25 other statements interpreting these regulations make

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1 explicit that a finding of deliberate misconduct  
2 requires an intent to commit wrongdoing.

3 Specifically, the rule states that  
4 deliberate misconduct by a person means an intentional  
5 act or omission that the person knows would cause the  
6 licensee to be in violation of any rule, regulation,  
7 or order.

8 The facts we will lay out for you show  
9 that is not true, but before we get to the facts, it  
10 is important to consider the Commission's own words  
11 when promulgating 50.5.

12 This is because the Commission crafted a  
13 deliberate misconduct rule to apply only in extreme  
14 circumstances, where intent to commit wrongdoing was  
15 clear.

16 I will now refer statements the Commission  
17 made when promulgating the rule in 1991. This is  
18 available at 56 Federal Register 40654. In that  
19 rulemaking, the Commission explicitly stated that the  
20 deliberate misconduct rule applies only to individuals  
21 who deliberately set in motion events that would cause  
22 a violation.

23 Stated differently, the Commission  
24 explained that an individual acting in this manner has  
25 the requisite intent to act in a wrongful manner.

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1           The Commission also made clear that the  
2 deliberate misconduct rule does not apply in cases of  
3 negligence, honest mistakes, or ignorance, or in cases  
4 where people may have made mistakes while acting in  
5 good faith.

6           The Commission has also explained that  
7 50.5 does not include accidental careless disregard  
8 for the requirements. 50.5 is a narrower rule that  
9 applies only to deliberate misconduct.

10          The Commission made clear that, quote,  
11 under this narrower rule, the range of actions that  
12 would subject an individual to action by the  
13 Commission does not differ significantly from the  
14 range of actions that might subject the individual to  
15 criminal prosecution, close quote.

16          The NRC claims that Joe intentionally took  
17 some action knowing that it would cause a violation of  
18 50.7, as to overcome an additional hurdle, and that  
19 hurdle is 50.7(d), which explicitly provides in part  
20 that actions taken by an employer or others, which  
21 adversely affect an employee, may be predicated upon  
22 non-discriminatory grounds.

23          And an employee's engagement in protected  
24 activity does not automatically render him or her  
25 immune from discharge or discipline for legitimate

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1 reasons, or from adverse action dictated by non-  
2 prohibited considerations.

3 So, when evaluating whether Joe took  
4 action knowing it would cause a violation of 50.7, the  
5 staff must look at all of 50.7 including 50.7(d). We  
6 note for the record that the Office of Investigations  
7 report contains no discussion of 50.7(d).

8 While this may be an oversight, the staff  
9 must consider that regulation when evaluating Joe's  
10 intent.

11 Joe will show you that he did not act with  
12 any deliberate intent to cause a violation of 50.7,  
13 nor did he act with any careless disregard for 50.7,  
14 either.

15 The enforcement manual defines careless  
16 disregard as where an individual is usual of the  
17 existence, meaning, or applicability of a requirement,  
18 but nevertheless proceeds to engage in conduct that  
19 the individual knows may cause a violation.

20 That definition does not fit the  
21 circumstances here. Here, Joe took action for  
22 entirely non-discriminatory and non-prohibited  
23 reasons.

24 Joe will show you that he believed that  
25 Ms. Wetzal was engaging in a pattern of conduct that

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1 violated TVA's rules and policies when making  
2 unfounded statements about her supervisor, Erin  
3 Henderson.

4 Joe will explain to you that he knew, or  
5 reasonably believed, that the statements Ms. Wetzel  
6 was making could not be true, or not made in good  
7 faith. Joe will show you that when confronted with  
8 these statements, he asked for help.

9 He again acted in good faith by seeking  
10 assistance from human resources and the Office of  
11 General Counsel in determining what he should do. At  
12 one point during the series of events -- and Joe will  
13 show you the emails -- Joe recommended to the Office  
14 of General Counsel that Ms. Wetzel be interviewed to  
15 find out more about the basis of her statement.

16 Asking the appropriate internal resources  
17 for assistance in how to handle a personnel issue is  
18 not the mark of a person who is intending to engage in  
19 wrongdoing. Again, it is worth repeating.

20 Asking for help in how to handle a  
21 personnel matter does not show an intent to violate  
22 any requirement; it shows intent to do what is right.

23 As Joe showed you, the Office of General  
24 Counsel disagreed with Joe's recommendation for good  
25 reason. Joe considered that recommendation and

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1 accepted it.

2 Ultimately, Joe came to the conclusion  
3 that Ms. Wetzel's actions warranted discipline.

4 The Office of General Counsel reviewed the  
5 facts at hand and determined that separating Ms.  
6 Wetzel from the company was legally supportable, and  
7 made that recommendation to Joe, either by a no-fault  
8 separation agreement or by termination at management's  
9 discretion.

10 With this recommendation in hand, Joe  
11 evaluated the facts and circumstances and determined  
12 to move forward with separation of Ms. Wetzel from the  
13 company, first by offering her a no-fault separation  
14 agreement.

15 Joe then followed TVA's process,  
16 specifically designed to ensure that employment  
17 actions are not taken for prohibited consideration,  
18 the Executive Review Board. Joe presented the  
19 proposed action to the Executive Review Board, or ERB,  
20 and the ERB concluded that legitimate reasons were the  
21 basis for separating Ms. Wetzel from the company.

22 The bottom line is that all of the  
23 evidence here shows that Joe acted in good faith every  
24 step of the way. This is not easy: holding people  
25 accountable for their actions, ensuring a harassment-

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1 free workplace, fostering a safety conscious work  
2 Environment.

3 No one does it perfectly but the evidence  
4 shows that Joe's passions were motivated only to  
5 ensure that harassing behavior stopped, not any  
6 technical concerns or alleged chilled work environment  
7 concerns anyone may have raised.

8 Before I turn it back over to Joe, I just  
9 want to note that we submitted to the NRC a set of  
10 exhibits in support of Joe's presentation today.  
11 Those exhibits are identified as Exhibits 1 through  
12 33.

13 Accompanying the records, is a book review  
14 summary of the information contained in the exhibits,  
15 and a detailed table of contents explaining the  
16 relevance of each document within it.

17 Joe and I will refer to those exhibits  
18 today, and our presentation will also be provided to  
19 you as Exhibit 34.

20 I'll turn it over to Joe now and speak  
21 with you again at the end of his presentation. Joe?

22 MR. SHEA: Thank you, Mr. Walsh. As I  
23 mentioned in my opening, I want to first address the  
24 apparent violation lodged against me in this  
25 proceeding.

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1 I unequivocally deny that at any time I  
2 deliberately took actions that I knew would cause the  
3 Tennessee Valley Authority to discriminate against Ms.  
4 Wetzel for engaging in protected activity.

5 I'd like to expand on that statement in  
6 terms of some of the guidance available, that I  
7 anticipate you may use in your decision-making, and  
8 I'd like you to hear my perspective on those criteria.

9 With regards to specific criteria in  
10 Section 1.1.2 of Part 2 of the enforcement manual,  
11 Criterion 1, I do agree and I was in fact aware and  
12 knowledgeable that a requirement exists in 10 CFR 50.7  
13 prohibiting discrimination against an employee for  
14 participating in a protected activity.

15 Criteria 2. I do not agree that a  
16 violation of 10 CFR 50.7 occurred. Rather, in  
17 proceeding through, and ultimately signing the action  
18 related to Ms. Wetzel's termination, I was then and  
19 remain convinced that it was taken on non-prohibited  
20 grounds.

21 To amplify, I did understand that Ms.  
22 Wetzel had taken part in, or potentially taken part  
23 in, more than one protected activity. However, I  
24 acted to separate Ms. Wetzel from the company under a  
25 full belief that the action was being taken responsive

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1 to finding that Ms. Wetzel had participated in an  
2 ongoing campaign of disrespectful and harassing  
3 conduct, that included repeated statements that her  
4 supervisor had initiated inappropriate investigations  
5 of TVA employees for a vindictive motive, despite  
6 having no reasonable basis or specific knowledge to  
7 support those statements.

8 This is a finding that I was provided  
9 after I sought input from the Office of General  
10 Counsel, whose staff had investigated the issues and  
11 who were knowledgeable of applicable protections  
12 provided to TVA employees.

13 The finding presented to me from the OGC  
14 investigation was consistent with my own experience  
15 from Ms. Wetzel's statements and behaviors that  
16 developed over the late spring and summer of 2018.

17 Additionally, it is also important to note  
18 that Ms. Wetzel was a leader and supervisor of others,  
19 and TVA holds managers to higher standard of conduct  
20 that does not allow for her conduct here.

21 The TVA Code of Conduct requires managers  
22 to, quote, exhibit the highest standards of ethical  
23 conduct at all times and avoid behavior that could be  
24 reasonably perceived as improper.

25 Because of this sustained disrespectful

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1 and harassing conduct, I acted to separate Ms. Wetzel  
2 from the company with the knowledge that Ms. Wetzel  
3 was discharged for legitimate reasons apart from any  
4 of her protected activity, consistent with the  
5 provisions of 10 CFR 50.7(d).

6 Returning again to the criteria from  
7 Section 1.1.2 of Part 2, I do agree that the actions  
8 I took from the point in time that I received the  
9 complaint of harassment filed by Ms. Henderson on  
10 March 9, 2018, through signing of Ms. Wetzel's  
11 termination letter in January 2019, were voluntary.  
12 I agree that I did know the requirements in 10 CFR  
13 50.7, in their entirety, were applicable. And lastly,  
14 I did not know and do not agree that my actions were  
15 contrary to those requirements.

16 In fact, I had and have multiple reasons  
17 to believe they were fully compliant with the  
18 provisions of 10 CFR 50.7(d).

19 As I will take you through today, my basis  
20 for Ms. Wetzel's termination included several factors.  
21 The recommendation from the Office of General Counsel  
22 that termination was appropriate, my own knowledge  
23 that Ms. Wetzel's statements against Ms. Henderson  
24 were entirely non-safety-related matters, but rather  
25 personnel matters, and the fact that this action went

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1 through TVA's Executive Review Board process to ensure  
2 the distinction between a prohibited and non-  
3 prohibited basis existed.

4 The bottom line is that the personnel  
5 action involving Ms. Wetzel is a personnel matter that  
6 has an independent basis entirely separate from any  
7 protected disclosures. Specifically, it was solely  
8 aimed at the critical imperative of ensuring a  
9 harassment-free workplace.

10 I acted conscientiously to meet the  
11 requirements of other governing rules and policies,  
12 including maintaining both a safety conscious work  
13 environment and a harassment-free workplace, and I did  
14 not act out of retaliatory motive.

15 I would like to transition to today's  
16 discussion of a sequence of events, by briefly  
17 describing the evolution of the corporate licensing  
18 organization during my tenure as vice president. I  
19 will then review the harassment-free policies that TVA  
20 implements in its workplace. On this basis, I will  
21 get to a discussion of the facts and circumstances  
22 that are the reasons we are here today, and show you  
23 that I took care and acted in good faith when  
24 addressing Ms. Wetzel's conduct.

25 I joined TVA as a manager for Watts Bar

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1 Unit 1 Licensing and Regulatory Matters in 2010.

2 By 2011, we were facing several  
3 significant regulatory issues, including, for example,  
4 the placement of Browns Ferry site into Column 4 of  
5 the NRC ROP action matrix, and other significant  
6 issues at Sequoyah and Watts Bar, that had the risk of  
7 placing them in Column 3 or 4 of the action matrix as  
8 well.

9 My leadership approach in this extreme  
10 situation was focused on recovering and restoring  
11 regulatory expertise to the corporate office.

12 Under this approach, by 2014, several of  
13 those key regulatory challenges facing TVA in 2011 had  
14 moved to a better place. At that time, that is in  
15 2014, TVA senior leadership asked me to focus on  
16 long-term organizational optimization and developing  
17 future leadership capability within my team.

18 This eventually led to the hiring of Ms.  
19 Henderson into the position of Senior Manager of  
20 Operating Fleet Licensing in the summer of 2015.

21 During the recruiting process for this  
22 position, I received a call from Ms. Wetzel where she  
23 specifically expressed to me that she felt Ms.  
24 Henderson was too inexperienced to be a senior manager  
25 of regulatory affairs.

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1           However, what I was looking for in a  
2 candidate was different than what Ms. Wetzel perceived  
3 as needed. I needed leadership in my group.

4           I had regulatory expertise within the  
5 team, but I was looking for someone who had the  
6 leadership capability to bring the organization  
7 forward, and Ms. Henderson clearly exceeded the other  
8 candidates in that regard.

9           Upon hiring Ms. Henderson, I impressed on  
10 her the challenges and themes in the corporate team's  
11 morale in improving safety culture.

12           Ms. Henderson told me her approach  
13 included, among other things, having one-on-one  
14 discussions with every individual on the team and to  
15 let them express whatever concerns they had about the  
16 existing state of the organization.

17           I was very satisfied with her overall  
18 approach and thought that it showed the mark of a good  
19 leader.

20           Indeed, from 2015 to early 2018, during  
21 Ms. Henderson's tenure, the Corporate Nuclear  
22 Licensing team had undergone a series of reviews of  
23 safety conscious work environment within the group.

24           These reviews included the NRC's own  
25 inspections, ECP investigations, and safety conscious

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1 work environment pulsing surveys.

2 And much to Ms. Henderson's credit, none  
3 of those reviews or investigations found that  
4 Corporate Nuclear Licensing team members were chilled.  
5 In fact, the data from these reviews indicated an  
6 improving safety conscious work environment trend.

7 That's not to say we were perfect, but  
8 consistent with my personal history and strong beliefs  
9 in a safety conscious work environment, when we  
10 learned of potential issues in the group, we took  
11 action.

12 For example, in my Exhibit 3 is a reply to  
13 an Employee Concerns Program corrective action letter  
14 by David Czufin detailing the actions in 2016, after  
15 a concern was raised in our group.

16 This 2016 ECP investigation noted there  
17 were some indications that the concerned individual  
18 was reluctant to raise non-nuclear concerns to  
19 Corporate Nuclear Licensing management.

20 Corrective actions were taken to address  
21 those concerns, including a meeting with all  
22 supervisors and above in the Corporate Nuclear  
23 Licensing group on October 11, 2016 to review and  
24 discuss TVA procedure STP 11.8.4, expressing concerns  
25 and differing view, as well as instruction to all

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1 licensing supervisors and above to hold meetings with  
2 their direct-reports to open a dialog and obtain  
3 feedback.

4 Also relevant to today's discussion is  
5 TVA's policies on maintaining a workplace that is free  
6 from harassment and other inappropriate behaviors.

7 For example, TVA's Code of Conduct, in  
8 effect in 2018, states that managers are to exhibit  
9 the highest standards of ethical conduct at all times  
10 and avoid behavior that could be reasonably perceived  
11 as improper. The Code of Conduct also states that TVA  
12 strives to provide a workplace for employees that is  
13 free from menacing or harassing behaviors.

14 The 2018 Code of Conduct even provided an  
15 example where a team member is constantly insulting  
16 another team member and states, a co-workers constant  
17 insults are not consistent with TVA values.

18 In additional to TVA's policies, I  
19 received several sets of training on employee rights  
20 and responsibilities for managers and supervisors, and  
21 management actions to promote a safety conscious work  
22 environment.

23 In those trainings, it is reiterated time  
24 and time again that harassment, intimidation,  
25 retaliation, and discrimination against individuals

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1 who raised concerns will not be tolerated, and that I  
2 had principal responsibility as a supervisor for  
3 ensuring my employees are not subject to harassment,  
4 intimidation, retaliation, or discrimination for  
5 raising concerns.

6 My personal view is to provide a work  
7 environment where employees feel valued, respected,  
8 and encouraged to raise concerns.

9 These considerations, Corporate Nuclear  
10 Licensing group performance, safety culture, and  
11 safety conscious work environment, and our policies  
12 prohibiting harassment and inappropriate behaviors,  
13 all came to the fore for me beginning in March 2018.

14 I will now turn to the matters at hand.  
15 The issues had roots prior to March 2018. As I will  
16 describe for you, there were points where I was aware  
17 of performance management issues relating to Ms.  
18 Wetzel.

19 As I told you, Erin was brought in to  
20 improve the group's performance, and there was some  
21 tension in that. None of this was unexpected, so I  
22 worked to help the matters as best I could.

23 As I stated earlier, Ms. Wetzel called me  
24 during the recruiting process for Ms. Henderson's  
25 position in 2015 to state she believed Ms. Henderson

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1 was too inexperienced.

2 I made no comment to Ms. Wetzel at that  
3 time, because I was engaged in active hiring process.  
4 Again, as I noted earlier, I was focused on the  
5 candidates' leadership ability, an area in which Ms.  
6 Henderson had clearly exceeded the other candidates.

7 In fact, Ms. Henderson came to the final  
8 interview with a full 90-day plan prepared on how to  
9 address performance issues in the Corporate Nuclear  
10 Licensing group.

11 I next recall that in January of 2016 I  
12 had a meeting with Ms. Henderson where Ms. Wetzel's  
13 performance was discussed.

14 I subsequently had a meeting with Ms.  
15 Wetzel, and my notes from my meeting with Ms. Wetzel  
16 indicate that she was unsure of how to approach the  
17 performance management situation she faced.

18 There, I suggested that Ms. Wetzel may  
19 benefit from a mentor and subsequently facilitated a  
20 mentorship for her with Mr. Greg Boerschig, who was  
21 the Vice President of Nuclear Oversight at the time.

22 As I recall, this mentorship lasted until  
23 about 2017, when Mr. Boerschig had to take over as a  
24 temporary Site Vice President of Sequoyah. My  
25 handwritten notes of this meeting with Ms. Wetzel are

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1 provided in Exhibit 4.

2 In my view, pairing Ms. Wetzel with an  
3 experienced nuclear executive would provide a unique  
4 opportunity for growth and development and exposure on  
5 how to develop, as the company's expectations of its  
6 leaders were elevated.

7 Ms. Henderson continued experiencing  
8 performance issues with Ms. Wetzel and in April of  
9 2016 Ms. Henderson rated Ms. Wetzel as off-track in  
10 her midyear performance, as I provided in Exhibit 5.

11 Ms. Wetzel came to be very concerned about  
12 this off-track rating. I engaged with Ms. Henderson  
13 on ways to performance-manage Ms. Wetzel. At the end  
14 of 2016, Ms. Wetzel was not placed on a performance  
15 improvement plan and, in fact, was rated solid.

16 On July 3, 2017 I have notes of a  
17 discussion I had with Ms. Wetzel about her performance  
18 on a written work product, where I provided direct  
19 feedback, and frankly, disappointment that some  
20 significant talent is in that work product, and we  
21 discussed how she could improve.

22 However, on the Anchor/Darling disc gate  
23 valve response to the NRC that Ms. Wetzel was  
24 responsible for, there were again similar issues with  
25 that work product. Namely, Ms. Wetzel provided a

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1 written work product with significant quality gaps to  
2 Ms. Henderson very close to when signature on the  
3 product was due.

4 Both Ms. Henderson and I had to challenge  
5 Ms. Wetzel and her staff to increase the quality in  
6 the product before it was submitted, which she  
7 ultimately did do.

8 I raise these performance issues only  
9 because they informed my understanding at the time  
10 that there was some tension between Ms. Henderson and  
11 Ms. Wetzel, based on Ms. Wetzel's performance issues.

12 Although they represented a source of  
13 tension, I did not in any way perceive that my  
14 organization, myself, or Ms. Henderson were being  
15 unresponsive to nuclear safety and quality concerns.  
16 Rather, as the Anchor/Darling situation reflects, the  
17 tension arose from efforts to ensure we were elevating  
18 the quality of our regulatory products.

19 Thus, I was not unaware of that tension  
20 when Ms. Wetzel approached me in mid-February 2018  
21 about the idea of a multi-month and potentially multi-  
22 year loaned employee arrangement up at the Nuclear  
23 Energy Institute in Washington D.C.

24 Based on my recollection, I had a  
25 favorable impression and reaction to Ms. Wetzel's

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1 proposal.

2 I personally believe that the industry was  
3 best positioned to help itself through NEI by  
4 committing talented utility people to work on these  
5 issues and initiatives.

6 And I also recall that Ms. Wetzel  
7 indicated that an assignment could have had an  
8 additional positive attributes, namely, removing her  
9 from her stressful situations from her boss. But I  
10 recall that Ms. Wetzel only made this comment in  
11 passing at the end of our conversation. Nevertheless,  
12 the comment was not a surprise to me.

13 I will now turn to describing our process  
14 to loan Ms. Wetzel to NEI, but in adhering to the  
15 timeline, I first want to discuss Ms. Henderson's  
16 harassment complaint.

17 On March 9th at about 3:45, I received an  
18 email from Ms. Henderson in which she attached a  
19 written statement alleging a hostile environment.

20 This report followed a set of events and  
21 circumstances in the days preceding, in which Ms.  
22 Henderson had become extremely upset with what she  
23 expressed was a sustained pattern of individuals  
24 across the regulatory organization conducting  
25 themselves in a highly disrespectful and

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1 unprofessional manner, the result of which, in her  
2 opinion, was a hostile environment in which she was  
3 precluded from fully discharging the requirements and  
4 responsibilities of her position.

5 She was so upset that she nearly quit, and  
6 as Ms. Henderson explained to you earlier this week,  
7 her March 2018 complaint was not the first time I  
8 learned of these issues. She reported some previous  
9 occurrences to me and I tried to address them without  
10 success.

11 Looking back at this time, I readily  
12 acknowledge that Ms. Henderson should not have faced  
13 a situation where she believed her only recourse was  
14 to quit. To the extent that I did not do enough to  
15 address her earlier concerns, I accept full  
16 responsibility for that.

17 Based on discussions with human resources,  
18 the Office of General Counsel, and my management, it  
19 was determined that the Office of General Counsel, or  
20 OGC, would conduct the investigation into Erin's  
21 complaint.

22 To the best of my recollections, this  
23 decision was made for a couple of reasons. Human  
24 resources was short-staffed at the time, and ECP had  
25 already reviewed similar or related issues within the

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1 regulatory affairs extended organization over the  
2 previous two years, and might no longer be perceived  
3 as sufficiently independent.

4 I recall that after a consultant with  
5 senior management, including the Chief Nuclear  
6 Officer, Ms. Henderson's complaint was provided to  
7 OGC.

8 I was initially the management point of  
9 contact for Ms. Henderson's complaint for  
10 approximately one month, as I recall, but that role  
11 transitioned to David Czufin. Thereafter, I expected  
12 the investigation would proceed on its course and  
13 reach the result it would reach.

14 In turning the matter over to OGC in  
15 March, I had no expectation that it would find for or  
16 against any one of the specific individuals listed in  
17 Ms. Henderson's complaint.

18 However, over the course of the next  
19 several months, I was confronted with information from  
20 Beth Wetzel that I believed could have been related to  
21 Ms. Henderson's harassment complaint, and some of  
22 which information I believe or knew to be unfounded.

23 As I will detail now, I acted in good  
24 faith to see that this information was addressed in  
25 accordance with TVA's policies and procedure.

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1 I will now turn to summarize the process  
2 to implement Ms. Wetzel's NEI loan assignment. This  
3 process began almost immediately after she raised the  
4 opportunity in mid or late February. By mid-March the  
5 process was well underway.

6 Between March 19 and April 27, 2018, I was  
7 copied on numerous emails regarding the contract  
8 between NEI and TVA for Ms. Wetzel's loan  
9 reassignment, as well as discussions regarding Ms.  
10 Wetzel's NEI loanee confirmation agreement, and her  
11 travel reimbursement memorandum.

12 These emails and documents are included in  
13 Exhibit 6. While these emails might seem like  
14 minutiae, I think it is important here to reiterate  
15 how quickly the organization was able to take Ms.  
16 Wetzel's request from idea to fruition.

17 Numerous people, including myself, Ms.  
18 Henderson, Wes Wingo from human resources, and  
19 Jennifer Grace and David Codevilla from the Office of  
20 General Counsel were able to effectuate her request.

21 While the information available in Exhibit  
22 6 details those interactions, I will highlight a few  
23 examples for you here and also on your screen.

24 On March 21, 2018 I had a meeting  
25 scheduled for an NEI contract discussion, which

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1 included Ms. Henderson, myself, Wes Wingo from HR, and  
2 David Codevilla from the Office of General Counsel.

3 The next day, March 22, 2018, Mr.  
4 Codevilla sent the contract drafts to NEI's attorney.

5 On March 27th, Ms. Henderson sent a  
6 follow-up email to her contact at NEI requesting the  
7 status of Ms. Wetzel's contract. She then forwarded  
8 NEI's response to myself and Ms. Wetzel. Using her  
9 own contacts to move Ms. Wetzel NEI's contract forward  
10 showed that Ms. Henderson was working to facilitate  
11 Beth's assignment.

12 This quick progress in evidence that Ms.  
13 Henderson was diligently pursuing the matter, was why  
14 I was surprised when I was contacted by Ms. Wetzel  
15 while I was on official travel in Oregon on either  
16 March 28th or March 29th indicating, in essence, that  
17 Ms. Henderson, was foot-dragging on Ms. Wetzel's NEI  
18 loanee assignment.

19 Her claim was puzzling and unfounded  
20 because, at this time, I was aware of the progress  
21 that had been made, particularly that Ms. Henderson  
22 had just reached out to NEI to follow up on the  
23 progress.

24 In addition, Ms. Henderson forwarded that  
25 email exchange with NEI to Ms. Wetzel. That email

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1 exchange is included in my Exhibit 6.

2 I did not do anything in response to Ms.  
3 Wetzel's comment at that time, other than to make a  
4 mental note of it.

5 Next in my presentation, I think it is  
6 very relevant to briefly go into detail surrounding  
7 the TVA travel voucher process. It was during  
8 discussions of Beth's travel vouchers that she  
9 continued to make inappropriate statements.

10 Relevant here, managers can delegate their  
11 review and approval authority for any travel vouchers  
12 that do not exceed 100 percent of per diem.

13 Ms. Henderson and I had both delegated  
14 this authority to the same person, Carla Edmondson,  
15 who was my administrative assistant.

16 I say this because there was no functional  
17 difference in whether it was myself or Ms. Henderson  
18 who approved Ms. Wetzel's vouchers. Ms. Edmondson  
19 reviews and approves the travel vouchers initially,  
20 whether or not it is myself or Ms. Henderson who were  
21 technically listed as approvers for Ms. Wetzel. Ms.  
22 Wetzel had a long, comfortable working relationship  
23 with Ms. Edmondson. Ms. Wetzel was very familiar with  
24 the travel voucher process.

25 Now that you have a base of understanding

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1 for events occurring up to this point, I would like to  
2 go through the specific statements Ms. Wetzel made  
3 during the NEI assignment contracting and travel  
4 voucher process, why they raised red flags to me, and  
5 how I addressed them.

6           Soon after Ms. Wetzel contacted me in  
7 Oregon, she sent me an email on March 29th, alleging  
8 that Ms. Henderson was trying to block her NEI loanee  
9 assignment.

10           I will read from the parts, relevant parts  
11 of the email, which is in Exhibit 7. In this email,  
12 Ms. Wetzel alleged that we were not using the same  
13 contract for her assignment that were used in previous  
14 loanee assignments and alleged that Ms. Henderson was  
15 attempting to block her loanee opportunity.

16           She alleged, if my boss is going to be  
17 unreasonable with NEI and effectively block my loanee  
18 opportunity, would you please tell me so I know what  
19 to do next?

20           I was struck by this allegation because it  
21 was so apparent that Ms. Henderson had been working  
22 diligently for Ms. Wetzel's loanee assignment and Ms.  
23 Wetzel had seen this same correspondence.

24           Indeed, a few hours after Ms. Wetzel's  
25 email, Ms. Henderson forwarded me the latest markup of

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1 the contract, as you can see in Exhibit 8.

2 It was also not true that Ms. Henderson  
3 had imposed the use of an inappropriate contract  
4 template. The contract template we were using was  
5 negotiated between TVA and NEI and had changed under  
6 purview of TVA and NEI attorneys since the prior  
7 examples Ms. Wetzel cited in her email.

8 I did not take any actions at this time,  
9 other than asking Ms. Wetzel to speak to Mr. Codevilla  
10 in OGC about her concerns. Again, it was Mr.  
11 Codevilla drafting the contract, not Ms. Henderson.

12 As you can see in Exhibit 6, Ms. Wetzel  
13 was copied on several subsequent iterations of the  
14 contract and had a few back and forth exchanges with  
15 Mr. Codevilla.

16 I did not do anything further with Ms.  
17 Wetzel's March 29 email.

18 Now, for just a few dates before I go onto  
19 the next email, Ms. Wetzel's contract with NEI was  
20 fully executed by all parties on April 13 and is  
21 provided in your Exhibit 9.

22 Ms. Henderson signed a loanee letter to  
23 Ms. Wetzel on April 27, 2018, notifying Ms. Wetzel  
24 that she would be in continuous travel status for the  
25 NEI assignment, with details as provided in your

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1 Exhibit 10.

2 Ms. Wetzel started her NEI loanee  
3 assignment on or about April 29.

4 From the best of my recollections, the  
5 initiation of Ms. Wetzel's NEI assignment had  
6 progressed smoothly from the time that she started on  
7 April 29.

8 However, on May 7, 2018, Ms. Wetzel sent  
9 an email to me expressing concern regarding the lack  
10 of detail in her travel reimbursement memorandum. She  
11 observed, in effect, that it was less detail than she  
12 desired.

13 Specifically, her email stated, I am  
14 concerned with the lack of commitment to write the  
15 details that we worked on as a team for my TVA  
16 reimbursements, and said she was shocked to see what  
17 Erin sent out.

18 It was, to a large degree, true that we  
19 had discussed providing a discussion of the treatment  
20 of likely expenses in her memo. However, I later  
21 learned from the Office of General Counsel that  
22 providing such a detailed explanation may put TVA at  
23 risk of violating the federal travel regulations if  
24 TVA's own memo conflicted with those regulations for  
25 Ms. Wetzel's reimbursements.

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1           Thus, her travel memorandum simply stated  
2           that she would be reimbursed in accordance with the  
3           applicable federal travel regulations, which are  
4           subject to change at any time. Preparing the travel  
5           memorandum in this way was consistent with prior  
6           practice.

7           Ms. Wetzels email continued, and I was  
8           very distinctly disturbed by the second element of the  
9           email, which is provided in Exhibit 11 and which is  
10          displayed on your screen, and which I will quote here.

11          Quote, I will be processing large travel  
12          vouchers through Carla, and will follow all TVA,  
13          federal, and NEI requirements to the best of my  
14          ability. I know I will get audited, based on the  
15          amount of dollars that will be processed through  
16          vouchers, and I believe all the research the team did  
17          will result in clean audits.

18          However, I know that Erin has used HR to  
19          investigate people, reported people to ECP, threatened  
20          to have people for-cause drug tested, pulled badge and  
21          gate records, and probably a lot more actions that I'm  
22          not aware of.

23          She has demonstrated a longstanding  
24          pattern of using TVA processes as punitive and  
25          retaliatory tools. Based on the lack of detail in her

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1 NEI loanee confirmation 2018 document, I anticipate  
2 her using my travel vouchers as an investigative tool.  
3 Unquote.

4 These allegations concerned me. I thought  
5 it was unusual that Ms. Wetzel would raise Ms.  
6 Henderson's reporting of issues through HR, given that  
7 as a leader, if Ms. Wetzel thought about that at all,  
8 she would recognize that Ms. Henderson was obligated  
9 to have a potential HR conflict addressed.

10 As I stated in my OI interview, I was  
11 aware of and involved in the decision to inform Human  
12 Resources of the ethics concern involving Michelle  
13 Conner and Mr. McBrearty. We were required to raise  
14 that issue, based on the information we had.

15 Related to that issue, I also knew that  
16 Ms. Henderson could not have had badge and gate  
17 records pulled from her instruction based on her  
18 position, and I suspect that Ms. Wetzel knew this too.

19 For another example, I was aware that on  
20 February 23, 2018, Ms. Henderson had relayed a concern  
21 to HR raised by one of her direct reports regarding an  
22 incident where another employee had raised concerns of  
23 a chilled work environment against [REDACTED].

24 Again, Ms. Henderson was required to  
25 request such an investigation where those concerns

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1 were raised. And that HR investigation substantiated  
2 that allegation.

3           However, the most troubling statement from  
4 Ms. Wetzel was the unfounded assertion that Ms.  
5 Henderson had taken probably a lot more actions that  
6 I'm not aware of.

7           These words in particular demonstrated to  
8 me that Ms. Wetzel was comfortable spreading false, or  
9 at least unsubstantiated, information about Ms.  
10 Henderson by stating this to me. By the very words  
11 Ms. Wetzel used, actions that I am not aware of, she  
12 acknowledged the unfounded nature of the reference to,  
13 probably a lot more actions.

14           Finally, Ms. Wetzel also proposed in her  
15 email that I be her approver on travel vouchers. This  
16 was odd as I previously explained Ms. Edmondson  
17 approved the travel vouchers initially, whether or not  
18 it was myself or Ms. Henderson which were technically  
19 listed as approvers for Ms. Wetzel.

20           Upon my concern in reading the allegation  
21 in Ms. Wetzel's email, I forwarded the email to Amanda  
22 Poland in HR and Jennifer Grace at OGC, as shown in  
23 Exhibit 12 and as you can see on your screen.

24           The NRC Office of Investigation report  
25 suggests, at Page 43, that it was inappropriate for me

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1 to send Ms. Wetzel's email to OGC when I knew that OGC  
2 was investigating Ms. Henderson's harassment  
3 complaint.

4 I disagree, and more importantly, that  
5 mischaracterizes what I did. As I stated at the  
6 beginning of today's presentation, I sought advice  
7 from internal resources when I was unsure how to  
8 proceed.

9 Here, I sought advice on how to handle Ms.  
10 Wetzel's allegations and whether they should be  
11 provided to John Slater within the scope of his  
12 current OGC investigation, or an alternate approach.  
13 Either struck me as reasonable.

14 On one hand, the ongoing Slater  
15 investigation was intended, in my mind, to examine  
16 into the full set of facts behind Ms. Henderson's  
17 claims, including any involvement by Ms. Wetzel, even  
18 if that investigation ultimately found that Ms.  
19 Henderson's claim was not valid or valid only in  
20 parts.

21 On the other hand, I also stated in my  
22 email, please advise if you agree or see a different  
23 way to act on this. My meaning was that, if OGC felt  
24 a different approach, such as a separate  
25 investigation, should be used, then that would have

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1       been reasonable as well.

2                   At that time, I did not have any direct  
3       knowledge about what Ms. Wetzel had told the attorney  
4       investigator, because the investigation was still  
5       ongoing.

6                   Ms. Grace of OGC responded that same day,  
7       writing, thank you, I will provide this to Mr. Slater.  
8       I was the person who interfaced with HR manager Wes  
9       Wingo on outlining her travel details, so I am  
10      familiar with this. This response is also provided in  
11      Exhibit 12.

12                  The following week, I responded to Ms.  
13      Wetzel's May 7 email, having received input from Ms.  
14      Grace on how to respond, as provided in Exhibits 13  
15      and 14.

16                  I explained to Ms. Wetzel why TVA decided  
17      to not write a separate memo for her on the federal  
18      travel regulations. Ms. Wetzel had requested a  
19      detailed memorandum on her obligations under the  
20      federal travel regulations, which I initially  
21      supported, but it was later determined by OGC that we  
22      should not attempt to rewrite the federal travel  
23      regulations ourselves, and rather, direct Ms. Wetzel  
24      to the original document.

25                  I then addressed the allegations she had

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1 made against Ms. Henderson, stating, as a separate  
2 matter, you raised some very serious assertions  
3 against your supervisor. I have turned these over for  
4 further evaluation to an appropriately independent  
5 review party. You may be apprised of any conclusions,  
6 if it is appropriate to share, when that review is  
7 completed.

8 As a result, I understood, at this time,  
9 that the items listed in Ms. Wetzels's May 7 email  
10 would be addressed by the ongoing independent  
11 investigation into Ms. Henderson's complaint being  
12 conducted by OGC.

13 By May 31, 2018, I received a copy of the  
14 original investigation report put together by Mr.  
15 Slater in TVA OGC, which was dated May 25, 2018. This  
16 report is provided in your Exhibit 15.

17 The report discussed a number of the  
18 elements that had been raised in Ms. Henderson's March  
19 9 complaint. However, I noted after I received it  
20 that the report did not mention the travel claim  
21 process issues I had forwarded to Jennifer Grace,  
22 including the May 7 email references.

23 Thus, on May 31, 2018, I emailed Emily  
24 Walker in HR and copied Jennifer Grace and others,  
25 noting my concern that the Slater report did not have

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1 a reference to Ms. Wetzel's email allegations.

2 Specifically, as you can see on your  
3 screen and in Exhibit 16, I wrote in part, I think  
4 this is a relatively simple matter of an additional  
5 interview with Beth and Erin that pulls the string on  
6 each of Beth's itemized assertions. And I  
7 specifically think what's missed in the OGC treatment  
8 of Beth's emails is the assertion that Erin initiated  
9 HR investigations in a retaliatory or vindictive  
10 manner.

11 I strongly suspect that was actually a  
12 reference to the 2018 investigation Arcie Reeves did  
13 of [REDACTED] regarding the claim by one of [REDACTED]  
14 employees that [REDACTED] had chilled the employee over a  
15 safety culture matter. Which sounds similar to the  
16 protected whistleblower aspect that Johnny so  
17 thoroughly documented for Mike McB.

18 Regardless, again, regardless, I need  
19 support in getting specific facts, analyses, and  
20 conclusions that are independent.

21 Independent, as I used it in this context,  
22 meant simply analyses and conclusions draw by a party  
23 not linked organizationally close to me, Ms.  
24 Henderson, or any of the individuals named by Ms.  
25 Henderson.

1           Finally, I advised that I looked forward  
2 to OGC drawing equally well-documented analyses on Ms.  
3 Wetzel's allegations, quote, whatever they might be.

4           I want to pause here so we can reflect a  
5 moment on this email. When I wrote it over two years  
6 ago, I certainly never considered that I would be  
7 sitting here in front of the NRC today reading it to  
8 you in an effort to demonstrate that I did not engage  
9 in deliberate misconduct, but this is the email that  
10 I wrote.

11           And to me, no matter the outcome of this  
12 proceeding, this email shows that I absolutely was not  
13 intending to take an action that would cause a  
14 violation of NRC's employee protection requirements.  
15 This email shows that I was looking for independent  
16 facts, analyses, and conclusions, as I do in any  
17 investigation.

18           In response to my May 31 email, Jennifer  
19 Grace from OGC stated that she, quote, strongly  
20 disagreed that any investigation of Beth's allegation  
21 in her email is warranted. In fact, I think any  
22 further investigation would do more harm than good, as  
23 it allows the harassing behavior that was identified  
24 in John's report to be perpetuated.

25           Ms. Grace goes on to say that John

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1 confirmed that he considered Beth's email during the  
2 investigation and that he concluded that the email was  
3 simply further evidence of the pattern of harassing  
4 behavior that had been occurring over the last several  
5 years, unquote. You can see this in Exhibit 17 and  
6 also on your screen.

7 I recall that there were also concerns  
8 about management being viewed as allowing further  
9 harassment to occur.

10 Based on Ms. Grace's reasoning and strong  
11 disagreement, I personally did not pursue further  
12 investigation of Ms. Wetzel's allegation. Had I  
13 disagreed with the recommendation, I would have said  
14 so. As I described in my opening, I am not hesitant  
15 to push back on issues where I disagree.

16 Ms. Grace also forwarded a footnote  
17 drafted by Mr. Slater, which addressed Ms. Wetzel's  
18 May 7 email.

19 The footnote, which is available in  
20 Exhibit 17, noted that two of the allegations Ms.  
21 Wetzel made in her May 7 email against Ms. Henderson,  
22 reportedly inappropriately having people investigated  
23 by HR and pulling of gate records, were the same  
24 unfounded allegations made in her interview during the  
25 OGC investigation and did not warrant further follow-

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1 up.

2 At this time, I further understood that  
3 the OGC investigation report was going to be subject  
4 to further review and revision.

5 About a week later, on June 9, 2018, I  
6 received another email from Ms. Wetzel, as shown in  
7 Exhibit 18 and also on your screen.

8 Her email stated in part, I know I've got  
9 to get my travel in. This is getting ridiculous. We  
10 are now floating my rent. But I've been afraid of  
11 what will happen as soon as I start submitting  
12 vouchers. I don't even try to understand my boss and  
13 why she does what she does, but I do know that she  
14 never gives up.

15 At this point in time, Ms. Wetzel had  
16 submitted no travel vouchers for approval and, indeed,  
17 did not submit her final vouchers for her May travel  
18 until June 29, nearly three weeks after this email.  
19 Thus, it was strange to me that she was complaining  
20 about floating her rent when she had not completed any  
21 vouchers and Carla had informed her to pay her rent on  
22 the corporate card so this issue did not occur.

23 Ms. Wetzel responded with more of the  
24 same, just stating, it's ridiculous, because I'm  
25 afraid and haven't submitted. So now, we're floating,

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1 no action has been taken to my knowledge yet. The  
2 latter part indicating that she did not believe Ms.  
3 Henderson had yet done anything at all.

4 As I had done with my May 7 email, and in  
5 light of the concerns that Ms. Grace shared with me on  
6 May 31, that Ms. Wetzel not be allowed to continue her  
7 behaviors, I forwarded this email exchange to Jennifer  
8 Grace, asking that it be included for discussion. And  
9 you'll see in Exhibit 19.

10 Throughout all these circumstances, I  
11 thought I was doing the right thing.

12 On June 11, Jennifer responded to my  
13 email, noting, it sounds like Beth is continuing with  
14 some of the behaviors that John substantiated in his  
15 report are part of the creation of the hostile  
16 environment. A discussion needs to be had with Beth  
17 ASAP. However, I think we need to have final  
18 discussion with respect to Mike McBrearty before we  
19 can talk to her or any of the others. This email is  
20 in Exhibit 20.

21 While I awaited further instructions from  
22 Ms. Grace, Ms. Wetzel continued these behaviors and  
23 sent me texts in late June or early July. These are  
24 provided in Exhibit 21 and also on your screen.

25 Ms. Wetzel texted me that she was getting

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1 different directions from management that could be  
2 hanging things up. I attempted to find out the basis  
3 for her statement. I responded, what are you  
4 referring to as different directions from management?  
5 Since Carla and I are actively engaged in your May  
6 package, what is leading you to believe that there is  
7 such a different direction? Ms. Wetzel responded  
8 only, past experience.

9           Again, I found these statements not  
10 credible, because, as noted earlier in my  
11 presentation, no matter whether myself or Ms.  
12 Henderson was assigned to review Ms. Wetzel's travel  
13 vouchers, it would normally be Carla Edmondson who  
14 reviewed and approved them.

15           In addition, as I noted to Ms. Wetzel, I  
16 and Carla were actively engaged in your package. Erin  
17 was not involved with the May package at all.  
18 Furthermore, I had no indications that Ms. Henderson  
19 had ever made beyond a routine inquiry into Ms.  
20 Wetzel's travel vouchers.

21           In fact, for the purposes of this PEC, we  
22 reviewed expense voucher records and confirmed that  
23 when Ms. Henderson was responsible for approving Ms.  
24 Wetzel's travel vouchers, the average number of days  
25 from submission to approval was a little less than

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1 three days.

2 We also identified an email from January  
3 of 2018, that's January of 2018, which you can see on  
4 your screen, where Ms. Wetzel admitted to an  
5 inadvertent mistake on her travel vouchers to me and  
6 Ms. Henderson provided support for Ms. Wetzel. That  
7 email is provided as Exhibit 22.

8 This interaction contradicts the statement  
9 on Page 8 of the OI report that Ms. Wetzel, quote,  
10 knew that if she got in trouble for violating any  
11 travel policies, she would be terminated.

12 Again, in an effort to determine the basis  
13 for her statement, I asked Ms. Wetzel, if you have a  
14 factual basis for your assertion, please provide that.  
15 And I also emphasized again she could pay her rent  
16 with the corporate card.

17 As far as I recall, Ms. Wetzel did not  
18 provide a basis for her assertion. Similar to the  
19 reference in the May 7 email to probably a lot more  
20 actions that I'm not aware of, I found the response  
21 past experience as highly pejorative, yet without  
22 specificity for me or anyone else to do anything with.

23 And when we looked into the issue for the  
24 purposes of this case, there didn't seem to be any  
25 past experience for her to rely on.

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1                   Finally, on July 2, I called Ms. Wetzel  
2                   from my office, in the presence of Carla Edmondson, to  
3                   further explain her allegations against Ms. Henderson,  
4                   but Ms. Wetzel provided nothing further.

5                   Ms. Wetzel discussed this phone call in  
6                   the NRC OI report, and I will address her  
7                   characterization of it later in this presentation.

8                   As you can see from these exhibits,  
9                   emails, and texts, Ms. Wetzel made a number of  
10                  unfounded accusations and unprofessional statements  
11                  towards Ms. Henderson.

12                  I will now turn to how I and our  
13                  organization addressed those statements.

14                  On August 10, 2018, a memorandum was  
15                  issued to me enclosing a final copy of the  
16                  investigation report prepared by the Office of General  
17                  Counsel into the allegations of harassment raised by  
18                  Erin Henderson. This report is provided in Exhibit  
19                  23.

20                  This memorandum was signed to me directly  
21                  by TVA's Executive Vice President and General Counsel.  
22                  The fact that not only had the Executive Vice  
23                  President and General Counsel signed it, but moreover,  
24                  the Executive Vice President and General Counsel  
25                  functions as TVA's designated agency ethics official,

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1 which in my federal experience has great significance  
2 and made an impression on me.

3 At the time, I perceived this as the  
4 senior-most agency official responsible for  
5 determining what constituted or didn't constitute a  
6 breach of the ethics standards that TVA implements as  
7 a federal agency.

8 At a minimum, I could not ignore the  
9 authority of the General Counsel position from which  
10 that opinion was issued.

11 After the report was issued, on August 16,  
12 2018, a teleconference was held with TVA's senior  
13 executive leadership, including a number of members of  
14 the TVA-wide executive leadership team, to discuss the  
15 August 10 investigation report.

16 My handwritten notes from the meeting  
17 indicated that we very briefly discussed Ms. Wetzel's  
18 behavior during the call. My notes state that Ms.  
19 Grace indicated that Ms. Wetzel's, quote, types of  
20 behaviors are harassing, comma, still reviewing,  
21 unquote, and are provided in Exhibit 24.

22 I would like to take a moment to correct  
23 the record here. During my OI interview for this case  
24 related to Mr. McBrearty, I mistakenly indicated that  
25 I did not have notes from this meeting. This is on

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1 Page 116 of my interview transcript.

2 During my interview, I had several Xeroxed  
3 copies of my handwritten notes, but not the full  
4 notebooks, and several other documents with me. And  
5 I referred to some of those records throughout my  
6 interview, as my transcript indicates.

7 In preparing for this PEC, I reviewed my  
8 complete notebooks again and identified that in fact  
9 I did have some handwritten notes from this meeting.  
10 Had I identified those notes during the interview, I  
11 certainly would have shared them with the  
12 investigator, because they show that the discussion on  
13 Ms. Wetzel was that her behaviors are harassing and  
14 still being reviewed.

15 Following this meeting, and based on  
16 discussions I had with OGC, my understanding was that  
17 OGC was continuing to review Ms. Wetzel's behaviors  
18 and would make a recommendation.

19 Here, I'd like to pause and note an event  
20 that will help explain my thinking at the time. I had  
21 originally been scheduled to perform a performance  
22 review for Ms. Wetzel at the end of August and still  
23 intended to have it with her and to discuss the  
24 results of the OGC investigation and the August 10,  
25 2018 final report.

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1 I knew I would need assistance from the  
2 appropriate internal resources on how to handle such  
3 a review in light of the still forthcoming and yet  
4 unknown to me recommendation from OGC.

5 To that end, on August 20, I sent my draft  
6 talking points for Ms. Wetzel's performance review  
7 meeting to Jennifer Grace, Emily Walker, Amanda  
8 Poland, and Chris Chandler. These are provided in  
9 Exhibit 25 and also excerpted on your screen.

10 I believe you can see that the proposed  
11 talking points are a good indicator of my  
12 contemporaneous thinking, before I had received any  
13 recommendation from OGC on potential discipline or  
14 lack thereof, and specifically that I had no  
15 preconceived notion of the outcome for Ms. Wetzel and  
16 I had no intent to retaliate against her.

17 In fact, my talking points stated that the  
18 investigation identified you as a contributor to the  
19 hostile work environment. Specifically of concern is  
20 that you were identified as having repeatedly  
21 represented that your supervisor initiated  
22 investigation and had individuals' gate records  
23 examined.

24 Of concern is that you could have no  
25 specific knowledge that she's had people's gate

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1 records pulled because, in fact, an individual manager  
2 cannot unilaterally order such an action.

3 The primary phase of the investigation has  
4 been completed, however, no specific decisions have  
5 been made regarding your behavior and the apparent  
6 violation of TVA policies and/or potential violation  
7 of federal law have been made. It is expected that  
8 determinations in that regard will be made in coming  
9 weeks.

10 I specifically reiterated in my proposed  
11 talking points that Ms. Wetzel should continue to  
12 raise concerns regarding nuclear safety or any aspect  
13 of the organization that she believed can make the  
14 organization and its people operate better.

15 Ultimately, I received feedback from OGC  
16 that a pre-meeting of this sort was not part of our  
17 normal process and we would not normally give an  
18 employee an early look at the results of an  
19 investigation before we were ready to pronounce  
20 discipline or disposition of the matter.

21 Again, at this point in time, I had no  
22 indication of what the recommendation of OGC was going  
23 to be. And again, I stated to Ms. Grace that I looked  
24 forward to the recommendation, whatever it may be.

25 Thus, on that advice, I decided to cancel

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1 the August 31, 2018 performance evaluation meeting  
2 with Ms. Wetzel.

3 The next day, August 30, 2018, OGC issued  
4 its supplemental memorandum and recommendations with  
5 respect to Ms. Wetzel. The NRC is already in  
6 possession of this memorandum and I will refer to non-  
7 attorney-client privileged portions of the cover page  
8 here.

9 The legal memorandum found that Ms. Wetzel  
10 engaged in harassment, retaliation, and the creation  
11 of a hostile work environment with respect to Ms.  
12 Henderson, in violation of multiple TVA policies and  
13 federal law.

14 The memorandum recommended that Ms.  
15 Wetzel's employment with TVA be terminated as a result  
16 of her involvement in a pattern of harassment and  
17 retaliation directed at Ms. Henderson. OGC  
18 recommended separating Wetzel from company, whether  
19 through a no-fault separation agreement or  
20 termination, either of which I could pursue at my  
21 discretion.

22 It was my understanding that the  
23 recommendations in this supplemental memorandum were  
24 not only based on what was in the Slater report, but  
25 also on Wetzel's ongoing harassing behavior that had

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1 continued through and after the May 25 Slater  
2 investigation and report.

3 I agreed with OGC's recommendation. As I  
4 stated at the beginning of my presentation, I have no  
5 issues raising hard questions to management, but I  
6 agreed with the reasoning from OGC and believed I had  
7 a duty to ensure a harassment-free workplace.

8 I will now turn to the steps I took to  
9 separate Ms. Wetzel from the company, including the  
10 required processes that I followed to ensure the  
11 proposed separation complied with applicable  
12 requirements and not based on retaliation for  
13 protected activities.

14 On September 19, 2018, TVA conducted an  
15 Executive Review Board, or ERB, to review the adverse  
16 employment action for Ms. Wetzel. The ERB is composed  
17 of TVA personnel who are independent of the proposed  
18 adverse employment action. The purpose of the ERB is  
19 to ensure that the proposed adverse employment action  
20 is consistent with company practices and not based on  
21 retaliation for protected activities.

22 From my handwritten notes, I recorded the  
23 participants as Steve Bono, Senior Vice President for  
24 Operations and ERB Chair, Ryan Dreke, OGC, Arcie  
25 Reeves, Human Resources, Joe Calle, the adverse

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1 employee action process owner, Inza Hagins-Dyer,  
2 Senior Manager of Employee Concerns Program, Deanna  
3 Fultz, Employee Concerns Program Specialist for the  
4 corporate office, and John McCann, who served as the  
5 individual providing independent auditing of TVA's  
6 implementation of the adverse employee action and  
7 Executive Review Board process, per the Confirmatory  
8 Order. The final ERB is included in Exhibit 26.

9 The ERB is governed by TVA Procedure STP-  
10 01.7.4, adverse employee action, and the Executive  
11 Review Board.

12 As you know, the TVA adverse employee  
13 action process has been the source of appropriate NRC  
14 concern regarding its effective implementation for a  
15 period of time since 2009 and the ERB process was  
16 developed in and around the 2017 Confirmatory Order,  
17 which I was involved in implementing.

18 We took action following the 2017  
19 Confirmatory Order to improve rigor around several key  
20 leadership steps, including to ensure the discipline  
21 is not taken because an employee engaged in activities  
22 protected by the employee protection regulations in 10  
23 CFR 50.7.

24 Given my involvement in implementing the  
25 2017 Confirmatory Order, my intent was to follow the

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1 process closely. For this particular, ERB, my role  
2 was to serve as the presenting manager.

3 From my perspective, the other  
4 participants, including our Senior Vice President for  
5 Operations and our external advisor, as well as the  
6 HR, ECP, and OGC participants, is that they understood  
7 the clear distinction between protected activities and  
8 non-prohibited considerations.

9 I had had interactions with all of them on  
10 numerous issues over an extensive period of time. I  
11 believed that, individually or collectively, they  
12 would ensure that the proposed action could proceed  
13 only if they were convinced that it was based on non-  
14 prohibited considerations.

15 My recollection is that I presented the  
16 fact-finding portions of the Board and the answers to  
17 the questions that I was procedurally required to, and  
18 then I was dismissed while the Board considered the  
19 questions reserved for the Board only, Questions 14 to  
20 19.

21 My experience was that, since the  
22 implementation of enhancements from the 2017  
23 Confirmatory Order, the process was taken very  
24 seriously.

25 My overall recollection of the ERB was

1 that it was challenging. However, everyone was in  
2 agreement that the proposed action was not in  
3 retaliation for raising protected concerns and the ERB  
4 did not object to proceeding with the adverse action.

5 I would like to specifically point to  
6 Question 15 of the ERB, which the OI agent looked to  
7 in his analysis. The question states, does it appear  
8 the individual's involvement in a protected activity  
9 contributed in any way to the proposed action  
10 recommendation?

11 While I was not present for this portion  
12 of the ERB, per procedure, the ERB checked no for that  
13 question. The ERB feedback added an explanation that  
14 Ms. Wetzel was involved in the OGC investigation, as  
15 described in the August 10, 2018 report.

16 I understood that this was an attempt to  
17 acknowledge that while Ms. Wetzel had participated in  
18 the investigation, her mere participation in that  
19 investigation had no bearing on the reason for the  
20 disciplinary action.

21 At the end of the day, the truth is that  
22 both myself and, I am confident, the ERB believed we  
23 had doggedly attempted to evaluate the collection of  
24 protected and non-protected activities, separate them,  
25 and focus solely on the non-protected activities,

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1 including that it was appropriate to move forward, and  
2 any portrayal to the contrary, in my opinion, is not  
3 accurate.

4 As I noted, John McCann attended the ERB  
5 in his auditing role. A copy of his audit report that  
6 included this ERB is provided at Exhibit 27.

7 He wrote in his report, with respect to  
8 all of the ERBs he audited during that period, which  
9 included the September 19 Wetzel ERB, the discussion  
10 included both the consideration of potential for  
11 harassment, intimidation, retaliation, and  
12 discrimination, and the potential impact on the SCWE.

13 SCWE mitigation plans were reviewed by the  
14 ERB and approved as appropriate. The documentation  
15 packages were prepared prior to the meeting and the  
16 meeting discussions were focused on the potential  
17 safety culture issues.

18 Personnel in attendance demonstrated a  
19 good understanding of the purpose of the meeting and  
20 the relationship between required discipline and  
21 potential safety culture and Safety Conscious Work  
22 Environment impacts.

23 The overall quality and consistency of ERB  
24 meetings continues to improve throughout the fleet.  
25 This is now a mature and well-understood process.

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1           Again, these observations related to all  
2 of the ERBs Mr. McCann had observed in that period.  
3 As relevant, Mr. McCann did not make any negative  
4 findings about the September 19 ERB.

5           Finally, I would like to address the fact  
6 noted in the OI report that the ERB was signed on  
7 October 16 and 19 by the ERB members, while Ms. Wetzel  
8 was placed on paid administrative leave on October 15.  
9 I can understand why this might not be clear.  
10 However, we acted consistent with TVA procedure.

11           Ms. Wetzel was placed on paid  
12 administrative leave on October 15. As the OI report  
13 notes on Page 20, excerpted on your screen, the  
14 initial voluntary separation agreement was dated  
15 October 25, 2018, which was the date that myself and  
16 Ms. Poland met with Ms. Wetzel and provided her no-  
17 fault separation agreement.

18           This occurred after Steve Bono, the ERB  
19 Chair, signed the ERB Record of Action on October 19,  
20 2018.

21           The OI report states, on Pages 20 and 46,  
22 that Ms. Wetzel was provided a no-fault separation  
23 agreement for the first time on October 15, 2018.  
24 That is incorrect. My talking points in the October  
25 15, 2018 meeting state, the terms of a no-fault

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1 separation agreement had not yet been set.

2 Further, Ms. Wetzel's Department of Labor  
3 complaint and the December 18, 2018 ERB update both  
4 confirm that Ms. Wetzel was provided her first no-  
5 fault separation agreement on October 25, 2018.

6 An excerpted copy of the adverse action  
7 ERB procedure in place at that time is my Exhibit 28,  
8 which is excerpted on your screen. As you can see,  
9 no-fault separation agreements do require an ERB,  
10 while actions for paid administrative leaves are not  
11 specifically listed.

12 After vetting the action through the ERB  
13 process, I decided it was best to raise these issues  
14 with Ms. Wetzel at her performance review scheduled  
15 for October 15, 2018.

16 That morning, I emailed my talking points  
17 to Amanda Poland, of which you can find a copy in  
18 Exhibit 29. My talking points detailed the legal  
19 reasoning and conclusions from the August 30, 2018  
20 supplemental OGC memorandum.

21 I further stated that TVA was prepared to  
22 offer Ms. Wetzel a no-fault separation agreement in  
23 lieu of termination, but the terms of the no-fault  
24 separation agreement had not yet been set, so that Ms.  
25 Wetzel could have time to reflect on matters that may

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1 be of interest to her in negotiating such an  
2 agreement.

3 My talking notes also clearly stated that  
4 should you choose not to accept a no-fault separation  
5 offer, TVA is prepared to move to termination.

6 As of that meeting, Ms. Wetzel was placed  
7 on paid administrative leave.

8 Between October 15 and November 16, 2018,  
9 I have several documented discussions between myself  
10 and HR regarding the terms of Ms. Wetzel's no-fault  
11 separation agreement. One of those drafts is provided  
12 in Exhibit 30.

13 I recall that I was very conscious that  
14 Ms. Wetzel was close to her eligible retirement age,  
15 and I wanted to make her landing as soft as possible  
16 and wanted to ensure that whether it was paid or  
17 unpaid, she received creditable service from TVA up to  
18 her eligible retirement date.

19 As provided in Exhibit 31, Ms. Wetzel  
20 initially signed a no-fault separation agreement,  
21 which addressed her retirement concerns, on December  
22 5, 2018, but I believe, consistent with standard TVA  
23 no-fault separation terms, was given seven days to  
24 rescind her signature.

25 The next day, December 6, we received a

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1 letter from Ms. Wetzel's attorney indicating that Ms.  
2 Wetzel may be considering withdrawing her signature  
3 and making further demands for negotiation.

4 Then, on December 10, Ms. Wetzel, through  
5 her attorney, notified TVA that she had begun the  
6 process of mediating her issues through the NRC and  
7 requested an additional seven days within which to  
8 rescind the no-fault separation agreement.

9 TVA reviewed the request, but as it had  
10 been engaging in negotiation with Ms. Wetzel since  
11 mid-October and previously granted a two-week  
12 extension, TVA declined to offer a further  
13 counterproposal or grant the seven-day extension.

14 Ms. Wetzel then rescinded the no-fault  
15 separation on December 11, within the allotted seven  
16 days.

17 The ERB alternative to a no-fault  
18 separation agreement was to implement a contingency  
19 plan for termination, which was what was put into  
20 motion after Ms. Wetzel rejected the no-fault  
21 separation.

22 On December 18, an ERB update meeting was  
23 held to review additional information, after Ms.  
24 Wetzel rejected the no-fault separation agreement, as  
25 provided in Exhibit 32. Once again, the ERB had no

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1 objection.

2 Accordingly, Ms. Wetzel was terminated on  
3 January 14, 2019. The termination letter is provided  
4 as Exhibit 33.

5 In summary, ultimately, I took action to  
6 terminate Beth Wetzel because I believed she was  
7 engaged in disrespectful and harassing conduct towards  
8 Erin Henderson and I believed it was my responsibility  
9 to ensure a respectful and harassment-free workplace.

10 These circumstances were not easy. And I  
11 want to emphasize that, as I detailed here today, I  
12 took appropriate caution by seeking out advice and  
13 input from the appropriate resources within TVA, and  
14 ultimately, I acted only after the ERB had vetted the  
15 proposed action.

16 In addition to the factual events, there  
17 are several issues and contextual perspectives that I  
18 want to briefly address. These are issues that are  
19 touched on in the OI report or are considerations in  
20 the NRC enforcement process.

21 First, to be clear that at no point in  
22 time did any technical or nuclear safety issue raised  
23 by Ms. Wetzel play any part in the decision to  
24 separate her from the company. As I read it, even the  
25 NRC OI report does not make that finding. The OI

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1 report claims it was Ms. Wetzel's alleged chilled work  
2 environment statements that contributed to her  
3 termination.

4 I will address that issue in a moment, but  
5 I want to be clear that any nuclear safety issue Ms.  
6 Wetzel raised had no role. If you have any questions  
7 for me on this topic I'm happy to address them.

8 At this time I will turn to my specific  
9 concerns with the NRC's analysis in the OI report. I  
10 have laid out five specific issues, which you can see  
11 listed on your screen for reference.

12 First, I would like to address the OI  
13 report's analysis of whether Ms. Wetzel alleged  
14 protected activities contributed to her termination.  
15 The primary basis for OI's findings, and indeed DOL's  
16 August 29th conclusion, which were never litigated,  
17 appear to be that Ms. Wetzel participated in a chilled  
18 work environment assessment when interviewed by OGC  
19 Attorney John Slater and that she raised potential  
20 chilled work environment concerns to Mr. Slater in  
21 that interview and to me in her emails.

22 I must reiterate that at no time did I  
23 have any cause to believe that Mr. Slater was  
24 conducting a chilled work environment assessment or  
25 that information provided to Mr. Slater could be

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1 construed as a chilled work environment concern.

2 I knew him to be conducting an independent  
3 harassment investigation. The OI report states as  
4 much on Page 43.

5 At that time, Shea knew that TVA OGC  
6 investigation was looking into whether Wetzel and  
7 others were creating a harassing environment for  
8 Henderson. That is the only lens with which I viewed  
9 the results of Mr. Slater's investigation.

10 The NRC may have a different view of these  
11 circumstances, but here it has been alleged that I  
12 deliberately acted with an intent to discriminate  
13 based in part on statements that Ms. Wetzel made. It  
14 is therefore my intent that must be considered and I  
15 had no such intent.

16 The purpose of having the harassment claim  
17 investigated by an independent investigator, Mr.  
18 Slater, who was new to all of the issues and  
19 individuals was, in part, to establish what had  
20 actually occurred within the organization.

21 Even if Ms. Wetzel herself believed that  
22 she was participating in a chilled work environment  
23 assessment, I had no indication that was her belief.  
24 Rather, I advanced the action against Ms. Wetzel  
25 because, one, OGC concluded that she had participated

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1 in a, quote, pattern of harassment and retaliation,  
2 unquote, against Ms. Henderson.

3 Two, that Ms. Wetzel had made one or more  
4 significant unfounded statements directly to me  
5 outside of the Slater investigation. Specifically the  
6 May 7th assertion of, quote, probably a lot more  
7 actions than I'm not aware of, unquote, and her  
8 assertion of, quote, past experience, unquote, without  
9 more detail.

10 And three, my perspective that OGC in  
11 drawing their August 30th conclusions, had taken into  
12 account the totality of Ms. Wetzel's representations,  
13 including both those made to Mr. Slater and those not  
14 made to Mr. Slater in his interview.

15 Second, the OI report finds that the  
16 statements Ms. Wetzel made were accurate and truthful  
17 to the best of her knowledge because they were, quote,  
18 rooted in truth in that the activities occurred but  
19 were arguably not based on the reasons that Ms. Wetzel  
20 believed, unquote.

21 This is a troubling finding because  
22 certain of her assertions were not reasonably rooted  
23 in any truth. Rather, what is troubling is that OI  
24 and DOL analyses ignore the statement in her May 7th  
25 email that Erin was allegedly responsible for certain

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1 harassing actions and, quote, probably a lot more  
2 actions that Ms. Wetzel was not aware of, unquote.  
3 Which in my mind crossed an unacceptable line.

4 There was then and is now, no intellectual  
5 or ethical construct I can conceive of on a broad  
6 sweeping indictment with no specificity, taken to be  
7 accurate or grounded in truthfulness when the words  
8 admit to no actual knowledge of the truth.

9 To extent that the NRC analysis ignores  
10 that particular statement in its analysis, it is  
11 difficult to understand what would ever be considered  
12 a non-prohibited grounds under 10 CFR 50.7(d).

13 Third, Ms. Wetzel is characterized in the  
14 OI report as saying that she did not provide any  
15 further details on the July 2nd phone call due to the  
16 presence of Carla Edmondson because she thought I was,  
17 quote, trying to catch her saying something negative  
18 about a management to subordinate, which is against  
19 TVA policy, unquote.

20 It is not true that I was trying to catch  
21 her. People don't get caught in being asked to  
22 amplify a previous remark. Even if there were some  
23 inadvertent confusion caused by my part, including Ms.  
24 Edmondson on that phone call, it should be noted that  
25 twice before I had given Ms. Wetzel the opportunity to

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1 elaborate on her allegations against Ms. Henderson to  
2 me alone.

3 The first time in my June 9, 2018 response  
4 to Ms. Wetzel's email the same day, and the second,  
5 through text messages where I asked her to elaborate  
6 on why she believed she was getting different  
7 directions from management.

8 Fourth, on Page 43 of the OI report it  
9 appears to read that I stated that Ms. Wetzel's  
10 claimed protected activities were a central and  
11 required function of her job and were not protected  
12 activity. That reference is not cited, and I have  
13 reviewed my notes and transcripts and am unable to  
14 find anywhere where I made such a statement. It seems  
15 quite odd and out of character that I would have said  
16 that.

17 Rather, I do believe that Beth and almost  
18 every person employed by the nuclear regulatory team  
19 engages in protected activity every day as part of  
20 their job.

21 Because protected activities were a  
22 central and required job function for Beth, it would  
23 have been an assumption of any discussion and decision  
24 on an adverse action that she had participated in  
25 protected activities and that absent clear evidence

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1 that there was a non-prohibited basis for the adverse  
2 action, the adverse action should not move forward.

3 The last observation I will make regarding  
4 the OI analyses regards the discussion on Page 45  
5 regarding the request for specific evidence. The  
6 analysis suggests that it was especially concerning  
7 that I asked Ms. Wetzel to provide support for her  
8 claims, because I had knowledge of the prior ECP  
9 concerns raised against Ms. Henderson.

10 I disagree that there's anything  
11 concerning about this. Two of the prior ECP concerns  
12 against Ms. Henderson were not substantiated at all  
13 and one concern, NEC 1700683, was substantiated in  
14 part, but explicitly found no retaliatory intent by  
15 Ms. Henderson.

16 Furthermore, that analysis again ignores  
17 that in the May 7 email, Ms. Wetzel broadly asserted,  
18 probably a lot more actions that I'm not aware of,  
19 instances of retaliation by Ms. Henderson.

20 To me, it's not unreasonable for me to ask  
21 essentially, what do you mean? I'm not quite sure  
22 what else the NRC would have me do here. Ultimately,  
23 in my mind, I turned the May 7 list of issues,  
24 including the broad, probably a lot more actions that  
25 I'm not aware of, assertion over to the entity that I

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1 believed was capable and positioned to examine all of  
2 the facts with the various assertions by Henderson and  
3 Wetzel in one effort.

4 In conclusion, I want to reiterate that I  
5 never acted with any intent to retaliate against Ms.  
6 Wetzel for engaging in any alleged protected activity.  
7 I acted based on my good faith belief that Ms. Wetzel  
8 was engaging in disrespectful and harassing actions.

9 Any supervisor, any supervisor will tell  
10 you these kinds of decisions are never easy, and that  
11 was true for me and also why I was asking for help all  
12 along the way in investigating and evaluating these  
13 behaviors.

14 Based on the nature of these allegations,  
15 their lack of specificity, and that I had personal  
16 knowledge of some of the issues that Ms. Wetzel was  
17 falsely complaining about, I did not believe her  
18 allegations against Henderson raised genuine and  
19 reasonable concerns.

20 I asked Ms. Wetzel to provide more detail  
21 for the allegations she raised against Henderson, but  
22 she declined. I used company processes, OGC, and the  
23 Executive Review Board, that I believe are designed to  
24 provide neutral and independent advice and guidance.  
25 OGC provided its recommendation and the ERB did not

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1 object to the implementation of disciplinary action  
2 here.

3 This concludes my statements as to the  
4 factual portion of my apparent violation.

5 While reviewing the history of this  
6 situation, I looked for any indication that I had  
7 deliberately taken action that caused TVA to be in  
8 violation of 10 CFR 50.7, and as I have discussed at  
9 length today, I found no such indication and strongly  
10 deny that I violated 10 CFR 50.5.

11 But I also took the opportunity to assess  
12 what I could have done differently along the three or  
13 more year arc of this situation to have prevented this  
14 situation that was anything close to a harassing  
15 environment.

16 While I believe, ultimately, that Ms.  
17 Wetzel was responsible for her choice to make  
18 statements about Ms. Henderson that could not possibly  
19 have been grounded in fact or reasonable belief, I did  
20 assess and observe the following things I would do  
21 differently to facilitate a non-harassing workplace.

22 I did reflect on the actions I took to  
23 give additional support to Ms. Wetzel, specifically,  
24 while I did facilitate getting her an executive level  
25 mentor, I might have had more structured discussions

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1 with Ms. Wetzel around her mentoring discussions that  
2 would have given Ms. Wetzel additional opportunity to  
3 discuss her perspectives on her working relationships.

4 Having done that review, based on my  
5 existing skills and experience, I took my initiative  
6 one step further. And it's a step that I find  
7 profoundly insightful.

8 Several weeks back, I enrolled in the  
9 Society for Human Resource Management. The Society  
10 for Human Resource Management is one of the two  
11 premier professional training and certification  
12 processes for human resource professionals across the  
13 nation for companies of all types.

14 I became a member and immediately took the  
15 course entitled, Workplace Harassment Management  
16 Fundamentals. As I took the course, several key  
17 aspects were repeatedly emphasized.

18 The first is that harassment is something  
19 where managers of all experience levels can recognize  
20 that something needs to be done, but that the specific  
21 steps to take are rarely clear unless you have  
22 extensive personal experience responding to such  
23 concerns.

24 The second clear point was that managers  
25 need to constantly seek the support of knowledgeable

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1 parts of the organization to ensure that claims of  
2 harassment are properly addressed.

3 And third, I learned that I needed to  
4 increase my sensitivity to behaviors that others may  
5 be perceiving as harassing.

6 This is the training that is foundational  
7 to the HR professional community. I took and funded  
8 this training on my own initiative.

9 I will now turn it over to my attorney.  
10 Tim?

11 MR. WALSH: Thank you, Joe. At the  
12 beginning of the presentation, I emphasized that a  
13 finding of deliberate misconduct is a very high  
14 standard requiring a showing of intent to cause a  
15 violation of 50.7.

16 Joe showed you today, through emails and  
17 other records, that he never possessed any such  
18 intent. Quite to the contrary, these records  
19 demonstrate that the only intent Joe had was to do  
20 what was correct.

21 The circumstances present here are far  
22 different than in other cases where the NRC has found  
23 that an individual had engaged in deliberate  
24 misconduct, causing a licensee to violate 50.7.

25 For example, September of 2019, the NRC

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1 issued an order to Mr. Thomas Summers, in Enforcement  
2 Action IA-18-040, prohibiting him from involvement in  
3 NRC-licensed activity.

4 In that case, the NRC Office of  
5 Investigations found that a contract employee  
6 initiated a condition report on one day and Mr.  
7 Summers emailed the contract employee's employer the  
8 next day, including in his email the condition report  
9 and asking a question about it.

10 That same day, Mr. Summers spoke with the  
11 contract employer and discussed reassigning the  
12 contract employee to another plant.

13 The NRC investigation also found that Mr.  
14 Summers' testimony differed significantly from that of  
15 other witnesses, thus undercutting his credibility and  
16 discrediting his assertion that the individual's  
17 removal from the plant was unrelated to protected  
18 activity.

19 Also in that case, the NRC found that Mr.  
20 Summers had deliberately provided false and inaccurate  
21 information to the NRC to influence the NRC's  
22 discrimination investigation.

23 Joe's case is far different. Unlike in  
24 Mr. Summers' case, there is no rash decision to take  
25 action against Ms. Wetzal. The record shows that Ms.

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1       Wetzel's offending conduct was carefully considered  
2       over several months by multiple TVA personnel.

3               In addition, the record shows that Joe's  
4       view of Ms. Wetzel's pattern of conduct that violated  
5       TVA's policies were aligned, if not identical, to  
6       others who also considered that pattern. He receives,  
7       at multiple times, input from the Office of General  
8       Counsel, which found that Ms. Wetzel's conduct  
9       violated TVA policies and was not appropriate for  
10      someone at her level.

11              Further, the adverse action was reviewed  
12      by the Executive Review Board, which did not object to  
13      the adverse action. Indeed, the HR representative to  
14      the ERB testified to OI that the information presented  
15      to the ERB was very thorough and damaging, that there  
16      was no question at the ERB about proceeding with the  
17      adverse action.

18              None of the facts presented today suggest,  
19      let alone show, any intent to violate the Commission's  
20      employee protection requirements. In fact, they show  
21      that Joe made every effort to ensure that the adverse  
22      action had only legitimate and appropriate bases. He  
23      even recommended that Ms. Wetzel be further  
24      interviewed to learn more about the bases for her  
25      statement.

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1           The evidence presented today is far more  
2           convincing than the evidence relied on in the Wetzel  
3           OI report.   Indeed, that report states that the  
4           primary basis for finding that Joe has engaged in  
5           retaliation is based only on a, quote, reasonable  
6           assumption, close quote.

7           The OI report states on Page 49, and as  
8           displayed on your screen, that it is reasonable to  
9           assume that Shea provided Ms. Wetzel's statement to  
10          TVA OGC with the expectation that it would lead to an  
11          employment action against Wetzel to prevent Wetzel  
12          from continuing to raise these fear of retaliation  
13          concerns, which is a protected activity.

14          We have demonstrated today how the  
15          evidence shows that this assumption is not reasonable  
16          at all.  Moreover, alleged reasonable assumptions are  
17          not evidence, they are instead the complete absence of  
18          evidence and should not be permitted as any basis for  
19          finding that Joe engaged in retaliation, let alone an  
20          order banning him from the industry.

21          As discussed earlier today, the Commission  
22          made explicit that a finding of deliberate misconduct  
23          requires finding the intent to act in a wrongful  
24          manner and the Commission equated that standard to one  
25          used in a criminal prosecution.  Alleged reasonable

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1 assumptions fall nowhere close to that standard.

2 The NRC and other reasonable minds may  
3 disagree with the outcome that was reached here, but  
4 that outcome was not reached by any attempt to cause  
5 a violation of the Commission's employee protection  
6 regulations or any wrongdoing.

7 Joe's actions demonstrate that he wanted  
8 to do the right thing. He should not get a violation,  
9 let alone be banned from the industry, for the  
10 evidence shows that he asked for help and input every  
11 step of the way.

12 I would like to now address another  
13 concern with the OI report's findings.

14 As Joe explained to you, he in no way  
15 considered the internal OGC investigation into Ms.  
16 Henderson's harassment complaint any chilled work  
17 environment assessment. Again, it's his intent that  
18 matters here.

19 In addition, the NRC should not feel bound  
20 by the Department of Labor investigation's findings in  
21 this regard, as you can see on your screen.

22 First, TVA had no opportunity to respond  
23 to the DOL findings that the TVA OGC investigation  
24 where they showed work environment assessment before  
25 DOL made its findings here. The claim was never

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1 raised by Ms. Wetzel in her DOL findings, nor was this  
2 claim presented to TVA by the DOL investigator.

3 Second, those findings were not the result  
4 of an adjudication. Rather, the findings were the  
5 result of an investigation. Those findings were set  
6 aside the moment TVA requested an adjudicatory hearing  
7 in this matter.

8 29 CFR 24.106(b) states in relevant part  
9 that if objections to Department of Labor findings are  
10 timely filed, quote, all provisions of the order will  
11 be stayed, unquote. That's what happened here. TVA  
12 filed its objection, the DOL findings were stayed, and  
13 the matter was eventually settled.

14 Third, the Department of Labor  
15 investigator never interviewed the TVA investigator,  
16 Mr. Slater. But the NRC did. Mr. Slater  
17 unequivocally testified to the NRC that he conducted  
18 a run of the mill harassment investigation and that he  
19 never performed a chilled work environment assessment  
20 and wouldn't even know how to go about conducting one.

21 Fourth, the NRC did not re-interview Joe  
22 following the Department of Labor findings when it  
23 could have done so. Again, it's Joe's intent that is  
24 at issue here in this apparent violation, not anyone  
25 else's.

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1           And finally, Section 5.2(e) of the NRC  
2 Allegation Manual specifically provides that there is  
3 no requirement that the NRC and DOL conclusions agree.

4           In summary, Joe had only legitimate and  
5 non-prohibited considerations in mind from the start  
6 of the events we discussed here today, all the way to  
7 the finish. He never had any intent to commit --

8           That concludes Joe's presentation for  
9 today. Next week, you will hear from TVA and its  
10 perspective that the actions by Erin, [REDACTED] and Joe  
11 were taken for only appropriate reasons. Thank you.

12           MR. WILSON: Thank you for the  
13 presentation.

14           One of the things, Joe, that I'm going to  
15 apologize, I know the court reporter did get  
16 disconnected for a little bit, so we're going to have  
17 to figure out, to go back and part of your  
18 presentation, to have him get his notes fixed. If the  
19 court reporter could come up so we can get those  
20 fixed?

21           Then, we'll be taking, when we break out,  
22 we'll come back at 10:50. So, the NRC will be back at  
23 10:50. Did anyone have any questions?

24           Court reporter, do you know when you got  
25 disconnected and you need to fix your notes? Okay.

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1 Thank you very much.

2 MR. SHEA: Mr. Wilson?

3 MR. WILSON: Yes.

4 MR. SHEA: Yes, before we get to the court  
5 reporter, I myself would like a break. So, Mr. Court  
6 Reporter, I'd like to come back at 10:10, ten after  
7 10:00.

8 MR. WILSON: Oh, you can take a break, Joe,  
9 you can take a longer break if you'd like, we just  
10 have to get this before we move on to the next phase.  
11 I'm fine with that.

12 MR. SHEA: Okay. I'll be back at 10:10.  
13 We'll get this straightened out, then I'll go -- we'll  
14 caucus as well. Thank you, Mr. Wilson.

15 (Whereupon, the above-entitled matter went  
16 off the record at 10:04 a.m. and resumed at 10:33  
17 a.m.)

18 MR. WILSON: Thanks, everyone. Thanks,  
19 Mr. Shea, for working with the court reporter to get  
20 everything put back on the record.

21 At this time we will listen to Ms. Wetzel.  
22 Ms. Wetzel, your comments, please.

23 MS. WETZEL: Ian, can you hear me?

24 MR. WILSON: Yes, we can.

25 MS. WETZEL: Okay. All right, thank you.

1 Yes, I would like to make a few comments. One thing  
2 I wanted to correct or, that I believe was inaccurate,  
3 was Mr. Shea said that he received a call from me  
4 during the recruiting process for Ms. Henderson and I  
5 told Mr. Shea that she was too inexperienced.

6 I didn't call Joe and tell him that Erin  
7 was too inexperienced, it was during a 9-box meeting  
8 where we went over different managers and their  
9 ability to do jobs. And Joe asked at the end of the  
10 9-box meeting what Ed and I thought about Erin.

11 And we were silent, we didn't say anything  
12 and Joe pressed us, come on, tell me what think about  
13 Erin. And I did tell him that because we had just  
14 demoted one of our employees, Henry Lee, for not  
15 having eight years of experience, regulatory  
16 experience, he couldn't be a senior program manager,  
17 that we might be at risk because Erin doesn't have  
18 eight years of regulatory experience and we were  
19 bringing her in to be a manager over the whole group.  
20 I wanted to clarify that.

21 And then I also wanted to say that I still  
22 don't see how I could have created a hostile work  
23 environment for my boss, it's management that maintain  
24 the work environment. And during the OI interviews of  
25 employees and corporate licensing group, the employees

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1 said I was nothing but professional and respectful  
2 during, when I worked.

3 But I apparently created a hostile work  
4 environment because I gave my opinion, my honest  
5 opinion, during an interview of OGC, and I raised  
6 concerns to my management about how I might be treated  
7 by Ms. Henderson. And apparently those concerns were  
8 justified because I was terminated.

9 And the other thing I'd like to mention  
10 was, if I was, if my discussions and things I said and  
11 did were inappropriate, I never got feedback from Joe  
12 or Erin or OGC or HR that I was acting  
13 inappropriately. I was just terminated out of the  
14 blue.

15 I guess I also want to say, Joe said that  
16 I was not given a no-fault separation agreement on  
17 October 15th. I was.

18 It was read to me. And I was handed it to  
19 read. And I pointed out that I'm six months from my  
20 retirement date after 30-plus years of federal  
21 service.

22 And I also pointed out a sentence that  
23 insinuated I could not discuss anything with the NRC  
24 after I was terminated. And Joe took that paper back  
25 and said, we'll change this paperwork.

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1           So I was handed something on October 15th  
2           and it was different than the paper I was handed  
3           later. That's it.

4           MR. WILSON: Okay, thank you, Ms. Wetzel.  
5           Mr. Shea, any comments?

6           MR. SHEA: Yes. Taking disciplinary  
7           action against any employee is not easy. Terminating  
8           a talented individual is a difficult action for any  
9           leader. And terminating Ms. Wetzel on January 14,  
10          2019 was a, both a frustrating and personally  
11          emotional moment for me.

12          However, I have an obligation to all  
13          employees to ensure a work environment that is  
14          respectful and free of harassment. And throughout  
15          this period I took steps to obtain the advice of  
16          counsel of expert organizations in harassment and  
17          investigations and I took great care to ensure that  
18          the actions taken were not retaliatory for protected  
19          activities.

20          It is my position that TVA did not violate  
21          10 CFR 50.7 and I did not deliberately take actions  
22          that I knew would cause TVA to violate 10 CFR 50.7.  
23          That is all.

24          MR. WILSON: Thank you. We're going to do  
25          separate breakout in the caucus rooms. We will be

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1 back at 11:30. So that gives us 50 minutes. It's  
2 been taking about that time in the caucus, so I will  
3 see everyone back in the main room at 11:30.

4 Ian, please establish the breakout room.  
5 Thank you.

6 MR. GIFFORD: Thank you, George.

7 (Whereupon, the above-entitled matter went  
8 off the record at 10:39 a.m. and resumed at 11:31  
9 a.m.)

10 MR. WILSON: All right, we should have  
11 everyone back now. With that, Sara Kirkwood is going  
12 to be leading the questioning for the NRC. Sara?

13 MS. KIRKWOOD: Sorry, George, I was  
14 slightly late. Are you ready for me to begin?

15 MR. WILSON: Yes, Sara. Yes, we are.

16 MS. KIRKWOOD: Okay, sorry. Did, Mr.  
17 Shea, did Erin Henderson, prior to filing her  
18 complaint in March of 2018, did Erin Henderson come to  
19 you with concerns that any TVA employee was harassing  
20 her?

21 MR. SHEA: Ms. Kirkwood, if you're asking,  
22 prior to her March 2018 complaint, did Ms. Henderson  
23 come to me complaining that anyone was harassing her,  
24 is that correct?

25 MS. KIRKWOOD: Yes.

1 MR. SHEA: As I discussed generally in my  
2 opening remarks that in the days prior to her filing  
3 of the complaint she had, there had been some issues  
4 of concern that had caused her to be upset to the  
5 point of preparing to quit.

6 And in that exchange she had expressed  
7 concerns that were activities and actions by  
8 individuals that she was frustrated with. And  
9 challenged me as to when was leadership going to do  
10 something about that because in her view it's  
11 something that had been going on for some period of  
12 time.

13 Does that answer your question?

14 MS. KIRKWOOD: That was just in a day's  
15 filing? So it was just in March of 2018 that you  
16 started hearing her concerns that there were things  
17 happening that were causing her to think of quitting?

18 MR. SHEA: So I understand that, that was  
19 one instance, I have a recollection with no  
20 specificity that over the previous year or so she had  
21 expressed on one or more occasions some concerns with  
22 the behaviors of one or more individuals. And she  
23 used either the word harassing or hostile, in one of  
24 those conversations that I recall.

25 MS. KIRKWOOD: And do you recall who the

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1 individuals were who she said was harassing her?

2 MR. SHEA: One of the, so I don't recall  
3 who she equated the term harassing or hostile  
4 specifically with. One of the individuals that was  
5 causing her quite a bit of frustration was Mr.  
6 McBrearty.

7 MS. KIRKWOOD: Did you take any action at  
8 that point with respect to Mr. McBrearty?

9 MR. SHEA: There were occasions when I  
10 spoke to Mr. McBrearty. And specifically in October  
11 of 2017, and went to the site and sat down with him  
12 and gave him some perspective on a couple of the  
13 issues that he was challenging the corporate office  
14 on.

15 MS. KIRKWOOD: Did you talk to anyone else  
16 about Mr. McBrearty, about the relationship between  
17 Mr. McBrearty and Ms. Henderson?

18 MR. SHEA: I did. I know that I had a  
19 conversation in April of 2017. An introductory  
20 meeting with vice president at Sequoyah, Mr. Tony  
21 Williams.

22 He had recently arrived as the site vice  
23 president. And my recollection is I relayed to Mr.  
24 Williams that he had a very capable site licensing  
25 manager but that I discussed that the relationship

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1 between Sequoyah licensing manager and the corporate  
2 office could be improved.

3 I don't know how much more specific I got  
4 than that but that would have been April of 2017.

5 I have some recollection, and I think a  
6 note, that on June 20, 2017 I had another conversation  
7 with Tony Williams and Mr. McBrearty's direct boss at  
8 the time, Dennis Dimopoulos, where I expressed some  
9 concern about the ongoing seeming antagonism by Mr.  
10 McBrearty towards Ms. Henderson.

11 I don't recall whether that was a phone  
12 call or whether they were at the corporate office.  
13 But that was the date I have some notes on.

14 MS. KIRKWOOD: You have notes on that?

15 MR. SHEA: Some handwritten notes I  
16 believe. It's very brief.

17 And in addition, then I spoke to, in  
18 October 2017, I spoke to Mr. Williams again on that  
19 day, as well as talking to Mr. McBrearty again. That  
20 was out at Sequoyah.

21 I did, with regard to Mr. McBrearty, I  
22 also recall, at least on one occasion, in February of  
23 2018 I had a call to encourage him to work with the  
24 corporate leadership because we were trying to get a  
25 particular product out called the Kirk Key LAR. And

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1 I encouraged him to, we were trying to all get the  
2 best product out as possible. I recall he was  
3 frustrated about that particular LAR in that time  
4 frame, so I spoke to him in February of 2018.

5 MS. KIRKWOOD: Did Erin Henderson, prior  
6 to filing her complaint in March 2018, did Erin  
7 Henderson complain to you that Beth Wetzel was  
8 harassing her?

9 MR. SHEA: I know that Ms. Henderson and  
10 I had a number of conversations regarding Ms. Wetzel's  
11 performance. Whether she specified that the behaviors  
12 were harassing, I can't place a discussion where she  
13 said that one way or the other.

14 MS. KIRKWOOD: Were the, so, I would  
15 typically think of performance as --

16 MR. SHEA: Absolutely. Sorry. I'm sorry.

17 MS. KIRKWOOD: -- performance --

18 MR. SHEA: Performance is performance,  
19 that's correct.

20 MS. KIRKWOOD: Yes. Versus, were there  
21 concerns about her conduct?

22 Were there concerns, did Henderson express  
23 concerns to you about Wetzel's conduct?

24 MR. SHEA: She expressed on, at one  
25 occasion, one or so occasions that she thought that

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1 Ms. Wetzel was perhaps talking to others in the group,  
2 to include Mr. McBrearty who is in, at the site, in  
3 some negative fashion about her. So yes.

4 The details of what she said any  
5 conversation about Ms. Wetzel beyond that I don't  
6 specifically recall.

7 MS. KIRKWOOD: And, to -- you said earlier  
8 that Ms. Henderson had expressed concerns to you about  
9 Ms. Wetzel's performance.

10 MR. SHEA: Yes.

11 MS. KIRKWOOD: Employees, her performance  
12 would not be harassing of her manager, correct?

13 MR. SHEA: Absolutely. I was, I expressed  
14 that she was frustrated with performance but you're  
15 absolutely right, discussions on performance are not  
16 discussions related to harassment.

17 MS. KIRKWOOD: Did Erin Henderson ever  
18 express to you that Alesia Justice was harassing her  
19 prior to receiving the complaint?

20 MR. SHEA: I don't recall any reference to  
21 Ms. Justice in any detail, other than a perspective  
22 that Ms. Justice and Ms. Wetzel were, had a close  
23 relationship. I don't recall Ms. Henderson  
24 specifically suggesting that Ms. Justice was harassing  
25 her. I don't recall that prior to the March 2018.

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1 MS. KIRKWOOD: Do you think that a  
2 manager's subordinates having a close relationship can  
3 be harassing of that manager?

4 MR. SHEA: No, not in and of itself.  
5 Certainly not.

6 MS. KIRKWOOD: Did Erin Henderson ever  
7 express to you prior raising her complaint in March of  
8 2018 that [REDACTED] was harassing her?

9 MR. SHEA: Not that I can recall with any  
10 specificity. If there was a discussion about [REDACTED]  
11 [REDACTED], it was not harassing as much as potentially  
12 insubordinate.

13 MS. KIRKWOOD: What is the difference, in  
14 your mind, between insubordinate conduct and harassing  
15 conduct?

16 MR. SHEA: Insubordination is related to  
17 the following or not following of directions.  
18 Harassing is a much broader set of behaviors. It  
19 encompasses a much broader set of possible behaviors.

20 MS. KIRKWOOD: Prior to the complaint in  
21 March of 2018, did Erin Henderson ever express to you  
22 that Michelle Conner was harassing her?

23 MR. SHEA: My recollection is that similar  
24 to what I described as Ms. Wetzel, there was close  
25 converse relationships. She expressed her concern

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1 between them where they were potentially talking  
2 negatively about Ms. Henderson.

3 In that period of time after Ms. Conner  
4 settled in her new position, I don't recall a specific  
5 reference to Ms. Conner's harassing in a particular  
6 fashion in that period of time.

7 MS. KIRKWOOD: Prior to receiving the  
8 complaint, did Ms. Henderson discuss with you the  
9 possibility of filing it?

10 MR. SHEA: I'm sorry, of what?

11 MS. KIRKWOOD: Of, did she discuss or plan  
12 to file it, that she was thinking of filing a  
13 complaint, the possibility of filing a complaint with  
14 you prior to when you received, you said you received  
15 the email on March 9th at 3:45?

16 MR. SHEA: That's right. As I described  
17 in the presentation, Ms. Henderson had gotten very  
18 upset in a day or two, I think it was two days prior  
19 to when she submitted the complaint, about some things  
20 that had gone on.

21 And she expressed that she was very  
22 frustrated. And she challenged me, when is leadership  
23 going to do something about these behaviors. And she  
24 used the word, harassing or hostile.

25 And it struck me in that particular time

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1 as this was a, something I needed to respond to, that  
2 leadership needed to respond to. And I encouraged her  
3 to consider putting all of her concerns in writing so  
4 that they could be actually evaluated.

5 MS. KIRKWOOD: Did you see a draft of the  
6 complaint before it was filed?

7 MR. SHEA: No. Not that I have any memory  
8 of, no.

9 MS. KIRKWOOD: You said she was very upset  
10 in the days leading up to the complaint because of  
11 certain behaviors. What specifically did you  
12 understand those behaviors to be?

13 MR. SHEA: There was a particular product  
14 that was being developed. It was a license amendment  
15 related to Sequoyah.

16 And it had been in development for some  
17 period of time. It was a frustration to the site and  
18 a frustration to, as well Erin and I, that it was not  
19 moving along and achieving the right quality standards  
20 so there was tensions in that regard and all around.  
21 It was an important product.

22 And my recollection is there was an  
23 exchange between Sequoyah, Mr. McBrearty and one of  
24 the employees underneath Erin, where he characterized  
25 his view on the corporate office as impeding the

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1 progress of these important activities to the  
2 determinant of the site, is my recollection.

3 And I don't recall how she became  
4 specifically aware of that exchange, text. But I  
5 recall that as being particularly upsetting in this  
6 characterization of her role in how she was  
7 discharging it in terms of getting the LAR out.  
8 License amendment request.

9 And other issues I think were included in  
10 that. That particular seemed to be an exchange that  
11 particularly bothered her.

12 MS. KIRKWOOD: I assume you're referring  
13 to the texts between Mr. McBrearty and Mr. Polickoski?

14 MR. SHEA: Yes.

15 MS. KIRKWOOD: That text was also quite  
16 critical of you. Did you view that text as harassing  
17 you?

18 MR. SHEA: I didn't. I had heard the  
19 issues that Mr. McBrearty was speaking to, progress on  
20 the LAR was something that he and I had talked about.

21 As I mentioned earlier in February of  
22 2018. And I had known his frustration, he had  
23 expressed his frustration to me in the past on that  
24 issue as well as another technical issue.

25 And my view of it was that it was a

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1 dynamic that had not yet resolved itself between the  
2 corporate office, including at my level, and the site  
3 regulatory leadership, in this case Mike.

4 And it was just something that I needed to  
5 go take to, it was my action to go help solve that as  
6 the senior person in that group. I did not consider  
7 it harassing. But that is my view. And that's just  
8 my view of it against me.

9 MS. KIRKWOOD: And when you said it was  
10 your job to go sell that, was it your job to go sell  
11 the underlying technical dispute or issues that were  
12 holding up the LAR or your job to solve something  
13 else?

14 MR. SHEA: It's my job to ensure that  
15 working performance of the entire regulatory  
16 organization across a fleet, if you will, was both  
17 performing high and working well together and the text  
18 challenged that it wasn't working too well together.  
19 That is mine to solve, accountable to my boss.

20 MS. KIRKWOOD: Thanks. I'm going to tell  
21 you, Mr. Shea, if you need a break just say so, don't  
22 feel like you have to keep on answering if you need to  
23 get like a drink of water or something.

24 MR. SHEA: I'll just ask, I'm sorry, am I  
25 looking like --

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1 MS. KIRKWOOD: You were looking like you  
2 might need a moment. I wanted to give it to you if  
3 you needed it. You're okay? Okay.

4 When you received the complaint from Erin  
5 Henderson, what were your thoughts?

6 MR. SHEA: My thoughts were that this was  
7 six, seven, eight pages of detail that was, I accepted  
8 that it represented the entirety of her concerns. It  
9 was mine to, and of course it was addressed to me and  
10 Amanda Poland, I think the director of human resources  
11 supporting the nuclear fleet, it was ours to go  
12 respond to and we needed to go determine the  
13 appropriate way to respond to that. And we needed to  
14 do it with some urgency.

15 In about five minutes I will take that  
16 break, if you don't mind.

17 MS. KIRKWOOD: Not at all. Did anything  
18 in the complaint trouble you?

19 MR. SHEA: I guess I'd ask that it be more  
20 specific about trouble me. It's a complaint of  
21 harassment and hostility; that's troubling.

22 MS. KIRKWOOD: Did anything, was there any  
23 incident in that complaint that you learned of for  
24 the first time from reading the complaint?

25 MR. SHEA: I'd have to review the

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1 complaint to see if anything strikes me as being new  
2 or novel looking backwards.

3 MS. KIRKWOOD: She made several references  
4 in that complaint to people having filed ECP  
5 complaints. Did that concern you that she viewed that  
6 as harassing of her?

7 MR. SHEA: The Employee Concerns Program  
8 is established as a avenue for individuals to raise  
9 concerns, and for any number of reasons that they may  
10 want to go to that program.

11 So that any individual took an issue to  
12 ECP is, I wouldn't view as harassing, but I don't have  
13 the expertise, and didn't have the expertise, to know  
14 whether it was possible for a series of ECP complaints  
15 against an individual to be viewed as harassing. So  
16 that was a complexity of the complaint that I knew I  
17 needed help to get evaluated.

18 MS. KIRKWOOD: You said this complaint  
19 went to you and Amanda Poland, and I believe you had  
20 testified that you made the decision to send it to OGC  
21 for an independent type of review. Do I have that  
22 right?

23 MR. SHEA: The decision to send it to the  
24 Office of General Counsel was one that evolved from a  
25 discussion between Ms. Poland and myself. And there

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1 were some discussions with Mike and us, and I believe  
2 then CNO Mike Balduzzi at the time.

3 And ultimately out of those discussions it  
4 was determined to approach OGC to investigate it.

5 MS. KIRKWOOD: Did you discuss with anyone  
6 in OGC who should be interviewed as part of this  
7 complaint?

8 MR. SHEA: I'm sorry, there was a little  
9 break, could you repeat the question?

10 MS. KIRKWOOD: Did you discuss with anyone  
11 in OGC who should be interviewed as part of this  
12 complaint?

13 MR. SHEA: As in the initial discussions  
14 with OGC, which I would characterize as in-brief  
15 discussions where before Mr. Czufin took over the role  
16 as point of contact for the investigations, there was  
17 an initial discussion with the managing attorney and  
18 the investigator about what it is, who's the group,  
19 how big is it, and those sort of things.

20 Where he would discuss, for example, one  
21 of his techniques was to do interviews. So it was a  
22 logistical in-brief type of discussions.

23 And in one of those, in that conversation,  
24 I know that I raised the issue that one of the  
25 individuals mentioned, Ms. Conner, had recently been,

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1 we had gone to settlement. Achieved a settlement with  
2 her in, I think it was December or so of 2017.

3 And Ms. Conner had just started  
4 approximately December 2017, maybe January of 2018.  
5 In a new position that was also in my group. And I  
6 had a point of view, two things. One, that Ms. Conner  
7 was settling well into that new role. That it was  
8 exciting and challenging and she was looking forward  
9 to getting some satisfaction from it.

10 And the other was, I was quite mindful  
11 that we had just settled with her, at that point,  
12 three or four months earlier. And I just expressed my  
13 concern that an interview regarding harassment had the  
14 potential to have someone who had just been settled  
15 with have a perspective that that negotiation and  
16 settlement had not been in good faith, the managing  
17 attorney was Grace and Mr. Slater, to be aware of  
18 that. And if I went so far as to encourage them if  
19 there were ways that he could get to the bottom of the  
20 entire complaint without upsetting that situation,  
21 that would be good.

22 And it was a caution. So that there was  
23 awareness of the temporal proximity to something that  
24 had been just recently achieved. And was important to  
25 the health of that individual, Ms. Conner. As well as

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1 the organization that she just settled in.

2 And I will, if you don't mind, I don't  
3 know how much was five minutes. Would that be okay?

4 MR. WILSON: Yes. Yes, Joe, we'll take a  
5 ten minutes break. It's 12 o'clock, we'll be back at  
6 12:10. Will be ten minutes be good?

7 MR. SHEA: Yes, Mr. Wilson. Thank you.

8 MS. KIRKWOOD: George, do you want to do  
9 a ten minute break or do you want to break longer for  
10 like a lunch-type of break?

11 MR. WILSON: That's up, I'll ask the  
12 group, would you like to do that? How much longer do  
13 you think, just an estimate?

14 MS. KIRKWOOD: I'm not sure. Probably, it  
15 sort of goes on some of the answers, but --

16 MR. WILSON: Okay. Well, let's go ahead,  
17 all right, let's go ahead and take a 30-minute break.  
18 We'll be back at 12:30.

19 MR. SHEA: Thank you.

20 (Whereupon, the above-entitled matter went  
21 off the record at 12:00 p.m. and resumed at 12:31  
22 p.m.)

23 MR. WILSON: Sara?

24 MS. KIRKWOOD: Okay.

25 MR. SHEA: Ms. Kirkwood, I'm sorry.

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1 MS. KIRKWOOD: Sure.

2 MR. SHEA: Okay, just while we were on  
3 break, I did have an opportunity to reflect on your  
4 first question, look at my notes on your first  
5 question, or one of your first questions, where I  
6 think you asked me if I had talked to anybody about  
7 Mr. McBrearty and his behaviors and I told you I  
8 talked to Tony Williams. I mentioned a meeting with  
9 Tony and Mr. Dimopoulos. I told you I talked to Mr.  
10 McBrearty himself.

11 To the extent I thought you were asking,  
12 had I talked to anybody, those were examples. But I  
13 thought just to be sure, I do have notes that I talked  
14 to Inza Hagins-Dyer in May of 2017.

15 And my notes from that discussion were  
16 that Inza indicated that the investigation, and I  
17 think she was referring to 17-0410, concluded that a  
18 chilled work environment, hostile work environment,  
19 did not exist. And my notes further stated that Inza  
20 indicated she had challenged Mike to evaluate whether  
21 he had a blind spot with regard to an employee at  
22 corporate, Michelle Conner.

23 And then, so, that was my conversation  
24 with Inza and her reflection that she had talked to  
25 Mr. McBrearty. And then I did have, and I don't know

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1 notes from this, I had periodic meetings with my boss  
2 Dave Czufin.

3 And I am aware that from time-to-time I  
4 would talk to him about the overall relationship  
5 between the corporate office and Mr. McBrearty. Ms.  
6 Henderson, Mr. McBrearty.

7 So I just wanted to be more complete. I  
8 wasn't a hundred percent sure that you wanted a  
9 representative list or just a little bit more. So I  
10 wanted to get that for you.

11 MS. KIRKWOOD: Thank you, I appreciate  
12 that. Was there anything else you wanted to  
13 supplement?

14 MR. SHEA: No.

15 MS. KIRKWOOD: Okay. So, right before we  
16 broke, you were explaining that Ms. Conner was not,  
17 why it was your recommendation that Ms. Conner not be  
18 interviewed. And I think I understood you to say that  
19 you were concerned that Ms. Conner might perceive an  
20 interview as being in bad faith because of the  
21 settlement she had just entered into. Do I have that  
22 right?

23 MR. SHEA: Yes.

24 MS. KIRKWOOD: Who was involved in that  
25 settlement with Ms. Conner?

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1 MR. SHEA: I can remember the name of the  
2 attorney who negotiated it with me.

3 MS. KIRKWOOD: Sorry, let me clarify my  
4 question. From TVA, who was involved? Was it you who  
5 was negotiating, was it you printing it? What  
6 managers at TVA --

7 MR. SHEA: Yes.

8 MS. KIRKWOOD: -- would have been --

9 MR. SHEA: I was in that negotiation, yes.

10 MS. KIRKWOOD: Okay. Was Erin Henderson  
11 part of that negotiation?

12 MR. SHEA: No.

13 MS. KIRKWOOD: Did you view settling that  
14 complaint as a way of resolving harassment directed  
15 toward Ms. Henderson?

16 MR. SHEA: Sure.

17 MR. WALSH: Ms. Kirkwood, just a point of  
18 clarification here. The settlement occurred at the  
19 end of 2017 and her harassment complaint was filed in  
20 March 9th of 2018. So I don't understand the question  
21 and I just want to make note of the timeline there.

22 MR. SHEA: Yes, I'd ask you to clarify  
23 that as well, Ms. Kirkwood.

24 MS. KIRKWOOD: I'm fully aware of the  
25 timeline. But you were discussing earlier, we were

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1 discussing about whether or not Ms. Henderson had  
2 raised concerns previously about employees harassing  
3 her.

4 So what I am asking you is if you viewed  
5 that settlement as a way of resolving concerns of Ms.  
6 Henderson's?

7 MR. SHEA: The settlement was to resolve  
8 Ms. Conner's concerns. And in settling it Ms.  
9 Conner's was settled in another organization. And I  
10 did view that that would reduce tension within the  
11 group.

12 Your question specifically, did I think it  
13 would resolve, I'm sorry, can you finish that for me?  
14 Resolve what? I can't hear you.

15 PARTICIPANT: You do look to be on mute.

16 MS. KIRKWOOD: Sorry. I still get mixed  
17 up on the buttons. Did you think that the settlement  
18 agreement with Conner was resolving concerns of Ms.  
19 Henderson's?

20 MR. SHEA: I thought that it would  
21 alleviate tensions within the group and that would  
22 potentially alleviate some of Ms. Henderson's  
23 concerns.

24 MS. KIRKWOOD: You referred the Henderson  
25 complaint for investigation because you were concerned

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1 that Ms. Henderson was being harassed, correct?

2 MR. SHEA: I referred it because Ms.  
3 Henderson filed the complaint with me and I needed to  
4 respond to it.

5 MS. KIRKWOOD: Do you have a copy of the  
6 complaint?

7 MR. SHEA: Yes. Yes.

8 MS. KIRKWOOD: Okay. I would like you to  
9 look at Page 8 of her complaint. It sort of starts on  
10 Page 7. It's the paragraph that runs from Page 7 to  
11 Page 8.

12 Actually, I would start even on the bullet  
13 before that on Page 7.

14 MR. SHEA: Yes. I'm sorry, on 221 is the  
15 --

16 MS. KIRKWOOD: Yes.

17 MR. SHEA: -- the second one. During a  
18 discussion with one of my directs.

19 MS. KIRKWOOD: Yes. And look at the  
20 bullet right before that too. During a meeting with  
21 ERI.

22 MR. SHEA: Yes. Yes.

23 MS. KIRKWOOD: Okay. So in both of those  
24 bullets, and tell me if you read it differently. What  
25 I am reading is, Erin Henderson identifying incidents

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1 involving Michelle Conner that would have happened  
2 after her settlement agreement.

3 So, if Erin Henderson is accusing Michelle  
4 Conner of harassing her after the settlement agreement  
5 took place, I'm trying to understand why you felt that  
6 it was not appropriate to have Conner interviewed as  
7 part of this investigation.

8 MR. SHEA: I think I described earlier, in  
9 response to your question, that I described to Mr.  
10 Slater and Ms. Grace a fact that a settlement had  
11 occurred recently. And that as he looked at how he  
12 was going to do the investigation and do interviews,  
13 I asked him to be aware of, and mindful of the fact  
14 that an interview could cause Ms. Conner to think we  
15 had negotiated in bad faith.

16 I could not instruct Mr. Slater what to do  
17 with his investigation. His conduct of investigation  
18 was between him and his boss, Ms. Grace.

19 MS. KIRKWOOD: Did any employees at TVA  
20 raise concerns to you about Erin Henderson's conduct?

21 MR. SHEA: When --

22 MR. WALSH: Ms. Kirkwood, do you have a  
23 time frame that you would like to discuss or --

24 MR. SHEA: Yes, that's my question.  
25 That's my question, when.

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1 MS. KIRKWOOD: I would actually be  
2 interested in any times that an employee raised  
3 concerns. When Ms. Henderson worked for you.

4 I'll narrow it if you want. You could go  
5 from sort of 2016 forward. When she was in her  
6 position as the corporate licensing manager, did  
7 employees raise concerns to you about Ms. Henderson's  
8 conduct?

9 MR. SHEA: About her conduct I would say  
10 no. I would, described in my discussion this morning,  
11 that Ms. Wetzel talked to me about in January of 2017,  
12 2016, I'm sorry, of her difficulty in getting aligned  
13 with her bosses expectations. I did not take that or  
14 hear that as a complaint about her conduct.

15 MS. KIRKWOOD: Did you hear complaints  
16 from Ms. Wetzel about Ms. Henderson, about things  
17 other than her conduct?

18 MR. SHEA: I just described an example of  
19 that.

20 MS. KIRKWOOD: Is that the only example?

21 MR. SHEA: That's the only one I can  
22 recall.

23 MS. KIRKWOOD: You included in the  
24 exhibit, it's dated February 23rd of 2018, when Ms.  
25 Henderson went to HR about an allegation that ■

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1 [REDACTED] had been inappropriate in a licensing call of  
2 some type. And I see the HR investigation. What  
3 actions were taken coming out of that?

4 MR. SHEA: I don't recall. I honestly  
5 don't recall, Ms. Kirkwood.

6 MS. KIRKWOOD: But [REDACTED] continued  
7 with the company after that time, correct?

8 MR. SHEA: After that time he, yes, he  
9 left the company in, later in 2018.

10 MS. KIRKWOOD: Would you have been  
11 responsible for any actions that were taken coming out  
12 of that or would that have been somebody else?

13 MR. SHEA: I would have to know what the  
14 actions were that came out of it to know who would  
15 have been responsible for those.

16 MS. KIRKWOOD: Okay. And at this point  
17 you don't recall if there were any actions coming out  
18 of it?

19 MR. SHEA: I don't specifically recall  
20 what they were.

21 MS. KIRKWOOD: You referenced today two  
22 emails. Let's start with the May 7th, 2018 email. I  
23 think you have that as Exhibit, let's pull it up. One  
24 moment.

25 (Whereupon, the above-entitled matter went

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1 off the record at 12:46 p.m. and resumed at 12:48  
2 p.m.)

3 MS. KIRKWOOD: Okay. I'm looking at your  
4 Exhibit 12, the email from Ms. Wetzel to you on May  
5 the 7th, 2018. Are you with me?

6 MR. SHEA: Just one minute, please.

7 MS. KIRKWOOD: Sure.

8 MR. SHEA: May 7, 2018 at 10:11:44 a.m.?

9 MS. KIRKWOOD: Yes.

10 MR. SHEA: That's the one.

11 MS. KIRKWOOD: So I understand that you  
12 viewed this email as extremely troubling from Ms.  
13 Wetzel, correct?

14 MR. SHEA: Just there were passages in it  
15 that I considered extremely troubling.

16 MS. KIRKWOOD: And did you view that email  
17 as harassing of Ms. Henderson?

18 MR. SHEA: I viewed it in two ways. One  
19 is that as she was making references to types of  
20 things such as the HR investigation that Ms. Henderson  
21 had referenced in her complaint. And I also viewed it  
22 as Ms. Wetzel was raising a perspective of her own,  
23 that her boss was being -- I'm trying to -- trying to  
24 find the words. Using things as an investigative  
25 tool. So that she was raising a concern of her own.

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1 MS. KIRKWOOD: Did you view that email as  
2 part of a sustained pattern of -- sustained campaign  
3 of disrespectful conduct from Ms. Wetzel directed  
4 toward Ms. Henderson?

5 MR. SHEA: At that moment, I did not. I  
6 recognized, as I mentioned, some of the things she  
7 referenced in her email were referencing the HR  
8 investigation, were being Ms. Henderson's complaint.  
9 And -- but I, in that moment, didn't see that as a --  
10 that was a discrete email and by itself was not a  
11 pattern.

12 MS. KIRKWOOD: Did you think that she was  
13 -- that Ms. Wetzel was violating TVA policies or  
14 procedures by sending that email to you?

15 MR. SHEA: At the time, I viewed the  
16 passage in there, specifically the opened-ended  
17 reference to a lot more actions that I'm not aware of  
18 as troubling. I struggled to see how that would've  
19 been considered ethical. That was one of the things  
20 that motivated me to provide it to -- to offer it to  
21 OGC. They are the experts in the application of TVA's  
22 code of conduct. So I was troubled by it, but I  
23 sought the assistance of OGC to determine what it  
24 represented.

25 MS. KIRKWOOD: So if you were troubled by

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1 it and you thought it was a potential violation of the  
2 TVA code of conduct -- code of ethics, why was she  
3 allowed to go on a rotation to NEI after that email?

4 MR. SHEA: She was already on the  
5 rotation.

6 MS. KIRKWOOD: On May 7th?

7 MR. SHEA: My recollection is she had gone  
8 up on April 29th is my recollection.

9 MS. KIRKWOOD: Did you give any thought to  
10 pulling it back at that time?

11 MR. SHEA: No, my -- my response was to  
12 provide -- to seek assistance from, in this case, OGC  
13 and HR to figure out the proper way to assess it and  
14 what it represented and to -- that was the first thing  
15 that needed to be done.

16 MS. KIRKWOOD: She had already been named  
17 in Ms. Henderson's complaint however at that time as  
18 somebody who was harassing Ms. Henderson. Did you  
19 think it was appropriate for her to go on the NEI  
20 rotation with that investigation pending?

21 MR. SHEA: The investigation was ongoing.  
22 The investigation had not been completed yet. So I  
23 did not make a determination on any action without the  
24 investigation being completed.

25 MS. KIRKWOOD: Looking again at that

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1 email, the statement, I know that Erin has used HR to  
2 investigate people. What did you take that in  
3 reference to?

4 MR. SHEA: I took it as reference to the  
5 April or the spring 2016 HR investigation into the  
6 concern about the relationship between Ms. Conner and  
7 Mr. McBrearty.

8 MS. KIRKWOOD: And why --

9 MR. SHEA: But -- but I did not know that.  
10 That's what I took it as.

11 MS. KIRKWOOD: Why did you take it as that  
12 as compared to the investigation by Ms. Henderson into  
13 [REDACTED]?

14 MR. SHEA: I'm just giving you my  
15 reaction. That's what I attributed it to.

16 MS. KIRKWOOD: But you agree that the  
17 statement is, in fact, true, correct, that Ms.  
18 Henderson has used HR to investigate people?

19 MR. SHEA: No, I don't -- I don't -- I  
20 don't agree with that at all. In the particular in  
21 the spring of 2016, concerns were brought to Ms.  
22 Henderson and to me, but to Ms. Henderson that raised  
23 questions about the ability of Ms. Conner -- the  
24 perception of the ability of Ms. Conner to provide  
25 unbiased oversight in her role over Mr. McBrearty. It

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1 was not that Ms. Henderson used HR to investigate  
2 people. Ms. Henderson properly took concerns raised  
3 to her and took them to HR, that organization to  
4 position to look at issues like that. She did not go  
5 there to have them investigated.

6 MS. KIRKWOOD: So you don't agree with the  
7 way she framed the statement, but you agree that Ms.  
8 Henderson did, in fact, initiate at least two  
9 investigations that we've talked about today of her  
10 employees with HR?

11 MR. SHEA: Can you say the question again?  
12 I'm sorry.

13 MS. KIRKWOOD: You don't agree with the  
14 way Ms. Wetzel framed the statement. But you agree  
15 that Ms. Henderson did, in fact, refer at least two  
16 different cases that we've talked about today of her  
17 employees to Human Resources for investigations?

18 MR. SHEA: In my view, Ms. Henderson  
19 discharged her obligation which is when concerns were  
20 raised to her to -- to have them looked at.

21 MS. KIRKWOOD: I guess I'm trying to get  
22 at I think you indicated that you viewed this as a  
23 false accusation on the part of Ms. Wetzel. And so  
24 I'm trying to narrow down which part is false. And I  
25 think where we are is at the part that you find false

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1 is the use of the word, use, because you thought the  
2 investigations were, in fact, appropriate. But we  
3 agree that they did happen?

4 MR. WALSH: Ms. Kirkwood, pardon me one  
5 second. I understand your questioning, but let's look  
6 at the whole email in context and not just one word in  
7 the email.

8 MR. SHEA: Yeah, that's --  
9 (Simultaneous speaking.)

10 MR. WALSH: -- the whole sentence --  
11 (Simultaneous speaking.)

12 MR. SHEA: Yeah, that's what I wanted to  
13 get to. So the sentence is -- is adjacent to she has  
14 demonstrated a long pattern of using TVA processes as  
15 punitive and retaliatory tools. So in looking at, you  
16 know, how the word, use, or what's some other word, it  
17 was juxtaposed against a view that those had been done  
18 in a punitive and retaliatory manner. Are you there?  
19 Sorry.

20 MS. KIRKWOOD: Yes. Sorry, again, hit my  
21 button wrong. You specifically talked about pulling  
22 badging gate records and that Ms. Wetzel should have  
23 known that Ms. Henderson didn't have the ability to do  
24 that. I want to understand a little bit more about  
25 that. Who can pull badge records at TVA?

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1 MR. SHEA: Security.

2 MS. KIRKWOOD: And is there a written  
3 procedure about obtaining badge records?

4 MR. SHEA: I am sure there is. I don't  
5 know it.

6 MS. KIRKWOOD: Are there circumstances  
7 where a manager can obtain badge records? Or is that  
8 such a well-known -- you said Ms. Wetzel would've  
9 known this. I'm just trying to understand that. They  
10 could only be obtained under certain circumstances?

11 MR. SHEA: I don't have that procedure.  
12 I'm confident that I cannot call up security and just  
13 have them pull badge records on my request or any  
14 other manager's request.

15 MS. KIRKWOOD: Why do you think that Ms.  
16 Wetzel would have known that that could not happen?

17 MR. SHEA: From the time she'd worked at  
18 TVA and, in fact, the time she worked at the site.

19 MS. KIRKWOOD: But are you familiar with  
20 the HR investigation of Ms. Conner and Mr. McBrearty?

21 MR. SHEA: I'm familiar that one occurred,  
22 yes.

23 MS. KIRKWOOD: And in fact, it discussed  
24 their badge records?

25 MR. SHEA: I'm sorry. Was that a

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1 question? I don't -- I don't have that report.

2 MS. KIRKWOOD: You don't have that report?  
3 Again, on that email, Ms. Wetzel had asked for a  
4 detailed travel memo that she'd been told she would  
5 get. And I understood your testimony to say your  
6 concern was when she basically said that Ms. Henderson  
7 hadn't provided it to her, you testified that it  
8 wasn't Ms. Henderson who said she shouldn't get that  
9 detail memo. It was OGC. But how would Ms. Wetzel  
10 have known that it was OGC who had switched that  
11 direction?

12 MR. SHEA: She wouldn't necessarily have  
13 until someone told her that which on May 12th -- or  
14 sorry, May 14th, I recall I went back to her and  
15 responded and explained that to her.

16 MS. KIRKWOOD: But on May 7th when she  
17 raised a concern, how was that -- how was expressing  
18 a concern that she did not get what she had been told  
19 she was going to get about specific procedures for how  
20 to submit her travel vouchers part of a sustained  
21 pattern of conduct campaign against Ms. Henderson?

22 MR. SHEA: At that point, that had not  
23 been determined to be a sustained pattern of  
24 disrespectful and harassing conduct. And it is this  
25 email and some of the assertions in there referenced

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1 to punitive and retaliatory, those are words of  
2 concern. That is what caused me to bring the matter  
3 forward to OGC to get assistance to look at and  
4 determine what, if any, of those elements of that  
5 email were an ethical problem or not. So I didn't  
6 attempt in that moment to parse these and make a  
7 judgment of my own. I sought assistance from the  
8 organizations that had expertise in that area.

9 (Pause.)

10 MS. KIRKWOOD: Do you have Erin  
11 Henderson's complaint in front of you still?

12 MR. SHEA: Yes, yes.

13 MS. KIRKWOOD: Okay. Could you turn to  
14 page -- page 6? I'm looking at the section that's  
15 page 6 of the complaint that says, there are some  
16 indications that other individuals, Michelle Conner,  
17 Beth Wetzel, Ed Schrull, and Alesia Justice, may  
18 potentially be contributing to this environment or  
19 colluding with each other facilitate creating a  
20 hostile work environment as described below. May  
21 potentially be, and then there's kind of a timeline  
22 attached. And you are welcome to read through it if  
23 you want.

24 MR. SHEA: Is there a particular element  
25 on the timeline, or --

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1 MS. KIRKWOOD: Well, I'll ask you my  
2 question and then you can decide. I'm not trying to  
3 mislead you. I read the Henderson complaint as  
4 relatively vague as to what most of these individuals  
5 actually did to her.

6 What Wetzel said about Erin Henderson, she  
7 engaged in a lot of -- she probably did other things  
8 that I don't even know about, seems similar. So I'm  
9 trying to understand why -- in resolving the Henderson  
10 complaint, TVA fully investigated it and disciplined  
11 employees but that Wetzel's comment that Henderson was  
12 doing things to people was treated as disrespectful  
13 conduct. Why wasn't Henderson's complaint that, say,  
14 people had gone to ECP and treated as disrespectful  
15 conduct toward her employees?

16 MR. SHEA: My action was to put both of  
17 those sets of issues in front of an organization that  
18 was capable of performing an investigation and  
19 determining facts, analyses, and conclusions on them  
20 both. So the OGC drew a conclusion with regard to Ms.  
21 Wetzel on August 30th on that, and that was the  
22 conclusion that they drew. So I'm not sure if your  
23 question is different than that. My action was to  
24 have them investigated.

25 (Simultaneous speaking.)

1 MS. KIRKWOOD: Did you view OGC's job as  
2 to get at the truth of the matter such that a possible  
3 outcome could've been that Erin Henderson was the one  
4 harassing her employees? Or did you view this as they  
5 needed to look to see if Henderson was being harassed?

6 MR. SHEA: They needed to look at the  
7 complaint and find the facts behind under what was  
8 presented to them and make their own conclusions. So  
9 I didn't have a preconceived notion. Ms. Henderson  
10 presented it as she was being harassed. That's what  
11 was presented to OGC. My expectation was that they  
12 investigate it and draw their own conclusions.

13 MS. KIRKWOOD: Didn't Ms. Wetzel make very  
14 similar allegations in that email to you on May 7th  
15 about Ms. Henderson?

16 MR. SHEA: Let me look at the May 7 email.  
17 So I do want to take time to look at the chronology to  
18 understand their point of view.

19 MR. SHEA: Please do.

20 MR. WALSH: Joe, which document are you  
21 looking at?

22 MR. SHEA: The -- Ms. Henderson's  
23 complaint on page 6.

24 (Pause.)

25 MR. SHEA: Ms. Kirkwood?

1 MR. WALSH: Could you repeat the question  
2 now that Joe's had an opportunity to review the  
3 document, please, Ms. Kirkwood?

4 MS. KIRKWOOD: I was asking for him to  
5 explain why the -- the Henderson complaint lists a  
6 variety of somewhat vague allegations against her  
7 employees. The Wetzel email, in my view, has a very  
8 similar vague allegations against her supervisor. And  
9 I'm trying to understand the different treatment on  
10 the part of TVA of those two documents.

11 MR. WALSH: Ms. Kirkwood, are you asking  
12 Joe how he treated them differently, because he's  
13 previously stated that he treated them the same?

14 MS. KIRKWOOD: I don't think he did say  
15 that. And I'm asking him what he thought was a  
16 possible outcome, why he views those as different.

17 MR. SHEA: Well, my action was to have  
18 them both investigated by experts to determine what  
19 were the facts and the true in both of them. I can  
20 look at them and see more specificity in the March 9th  
21 complaint than in a vague station of -- of probably a  
22 lot more that I'm not aware of. I'd see more  
23 specificity. However, my action was that I was not in  
24 a position to be the one to investigate and draw that  
25 conclusion. I provided and reached out and sought

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1 assistance from the part of the company that had that  
2 expertise.

3 (Pause.)

4 MS. KIRKWOOD: Can you turn with me to  
5 your Exhibit 16?

6 MR. SHEA: Just a minute, please.

7 MS. KIRKWOOD: Sure.

8 (Pause.)

9 MR. SHEA: This is an email from myself to  
10 Emily Walker on May 31st at 12:39 p.m. Is that  
11 correct?

12 MS. KIRKWOOD: Yes, that's what I'm  
13 talking about. What I thought I understood your  
14 testimony to be was that you referred this to OGC and  
15 whatever they come up with was fine. They were the  
16 independent investigators.

17 But here, it looks like you're saying, I  
18 haven't gotten what I need out of this and I need you  
19 to do more with it. And again, I'm trying to  
20 reconcile those statements. If they were doing an  
21 independent investigation, then why couldn't they just  
22 take the Slater report as it stood in May? Why did  
23 you go back and ask for more?

24 MR. SHEA: Let me look at the 25th report.

25 (Pause.)

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1 MR. SHEA: Just one minute, please.

2 (Pause.)

3 MR. SHEA: Ms. Kirkwood, can you hear me?

4 MS. KIRKWOOD: I can hear you.

5 MR. SHEA: We will get used to this  
6 hopefully. Okay. The report from the 25th was, to my  
7 read of it, really silent on the set of issues  
8 presented by Ms. Wetzel in her May 7 email. So  
9 whether the investigation was going to conclude that  
10 Ms. Wetzel's characterizations were disrespectful and  
11 harassing or alternatively look at whether Ms.  
12 Wetzel's claim of vindictiveness, the report was  
13 silent of that. So for me to respond either way to  
14 Ms. Henderson's concern about Ms. Wetzel and her  
15 complaint or theoretically to Ms. Wetzel's concern  
16 about Ms. Henderson, the report was silent. So I was  
17 seeking that to be addressed in the report.

18 MS. KIRKWOOD: The report is similarly  
19 silent about Ms. Henderson's concerns about Justice --  
20 Alesia Justice, Ed Schrull, and Michelle Conner. Did  
21 you have similar concerns that they weren't addressed?

22 MR. SHEA: I was -- specifically because  
23 Ms. Wetzel had raised the issues to me, I was noted  
24 that that was on my plate and needed a resolution. So  
25 that's what drove me to follow up with OGC. I didn't

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1 have anything uniquely on my plate from those other  
2 individuals.

3 MS. KIRKWOOD: I'm going to flip to the  
4 ERB package next. I think you submitted it as an  
5 exhibit, but I'm assuming you have it. And I need to  
6 pull it up too.

7 (Pause.)

8 MS. KIRKWOOD: Do you have it in front of  
9 you?

10 MR. SHEA: I'm sorry. Did you describe it  
11 as a particular exhibit?

12 MS. KIRKWOOD: Sorry. It's the ERB  
13 package. It's your Exhibit 26.

14 MR. WALSH: Yes, it's 26.

15 MR. SHEA: Thank you. Yes, I do.

16 MS. KIRKWOOD: Okay. So I'm looking at  
17 the summary of situation in question, include all  
18 relevant information. Do you see where I am?

19 MR. SHEA: Yes, ma'am.

20 MS. KIRKWOOD: Okay. It says there that  
21 Ms. Wetzel has been found to have acted in violation  
22 of three TVA policies governing employee behaviors and  
23 two federal statutes that provide protection to (audio  
24 interference). Did you at any time refer Ms. Wetzel  
25 to the IG?

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1 MR. SHEA: I did not.

2 MS. KIRKWOOD: Isn't the IG responsible  
3 for investigating concerns about violations of the  
4 law?

5 MR. SHEA: That is one of their functions.

6 MS. KIRKWOOD: Why did you not refer this  
7 to the IG?

8 MR. SHEA: I didn't reflect on that at the  
9 time. I mean, it is a lower level personnel matter to  
10 the extent that there's, I believe, discretion, at the  
11 levels of things that are referred. This was a  
12 finding that had been made, and there was a basis for  
13 us to assess it from a discipline policy standpoint.  
14 Normally, IG is, you know, an organization that is  
15 primarily waste, fraud, and abuse.

16 MS. KIRKWOOD: Also in that paragraph, it  
17 says, specifically, the investigation concluded that  
18 Ms. Wetzel had engaged in a sustained campaign of  
19 disrespectful conduct over a lengthy period of time.  
20 The disrespectful conduct included repeated  
21 insinuations by Ms. Wetzel that her supervisor had  
22 initiated inappropriate investigations of TVA  
23 employees for a vindictive purpose despite Ms. Wetzel  
24 having no reasonable basis or specific knowledge to  
25 support those insinuations. You told us about the May

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1 7th email that Ms. Wetzel sent you. Was there  
2 anything else that you considered part of this  
3 sustained campaign of disrespectful conduct?

4 MR. SHEA: There is.

5 MS. KIRKWOOD: Would you tell us what that  
6 is, please?

7 MR. SHEA: Yes, just a minute.

8 MS. KIRKWOOD: Sure.

9 MR. SHEA: The email in June 9th and the  
10 exchange at the end of June or July where Ms. Wetzel  
11 again raised challenges to Ms. Henderson's behavior  
12 and, you know, characterized them in ways that was --  
13 was casting aspersions, disrespectful of Ms.  
14 Henderson's obligations to discharge her job and how  
15 she did that. Let me pull up a June 9 email. In the  
16 June 9 email, Ms. Wetzel wrote, I have been afraid  
17 what will happen as soon as I started submitting my  
18 vouchers. I don't even try to understand my boss and  
19 why she does what she does.

20 But I know she never gives up. So there's  
21 no specificity to that assertion. And without any, it  
22 is -- if it has no basis, then it is disrespectful and  
23 harassing. And to the extent that there are a series  
24 of these, then that's what the investigation report  
25 refers to.

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1 MS. KIRKWOOD: Is there anything before  
2 May 7th?

3 MR. SHEA: There was an email on March  
4 29th with regard to the contract. I didn't, at that  
5 point, consider that. It was a -- it was a question  
6 she described potentially that Erin was blocking her  
7 contract.

8 But there was no motivations of  
9 vindictiveness or anything else associated with that.  
10 So I didn't view at that time as anything other than  
11 what I described this morning. And there was nothing  
12 prior to that that I would've considered part of  
13 evidence I had of a pattern of disrespectful and  
14 harassing conduct.

15 MS. KIRKWOOD: Do you have any evidence of  
16 a pattern of disrespect or harassing conduct of Ms.  
17 Wetzel toward Ms. Henderson other than emails or texts  
18 directed to you?

19 MR. SHEA: Those are the -- those are the  
20 evidence that I have and then what you see performed  
21 as an investigation and through its conclusions and  
22 its conclusion that a pattern was consistent with that  
23 specific evidence that experienced over those couple  
24 months.

25 MS. KIRKWOOD: Also on that same ERB

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1 package, you did yes for the question, was the  
2 employee on clear notice of any rules and/or  
3 expectations that were violated prior to this event?

4 MR. WALSH: Ms. Kirkwood, I'm sorry. You  
5 cut out briefly on my end. Everyone else may have  
6 heard, but what question number are we referring to?

7 MS. KIRKWOOD: It doesn't have a number.  
8 It's on page -- it's a button. It's --

9 MR. SHEA: Page 2 of 2.

10 MS. KIRKWOOD: -- 2 of 2, yeah. And it is  
11 the first button, if you will. Was the employee on  
12 clear notice of any rules and/or expectations that  
13 were violated prior to the event?

14 MR. SHEA: Yes.

15 MS. KIRKWOOD: And what clear notice do  
16 you think she had? What was your basis for saying  
17 yes?

18 MR. SHEA: I base that yes based on the  
19 training that I was aware that all managers needed to  
20 take on the types of things that I mentioned in my own  
21 presentation. Those were applicable to all managers  
22 which talked about maintaining a respectful workplace  
23 and code of conduct. That was my basis.

24 MS. KIRKWOOD: Do you think part of a  
25 respectful workplace can involve criticizing your

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1 supervisor?

2 MR. SHEA: Criticism can be done if it --  
3 it's how it's done. It can be done respectfully, and  
4 it can be done disrespectfully. So yes, one can  
5 criticize the organization including one's supervisor.  
6 The issue is how it's done.

7 MS. KIRKWOOD: You stated that that ERB  
8 was a particularly challenging ERB. What was  
9 challenging about it?

10 MR. SHEA: Challenging in that the members  
11 challenged each other to make sure we were answering  
12 these questions in a way that there was common  
13 understanding. It was not meant to mean that it was  
14 more difficult than I anticipated. It was a challenge  
15 which is a term of the level of engagement and rigor.

16 (Pause.)

17 MS. KIRKWOOD: Do you know the TVA policy  
18 on expressing concerns and differing views?

19 MR. SHEA: I don't -- is it one of the  
20 exhibits? I don't have it here on my table that I'm  
21 aware of. Are you referring to something specific  
22 that I have?

23 MS. KIRKWOOD: I don't think it was one of  
24 your exhibits. Mr. Walsh, do you have that policy?

25 MR. WALSH: I don't know that I have it in

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1 front of me, no.

2 MS. KIRKWOOD: I'm going to read you  
3 something from that policy. It starts in the purpose  
4 section. I know you don't have it in front of you.  
5 TVA encourages the voluntary expression of concerns  
6 and differing views. The ability to freely express  
7 concerns and differing views will enhance employee  
8 productivity and promote a safety conscious work  
9 environment. How do you --

10 MR. WALSH: Ms. Kirkwood, I have the  
11 policy. I'm sorry. I have the policy in front of me.  
12 If you wanted to point me to the portion that you're  
13 looking at so I can read --

14 MS. KIRKWOOD: Sure.

15 MR. WALSH: -- along.

16 MS. KIRKWOOD: Yeah.

17 MR. SHEA: And I realize I've got another  
18 set of documents over here that I can also look at.  
19 Give me just a second, please.

20 MS. KIRKWOOD: Sure. It's Section 1.0.

21 MR. WALSH: Ms. Kirkwood, just so we're  
22 extra clear, which revision are you reading from, if  
23 you know?

24 MS. KIRKWOOD: That's a good question.  
25 Let me check. I am reading from -- it says Rev. 0009,

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1 page 4 of 15, although I think the table of contents  
2 and stuff are in front of it. And yeah, it's --

3 MR. WALSH: I'm on that page, and -- I'm  
4 on that page and have that revision. But let's double  
5 check with Joe to make sure he has the correct one  
6 too. Thank you.

7 MR. SHEA: Where am I -- where am I  
8 looking, please?

9 MS. KIRKWOOD: Go to 1.0 --

10 MR. WALSH: Joe, it should be -- oh,  
11 sorry. You have the document in front of you, Joe?

12 MR. SHEA: Not yet.

13 MR. WALSH: It's in the big binder,  
14 Exhibit 19D it looks like.

15 MR. SHEA: This is TVA SPP 11.804?

16 MR. WALSH: Yes, and Ms. Kirkwood directed  
17 us to page 4 or 5, Revision 9, and the purpose,  
18 Section 1.0.

19 MR. SHEA: All right. And I'm there.

20 MS. KIRKWOOD: It says, the second  
21 sentence, TVA encourages the voluntary expression of  
22 concerns and differing views.

23 MR. SHEA: Yes.

24 MS. KIRKWOOD: Was -- how was what Ms.  
25 Wetzel express to you expressing her concerns about

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1 Ms. Henderson not in keeping with this policy?

2 MR. SHEA: The distinction to me is that  
3 this encourages expression of concerns and differing  
4 views. That is not the same as giving license to  
5 express them in a disrespectful fashion without -- or  
6 expressing motivations without -- you know, without  
7 basis. So a concern can be expressed. You need to do  
8 it -- and you still need to do it in an ethical  
9 fashion.

10 MS. KIRKWOOD: In your view --

11 MR. SHEA: I'm sorry. In a respectful --  
12 in a respectful fashion.

13 MS. KIRKWOOD: Is it possible for an  
14 employee to legitimately express a concern that they  
15 ultimately are incorrect about?

16 MR. SHEA: Certainly.

17 MS. KIRKWOOD: Mr. Walsh, I thought I  
18 heard you make a reference to Exhibit 19. Do you have  
19 the same package of TVA exhibits that I'm looking at?

20 MR. WALSH: Yeah, it's not an exhibit that  
21 we -- this is not part of Joe's exhibit package. It's  
22 our separate binder materials for review.

23 MS. KIRKWOOD: Okay. Where I'm going next  
24 is to the employee discipline policy.

25 MR. SHEA: Are you referring to TVA SPP

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1 11.316? And I have Revision 6.

2 MS. KIRKWOOD: I don't scroll quite as  
3 fast as you do because I have it all electronically.  
4 Hold on.

5 (Pause.)

6 MS. KIRKWOOD: So it is -- yes, SPP  
7 11.316, Revision 6. Yes, we are on the same page.  
8 Excellent. Mr. Walsh, are you there too?

9 MR. WALSH: I am at that document, yes.

10 MS. KIRKWOOD: Okay. Mr. Shea, did you  
11 use this policy in proposing disciplinary action  
12 against Ms. Wetzel?

13 MR. SHEA: Yes.

14 MS. KIRKWOOD: Did you view yourself for  
15 the purpose of Ms. Wetzel's discipline and ultimate  
16 termination being in the role of a 3.13 role of a  
17 chief officer or manager, executive vice president,  
18 chief officer or manager or a 3.14 of supervisor?

19 MR. SHEA: Sorry. Did you say 3.1.3.1?

20 MS. KIRKWOOD: Sorry. There's a different  
21 definition for a supervisor, the role of a supervisor  
22 and the role of a manager. And I was trying to figure  
23 out which one you fit into in this particular removal.

24 MR. SHEA: Yeah, I was in the manager  
25 role.

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1 MS. KIRKWOOD: Who would've been in the  
2 supervisor role?

3 MR. SHEA: So I did use this procedure.  
4 I can't tell you that I focused on that distinction  
5 because Ms. Henderson was at the heart of the  
6 complaint. So I certainly served in the role of the  
7 manager, and I certainly coordinated with -- actions  
8 with HR which is a supervisory role.

9 MS. KIRKWOOD: Okay. If you go to Section  
10 3.2.1, guidelines for progressive discipline, Section  
11 A. It states, TVA generally supports the concept of  
12 progressive discipline, believing that the major  
13 purpose of disciplinary action is to rehabilitate the  
14 employee, prevent reoccurrence, and encourage the  
15 employee involved to render future satisfactory  
16 service. An effective system emphasizes correcting  
17 the problem rather than punishing the offender.  
18 Therefore, TVA's focus is on communicating an  
19 expectation of changed improvement rather than an  
20 expectation of future problems and eventual  
21 termination. Did you counsel or attempt to correct  
22 Ms. Wetzel regarding her treatment of Ms. Henderson?

23 MR. SHEA: I would offer, Ms. Kirkwood,  
24 that the procedure goes on to say, however in some  
25 circumstances, more rigorous disciplinary action may

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1 be warranted. Such action is intended to deter more  
2 extreme unsafe or -- and inappropriate behaviors. And  
3 from my engagement with HR and of course supported by  
4 the August 30 memo from General Counsel, it was  
5 separation as termination. That was recommended for  
6 this particular -- this particular circumstance. And  
7 I reviewed the procedure and supported that.

8 MS. KIRKWOOD: Did you ever counsel Ms.  
9 Wetzel regarding her treatment of Ms. Henderson?

10 MR. SHEA: No.

11 (Pause.)

12 MS. KIRKWOOD: In Section 3.2.2(b), it  
13 says -- it says -- it's 3.2.2(b). Are you with me,  
14 Mr. Shea?

15 MR. SHEA: Yes.

16 MS. KIRKWOOD: Okay. It says,  
17 managers/supervisors shall refer to the Douglas  
18 factors disciplinary action checklist prior to  
19 administering discipline. Did you do that?

20 MR. SHEA: Yes. You did ask earlier if I  
21 had counseled Ms. Wetzel. Just to clarify, I did  
22 redirect to her several times seeking more information  
23 which I understand is not the same as counseling which  
24 you were asking. But I was seeking to understand and  
25 engage, but you asked about the Douglas factors.

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1 MS. KIRKWOOD: So if you go to Appendix A,  
2 there's a list of the Douglas factors. Is that the  
3 list you would've used?

4 MR. SHEA: I see it.

5 MS. KIRKWOOD: Is this the list that you  
6 used?

7 MR. SHEA: Yes.

8 MS. KIRKWOOD: Looking at Factor C, did  
9 she have a past disciplinary record?

10 MR. SHEA: No.

11 MS. KIRKWOOD: Looking at Factor D, how  
12 did her past work record play into the Douglas  
13 factors?

14 MR. SHEA: Her performance was solid in  
15 TVA's performance management terminology. The Douglas  
16 factors are, of course, looked at in their totality.

17 MS. KIRKWOOD: Sure. Looking at Factor J,  
18 how did you draw a conclusion about the potential for  
19 her rehabilitation?

20 MR. SHEA: I don't have notes to what I  
21 specifically did with my review against those. I  
22 consulted with HR and General Counsel, so I don't have  
23 any particular notes on how I addressed that.

24 MS. KIRKWOOD: Were any of those factors  
25 particularly influential to you either way?

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1 MR. SHEA: Of those three factors?

2 MS. KIRKWOOD: No, of all the Douglas  
3 factors?

4 MR. SHEA: The employee's job level and  
5 seriousness of the offense were of awareness to me in  
6 consultation with OGC. So an understanding of the  
7 consistency with the TVA disciplinary policy. So  
8 those were ones that were important. They're all  
9 important, though. And again, as procedure guides, I  
10 sought counsel from HR and OGC who are the experts in  
11 the -- in the application of it.

12 MS. KIRKWOOD: Did you view the decision  
13 to terminate Ms. Wetzel or to propose her termination  
14 for ERB review as your decision or as OGC's decision  
15 or as someone else's decision?

16 MR. SHEA: It's my decision. OGC provided  
17 a recommendation.

18 MS. KIRKWOOD: When Ms. Wetzel was  
19 terminated, what was the impact on the rest of the  
20 site staff?

21 MR. SHEA: The -- I'm sorry. The impact  
22 on the rest of the corporate staff?

23 MS. KIRKWOOD: Yes, sorry. Corporate  
24 site. I didn't say that very well. Her work group.

25 MR. SHEA: That's fine. Can you clarify

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1 impact?

2 MS. KIRKWOOD: Did you do a safety  
3 conscious work environment mitigation plan?

4 MR. SHEA: I did.

5 MS. KIRKWOOD: How did that -- how did --  
6 did people express concerns to you that Ms. Wetzel had  
7 been terminated?

8 MR. SHEA: Let me just review my  
9 mitigation plan notes, if you don't mind.

10 MS. KIRKWOOD: Sure. Go ahead.

11 (Pause.)

12 MR. SHEA: So I implemented a key step of  
13 the mitigation plan of speaking to the -- the  
14 licensing organization to corporate regulatory affairs  
15 staff on January 14th. And my notes from, you know,  
16 that discussion, I don't -- I was informing them. I  
17 didn't have any notes of anyone expressing any  
18 particular concern.

19 And subsequent to that, we did have a  
20 survey performed by Oak Ridge Associated Universities  
21 in April of 2019 to -- and that was part of the  
22 mitigation plan to assess the work group's  
23 perspectives on what had occurred. And that concludes  
24 that -- that the communication surrounding the  
25 management changes were sufficient for the event was

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1 the primary conclusion from that. And Oak Ridge  
2 recommended that no additional follow-up action was  
3 needed for that group.

4 MS. KIRKWOOD: I don't have any further  
5 questions. Is there anything about your answers that  
6 you want to clarify?

7 MR. SHEA: Do you mind if I confer with  
8 counsel briefly?

9 MS. KIRKWOOD: Not at all.

10 MR. SHEA: Thank you very much.

11 (Pause.)

12 MR. SHEA: Ms. Kirkwood and Mr. Wilson,  
13 can you hear me?

14 MR. WILSON: Yes, yes.

15 MR. SHEA: Yeah, I have no further --  
16 further comments to make. I appreciate -- appreciate  
17 very much your time.

18 MR. WILSON: All right. Thank you. I'd  
19 like to take this opportunity to reemphasize some of  
20 the points made during my opening remarks. No final  
21 decision has been made on the part of the NRC. We  
22 will consider the information gathered by the Office  
23 of Investigation, information provided earlier by you,  
24 Mr. Shea, and information presented here today.

25 The NRC staff will meet after the

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1 completion of the PEC to reach a final agency decision  
2 as to where a violation occurred. I'll also remind  
3 you that any statements or lack thereof made by an NRC  
4 employee at this conference are not intended to  
5 represent the agency's final position or  
6 determination. Before we close the teleconference,  
7 does the court reporter have any questions or  
8 clarifications that are needed?

9 (No response.)

10 MR. WILSON: Finally, I'd like to thank  
11 everyone who participated and all the presentations  
12 that you -- this --

13 MR. SHEA: Are you there?

14 MR. WILSON: Yes.

15 MR. SHEA: You broke up.

16 MR. WILSON: Oh. This concludes our  
17 teleconference. Thanks, everyone.

18 (Whereupon, the above-entitled matter went  
19 off the record at 2:01 p.m.)

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