

# TRANSCRIPT OF PROCEEDINGS

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IN THE MATTER OF: )  
 )  
ARBITRATION BETWEEN NOAA )  
 )  
AND ) No. : FMCS-13-02465-A  
 )  
NATIONAL WEATHER SERVICE )  
EMPLOYEES ORGANIZATION )

Pages: 563 through 796  
Place: Silver Spring, Maryland  
Date: January 15, 2014

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## HERITAGE REPORTING CORPORATION

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BEFORE THE NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION

IN THE MATTER OF: )  
)  
ARBITRATION BETWEEN NOAA )  
)  
AND ) No.: FMCS-13-02465-A  
)  
NATIONAL WEATHER SERVICE )  
EMPLOYEES ORGANIZATION )

18th Floor Conference Room  
U.S. Department of Commerce  
National Weather Service  
1325 East-West Highway  
Silver Spring, Maryland

Wednesday,  
January 15, 2014

The parties met, pursuant to the notice, at  
9:41 a.m.

BEFORE: JOSEPH SHARNOFF  
Arbitrator

APPEARANCES:

For the Union:

RICHARD J. HIRN, Esquire  
Attorney At Law  
5335 Wisconsin Avenue, Suite 440  
Washington, D.C. 20015  
(202) 274-1812

For the Agency:

MONIQUE CIOFFALO, Esquire  
LINDSEY YOUNG, Esquire  
National Oceanic and Atmospheric Administration  
1315 East-West Highway  
SSMC3, Room 5106  
Silver Spring, Maryland 20910  
(301) 713-2527

C O N T E N T S

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
<u>For the Agency:</u>					
Mickey Brown	566	610	--	--	--
Steven Cooper	631	654	662	--	--
John E. Potts	664	685	--	--	--
John M. Coyne	695 720	-- 735	-- --	-- --	718 --
John Dragomir	762	790	--	--	--

E X H I B I T S

<u>AGENCY'S EXHIBITS:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
15	584	585
16	588	590
17	603	608
18	677	685
19	718	719
20	778	780

P R O C E E D I N G S

(9:41 a.m.)

1  
2  
3 ARBITRATOR SHARNOFF: They'll ask you your  
4 name and then I'll swear you in, and we'll get going.

5 MS. CIOFFALO: Can you state and spell your  
6 name for the record, please?

7 MR. BROWN: Mickey Brown, M-I-C-K-E-Y,  
8 B-R-O-W-N.

9 ARBITRATOR SHARNOFF: Okay.

10 Whereupon,

11 MICKEY BROWN

12 having been duly sworn, was called as a  
13 witness and was examined and testified as follows:

14 ARBITRATOR SHARNOFF: Okay.

15 DIRECT EXAMINATION

16 BY MS. CIOFFALO:

17 Q Mr. Brown, how long have you been an  
18 employee with the National Weather Service?

19 A About 25 years.

20 Q What is your current position with the  
21 Weather Service?

22 A I'm the deputy director for Eastern Region  
23 of the National Weather Service.

24 Q And how long have you been the deputy  
25 director for the Eastern Region?

1           A     Thirteen, 14 years.

2           MR. HIRN:  Monique, since they have turned  
3     on the ventilation in this room for the first time  
4     this week I'm having a problem hearing you.

5           MS. CIOFFALO:  Okay.  Do you want to perhaps  
6     move a little closer?

7           MR. HIRN:  No, just maybe just speak up a  
8     little bit.

9           MS. CIOFFALO:  Okay.

10          MR. HIRN:  I hear Mickey fine.

11          MS. CIOFFALO:  Oh, you're having trouble  
12     hearing me?

13          MR. HIRN:  Hearing you.

14          MS. CIOFFALO:  Oh, that's not usually a  
15     problem.  Okay.

16          MR. HIRN:  I didn't want to say that.

17          MS. CIOFFALO:  Everyone is having a problem  
18     hearing me here.

19          ARBITRATOR SHARNOFF:  I can hear you fine.

20          MS. CIOFFALO:  Thank you.

21          ARBITRATOR SHARNOFF:  And the others don't  
22     matter.

23                     (Laughter.)

24          ARBITRATOR SHARNOFF:  I'm the one person in  
25     the room that has to hear, and I can hear you.

1 (Laughter.)

2 MS. CIOFFALO: Excellent. Excellent.

3 BY MS. CIOFFALO:

4 Q All right, Mr. Brown, what are your  
5 responsibilities as the deputy regional director?

6 A I assist the director run the region,  
7 including working on personnel issues, daily  
8 operations of the region, labor management issues. I  
9 can assist time to time with budget issues.

10 Q Okay. When you say "personnel issues," what  
11 do you mean by that?

12 A Anything from hiring to discipline to  
13 helping managers deal with daily interactions with  
14 their employees.

15 Q Okay. Now you said you've been with the  
16 Weather Service over 20 years?

17 A Twenty-five.

18 Q Twenty-five years. And about you said 13,  
19 14 years of that was the deputy regional director?

20 A Correct.

21 Q Okay. Where did you start off in the  
22 Weather Service?

23 A I started in Meridian, Mississippi, at a  
24 Weather Service Office. I was a meteorologist intern.

25 Q Okay. And how long were you a MET intern

1       there?

2             A       Three years and two months.

3             Q       Okay.  And what was your next position with  
4       the Weather Service?

5             A       I went to the National Hurricane Center.  I  
6       was part of a unit called the Tropical Satellite  
7       Analysis and Forecast Unit.

8             Q       And what did you do there?

9             A       I did surface analysis, satellite  
10       interpretation, and some forecasting.

11            Q       Okay.  What was your position title?

12            A       I think it was just meteorologist.

13            Q       Okay.  And then how long were you in that  
14       role?

15            A       About a year.

16            Q       And then from there?

17            A       Was promoted to a general forecaster  
18       position at the Weather Service Forecast Office in New  
19       York City.

20            Q       Okay.  And what year was that about?

21            A       1992 or '93.

22            Q       Okay.  And you were a general forecaster you  
23       said?

24            A       Correct.

25            Q       And how long were you serving in that



1 position?

2 A I think I was a general forecaster for about  
3 two years.

4 Q Okay. And then from there?

5 A I was promoted to a senior forecaster also  
6 at the New York City office. Actually, by that time,  
7 I believe we had moved out to eastern Long Island in  
8 Upton.

9 Q Okay. And that was, you said, after about  
10 two years, so 1994ish? No, I'm sorry, 1995.

11 A In that ballpark, yes.

12 Q Okay. And then how long were you a senior  
13 forecaster in that office?

14 A Also about two years or so in that, a year  
15 and a half, two years.

16 Q And where did you go from there?

17 A I went to the regional office as the  
18 regional transition meteorologist.

19 Q What is a regional transition meteorologist?

20 A I was responsible for assisting the region  
21 transition from where it was to what we call the  
22 modernized National Weather Service.

23 Q Okay. And is that the -- we've been  
24 referring to it as the MAR, is that what you mean?

25 A Correct.

1           Q     Okay.  So what did you have to do with  
2     respect to the MAR as this regional transition  
3     meteorologist?

4           A     My biggest responsibility was ensuring  
5     offices that we called spin-up, or those offices that  
6     were gaining more responsibility, were ready to go to  
7     take on that responsibility.  I was also responsible  
8     for presenting what were called closer certifications  
9     to the Modernization Transition Committee, and that  
10    was to certify that those offices that we deemed were  
11    ready to close were ready to close and the MTC,  
12    Modernization Transition Committee, approved that  
13    closure.

14          Q     Are you familiar with the term "Stage 2  
15    operations"?

16          A     Yes.

17          Q     What is Stage 2 operations with respect to  
18    the modernization program?

19          A     As I remember it, Stage 2 operations were  
20    when the what were called Weather Service Offices  
21    became, and the entire operation of the field in terms  
22    of forecasting operations became Weather Forecast  
23    Offices, WFOs.

24          Q     And did that have anything to do with the  
25    certification that you were providing to this

1 committee?

2 A Yes, yes, because that would mean that those  
3 offices that assumed responsibility for operations of  
4 the former WSOs, Weather Service Offices, that were  
5 being closed were ready to operate.

6 Q And I'm just going to ask you to open the  
7 black binder that you've got there to your left and  
8 flip to Joint Exhibit 6.

9 A Okay.

10 Q Are you familiar with that document?

11 A Yes.

12 Q And this is the HR position management plan  
13 for the modernization. Have you read through this  
14 document before?

15 A I have read through it from time to time.  
16 It's been a while.

17 Q Okay. Did you need to refer to this  
18 document at all while you were the regional transition  
19 manager for the MAR?

20 A I would say yes.

21 Q Okay. Did all the offices in the Eastern  
22 Region achieve the transition that we were talking  
23 about, certification?

24 A Yes.

25 Q So had they all achieved Stage 2 operations?

1 A Yes.

2 Q Has the MAR been completed?

3 A As far as I can see, yes.

4 Q Okay. You mentioned earlier the -- I'm  
5 sorry. We got a little off track from your employment  
6 history. You said that you were the regional  
7 transition manager at the Eastern Region headquarters,  
8 and what years was that happening? How long I guess  
9 did do that?

10 A That's going to be in the '95-96 timeframe  
11 or '94, '95, '96 timeframe, in there.

12 Q Okay. And how long did you serve in that  
13 role?

14 A Again, probably about two years.

15 Q Okay. And then where did you go from there?

16 A I was promoted to the chief of Meteorologist  
17 Services Division.

18 Q Okay. And what did the chief of the  
19 Meteorological Services Division do at that time?

20 A I was responsible for day-to-day operations  
21 of the Weather Forecast Offices, policy and procedure  
22 development, and assisted as necessary the director  
23 and deputy director with operations of the region.

24 Q Okay. Did you still have any  
25 responsibilities over the transitional activities in

1 the Eastern Region?

2 A To a point, yes, but I think by that time  
3 the duties themselves were winding down.

4 Q Okay. And how long did you serve as the  
5 chief in that role?

6 A That would have been two years also.

7 Q Okay. And then where did you go from there?

8 A The deputy director for Eastern Region.

9 Q And that was about what year?

10 A 1999.

11 Q Okay. Now you mentioned earlier that as the  
12 deputy regional director you had some labor/management  
13 relations responsibilities?

14 A Yes.

15 Q And what are those responsibilities?

16 A Specifically for the region I'm management's  
17 representative to what's called the Regional Labor  
18 Council, the RLC, as stipulated within the contract.  
19 I deal with the Union's -- my counterpart in the Union  
20 is the regional chair, and we work through issues that  
21 affect the region.

22 Q Okay. And did you have any national level  
23 labor/management relations responsibilities?

24 A I have, yes.

25 Q When was that?

1           A     I assisted with I think as early as 1999ish,  
2     2000, I was part of management's negotiating team for  
3     the current contract that's in place. Then I think  
4     either 2000 --

5           ARBITRATOR SHARNOFF: I'm sorry. When was  
6     that, the part, you said you were part of  
7     management's?

8           THE WITNESS: Negotiating team.

9           ARBITRATOR SHARNOFF: For which?

10          THE WITNESS: The current contract.

11          ARBITRATOR SHARNOFF: The current.

12          THE WITNESS: Yes.

13          BY MS. CIOFFALO:

14          Q     If you can flip to Joint Exhibit 1 in the  
15     binder in front of you.

16          A     Yes.

17          Q     Is that the contract that you assisted in  
18     negotiating?

19          A     Correct.

20          Q     Okay. Continue.

21          A     For a period of time, either 2007-2008 to  
22     about 2010, I was also considered management's chief  
23     negotiator on national issues.

24          Q     Okay. Have you taken any labor/management  
25     relations training?

1 A I have taken a few courses, yes.

2 Q What types of courses have you taken?

3 A There's been some online training, some in-  
4 person training. I actually teach it from time to  
5 time to management at the National Weather Service  
6 Training Center.

7 Q Okay. So you give LMR training as well?

8 A Yes.

9 Q What types of training do you give?

10 A Specifically for my -- the people that I'm  
11 responsible for, our current contract interpretation,  
12 at the training center, I guess it's a larger overview  
13 of how to work through labor/management issues.

14 Q Okay. So is it safe to say you're familiar  
15 with the CBA that's currently in place?

16 A Yes. Yes.

17 Q What are the procedures in the CBA regarding  
18 shift scheduling?

19 A For?

20 A For, I'm sorry, rotating shift workers.

21 A That would be -- the procedure for rotating  
22 shift workers is in Article 20.

23 Q Okay. If you can flip to that article.  
24 It's Joint Exhibit 1. Let me check the page number  
25 here. Page 70, page 70 of Article -- I'm sorry --

1 Joint Exhibit 1.

2 A Okay.

3 Q So are you familiar with this article?

4 A I'm familiar, yes.

5 Q Okay. So if you can walk us through it.

6 How is the schedule made in a Weather Forecast Office  
7 in the Weather Service?

8 A A planning schedule is developed.

9 Q What's a planning schedule?

10 A It's a rotation for the units that are  
11 contained within a Weather Forecast Office for a  
12 period of time into the future.

13 Q So what units are you talking about that  
14 have these rotations?

15 A At a Weather Forecast Office, it would be  
16 the senior forecaster unit, the general forecaster  
17 unit, and the HMT/intern unit.

18 Q Okay. So the rotations, how do they work?  
19 Is it per unit per person, per unit per position?

20 A Each unit is an entity unto itself. It's  
21 separate, and depending on the number of positions in  
22 each unit, there is a rotation set up which will  
23 eventually become the individual's shift schedule to  
24 work through.

25 Q Okay. And does the Union have input into



1 that rotation?

2 A They do.

3 Q What kind of input?

4 A Well, in general, through what we discussed  
5 a minute ago about the planning schedule. An office  
6 can have a number of different schedules. They could  
7 have an alternative work schedule or some flavor of  
8 alternative work schedule. They could have a fixed  
9 schedule, and that's set as the basis for the  
10 beginning of the planning schedule.

11 Q Okay. And what input does the Union have  
12 into that, into the rotation?

13 A Into the rotations themselves?

14 Q Yes.

15 A I think that's, you know, based on back and  
16 forth between the local office. At the end of the  
17 day, though, the rotation itself through the planning  
18 schedules is directed through management.

19 Q Okay. So management creates the planning  
20 schedule?

21 A Yes. According to the contract, yes.

22 Q And does the contract indicate that the  
23 local office team, the steward, and the MIC negotiate  
24 the rotations within the planning schedule?

25 A Well, any change to that has to be

1 negotiated.

2 Q Okay. I see. So a change to it?

3 A Yes.

4 Q Okay. Got it. So what happens if there are  
5 not as many people in the unit as there are positions  
6 in the unit? If a particular unit has vacancies, how  
7 does management make the planning schedule with that  
8 in mind?

9 A Well, that particular position that's vacant  
10 doesn't go away. It's still on the schedule itself.  
11 And there are a number of options to fill that vacant  
12 slot if you will.

13 Q What are those options?

14 A You can use overtime. You can use other  
15 people within the office that are qualified.

16 Q Who in the office would be qualified to fill  
17 in that slot?

18 A Management could fill in. Some offices have  
19 what's called a service hydrologist, not all. As long  
20 as the service hydrologist is qualified to work a  
21 shift, is MET-qualified or qualified to work that  
22 particular shift, as I said. You could use temporary  
23 promotions.

24 Q What's a temporary promotion?

25 A That's when a lower graded employee who has

1 the proper time in grade can be temporarily promoted  
2 to a higher graded position.

3 Q Okay. And are there any agreements with the  
4 Union about that?

5 A Yes. Article 16 discusses temporary  
6 promotions.

7 Q So temporary promotions, overtime,  
8 management. Any other options that management has to  
9 fill those slots?

10 A You can leave the shift vacant. You can  
11 also bring in somebody from another location.

12 Q And what is that referred to as?

13 A Well, we could TDY somebody.

14 Q Okay. And have you ever had to TDY somebody  
15 in the Eastern Region?

16 A I have. I have TDYed people to offices to  
17 help out with shifts.

18 Q Okay. You mentioned that management doesn't  
19 have to fill the vacant slot. Why would that be?

20 A Well, if management determines that the  
21 shift isn't necessary to fill, then it's not going to  
22 be filled.

23 Q Are you aware of any minimum number of  
24 shifts that have to be filled at any given time?

25 A There should be two people on 24 hours a

1 day.

2 Q So, with respect to a vacant slot, if there  
3 are two other people scheduled otherwise besides that  
4 vacant slot, that may not need to be filled at all?

5 A That's one way --

6 Q To summarize?

7 A That's a correct statement.

8 Q Okay. You mentioned that management work  
9 shifts. Are managers MET qualified I think was the  
10 phrase that you used?

11 A Yes. In a Weather Forecast Office, yes,  
12 because their positions are all -- there's three  
13 meteorologist-type managers at a Weather Forecast  
14 Office.

15 Q Okay. And who are they?

16 A The meteorologist in charge, the warning  
17 coordination meteorologist, and the science and  
18 operations officer.

19 ARBITRATOR SHARNOFF: I'm sorry. Could you  
20 repeat that?

21 THE WITNESS: Sure. The meteorologist in  
22 charge, which our acronym for that is MIC; the warning  
23 coordination meteorologist, and our acronym for that  
24 is WCM; and the science and operations officer, and  
25 our acronym for that is SOO.

1 ARBITRATOR SHARNOFF: Thank you.

2 BY MS. CIOFFALO:

3 Q Okay. Now you said for a period of time you  
4 were involved with national-level labor/management  
5 relations. Are you familiar with a 2004 management  
6 plan to revise WFO and Alaska Region WSO staffing?

7 A Yes.

8 Q If you can flip to Joint Exhibit 9 in the  
9 binder in front of you? Joint Exhibit 9 is a few  
10 pages. If you could just tell me if you recognize  
11 those pages.

12 A Yes.

13 Q All right. You are CC'd on page 1 here, the  
14 cover letter to Mr. Hirn from Mr. David, the chief  
15 financial officer, chief administrative officer at the  
16 time. Were you involved in this management plan to  
17 revise WFO WSO staffing?

18 A Yes.

19 Q And what was your involvement in this plan?

20 A I helped to develop it.

21 Q And did you discuss that plan with the Union  
22 predecisionally?

23 A Yes.

24 Q And did the Union have any impact in the  
25 implementation proposals for that plan?

1           A     No.

2           Q     Other than the initial vacancy announcement  
3 requirement here in Section 2(b) of the plan on page  
4 2, did you discuss with the Union any deadlines for  
5 when vacancies in this plan would be filled?

6           A     Not that I can recall.

7           Q     When you formulated this plan, did you  
8 intend that the plan required management to fill all  
9 vacancies in the HMT/intern unit within any particular  
10 amount of time?

11          A     I would say no, outside of what we had put  
12 into the plan.

13          Q     Okay. And to your knowledge, are there any  
14 staffing plans that the Agency has that would require  
15 a vacancy to be filled within any particular  
16 timeframe?

17          A     Not that I can recall.

18          Q     And to your knowledge, even outside of those  
19 staffing plans, is there any requirement that you're  
20 aware of that the Agency fill a vacancy in any  
21 particular period of time?

22          A     Not that I recall.

23          Q     Could you have filled a vacancy in the  
24 Eastern Region if you didn't have the funds to cover  
25 the hiring process?

1 A Could have we? Yes.

2 Q Would you have?

3 A Most likely no.

4 Q Why not?

5 A That's just not a good management practice.

6 Q Okay. Do you happen to know if that  
7 violates any financial management principles?

8 A If the Agency doesn't have enough money to  
9 hire an employee on an Agency basis, then I think the  
10 Agency has an issue somewhere along the line.

11 MS. CIOFFALO: Okay. I'm going to mark for  
12 identification Agency Exhibit 15.

13 (The document referred to was  
14 marked for identification as  
15 Agency Exhibit No. 15.)

16 BY MS. CIOFFALO:

17 Q Do you recognize this document?

18 A Yes.

19 Q All right. And what is this document?

20 A This was an agreement between NWSEO and  
21 Weather Service management about a process to assist  
22 in filling general forecaster positions.

23 Q Okay. And did you negotiate this agreement?

24 A I was at the table when we went through this  
25 process. This process was actually done at a -- the

1 acronym is CADRO, which I believe it was CADRO, which  
2 is part of the FLRA. It's a group, part of the FLRA  
3 that helps labor and management resolve issues.

4 Q Okay. And you signed this agreement,  
5 correct?

6 A Yes, I did.

7 MS. CIOFFALO: Okay. I'd like to move this  
8 into evidence, please.

9 MR. HIRN: Sure.

10 ARBITRATOR SHARNOFF: Okay. It's admitted.

11 (The document referred to,  
12 previously identified as  
13 Agency Exhibit No. 15, was  
14 received in evidence.)

15 BY MS. CIOFFALO:

16 Q Mr. Brown, can you read No. 6 here on the  
17 first page of the document?

18 A "This agreement does not require the  
19 National Weather Service to issue any vacancy  
20 announcement for which interest has been solicited,  
21 nor does it preclude the National Weather Service from  
22 canceling any vacancy announcement."

23 Q And what did that mean to you at the time?

24 A Through the process, if we had a vacancy and  
25 we went through the solicitation to the people that



1 were identified within the agreement, even if we did  
2 get interest, it wasn't necessary for the Weather  
3 Service to issue the vacancy announcement and should a  
4 vacancy announcement had been issued, the Weather  
5 Service had the option of canceling the vacancy.

6 Q Okay. And do you believe that that's the  
7 case for any position in the Weather Service, not just  
8 the general forecasters?

9 A I do.

10 Q And why?

11 A I believe that's a management right.

12 Q What's a management right?

13 A Hiring of employees.

14 Q Okay. Now you mentioned as the deputy  
15 director that you have responsibilities over hiring in  
16 your region?

17 A I do quite a bit of -- yes, I am involved in  
18 the hiring process, correct.

19 Q What is your role in that process?

20 A I take in the -- when a vacancy becomes --  
21 when a position becomes vacant, my office gets what's  
22 called a Standard Form 52 from the office that has  
23 lost the individual, where the vacancy is. That's a  
24 recruiting tool if you will or recruiting document.  
25 Normally we would get that through the process in

1 terms of putting that down to WFMO, getting that to  
2 Workforce Management. We use a system called RADS  
3 now, and I can't tell you what the acronym stands for,  
4 and it's simply a website where we put recruiting  
5 documents so Workforce Management can do the  
6 recruiting process.

7 Q Are there any considerations that you as the  
8 deputy regional director have to make before sending a  
9 vacancy to Workforce Management for recruitment?

10 A Yeah. Well, particularly now the director  
11 and I discuss it, and it's contingent upon our ability  
12 to fund the position.

13 Q Okay. So, if you can fund the position then  
14 is the way you just described, putting it into RADS,  
15 is that what happens?

16 A That's where it would go.

17 Q Okay. Now I'm going to point you to Joint  
18 Exhibit 2-A. Are you aware that the Union has filed  
19 grievances, what we're here for today? The Union has  
20 filed grievances alleging the Agency has failed to  
21 fill certain positions --

22 A Yes.

23 Q -- in March of 2013?

24 A Yes.

25 Q All right. So if you could go to Joint

1 Exhibit 2-A.

2 A Okay.

3 Q This is the Union's grievance regarding  
4 failure to fill lead forecaster vacancies, and there  
5 are a number of offices that are listed in this  
6 grievance. Are any of these offices within the  
7 Eastern Region?

8 A Yes.

9 Q And which offices are those?

10 A Specifically, there is the Sterling,  
11 Virginia office; the Raleigh, North Carolina office;  
12 the Pittsburgh office.

13 Q Okay. And it indicates here, I think the  
14 two in the brackets indicates that there were two lead  
15 forecaster vacancies in Sterling and then I guess just  
16 one in Raleigh and Pittsburgh?

17 A That's correct.

18 Q And do you recall that to be the case?

19 A Yes.

20 MS. CIOFFALO: Okay. I'm going to mark for  
21 identification Agency Exhibit 16.

22 (The document referred to was  
23 marked for identification as  
24 Agency Exhibit No. 16.)

25 //

1 BY MS. CIOFFALO:

2 Q All right. Mr. Brown, do you recognize this  
3 document?

4 A Yes.

5 Q Did you create this document?

6 A Yes.

7 Q And what is this document?

8 A The top portion is a listing of vacancies  
9 that were part of the Union's grievance that I believe  
10 we're here for today. The bottom portion where it  
11 starts with "Other vacancies on 3/27/13" are vacancies  
12 that were in the Eastern Region at that particular  
13 date.

14 Q Okay. And is that in addition to the  
15 vacancies that are listed in the first portion up  
16 there?

17 A Yes.

18 MS. CIOFFALO: Okay. I'd like to enter this  
19 into evidence.

20 MR. HIRN: Being that this is exactly what I  
21 asked for six months ago --

22 MS. CIOFFALO: And we gave it to you.  
23 You've got it.

24 MR. HIRN: -- I have no objection.

25 ARBITRATOR SHARNOFF: Okay.

1 MR. HIRN: If I had this for information for  
2 all the regions, I would not have had to go through  
3 that litany yesterday about the information that's not  
4 been provided.

5 MS. CIOFFALO: Noted.

6 ARBITRATOR SHARNOFF: All right. It's  
7 admitted.

8 (The document referred to,  
9 previously identified as  
10 Agency Exhibit No. 16, was  
11 received in evidence.)

12 BY MS. CIOFFALO:

13 Q So, Mr. Brown, now you mentioned that this  
14 is accurate. There were two lead forecaster vacancies  
15 in Sterling, one in Raleigh, and one in Pittsburgh.  
16 Were there any other vacancies in the lead forecaster  
17 unit in your region by the end of March of 2013?

18 A Yes.

19 Q Okay. And which ones were those?

20 A Mount Holly, New Jersey.

21 Q Okay. All right. So four total? I'm  
22 sorry, five total.

23 A Well, actually five.

24 Q Five total, okay.

25 ARBITRATOR SHARNOFF: Wait a minute. I'm

1       sorry. The question was how many vacancies?

2               MS. CIOFFALO: How many lead forecaster  
3 vacancies.

4               ARBITRATOR SHARNOFF: Lead forecaster.

5               MS. CIOFFALO: Yes. This is just for Joint  
6 Exhibit 2-A, which is the Union's grievance on failure  
7 to fill lead forecaster vacancies.

8               MR. HIRN: If you're trying to follow along  
9 on the batting order there, it's the word "senior"  
10 under position, that column.

11               ARBITRATOR SHARNOFF: Okay.

12               BY MS. CIOFFALO:

13               Q       So those are the five senior forecaster  
14 vacancies that you had --

15               ARBITRATOR SHARNOFF: I'm with you.

16               BY MS. CIOFFALO:

17               Q       -- by March, right?

18               A       Correct.

19               ARBITRATOR SHARNOFF: Yeah, I was looking at  
20 the office column but not the position column. All  
21 right. I'm with you.

22               MS. CIOFFALO: You got it. Okay.

23               BY MS. CIOFFALO:

24               Q       Have any of those vacancies been filled?

25               A       Yes.

1 Q Which ones have been filled?

2 A Two at Sterling, one at Pittsburgh, and one  
3 at Mount Holly.

4 Q Okay. And does this document show when  
5 those positions were filled?

6 A Yes.

7 Q And when were the positions filled?

8 A That would be the column labeled "EOD,"  
9 which stands for enter on duty date. Sterling had two  
10 positions filled on June 16, 2013, Pittsburgh had one  
11 position filled on September 22, 2013, and Mount Holly  
12 had one position filled on December 15, 2013.

13 Q Okay. Let's talk about the Sterling  
14 positions for a minute. I see they became vacant at  
15 different times. One of them had been vacant since  
16 August of 2012. Why did it take so long to fill that  
17 position?

18 A Uncertainty within the budget.

19 Q And what do you mean by that?

20 A We weren't quite sure if we would have  
21 enough money to fill the position.

22 Q So eventually, though, it was filled?

23 A Correct.

24 Q And did you have to go through the Hiring  
25 Freeze Board procedures to get those positions filled?

1 A No.

2 Q Okay. Why not?

3 A They were already in the system before the  
4 freeze was put in place.

5 Q Okay. Now you said also the Pittsburgh  
6 position was filled. When was that one filled?

7 A September 22, 2013.

8 Q All right. And that had been vacant since  
9 January of 2013, correct?

10 A Correct.

11 Q So why did it take so long to fill that one?

12 A It took a little while for it to get moving,  
13 and then at the same time, I believe the person that  
14 we selected had took a little time to get to the  
15 office.

16 Q Okay. When you say "took a little time,"  
17 what do you mean by that?

18 A I believe in this particular case the person  
19 had a personal issue, and that's about the best of my  
20 recollection on that.

21 ARBITRATOR SHARNOFF: I'm sorry. Which one  
22 was that?

23 THE WITNESS: That would be Pittsburgh.

24 BY MS. CIOFFALO:

25 Q So they were coming from a different office



1 within the Weather Service?

2 A Yes.

3 Q They were moving. Okay. Now you said also  
4 the Mount Holly position, that one had been filled.

5 Oh, I'm sorry. Did you have to go through the Hiring  
6 Freeze Board for the Pittsburgh position?

7 A No.

8 Q And why not?

9 A That was already in the system.

10 Q Okay. So the Mount Holly position, you said  
11 that one was filled it looks like on December 15,  
12 2013. Did you have to go through the Hiring Freeze  
13 Board for that position?

14 A Yes.

15 Q And why did you fill that position?

16 A We knew we were going to have another  
17 vacancy in the senior forecaster ranks there, and I  
18 believe they were also short another operational  
19 position in the HMT/intern unit.

20 Q So had you discussed that with the deputy  
21 director at the Weather Service?

22 A I didn't.

23 Q Who discussed it with --

24 A My director did.

25 Q Oh, okay. And was that sent to the board

1 for approval?

2 A Yes, it was.

3 Q And I'm guessing it was approved.

4 A Yes.

5 Q It was filled?

6 A Yes.

7 Q All right. So that leaves how many were not  
8 filled then at the time?

9 A In the senior forecaster ranks, that left  
10 Raleigh.

11 Q Raleigh. Okay. Why wasn't Raleigh filled?

12 A It was not prioritized in the highest group  
13 to get filled.

14 Q Why not?

15 A At this particular point, well, when we were  
16 going through this process, they were short one person  
17 in the operational ranks.

18 Q This vacancy, the one that we're talking  
19 about now is the only one, or this one plus another  
20 one?

21 A I believe in Raleigh this is the only one  
22 that's vacant.

23 Q Okay. Let's talk about general forecaster  
24 vacancies. That's Joint Exhibit 2-C, if you can flip  
25 to that.

1 A Okay.

2 Q Okay. As I mentioned, this is the Union's  
3 grievance alleging the Agency's failure to fill  
4 journeymen or general forecaster positions, and they  
5 list a number of offices again in this grievance. Are  
6 any of these offices in your region?

7 A Yes.

8 Q Which ones are in your region?

9 A Cleveland, Ohio and Binghamton, New York.

10 Q Okay. And were there any other general or  
11 journeymen forecaster vacancies in your region other  
12 than those two as of March 2013?

13 A Not at a WFO.

14 Q Okay. All right. So what happened with  
15 these vacancies? Have any of them been filled?

16 A The Binghamton office, the Binghamton  
17 position, I'm sorry, the Binghamton position, the  
18 general forecaster at Binghamton was filled.

19 Q Okay. When was that filled?

20 A May 5, 2013.

21 Q All right. And did that have to go through  
22 the Hiring Freeze Board to get that filled?

23 A No.

24 Q And again, was that due to where it was in  
25 the system at the time?

1 A Yes.

2 Q So Cleveland has not been filled?

3 A Correct.

4 Q Why? Why hasn't the Cleveland general  
5 forecaster position been filled?

6 A They are short one position at Cleveland in  
7 the general forecaster ranks, and at Cleveland, their  
8 complement of forecasters are five senior forecasters  
9 and six general forecasters. The reason they have  
10 six, which is above normal, one above normal -- I  
11 shouldn't say normal. The reason they have six is  
12 because they have responsibility for ice forecasting  
13 on the Great Lakes. So they have five generals and  
14 five seniors, and it was sufficient to maintain  
15 operations.

16 Q Okay. All right. Let's talk about  
17 HMT/interns. That is Joint Exhibit 2-B in the bundle.

18 A Okay.

19 Q Okay. This is the grievance alleging the  
20 Agency's failure to fill HMT/intern positions in that  
21 unit, and there are again a number of offices that are  
22 listed here in the grievance. Are any of these  
23 offices in your region?

24 A Yes.

25 Q All right. Which ones are in your region?

1           A     Wilmington, Ohio; Charleston, West Virginia.  
2     On the second page, Mount Holly, New Jersey; Sterling,  
3     Virginia; and Burlington, Vermont.

4           Q     Okay. And those positions are also  
5     reflected on this document, Agency's Exhibit 15?

6           A     Yes.

7           Q     Were there any other HMT/intern positions  
8     vacant at the time of the grievance in your region as  
9     well?

10          A     Yes.

11          Q     What other vacancies were there at that  
12     time?

13          A     There was one at Buffalo, New York, and then  
14     there was another one at Sterling, Virginia.

15          Q     Okay. And are those two vacancies reflected  
16     in the bottom portion of A-15?

17          A     Yes.

18          Q     All right. So have any of these positions  
19     been filled?

20          A     Yes.

21          Q     Okay. Which ones?

22          A     The two positions at Sterling, Virginia.

23          Q     Okay. Did you have to go through the hiring  
24     board for those?

25          A     No.

1 Q Why not?

2 A One of the vacancies was already in the  
3 system.

4 Q Okay. So were you able to hire two  
5 vacancies from that certificate?

6 A Actually, we didn't use the certificate to  
7 fill those vacancies.

8 Q How did you fill them?

9 A Those vacancies were filled with employees  
10 that were in what was called at the time the Student  
11 Career Employment Program.

12 Q Okay.

13 A Which the acronym is SCEP, and I believe  
14 it's called Pathways now. There were two people that  
15 were eligible for noncompetitive placement into  
16 permanent positions.

17 Q Okay. And when were they filled?

18 A One was filled on August 11, 2013, and the  
19 other one was October 6, 2013.

20 Q Okay. So I see that the one that was filled  
21 on August 11, 2013, that's in the top portion of this  
22 A-16 exhibit. I notice that that one had been vacant  
23 since October of 2012, so why did it take so long to  
24 fill that position?

25 A We went through a process of prioritizing

1       them, and it didn't float to the top if you will right  
2       away.

3             Q       So when did it float to the top?

4             A       Well, it certainly became an issue when we  
5       knew the other position was coming vacant and also  
6       around the same time there were two positions vacant  
7       in the senior forecaster ranks.

8             Q       So, at that time, it became a priority?

9             A       At the end of the day, they were going to be  
10       four people short in their operational units.

11            Q       And all four of those positions have since  
12       been filled?

13            A       Those four that are listed, yes.

14            Q       Okay. So now any others that were filled  
15       that were on this list other than the two Sterling  
16       positions?

17            A       In the HMT/intern unit?

18            Q       Right.

19            A       No.

20            Q       And why not?

21            A       They didn't rise to the top of -- they  
22       weren't prioritized to be filled.

23            Q       Why not?

24            A       They were one short in that particular unit  
25       for a period of time.

1 Q Okay. What do you mean they were one short?  
2 Meaning this was the only vacancy in that unit?

3 A In that unit, yes, for a period of time.  
4 Yes.

5 Q Okay, gotcha. You're aware of the NOAA  
6 Workforce Management Office, right?

7 A Yes.

8 Q And what, if any, interaction did you have  
9 as the deputy regional director with the NOAA  
10 Workforce Management office?

11 A Well, I worked with for many years -- the  
12 group used to be called personnel that was located in  
13 Norfolk, Virginia.

14 Q Okay.

15 A And then when it transitioned to what it is  
16 now, the group was split between Norfolk and Kansas  
17 City, and now, if I remember correctly, everybody that  
18 deals with vacancies in my region lives in Kansas  
19 City.

20 Q Okay. And did the time it took Workforce  
21 Management to process vacancies, recruitment actions,  
22 change at all over the last few years?

23 A It has.

24 Q How so?

25 A It varies. It varied upon the position



1 where back before the transition from what were called  
2 the administrative support centers, that was the time  
3 I was dealing with the folks in Norfolk, we were  
4 pretty efficient. When the transition occurred to  
5 what is now called the staffing unit I believe,  
6 depending on the position, it takes a little longer to  
7 get them out.

8 Q Okay. And have you ever discussed that  
9 change, being in the new time that it took to get  
10 positions out?

11 A Yeah, it's come up in conversation.

12 Q So they were aware that Workforce Management  
13 was a factor in this?

14 A I believe they were aware that Workforce  
15 Management was a factor in filling the -- the time it  
16 took to fill positions, yes.

17 Q Okay. During the timeframe of the Union's  
18 grievances, and that's basically the mid-March  
19 timeframe, and before that, let's just talk about  
20 early 2013, the Union's grievances are alleging that  
21 these vacancies came vacant on or about January 2013  
22 and beyond and in some cases before. So, during that  
23 time period, did the Eastern Region bring any  
24 employees on station? Did any employees EOD during  
25 January through March of 2013?

1           A     I believe they did.

2           Q     Okay. Do you know how many?

3           A     I think it's nine or so.

4           MS. CIOFFALO: Okay. I'm going to show you  
5 Agency Exhibit 17, or I'll mark for identification  
6 Agency Exhibit 17. I apologize in advance for the  
7 tiny print.

8           ARBITRATOR SHARNOFF: Thank you.

9   (The document referred to was  
10    marked for identification as  
11    Agency Exhibit No. 17.)

12          MS. CIOFFALO: And I'm going to proffer that  
13 Agency Exhibit 17 is a demonstrative exhibit. It's  
14 basically a filtered version of Union Exhibit 83,  
15 which is the most recent December 2013 RADS report,  
16 and that report has been filtered to show recruitment  
17 actions that have EODed between roughly January, late  
18 December, January 2013 through I want to say the end  
19 of March 2013.

20          MR. HIRN: Okay.

21          MS. CIOFFALO: It's just for ease of  
22 reference.

23          MR. HIRN: That was a little bit fast and my  
24 mind was working a little bit more slowly.

25          MS. CIOFFALO: No problem. I'll repeat.

1 MR. HIRN: Could you try again?

2 MS. CIOFFALO: Sure.

3 MR. HIRN: And a little bit more slowly what  
4 this is?

5 MS. CIOFFALO: Sure. This is a filtered  
6 version of the December 2013 RADS report which is --

7 MR. HIRN: Okay, hold.

8 MS. CIOFFALO: Sorry. Go ahead.

9 MR. HIRN: Filtered December?

10 MS. CIOFFALO: '13. December 2013.

11 MR. HIRN: RADS report.

12 MS. CIOFFALO: RADS report, which is already  
13 in the record --

14 MR. HIRN: Right.

15 MS. CIOFFALO: -- as Union Exhibit 80 --

16 MR. HIRN: Two, 82 maybe, something like  
17 that.

18 MS. YOUNG: 83, December 12, 2013 RADS  
19 report, reading from the Union's sheet.

20 MR. HIRN: Okay.

21 MS. CIOFFALO: Okay. So, to proffer, what I  
22 had done was filtered that RADS report so that we had  
23 one page of it just showing demonstratively positions  
24 in the National Weather Service of people who came on  
25 duty for the National Weather Service between it looks

1 like late December or December 30, 2012, through the  
2 end of March 2013. I think the last --

3 MR. HIRN: Again those dates? From when?

4 MS. CIOFFALO: On the document, it's  
5 12/30/2012 is the earliest one on the document.

6 MR. HIRN: Right.

7 MS. CIOFFALO: And the latest one on the  
8 document is March 24, 2013, and it's just to show a  
9 slice of, you know, the employees who were fulfilled  
10 in recruitment actions during the time period just  
11 prior to the Union's grievance of a de facto hiring  
12 freeze.

13 MR. HIRN: Okay.

14 MS. CIOFFALO: Okay.

15 ARBITRATOR SHARNOFF: And this is agency-  
16 wide and not just the Eastern Region?

17 MS. CIOFFALO: Yes, and so you can see, and  
18 I'll explain, under the POC column, which is about  
19 halfway through the page, you'll see a column that's  
20 sorted by name, and I did that to show -- the POC will  
21 show you which region it came from. And just to, you  
22 know, assist with this line, Mickey Brown, right here,  
23 our witness, is the Eastern Region POC for vacancies,  
24 so you can see that the POC column refers to vacancies  
25 in his region that EODed during this time period, and

1 then, you know, the other names, for example, the  
2 first grouping is the Southern Region. The second  
3 name is Alaska. I can't tell if that's right.

4 MR. HIRN: No, Western.

5 MS. CIOFFALO: Western, sorry, Western,  
6 Kimberly Montgomery is --

7 MR. HIRN: ENSUB.

8 ARBITRATOR SHARNOFF: ENSUB, and Marie  
9 Hoffpauer is Central.

10 ARBITRATOR SHARNOFF: You're going to need  
11 to speak up.

12 MS. CIOFFALO: I'll say it again. I'll say  
13 it again.

14 ARBITRATOR SHARNOFF: More loudly.

15 MS. CIOFFALO: Sure. Gena Morrison, the  
16 first group of vacancies on this chart, is the POC for  
17 the Southern Region, so those represent Southern  
18 Region positions. Karolyn Maldonado is Alaska Region.  
19 Kim Pendleton is Western Region. Kim Montgomery is  
20 NCEP, one of our national centers. And Marie  
21 Hoffpauer is Central Region. And then again, Mickey  
22 Brown is Eastern Region.

23 MR. HIRN: And those people are at the  
24 regional headquarters, correct, not at --

25 MS. CIOFFALO: They're regional headquarters

1 positions, right.

2 MR. HIRN: Okay.

3 MS. CIOFFALO: Mickey just happens to be a  
4 POC.

5 MR. HIRN: Not WFMO people.

6 MS. CIOFFALO: No, no, no. Yeah, these are  
7 Weather Service employees at the regional offices that  
8 are the POCs that communicate with Workforce  
9 Management about the vacancies.

10 MR. HIRN: Got it.

11 MS. CIOFFALO: Right. I mean, the full RADS  
12 report if you want to cross-reference it will include  
13 who the Workforce Management staffing person is  
14 associated with a particular vacancy, and I thought  
15 for ease of reference we didn't really need to get  
16 into that, but I'm happy to reference that if you  
17 think it's relevant in the full report.

18 MR. HIRN: No, no, that's good.

19 MS. CIOFFALO: Okay.

20 MR. HIRN: I got it. Thank you.

21 BY MS. CIOFFALO:

22 Q Okay. So, Mr. Brown, you said that you  
23 thought there were nine positions that came on  
24 station. Is that what's reflected in this exhibit?

25 A Yes.

1 MS. CIOFFALO: Okay. I'd like to enter A-17  
2 into the record.

3 MR. HIRN: Sure.

4 ARBITRATOR SHARNOFF: Okay. It's admitted.

5 (The document referred to,  
6 previously identified as  
7 Agency Exhibit No. 17, was  
8 received in evidence.)

9 BY MS. CIOFFALO:

10 Q And what positions do we have here that came  
11 on station during that time?

12 A We have the observing program leader  
13 position.

14 Q Is that in the HMT unit?

15 A Yes.

16 Q Okay. And where was that?

17 A Charleston, West Virginia; also one at Mount  
18 Holly, New Jersey. Center Weather Service forecaster  
19 at Nashua, New Hampshire, and Ronkonkoma, New York.

20 Q And the center Weather Service forecasters,  
21 who are they?

22 A They are embedded within the FAA's air route  
23 traffic control centers throughout the country. We  
24 have a unit that supports them with weather support  
25 onsite.

1 Q Okay.

2 A There were three information technology  
3 officer positions filled: one at Caribou, Maine; one  
4 at Greer, South Carolina; one at Sterling, Virginia.  
5 And then there were two electronic system analysts  
6 filled at Columbia and Blacksburg.

7 Q Okay. All right. At some point did you  
8 become aware of a NOAA-wide hiring freeze that was  
9 implemented in the Weather Service?

10 A Yes.

11 Q And has your region submitted any vacancies  
12 for consideration to the DAA as far as you know for  
13 exception to that hiring freeze?

14 A Yes.

15 Q How many did you submit?

16 A Four.

17 Q And have they been granted?

18 A Yes.

19 Q Are you aware of a requirement -- oh, you  
20 testified earlier actually that you need to have two  
21 people per shift at all time at a WFO?

22 A Yes.

23 Q To your knowledge, have any of the WFOs in  
24 your region not been able to schedule two people per  
25 shift 24/7 due to vacancies in the office?



1           A     Not to my knowledge.

2           MS. CIOFFALO:   That's all that I have.

3           ARBITRATOR SHARNOFF:   Okay.  Did you want a  
4     minute?

5           MR. HIRN:   No, I'm good.

6           ARBITRATOR SHARNOFF:   Okay.

7           MR. HIRN:   Thank you.

8                               CROSS-EXAMINATION

9           BY MR. HIRN:

10          Q     Mickey, the four positions submitted to the  
11     Hiring Freeze Board and approved, bargaining unit or a  
12     mix of them?

13          A     No, they were all bargaining unit.

14          Q     Okay.  Some technical questions about Agency  
15     Exhibit 16.  Looking under other vacancies 3/17/13, it  
16     appears to me that some of them may not be bargaining  
17     unit.  Could you help us identify slowly which ones  
18     are outside the bargaining unit?

19                ARBITRATOR SHARNOFF:   I'm sorry, which  
20     exhibit?

21          MR. HIRN:   This is 16.

22                ARBITRATOR SHARNOFF:   16.  I'm with you.

23          BY MR. HIRN:

24          Q     Or you can tell us which ones are in, but I  
25     think most of them are bargaining unit positions.

1           A     Yeah.  I'll go down the list and do the non-  
2 bargaining.

3           Q     Yeah.

4           A     Okay.  The first one I see is at the acronym  
5 OHRFC, the position is called the DOH, which is the  
6 developmental operations hydrologist.

7           Q     Uh-huh.

8           A     On page 2, you'll see the office listed as  
9 ERH, which stands for Eastern Region Headquarters, and  
10 in that particular position that's a division chief.  
11 Next would also be ERH, Eastern Region Headquarters,  
12 and the acronym is the RAM, which stands for regional  
13 aviation meteorologist.  Next one, ERH again, the  
14 marine meteorologist.  And then ERH again, climate  
15 PMs, which stands for the climate program manager.

16          Q     Okay.  Looking at this list, the Pittsburgh  
17 senior forecaster at the top part, the position became  
18 vacant on January 3, but it looks like you maybe  
19 initiated efforts to backfill that position a little  
20 over a month before the person actually retired, is  
21 that correct?

22          A     That was correct.

23          Q     So it looks like you don't have to wait  
24 until the position is actually vacant to begin to  
25 backfill, is that correct?

1           A     I'm not aware of any requirement.

2           Q     Okay. Good. What's the difference between  
3 cert available and cert issued?

4           A     Cert issued means that the certificate,  
5 which is the universe of names that a selecting  
6 official can choose from, those that applied for the  
7 job and were deemed qualified, that certificate is  
8 issued to the selecting official to go through the  
9 selection process.

10          Q     Okay.

11          A     Cert available -- this is my nomenclature  
12 because I put this together.

13          Q     Okay.

14          A     Cert available, I believe I referenced that  
15 as the certificate was available but was not  
16 transmitted or wasn't looked at by the selecting  
17 official.

18          Q     When you say transmit or looked at, does the  
19 selecting official have to go in and request it or  
20 download it or something?

21          A     What happens in the present process,  
22 Workforce Management sends an email to the selecting  
23 official with a link to a website --

24          Q     Right.

25          A     -- which includes a password and the vacancy

1 number, and that's where you can go to -- you go to  
2 view the names of those on the certificate.

3 Q Okay. Does that mean it's available when  
4 that email is sent?

5 A Yes.

6 Q And it's actually, you say, issued when the  
7 selecting official actually clicks on the link?

8 A No, it's issued when Workforce Management  
9 sends it out.

10 Q Oh, wait a minute. I'm sorry. You just  
11 said that.

12 A It's issued -- technically it is issued --  
13 the cert is issued when Workforce Management tells the  
14 selecting official it's available for viewing.

15 Q Then what's the difference between available  
16 and issued? I really don't understand.

17 A I believe what I did on that one, and again,  
18 this is my nomenclature.

19 Q Okay.

20 A As far as I know this is not standard. This  
21 is me.

22 Q Okay.

23 A Because I made up this spreadsheet. The  
24 certificate was available, but it was not reviewed  
25 because at that particular time those positions

1 weren't ready to be -- we didn't prioritize them to be  
2 selected.

3 Q So which comes first, availability or  
4 issued, or is it the same thing?

5 A It's the same thing.

6 Q Okay. Finally, on this chart, am I reading  
7 this correctly if I were to look under EOD, if there's  
8 no date under EOD, that means it wasn't actually  
9 filled?

10 A Correct.

11 Q Or has not yet been filed.

12 A Correct.

13 Q Okay, good. Now, Mickey, could you look at  
14 Joint Exhibit 6? That's a big MAR plan.

15 A Yeah.

16 Q You don't have to look at it, but you know  
17 what I'm referring to, correct?

18 A Yes.

19 Q You weren't involved in negotiating this or  
20 developing this, correct?

21 A Correct. No, I was not.

22 Q Okay. And is it fair to assume that with  
23 regard to Joint Exhibit 5, which I will ask you to  
24 look at, the MOU with the Union, this was negotiated  
25 before you were involved in any negotiating capacity,

1 correct?

2 A Correct.

3 Q So you weren't involved in negotiating this?

4 A No, I was not.

5 Q Okay. Look at the last page of Joint  
6 Exhibit 5, Provision III(c). Now you testified that  
7 in your region you did reach Stage 2 operations,  
8 correct?

9 A I believe we did, yes.

10 Q Okay. Do you know whether or not either  
11 management or the Union ever agreed that this MOU was  
12 no longer considered necessary as a result of having  
13 reached Stage 2 operations?

14 A I can't say that.

15 Q So you were not aware whether that ever  
16 happened?

17 A No, I'm not.

18 MR. HIRN: Monique, could you share with  
19 Mickey Union Exhibit 22 and 23?

20 MS. CIOFFALO: Sure. That's the stack of  
21 Union exhibits. It's in number order and the numbers  
22 are on the bottom right-hand corner.

23 THE WITNESS: Richard, 22 and 23?

24 MR. HIRN: Yes.

25 ARBITRATOR SHARNOFF: All right. Union 23?

1 MS. CIOFFALO: Richard, do you have --

2 MR. HIRN: Union Exhibits 22 and 23.

3 MS. CIOFFALO: -- your witness copies of it?

4 MR. HIRN: Do I have an extra set? Yes.

5 All right, that's fine. Yes.

6 MS. CIOFFALO: That was actually our set.

7 MR. HIRN: Okay.

8 (Pause.)

9 BY MR. HIRN:

10 Q Okay. Mickey, let's start with 22.

11 MS. CIOFFALO: Oh, I'm sorry. I thought you  
12 were digging it out of that stack.

13 (Discussion held off the record.)

14 THE WITNESS: Richard, I have both of them.

15 BY MR. HIRN:

16 Q Okay, 22. Now, Mickey, you talked about the  
17 2004 change to the HMT unit, correct?

18 A Yes.

19 Q And those discussions started when  
20 management sent the Union a proposal to change the  
21 structure of the HMT unit, correct?

22 A I believe that was the case.

23 Q Right. And then the structure had been  
24 established by the 2000 floater plan, correct?

25 A Correct.

1           Q     Okay.  Now directing your attention to Union  
2 Exhibit 22, is it not correct that shortly after  
3 management sent the Union the plan John Jones, the  
4 assistant administrator for weather -- the deputy  
5 assistant administrator for Weather Services sent the  
6 whole -- all Weather Service employees this email?

7           A     The original plan before we did the 2004  
8 discussion, I would say yes.

9           Q     And in this email, Mr. Jones told the  
10 workforce that management was currently engaged in the  
11 bargaining process with the Union over these changes,  
12 correct?

13          A     That's what it says.

14          Q     Okay.  And going to Union Exhibit 23, now  
15 Dean Gulezian, he was your immediate boss at the time,  
16 correct?

17          A     Correct.

18          Q     And do you know who Charlie Schein is?

19          A     I do not.

20          Q     You don't recognize him as a Eastern Region  
21 employee then?

22          A     I don't, Richard, no.

23          Q     Okay.  And do you see that your boss said  
24 that the entire implementation plan is currently under  
25 negotiation, correct?



1 A It does say that.

2 Q And isn't it true, Mickey, that the parties  
3 met for face-to-face negotiations several times in  
4 large negotiating teams right here in this building,  
5 perhaps even in this room?

6 A Could you help me with what timeframe you're  
7 referencing?

8 Q All right. Sure. If you look at Union  
9 Exhibit 24.

10 A Okay. Okay.

11 Q Isn't it true, Mickey, that we met in this  
12 very room, in this very room --

13 A Yes.

14 Q -- for collective bargaining?

15 A Yes.

16 Q Okay. And isn't it true that during those  
17 discussions, which started off as discussions over  
18 ground rules for how this bargaining would take place,  
19 the discussion in fact evolved into a discussion of  
20 the merits of the plan to reduce the number of HMTs?  
21 Do you recall that?

22 A Honestly, I don't.

23 Q Okay. Do you recall that in the ensuing  
24 months both in formal bargaining sessions and in  
25 discussions that you and I and you and I and Melanie

1 had over the plan to reduce the number of HMTs, we had  
2 those discussions in both formal and informal  
3 settings?

4 A I would say yes.

5 Q And isn't it true during the course of those  
6 discussions between then and these -- directing your  
7 attention to Union Exhibit 25.

8 A Okay.

9 Q Well, let me back up a little bit. Isn't it  
10 correct that management's original proposal was to  
11 alter the three H -- in the HMT unit, there were three  
12 slots designated for HMTs, one for an intern, correct?

13 A In the 2000 floater plan, that's what was  
14 articulated.

15 Q Right. And if I recall correctly, and  
16 correct me if I'm wrong, what management proposed to  
17 do in 2004 was effectively to flip that, to designate  
18 three positions for interns and only one for an HMT.

19 A What I recall is that -- I don't recall the  
20 exact number or the makeup, HMT versus intern, but I  
21 do recall that management was interested in changing  
22 the three plus one.

23 Q Right. And you understand the Union had  
24 great heartburn with that, correct?

25 A I do recall that.

1           Q     And we wanted to preserve as much as  
2 possible the opportunities for filling the HMT, what  
3 is called the HMT unit, with HMTs, correct?

4           A     I believe the Union was interested in  
5 assisting the HMTs maintain employment.

6           Q     Yes, and we wanted -- especially, we were  
7 concerned about that especially because there were a  
8 lot of MET techs, meteorologist technicians, at Grade  
9 in Alaska who wanted to get the hell out of the  
10 small WSOs and have promotional opportunities,  
11 correct?

12          A     Correct.

13          Q     And we viewed that management's plan would  
14 cut off their progression, correct?

15          A     I believe that was the case.

16          Q     And we were also concerned, you know,  
17 sometimes HMTs even in grade would want to move around  
18 the country, maybe they're closer to someplace where  
19 they would like to retire at the end of their career  
20 or to be closer to family or because they just grabbed  
21 a job anywhere they could find it to begin with,  
22 correct?

23          A     I believe that's the case.

24          Q     And management's interest, however, was they  
25 felt they needed to increase the available slots as

1 Pathways or as training grounds to bring in more young  
2 degreed meteorologists in order to fill an anticipated  
3 growing number of forecaster vacancies over the years.

4 A I would say that management was interested  
5 in having the option to bring in HMTs and/or interns  
6 into those positions.

7 Q And didn't we, not during the course of our  
8 formal discussions and the informal discussions that  
9 you and I and you and I and Melanie had over the  
10 spring and summer of 2004, did we not find a  
11 compromise that seemed to satisfy both parties'  
12 interests by saying that from now on all those  
13 vacancies, you were going to advertise them as both  
14 HMTs and interns?

15 A What I recall was -- I don't recall the  
16 formal discussions. I honestly don't recall the  
17 formal discussions. I do recall the predecisional  
18 discussions, and, yes, we came to -- we came to I  
19 guess a meeting of the minds.

20 Q Well, you say predecisional discussions, but  
21 we were already in collective bargaining. I mean,  
22 that's what Mr. Jones announced, that's what we  
23 established by those January bargaining notes where we  
24 met in this room.

25 A If I remember correctly, there was somewhere

1 along the line where management withdrew its proposal,  
2 and then with that we began predecisional discussions.

3 Q Well, you gave us another proposal that was  
4 in fact incorporating things that we had been asking  
5 for during our discussions, including advertising them  
6 all as both HMT and interns, as to raising the grade  
7 of the HMTs at the MET techs at the WSOs in Alaska to  
8 a 10 so they could bid to GS-11, and sweetening the  
9 pie a little bit, converting the HMTs to -- looking at  
10 converting the HMTs to FLSA-exempt, and creating an  
11 additional bargaining unit position at a GS-12 in that  
12 unit to allow the HMTs to maybe get to a 12 before  
13 they retire. These were all things that the Union had  
14 asked for during the negotiations, correct?

15 A They were all discussed.

16 Q And we had asked for them, correct?

17 A That, Richard, I do not remember.

18 Q Okay. And then you came back to us on  
19 June 24, excuse me, September 24, with a revised  
20 formal proposal that incorporated the things that we  
21 had been asking for in our discussions, and then I  
22 wrote back saying fine, we agree, we accept your  
23 offer.

24 MS. CIOFFALO: I'm going to object to that.  
25 He already testified that he doesn't remember what the

1 Union asked for, so the question is a bit  
2 inappropriate.

3 BY MR. HIRN:

4 Q Well, isn't it true --

5 ARBITRATOR SHARNOFF: Well, it is cross-  
6 examination. If you recall. Do you want him to  
7 repeat the question?

8 THE WITNESS: Thank you, yes.

9 ARBITRATOR SHARNOFF: Please repeat that if  
10 you can.

11 BY MR. HIRN:

12 Q Did not the proposal, the new proposal you  
13 sent us on September 23, you meaning the management,  
14 sent us on September 23, 2004, incorporate things that  
15 we had been asking for during our discussions?

16 MS. CIOFFALO: You can answer.

17 THE WITNESS: Yes.

18 BY MR. HIRN:

19 Q And did we not in our discussions say, hey,  
20 if you give us this, we'll agree to it, you know, this  
21 is what we want?

22 A I think the way I characterize it was that  
23 through the predecisional discussions that we had, we  
24 came up -- we were able to incorporate what was  
25 discussed into this management plan and we transmitted

1 it to you.

2 Q And we accepted the proposal.

3 A Correct.

4 Q And that revised the 2004 floater plan,  
5 correct?

6 A Yes, in terms of the makeup of the  
7 HMT/intern unit.

8 Q Okay. Now, looking at the letter that Mr.  
9 David wrote, he doesn't say anything about  
10 predecisional --

11 MS. CIOFFALO: Are you referring to a  
12 particular exhibit?

13 MR. HIRN: Yes. It's Union Exhibit 25.

14 BY MR. HIRN:

15 Q There's nothing here about predecisional,  
16 correct?

17 A I would say that he stated that the parties  
18 conducted a series of informal discussions --

19 Q Right.

20 A -- in which they explored staffing changes.

21 Q And of course discussion, negotiations can  
22 be formal or they could be informal, correct?

23 A They can be.

24 Q Okay. And he is even acknowledging that  
25 this new proposal incorporates things that we had been

1 asking for.

2 MS. CIOFFALO: I'm going to object to that.  
3 I think he's mischaracterizing the documents and he's  
4 asked that question now at least three times.

5 ARBITRATOR SHARNOFF: Well, the letter says  
6 what it says.

7 MS. CIOFFALO: Right.

8 ARBITRATOR SHARNOFF: If you want to ask him  
9 his understanding of what that sentence means, that's  
10 a different question, but it says what it says.

11 MS. CIOFFALO: So is there a question  
12 pending?

13 BY MR. HIRN:

14 Q Okay. The very last penultimate sentence,  
15 he did not suggest we continued informal predecisional  
16 discussions. He just simply asked whether what they  
17 had now proposed was acceptable to the Union, correct?

18 MS. CIOFFALO: I'm going to object again.  
19 The document speaks for itself.

20 MR. HIRN: This is cross-examination. I  
21 think I can ask for him to have a concession that --

22 ARBITRATOR SHARNOFF: Well, again, it says  
23 what it says.

24 MR. HIRN: Okay.

25 ARBITRATOR SHARNOFF: If you want him to



1 comment on it.

2 MR. HIRN: No, that's okay. I'll withdraw  
3 it.

4 BY MR. HIRN:

5 Q Mickey, you talked about how you did  
6 labor/management training. Presumably you have some  
7 familiarity with the Federal Labor Management  
8 Relations statute and agencies' obligation to bargain,  
9 correct?

10 A Correct.

11 Q And in your direct testimony, you talked  
12 about that the right to hire is a management right,  
13 correct?

14 A That's my understanding.

15 Q Okay. And that's in 7106(a) of the statute?

16 A I would have to look it up, but I believe  
17 that's the exclusive management right.

18 Q Now, based on your understanding of the  
19 statute, are you familiar with 7106(b) of the statute?

20 A I would believe that's the impacted  
21 implementations portion. At least I characterize it  
22 that way.

23 Q How about do you know what a (b)(1) matter  
24 is?

25 A I believe I do, but I would feel more

1 comfortable looking at it.

2 Q Okay. I don't have a copy of it for you,  
3 but let me ask another way. Do you know what a  
4 permissive subject of negotiation is?

5 A Yes, I do.

6 Q And what in your understanding is a  
7 permissive subject?

8 A A subject that management at their so  
9 choosing can negotiate with the Union.

10 Q And is staffing included in that to your  
11 knowledge?

12 A Hiring isn't.

13 Q Okay.

14 A I believe tour of duty is.

15 Q The number, kinds and grades of employees?

16 A The numbers, types and grades. Yes.

17 Q And is it your understanding that if  
18 something under subsection (b) is agreed to, it's  
19 binding even if it interferes with Section 7106(a),  
20 management rights, is that correct?

21 A Yes. Yes.

22 Q So, if there is an agreement, if  
23 theoretically there is an agreement based on your  
24 understanding, if there is an agreement on staffing  
25 negotiated pursuant to 7106(b)(1), it is correct to

1 say that that agreement is binding even if it  
2 interferes with management's rights to hire under  
3 7106(a)?

4 A I believe that management should it want to  
5 get out of that agreement certainly would have to  
6 propose it to the Union.

7 Q So, if you had an agreement like that, it  
8 would be binding unless you get the Union to agree to  
9 alter that agreement?

10 A I would believe that if management alters  
11 that agreement without negotiation, it does it at its  
12 own risk.

13 Q But it is a binding agreement even though it  
14 interferes with the management rights in 7106(a)?

15 MS. CIOFFALO: All right. I'm going to  
16 object at this point. I mean, obviously Mr. Brown is  
17 not an attorney. You're asking him for several legal  
18 conclusions. You started out, you know, based on your  
19 understanding, et cetera, but I think you're getting  
20 too far down the path here. He's not an attorney.  
21 That was just a pure legal conclusion question that  
22 you asked him there. I think this is getting a little  
23 excessive.

24 ARBITRATOR SHARNOFF: Well, he has some  
25 expertise. Again, the Agency in your capable hands

1 will have the final word on what management's position  
2 is on all these matters, but you can ask him his  
3 understanding, if any.

4 THE WITNESS: To your statement, thinking  
5 about it right now, in my opinion, yes.

6 MR. HIRN: Thank you. Okay. I'm good.  
7 Thank you very much, Mickey.

8 THE WITNESS: Thank you.

9 MR. HIRN: I tell you what. I will trade  
10 this with you for my exhibits back.

11 MS. CIOFFALO: Oh, okay, sure.

12 ARBITRATOR SHARNOFF: Hold onto it until you  
13 get them back. I want to witness the exchange.

14 MS. CIOFFALO: Do you want them in any  
15 particular order?

16 MR. HIRN: Yes, in the order I gave them to  
17 you.

18 MS. CIOFFALO: All right. Here you go, the  
19 exhibits in order.

20 MR. HIRN: Thank you.

21 MS. CIOFFALO: Thank you.

22 All right. Let me just check my notes here.  
23 I don't have any followup questions.

24 ARBITRATOR SHARNOFF: No second thoughts?

25 MR. HIRN: No.

1 ARBITRATOR SHARNOFF: You're sure?

2 MR. HIRN: Yes.

3 ARBITRATOR SHARNOFF: Okay.

4 MS. CIOFFALO: You open the door like that  
5 for him.

6 ARBITRATOR SHARNOFF: No. Before I say  
7 you're excused -- I'll give you one more chance.

8 MR. HIRN: No, I'm not going to get greedy.

9 ARBITRATOR SHARNOFF: This is your final  
10 opportunity.

11 MR. HIRN: I'm not going to get greedy.

12 ARBITRATOR SHARNOFF: Going once, going  
13 twice.

14 MR. HIRN: I'm not going to get greedy.

15 ARBITRATOR SHARNOFF: You're excused.

16 THE WITNESS: Thank you, sir.

17 (Witness excused.)

18 MS. CIOFFALO: We're going to implement a  
19 rule where if he gets anywhere near the door you  
20 can't --

21 ARBITRATOR SHARNOFF: Yeah. Last night we  
22 had to call somebody back three times.

23 MS. CIOFFALO: He really wanted to exit.  
24 Could we just go off the record for a second?

25 ARBITRATOR SHARNOFF: Off the record.

1 (Whereupon, a short recess was taken.)

2 MS. CIOFFALO: Mr. Cooper, can you state and  
3 spell your name for the record, please?

4 MR. COOPER: Sure. It's Steven Cooper,  
5 S-T-E-V-E-N, C-O-O-P-E-R.

6 ARBITRATOR SHARNOFF: Okay.

7 Whereupon,

8 STEVEN COOPER

9 having been duly sworn, was called as a  
10 witness and was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. CIOFFALO:

13 Q All right. Mr. Cooper, you're currently a  
14 Weather Service employee, right?

15 A Yes, I am.

16 Q And what position do you currently hold with  
17 the Weather Service?

18 A I am currently the acting regional director  
19 for Southern Region, National Weather Service.

20 Q Okay. And what is your permanent position?

21 A My permanent position is deputy regional  
22 director for National Weather Service.

23 Q Okay.

24 A For Southern Region.

25 Q Okay. And how long have you been a Weather

1 Service employee?

2 A Almost 35 years.

3 Q Okay. So how did you come up through the  
4 ranks? What was your first position with the Weather  
5 Service?

6 A My first position was basically a student  
7 trainee type position, and I worked in Augusta,  
8 Georgia, while I was still in school.

9 Q Okay. And how long did you do that?

10 A A total of about seven or eight months.

11 Q Okay. And after that?

12 A After that my first permanent position was a  
13 meteorologist intern in Albuquerque, New Mexico, and  
14 then also in Albuquerque I became a forecaster in  
15 Albuquerque.

16 Q Okay. When did you start in Albuquerque?  
17 What year?

18 A I started in 1980.

19 Q 1980, okay. And you said you started as an  
20 intern and went up to a forecaster?

21 A Yes.

22 Q Okay. So do you remember when you became a  
23 forecaster?

24 A It was somewhere around 1982.

25 Q Okay. And how long were you a forecaster in

1 that office?

2 A About four years.

3 Q Okay. And what other jobs?

4 A After that I was selected as meteorologist  
5 in charge at the National Weather Service Office in  
6 Bristol, Tennessee.

7 Q Okay. And that's otherwise referred to as  
8 the MIC?

9 A Yes, the meteorologist in charge, MIC.

10 Q Okay. And that was in about what year now?

11 A 1986.

12 Q Okay. So how long were you the MIC in  
13 Bristol, Tennessee?

14 A I was MIC for two years.

15 Q And then what position did you hold after  
16 that?

17 A After that I was selected as meteorologist  
18 in charge at the National Weather Service Office in  
19 Amarillo, Texas.

20 Q Okay. National Weather Service Office,  
21 that's NWSO?

22 A Yes.

23 Q And that was one of the old -- that was the  
24 nomenclature for the pre-modernization?

25 A Right, that was one of the offices that was



1 going to spin-up under the modernization, but it was  
2 one of the smaller offices of the two-tier structure.

3 Q Okay. And you were the MIC of that office?

4 A I was the MIC at that office as well.

5 Q And how long were you MIC there?

6 A I was MIC for four years.

7 Q So what year are we up to?

8 A I was MIC in Amarillo from 1988 to 1992.

9 Q Okay. So, in 1992, where did you go?

10 A I was selected to go to the regional --  
11 National Weather Service regional headquarters in Fort  
12 Worth as assistant chief of meteorological services.

13 Q Okay. And is that the Southern Region?

14 A Southern Region Headquarters, yes.

15 Q What is the assistant chief of  
16 meteorological services?

17 A Obviously assistant to the chief of  
18 meteorological services, but we were responsible for  
19 the day-to-day services that the weather offices  
20 provided across the Southern Region.

21 Q Okay. And that was in 1992?

22 A That was in 1992, that's correct.

23 Q Okay. And how long did you serve in that  
24 position?

25 A I served in that position from '92 to 2000.

1 Q Okay. And where did you go after that?

2 A After that, then I was selected as chief of  
3 the services division in 2000 to 2004.

4 Q All right. And in 2004, where did you go?

5 A In 2004, I was selected as deputy regional  
6 director for Southern Region.

7 Q And have you held that position since then?

8 A Yes, I have.

9 Q Now you said that you're currently the  
10 acting regional director for the Southern Region?

11 A Yes.

12 Q And have you acted in any other capacity for  
13 the Weather Service?

14 A Yes. In 2007, I was acting regional  
15 director for about eight months, and then, in 2012, I  
16 worked here in Silver Spring as the deputy assistant  
17 administrator for weather services for approximately  
18 eight months.

19 Q Okay. So you were the deputy director of  
20 the Weather Service?

21 A I was acting deputy director for the Weather  
22 Service.

23 Q Okay. And that's currently Ms. Furgione?

24 A Yes. I was Ms. Furgione's -- her deputy.

25 Q Okay. And what period of time were you at

1 headquarters in that position? You said it was 2012,  
2 but when in 2012?

3 A Right. It was early June 2012 and ended at  
4 the end of January 2013.

5 Q Okay. What do you currently do as the  
6 deputy regional -- I'm sorry, the acting regional  
7 director of the Southern Region?

8 A We're responsible for -- obviously  
9 responsible for services, working with the division  
10 chiefs and the managers across the region, the warning  
11 and forecast services across the region, overseeing  
12 that, working with developing budgets and basically  
13 working with our staff, our senior staff on the  
14 operations for the region.

15 Q Okay. And as the deputy regional director,  
16 what were your responsibilities?

17 A I was a bit more involved with labor/  
18 management relations type issues. I was more budget-  
19 oriented as deputy regional director. At that time,  
20 typically the deputy works the budget and works for  
21 the regional director in that capacity and just a  
22 little bit closer to day-to-day type operations.

23 Q Okay. Did you have any responsibilities  
24 over personnel matters?

25 A Yes.

1           Q     And what types of responsibilities over  
2 personnel matters?

3           A     I was frequently, depending on where and at  
4 what level, but I would typically be a deciding  
5 official.

6           Q     What were you deciding?

7           A     Deciding official for if there were some  
8 type of personnel action of suspension or those type  
9 activities.

10          Q     Okay. Did you have any responsibilities  
11 with respect to hiring and recruitment?

12          A     Yes.

13          Q     Okay. So let's go backwards for a little  
14 bit. You've been in the Weather Service for a long  
15 time. Are you familiar with the modernization,  
16 otherwise referred to as the MAR?

17          A     Yes. I was very involved in the  
18 modernization.

19          Q     Okay. How were you involved with  
20 modernization?

21          A     My first area of modernization when I was  
22 meteorologist in charge, MIC, at Amarillo. Amarillo  
23 was the very first office to begin to spin-up the new  
24 facility and beginning the new equipment coming into  
25 the offices, along with some others, but one of the

1 first, so I was involved with the spin-up of bringing  
2 in forecasters and developing and looking at new  
3 services.

4 Q Okay. Now you said the first way that you  
5 were involved with the MAR was as the MIC there. Were  
6 you involved with the MAR in any other fashion?

7 A Yes. Whenever I went to the regional  
8 headquarters in 1992, not only did I have the day-to-  
9 day operations, as I explained earlier, but I was also  
10 involved in transitioning those services from the old  
11 tier two-tier type structure that we had to the new  
12 structure.

13 Q Okay. When you say "two-tier type  
14 structure," what do you mean by that?

15 A There were I think it was 52 Weather Service  
16 Forecast Offices that were staffing meteorologists  
17 around the country and approximately 200 other smaller  
18 offices that were primarily staffed with  
19 meteorological technicians and interns. So the  
20 modernization, some of those offices closed, and some  
21 of those -- the term we use is spin-up -- where we  
22 spun them up to an equivalent level where instead of  
23 having a two-tier structure we have a one-tier  
24 structure that we have now of 122 Weather Forecast  
25 Offices.

1           Q     Okay.  So what services were being  
2 transferred from where to where?

3           A     It depended on the area, but essentially the  
4 old forecast offices, for example, we'll use Oklahoma,  
5 there were several different offices in Oklahoma that  
6 the forecasts were all done from Wauman area or  
7 Oklahoma City office, and the services were  
8 distributed amongst Tulsa and a couple of other  
9 offices primarily, but it was kind of an equalization  
10 of services and transferring those services to have an  
11 equal type office.

12          Q     And was there any technological changes that  
13 accompanied the structural changes in the office?

14          A     Yes.  One of the first systems that were a  
15 driving factor was an Automated Service Observing  
16 System, called ASOS, and the Weather Service radar,  
17 AD8D, the next RAD radar, the new Doppler radar that  
18 the Weather Service installed, and then eventually  
19 ARIFS, which was our computer system that was -- those  
20 are primarily the three big ones that weather offices,  
21 installed in weather offices.

22          Q     Okay.  And so did you have any  
23 responsibility over those installations?

24          A     In my capacity at the region?

25          Q     Right.

1           A     Not primarily the installation of equipment,  
2     but I did with the services.

3           Q     Okay.  So what do you mean by that?

4           A     Well, we have a systems division that was in  
5     charge of installing and overlooking the equipment  
6     being installed, but the actual services of  
7     transferring services from a forecast office where  
8     they would issue forecasts and possibly warnings for  
9     areas, those were being transferred to those spin-up  
10    offices.  And so I was responsible for those spin-up  
11    operations and the timing for that to be transferred.

12          Q     Okay.  Were you also responsible for the  
13    staffing of the new offices?

14          A     Yes.

15          Q     In what way were you responsible for that?

16          A     For the staffing, it was a little bit  
17    outside the realm of probably my job, but I was tasked  
18    with making sure offices were staffed when we were  
19    transferring services that we can maintain because we  
20    had to maintain two-tier services until all the  
21    equipment was in and we could have a full service  
22    weather forecast office.

23          Q     Was the staffing related to the technology  
24    in any way?

25          A     Yes, it was.

1 Q How was it related?

2 A There were timetables where staffing and  
3 people reporting for duty were tied to equipment being  
4 delivered, and so --

5 Q Why was that?

6 A Well, equipment was being delivered at  
7 different times at different locations, so what I was  
8 primarily involved with was matching the people with  
9 the equipment and then the services.

10 Q Okay. And why was the timing of the people  
11 coinciding with the timing of the equipment? What was  
12 happening there?

13 A The equipment had to be installed and then  
14 there was quite a bit of training that was involved,  
15 especially with the radar.

16 Q Why was there so much training involved?

17 A It was a brand new technology. It was the  
18 first Doppler radar that the Weather Service had  
19 installed, and there was a four-week training course  
20 in Norman, Oklahoma, that all the forecasters had to  
21 go to. So before we could transfer these services  
22 people had to be trained on the AD8D and how to use  
23 the new technology.

24 Q Okay. And how long did you have this role  
25 in overseeing this process?



1           A     Throughout a good chunk of the  
2 modernization. I mean, as assistant chief and then as  
3 chief, but by 2000, by the year 2000, I assumed the  
4 chief position, a lot of the modernization and the  
5 activities were starting to spin down. Most of the  
6 modernization, these transfer of services occurred  
7 during the '90s.

8           Q     Okay. And to your knowledge, in the  
9 Southern Region, had all of the offices in the  
10 Southern Region been transferred at some point?

11          A     Yes. I don't know the exact dates, but we  
12 basically transferred services in the Southern Region  
13 in three groupings.

14          Q     Okay. And do you know if all of the current  
15 WFOs in the Southern Region had certified the Stage  
16 2 --

17          A     Yes.

18          Q     And what does Stage 2 mean to you?

19          A     Stage 2 was after ALIF was delivered.

20          Q     Okay. And all of those WFOs in the Southern  
21 Region have been certified?

22          A     Yes.

23          Q     If you can flip in your binder there in  
24 front of you to Joint Exhibit 6, about halfway  
25 through, does this document look familiar to you?

1 A Yes.

2 Q Okay. This is the HR Position Management  
3 Plan that's associated with the modernization. Are  
4 you familiar with that document?

5 A Yes.

6 Q And did you have any responsibilities with  
7 respect to implementing this document?

8 A Yes. The main responsibilities were -- this  
9 was our guideline of what we used with when the  
10 equipment would be delivered and the staffing related  
11 to that.

12 Q Okay.

13 A And that was primarily what we used this  
14 for.

15 Q And to your knowledge, did this document  
16 have any applicability after that conversion and the  
17 transition was complete?

18 A Not to my knowledge, no.

19 Q I'm going to ask you to turn to Joint  
20 Exhibit 7. Do you recognize this document?

21 A Yes, I do.

22 MS. CIOFFALO: I'm going to wait for the  
23 Arbitrator.

24 ARBITRATOR SHARNOFF: I'm sorry. Which one?

25 MS. CIOFFALO: It's Joint Exhibit 7.

1 ARBITRATOR SHARNOFF: 7. Okay.

2 THE WITNESS: She should give you a nice  
3 binder like she gave me.

4 MS. CIOFFALO: We offered.

5 ARBITRATOR SHARNOFF: They did. I want that  
6 on the record.

7 (Laughter.)

8 ARBITRATOR SHARNOFF: The Agency did offer  
9 and I refused.

10 MS. CIOFFALO: We've got binders. Okay.

11 ARBITRATOR SHARNOFF: I've got a houseful of  
12 binders.

13 MS. CIOFFALO: Binders everywhere.

14 ARBITRATOR SHARNOFF: We eventually take  
15 them out of the binders so I can read the documents.

16 MS. CIOFFALO: Fair enough.

17 ARBITRATOR SHARNOFF: All right.

18 BY MS. CIOFFALO:

19 Q All right. Mr. Cooper, what is Joint  
20 Exhibit 7?

21 A This was a document that gave instructions  
22 of how to fill positions, the process. It put a  
23 process in place, and I'm looking at it. A process in  
24 place of how to fill forecaster positions. As I said,  
25 we --

1           Q     What forecaster positions did this document  
2 cover?

3           A     GS-13s and the GS-12s, it was required. We  
4 had to fill the 13s before the 12s so we would know  
5 what vacancies we have. But basically it was to give  
6 us a process to put in some order too.

7           Q     Okay. And to your understanding, was this  
8 document specific to that transition, or did it have  
9 applicability after the transition had completed?

10          A     From my understanding, it was just during  
11 that time of what we would do to get the offices spun  
12 up at an equitable level.

13          Q     Okay. And did you have any role in  
14 executing this plan?

15          A     Yes, I did. We had a trip to San Diego  
16 where we went and sorted through the applications I  
17 think as outlined in the document, sorted through the  
18 applications to try to keep duplication of selections,  
19 to try to put again some order to all this mass  
20 bidding of jobs.

21          Q     So it was a mass bidding of jobs. Does that  
22 mean that all of these employees applied for the  
23 positions at once? That's what you were sorting  
24 through?

25          A     Yes.

1 Q Okay. And sorting through them, what were  
2 you sorting them into?

3 A The forecasters, they were asked to put  
4 choices down of where they would like to go.

5 Q So the locations area.

6 A The location, yes.

7 Q And so what was your role now with respect  
8 to locations?

9 A With others, there were grouped two people  
10 from each region, and we went there just really to  
11 sort through these and, you know, to try to give  
12 employees their first choice.

13 Q Okay.

14 A Second choice.

15 Q And this was all done at once, right?

16 A Yes.

17 Q Okay. To your knowledge, does the HR  
18 staffing plan or this meteorologist placement plan,  
19 Joint Exhibit 7, are you aware that Joint Exhibit 7  
20 was referred to as the meteorologist placement plan?

21 A Joint Exhibit 7?

22 Q The one you're looking at right now.

23 A Oh.

24 Q Had you ever heard that term before?

25 A I've heard the -- yes, I've heard the name,

1 yes.

2 Q Okay. So, to your knowledge, did the HR  
3 staffing plan or the meteorologist placement plan  
4 require -- do they require the Agency today to fill  
5 any vacancies within a particular period of time?

6 A We don't use it. I see no applicability to  
7 it at this point.

8 Q Okay. And are you aware of any requirement  
9 that you need to fill vacancies in any particular  
10 period of time?

11 A No, I'm not.

12 Q Okay. Now you said earlier that you have  
13 some responsibilities over filling vacancies in the  
14 Southern Region where you have personnel  
15 responsibilities in the Southern Region?

16 A Yes.

17 Q Does that include filling vacancies in the  
18 region?

19 A Yes, it does.

20 Q What is your role -- well, what was your  
21 role as the deputy regional director in that process?

22 A As deputy regional director and now as  
23 acting regional director, we kind of share the duties,  
24 but all selections in the region have to come through  
25 and clear with either the deputy or the regional

1 director.

2 Q Okay. And I don't know if we established  
3 this. When did you take over as the acting regional  
4 director of the Southern Region?

5 A February 1, 2013.

6 Q Okay. So, at that time, who had the  
7 authority to authorize that a vacancy be filled?

8 A You mean beginning February 1?

9 Q Yes.

10 A I had the authority and then the Acting  
11 Deputy Regional Director, Mike Coyne, had the  
12 authority to clear those.

13 Q Okay. So when you first came -- well, not  
14 when you first, when you returned I guess to the  
15 Southern Region in that acting director role, were you  
16 aware of what vacancies had been submitted to  
17 Workforce Management for processing at that time?

18 A Not when I returned.

19 Q Did you at some point become aware of that?

20 A Yes. One of the first, the very first week  
21 that I was there I had asked for our budget folks to  
22 bring me up to date on the budget, and then Mike and  
23 then Gena Morrison, who handles our personnel, I asked  
24 for briefings there, where we were with respect to  
25 vacancies and where we were in the process.

1 Q And what did you learn from those briefings?

2 A With respect to the budget, we were going to  
3 be extremely tight.

4 ARBITRATOR SHARNOFF: Excuse me.  
5 Approximately when did those discussions take place?

6 MS. CIOFFALO: Oh, I'm sorry.

7 THE WITNESS: I started back at regional  
8 headquarters on February 1, it was a Friday. Those  
9 briefings started the next Monday, the very first full  
10 day I was back at the office. I felt like I really  
11 needed to get a clear understanding.

12 BY MS. CIOFFALO:

13 Q So sorry. What were they showing in the  
14 budget, about the budget?

15 A The budget was going to be -- was extremely  
16 tight. We could not have maintained all the  
17 positions, could not fill all the positions and have  
18 the budget in the black at the end of the year.

19 Q So what does that mean, you couldn't have  
20 filled all the positions? What does that refer to?

21 A If we didn't have enough budget dollars for  
22 labor to pay for -- there were somewhere, I don't know  
23 the exact number, there were somewhere between 35 and  
24 40 personnel actions. Some of those were promotions,  
25 so those occurred, but most of those were vacancies.



1 Q Okay. And so you're talking about actions  
2 that were already submitted to RADs or vacancies in  
3 general? What was --

4 A They were --

5 Q -- the distinction at that time?

6 A Excuse me. They were in different levels of  
7 the process.

8 Q Okay. All right. So what did you do about  
9 that?

10 A We were --

11 Q Well, actually let me back up for a second.  
12 When you said that you could not have filled all of  
13 those vacancies in the system and still maintained in  
14 the black, could you have then filled all those  
15 positions? What would have happened if you did fill  
16 all those positions?

17 A The budget, the projections that our budget  
18 office gave me was we would have been in the red by  
19 the end of the year.

20 Q Okay. And can you be in the red at the end  
21 of the year?

22 A No.

23 Q Okay. So what did you do?

24 A There was no order to the vacancies. There  
25 was a problem with the vacancies being filled with

1 Workforce Management. We may have a vacancy that had  
2 been sitting there for four or five, six, eight months  
3 where another one opened up after a week or two being  
4 open. So we wanted to prioritize the vacancies and  
5 try to fill the most needed ones so we could have some  
6 control.

7 Q Why didn't you have control before that?

8 A They were all just thrown up, as I said, in  
9 different levels of process, but they were all just  
10 thrown up toward Workforce Management to fill.

11 Q Okay.

12 A And I'm not sure how Workforce Management  
13 was filling them, but they were not in any order or  
14 priority that we wanted.

15 Q Okay. So who handled the prioritization  
16 primarily?

17 A I tasked that to Michael and his deputy  
18 director.

19 Q Okay. And did you intend to fill all those  
20 vacancies?

21 A We intended to fill as many as we could with  
22 the budget allowing.

23 Q Okay. So at some point did you become aware  
24 of the NOAA hiring freeze on March 27 that occurred?

25 A Yes.

1           Q     And once that freeze was in place, were any  
2 Southern Region positions submitted to the Hiring  
3 Freeze Exception Board for consideration?

4           A     Yes, there have been -- since that freeze  
5 went into effect, yes, we've submitted them.

6           Q     And who primarily handled that?

7           A     Mike Coyne primarily handled that.

8           Q     Okay. And were you supervising that  
9 function?

10          A     He would brief me on it. I would let him  
11 look at the needs, talk with the offices.

12          Q     Okay.

13          A     And where the greatest needs were, and he  
14 would brief me on it, and I basically would go with --  
15 he handled it.

16          Q     Okay. And then once you decided to go with  
17 what he was saying, where did it go from there? Did  
18 you speak directly with the Hiring Freeze Board?

19          A     No, I did not.

20          Q     Okay. And so where did the request go to  
21 first?

22          A     The request went from the region to Laura  
23 Furgione, our deputy assistant administrator, deputy  
24 director, and she would review them, and then there  
25 was the NOAA hiring board.

1 Q Okay. Got it. Now how long have you been  
2 at the Southern Region Headquarters? I don't remember  
3 the year that you said you --

4 A I've been there, in November it was 21  
5 years, so a little over 21 years.

6 Q Okay. So, to your knowledge, have there  
7 always been vacancies in the region during that time?

8 A Yes.

9 Q And how did local management deal with those  
10 vacancies? How did they operate?

11 A A local manager at a forecast office or a  
12 river forecast center, they would either pay overtime  
13 for an employee to work that, or the manager could  
14 fill the shift to cover the shift.

15 Q Okay. And did all shifts have to be covered  
16 always?

17 A Most of the time. There were exceptions.  
18 Forecasters, senior forecasters and management had the  
19 option of leaving a shift vacant if it looked like  
20 there was clear weather or really nothing going on  
21 that day and they thought they could handle it. There  
22 was an option. That was more a rarity than the rule.

23 Q Okay. Was there any minimum number of  
24 people that had to be --

25 A Yes. To my knowledge, we never had less

1 than two people on staff.

2 Q Okay. And to your knowledge, have any of  
3 the WFOs in your region not been able to schedule two  
4 people per shift due to vacancies?

5 A I'm not aware of any, no.

6 MS. CIOFFALO: Okay. That's all that I  
7 have.

8 CROSS-EXAMINATION

9 BY MR. HIRN:

10 Q Steve, after you got this briefing in  
11 February, did you folks take any actions to cancel any  
12 recruitment actions that had already been submitted to  
13 Workforce Management?

14 A We did not take action to cancel them, no.

15 Q Or to request that the recruitment actions  
16 be suspended or redone?

17 A Yes. What I asked was could we put just a  
18 halt, a temporary halt until we could prioritize those  
19 positions because, as I said, they were being filled  
20 just haphazardly, and we wanted to fill the jobs that  
21 we felt like was necessary. So, in order to get a  
22 handle on it, I asked that they halt, but I also asked  
23 that I did not want for us to have to restart the  
24 process so that they could see it through the process,  
25 it would not have to start over. And we were told by

1 Workforce Management it wouldn't. We could just  
2 basically suspend them and start them back up if we  
3 wanted to.

4 Q Did you suspend all recruitment actions?

5 A We put a halt on all until we could look at  
6 them.

7 Q What happened to the Memphis, Little Rock,  
8 Houston, Morristown, and Huntsville general forecaster  
9 vacancies?

10 A I don't know. I mean, I --

11 Q Do you recall having them suspend and  
12 canceled returned as a result --

13 A I truly don't remember.

14 Q Let me finish the question. As a result  
15 because you did decide you didn't want to pay PCS  
16 expenses?

17 A No.

18 Q So you didn't cancel the Huntsville  
19 forecaster vacancy in February?

20 A No, I said I don't remember those specific  
21 ones.

22 Q Did you cancel any, did the Southern Region  
23 cancel any vacancies?

24 A We didn't cancel. We didn't cancel. I  
25 asked for just a temporary halt to be put on

1 vacancies. I did not ask for them to be canceled.

2 Q I'm going to show you what's been received  
3 as Union Exhibit 48, but first let me ask you, who is  
4 Chris Darden?

5 A Chris Darden is the meteorologist in charge  
6 at the Huntsville weather office.

7 Q Is he generally a reliable and informed MIC?

8 A Those are terms that could be interpreted  
9 differently, but yes.

10 MS. CIOFFALO: Richard, if I can proffer Mr.  
11 Mike Coyne will be testifying, so you may want to  
12 pursue the line of questioning with the person who the  
13 witness has testified actually handled these matters.

14 MR. HIRN: No. Well, he just testified --  
15 you know, Steve just testified that no positions were  
16 canceled and I want to ask him about that.

17 MS. CIOFFALO: He said he didn't remember  
18 what happened.

19 MR. HIRN: He testified that no positions  
20 were canceled.

21 MS. CIOFFALO: Okay.

22 THE WITNESS: What I said was that our  
23 intent was to put a halt to them, not cancel them.

24 MS. CIOFFALO: So he didn't testify that  
25 they were not canceled. He testified as to what his

1 intent was with respect to having time to prioritize  
2 the vacancies. So the record will speak for itself.

3 MR. HIRN: The record is clear that he said  
4 that he did not cancel any -- the Southern Region did  
5 not cancel any vacancies.

6 ARBITRATOR SHARNOFF: Well, the testimony  
7 will show whatever it shows, but is there a question?

8 MR. HIRN: Yes, and I'm giving him --

9 ARBITRATOR SHARNOFF: Which one are you  
10 looking for so I can also search for it?

11 MR. HIRN: 48 and 49.

12 ARBITRATOR SHARNOFF: 48 and 49, and if you  
13 can also find them and have them ready.

14 (Pause.)

15 BY MR. HIRN:

16 Q Looking at Exhibit 48, Chris Darden is the  
17 meteorologist in charge of the Huntsville office,  
18 correct?

19 A That is correct, yes.

20 Q And you just said he is a reliable and  
21 informed meteorologist in charge?

22 MS. CIOFFALO: Objection. That is not what  
23 he said. He said that that could be interpreted  
24 multiple ways I think was his response. That was his  
25 response.



1 MR. HIRN: No, it wasn't.

2 THE WITNESS: Yes, it was.

3 MS. CIOFFALO: Yes, it actually was.

4 MR. HIRN: And then he said that he thought  
5 he was reliable and informed.

6 MS. CIOFFALO: Okay.

7 BY MR. HIRN:

8 Q But nonetheless, did not Mr. Darden write in  
9 this email that the Huntsville forecasters vacancy had  
10 been canceled?

11 A Well, the question you just asked me, did he  
12 write this email, and I can't testify that he wrote  
13 this email.

14 Q Okay. Do you recognize the  
15 chris.darden@noaa.gov address?

16 A Yes.

17 Q That's an official Agency email address?

18 A Sure it is. Absolutely.

19 Q Directing your attention to Union Exhibit  
20 49.

21 ARBITRATOR SHARNOFF: Well, let me ask on  
22 48, have you ever seen this email before or were you  
23 aware of it?

24 THE WITNESS: Mr. Coyne actually handled  
25 most of this stuff, and that's -- I'm not trying to

1       avoid. I just don't remember stuff from a year ago,  
2       you know, as I was asked about certain positions.

3               MS. CIOFFALO: Had you ever seen any memos  
4       about senior staffing?

5               ARBITRATOR SHARNOFF: Yes, first question is  
6       just have you ever -- do you recall ever seeing this  
7       before?

8               THE WITNESS: I just don't -- I don't  
9       remember seeing it. I could have.

10              ARBITRATOR SHARNOFF: And even if you didn't  
11       see the email, do you remember anything about the  
12       substance of the email? Any discussions with anyone?  
13       Just what you remember.

14              THE WITNESS: I just don't remember. I  
15       truly just don't remember. Again, I'm not trying to  
16       avoid. I'd be happy to tell you if I had or hadn't.  
17       I just can't remember.

18              ARBITRATOR SHARNOFF: That's all we're  
19       asking --

20              THE WITNESS: Okay.

21              ARBITRATOR SHARNOFF: -- what you remember.

22              BY MR. HIRN:

23              Q       Directing your attention to Union Exhibit  
24       49, the second page, Ms. Linda Diddy, the HR  
25       specialist, wrote that the announcement for Morristown

1 forecaster has been canceled per management. Is it  
2 your testimony that she is incorrect?

3 A I can say when we asked Workforce  
4 Management, we did not ask them to cancel. We asked  
5 them to put a temporary halt until we could get some  
6 priority to it. That was all we asked, and we were  
7 assured by Workforce Management that was how it would  
8 be.

9 (Pause.)

10 BY MR. HIRN:

11 Q Prior to the hiring freeze, were there any  
12 other vacancies in the Southern Region that had not  
13 been sent to WFMO for recruitment action?

14 A Could you ask that again? I'm going to see  
15 if I -- I think I can answer the question.

16 Q Prior to the hiring freeze, were there any  
17 other vacancies in the Southern Region which had not  
18 been sent to WFMO for recruitment action?

19 A Are you talking about the time once I  
20 returned or what timeframe?

21 Q Yes. At the time you returned --

22 A Okay.

23 Q -- were you aware of any other vacancies  
24 that had not been sent to WFMO for recruitment action?

25 A They were in various levels, and again I'm

1 not the expert in this. Mike and Gena both are the  
2 people who worked this more than I do. But there were  
3 different levels when they're put into the system and  
4 like they're handed to an HR specialist and that, so  
5 there's --

6 Q I understand that, but before -- listen to  
7 my question again. Were there any other positions  
8 that had not been sent -- any other vacancies which  
9 had not been sent to WFMO for recruitment action?

10 A I don't know.

11 Q Was there a list constructed at the time of  
12 vacancies in the Southern Region?

13 A To be filled.

14 Q No. Just was there a list constructed at  
15 the time of vacancies in the Southern Region?

16 A I'm sure Mike and them developed a list so  
17 we could prioritize it.

18 Q Had you seen such a list?

19 A I'm sure I did.

20 Q Did that list contain the dates the  
21 positions became vacant?

22 A I don't remember.

23 MR. HIRN: No more questions.

24 MS. CIOFFALO: I just have one or two  
25 followups.

## 1 REDIRECT EXAMINATION

2 BY MS. CIOFFALO:

3 Q When you were looking at the budget and  
4 determined that you weren't going to be able to fill  
5 everything you had in the hopper at that time, what  
6 funds were you figuring that you were going to need to  
7 spend in order to fill those vacancies?

8 A You typically look at labor for an employee  
9 of what it would cost, and it's going to vary  
10 depending on the position, but you could be looking at  
11 say \$100,000, \$120,000, just depending on the vacancy,  
12 \$80,000, and you did look at what the PCS costs would  
13 be if you had those dollars available. So the total  
14 amount, the average amount for a move last year was  
15 about 84-, \$85,000. We did have a move, it was over  
16 \$200,000. So you have to account for that because you  
17 don't know who's going to be selected, and so that  
18 amount could range from 1- to \$300,000, maybe more, in  
19 that ballpark.

20 Q Okay. Was there a particular number that  
21 you -- was it the average that you were looking at?

22 A We would typically look at the average, but  
23 until they were selected you just didn't know what the  
24 numbers were.

25 Q Okay. So, following up on Mr. Hirn's

1 questions regarding the cancellations of vacancies,  
2 whatever your request was to Workforce Management,  
3 were you in control of how they handled that request?

4 A No.

5 Q I mean, so, if Workforce Management canceled  
6 it or had to cancel it for whatever reason, was there  
7 anything that you could have done, you know, to  
8 prevent that?

9 A No.

10 MS. CIOFFALO: Okay. That's all that I  
11 have.

12 ARBITRATOR SHARNOFF: Anything additional?

13 MR. HIRN: No.

14 ARBITRATOR SHARNOFF: Okay. You're excused.  
15 Thank you very much.

16 (Witness excused.)

17 ARBITRATOR SHARNOFF: What is your pleasure?

18 MS. CIOFFALO: Why don't we take a lunch  
19 break.

20 (Whereupon, at 12:06 p.m., the hearing in  
21 the above-entitled matter was recessed, to reconvene  
22 at 1:00 p.m. this same day, Wednesday, January 15,  
23 2014.)

24 //

25 //



1 administrative officer.

2 Q Okay. And how long have you held that  
3 position?

4 A About seven, eight months. I started in  
5 mid-May of 2013.

6 Q Okay. And what are the duties of the CFO  
7 position, CAO position?

8 A The duties are primarily to oversee  
9 financial management and budget planning for the  
10 Agency and includes internal control processes and  
11 certifying to the validity and the accuracy of our  
12 financial statements for the end-of-year audit  
13 process.

14 Q Okay. All right. And you said you've been  
15 in that role since May of 2013?

16 A Yes.

17 Q Okay. Where were you before that? Were you  
18 a Weather Service employee before that?

19 A Not immediately prior --

20 Q Okay.

21 A -- but earlier on, so the position I held  
22 before this position was the chief financial officer  
23 for NOAA's Office of Marine and Aviation Operations.

24 Q How long did you hold that position?

25 A About four and a half to five years.



1 Q Okay. And the same type of duties as the  
2 CEO of Weather Service?

3 A Yes.

4 Q All right. And prior to that position what  
5 was your job?

6 A Prior to that position, I was in an acting  
7 capacity, acting CFO over at the National Ocean  
8 Service, also part of NOAA, and then prior to that, so  
9 that started in -- that's in the 2008 timeframe -- my  
10 whole remaining or first part of my career was spent  
11 here at the National Weather Service.

12 Q How long were you a Weather Service employee  
13 prior to 2008?

14 A Oh, geez. About 17 years, so I started in  
15 December of 1990.

16 Q Okay. And what positions have you held in  
17 the Weather Service?

18 A Budget analyst at different grades, and I  
19 was the director of the Budget Formulation and Program  
20 Analysis Division, a division within the CFO's office,  
21 and then was deputy CFO.

22 Q When were you deputy CFO?

23 A During the years of 2005 to mid-2008.

24 Q And that's when you became the acting CFO of  
25 NOS?

1           A     Correct.

2           Q     Okay. All right. Mr. Potts, I want to show  
3     you a document, and you should be able to find in that  
4     stack to your left there, it's Union's Exhibit 86,  
5     which had been previously entered. It should be the  
6     very last document in a stack all of the way -- yeah,  
7     at the very bottom. Here, I'll find it.

8           A     No, this is something different.

9           MS. CIOFFALO: That's okay. It should be on  
10    the bottom there. All right. There we go. I'm going  
11    to just wait for everyone to get there.

12                   (Pause.)

13           MS. CIOFFALO: All right. Everyone ready?

14           ARBITRATOR SHARNOFF: Well, I'm still trying  
15    to find my copy.

16           MS. CIOFFALO: Do we have an extra?

17           ARBITRATOR SHARNOFF: It's bound to be here  
18    somewhere.

19           MS. CIOFFALO: You know what, you can use  
20    mine and I'll just share with the witness if you'd  
21    like.

22                   (Pause.)

23           ARBITRATOR SHARNOFF: Okay. Sorry about  
24    that.

25           MS. CIOFFALO: All right. We've got it.

1 Mr. Hirn, are you okay?

2 MR. HIRN: No, I just -- I'm sorry. Off the  
3 record.

4 (Discussion held off the record.)

5 ARBITRATOR SHARNOFF: All right. Back.

6 MS. CIOFFALO: Okay. Ms. Desrosius went to  
7 go get Mr. Hirn a bottle of water, but we can  
8 continue.

9 BY MS. CIOFFALO:

10 Q So, I'm sorry, Union's Exhibit 86, which had  
11 been entered into the record earlier in the  
12 proceedings, is an email, it appears to be an email  
13 exchange between you and Bill Hopkins. Does this look  
14 familiar to you?

15 A Yes.

16 Q Okay. And do you remember sending these  
17 emails or receiving them?

18 A Yes.

19 Q Okay. And on the third page of the document  
20 there is an attachment, which is a budget chart of  
21 sorts. Do you recognize that document?

22 A Yes.

23 Q Can you tell us what this document is?

24 A Yes. This is a spreadsheet that takes  
25 information from our accounting system, specifically

1 is comparing the final funds availability that we get  
2 from NOAA under the appropriation for FY '12, fiscal  
3 year '12, and compares it to that same availability  
4 for fiscal year '13 and then in the third column  
5 compares to that the obligations in the accounting  
6 system to date which were as of August 17, 2013.

7 Q And did you generate this report?

8 A Yes.

9 Q Okay. So let's focus in on a couple of  
10 specific things. Today we're mostly talking about the  
11 Local Warnings and Forecast base PPA, and can you tell  
12 us which line of these columns represents the Local  
13 Warning and Forecast base dollars?

14 A Yes. The first funding line at the top of  
15 the chart. It's labeled "Local Warnings and Forecast  
16 Base."

17 Q So let's talk about the columns. The first  
18 column that says "NOAA BEX, FY 12, Final Funding  
19 Target," can you explain for us in layman's terms what  
20 that refers to?

21 A Sure, and I should clarify. When I say "I  
22 prepared this," my staff --

23 Q Got it.

24 A -- within the CFO's office prepared this.

25 Q Okay.

1 A Yeah, so I'm sorry, the first column?

2 Q The first column that refers to the FY 2012  
3 final funding target, what is that?

4 A Yes, so that's the final funding  
5 availability that we received, so that's the allotment  
6 that we get under the appropriation through the NOAA  
7 budget office, so that's the net funds available for  
8 us to obligate for the fiscal year.

9 Q And that was for FY '12?

10 A Correct.

11 Q Okay. What is the next column, the FY '13  
12 final funding target? What does that refer to?

13 A Yes, that column is the same thing, only for  
14 fiscal year 2013.

15 Q Okay. Now that number is roughly -- this is  
16 in millions, right? This is in real dollars?

17 A Yes.

18 Q So that number is 625.6, rounding up,  
19 million dollars?

20 A Correct.

21 Q And so that's what the Weather Service had  
22 in its Local Warnings and Forecast base PPA as of  
23 August 17, 2013?

24 A That's correct.

25 Q Was there ever a different number in that

1 column from what you understood that you had in FY  
2 '13?

3 A Yes. For most of the fiscal year we only  
4 had about \$610 million available.

5 Q Okay. When did you receive the 625 point  
6 roughly six million dollar number for that?

7 A We received that in terms of a final  
8 allotment in early August of 2013.

9 Q Okay. So now we've got the third column.  
10 What is that?

11 A So, yes, the third column are the  
12 obligations in the NOAA accounting system as of  
13 August 17 against the fiscal year 2013 appropriation.

14 Q Okay. So it looks like as of August 17, as  
15 of August 17, you had obligated -- I guess you had  
16 maybe \$24 million left to obligate at that time if my  
17 math is correct?

18 A About, correct.

19 Q About that. Oh, I'm sorry, \$124 million,  
20 right?

21 A Oh, you're right. Yes.

22 Q Okay. Why did you have so much, you know,  
23 so much money still in the PPA, still available in the  
24 PPA when your fiscal year -- let me ask, when did your  
25 fiscal year end?

1           A     September 30.

2           Q     Okay.  So you're about a month and a half  
3 out.

4           A     Correct.

5           Q     So why did you have that much at that time  
6 in your Local Warnings and Forecasts base account?

7           A     A number of reasons.  Number one, the  
8 uncertainty involved and surrounding the  
9 appropriations process for fiscal '13 that started all  
10 the way back on October 1, the beginning of the fiscal  
11 year, having continuing resolutions, and then later in  
12 the fall getting a final appropriations bill for the  
13 year, but then that amount, at the roughly \$610  
14 million level for Local Warnings and Forecasts was so  
15 far below what we positioned or postured as our  
16 requirement level and what we requested in the budget.

17                     Then the uncertainty surrounding NOAA's  
18 efforts to reallocate and mitigate that inherent  
19 shortfall through their spin plan, and the timing of  
20 the approval of that spin plan and our receipt of the  
21 actual funding that the National Weather Service had  
22 to be very constrained in terms of its spending, very  
23 conservative in terms of its spending with all of  
24 those uncertainties out there.  So that led to a good  
25 deal of conservative constraint in terms of the rate

1 of spending, which includes labor and hiring.

2 And I think the second factor here is along  
3 with that we had many constraints in our NOAA  
4 corporate offices, our Workforce Management office, in  
5 our acquisitions office, in the sense of their  
6 capacity to process hires, to process grants and  
7 contract awards on a timely basis, which led to many  
8 delays on those fronts. So even within the reduced  
9 spin plan that we were still attempting to execute,  
10 there were many delays in getting obligations on the  
11 books.

12 Q Okay. Had you committed those funds earlier  
13 in the fiscal year?

14 MR. HIRN: Well, you're asking a question  
15 about a time before he was even here.

16 MS. CIOFFALO: He came on in May.

17 BY MS. CIOFFALO:

18 Q So to your knowledge --

19 MR. HIRN: In 2013.

20 MS. CIOFFALO: Yes, in 2013, and this was  
21 August of 2013.

22 MR. HIRN: But you asked him about the  
23 earlier -- okay.

24 MS. CIOFFALO: Yes.

25 //



1 BY MS. CIOFFALO:

2 Q Okay. To your knowledge, prior to August of  
3 2013 when this money was, you know, in the Local  
4 Warnings and Forecast base, to your knowledge, the  
5 funds, could they have been used for anything or were  
6 they committed already? I'm trying to use the right  
7 budget term here.

8 A Yes. I would describe them as those funds  
9 were from our standpoint accounted for in that they  
10 were in our financial plans at the 610 level.

11 Q Okay.

12 A And that when we did our normal budget  
13 reviews with our operating units, each of them either  
14 projected, so we laid out our financial plans and then  
15 we routinely check in on are they still projecting on  
16 those plans, that they were all still projecting to  
17 fully execute their plans and/or be over or were  
18 actually projecting shortfalls in their plans as of  
19 September 30 date.

20 Q Okay. And this was based on the 610 number  
21 that you --

22 A Correct.

23 Q Okay. And again, how long did you have to  
24 work with the 610 number?

25 A Until early August. We did not have the

1 final allotment at the 625 level until that timeframe.

2 Q Okay. All right. So now what were those  
3 funds, the roughly \$110 million at that time when you  
4 were working off of the 610 number, the roughly 109,  
5 110 million dollars that you still had available, what  
6 was that meant to go toward?

7 A So those were meant to go toward all of the  
8 normal National Weather Service operations and  
9 maintenance type costs that are applicable to this  
10 line item, ranging from labor in our field offices and  
11 headquarters components for staffing to fixed costs  
12 like rents and utilities and communications to those  
13 key contractual support requirements both in  
14 headquarters and in the field that are planned on an  
15 annual basis.

16 Q And that contractual support that you're  
17 referring to, you mentioned earlier difficulties with  
18 the contract process, how did that affect, you know,  
19 the number that's showing up in this chart at that  
20 time?

21 A Oh, as of the --

22 Q Yeah.

23 A -- August 17? That affected that in terms  
24 of execution, that we were at a lower execution rate  
25 than we planned because of those delays.

1 Q Okay.

2 ARBITRATOR SHARNOFF: When you say lower  
3 execution, lower execution on what?

4 THE WITNESS: Of our acquisition and  
5 contract plan. So, as of this date, our plan would  
6 have had us at a much higher level, but because of  
7 those delays that I mentioned we were lagging.

8 BY MS. CIOFFALO:

9 Q Okay. I might be able to help here. In  
10 laymen's terms, what does execution mean in terms of  
11 the budget?

12 A Yeah, when I say "execute," I'm talking  
13 about the obligation of this budget authority during  
14 the fiscal year.

15 Q Would it be fair to say that executing or  
16 obligating dollars would be spending them?

17 A Well, there's a two-phased piece.

18 Q Okay. Explain.

19 A So, in government accounting, we obligate.  
20 That means the government has actually awarded a  
21 contract, basically written a check. Then the outlay  
22 or the payment occurs once we pay the invoice that is  
23 collected upon from the vendor.

24 Q Okay. So once money is obligated, is it  
25 available anymore at that time?

1 A No.

2 Q And can you obligate funds that are not  
3 currently in the PPA at the time?

4 A No.

5 Q So how much did you end up executing or  
6 obligating by the end of fiscal year '13, by  
7 September 30? Do you happen to know that number?

8 A Yes. Within this specific line item --

9 Q Within that PPA, yeah.

10 A -- which is just focusing on the fiscal '13  
11 appropriation for Local Warnings and Forecast base, we  
12 obligated about \$616 million as of the fiscal close,  
13 September 30.

14 MS. CIOFFALO: Okay. And I'll ask to mark  
15 for identification Agency's Exhibit 18.

16 (The document referred to was  
17 marked for identification as  
18 Agency Exhibit No. 18.)

19 BY MS. CIOFFALO:

20 Q So is that -- I'm sorry, let me ask you  
21 this. Do you recognize this document?

22 A Yes.

23 Q What is this document?

24 A This is a report out of our financial system  
25 that compares the actual obligations as of the fiscal

1 year close to the final allotment and then shows the  
2 balance or the allotment variance.

3 Q Okay. Does the Local Warnings and Forecast  
4 PPA appear on this chart? That information for that  
5 PPA, does it appear here?

6 A Yes. The specific PPA that we've been  
7 talking about for the fiscal '13 appropriation of  
8 Local Warnings and Forecasts shows up about midway  
9 down the page under this code 1015, midway through  
10 that box.

11 Q Okay. And if you can take us through those  
12 numbers. How much was the allotment that you had  
13 received from Local Warnings and Forecasts in FY '13?

14 A So there you'll see the \$625.6 million  
15 roughly was the allotment, and then the obligation, as  
16 I mentioned here, and now that I have the document in  
17 front of me, it's about \$616.2 million obligated.

18 Q Okay. And then what's the difference  
19 between those two numbers as appears here?

20 A Yeah, about \$9.4 million.

21 Q So \$9.4 million is what you were not able to  
22 obligate by the end of FY '13?

23 A Correct.

24 Q Okay. And I'm not sure if I asked this.  
25 What percentage of your overall Local Warnings and

1 Forecast allotment does that represent, if you know  
2 math?

3 A That represents about a 98.5 percent  
4 obligation rate.

5 Q And is that a good rate? How would you  
6 characterize that rate?

7 A Yes, I think that's a good rate in terms of  
8 executing your budget for the fiscal year.

9 Q Okay. And why is that a good rate?

10 A I think it demonstrates for a fiscal year  
11 period that the Agency had plans that could be largely  
12 executed, the vast majority of the funds, but that we  
13 didn't spend at a rate so close to the allotment, so,  
14 for example, 99.99 percent, to actually risk  
15 overspending, which would be a violation of the Anti-  
16 Deficiency Act.

17 Q And would you be responsible if the Agency  
18 had exceeded the allotment for Local Warnings and  
19 Forecasts?

20 A Yes.

21 Q What could happen if that occurred?

22 A Well, per the statute, the Anti-Deficiency  
23 Act, you know, could be fined, disciplinary action,  
24 could be taken at the worst case, there is potential  
25 imprisonment.

1 Q There's criminal penalties associated?

2 A Correct.

3 Q Okay. Could you have taken that money and,  
4 you know -- so that extra \$9 million that was left  
5 over, had there been plans for that money as well?

6 A Yes.

7 Q And so why wasn't it obligated?

8 A Well, principally because of those  
9 constraints that I mentioned earlier with contracting  
10 mainly.

11 Q What were those constraints again?

12 A In that with the way we receive the funds,  
13 not being able to have sufficient lead time for  
14 contracting officers and staff to do their due  
15 diligence on contracts and funding actions with a  
16 month and a half left in the fiscal year. So some of  
17 even what we planned to do once we got the funding we  
18 still couldn't execute.

19 Q Okay. When you say contracts and other  
20 obligations, would this only have been tied up in  
21 contracts, or were there other things that you planned  
22 to do?

23 A No, there are other things, so it ranges  
24 from -- and again, if we had -- I mentioned the 610  
25 and the 625. NOAA's intent with their final spin plan

1 and reallocations that got us to the 625 level was to  
2 be able to restore, to try to get back on track with  
3 hiring and staffing. By the time NOAA's spin plan was  
4 approved in the June timeframe, we already knew that  
5 we couldn't fully execute the increase on labor  
6 spending alone. We had already gotten well into the  
7 fiscal year, so there's not as much time left in the  
8 fiscal year to fully execute on labor, and the further  
9 that got pushed to the right in terms of when we  
10 actually received the allotment, our chances for  
11 actually obligating funds on labor became physically  
12 constrained just due to the timing.

13 So we did identify shorter term liabilities  
14 that we could execute that we knew we were going to  
15 have to meet either in the end of fiscal '13 or early  
16 '14 having to do with deficiencies across the Agency  
17 ranging from a IT technology refresh where we had  
18 gotten way off of our refresh cycle in field offices  
19 for our computers, training where we had generated a  
20 large training backlog at our training center, things  
21 like just basic office supplies and logistics at our  
22 field offices where we were down to really bare  
23 cupboards in those. So those are some examples.

24 We also had reduced under that original  
25 appropriation level quite aggressively our Bowie



1 center operations contract support, so that was  
2 probably one of the main areas other than the IT  
3 refresh that I mentioned where we were trying to  
4 restore our technical contract support services for  
5 Bowie operations. So those are some key examples.

6 Q Okay.

7 A But knowing that, again, timing left in the  
8 fiscal year for labor spending was diminished, we were  
9 trying to tackle some of those other liabilities that  
10 we knew from a mission continuity standpoint going  
11 into '14 that we would have to meet regardless, and  
12 even those, as I mentioned before, we were not able to  
13 fully execute.

14 Q Okay. And you characterized those actions  
15 as shorter term liabilities. What do you mean by  
16 shorter term and what does that compare to?

17 A Well, I said short term in the sense that we  
18 knew we could execute them, that we can obligate them  
19 within two months, a month and a half left in the  
20 fiscal year, whereas you cannot obligate a full-year  
21 staffing for an individual, for an employee in a month  
22 and a half.

23 Q Okay. And if the Agency had been able to  
24 execute a hiring action say during that time period,  
25 would that have been considered a short-term

1 liability?

2 A No. The hiring actions are long-term  
3 liabilities in that when we hire employees, and our  
4 workforce is made up of permanent federal employees,  
5 that you have to look at that as a long-term permanent  
6 liability because once you hire them, unless there's a  
7 performance issue, you're liable to pay them as long  
8 as their tenure is with the Agency.

9 Q And did you have any concern about the long-  
10 term liability, you know, the long-term nature of  
11 employee salaries at that time?

12 A Yes. And I already touched on the timing of  
13 the final apportionment and allotment of the '13 spin  
14 plan, but then looking forward to '14, we had a lot of  
15 uncertainty with regard to the '14 appropriations  
16 process wherein we didn't know what was in store with  
17 the second round of sequestration cuts which were  
18 required by law, and there was an amendment proposed  
19 in Congress that would crank up that second round of  
20 sequestration cuts up to potentially 11 percent, which  
21 would be almost a \$70 million reduction for the  
22 National Weather Service. So we were going into '14  
23 in that context being very conservative about the  
24 permanent liability footprint that we were creating.

25 Q Okay. You mentioned earlier execution of

1 contracts, and there was some discussion throughout  
2 this proceeding. Do you know, as CFO, are you aware  
3 if by the end of FY '13 the Agency had spent more or  
4 less in contracts than it had in FY '12?

5 A Yes. We spent less in contracts compared to  
6 '12.

7 Q Do you know about how much?

8 A About \$22 million less.

9 Q Okay. And there's been some discussion of  
10 grants also in the last couple days. Are you aware if  
11 the Agency spent more or less in grant funding in FY  
12 '13 than it did in FY '12?

13 A Yes. We spent also less in grants compared  
14 to '12.

15 Q Okay. Do you know about how much in grants?

16 A More than \$3 million. I'm thinking almost  
17 \$4 million less in grants, in that range.

18 MS. CIOFFALO: Oh, I'm sorry, can I enter  
19 into evidence this budget closeout document chart that  
20 we've been referring to, please?

21 ARBITRATOR SHARNOFF: Agency 18?

22 MS. CIOFFALO: Agency 18.

23 ARBITRATOR SHARNOFF: Any objection or  
24 questions?

25 MR. HIRN: No.

1 ARBITRATOR SHARNOFF: Okay. Admitted.

2 (The document referred to,  
3 previously identified as  
4 Agency Exhibit No. 18, was  
5 received in evidence.)

6 MS. CIOFFALO: All right. We're good.

7 CROSS-EXAMINATION

8 BY MR. HIRN:

9 Q John, how much did you spend on grants in FY  
10 '13? How much did the Weather Service spend on grants  
11 in FY '13?

12 A Richard, I don't have that number off the  
13 top of my head. I just remember looking at the  
14 comparison I just focused on the variance in my mind  
15 that it was between 3 to \$4 million.

16 Q Okay.

17 A But traditionally we're in the -- we're in  
18 the 10 to \$15 million range at the most in grants.

19 Q You're not required by law to issue any  
20 grant money, however, correct?

21 A Correct.

22 Q On the Local Warnings and Forecast base  
23 line, not all of that is labor, correct?

24 A Correct.

25 Q How much --

1 MS. CIOFFALO: Are you referring to Agency  
2 Exhibit 18?

3 MR. HIRN: Anywhere.

4 MS. CIOFFALO: Oh.

5 MR. HIRN: Within 18 or wherever it appears.

6 BY MR. HIRN:

7 Q Local Warnings and Forecast base, that PPA,  
8 that line item, that's not all labor?

9 A Correct.

10 Q Do you know how much of it is labor?

11 A Not off the top of my head. I know that  
12 within our entire operations, research and facilities  
13 budget, okay, that we refer to as ORF, our labor  
14 spending traditionally is about 65 percent of the  
15 entire ORF. I guess subactivity I think is the proper  
16 term for that. So, within just the Local Warnings and  
17 Forecast line, Richard, it's going to be a much higher  
18 percentage than that.

19 Q In reading Agency Exhibit 18, looking at the  
20 grand total at the second page, it looks like to me if  
21 I read it right the Weather Service could have spent  
22 144 -- well, let me put it this way. At the end of  
23 the fiscal year, you had \$144 million in the total pot  
24 that was not spent that you could have spent, is that  
25 right?

1           A     I think I would just caveat that slightly in  
2     that you're including, and I'm looking at the report,  
3     obligations versus plan for our reimbursement  
4     agreements as well.

5           Q     Right.

6           A     So you almost have to --

7           Q     Back that out.

8           A     -- treat those a little bit differently  
9     because those are traditionally multi-year interagency  
10    agreements where the funds are made available under  
11    the auspices of that multi-year agreement, and it's  
12    expected that they are there for a multi-year period.  
13    So they're not governed by the NOAA appropriation.

14          Q     Okay.

15          A     So you might want to just focus on the ORF  
16    and leave PAC out.

17          Q     So, in other words, if you back out the  
18    19.588 from reimbursable total unspent, you'd still  
19    end up with about \$125 million that could have been  
20    spent but that wasn't.

21          A     Roughly, that's correct. Uh-huh. Now keep  
22    in mind these balances, I should clarify, are against  
23    an allotment amount that includes both the FY '13  
24    appropriation and carryover funds from the FY '12  
25    appropriation.

1 Q Okay.

2 A Because it's important to note that these  
3 are multi-year appropriations. In ORF, it's a two-  
4 year duration, and in PAC, there are three years in  
5 duration. So Congress has appropriated these funds  
6 with the authority given to us that we have up to two  
7 years and then for PAC up to three years to actually  
8 fully execute them.

9 Q So, in ORF, do I understand that in ORF,  
10 that's operations, research and facilities, of which  
11 Local Warnings and Forecasts is an element, that you  
12 could have used leftover FY '12 funds that had not  
13 been rescinded to pay '13 bills? Is that correct?

14 A That's correct.

15 Q Do you know whether there was any money left  
16 over at FY '12?

17 A Yes. If you look on this exhibit,  
18 everything under that code that's labeled 1011 --

19 Q Okay.

20 A -- those are all FY '12 appropriations.

21 Q So that was carryover money?

22 A Correct.

23 Q Okay. So you added it in, you've added that  
24 in the total that was available and then subtract, and  
25 then -- got it. I understand.

1           A     Yeah.  In terms of our financial statements  
2     and our closeout, we have to --

3           Q     Gotcha.

4           A     -- we have to reflect both, all  
5     appropriations.

6           Q     Gotcha.  So then, in other words, the  
7     \$9.4 million left over in Local Warnings and Forecast  
8     under Code 1015, that goes into the -- can be put into  
9     the FY '14 hopper?

10          A     Correct.  It's carried over into '14.  Still  
11     available for obligation, correct.

12          Q     So, when I go and I analyze what Congress is  
13     in the process of passing, I can add that number to  
14     that, is that correct?

15          A     In terms of total availability, yes.

16          Q     Okay.  So that means you've got \$125 million  
17     from last year which you can roll over until FY '14 in  
18     addition to whatever Congress gives you by the end of  
19     the week, right?

20                 MS. CIOFFALO:  Objection.  I think that  
21     mischaracterizes.  He said \$9 million.

22                 MR. HIRN:  No, no, but in total.

23                 MS. CIOFFALO:  Oh, in total.  Okay.

24                 BY MR. HIRN:

25          Q     Right?



1 A Correct.

2 Q And if you want to move it from one PPA to  
3 another, that's where you have to do the reprogramming  
4 request to Congress, correct?

5 A That's correct.

6 Q But that's just a matter of sending over a  
7 letter and having the appropriations staff say it's  
8 okay.

9 A That's the process, yeah.

10 Q Okay.

11 A It can take a while sometimes.

12 Q Pardon?

13 A It can be a protracted process.

14 Q Like if maybe they don't like it --

15 A Right.

16 Q -- then you can have some discussions about  
17 changing it. Right.

18 A And I should just clarify. When you say  
19 rollover, you know, it's not quite so simple. We do  
20 have to get it reapportioned. So OMB has to approve  
21 those funds to be made available again in the next  
22 fiscal year, and then we have to go through the  
23 allotment process.

24 Q But they generally do that, don't they?

25 A They generally do that, correct, and in fact

1 we've already apportioned and allotted the '13  
2 balances into '14, so that's been accomplished.

3 Q Okay. So, in other words, if you wanted to  
4 use the \$125 million left over at the end of the last  
5 fiscal year for labor in the Weather Service, all you  
6 have to do is ask Congress in a letter to move it from  
7 one line to another line, correct?

8 A I would say that's a major understatement of  
9 the task.

10 Q Well, because OMB has got to sign off.  
11 You've got to get the department to --

12 A No, I think I see that the main reason is  
13 that all of these different PPAs or funding lines that  
14 we're looking at all have their specific intent as was  
15 originally appropriated by Congress per our  
16 President's budget request, and I'll highlight many of  
17 these lines have to do with the Sandy supplemental  
18 funding.

19 Q Uh-huh.

20 A So those all have specific intents and  
21 expectations associated with them. For the Agency  
22 then to come forward and say, stop, forget all of  
23 that, we need to take that balance and use it for  
24 something else, I would just submit that would be not  
25 accepted very well or easily, so it's --

1 Q But that's what happened when --

2 MS. CIOFFALO: Let him finish his answer,  
3 please.

4 MR. HIRN: He did.

5 MS. CIOFFALO: Sorry. You may not have  
6 heard him. He was still talking.

7 MR. HIRN: I apologize.

8 ARBITRATOR SHARNOFF: You said your answer.  
9 If not, complete it.

10 THE WITNESS: I'm complete. That's fine.

11 BY MR. HIRN:

12 Q But in fact that's what happened when the  
13 Agency submitted a reprogramming request to abort the  
14 furloughs.

15 A In part, yes. I mean, it was a reallocation  
16 of funds from the original appropriation.

17 Q Right.

18 A It did include in part some of the Sandy  
19 supplemental funding, but it wasn't a wholesale shift.

20 Q But the Agency elected not to do so with  
21 regard to filling the growing number of vacancies in  
22 the Weather Service, isn't that correct?

23 A I'm not certain what specific I guess  
24 timeframe are you referring to there.

25 Q Since the time you became CFO.

1           A     Okay.  So I'm sorry, what's the specific  
2 question?

3           Q     Okay.  After you became CFO --

4           A     Yes.

5           Q     -- the Agency submitted a reprogramming  
6 request to move funds from Hurricane Sandy  
7 supplemental and other line items in order to avoid  
8 furloughs.

9           A     Correct.

10          Q     But the Agency elected not to do so with  
11 regard -- not to ask Congress to move -- make a  
12 similar reprogramming to backfill vacancies.

13          A     I don't get the distinction.  The spin plan  
14 that NOAA submitted in '13, its original intent was  
15 designed, and I can't speak on behalf of all the NOAA  
16 components, but for the Weather Service, to be able  
17 to, as I mentioned previously, restore some hiring to  
18 fill vacancies.  The timing of that did not lend  
19 itself to that full implementation of that intent in  
20 fiscal '13.

21          Q     Okay.  Has there been any discussions now  
22 about lifting the hiring freeze?

23          A     I'm sorry, about?

24          Q     Has there been any discussions now about  
25 lifting the hiring freeze?

1           A     No, I haven't been privy to any discussions  
2 along those lines. I think we've been stating, and  
3 I'm assuming that NOAA is really taking a wait-and-see  
4 approach to this, depending on the outcome of the  
5 final appropriation for '14.

6           MR. HIRN: I don't have any more questions,  
7 John. Thank you. You've been very helpful.

8           THE WITNESS: Thank you, Richard. Sure.

9           MS. CIOFFALO: Let me just see if I have any  
10 followups.

11           (Pause.)

12           MS. CIOFFALO: I don't have anything else.

13           ARBITRATOR SHARNOFF: You're excused. Thank  
14 you very much.

15           THE WITNESS: Okay, sure. Thanks.

16           (Witness excused.)

17           MS. CIOFFALO: If we can go off the record  
18 for a couple minutes, I'll get the next witness.

19           ARBITRATOR SHARNOFF: Off the record.

20           (Whereupon, a short recess was taken.)

21           ARBITRATOR SHARNOFF: Back on the record.

22           MS. YOUNG: Sure. I'm Lindsey Young, co-  
23 counsel. I'll be examining this witness.

24           Mr. Coyne, can you please state and spell  
25 your name for the record?

1 MR. COYNE: Yes. My name is John Michael  
2 Coyne, J-O-H-N, M-I-C-H-A-E-L, C-O-Y-N-E.

3 ARBITRATOR SHARNOFF: Okay.

4 Whereupon,

5 JOHN M. COYNE

6 having been duly sworn, was called as a  
7 witness and was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. YOUNG:

10 Q Mr. Coyne, where are you currently employed?

11 A I'm currently employed at Southern Region  
12 Headquarters, the National Weather Service, in Fort  
13 Worth, Texas.

14 Q And how long have you been with the National  
15 Weather Service?

16 A I have been with the National Weather  
17 Service permanently since 1996. Started off as a  
18 summer student in 1993, so I worked several summers  
19 that didn't count toward my official time.

20 Q Can you briefly take us through your career  
21 progression with the Weather Service?

22 A Yes. I started out in Corpus Christi as a  
23 co-op student for several summers. Then I got on as a  
24 co-op once I completed my degree. I came on as an  
25 intern at the office, worked my way up to a forecaster

1 position. In 2002, I moved over to Southern Region  
2 Headquarters for a promotion. The position was  
3 performance and evaluations meteorologist. Was there  
4 for three years. 2005, I went to Huntsville as the  
5 meteorologist in charge, and then almost three years  
6 ago came back to Southern Region Headquarters in the  
7 position I'm in now, which is deputy director for  
8 performance and resources, but I'm also the acting  
9 deputy regional director.

10 Q And how long have you been the acting deputy  
11 regional director?

12 A Since February of last year.

13 Q Last year being '13 or '12?

14 A Yeah, 2013. I'm sorry.

15 Q Okay.

16 ARBITRATOR SHARNOFF: I'm sorry. And you  
17 are located where?

18 THE WITNESS: In Fort Worth, Texas.

19 ARBITRATOR SHARNOFF: Fort Worth.

20 THE WITNESS: Yes, sir.

21 BY MS. YOUNG:

22 Q What are your duties in the acting deputy  
23 regional director role?

24 A Well, there's a lot of duties. There are  
25 several components to it. There's a budget component

1 where you're watching over current budget allocation  
2 we get, giving advice on how we should be spending  
3 money or what we should be doing. There is a LMR  
4 element in my regular job but also somewhat in the  
5 acting role job where you're working with the regional  
6 chair, which is John Warner, talking with him about  
7 issues as they come up, trying to work through those.  
8 Also, giving advice to managers that fits within the  
9 CBA and current labor practices. There's also giving  
10 advice to offices in terms of if there's discipline  
11 issues that can be involved.

12 Also, in my job duties, I'm in charge of the  
13 regional operations center, so I'm watching over the  
14 employees there, making sure we're meeting all of our  
15 needs day-to-day with supporting FEMA, some of our  
16 regional partners, doing things along those lines. So  
17 a lot of different job tasks.

18 Q You mentioned some labor/management  
19 relations responsibilities. Are you familiar with the  
20 collective bargaining agreement?

21 A I am.

22 Q Okay. Are you familiar with a NOAA-wide  
23 hiring freeze that took effect in March of 2013?

24 A I am.

25 Q Prior to that freeze guidance, did you have



1 any responsibilities with respect to the filling of  
2 vacancies in the Southern Region?

3 A Yes. Part of my job duties, I should have  
4 also mentioned, in my regular job is to help manage  
5 the vacancies, so help get jobs processed and bid. We  
6 have a Workforce Management person for lack of a  
7 better term, workforce person, Gena Morrison, who  
8 helps make sure all the paperwork is done correctly.  
9 I'm making sure that things are moving along as best  
10 we can make them move along.

11 Q Now you called Ms. Morrison a workforce  
12 person. Do you mean that she's a Workforce Management  
13 Office employee?

14 A No, no. That's just -- her title I believe  
15 is workforce program manager. So she's in charge of  
16 gathering all the paperwork from the field offices.  
17 I'll sign whatever paperwork is needed. And then she  
18 submits that to Workforce Management, and then she  
19 keeps track of the vacancies as they go through.

20 Q Again, prior to the freeze guidance, were  
21 you involved in any discussions or process regarding  
22 determining how or when to fill Southern Region  
23 vacancies?

24 A Well, I guess there's different time phases  
25 to that. You know, when I first came into the job,

1 budgets were fairly good for us, and so it was an  
2 automated process strictly speaking. You know, a  
3 vacancy would come open in a field office, a  
4 promotion, someone would retire. The paperwork would  
5 be sent up to us. There was always money in the  
6 budget to fill those vacancies, so we would go ahead  
7 and send those up as quickly as they came in and then  
8 tried to work with Workforce Management on getting  
9 those positions, if they had any clarifications.  
10 Anything that they needed, we would try to meet their  
11 needs so we could have the job hit the street.

12 Q Okay. You said that there was sort of a  
13 phase to that?

14 A Yeah, sorry. Yeah As we moved into 2012,  
15 the budget was getting tighter, so we had to watch --

16 ARBITRATOR SHARNOFF: Excuse me. When you  
17 say -- just because we have a distinction between the  
18 fiscal year and the calendar year, as we moved into  
19 2012, are you talking about the fiscal year or the  
20 calendar year?

21 THE WITNESS: Sorry. Yes, fiscal year,  
22 fiscal year. As we started to move into the latter  
23 parts of the fiscal year, and this happened a little  
24 bit in '11, it really became a problem in '12. You  
25 would have a job bid out and there would be a PCS

1 attached with it, permanent change of station, and so  
2 there is money that's involved to move an employee  
3 from one location to the other.

4 What we would end up doing towards the end  
5 of the fiscal year if money was really tight and we  
6 weren't going to be able to afford that, sometimes the  
7 employee, their assignment date was pushed into the  
8 following fiscal year to try to make sure we could pay  
9 for it and not obligate our budget in a way we  
10 couldn't.

11 BY MS. YOUNG:

12 Q And when you say "obligate our budget in a  
13 way we couldn't," can you go into more detail about  
14 what that means?

15 A Well, we're given an allocation from  
16 headquarters and that's the money we have to operate,  
17 and I'm sure that's been talked about to some degree  
18 here, and the simple fact is we can't go into the red  
19 in our budget. If something happens that's unplanned  
20 and we're behind what we project to be our, you know,  
21 spend rate at the end of the year, we have to take  
22 measures to try to bring us back into the black so  
23 we're not anti-deficient.

24 Q You mentioned the budget situation in FY  
25 2012. What about between that time and the hiring

1 freeze in March of 2013?

2 A Well, during that timeframe in fiscal year  
3 2013, we were under a continuing resolution and money  
4 was very tight, and so that was a constant problem.  
5 The orders I was given by the regional director at the  
6 time was to continue to process the jobs, put those  
7 in, and then, you know, when a selection was made, if  
8 there was insufficient money, we would not give a  
9 report date to the employee. The report date would be  
10 sometime in the future, determined later. So that was  
11 a problem through the first part of '13.

12 Q What about following the hiring freeze?  
13 What, if any, responsibilities do you have with  
14 respect to filling vacancies in your region after that  
15 point?

16 A Well, what would happen at that point,  
17 everything goes through the job board. There's a  
18 Hiring Freeze Board that would look at every job  
19 that's submitted to them and give an okay whether or  
20 not we could go forward with a job announcement.

21 So my job responsibility turned from one  
22 where we would just sign the paperwork and putting it  
23 in to -- giving it to Workforce Management to one  
24 where we're now writing justifications and submitting  
25 those to the job board when we felt like we could meet

1 the criteria and pass their criteria to get a job put  
2 out.

3 Q Now, when you say you're submitting things  
4 to the job board, do you mean directly to the job  
5 board?

6 A No. This would go to Laura Furgione, who is  
7 the DAA, deputy assistant administrator for the  
8 Weather Service, and she would in turn, if it garnered  
9 her support, she would then take it to the job board.

10 Q And do you have a sense of what it is that  
11 garners her support?

12 A Yes. I mean, we had some broad channel  
13 markers, you know, more than -- if an office fell  
14 below 10 operational meteorologists, that was usually  
15 a criteria that could garner her support. On the  
16 electronics side, if we started to fall really short  
17 to where we didn't have enough people to safely  
18 maintain equipment or go out and do maintenance work  
19 that was needed, that would generally go through. So  
20 there were some, you know, criteria out there, and we  
21 would submit those, you know, when we thought we could  
22 get them through.

23 Q What was your understanding of the rationale  
24 behind the first criteria that you listed about not  
25 falling below 10?

1           A     Well, an office typically -- a typical  
2 office, not always --

3           Q     You mean a typical WFO?

4           A     Yes, sorry, a typical WFO, you would have  
5 five lead forecasters, five journey forecasters, and  
6 to staff 24 hours a day, two shifts, well, six shifts  
7 a day, two people on each shift, you need to have  
8 approximately 10 people. And so, if you lose a  
9 forecaster, you could move a management person into  
10 that role to fill those shifts and take some other  
11 actions. There are other actions we could take.

12                     So, you know, you have that number of  
13 meteorologists still to kind of fill in that number  
14 10. So, if you lose two or three forecasters, the  
15 position of the job order is you're still okay. You  
16 could move those managers in to fill in those roles  
17 and keep things going operationally. But when we fall  
18 below that line is when we could go before the -- send  
19 them up to the job board and get it passed.

20           Q     Prior to the freeze, did your region have  
21 any difficulties filling vacancies?

22           A     Yes. You know, even when we had jobs that  
23 we knew, you know, we needed to put forward and we had  
24 already put them in the system, they had to go to  
25 Workforce Management, and they were having very, very

1 significant problems in terms of getting jobs out,  
2 processing jobs.

3 Q What timeframe are you talking about?

4 A Well, this really started in fiscal year  
5 2012 when we really started to see things happen. For  
6 Southern Region, most of our jobs were processed  
7 through a group in Boulder, and Workforce Management  
8 made the decision to close that office and eliminate  
9 those positions. So, as people moved on from other  
10 jobs, there were fewer and fewer people there to  
11 process our jobs. Eventually all of our job bids went  
12 to people in either Seattle or in Silver Spring or  
13 Kansas City. Eventually they've also shut down  
14 Seattle effectively. I think there's still a few  
15 people there.

16 But the long and short of it was there were  
17 fewer and fewer people to process our jobs, so there  
18 were significant delays there. Additionally, when  
19 they did bring on new people, there was a learning  
20 curve there for those folks, and so there was just a  
21 lot of pain involved in trying to get jobs through  
22 Workforce Management.

23 Q In terms of the jobs that you did submit to  
24 Workforce Management, do you have a sense of what a  
25 typical timeframe would be in terms of how long it

1 took WFMO to take it from start to completion?

2 A Yeah. When things were going fairly  
3 quickly, and we're talking five years in the past,  
4 we'll just go back, you know, a normal baseline. We  
5 could have somebody from the time we had a vacancy and  
6 started to submit the paperwork until the time the  
7 person reported, you're talking about a four-month  
8 turnaround, which is pretty quick.

9 You know, you submit the paperwork. The  
10 person from Workforce Management would get the vacancy  
11 posted within a couple of weeks. Job's posted for a  
12 couple of weeks. People bid. We get a certificate  
13 within a couple of weeks. So you start to add all  
14 those up, there's a little bit of timeframe. And then  
15 there's a six- to eight-week period after a person is  
16 selected for them to report to the job.

17 So, when things are going really well,  
18 you're talking about a four-month turnaround to get  
19 somebody into the position, and that was pretty  
20 typical for that timeframe.

21 Q Okay. You mentioned that that was as long  
22 as five years ago.

23 A Yeah.

24 Q Can you estimate to the best of your  
25 knowledge the timeframes that you dealt with going



1 forward?

2 A Yeah. It ranged. I mean, we did have a few  
3 jobs that went through very quickly, and that was part  
4 of the problem we started to run into. We had so many  
5 jobs in what's called the RADS system at Workforce  
6 Management that they were randomly picking jobs out  
7 that we necessarily didn't have as --

8 Q They being who?

9 A Workforce Management. I'm sorry. Workforce  
10 Management. And they would pluck these jobs out and  
11 some of them would go very quickly. Some of the jobs  
12 would take an extremely long period of time and just  
13 stay stuck in the system, and you could call and beg  
14 and plead and the people just wouldn't roll the job  
15 forward to get them out.

16 Q Can you think of any examples of that that  
17 you could give us?

18 A Yeah. I mean, a job that went through very  
19 quickly, for instance, was the ASA job in Fort Worth,  
20 Texas. The person was going to retire at the end of  
21 the year, end of 2012 I believe, and the job was bid  
22 out before the person actually retired. We put in the  
23 paperwork and they grabbed it within days and things  
24 progressed on, you know, very quickly in that job.

25 And then at Southern Region Headquarters, we

1 have a position called meteorological services branch  
2 chief position, and that job, I probably called daily  
3 to every other day to people at Workforce Management  
4 that went through the process, and it easily took 14  
5 months for me to get that job through. Seemingly  
6 there was just no rhyme or reason to some of the  
7 extreme jobs, why it took so long to go through.

8 Then there were other jobs, the SOO  
9 position, science operations officer, I'm sorry, I'm  
10 trying not to use acronyms, the science operations  
11 officer position in Norman never was picked up by  
12 someone at Workforce Management and stayed in the  
13 system for a very long time, and others would go  
14 through, so it was a knot in your system. You had  
15 these jobs in, and you couldn't assign a priority to  
16 it and you couldn't talk to anybody to get the job,  
17 the jobs you needed to get through the system.

18 Q In situations where a lower priority job,  
19 lower priority for Southern Region type of job went  
20 through faster than one of your higher priority jobs,  
21 was there any consequence of that as far as you were  
22 concerned?

23 A Well, yes, there was some very significant  
24 consequences, especially as we got into that  
25 continuing resolution in FY '13. What ended up

1       happening was you'd have a job that maybe was not your  
2       highest priority job go through very quickly, and that  
3       eats up some of your labor dollars and PCS down the  
4       line.  Meanwhile you may have a job where you had  
5       multiple openings.  Lead forecaster job in San Juan  
6       comes to mind at that time.  That job we couldn't get  
7       through, and so you're eating up PCS dollars for what  
8       is going to be a higher priority job down the line, so  
9       it made things very difficult for us.

10       Q       Did Southern Region take any steps to try to  
11       address that problem?

12       A       Yes, we did.  In February, mid-February, we  
13       had had a change in leadership.

14       Q       Sorry, of what year?

15       A       I'm sorry.  2013.  We had a leadership  
16       change and one of the things we briefed our acting  
17       regional director on was the budget situation along  
18       with our workforce situation of what was occurring  
19       with Workforce Management.

20       Q       And who was the acting regional director at  
21       that time?

22       A       Steven Cooper was.

23       Q       Okay.

24       A       So we explained the problem, and our  
25       solution was to take the jobs that were in the RADS

1 system because we couldn't get Workforce Management to  
2 work on the ones we needed to or not work on the ones,  
3 pull the jobs back, and keep the ones, or resubmit if  
4 we needed to, the jobs that were the highest priority,  
5 and if we could do those in blocks of three, perhaps  
6 blocks of four, we felt like that then we could call  
7 Workforce Management daily on those three jobs and  
8 just beg and plead can we get just this one job  
9 through the system. That's all I'm asking for today,  
10 just this one job, and ride roughshod over those  
11 higher priority jobs, and that would be a more  
12 efficient system because then we could keep an eye on  
13 our budget that way so we're not eating up, you know,  
14 some of the budget dollars for these high priority  
15 jobs and hopefully we could get Workforce Management  
16 to work a little more expediently on the jobs that  
17 were in the system.

18 Q And to the best of your knowledge, did  
19 Southern Region take back its recruitment actions as  
20 of February 2013?

21 A Yes, we did. We pulled quite a few of them  
22 back and we're reprioritizing. We left certain jobs  
23 in the system. Shreveport forecaster comes to mind,  
24 San Juan forecaster positions come to mind. So we  
25 left the ones where we had multiple openings and were

1 the highest priority through because, again, another  
2 element to this whole thing was the budget at the  
3 time. The continuing resolution ended at the end of  
4 the month, and we were told absolutely we could not  
5 come in in the red. And so we were trying to manage  
6 that process as well while trying to get the highest  
7 priority jobs through.

8 Q And just to be even more clear, what was it  
9 about the number of jobs that were in RADS that  
10 correlated to the potential for ending up in the red?

11 A Well, what would happen is if we left all  
12 those jobs in the system, Workforce Management could  
13 pluck those out at any time, and it may not be the  
14 jobs that we really needed to go through right at that  
15 time.

16 Q By pluck out, you mean actually --

17 A Actually take action on them. Since it was  
18 something we didn't have a lot of control over at the  
19 time, they were being pulled out, you know, seemingly  
20 randomly to us. I know that there's probably a  
21 process in place for them, but it removed the control  
22 for us to be able to say, okay, we really need these  
23 jobs to go through and we're going to allocate our PCS  
24 dollars that we have left towards these few jobs.

25 And then if we had left them all in the

1 system, they could have grabbed this other one, and  
2 all of a sudden we're obligated to meet those PCS  
3 needs as well, and that's something that we couldn't  
4 have happen.

5 Q So, aside from the handful of exceptions  
6 that you just mentioned, were all the Southern Region  
7 vacancies pulled from the RADS system in February  
8 2013?

9 A Not all of them. The handful of ones that  
10 we deemed the highest priority, the ones that had to  
11 go through remained in the system, but virtually every  
12 other job was pulled back on.

13 Q And did you have any conversations with --  
14 well, with anyone but particularly with anyone at  
15 Workforce Management about what the effect would be on  
16 those vacancies? I mean, were they -- well, I'll  
17 leave it at that.

18 A Okay. Well, can you restate the question?  
19 I'm not sure I --

20 Q Sure. Let me ask it another way. In terms  
21 of the vacancies that -- I think you used the phrase  
22 "take out" or "take back" from the RADS system -- did  
23 that mean that they would have to be later resubmitted  
24 back into RADS, or were they more or less on hold?

25 A Well, we couldn't -- the RADS system, the

1 way it's built, and it's a Workforce Management  
2 system, you can't simply put a hold on a job and say  
3 ignore these jobs. You can either give it to  
4 Workforce Management or take it back. And so we had  
5 to in essence take those jobs back. In the RADS  
6 system, it's called canceled. So we had to in essence  
7 cancel that particular RADS number.

8 Everything was electronic in terms of the  
9 documents that we needed to send and everything. So,  
10 when we needed to resubmit the job and, you know, it  
11 reached its highest priority and we wanted to put  
12 those next set of jobs in, it was really a matter of  
13 taking those same electronic documents that we had and  
14 putting those under a new RADS number and resubmitting  
15 them.

16 Q When you resubmitted -- well, if and when  
17 you were going to resubmit the vacancies that had been  
18 pulled from RADS, what was your understanding of where  
19 the action would be compared to where it was  
20 previously?

21 A Well, are you speaking in terms of who has  
22 control over that part of the process of pulling?

23 Q Sure. I'm also asking, you know, where in  
24 the process would it be? Like would it lose time in  
25 the process is what I'm getting at.

1           A     No, it really wouldn't because once you  
2     submit all the paperwork and, you know, it's  
3     submitted, it's just sitting there, you know, for  
4     Workforce Management to pick up and move with. It's  
5     just in the system. So the fact that, you know, if we  
6     pull them back and they either were pulled back or  
7     waiting to put those in or they're sitting in there  
8     and they're not being dealt with, there's really no  
9     difference.

10           In essence, it would be -- if you're  
11     equating it to email, you could send an email message  
12     and it can sit unread in someone's inbox for forever,  
13     and that's in essence what happens when you submit  
14     those jobs into RADS. Until Workforce Management  
15     takes them, assigns them to one of their specialists,  
16     it's just sitting in there like an unread message.

17           Q     Were the majority of the Southern Region  
18     vacancies that were pulled back from the system, I  
19     mean, were they the unread messages? Were they at  
20     that status?

21           A     Yes, the majority of them were.

22           Q     Okay. In February of 2013, when you were in  
23     the process of pulling these vacancies back and  
24     talking with Workforce Management, did you discuss  
25     that process with Steven Cooper, the acting regional



1 director?

2 A Yes. Well, in terms of what we were going  
3 to do with the RADS system and have jobs canceled?

4 Q Yes.

5 A We might have explained the process to him.  
6 He doesn't have access to RADS, so I'm not sure he  
7 would understand exactly what was going on when we say  
8 we were pulling them back or whatnot. But yeah, I  
9 think we explained that we were going to pull back  
10 these jobs, submit certain ones as a higher priority,  
11 and we went over that priority listing with him.

12 Q So you made a priority listing to go from in  
13 terms of, okay, now we've pulled these back, and where  
14 do we start from there?

15 A Right.

16 Q Okay. Have you ever at any point had any  
17 discussions with the Union's regional chair with  
18 respect to Workforce Management issues or delays that  
19 impact vacancies?

20 A Yes, we did. John Warner is the regional  
21 chair. We've had conversations, many conversations  
22 about particular jobs going back through -- well, even  
23 when I first got there, fiscal year '11, into fiscal  
24 year '12 because, you know, as the regional chair,  
25 he's hearing from all his local folks and they're

1 asking, well, when is this job going to get filled,  
2 you know. My job is the most important one, when are  
3 you going to -- you know, what can you do to help me.  
4 So we would have a lot of conversations.

5 Starting in I want to say October of 2012,  
6 he had requested having a listing of jobs, the current  
7 vacancies, so we would send those to him, and we were  
8 open to hearing if, you know, he felt like there were  
9 some jobs that are a higher priority that we really  
10 need to push, we would have conversations and get his  
11 feedback on that.

12 Q When those conversations did occur, did you  
13 take his feedback into account?

14 A Oh, yes, certainly, you know, because when  
15 you're talking about, you know, the LMR issues, good  
16 communication is a key point to all that. So, you  
17 know, I'm hearing from managers of what they feel like  
18 their biggest needs are, but it's also important on  
19 his side to hear what his local stewards are saying,  
20 you know, are important jobs to them and what he sees  
21 as being high priority jobs. So certainly we took it  
22 into consideration.

23 Q How often did management's priorities match  
24 up with what Mr. Warner's priorities were?

25 A I think they matched up fairly well. You

1 know, when you looked at the listing of vacancies, and  
2 during that timeframe, you know, we were still at, you  
3 know, between 30 and 50 depending on what timeframe  
4 you're looking at vacancy-wise, it's pretty obvious  
5 when you have your highest priority vacancies out  
6 there, you know, talking multiple openings in a office  
7 or an office that is going to be in a higher impact  
8 area.

9 I keep bringing up San Juan. That was a  
10 pretty obvious one. You had multiple forecaster  
11 openings in that office, and we really wanted to get  
12 those jobs filled before the summer season and you  
13 have tropical season because you have several  
14 logistical challenges in trying to augment staffing  
15 since they're on an island. Literally and  
16 figuratively they're on an island, so you want that  
17 office fully staffed if possible. So we'd have  
18 conversations like that, and I would say they lined up  
19 generally.

20 Q Are you aware of Union grievances with  
21 respect to the Agency's alleged failure to fill  
22 certain vacancies?

23 A I am.

24 Q Okay. I want to turn your attention to the  
25 binder in front of you and if you could turn to Joint

1 Exhibit 2A. Do you recognize that document?

2 A I do.

3 Q What is that document?

4 A That is the Union grievance concerning lead  
5 forecaster vacancies.

6 Q Okay. If you would look at the listing of  
7 lead forecaster vacancies in the grievance, do you see  
8 any of those offices there that are part of the  
9 Southern Region?

10 A In that first grouping, there are none. As  
11 we go down, there is a listing for San Juan, which is  
12 our office.

13 Q Okay.

14 A And then in the start of page 2, we have  
15 Nashville, Jackson, Miami, and Melbourne are all  
16 listed as vacancies, and those are all Southern Region  
17 offices.

18 Q And do you recall whether or not at the time  
19 of this grievance, which is March 13, 2013, do you  
20 recall whether or not there were lead forecaster  
21 vacancies in each of the offices you just named?

22 A I believe there were.

23 Q Okay. I want to turn your attention to what  
24 I'll mark for identification as Agency 19.

25 //

1 (The document referred to was  
2 marked for identification as  
3 Agency Exhibit No. 19.)

4 BY MS. YOUNG:

5 Q Take a moment to look at this document and  
6 let me know if you recognize it.

7 A I do recognize it.

8 Q What is this document?

9 A This is a document that lists the vacancies  
10 we had in Southern Region at the time of the  
11 grievances that were filed.

12 Q And roughly what timeframe was that in these  
13 grievances?

14 A Yes, I'm sorry. March 2013.

15 Q Okay. Who created this document?

16 A Myself and Gena Morrison at Southern Region.

17 MS. YOUNG: Okay. I'd like to admit Agency  
18 19 into evidence, please.

19 MR. HIRN: Voir dire quickly?

20 ARBITRATOR SHARNOFF: Sure.

21 VOIR DIRE EXAMINATION

22 BY MR. HIRN:

23 Q Is this all the vacancies or only those that  
24 had been submitted to Workforce Management?

25 A With the exception -- all of them submitted

1 to Workforce Management or are you -- I'm sorry.

2 Could you restate? I'm sorry.

3 Q Is this a list of all the vacancies in the  
4 Southern Region at the time or all the ones that had  
5 been submitted to Workforce Management?

6 A These are the listings -- this is not a  
7 complete listing of all the vacancies. This is a  
8 listing of the vacancies that are in the grievances  
9 with the exception of I believe the Shreveport one  
10 under the journey forecaster listing.

11 Q So, when you said this is a listing of all  
12 the vacancies in the Southern Region in March, that  
13 was not correct?

14 A I'm sorry. No, it wasn't. When I meant  
15 all, I apologize. I was meaning the ones that were  
16 listed within here.

17 MR. HIRN: Okay.

18 ARBITRATOR SHARNOFF: Any objection?

19 MR. HIRN: No.

20 ARBITRATOR SHARNOFF: Okay. It's admitted.

21 (The document referred to,  
22 previously identified as  
23 Agency Exhibit No. 19, was  
24 received in evidence.)

25 //

1 DIRECT EXAMINATION RESUMED

2 BY MS. YOUNG:

3 Q Okay. If I can direct your attention to  
4 page 2 at the bottom of this document, do you see the  
5 area that says "Lead Forecasters"?

6 A I do.

7 Q And then so we actually have to turn to page  
8 3 for the listing. Can you tell us whether or not the  
9 various offices that you just named off, if those  
10 appear under the lead forecasters?

11 A Yes, they do.

12 Q Okay. Do you know if there were any other  
13 lead forecaster vacancies in the Southern Region at  
14 the time of the grievance aside from the ones that  
15 appear here?

16 A I do not believe there were.

17 Q Okay. Have any of the vacancies that you  
18 mentioned been filled?

19 A Yes. Three of the vacancies have been  
20 filled.

21 Q Okay. Let's start with San Juan. When was  
22 San Juan filled? And it actually looks like there  
23 were two, is that correct?

24 A Correct. There were two vacancies there in  
25 the office. They were filled when somebody reported

1 to the office on April 21, 2013, and May 19, 2013.

2 Q Okay. And can you tell by looking at this  
3 whether or not those were filled from the same  
4 recruitment action?

5 A They were. When you have a recruitment  
6 action where you have a vacancy, if you have multiple  
7 openings within a office, you can select two people  
8 off of that certificate.

9 Q Okay. And how do we know that from this  
10 chart?

11 A Well, you have the two vacancies that came  
12 open, one and two, the dates that they became open,  
13 and then over in the far right-hand side, those were  
14 the dates that we had people report into those  
15 positions.

16 Q Okay. What about Nashville? Was that  
17 position filled?

18 A Yes, it was.

19 Q When was Nashville filled?

20 A It was filled on May 19, 2013.

21 Q And do you know if that position had to go  
22 through the Hiring Freeze Board that you mentioned  
23 earlier?

24 A I do not believe it had to go through the  
25 job board.



1           Q     Okay. I see a listing here for Jackson as  
2 well. What about Jackson? Was that position filled?

3           A     It was. It was filled by reassignment. We  
4 had a science and operations officer there in the  
5 office request for personal reasons a reassignment.

6           Q     And what about the other vacancies at Miami  
7 and Melbourne? Have those been filled?

8           A     Those have not been filled at this time.

9           Q     Okay. Why not?

10          A     Well, we're currently under the hiring  
11 freeze and neither job at those locations would meet  
12 the criteria that the job board require for us to be  
13 able to bid the job out.

14          Q     Okay. Under the column with the heading  
15 "Current Status of the Vacancy", do you see for Miami  
16 and for Melbourne where it says, "RADS case returned  
17 to line office on 2/14/13 due to budget issues."?

18          A     Yes, I do.

19          Q     What does that status mean?

20          A     That gets into the process that we were  
21 talking about where we were pulling back on all the  
22 jobs. So both of those dates, the February 14 and  
23 February 12, is when we asked for those jobs, those  
24 vacancies to be returned to our office so that we  
25 could reprioritize and resubmit them as needed.

1           Q     Do you know, if you know, why have the Miami  
2     and Melbourne positions not been submitted even since  
3     the hiring freeze -- you mentioned justifications that  
4     were written before. Why has that not occurred?

5           A     Well, simply because we know the markers for  
6     the forecaster positions would be multiple openings  
7     within the office in terms of the meteorologist, and  
8     we need at least three vacancies before we would  
9     garner their support, and at both of those offices,  
10    they're not close to that criteria, so there's no need  
11    to submit something that's going to be turned away  
12    immediately.

13          Q     Okay. I want to turn your attention now to  
14    Joint Exhibit 2C in the binder in front of you. You  
15    can switch charts there. Take a moment to look at 2C  
16    and let me know if you recognize that document.

17          A     I do recognize the document.

18          Q     And what is it?

19          A     That is the Union grievance concerning the  
20    filling of journeymen forecaster vacancies.

21          Q     Okay. And what's the date of this  
22    grievance?

23          A     March 21, 2013.

24          Q     Okay. Do any of the offices in either  
25    cluster appearing here in the grievance, are any of

1 those Southern Region offices?

2 A Yes, they do. In the first cluster,  
3 Midland, Texas, is one of the offices in our region.  
4 In the second cluster, Memphis, Little Rock, Houston,  
5 Morrystown, and Huntsville are all Southern Region  
6 offices.

7 Q Okay. And do you recall whether or not all  
8 of those offices you just listed actually had  
9 journeymen forecaster vacancies at the time of this  
10 grievance?

11 A Yes, I believe they did.

12 Q Okay. And can you point those out on your  
13 chart if they appear there on A-19?

14 A Yes. They're on page 2. That's almost the  
15 entire listing there. It's a listing of all the  
16 offices.

17 Q Okay. Were there any other general  
18 forecaster grievances -- excuse me -- vacancies at the  
19 time of the grievance?

20 A There was one additional one and that's at  
21 the bottom. Shreveport, Louisiana, had a vacancy.

22 Q At the time of the grievance?

23 A At the time of the grievance.

24 Q Okay. Have any of these general forecaster  
25 vacancies been filled?

1           A     Yes.  One of them has.  The one in  
2     Shreveport was filled.

3           Q     Okay.  And do you know why Shreveport in  
4     particular has been filled?

5           A     Yes.  We had a severe need in that office.  
6     We had several vacancies.  I would have to go back and  
7     look, but we had a multiple vacancy situation there  
8     not necessarily in the general forecaster but I  
9     believe in other areas.

10          Q     And what about all of the other offices?  
11     Why have those positions not been filled?

12          A     Well, in all those cases, they still have  
13     not met the criteria that the job board has where we  
14     need multiple openings that would be sufficient for us  
15     to get it through the hiring board.

16          Q     But the chart shows that some of those  
17     offices had vacancies, you know, well before the  
18     hiring freeze.  We could look at Memphis, Tennessee,  
19     for example, vacant as of August 11, 2012.  Do you  
20     know what, if anything, occurred prior to the freeze  
21     to prevent that vacancy from being filled?

22          A     Well, Workforce Management simply didn't get  
23     to it.  We had submitted the paperwork and we would  
24     make calls, but we were not getting any response to  
25     them that would get the job through the system.

1 Q And then according to the status column, it  
2 looks like this was ultimately returned to the line  
3 office.

4 A Yes. Again, all these jobs through February  
5 were returned to us so that we could reprioritize.

6 Q Okay. So by the time February rolled around  
7 with respect to this vacancy it was part of the group  
8 that was pulled back?

9 A Correct.

10 Q And why was this one pulled back in  
11 particular?

12 A The Memphis one in particular?

13 Q Sure.

14 A Well, again, it was a lower priority job in  
15 terms of what we were seeing across the entire region.  
16 It was the only vacancy at the time there in the  
17 office, and there are other offices that had multiple  
18 openings that we felt like really needed to be  
19 processed, and so we pulled back on these jobs and  
20 left the ones in that were of highest priority to us.

21 Q Okay. And can we assume that the same is  
22 true of, let's see, Little Rock, Morristown,  
23 Huntsville, Houston, and Midland? Are those all a  
24 similar situation?

25 A That's correct.

1 Q Okay. I want to turn your attention to  
2 Joint Exhibit 2B, please. Take a second and look at  
3 that document and let me know if you recognize it.

4 A 2D you said?

5 Q 2B as in boy.

6 A 2B, okay. Yes, I do recognize the document.

7 Q And what is that document?

8 A That document is the Union grievance for the  
9 hiring of HMT/interns.

10 Q And what's the date of this grievance?

11 A March 15, 2013.

12 Q Okay. Do any of the offices appearing in  
13 this grievance fall within the Southern Region?

14 A Yes. In that first cluster, the Fort Worth,  
15 Texas, office is within our region.

16 Q And there may be some additional listed in  
17 the text. Any others?

18 A Yes. Yeah. On the second page, first full  
19 paragraph, Lubbock and Tampa Bay are listed there  
20 within our region.

21 Q Okay. To the best of your knowledge, were  
22 there vacancies at those offices in the HMT/intern  
23 unit at the time of the grievance?

24 A Yes, there were, and I should add in the  
25 first grouping Mobile, Alabama. I missed that one.

1 That's also in our region.

2 Q Okay. Turning back to Agency 19.

3 A Yes.

4 Q Do those vacancies appear on the chart?

5 A Yes, they do.

6 Q Okay. And what page are they on?

7 A They're on page No. 1.

8 Q All right. It appears from the chart that  
9 there were two vacancies at both Fort Worth and Tampa  
10 Bay at the time of the grievance.

11 A That's correct.

12 Q Do you know if any of the vacancies listed  
13 here in the chart under the HMT unit have been filled?

14 A Yes. One of the positions in Fort Worth was  
15 filled, and then the two at Tampa were filled.

16 Q Why was one of the Fort Worth positions  
17 filled?

18 A Well, it had gotten to the point where the  
19 MIC could make a selection, and we chose to select one  
20 off of that panel, and that was a budget  
21 consideration.

22 Q So you're talking about the one where the  
23 employee entered on duty on April 8, 2013?

24 A That's correct.

25 Q Okay. And you said the MIC was able to make

1 a selection. Did that occur prior to the hiring  
2 freeze, if you know?

3 A To the best of my knowledge, I want to say  
4 that occurred just before the hiring freeze.

5 Q Okay. Do you know if the Southern Region  
6 intends to fill the remaining Fort Worth vacancy?

7 A Yes, we do.

8 Q And has that been submitted to the Hiring  
9 Freeze Board?

10 A No, it has not.

11 Q And why not?

12 A Again, it hasn't met the criteria that the  
13 hiring board uses for those positions where we just  
14 know we couldn't get it through at this point.

15 Q What other positions or what other vacancies  
16 in the HMT/intern unit have been filled?

17 A The Tampa -- you're speaking to the Tampa  
18 one on the last line there?

19 Q Yes.

20 A The Tampa job, both jobs were filled before  
21 the hiring freeze.

22 Q Okay. What about the remaining vacancies at  
23 Mobile and Lubbock? Why have those not been filled?

24 A Again, those are single openings and they  
25 wouldn't meet the criteria at this point for the



1 hiring board to process.

2 Q Okay. And one more time, when you say  
3 single opening, what do you mean by that?

4 A That means there's just that one opening.  
5 There's not multiple openings, and the office is able  
6 to maintain their critical operations.

7 Q Openings in terms of like any vacancies at  
8 all in the office or particular openings?

9 A Particular. With the HMT/intern units,  
10 we're looking at their particular work roles in terms  
11 of if the office is an upper air office, if they're  
12 able to maintain staffing to do balloon launches and  
13 meet the operational needs that they have.

14 Q Okay. Looking at the chart, it appears that  
15 Mobile's vacancy actually became vacant after the  
16 grievance was filed on March 15, is that correct?

17 A Yes.

18 Q Nevertheless, an HMT/intern vacancy at  
19 Mobile does appear in the grievance. Do you know to  
20 the best of your knowledge if the vacancy listed on  
21 your chart is the vacancy that the Union is  
22 referencing?

23 A To the best of my knowledge, it is. That  
24 was a retirement. So what happens normally is  
25 somebody would announce their retirement, put in

1 paperwork some period of time in the advance. And in  
2 this case, what likely happened was this was an  
3 upcoming vacancy that was known about and the  
4 retirement paperwork had already been put in.

5 Q Okay.

6 A There's other considerations that could have  
7 been there that I don't particularly know. I don't  
8 know if the employee was out for some sort of long-  
9 term disability reason, something along those lines,  
10 to where the person wasn't physically in the office at  
11 the time even before they retired.

12 Q There's an allegation that there was a de  
13 facto hiring freeze that occurred even before the  
14 NOAA-wide hiring freeze in March of 2013. Do you  
15 agree that there was a hiring freeze, a freeze before  
16 the freeze if you will?

17 A Well, not in our case. We were simply  
18 trying to get jobs through as best we can with the  
19 budget numbers that we were given. The largest drag  
20 on us being able to process jobs through most of FY  
21 '12 was the fact that we couldn't get Workforce  
22 Management to process these jobs in a timely manner.

23 So, from our level, we certainly were not  
24 freezing jobs. We were trying to do everything we  
25 could to get jobs processed as quickly as we could.

1 We just were simply met with -- we were simply met  
2 with a lot of roadblocks.

3 Q Are you aware of any requirement to fill a  
4 vacancy in a particular amount of time?

5 A No, I'm not.

6 Q In the months leading up to the March 2013  
7 hiring freeze, was your region filling vacant  
8 positions?

9 A Yes, we were. You know, again, we went  
10 through the whole process, you know, that I had  
11 outlined, but, yes, we were filling vacancies.

12 Q Okay. I want to direct your attention to  
13 Agency Exhibit 17, which should be here. Agency 17 is  
14 a document already in evidence that shows a subsection  
15 of a larger RADS report where the entrance on duty  
16 date for the person filling the position falls roughly  
17 between January of 2013 and March of 2013, and I was  
18 wondering if you could look at this list and let us  
19 know if any of these listings are from Southern  
20 Region.

21 A Yes. There were several there from Southern  
22 Region. If you look over on the column that says  
23 "POC", it says "Gena.Morrison". That's the Southern  
24 Region employee who enters the information into RADS,  
25 so all those jobs listed with her name beside it would

1 be Southern Region positions.

2 Q Thank you. Did you see an increase in  
3 overtime in your region in fiscal year 2013?

4 A No, not a significant one. The main driver  
5 for overtime at least when you're looking at it from a  
6 regional scale is going to be your big weather events  
7 that occur across large areas that affect multiple  
8 Weather Forecast Offices.

9 So, if you have a big weather event, and  
10 I'll use the 2011 tornado outbreak as an example, that  
11 is going to drive your overtime probably more than any  
12 other factor that you have. And so looking back at  
13 2013, our overtime numbers as a region were actually  
14 fairly benign, fairly level from the previous year  
15 because really overtime is driven by the weather that  
16 we see, and it was a fairly quiet year.

17 Q Do you know of any leave cancellations that  
18 occurred in any Southern Region offices in FY '13?

19 A No, I do not.

20 Q What about any situations where an employee  
21 was TDY or on travel?

22 A Yes, there have been a couple of instances  
23 where we have had to TDY people into offices. Two  
24 that come to mind, the Midland office, and I'd have to  
25 go back and look at the particular time, we had to

1 send some people into that office to maintain their  
2 forecast rotation, and the Brownsville office.

3 Q And what about the usage of temporary  
4 promotions? Has that occurred?

5 A Yes. Yes, it has.

6 Q Okay. And what about management filling  
7 shifts? Has that occurred in FY '13?

8 A Yes, it has.

9 Q Okay. And does management typically fill  
10 operational shifts in the Southern Region?

11 A Typically, yes, it's a fairly -- I don't  
12 know what kind of nomenclature you want to attach to  
13 it, fairly routine. Within Southern Region, I would  
14 say typically warning coordination meteorologists and  
15 science operations officer would work something on the  
16 order of 25 percent of their work shifts would be  
17 operational shifts. MICs within the region,  
18 meteorologist in charge, people who are heads of the  
19 offices, that would vary somewhat, but I would say a  
20 typical average would probably be 10 percent of their  
21 shifts would be covering operational shifts.

22 Q Okay. In fiscal year 2013, do you know  
23 whether or not Southern Region was able to maintain or  
24 schedule two people per shift in each office?

25 A To my knowledge, every office met that

1 requirement.

2 MS. YOUNG: Okay. I don't have any more.

3 CROSS-EXAMINATION

4 BY MR. HIRN:

5 Q Prior to the hiring freeze, were there any  
6 vacancies in the Southern Region that were not  
7 submitted to Workforce Management?

8 A No. In terms of -- you're talking about any  
9 vacancy at any time before the hiring freeze?

10 Q Let's say in 2012, early 2013.

11 A Not to my knowledge, no.

12 Q So anytime a vacancy came open within some  
13 reasonable amount of time you requested that it -- you  
14 sent the paperwork to Workforce Management for it to  
15 be filled?

16 A That's correct.

17 Q Do you somewhere have a list of the dates  
18 that the vacancies became -- positions became vacant  
19 prior to their submission to Workforce Management?

20 A A unified listing, we probably do not, one  
21 that maintains everything, you know, for all time.

22 Q Not for all time, but let's say positions  
23 that were vacant in 2013 before the freeze.

24 A Well, that data can be mined probably  
25 through the SF-52s that are submitted because when a

1 vacancy becomes a vacancy --

2 Q Yes.

3 A -- you have an effective date listed on  
4 that. We would have to go back. One of the things  
5 that Gena Morrison does is provide us with a bi-weekly  
6 jobs report, and that gives us the incoming job  
7 vacancies, the current job vacancies, and any that are  
8 what would be called outgoing, ones where you had  
9 somebody selected for the position, but they haven't  
10 moved into the position yet. And so a combination of  
11 looking at that against 52s, you could probably come  
12 up with a listing of what you're looking for there.

13 Q Okay. So that information is normally  
14 maintained by your office?

15 MS. YOUNG: Objection to the extent that  
16 he's asking for a legal conclusion on that.

17 MR. HIRN: It's a factual question.

18 MS. YOUNG: I don't think you used it  
19 factually, but if so, that's all right.

20 ARBITRATOR SHARNOFF: Well, there are two  
21 points to his answer. One is he would have to create  
22 a document, and the other one was it was somewhere in  
23 the files.

24 THE WITNESS: Yes.

25 ARBITRATOR SHARNOFF: The information. I

1 just wanted to make sure it's clear which question he  
2 was answering.

3 THE WITNESS: Yes.

4 ARBITRATOR SHARNOFF: And which question was  
5 that?

6 THE WITNESS: Oh. Well, I think the data is  
7 there. You would just have to pull it out. You know,  
8 we don't have an Excel spreadsheet that lists, you  
9 know, job X became open at this date, and just keep it  
10 open, but there is a listing that keeps in essence a  
11 running count of what's going on, and we would have to  
12 go back through those and look at the information. So  
13 the information is out there. It's not in a unified  
14 listing.

15 MR. HIRN: Lindsey, do you have Union  
16 Exhibit 48 to share with Mr. Coyne?

17 MS. YOUNG: We only have one copy of it, the  
18 witness copy. Do you have another copy for us to look  
19 at? I think you had had two copies over there when  
20 you put it all in because they were your witnesses.  
21 We only had the one on this side of the table.

22 MR. HIRN: That's okay. Look, I heard you.  
23 I heard you the first time.

24 (Pause.)

25 MS. YOUNG: Oh, we have it. We have 48 and



1 49. Do we need both?

2 MR. HIRN: I can't find my second copy of  
3 48.

4 (Laughter.)

5 MS. YOUNG: It may be in my hand.

6 MR. HIRN: Yes. I suspect they're in your  
7 hand.

8 MS. YOUNG: So everybody's got a copy then,  
9 right?

10 MR. HIRN: Right, and I'm going to need  
11 those back if that's a second copy.

12 MS. YOUNG: As long as we end up with one  
13 over here.

14 MR. HIRN: Okay.

15 BY MR. HIRN:

16 Q If you would look at 48.

17 A Yes, sir.

18 Q I'm looking at this email from Chris Darden  
19 and he seems to say that the Huntsville -- that the  
20 certificate had been issued for the Huntsville  
21 forecaster office general forecaster position by  
22 February 22.

23 A Yes. That was one of those cases when we  
24 pulled back on all the jobs. The Huntsville case had  
25 had a certificate issued on it, and we pulled it back

1 to reprioritize the jobs because of the limited PCS  
2 dollars.

3 Q Okay. But I thought you testified a moment  
4 ago that Workforce Management had taken no action  
5 whatsoever on these cases.

6 MS. YOUNG: Objection. Mischaracterizes the  
7 testimony.

8 MR. HIRN: Well, that's why I'm asking if  
9 that's what he said. Isn't that what you said a  
10 moment ago? This is his opportunity to correct it if  
11 I misunderstood what he said a moment ago.

12 MS. YOUNG: Well, he said what he said, but  
13 I think you're mischaracterizing it.

14 ARBITRATOR SHARNOFF: Do you understand the  
15 question?

16 THE WITNESS: Yes, I do.

17 ARBITRATOR SHARNOFF: And do you have an  
18 answer?

19 THE WITNESS: Yes. My recollection of that  
20 timeframe when we were doing this, this was the only  
21 job that had gotten to a certificate process and had  
22 been processed by Workforce Management. So I thought  
23 I had said when we pulled back on the jobs the  
24 majority of them had not been dealt with because I  
25 don't know what different things had been done by

1 Workforce Management at the time.

2 BY MR. HIRN:

3 Q So then it is not correct to state that  
4 Workforce Management had done nothing with these  
5 positions?

6 MS. YOUNG: Objection again. It's not what  
7 he stated.

8 THE WITNESS: For this particular job, no,  
9 they had done something with it.

10 MR. HIRN: Okay.

11 THE WITNESS: As far as the notifications we  
12 had gotten, I do not know of any other job that had  
13 been processed that we had pulled back on.

14 BY MR. HIRN:

15 Q All right. Then let's go to Exhibit 49.

16 A Okay.

17 Q Looking at the bottom --

18 MS. YOUNG: Just a minute. I only gave him  
19 48.

20 THE WITNESS: This is 49?

21 MS. YOUNG: Yes.

22 THE WITNESS: Okay.

23 BY MR. HIRN:

24 Q Looking at the bottom of 49, the bottom of  
25 the first page, top of the second page, it looks like

1 an HR specialist sent a letter, an email, to "Dear  
2 Applicant" saying that the Morristown general  
3 forecaster vacancy had been canceled. Is that not  
4 correct? Which would seem to indicate to me that it  
5 had been advertised and people had applied for it.

6 A Yes, it would appear that way. I did not  
7 realize from looking over where the jobs were that if  
8 this had been bid out or was open where people had  
9 applied.

10 Q So this is a second general forecaster  
11 vacancy that Workforce Management did process and at  
12 least got to the point of advertising.

13 A Yes, it would appear so. This is the  
14 Morristown job?

15 Q Yes. Okay. So looking at Agency Exhibit  
16 19, and the second page, one, two, three, four, five,  
17 six, there are seven journeymen positions listed. You  
18 testified that Shreveport was processed and filled.  
19 We've just established that one of the others, the  
20 certificate had been issued, and with regard to  
21 another one, we got to the point of at least they had  
22 been advertised and people had applied, correct?

23 A Correct.

24 Q So can you say for certainty that Workforce  
25 Management took no action on the Memphis general

1 forecaster vacancy?

2 A Well, given the Morristown one, I'm not  
3 going to venture a guess at this time where it was in  
4 the process. But again, we weren't able to get the  
5 jobs through and it wasn't a higher priority job.  
6 That's the reason --

7 Q No, I understand that.

8 A Okay.

9 Q I understand that, but I'm just focusing on  
10 what I thought I had heard you said that with regard  
11 to the six, other than Shreveport, that Workforce  
12 Management took -- you had submitted it to Workforce  
13 Management and they had taken no action to recruit for  
14 those positions?

15 A Yes. To my knowledge, they had taken no  
16 action.

17 Q Okay. But we did establish that your  
18 knowledge was mistaken with regard to Huntsville and  
19 Morristown. I mean, not Huntsville and Morristown.  
20 Yes, Huntsville and Morristown, did we not?

21 A Yes.

22 Q And knowing now that your knowledge was  
23 mistaken with regard to Huntsville and Morristown, do  
24 you really know whether Workforce Management took no  
25 action on the Memphis vacancy?

1           A     Well, given the information I have, I would  
2     say that they had not moved on it at least  
3     significantly enough where I would get notified.  But  
4     can I say with certainty that absolutely nothing was  
5     done?  No, of course not.  I'm not running Workforce  
6     Management.

7           Q     Okay.  So you don't know whether it was  
8     advertised or not?

9           A     I don't believe it was.

10          Q     And you didn't believe Morristown and  
11     Huntsville were?

12          A     Morristown, I did not know.  Huntsville,  
13     after you showed me this document, yes, I remember  
14     that that was.

15          Q     Okay.  How about Little Rock?  Are you at  
16     all confident that your knowledge of what happened  
17     with Little Rock is --

18          A     It would be the same with Memphis.  My best  
19     recollection at the time is that indeed the job hasn't  
20     been moved on, and part of the reason we pulled back  
21     on those jobs was some of the aforementioned reasons.

22          Q     Right.  All right.  We'll get to that.  
23     We'll get to that.

24          A     Okay.

25          Q     But you don't know for certain that Little

1 Rock, that they took no action with regard to Little  
2 Rock?

3 A Absolute certainty, no, not right now.

4 Q Okay.

5 A I could with some computer searching.

6 Q You could have been as mistaken with regard  
7 to that as you were with regard to Huntsville and  
8 Morristown.

9 A Unlikely, but I'll give you that it could  
10 happen.

11 Q Okay. Could you have been mistaken with  
12 regard to Houston as you were mistaken with regard to  
13 Huntsville and Morristown?

14 A At some point I would say no because these  
15 jobs were not moving as a whole, although at the time  
16 I want to say there were on the order of 50 vacancies  
17 in our region. So, to be quite honest, I can't give  
18 you an update off my recollection of what was  
19 happening with every one of the 50 jobs.

20 Q Okay.

21 A But I will say it was unlikely that all of  
22 them were moving, and the likelihood that none of them  
23 were moving was higher.

24 Q But we have established that your testimony  
25 a moment ago earlier on direct that Workforce

1 Management took no action on any of these general  
2 forecaster vacancies other than Shreveport, we have  
3 established, you have now conceded that that was ill-  
4 informed, mistaken?

5 MS. YOUNG: Objection. This is all asked  
6 and answered. I think the point has been made.

7 MR. HIRN: I don't think so.

8 ARBITRATOR SHARNOFF: Well, we've been over  
9 it several times already.

10 MR. HIRN: Okay. All right. But I haven't  
11 asked about Midland.

12 MS. YOUNG: Same objection. You know, could  
13 he not remember, could he remember, I mean, I think  
14 you've elicited the testimony that this witness has on  
15 that point.

16 ARBITRATOR SHARNOFF: Well, with regard to  
17 Midland, which you haven't been asked about yet.

18 THE WITNESS: Shall I answer that?

19 ARBITRATOR SHARNOFF: Yes.

20 THE WITNESS: My recollection would be the  
21 same as Memphis and Little Rock. I do not believe  
22 there was anything moving on that particular job, but  
23 of course, having seen the evidence that you presented  
24 for Morristown, I would certainly go back and look at  
25 the system, but my recollection at the time was that



1 there was nothing moving.

2 BY MR. HIRN:

3 Q Okay. Looking at the entry on this exhibit,  
4 case returned to line office due to budget issues for  
5 those six journeymen forecaster positions. They were  
6 returned at the Southern Region's request, not at the  
7 initiative of Workforce Management, correct?

8 A That's correct.

9 Q And that was due at least in part to a  
10 decision not to pay PCS costs that were originally  
11 offered, correct?

12 A Well, that is slightly incorrect. It was  
13 because the determination is we didn't have the money  
14 to pay those PCS dollars at that time.

15 Q Okay.

16 A So the PCS dollars we had left needed to go  
17 towards higher priority vacancies.

18 Q Gotcha. And then looking at the lead  
19 forecasters, Miami and Melbourne, were those returned  
20 at the request of Southern Region or at the initiative  
21 of Workforce Management?

22 A At Southern Region's request. LO stands for  
23 line office, which would be us.

24 Q Yeah, returned to line office, but it  
25 doesn't indicate here whether it was at the line

1 office's request or what.

2 A Yes, we made that request for those  
3 positions.

4 Q And was it also because you did not feel at  
5 the time you were ready to pay the PCS costs?

6 A It was a combination of the PCS dollars we  
7 had left needed to go towards higher priority jobs and  
8 at the same time Workforce Management's ineptitude on  
9 processing jobs in a timely manner so we could put a  
10 few in the system that were the highest priority and  
11 continue to ride those through the system.

12 Q Okay Looking at the first page of Agency  
13 Exhibit 19, the Lubbock HMT position, was that also  
14 returned at the request of the Southern Region or at  
15 the initiative of Workforce Management?

16 A That was done by Southern Region.

17 Q Was that also due to at least in part PCS  
18 costs?

19 A Actually, that one was not. What occurred,  
20 if you see, it was 9/19/13 was the date that we asked  
21 for it to be returned.

22 Q Yes.

23 A The job had been sitting there in the system  
24 for so long and not moved on that the information that  
25 was in there in terms of who you'd get in terms of

1 applicants and who you would get on your certificate  
2 would be so outdated because of the job freeze there  
3 was little validity to having the job in the system.  
4 We need to pull it back so when it goes back into the  
5 system we would have a credible list of candidates.

6 Q Gotcha. Hold on then.

7 A Okay.

8 (Pause.)

9 BY MR. HIRN:

10 Q Forgive me for asking, if I'm repeating my  
11 question just to make sure I understood your answer.

12 A Okay.

13 Q Did or did not Workforce Management take any  
14 action to fill that position?

15 A The Lubbock position?

16 Q Yes.

17 A To be quite honest, I don't know where it  
18 was in that, in the system, but I know that it was  
19 caught by the job freeze to where it was not being  
20 moved on, and so that timeframe, the March to that  
21 September, that's why we moved that one back.

22 (Pause.)

23 BY MR. HIRN:

24 Q Now I asked you a few moments ago whether  
25 there were any vacancies that arose in the Southern

1 Region during 2012 or 2013 before the hiring freeze  
2 that you had not submitted to Workforce Management,  
3 and do I recall your answer correctly as being no,  
4 that you had submitted everything?

5 A Yes, but I will make one caveat to that. I  
6 would say certainly through all of '12 that was  
7 certainly the case. '13, after we had pulled back on  
8 these positions in mid-February and we were  
9 prioritizing, there might have been a job, two jobs, I  
10 don't know, where if the vacancy came open we wouldn't  
11 have submitted those to Workforce Management at that  
12 time simply because it's in the mix with all the other  
13 ones being reprioritized.

14 Q All right. But that would be a vacancy that  
15 arose after February 14 when you asked the others to  
16 come back, right?

17 A In rough numbers perhaps. When the  
18 paperwork started to come in, it could have been a  
19 month before.

20 Q All right. Okay. Then I'm going to ask you  
21 to look at Union Exhibit 79, and I'll bring over  
22 another copy of it.

23 ARBITRATOR SHARNOFF: Was it 79A?

24 MR. HIRN: Oh, I'm sorry.

25 MS. YOUNG: Yeah, which letter?

1 MR. HIRN: I'm sorry. It would be 79F.

2 BY MR. HIRN:

3 Q And directing your attention to the first  
4 page, these are senior forecaster vacancies. A senior  
5 forecaster position became vacant on January 26, 2013,  
6 at Jackson. Is that Jackson, Mississippi?

7 A Yes, sir, it would be.

8 Q And that was not submitted to Workforce  
9 Management, correct?

10 A That looks like correct, yes.

11 Q Okay. Turning to the next page -- no, to  
12 the third page, this is the HMT/intern vacancies. A  
13 HMT/intern, a Fort Worth position became vacant  
14 July 15, 2012. It was not submitted, correct?

15 A That's what this appears to indicate.

16 ARBITRATOR SHARNOFF: I'm sorry, which one  
17 was that?

18 MR. HIRN: Fort Worth, this is page 3 of  
19 79F, Fort Worth HMT/intern. On July 15, 2012, that  
20 position became vacant and you did not submit it.  
21 Then on June 30, 2012 --

22 MS. YOUNG: Was that a question or --

23 MR. HIRN: Well, he answered that. He did  
24 answer that, and Mr. Sharnoff just asked me what again  
25 I was referring to.

1 BY MR. HIRN:

2 Q And then looking further down this chart, on  
3 June 30, 2012, an HMT/intern position in Norman,  
4 Oklahoma, became vacant and it was never submitted to  
5 Workforce Management, correct?

6 A I would say perhaps on that. Yes, it may  
7 have not been put out for vacancy during that  
8 timeframe. You could have Pathways students or SCEPs  
9 moved into HMT. So Pathways students are your college  
10 students that once they graduate you have a 90-day  
11 period before you move them noncompetitively into a  
12 position, typically an intern position like this. And  
13 if this job was not submitted in that timeframe, what  
14 I would surmise out of that would be that we had a  
15 Pathways student move into that job.

16 Q Well, the problem I have with that answer is  
17 this exhibit was provided to us by the Agency stating  
18 that these were vacancies.

19 A Okay.

20 MS. YOUNG: Is that a question?

21 MR. HIRN: No. I'm just noting for the  
22 record what this document is.

23 BY MR. HIRN:

24 Q So you don't have any real knowledge that a  
25 Pathways student was given that position, do you?

1           A     No.

2           Q     Okay.  And then on the next page, the ITO  
3     position in Shreveport became vacant on January 26,  
4     2013, two months before the hiring freeze, exactly two  
5     months before the hiring freeze, but that was not  
6     submitted, correct?

7           A     That's correct.

8           Q     So earlier when you testified that every  
9     vacancy in your region in 2012 and at least within one  
10    month prior up to February 2013, every vacancy that  
11    became open was submitted to RADS, you did your part  
12    to try to get it filled, that was not a correct  
13    statement, was it?

14          A     No, I think you're mischaracterizing this.  
15    Now I'd have to go back and look at the HMT ones that  
16    are listed because that would be stunning to me that  
17    those were not filled.  The ones in January, late  
18    January --

19          Q     Right.

20          A     -- everything that starts off with a vacancy  
21    gets started off with a SF-52 that is signed and sent  
22    by the MIC.

23          Q     Right.

24          A     So, in this case, Shreveport, if that  
25    information wasn't processed to us, if there's leave

1 involved, I don't know the circumstances, but if that  
2 came into us by that timeframe, around February 10  
3 when we asked Workforce Management to pull them back,  
4 these jobs would be sitting in the prioritization list  
5 with all those other jobs that we had pulled back on,  
6 so that's that.

7 When you're asking if it's specifically  
8 February 14, that's why I said no, there could be some  
9 lag.

10 Q Right. I understand.

11 A Because there's going to be a delay in that  
12 process.

13 Q Okay. But for at least 2012 you did testify  
14 that every job, every position that became vacant you  
15 submitted to RADS.

16 A Yes.

17 Q Did you not testify to that?

18 A Yes.

19 Q And according to this exhibit, this document  
20 provided to us by the Agency, that was not correct.

21 A Not necessarily. Well, okay. I don't know  
22 the source of -- I don't know all this information  
23 here within the document.

24 Q Okay.

25 A Again, I would say emphatically,



1 particularly those jobs that were in during the summer  
2 of 2012, at that time, we were processing jobs and  
3 that HMT/intern job, it would be stunning to me if we  
4 weren't submitting those. Again, there was no  
5 delay --

6 Q Well, there was two of them, HMT, there were  
7 two of them.

8 A Yes, and we would have to go back and look  
9 and see the particular details on those, but I simply  
10 cannot answer on why they're not in the system as  
11 being in there. We obviously had those vacancies  
12 filled by the time March came around. Otherwise they  
13 would be listed in the grievance or on our listings  
14 here.

15 So through RADS you have job vacancies that  
16 are submitted in. Also, your Pathways students are  
17 converted in through that system. There is other  
18 mechanisms. So I don't know particularly what  
19 occurred in those two positions, but to my knowledge,  
20 both of those jobs were filled. I just don't know the  
21 source of why they're not listed here.

22 MR. HIRN: Mr. Sharnoff, that leaves me in a  
23 little bit of a puzzle because I have the Agency's  
24 witness testifying --

25 MS. CIOFFALO: I'm going to object.

1           MR. HIRN: -- that the information that  
2 Agency counsel provided us, a result of a 7114(b)(4)  
3 request, their official information response is  
4 inaccurate. I don't know what to make of that or how  
5 that leaves the record in this case.

6           MS. CIOFFALO: Can I respond if you don't  
7 mind?

8           ARBITRATOR SHARNOFF: You may.

9           MS. CIOFFALO: I think as I discussed in  
10 detail the first day that we talked about this and as  
11 Mr. Coyne aptly testified, these records come from a  
12 lot of different sources and this is not a perfect  
13 system. So to the extent, again, that you can pore  
14 through pages and pages of, you know, a RADS report  
15 with 4,000 entries in it and find a few that hadn't  
16 been updated, then I think that is reasonable.

17           So to suggest that there's any kind of, you  
18 know, prejudice based on that would be inappropriate.  
19 I think the witness has testified, again very aptly  
20 due to his knowledge of what was going on at the time,  
21 what he understands to have happened with those  
22 positions, and you can argue, you know, whatever you  
23 want in your brief about that.

24           MR. HIRN: Well, why don't we, rather than  
25 arguing in the brief, why don't we give the Agency an

1 opportunity to correct the record and provide the SF-  
2 50 appointment document for the positions involved  
3 that they initially told us was not even submitted,  
4 Mr. Coyne said were filled, or at least some document,  
5 copies of the submission to RADS or some -- you know,  
6 it seems to me they have the access to physical  
7 records to correct -- to either tell us whether this  
8 document is wrong or that Mr. Coyne is mistaken.

9 ARBITRATOR SHARNOFF: Okay.

10 MR. HIRN: That's a minimum obligation that  
11 they have.

12 ARBITRATOR SHARNOFF: I think if we can get  
13 a list of those names that you want -- I mean, I don't  
14 know that they have to go through all 4,000.

15 MR. HIRN: No, no, the ones we just talked  
16 about here.

17 ARBITRATOR SHARNOFF: Right. To the extent  
18 that you want clarification on four names or whatever  
19 it was.

20 MR. HIRN: Yes.

21 ARBITRATOR SHARNOFF: Make a list of the  
22 four names on a piece of paper, anything, and  
23 hopefully we can get a response on what happened to  
24 those jobs.

25 MR. HIRN: Well, I've been trying to get a

1 response to this stuff for six months.

2 ARBITRATOR SHARNOFF: All right.

3 MR. HIRN: And it's also funny --

4 MS. CIOFFALO: And I think this would have  
5 been --

6 ARBITRATOR SHARNOFF: Now we can try again.

7 MR. HIRN: And I also note, Mr. Sharnoff,  
8 that the question, the simple question that I have  
9 been asking for six months about these positions  
10 returned to the line office --

11 MS. CIOFFALO: I'm going to object to this.

12 MR. HIRN: -- whether or not the Weather  
13 Service --

14 MS. CIOFFALO: We're on the record right  
15 now.

16 MR. HIRN: Yeah.

17 MS. CIOFFALO: And you're making arguments  
18 about things that we have resolved already. Enough  
19 already with this, honestly. We have gone through  
20 this issue in detail. The resolution was that you  
21 were going to question the witnesses about it. You've  
22 done that. If you want to make an argument about that  
23 later, make an argument about it in your brief, but I  
24 think we've beaten that horse to death.

25 MR. HIRN: No, I think there may be future

1 cases, you know, for -- I was played around with for  
2 six months.

3 MS. CIOFFALO: Again, I highly object to  
4 this kind of argument being made on the record yet  
5 again.

6 ARBITRATOR SHARNOFF: All right. At this  
7 point, do you have any further questions of the  
8 witness? Let's get back to questions.

9 BY MR. HIRN:

10 Q Okay. Is there a lead forecaster vacancy in  
11 Amarillo, Texas?

12 A Currently?

13 Q Yes.

14 A I would have to go look at the list. I  
15 believe there is a forecaster vacancy. I'm not  
16 certain if it's a senior forecaster.

17 Q Okay. Do you know when it became vacant?

18 A Not off the top of my head.

19 Q Key West, Florida, is there a lead  
20 forecaster vacancy there?

21 A I would have to go back and look at my  
22 listing.

23 Q San Antonio, Texas, is there a general  
24 forecaster vacancy there?

25 A Yes, there is.

1 Q And how long has that been vacant?

2 A There were recent retirements at the end of  
3 this year I believe. I don't know if there has been a  
4 longer one sitting there before that time.

5 Q In Jacksonville, Florida, is --

6 ARBITRATOR SHARNOFF: Excuse me. When you  
7 say San Antonio, there are retirements, plural, are  
8 there plural vacancies?

9 THE WITNESS: Yes, sir. The reason I know  
10 that one is because there was a recent retirement. It  
11 did meet the criteria for the job board recently.  
12 Although they did not have that three vacancy  
13 criteria, I think at this point they only have two,  
14 but they also have one forecaster who is out on a  
15 medical issue, long-term medical issue. So, in  
16 essence, they have three people out, and we did submit  
17 that before the job board and that was recently  
18 approved and it's going to be going out for vacancy  
19 here shortly.

20 So I remember that because I've recently  
21 written up the documents for that, and it was  
22 approved.

23 BY MR. HIRN:

24 Q Is there an intern HMT vacancy in  
25 Jacksonville, Florida?

1           A     I would have to look at my list.  There's  
2           currently within Southern Region 91 vacancies.  It's a  
3           very long list.  I cannot tell you every one of those  
4           91 jobs.

5           Q     All right.  Well, then let me ask a shorter  
6           way.

7           A     Okay.

8           Q     Looking back at Union Exhibit 79 --

9                   MS. YOUNG:  79F?

10                  MR. HIRN:  79F.  Thank you.

11                  BY MR. HIRN:

12           Q     On the first page, senior forecaster  
13           vacancies.  No, never mind.

14                  MR. HIRN:  I have no more questions.

15                  MS. YOUNG:  Nothing further.

16                  ARBITRATOR SHARNOFF:  Okay.  You're excused  
17           as a witness subject to getting that information on  
18           those four names, if you could arrange to -- I don't  
19           know when you're going to be back, where you have to  
20           be, or if you can call somebody to dig it out, but if  
21           you can get--

22                  THE WITNESS:  We'll certainly get that  
23           information as quick as we can.

24                  ARBITRATOR SHARNOFF:  Subject to that, you  
25           are excused.  Thank you.

1 THE WITNESS: Okay. Thank you, sir.

2 (Witness excused.)

3 MR. HIRN: And if I could collect my  
4 exhibits.

5 (Pause.)

6 MS. CIOFFALO: Richard, I think that's all  
7 that we have of yours right now is 48, 49, and 79F.

8 MR. HIRN: Yes, yes, yes. And here is a  
9 list of the three positions we discussed.

10 MS. CIOFFALO: Okay. Can we take a break?

11 ARBITRATOR SHARNOFF: Off the record.

12 (Whereupon, a short recess was taken.)

13 ARBITRATOR SHARNOFF: Okay. Good. I'm not  
14 sure what time it is out there.

15 MR. DRAGOMIR: I don't even know if I know.  
16 It's about 12:30.

17 ARBITRATOR SHARNOFF: Okay. Well, good  
18 afternoon then. My name is Joe Sharnoff, the guy in  
19 the middle. I'm the arbitrator. They will ask you to  
20 state your name for the record. At that point, I will  
21 swear you in, and then they'll have some questions for  
22 you. I guess you can't see the individual, but there  
23 is a court reporter present who will be taking down  
24 your testimony. Is there anybody else in the room  
25 with you?



1 MR. DRAGOMIR: No.

2 ARBITRATOR SHARNOFF: Okay. All right.

3 MS. CIOFFALO: Ms. Young will be questioning  
4 this witness.

5 MS. YOUNG: John, could you please state and  
6 spell your name for the record?

7 MR. DRAGOMIR: My name is John Dragomir.  
8 That's spelled J-O-H-N, last name D-R-A-G-O-M-I-R.

9 ARBITRATOR SHARNOFF: Okay.  
10 Whereupon,

11 JOHN DRAGOMIR

12 having been duly sworn, was called as a  
13 witness and was examined and testified as follows:

14 ARBITRATOR SHARNOFF: Okay.

15 DIRECT EXAMINATION

16 BY MS. YOUNG:

17 Q John, it looks like you have some documents  
18 in front of you. Can you just push those aside until  
19 we refer to them?

20 A Okay.

21 Q You can leave them on the table. Just don't  
22 put them directly in front of you. Great, thank you.

23 John, who do you currently work for?

24 A For the National Weather Service, Alaska  
25 Region.

1 Q What is your current position title?

2 A I'm the acting deputy director of the Alaska  
3 Region.

4 Q Okay. How long have you held that position?

5 A Officially it's been since May of 2013.

6 Q Okay. And prior to that, what position did  
7 you hold?

8 A The director of operations.

9 Q For the Alaska Region?

10 A For the Alaska Region, yes.

11 Q Okay. How long have you worked for the  
12 National Weather Service?

13 A It's been about 20 -- a little over 24  
14 years.

15 Q Okay. And can you tell us briefly, starting  
16 from your first Weather Service position, the  
17 different positions that you've held?

18 A I was a meteorologist intern at the Weather  
19 Forecast Office in Pittsburgh. That was from '89 to  
20 '92. In '92, I came to Alaska. I think my title was  
21 a computer applications meteorologist. I basically  
22 wrote software for the Alaska Region headquarters,  
23 supporting communications and field operations.  
24 Later, I can't remember the dates on this. I think it  
25 was probably about 1996 I became the -- or maybe it

1 was '94 I became the special project meteorologist  
2 where I helped integrate the NEXRAD radar into  
3 Aeronet, which was our computer network, similar to  
4 AWIPS.

5 After that I was lateraled into the  
6 techniques development meteorologist position, which I  
7 held 'til 2001. During that time, I continued to  
8 develop software, that sort of thing. In 2001, I  
9 accepted a SOO position in Fairbanks, Alaska. And I  
10 believe in December of 2002 I became the MIC and then  
11 ran the office from 2002 to I guess it was October of  
12 2010. At that point in time, I officially transferred  
13 to Anchorage regional headquarters.

14 Q Okay.

15 A And then that's where I became the director  
16 of operations and then over time kind of assumed a lot  
17 of the responsibilities of the deputy director because  
18 I believe our director left about, I'm thinking about  
19 two years ago, and so Amy Devaris has been the acting  
20 director, and so I've helped I guess alleviate some of  
21 the workload on her and picked those responsibilities  
22 up.

23 Q What are your responsibilities in the acting  
24 deputy director role?

25 A Probably the biggest time sink is strategic

1 planning. I do a little bit of budget formulation and  
2 oversight, probably oversight more than formulation,  
3 and then we set regional goals and, you know, work on  
4 taskers for headquarters for NOAA and that sort of  
5 thing. Also labor/management as well as personnel  
6 issues.

7 Q Okay. What type of labor/management  
8 responsibilities do you have?

9 A I'm pretty much it as far as the region  
10 goes. If we have discussions with the regional chair,  
11 who is Jim Brader, I'm typically the guy that would  
12 have those communications or discussions.

13 Q Did you have any labor/management  
14 responsibilities in any of your previous roles?

15 A When I was at WFO-Fairbanks as the MIC.

16 Q Okay. Can you just tell us briefly about  
17 the structure of the Alaska Region in terms of  
18 staffing?

19 A I guess I'm not sure I understand your  
20 question.

21 Q Well, can you describe the structure of the  
22 Alaska Region in terms of the different offices, et  
23 cetera?

24 A In the Alaska Region, we have WSOs, Weather  
25 Service Offices, which are located in remote areas of

1 Alaska. They typically have upper air responsibility  
2 tied to them. They're a service or product or service  
3 outlet so to speak for mostly the local community, but  
4 it can extend a little further out. Then we have  
5 three WF -- I think there's like 12 of those, and then  
6 we have three WFOs, Weather Forecast Offices, one in  
7 Fairbanks, one in Anchorage, and one in Juneau, and  
8 those of course put out our forecast products and  
9 services, watches, warnings, advisories and such. And  
10 then we have our regional headquarters. I believe our  
11 staffing is about 35 here at headquarters when we're  
12 fully staffed.

13 Q In your current acting deputy director role,  
14 do you have any responsibilities with respect to the  
15 filling of vacancies in the Alaska Region?

16 A Yes.

17 Q And what are those?

18 A When a position becomes vacant, I try to  
19 make sure that we get the vacancy announced or I guess  
20 put into the RADS system, working with WFMO, which  
21 requires a lot of I guess processing of paperwork  
22 before it gets into the system. Then once it's in the  
23 system, we try to follow it through to announcement,  
24 certs, and then hiring.

25 Q Have you ever encountered any difficulties

1 with respect to filling positions in your region?

2 A Yes.

3 Q And what would be an example of some of  
4 those difficulties?

5 A Probably the biggest problem we probably had  
6 is -- I guess there are several problems. The process  
7 I think it was in 2010 changed quite significantly. I  
8 don't recall what the system was referred to before  
9 2010, but in 2010, I believe RADS came online, and  
10 then that required us to change the way we submitted  
11 hiring actions to WFMO.

12 During that time, from then, from 2010 to  
13 now, the process seemed to change quite a bit over  
14 time, so we never quite kept up with the changes, or  
15 by the time we figured it out it changed again. We  
16 had trouble with PDs not being valid anymore. One day  
17 they're valid and we hired probably hundreds of  
18 forecasters using a specific PD, and then one day  
19 guess what? The PD is not valid any longer, got to  
20 develop a new PD.

21 Q Not valid according to whom?

22 A To Workforce Management.

23 Q Okay.

24 A I couldn't tell you specifically who at  
25 Workforce Management made that determination, but

1 generalization, it was Workforce Management.

2 Q And you talked about some different changes  
3 that were initiated. Did you receive or did your  
4 region receive any guidance with respect to those  
5 changes from Workforce Management?

6 A There were times that we did and there were  
7 times that we didn't.

8 A Okay.

9 Q There were times that we were told and maybe  
10 given some short explanation. There were times where  
11 a change was made and there was no for lack of a  
12 better word training that was going to be available or  
13 that it was going to be available in a short time  
14 period.

15 Q To the best of your knowledge, how long  
16 would it typically take for the Workforce Management  
17 Office to process a vacancy?

18 A It would take anywhere from two months to a  
19 year. Typically the ones that took two months were  
20 piggy-backed off the hiring action that we submitted  
21 to RADS probably several months prior.

22 Q And why did that contribute to those being  
23 filled in two months versus a longer timeframe?

24 A They kind of showed up. There may have  
25 been -- in the cases that I'm referring to, there was

1 a time period where maybe a year ago somebody quit or  
2 found another job, so there was a vacancy. So we  
3 started the process, and during the process of getting  
4 the position processed another person would resign or  
5 quit or whatever, so then we had to get another  
6 vacancy.

7 So instead of having two RADS cases, which  
8 would mean either somebody had to double the work or  
9 you had to assign it to another person, we just would  
10 put the cases together so that once they got approved  
11 and the vacancies were pushed through the process, we  
12 would maybe fill two or however many positions we  
13 threw in there while we were waiting for Workforce  
14 Management to do what they needed to do to process  
15 them or -- go ahead.

16 ARBITRATOR SHARNOFF: Yeah, I was just going  
17 to ask approximately when was that happening?

18 THE WITNESS: I can recall there were two  
19 times where we had I believe it was three forecasters  
20 on the same RADS case, and we had one where we had  
21 five I believe, and typically last in would look like  
22 they filled it pretty quick, but in reality -- and  
23 they did, but it was only because we waited eight  
24 months to get the other four through. I don't know if  
25 I'm making sense.



1 ARBITRATOR SHARNOFF: Go ahead. Go ahead.

2 BY MS. YOUNG:

3 Q I think what he's asking you is when in  
4 time, you know, in terms of like what year it was, if  
5 you know.

6 ARBITRATOR SHARNOFF: It doesn't have to be  
7 exact, just roughly.

8 THE WITNESS: I'm thinking it was  
9 probably -- both were probably within the last two  
10 years. So from about 2012 timeframe.

11 BY MS. YOUNG:

12 Q Okay. And so did --

13 A I'm not sure. I don't think we've had too  
14 many in 2013 because we've had the hiring freeze.

15 Q Okay. And to the best of your knowledge,  
16 when did the hiring freeze come into play?

17 A I believe it was March 27, 2013.

18 Q Okay. Did your role with respect to getting  
19 vacancies or filling vacancies in the Alaska Region  
20 change as a result of the hiring freeze?

21 A I'm not sure I understand what your question  
22 is.

23 Q Well, I think your testimony before was that  
24 your responsibilities with respect to filling  
25 vacancies involved, you know, trying to get the

1 position announced and working with Workforce  
2 Management, et cetera, et cetera. Did those  
3 responsibilities change after the freeze?

4 A Sure. Yes.

5 Q How so?

6 A Prior to the freeze, because we were funded  
7 really fairly well with labor dollars, we didn't have  
8 to worry about whether we would have the budget to  
9 cover any of the vacancies that we had if we needed to  
10 fill them, which we did. After the hiring freeze, we  
11 still had the funds in labor, we just couldn't hire  
12 people. So where things changed was with respect to  
13 the hiring freeze waiver process, which was  
14 implemented about two weeks after the freeze was  
15 established, and that allowed us to put in hiring  
16 waivers for offices that were not meeting the like  
17 minimal staffing required to I'll say meet the  
18 mission, two people on shift, that kind of thing.  
19 That was at the WFOs. WSOs, it was a different deal.

20 Q Okay. So you mentioned two people on shift.  
21 How did that play into your role or your  
22 considerations?

23 A Well, there needs to be two people on shift,  
24 and so an office, in addition to the forecast staff at  
25 the office, a typical WFO has other meteorologists

1 that are qualified to work the forecast desk, and that  
2 would be typically the MIC, the WCM, the SOO, and not  
3 in all offices but probably in most the service  
4 hydrologist would be another.

5 So, as long as there were enough people in  
6 the office to cover all the shifts between those two  
7 groups of the forecasters and kind of like the  
8 management group, then they were okay. You weren't  
9 going to get an approval for a hiring waiver. Once  
10 they went below that minimum, that's when we would  
11 submit a hiring waiver. Now there is one exception to  
12 that.

13 Q Okay. What's that exception?

14 A And we're in the process of operationalizing  
15 our grids up here, and the Fairbanks office, I believe  
16 they were three general forecasters short. We were  
17 able to get a hiring waiver to allow us to keep on  
18 track with getting our grids operationalized. So we  
19 were able to get a waiver for that.

20 Q Okay. John, the waiver that you just  
21 mentioned for Fairbanks, are you saying that you got a  
22 waiver for a single position at that office or more  
23 than one?

24 A The last waiver we put through for Fairbanks  
25 was for three forecasters, general forecasters. Prior

1 to that, we submitted one for I think it was a general  
2 forecaster and an intern, and that was off the top of  
3 my head about six months ago.

4 Q Okay.

5 A No, actually, actually it was back like  
6 within a month of the hiring freeze. Once the hiring  
7 waiver process was established, we were like the first  
8 office I believe in the Weather Service to have  
9 positions waived so we could hire them.

10 Q Okay. That was going to be my next  
11 question. The waiver or waivers for Fairbanks were  
12 approved?

13 A Yes.

14 Q Okay.

15 A We're in the process of hiring -- I believe  
16 the positions closed on the 10th. The three  
17 forecasters, general forecasters closed on January 10,  
18 and I'm not sure if they've gotten certs yet or not.

19 Q Was there a situation within the past year  
20 or so with respect to leave getting canceled at the  
21 Fairbanks office, if you know?

22 A Yes, there was.

23 Q Okay. What do you know about the details of  
24 that?

25 A The office, the forecasters, I think they

1 were probably anywhere from two to three forecasters  
2 short. Management was pulling shifts. And it was  
3 discussed with the Union. I wasn't there for the  
4 discussions, so I don't know exactly what was  
5 discussed, but an arrangement was made that allowed  
6 everyone to take two weeks off, so 80 hours, and the  
7 rest of the leave would be denied, and they also --  
8 well, that's what I've got right now.

9 Q So are you saying that the arrangement was  
10 negotiated at the local level there at Fairbanks?

11 A I don't know if negotiations is the right  
12 term for it, but it was discussed with the Union.

13 Q Okay. How do you know that?

14 A Through communications with the MIC.

15 Q Okay. Going back just briefly to the  
16 discussion with respect to the Workforce Management  
17 office, given some of the issues that you discussed,  
18 is the Alaska Region considering any action with  
19 respect to that, you know, to address those issues?

20 A I believe it was probably close to a year  
21 and a half ago we initiated a process to contract out  
22 Workforce Management with the National Finance Center,  
23 and we received approval from headquarters to pursue  
24 it. Right now I believe the document is -- the  
25 contract document is with Legal right now. I don't

1 know where that is at this point in time, but we plan  
2 to effectively fire Workforce Management from doing  
3 our hiring actions.

4 Q Currently, though, Workforce Management is  
5 still responsible for Alaska Region hiring actions?

6 A Yes.

7 Q Okay. Did you ever discuss any delays or  
8 issues with Workforce Management with Jim Brader? I  
9 think you mentioned he's the Union's regional chair.

10 A Yes. On a couple occasions, Jim brought up  
11 the question concerning why it was taking so long to  
12 hire positions, and my response to him was basically  
13 the same responses I've given you, is that things were  
14 changing, Workforce Management wasn't being  
15 responsive. We were putting them into the system as  
16 fast as we can, but nothing is really happening.

17 Q And when did that conversation or  
18 conversations occur, if you know?

19 A It was probably -- I don't know the exact  
20 dates, but I'm -- I remember one time, it was last  
21 January at our RLC, and we were walking across the  
22 street to my car, and he had asked me that question.  
23 The other time I can't recall.

24 Q What, if anything, was Mr. --

25 ARBITRATOR SHARNOFF: If I can interrupt.

1 Do you recall it being before or after the  
2 conversation you do remember?

3 THE WITNESS: You mean the other time that I  
4 can't recall when it was? It would have probably been  
5 before, but I don't recall.

6 BY MS. YOUNG:

7 Q So you recall one conversation last January,  
8 meaning January of 2013, at the RLC?

9 A That would be correct. Now it wasn't at the  
10 RLC, but it was during the few days that we had the  
11 RLC. We were walking back to my car and having a  
12 conversation and he had asked me about that.

13 Q Okay. And you testified that you told him,  
14 you know, similar things to what you've told us here  
15 today. What, if anything, was Mr. Brader's response?

16 A I think it was kind of like disbelief. Not  
17 that I was telling him a lie or anything, but  
18 disbelief that how can it take Workforce Management so  
19 long to do what they're supposed to be doing, to  
20 process the hiring actions.

21 Q Are you aware of a series of Union  
22 grievances with respect to the Agency's failure to  
23 fill certain vacancies?

24 A Yes.

25 Q Okay. Do you have copies of those

1       grievances with you today?

2           A     Yes.

3           Q     Okay.  Could you put those grievances in  
4       front of you now?

5           A     Okay.

6           Q     All right.  I want to refer you to what  
7       we've marked here as Joint Exhibit 2A, which is a  
8       grievance with respect to lead forecaster positions.  
9       It's dated March 13, 2013.  Can you let me know when  
10      you're looking at that document?

11          A     I'm looking at that document.

12          Q     Okay.  And have you seen this document  
13      before?

14          A     Yes, I have.

15          Q     Okay.  Take a look at the document and let  
16      me know if any of the offices listed which purportedly  
17      have lead forecaster vacancies fall within the Alaska  
18      Region.

19          A     It looks like Fairbanks and Juneau are  
20      identified.

21          Q     Okay.  Do you recall whether as of March 13,  
22      2013, there were lead forecaster vacancies at  
23      Fairbanks and Juneau?

24          A     I don't recall.

25          Q     Okay.  I want to turn your attention to a



1 document that I'm going to mark Agency Exhibit 20.

2 This is a chart, John, that I believe you prepared.

3 (The document referred to was  
4 marked for identification as  
5 Agency Exhibit No. 20.)

6 BY MS. YOUNG:

7 Q Do you have that document with you?

8 A Yes. I have it.

9 Q Okay. Thank you. Take a moment and look at  
10 this document and let me know if you recognize it.

11 A I recognize it.

12 Q Okay. What is this?

13 MR. HIRN: Can I have a moment first before  
14 we proceed to look it over?

15 MS. YOUNG: Oh, yes, I'm sorry.

16 John, we'll just take a moment so that Union  
17 counsel can review the document.

18 THE WITNESS: Okay. Would there be any way  
19 that I could go fill my glass of water?

20 ARBITRATOR SHARNOFF: Sure.

21 MS. YOUNG: Yes.

22 THE WITNESS: Okay. I'll be back in like  
23 two minutes.

24 MS. YOUNG: Sure.

25 THE WITNESS: Thank you.

1 (Pause.)

2 MR. HIRN: I'm ready, Lindsey.

3 MS. YOUNG: Okay. I'm not sure we were off  
4 the record, but go back on I suppose.

5 BY MS. YOUNG:

6 Q Okay, John, do you recognize this document?

7 A Yes, I do.

8 Q What is this document?

9 A This document identifies vacancies, lead  
10 forecaster vacancies in this case in the Alaska Region  
11 it looks like from 2012 timeframe to present.

12 Q Okay. The document that we're looking at,  
13 it covers positions in addition to lead forecasters.  
14 Are you looking at the same document?

15 A Right. The entire document covers general  
16 forecasters and HMT/interns as well.

17 Q Okay. Do you know who created this  
18 document?

19 A I did with the help of Karolyn Maldonado.

20 MS. YOUNG: Okay. I'd like to offer A-20  
21 into evidence, please.

22 MR. HIRN: Sure.

23 ARBITRATOR SHARNOFF: Okay. It's admitted.

24 //

25 //

1 (The document referred to,  
2 previously identified as  
3 Agency Exhibit No. 20, was  
4 received in evidence.)

5 BY MS. YOUNG:

6 Q John, take a look at what for us is page 1  
7 of the document with respect to the lead forecaster  
8 vacancies. Does that refresh your recollection as to  
9 whether or not there were lead forecaster vacancies at  
10 Fairbanks and Juneau at the time of the grievance?

11 A Yes, it looks like if I'm doing my  
12 calculations correctly, it looks like there were  
13 three.

14 Q Okay. Why don't you just list them out, the  
15 ones from the time of the grievance.

16 A Well, do you want -- because there's a  
17 vacant date and then there's an EOD date.

18 Q Right. We're talking about the positions --

19 A And the date 3/13. Okay, so it looks like  
20 the lead forecaster position at Fairbanks, Vice  
21 Bodell.

22 Q Okay. That's the first one on the list,  
23 right?

24 A Right.

25 Q Okay. So that position it looks like was

1 vacant as of October 21, 2000 --

2 A October 21.

3 Q Okay, you need to let me finish asking the  
4 question.

5 A Okay.

6 Q Okay. That one was vacant as of October 21,  
7 2012, right?

8 A Right.

9 Q Okay. And why don't you continue on down  
10 the list here.

11 A The second one, the second position that was  
12 vacant, 11/27/2012.

13 Q And what office was that?

14 A That would be Juneau.

15 Q Okay.

16 A And then the third position, WFO-Fairbanks,  
17 January 27, 2013.

18 Q Okay. So are those the three lead  
19 forecaster vacancies that you can identify with  
20 respect to the time of the grievance, March 13, 2013?

21 A Yes.

22 Q Okay. And it looks like the fourth line is  
23 a Juneau vacancy that's listed. When did that one  
24 become vacant?

25 A That would be November 29, 2013.

1 Q Okay. So that was after the grievance,  
2 correct?

3 A Correct.

4 Q I guess limiting your response to the first  
5 three that we talked about, have any of those  
6 vacancies been filled?

7 A Yes. All three.

8 Q Okay. Okay. So starting with the first  
9 Fairbanks, when was that one filled?

10 A March 24, 2013.

11 Q Okay. What about the second Fairbanks  
12 vacancy?

13 A That would be May 5, 2013.

14 Q Are you sure you're not looking at the  
15 Juneau line?

16 A Oh, did you say Fairbanks?

17 Q Yeah, sorry. I thought we'd keep the  
18 Fairbanks together.

19 A I apologize. That would be the same date,  
20 3/24/2013.

21 Q Okay. And what about the Juneau vacancy?  
22 Has that one been filled?

23 A That one's been filled.

24 Q As of what date?

25 A May 5, 2013.

1 Q Okay. Let's turn to journeymen forecasters.  
2 Are you aware of a grievance with respect to the  
3 filling of journeymen forecaster vacancies?

4 A Yes, I am.

5 Q Okay. If you could get that grievance and  
6 put it in front of you. That's our 2C, Joint Exhibit  
7 2C.

8 A Okay.

9 Q Do you recognize that document?

10 A Yes, I do.

11 Q And what is it?

12 A It's a grievance for not hiring general  
13 forecasters.

14 Q What's the date of the grievance?

15 A March 21, 2013.

16 Q Looking at the list of offices the Union  
17 alleges had a vacancy at that time, can you let us  
18 know if any Alaska Region offices appear on the list?

19 A It looks like in the first list Fairbanks,  
20 Alaska, is listed.

21 Q Okay. Any from the second list?

22 A No.

23 Q Okay. And referring to your chart with  
24 respect to general forecasters if you need to, was  
25 there a vacancy for general forecaster at Fairbanks as

1 of March 21, 2013?

2 A Yes.

3 Q Okay. And looking at your spreadsheet, it  
4 appears that there were also other general forecaster  
5 vacancies in your region as of that time. Is that  
6 accurate?

7 A That's accurate.

8 Q Okay. Why don't you start at the top of the  
9 list and enumerate which office and when the position  
10 was vacant in terms of those vacant at the time of the  
11 grievance.

12 A At the time of the grievance?

13 Q Correct.

14 A That would be the -- the office would be  
15 WFO-Fairbanks. It became vacant July 15, 2012.

16 Q What about the Juneau office listed above  
17 that?

18 A Oh, okay. I'm getting my years mixed up  
19 here. Yes, that would be the other one, WFO-Juneau,  
20 4/22/12, April 22, 2012.

21 Q Okay. And then you already mentioned --

22 A And it looks like --

23 Q You already mentioned Fairbanks, that was  
24 next. What about Anchorage?

25 A Right. Anchorage had a vacancy 10/21/2012,

1 and I think that's it.

2 Q There are several other vacancies listed  
3 here. Are we to assume they all came after the  
4 grievance?

5 A Those appear to have come after the  
6 grievance.

7 Q Okay. Have any of these general forecaster  
8 positions --

9 A Oh.

10 Q Go ahead.

11 A I just wanted to make sure I was looking at  
12 the right document, and my statement's correct.

13 Q Okay. You do have the general forecaster --

14 A Yes.

15 Q -- portion of the spreadsheet in front of  
16 you?

17 A Yes.

18 Q Okay. Have any of these general forecaster  
19 vacancies been filled?

20 A The WFO-Fairbanks position was filled.

21 Q Okay. Are you meaning the one second from  
22 the top?

23 A Yes, the second from the top.

24 Q Vice Aldrich.

25 A Vice Aldrich.



1 Q Okay. When was that position filled?

2 A September 8, 2013.

3 Q Okay. And I think you testified previously  
4 that you got a waiver for multiple positions at  
5 Fairbanks. How does that fit in?

6 A This would have been the general forecaster  
7 that we submitted for the waiver, for the first waiver  
8 that we were able to get.

9 Q Okay. All right. Let's look at the  
10 HMT/interns, if you'll turn the page. Are you aware  
11 of a Union grievance with respect to the filling of  
12 HMT/intern vacancies?

13 A Yes.

14 Q Okay. That is our Joint Exhibit 2B, and if  
15 you could put that grievance in front of you.

16 A I have it in front of me.

17 Q Okay. Do you recognize it?

18 A I recognize it.

19 Q Okay. What is the date of this grievance?

20 A March 15, 2013.

21 Q Looking over the list of offices, are any of  
22 these on this grievance located in the Alaska Region?

23 A Yes. The Anchorage, Alaska.

24 Q Okay. And what about in the text? Do any  
25 other Alaska Region offices appear?

1           A     It does not appear to be any other offices  
2     in Alaska.

3           Q     Okay. All right. So let's look at your  
4     chart. Was there a HMT/intern vacancy at Anchorage at  
5     the time of the grievance?

6           A     Yes.

7           Q     Okay. And can you identify it for us on the  
8     chart?

9           A     It's the first one.

10          Q     Okay. So it looks like this position has  
11     been vacant for quite a while, is that correct?

12          A     That's correct.

13          Q     And the status says, "This position was  
14     identified as a floater." Is that your comment in the  
15     status box?

16          A     Yes, it is.

17          Q     So what did you mean by that?

18          A     We identified this position with the Union  
19     that we were considering a floater and that we weren't  
20     going to fill it until we knew what we were going to  
21     do with it as far as which office it might go into and  
22     those kind of details.

23          Q     Okay. Are those details still being worked  
24     out?

25          A     I would say we haven't discussed this issue

1 probably since the last RLC meeting, January 2013.

2 Q Okay. So why can't you or why haven't you  
3 made a selection for this position, or why haven't you  
4 begun the process of filling it?

5 A Because our position is that we want to turn  
6 it into a general forecaster position per the floater  
7 plan.

8 Q Okay. And so why can't you or why haven't  
9 you done that and filled that position?

10 A I think we just haven't come to -- agreement  
11 maybe is too strong a word, but we haven't come up  
12 with consensus as to what general forecaster and  
13 where.

14 Q Who is "we"?

15 A Management and the regional chair.

16 Q The regional chair of the Union?

17 A Yes.

18 Q Okay. Now the other positions on this  
19 spreadsheet, there's another vacancy at Anchorage and  
20 one at Fairbanks. It looks like they both came vacant  
21 shortly after the grievance was filed. Do you agree?

22 A I agree.

23 Q Okay. And you mentioned previously a hiring  
24 freeze. Were those positions affected by the hiring  
25 freeze?

1 A Yes.

2 Q Well, have you submitted either of those  
3 positions for consideration to the Hiring Freeze  
4 Board?

5 A Yes. We submitted the Fairbanks position to  
6 the Hiring Freeze Board, and we went through the  
7 process and selected an individual.

8 Q Okay. And has that position been filled?

9 A Yes.

10 Q And when did that individual enter on duty?

11 A September 22, 2013.

12 Q Okay. And what about the Anchorage position  
13 directly above it, RADS No. 4845? Has that one been  
14 submitted?

15 A We have not --

16 Q Has that one been submitted to the Hiring  
17 Freeze Board?

18 A We have not submitted that. No, that has  
19 not been submitted to the Hiring Freeze Board.

20 Q Okay. Why not?

21 A Because I believe they have the minimal  
22 number of staff to fill the positions or fill the  
23 shifts that they need to fill to meet the mission.

24 Q There's an allegation that positions or  
25 vacancies were not being filled prior to the hiring

1 freeze, so in essence, that there was a freeze before  
2 the freeze. Do you agree with that allegation?

3 A No.

4 Q Why not?

5 A Because with the exception of the one HMT  
6 position at the Anchorage office we submitted every  
7 position that we could. And we filled them. Just  
8 some took a long time to fill, but it was not because  
9 we put the brakes on any hiring action. It was a  
10 result of Workforce Management making changes, the  
11 process was slow, and we were just on the wrong side.  
12 You know, we have no say in how Workforce Management  
13 does what they do. They just do what they do.

14 Q Are you aware of any requirement to fill a  
15 position in a particular amount of time?

16 A No.

17 MS. YOUNG: I don't have any further  
18 questions.

19 CROSS-EXAMINATION

20 BY MR. HIRN:

21 Q Mr. Dragomir, hi. This is Richard Hirn.

22 A Hello.

23 Q Mr. Dragomir, I wrote down a quote early in  
24 your testimony, and if I wrote it down correctly, you  
25 said, "After the hiring freeze, we still had funds in

1 labor, but we couldn't hire anyone." What did you  
2 mean by that?

3 A That since there was a hiring freeze we  
4 didn't have permission to hire anybody.

5 Q What did you mean when you said "After the  
6 hiring freeze, we still had funds in labor"?

7 A It's my understanding that in the past our  
8 labor budget in the Alaska Region was based on however  
9 many employees you were allocated to have, and those  
10 were funded at 95 percent, so understand the 95  
11 percent, that's how it was, and that we had more than  
12 enough vacancies -- we typically had more money in our  
13 labor funds because the Alaska Region typically has  
14 more vacancies.

15 So, if we hire one person, two people leave,  
16 and then we hire two people and five people leave.  
17 It's a game of catch-up. So, if you're given your pot  
18 of money to fund I'll say 200 people and you're always  
19 hanging around 190, you're going to have the funding  
20 to hire, to continue hiring.

21 Q Okay. Do I understand you correctly that  
22 you did in fact have sufficient labor funds to  
23 continue hiring in the second half of FY '13 if there  
24 wasn't a freeze?

25 A I believe so.

1           Q     Okay.  And when you say you're only funded  
2     at 95 percent, could you explain that a little bit  
3     more?  I mean, who funds you at 95 percent?

4           A     I think that's part of the -- I'm probably  
5     going to get this wrong, but it's part of the budget  
6     formulation, maybe part of MAR I think or --

7           Q     Do you understand that to be unique to the  
8     Alaska Region, or is that uniform amongst all the  
9     regions?

10          A     No, I think that's how they do funding  
11     across the Weather Service.  I think it has to do with  
12     vacancies and that kind of thing they take in account,  
13     and it just turns out to be 95 percent.  But I'm not a  
14     budget person.  I don't know the specifics.

15          Q     Okay.  You refer to the Fairbanks leave  
16     issue, and you said some accommodation had been worked  
17     out, but ultimately people did get denied leave, is  
18     that correct?

19          A     That's correct.

20          Q     And had the office been more fully staffed,  
21     those folks would have been able to take the leave  
22     that they sought, is that correct?

23          A     I believe so.

24          Q     Did anybody lose leave in the use-or-lose  
25     category?

1           A     No. We submitted them all in for I guess  
2 reinstatement of their leave.

3           Q     The waiver provision, the carryover waiver  
4 thing.

5           A     The waiver, yes.

6           Q     Yeah. Okay.

7           A     That's it.

8           Q     And then finally, Mr. Dragomir, on Agency  
9 Exhibit 20 --

10          A     Which one is that?

11          Q     The last one, the chart that you made --

12          A     Okay.

13          Q     -- that you spent a lot of time discussing.  
14 The second page, the general forecaster position at  
15 Juneau, can you give us a little better explanation of  
16 the notations you made under status in that situation?

17          A     Okay. Let's see if I can do that.

18                MS. YOUNG: Sorry, Richard. Are you at the  
19 first line, RADS No. 4651?

20                MR. HIRN: Yes.

21                MS. YOUNG: Okay.

22                THE WITNESS: Okay. That position became  
23 open as a result of an intern/HMT position becoming  
24 vacant, and we used the floater plan. So basically it  
25 was taking an HMT position and converting it to a



1 forecaster position. So the office originally had 10  
2 forecasters. By doing this, they had 11. And so  
3 that's how this became to being.

4 BY MR. HIRN:

5 Q And you wrote "Delay was a result of  
6 decision process." Could you explain in particular  
7 why there was a delay and what that decision process  
8 was?

9 A It was management trying to ascertain  
10 whether the Juneau office needed another forecaster  
11 and what impact that might have to the public service  
12 unit.

13 Q And that took 10 months to figure out?

14 A I think for the most part, yes. It wasn't  
15 necessarily something we worked on every day, but we  
16 did go back and forth several times as to whether we  
17 were going to move forward with the idea.

18 MR. HIRN: Thank you, Mr. Dragomir. I don't  
19 have any more questions.

20 THE WITNESS: Thank you.

21 (Pause.)

22 MS. YOUNG: Nothing further.

23 ARBITRATOR SHARNOFF: Okay. You're excused  
24 as a witness. Thank you very much for cooperating and  
25 your help in getting this thing functioning.

1 MS. CIOFFALO: Feel better, John.

2 MS. YOUNG: Thank you, John.

3 THE WITNESS: Yeah, I hope. Okay, thank  
4 you.

5 MS. YOUNG: Bye.

6 THE WITNESS: Bye.

7 (Witness excused.)

8 ARBITRATOR SHARNOFF: Anybody know how to  
9 disconnect it?

10 (Discussion held off the record.)

11 (Whereupon, at 5:36 p.m., the hearing in the  
12 above-entitled matter was adjourned, to resume at 9:30  
13 a.m. the following day, Thursday, January 16, 2014.)

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REPORTER'S CERTIFICATE

DOCKET NO.: FMCS-13-02465-A  
CASE TITLE: Arbitration between NOAA and NWSEO  
HEARING DATE: January 15, 2014  
LOCATION: Silver Spring, Maryland

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the National Oceanic and Atmospheric Administration.

Date: January 15, 2014

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