

February 7, 2000

IA 99-043

Wilson C. McArthur
[HOME ADDRESS REMOVED
PER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION (NUCLEAR REGULATORY COMMISSION'S OFFICE
OF INVESTIGATIONS REPORT NO. 2-98-013)

Dear Mr. McArthur:

This letter refers to the investigation initiated by the NRC's Office of Investigations (OI) on April 29, 1998, and completed on August 4, 1999. The investigation concluded that your actions were in apparent violation of Nuclear Regulatory Commission (NRC) requirements prohibiting deliberate misconduct, 10 CFR 50.5. Specifically at issue was whether your actions involving the non-selection of Mr. Gary L. Fiser, a former corporate employee, to a corporate chemistry position in 1996 were taken in retaliation for his engagement in prior protected activities. The synopsis of the OI report and report summary were provided to you by letter dated September 20, 1999. A closed, predecisional enforcement conference was conducted at the NRC Region II office in Atlanta, Georgia, on November 22, 1999, to discuss the apparent violation. A list of conference attendees, copies of the NRC's presentation material, and information provided by you at the conference are enclosed.

After a review of the information obtained during the predecisional enforcement conference and the information developed during the OI investigation, the NRC has determined that you engaged in deliberate misconduct in violation of 10 CFR 50.5, Deliberate Misconduct. This rule prohibits any employee of a licensee from engaging in deliberate misconduct that causes a licensee to be in violation of any NRC requirement, in this case, 10 CFR 50.7, Employee Protection. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding it are described in detail in the previously provided summary of the OI investigation report. In summary, the violation involved actions taken by you to cause or permit the non-selection of Mr. Fiser to one of two corporate Chemistry Program Manager positions in 1996. The NRC concluded that you assisted in implementing a selection process that ensured Mr. Fiser was not selected, in part, because of his prior protected activities. These protected activities included Mr. Fiser's identification of chemistry related nuclear safety concerns in 1991-1993, and his subsequent filing of a Department of Labor (DOL) complaint in September 1993, that was based, at least in part, on these chemistry related nuclear safety concerns.

At the conference, you and TVA representatives in attendance at your request indicated that the 1996 reorganization, which resulted in the elimination of Mr. Fiser's Chemistry and Environmental Protection Program Manager position, was implemented for legitimate business reasons. In addition, you stated that the selection process which you assisted in implementing

for the newly posted position of Chemistry Program Manager was impartial, and conducted in accordance with TVA policies and procedures. TVA representatives attending the conference at your request also stated that the decision to competitively post the two positions of Chemistry Program Manager after the 1996 reorganization was based on TVA's understanding of applicable law. As the selecting official for the two new positions of Chemistry Program Manager in 1996, you stated that your selections were based on the recommendations of the selection review board. Although you acknowledged that you were aware of Mr. Fiser's previous Department of Labor (DOL) complaint of 1993, and the chemistry related nuclear safety issues which were, in part, associated with this DOL complaint, you stated that this information was not considered by the selection review board or by you in your deliberations to choose an individual to fill the position of Chemistry Program Manager.

The NRC does not agree that your actions were based solely on non-discriminatory reasons. Although the information you provided at the conference suggests that the 1996 reorganization, the decision to create and post the two new positions of Chemistry Program Manager, and the selection process originated from a legitimate business reason, the NRC concluded that your involvement in the implementation of the reorganization and selection process was, at least in part, motivated by your and other's knowledge of Mr. Fiser's prior protected activity. Although you were correct in noting that the NRC's September 20, 1999, letter, was inaccurate in stating that you were named as a culpable party in Mr. Fiser's 1993 DOL complaint, the NRC concluded, based on your interview with the TVA Inspector General in January 1994, that you had personal knowledge of Mr. Fiser's chemistry related nuclear safety concerns identified in 1991-1993, and his 1993 DOL complaint.

At the conference, you stated your desire to implement a selection process for the Chemistry Program Manager position that was as impartial as possible. You were aware that one individual from Human Resources recused himself from the selection process because of his prior knowledge of Mr. Fiser's 1993 DOL activities, and his knowledge that Mr. Fiser expressed an intent to file an additional DOL complaint. However, you took no actions to remove yourself from the selection process, notwithstanding your knowledge of Mr. Fiser's 1993 DOL activities. Moreover, certain selection review board members also had knowledge of Mr. Fiser's DOL complaint, and discussed this prior protected activity just before convening to interview applicants for the two vacant Chemistry Program Manager positions, including Mr. Fiser. The NRC considered it more likely than not that you permitted the selection process to continue, in spite of this situation. Therefore, after consultation with the Director, Office of Enforcement, and the Deputy Executive Director for Reactor Programs, the NRC has decided to issue the enclosed Notice to you based on your violation of regulations regarding deliberate misconduct. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, the violation has been classified at Severity Level II. Copies of the applicable regulation and Enforcement Policy are enclosed for your reference.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in licensed activities. However, the NRC has decided to issue the enclosed Notice in this case because of your past involvement in licensed activities in a support function only, and the significant sanction being taken against TVA. You should be aware that should there be evidence of similar conduct on your part in the future, you may be

subject to further enforcement action that could include an Order prohibiting your involvement in NRC-licensed activities for a term of years.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. In addition, please include in your response information regarding why, in light of your actions, the NRC should have confidence that you will adhere to regulatory requirements should you be employed in the nuclear industry in the future. If you believe any information concerning this matter is inaccurate, if you wish to provide additional information that you believe is important to our full understanding of this matter, or if you contest the violation, please include this in your response.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, records or documents compiled for enforcement purposes are placed in the NRC Public Document Room (PDR). A copy of this letter, with your address removed, and your response will be placed in the Public Document Room (PDR). A copy of this enforcement action will also be provided to TVA.

Questions concerning this letter may be addressed to Mr. Loren Plisco, Director, Division of Reactor Safety, at 404-562-4501 or Mrs. Anne Boland, Enforcement Officer, Enforcement and Investigations Coordination Staff, at 404-562-4421.

Sincerely,



Luis A. Reyes
Regional Administrator

Enclosures:

1. Notice of Violation
2. NRC Presentation Material
3. Presentation Material Provided by
by Mr. McArthur
4. Enforcement Conference Attendees
5. 10 CFR 50.5, Deliberate Misconduct
6. NRC Enforcement Policy, NUREG-1600

CERTIFIED MAIL NO. 7099 3400 0000 1701 1082
RETURN RECEIPT REQUESTED

cc: See Page 4

Mr. McArthur

4

cc [w/HOME ADDRESS DELETED]: w/ encls 1, 2, 3, and 4 only:

Tennessee Valley Authority

Mr. J. A. Scalice

Chief Nuclear Officer and

Executive Vice President

6A Lookout Place

1101 Market Street

Chattanooga, TN 37402-2801

Distribution w/ encls 1, 2, 3, and 4 only [HOME ADDRESS REMOVED]:

OE:EA File (BSummers, OE)
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 WTravers, EDO
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EA-99-234
IA-99-043

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Signature	*	*	*	*			
NAME	ABoland	CEVANS	MNCNULTY	LPLISCO	MSteinY	DDambly	JJohnson
DATE	/ /00	/ /00	/ /00	/ /00	1/20/00	1/27/00	1/27/00
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OE:D <i>B</i>	DEDR
RWBorchardt	FMiraglia
1/27/2000	2/1/2000

** prior concurrence 01/13/00*

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NOTICE OF VIOLATION

Wilson C. McArthur

IA 99-043

As a result of an NRC Office of Investigations (OI) report issued on August 4, 1999, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violation is listed below:

10 CFR 50.5 requires, in part, that any employee of a licensee, or any employee of a contractor of a licensee, may not engage in deliberate misconduct that causes a licensee to be in violation of any NRC requirement.

10 CFR 50.7 prohibits, in part, discrimination by a Commission licensee or a contractor of a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment. The activities which are protected include, but are not limited to, providing a Commission licensee with information about nuclear safety at an NRC licensed facility, testifying at any Federal proceeding regarding any provision related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

Contrary to the above, in July 1996, you engaged in deliberate misconduct that caused TVA, an NRC licensee, to be in violation of 10 CFR 50.7, in that you discriminated against Gary L. Fiser, a former employee of TVA, as a result of his engaging in protected activity. Specifically, as the individual's direct supervisor, you discriminated against Mr. Fiser when you took actions to cause his nonselection to a position within Operations Support after a 1996 reorganization. Your actions were taken, at least in part, in retaliation of Mr. Fiser's protected activities involving identification of previous chemistry related nuclear safety concerns in 1991-1993, and his previous Department of Labor (DOL) complaint of September 1993. (01012)

This is a Severity Level II violation (Supplement VII).

Pursuant to the provisions of 10 CFR 2.201, Wilson C. McArthur is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region II, Atlanta Federal Center, 61 Forsyth St., SW, Suite 23T85, Atlanta, Georgia, 30303, marked "Open by Addressee Only," within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an Order or a Demand for Information may be issued as to why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

ENCLOSURE 1

Because your response will be placed in the NRC Public Document Room (PDR) unless you provide sufficient basis to withdraw this letter, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 7th day of February 2000

PREDECISIONAL ENFORCEMENT CONFERENCE AGENDA

WILSON C. McARTHUR

NOVEMBER 22, 1999, 10:00 AM

NRC REGION II OFFICE, ATLANTA, GEORGIA

- I. OPENING REMARKS AND INTRODUCTIONS
L. Reyes, Regional Administrator
- II. NRC ENFORCEMENT POLICY
A. Boland, Region II Enforcement Officer
- III. SUMMARY OF THE ISSUE AND APPARENT VIOLATION
L. Plisco, Director
Division of Reactor Projects
- IV. INDIVIDUAL PRESENTATION
- V. BREAK / NRC CAUCUS
- VI. NRC FOLLOWUP QUESTIONS
- VII. CLOSING REMARKS
L. Reyes, Regional Administrator

NOTE: The apparent violation discussed at this predecisional enforcement conference is subject to further review and subject to change prior to any resulting enforcement decision.

Enclosure 2

ISSUE TO BE DISCUSSED

10 CFR 50.5, Deliberate Misconduct, requires, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any NRC requirement.

10 CFR 50.7, Employee Protection, prohibits, in part, discrimination by a Commission licensee or a contractor of a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment. The activities which are protected include, but are not limited to, testifying at any Federal proceeding regarding any provision related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

In July 1996, Mr. Wilson C. McArthur engaged in deliberate misconduct that caused Tennessee Valley Authority (TVA), an NRC licensee, to be in violation of 10 CFR 50.7, in that you discriminated against Mr. Gary L. Fiser, a former employee of TVA, as a result of his engaging in protected activity. Specifically, as Mr. Fiser's direct supervisor, you discriminated against him when you took actions to cause his nonselection to a position of Chemistry Program Manager within TVA corporate Operations Support after a reorganization. Your actions were taken, at least in part, in retaliation of Mr. Fiser's previous Department of Labor complaint of September 1993, in which he claimed that TVA discriminated against him for raising safety concerns involving various chemistry related matters.

NOTE: The apparent violation discussed at this predecisional enforcement conference is subject to further review and subject to change prior to any resulting enforcement decision.

[REDACTED]
Gary L. Fiser
[REDACTED]

September 23, 1993

Mrs. Carol Marchant
Department of Labor
Wage and Hour Division
Room #123
710 Locust Street
Knoxville, Tennessee 37902

Re: Gary L. Fiser v. Tennessee Valley Authority

Dear Mrs. Merchant:

I was hired by the Tennessee Valley Authority (TVA) in August of 1987, as an M6 Program Manager in the corporate chemistry group. In April 1988, I was promoted to the position of Superintendent of Chemistry and Environmental, Sequoyah Nuclear Plant, a PG-9 position which I held until April 2, 1993, when, in violation of Federal Regulations pertaining to reductions in force, I was personally surplused but my job continued on. Since that day, I have been in a non-work status in TVA's Employee Transition Program (ETP). It has now become apparent that TVA's reason for lying about "surplusing" my position at Sequoyah Nuclear Plant, which essentially resulted in my termination, was unlawful and was in violation of 42 U.S.C. § 5851. In actuality, TVA determined to surplus me because of the fact that I or people under my direction had found and/or documented and/or reported and/or corrected problems which affected plant safety at Sequoyah. My basis for arriving at this conclusion is the result of numerous interviews with my manager, Dr. Wilson McArthur; the past Plant Manager of Sequoyah, Mr. Robert Beecken; the past Vice President of Sequoyah, Mr. Jack Wilson; and my Human Resource Officer, Mr. Ben Easley; and others.

On April 2, 1993, my supervisor, Mr. W. F. Jocher, presented me with a letter from Mr. Joe Bynum, Vice President, Nuclear Power Operations, stating that I was being placed in ETP because my position as Superintendent of the Chemistry and Environmental group at Sequoyah was determined to be surplus (Exhibit A). (Both my immediate supervisor, Mr. W. F. Jocher, and his supervisor, Dr. Wilson McArthur, were very dismayed about the decision to place me in ETP, and expressed their disagreement with this decision publicly and in front of witnesses.) If that

position was abolished, it was done so in name only and as a pretext to get rid of me. An April 27, 1993, memo also authored by Mr. Bynum clearly stated that there would be a Chemistry Manager at Sequoyah (Exhibit 8).

The new position of Chemistry Manager is for all practical purposes the same as that of Superintendent of Chemistry and Environmental, a job which I held for several years at Sequoyah. This fact was borne out when I was offered the Chemistry Manager job at Sequoyah on July 6, 1993 by the Rad/Chem Manager Mr. Charles Kent, and the new Sequoyah Plant Manager Mr. Ken Powers. This offer was in fact coordinated through ETP management, specifically Mr. Ron Brock and Mr. Jim Manis, but was withdrawn when, according to Sequoyah's Personnel Manager, Mr. Al Black, "It was blocked at the highest level".

In an interview with Plant Manager, Mr. Rob Beecken, on December 9, 1992, Mr. Beecken stated that one of the reasons that he did not want me back at Sequoyah--I had been rotated to a position in corporate chemistry in March 1992 but without a change of job title or description and was scheduled to return to my position at Sequoyah in March 1993--was because of "[t]he radmonitor effluent calculations not accounting for the vacuum." In 1982 the Nuclear Regulatory Commission (NRC) sent technical information to all nuclear sites (IAE Bulletin) that warned of conditions that could compromise containment radiation monitor setpoints. The bulletin was distributed to chemistry and engineering for an evaluation. The 1982 evaluation was not adequately performed since personnel at Sequoyah did not consider the impact that negative pressure in the noble gas chamber would have on monitor readings. They apparently only considered the impact on monitor flow indication and radioactive iodine readings. This erroneous evaluation was performed fully five years before I accepted employment with TVA. After I assumed my position at Sequoyah, I was informed several times by plant chemistry and engineering personnel in direct response to my questions that radiation monitor readings had been properly established, and did in fact correct for negative pressure. Subsequently, a Significant Corrective Action Report (SCAR) was initiated delineating the problem as well as the necessary corrective actions to bring the monitor into compliance.

Mr. Beecken was not at all pleased with the fact that the issue was reported and documented, his position being that he wanted it fixed without reporting it.

Another reason Mr. Beecken cited for not wanting me back was "[t]he filter change-cut scenario". In this case, personnel who

Mrs. Carol Merchant
September 23, 1993
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may or may not have been under my supervision--they reported to me on the organization chart but I was on another temporary assignment in the plant at the time--discovered that a containment radiation monitor had been improperly aligned after sampling activities. Once the problem was discovered, appropriate notifications were made as I had previously instructed them, and the incident was entered into the corrective action process using the SCAR. This action is required by Sequoyah procedures as well as federal law. Mr. Beecken was upset because the radiation monitor could have been reset without being reported and no one would have been the wiser. Doing so would have avoided the SCAR process but would have been irresponsible and counter to NRC and TVA regulations.

Thus, even though I was not directly responsible for either of the underlying conditions leading to those situations, I was charged with them by Mr. Beecken. However, whether or not I was actually responsible for them, Mr. Beecken thought I was, and he determined to deny me my job because of the reporting process having been initiated. Therefore, I am suffering reprisals for finding, documenting, reporting and fixing a preexisting problem associated with a radiation monitor required to be operable by USNRC Technical Specifications. Further, to take action against me for reporting problems via the corrective action process is an example of a repressive management structure that seeks to conceal problems. This can only result in problems being suppressed instead of being handled in a forthright manner which would seek to address the root cause and prevent recurrence.

As another example, Bill Jocher and I determined that Sequoyah chemistry personnel could not meet NRC's three-hour requirement for conducting post-accident sampling analyses (Exhibit C). It was our view that NRC had established a three-hour requirement while others in higher positions at SQN, including Site Vice President Jack Wilson, disagreed. Mr. Jocher requested permission from his supervisor, Dr. McArthur, to contact NRC through corporate licensing for clarification on the three-hour constraint. NRC confirmed the three-hour limit, and we conducted exercises to determine the training level of the chemistry staff. Seventy-five percent of the chemistry technicians failed to perform their post accident sampling/analysis activities within the three-hour requirement, and some of them were not able to complete these critical activities at all. These test results were anticipated and predictable in that management had previously surplused all degreed chemistry instructors and converted the training lab into a storage room in an ill-advised attempt to cut costs. Without recurring training to reinforce fundamental concepts, post accident sampling proficiency as well

Ms. Carol Merchant
 September 23, 1993
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as other technician skills deteriorated to alarming levels. Subsequent measurements by the Institute of Nuclear Power Operations (INPO) as well as Corporate Chemistry confirmed this condition at considerable cost to TVA Nuclear Program head Mr. O. D. Kingsley, who had previously advised the TVA Board of Directors to the contrary.

Our test results revealed the bankruptcy of management's efforts at cost cutting, and the findings were reported. Such revelations are not well received at TVA.

Further, I was constantly in the position of being understaffed and under-budgeted. My pointing this out at various times to my superiors met with rebuke, notwithstanding Mr. Kingsley's promises to TVA Chairman Mr. John Waters that certain equipment deficiencies noted by INPO would be corrected. Including these items in the budget time after time only to have them deleted or deferred by higher management brought about a recurrent finding condition by various audit groups that kept opening and closing this particular item. Bringing up the sorry state of TVA's equipment maintenance repair program was always met with disfavor and contributed to my current situation.

Denial of my job at Sequoyah and my being surplusd were actions taken by the highest levels in the TVA nuclear management structure. In early July 1993, I was offered the position of Chemistry Manager at Sequoyah by the Chemistry Radcon Manager, Mr. Charles Kent, after I had interviewed with the new plant manager, Mr. Ken Powers. I was given a start date, a salary, and the proceedings were coordinated through the appropriate ETP Managers. A few days later, I was told that I apparently had a "target" on my back because persons high up in the nuclear organization had protested my job offer directly to the new Sequoyah Site Vice President, Mr. Fennech. I believe that TVA's decision to not consummate my job offer as Chemistry Manager at Sequoyah in July was another violation of 42 U.S.C. § 5851.

Also, at one point in the personnel evaluation process, my manager, Dr. McArthur, had me rated very high in comparison to his other direct reports, only to have Mr. Dan Keuter, Vice President of Operations Services, personally intervene and mandate that I be given no pay increase. In spite of the opposition raised by my direct supervisor, and in the presence of my Human Resource Officer, Mr. Ben Easley, Keuter ordered Dr. McArthur to place me in a position which would result in no pay increase, and made it clear that it was his (Keuter's) decision. Two other senior chemistry managers from two different TVA locations were victimized by similar retaliatory actions on

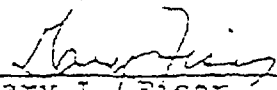
Mrs. Carol Merchant
September 23, 1993
Page 5

the part of TVA management for reporting and documenting safety-related issues. Actions of this type appear to be the norm as contrasted to the exception and receive their impetus from the highest levels of TVA nuclear management. This is indicative of a systemic problem within the agency versus an isolated occurrence. Interestingly, while I was the Chemistry and Environmental Superintendent at Sequoyah, the program received outstanding grades as a result of each INPO evaluation. Nevertheless, the types of events recorded above were deemed by upper management as either embarrassing to them or of greater significance than running a good overall chemistry program.

As an employee in TVA's nuclear power program, I am required by federal law to report and document issues related to the safe operation of the facility. To do so at TVA's Sequoyah Nuclear Plant is to invite reprisals in the form of unexplained demotions (Exhibit D), pay cuts in spite of one's performance and irrespective of the direct input from one's supervisor, and eventually the loss of employment. TVA has historically taken action against employees for reporting safety issues with apparent immunity from NRC, an agency for whom they have patent disregard.

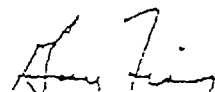
As I mentioned earlier, the facts and issues are extremely well documented, and I look forward to sharing this with you, as well as imparting other insights into this case to you and/or members of your staff.

Sincerely yours,



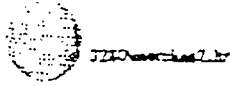
Gary L. Fiser

I hereby designate Mr. Charles W. Van Beke, Wagner, Myers, and Sanger, P.C., 1801 Plaza Tower, 800 S. Gay Street, Knoxville, Tennessee, 37929, as my attorney in this matter.



Gary L. Fiser

Date: 9-25-93



BEFORE THE UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II

IA 99-043

DECLARATION OF SAM L. HARVEY

Sam L. Harvey declares and says:

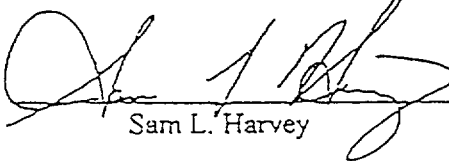
1. I am making this declaration to document the facts surrounding the Gary Fiser case and my involvement. First let me state that the conclusion that TVA was at fault was already made by the Department of Labor (DOL) prior to its investigation. The DOL investigator was biased and never could get my statement correct. From the first time I met with him, he couched the questions in such a way as to slant them toward a conclusion that Gary Fiser was treated badly. Every time the investigator brought my statement back to me for review and approval, the sentences were reworded to support this conclusion. At no time was the investigator ever objective in wanting "just the facts." I finally marked up the last draft copy of my statement in red and signed it since it was patently obvious that he was not going to state it the way I gave it to him.
2. I was never interviewed by the Nuclear Regulatory Commission about the Gary Fiser case and/or my involvement in the case.
3. Regarding the events in question, I was, from the very beginning (1991), told that the Corporate Chemistry staff would continue to shrink as improvements were made and the redesign of programs were brought up to industry standards. This was obvious also from the fact that Gary Fiser and E. S. Chandrasekaran were told to rewrite the job descriptions for only a PWR Program Manager and a BWR Program Manager just prior to the announcement of a reorganization. When the new job descriptions were sent to me for review (I was on assignment at Sequoyah for steam generator chemical cleaning), I protested to Ron Grover (my manager at the time) that the job descriptions were intentionally written to exclude me because the responsibilities that I had were divided between the two positions and were written strongly in favor of Gary Fiser and E. S. Chandrasekaran. It should have come as no surprise to anyone when it was announced that the Corporate Radiation Protection and Chemistry staffs would be merged into a single group and that there would only be two chemistry positions.

statement to him, "I will be seeing more of you or not at all."

8. The sad part of all this is that this type of behavior at TVA is one of the main reasons I sought employment elsewhere. It was a mockery to me that this type of behavior could go on year after year, to make a joke out of the truth and to abuse a system put in place to deal with real injustices. During my tenure at TVA, there were only a few people I met with high moral standards and dealt with me with integrity. One of these people was Wilson McArthur. He was always straight with me and never pulled his punches. Because of my respect for him, I listened - even when it was not what I wanted to hear - because I knew he truly cared for the people who worked for him and wanted to help make them better employees and better people. Throughout this whole Gary Fiser matter, Wilson McArthur was the only manager that took the time to sit me down and look me in the eye, and ask me if these allegations and statements were true. I will forever respect him for that.

Pursuant to 28 U.S.C. Section 1746 (1994), I declare under penalty of perjury that to the best of my knowledge and belief the foregoing is true and correct.

This 19th day of November, 1999.


Sam L. Harvey

STATEMENTS ON BEHALF OF

WILSON C. MCARTHUR

November 22, 1999

1. Regis Nicoll - RadCon
2. Jim Flanigan - RadCon
3. William Raines - Environmental Radiological Monitoring and Instrumentation
4. Robert Baumgardner - The Leadership Community
5. E. S. Chandrasekaran - Chemistry
6. Doyle Pittman - Meteorologist
7. Ronnie Kitts - Emergency Preparedness
8. Lenon Riales - Radwaste

Sept. 29, 1999

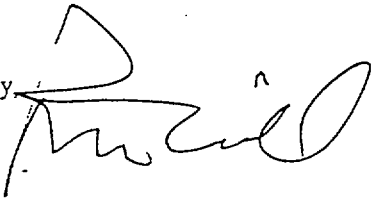
To Whom It May Concern:

I have worked on the staff of Wilson McArthur since October of 1994. During that almost 5-yr period, I have been impressed and influenced by his honesty, integrity, and genuine concern for the well-being of each and every staff member. Of all of the supervisors that I have had over my 25 year career in the nuclear industry, Wilson has best exemplified the qualities of the ideal leader – i.e., vast experience, breadth of knowledge, commitment to do the right thing for the right reasons, honest/open communication to all, and putting a high priority on the best interests of his subordinates.

In my dealings with Wilson, I have neither openly or privately heard or over-heard Wilson ever demean, slander, put-down, criticize, bad-mouth, or attempt to hold back anyone's career objectives. His door has always been open to for discussing problems with "the Program" and what could be done to make it better. He has never, to my knowledge, attempted to harass, intimidate, or dissuade anyone from disagreeing with him or his philosophies.

Wilson is an individual that can be trusted, beyond reproach to do things because they are right, not because they are comfortable or are in-line with upper management expectations. He is truly a valuable "gem" in this too often "make a megawatt at the lowest possible" industry that we work in.

Sincerely,



Regis M. Nicoll, M.S., CHP



James A. Flanigan
[REDACTED]
[REDACTED]

October 03, 1999

Dear Sir or Madam:

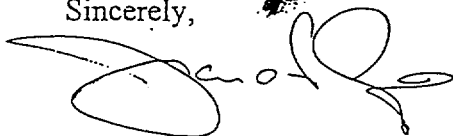
I am writing to describe my working experience with Dr. Wilson C. McArthur to you because it is my understanding that questions have been raised regarding his professional conduct in personnel issues with respect to certain U. S. Nuclear Regulatory Commission regulations.

I have approximately thirty-two years experience in Radiological Protection with service in both the U. S. Navy Nuclear Power Program and U. S. and Canadian Commercial Nuclear Power Programs.

I have served as a direct report (Program Manager, Radiological and Chemistry Services) to Dr. McArthur in the Tennessee Valley Authorities Corporate Radiological and Chemistry Services Department for a period in excess of five years. During that entire period, I have known Dr. McArthur to conduct himself as a gentleman and professional. I am not aware of a single incidence in which Dr. McArthur referred to or discussed, either directly or indirectly, a peer or subordinate in a negative manner.

Please contact me at the address given above if you have any questions or need additional information. I can be contacted by phone at home [REDACTED] or work [REDACTED]. My e-mail address is home: [REDACTED]

Sincerely,



James A. Flanigan

October 18, 1999

To Whom It May Concern,

I have worked in an organizational relationship with Wilson C. McArthur as either my immediate management supervisor or my supervisor's superior for over eight years. During that time, Dr. McArthur demonstrated the highest level of honesty and integrity. Dr. McArthur always treated me with respect and professionalism. I have never known him to speak in a negative manner concerning any member of his staff.

Sincerely,

Bill Raines

William L. Raines

Johnson, Deanna D.

From: Baumgardner, Robert R. [REDACTED]
Sent: Thursday, September 30, 1999 5:02 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Wilson's Integrity

9/30/99

To whom it may concern:

The following is my opinion of Wilson McArthur's personal and professional integrity.

I have known Wilson for 15 years. In that time I have worked with and for him. From a professional perspective he has always delivered a considered technical opinion that reflected his many years of experience and education. His support always reflected a keen insight into the sensitivities of the organization. His guiding philosophy of an organization is that they are good people trying to get better. When confronted with challenging individuals and or organizations Wilson put a positive optimistic perspective on how the situation could be improved upon. Never have I witnessed Wilson bear false witness, demean, or condemn another person personally or professionally. When he has had to deliver difficult decisions to an individual he prefaced it by seeing what he could do for the individual. I have a personal example. Years ago I worked for him with a company called Quadrex. Do to lack of work and internal political issues senior management decided to lay me off. It was not a pleasant situation. Wilson was given the unpleasant job of delivering the news. After he told me of the situation he said that due to the principals involved he would quit also if I wanted him to. I have always valued that offer and used his compassion and integrity as a role model in my professional work and private life.

Wilson and I also share a common religious foundation. In the many callings and responsibilities he has held and accepted over the years I have never heard of any complaints or criticisms of the membership or church leadership. This is again another testament to the humility and consistency of his integrity.

Today in my private and professional life I teach and mentor people and organizations in leadership and performance management. Wilson's positive, harmony focused attitude is a role model for me and indirectly the hundreds of individuals and organization that I interface with.

If anyone has any questions I can be reached at [REDACTED].

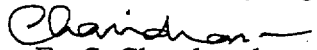
Robert R. Baumgardner
President
The Leadership Community, LLC

October 8, 1999

To who it may concern:

Wilson McArthur's Radiological & Chemistry Services Staff Meetings

The weekly staff meetings are typically held on Mondays. The meetings are focused on work priorities associated with that week and month and communications of items from upper management or other meetings. Wilson always conducts the meetings in a professional manner and during the times I attended the staff meetings, I have never heard Wilson make any negative personal remark about any of the staff in our group.



E. S. Chandrasekaran


Program Manager

Radiological & Chemistry Services

October 7, 1999

To Whom It May Concern:

This is written with respect to Wilson C. McArthur and his role in filling the TVA Nuclear position for which Gary Fiser applied. As a member of a TVA group outside of TVA Nuclear, I have been assigned to support the Radiological & Chemistry Services group (RadChem) and to share office space with them since 1985. In carrying out this function I have on occasion attended RadChem staff meetings and overheard office discussions. Throughout the period in question, I never heard Mr. McArthur state a preference for whom would be selected for the positions to be filled. In addition, although I am of a different religion than Mr. McArthur, I have never observed or heard him make any decisions or provide preferential treatment based on religion.



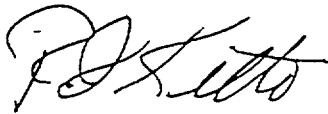
Doyle Pittman
Meteorologist
River System Operations & Environment
TVA

October 1, 1999

To Whom It May Concern

I have known Wilson McArthur for approximately nine years. Wilson has been my immediate supervisor for the majority of this time.

Wilson is a very capable supervisor and also an individual that sincerely cares for people. I can honestly say that I have never heard Wilson speak negatively of anyone. To be specific, I have never heard Wilson speak of Gary Fiser in negative terms. I have always found him to be very truthful and honest, both on and off the job. From my observation, Wilson tries very hard to give everyone the benefit of the doubt, and until proven otherwise, believes what he is told.



R. J. Kitts

To Whom It May Concern:

I am writing in support of Wilson McArthur, a man I consider to be my supervisor and my friend. I have known Wilson since his pre-TVA days with KLM, and he has been my immediate supervisor since 1994. Since that time, I have had many opportunities to observe Wilson in his interactions with me, his other employees, his peers, and others in the nuclear industry and the local community. Wilson has consistently treated others with honesty and integrity. He has always displayed a lack of prejudice when dealing with others, even when faced with obvious prejudice himself. He has always treated us as fellow human beings rather than as robots here to do a job. He is extremely interested in ensuring development of his employees in their jobs. I have not witnessed any unethical acts by him against any present or former employees, and I have had numerous opportunities to do so. Wilson's dealings with us have always been as our mentor, and he has always treated us with respect and integrity. It has been my pleasure to have worked for him and with him.

I make these statements freely and of my own accord.

A handwritten signature in cursive script that reads "Lenon J. Riales". The signature is written in black ink and is positioned above the typed name and title.

Lenon J. Riales
Program Manager, Radwaste/Environmental Protection
Tennessee Valley Authority

LIST OF CONFERENCE ATTENDEES

Nuclear Regulatory Commission

L. Reyes, Regional Administrator, Region II (RII)
L. Plisco, Director, Division of Reactor Projects (DRP), RII
V. McCree, Deputy Director, Division of Reactor Safety (DRS), RII
D. Dambly, Assistant General Counsel for Materials Litigation and Enforcement, Office of
General Counsel (OGC)
A. Boland, Enforcement Officer, RII
S. Sparks, Senior Enforcement Specialist, RII
M. Stein, Discrimination Enforcement Specialist, Office of Enforcement
C. Evans, Regional Counsel, RII
J. Euchner, Staff Attorney, OGC
W. McNulty, Director, Region II Field Office, Office of Investigations (OI)

Tennessee Valley Authority (TVA)

Wilson C. McArthur

Other Attendees at the request of Mr. McArthur

B. Marquand, Office of General Counsel, TVA
J. Boyles, Human Resource Manager, TVA
E. Viguicci, Office of General Counsel, TVA
M. Burzynski, Manager, Nuclear Licensing, TVA