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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BEFORE THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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

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

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

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

ARBITRATOR SHARNOFF: Okay.

Whereupon,

MICKEY BROWN having been duly sworn, was called as a witness and was examined and testified as follows:

ARBITRATOR SHARNOFF: Okay.

DIRECT EXAMINATION

BY MS. CIOFFALO:

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

A About 25 years.

Q What is your current position with the Weather Service?

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

Q And how long have you been the deputy director for the Eastern Region?
A Thirteen, 14 years.

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

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

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

MS. CIOFFALO: Okay.

MR. HIRN: I hear Mickey fine.

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

MR. HIRN: Hearing you.

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

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

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

ARBITRATOR SHARNOFF: I can hear you fine.

MS. CIOFFALO: Thank you.

ARBITRATOR SHARNOFF: And the others don't matter.

(Laughter.)

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

MS. CIOFFALO: Excellent. Excellent.

BY MS. CIOFFALO:

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

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

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

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

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

A Twenty-five.

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

A Correct.

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

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

Q Okay. And how long were you a MET intern
A Three years and two months.
Q Okay. And what was your next position with the Weather Service?
A I went to the National Hurricane Center. I was part of a unit called the Tropical Satellite Analysis and Forecast Unit.
Q And what did you do there?
A I did surface analysis, satellite interpretation, and some forecasting.
Q Okay. What was your position title?
A I think it was just meteorologist.
Q Okay. And then how long were you in that role?
A About a year.
Q And then from there?
A Was promoted to a general forecaster position at the Weather Service Forecast Office in New York City.
Q Okay. And what year was that about?
A 1992 or '93.
Q Okay. And you were a general forecaster you said?
A Correct.
Q And how long were you serving in that
position?
A I think I was a general forecaster for about two years.
Q Okay. And then from there?
A I was promoted to a senior forecaster also at the New York City office. Actually, by that time, I believe we had moved out to eastern Long Island in Upton.
Q Okay. And that was, you said, after about two years, so 1994ish? No, I'm sorry, 1995.
A In that ballpark, yes.
Q Okay. And then how long were you a senior forecaster in that office?
A Also about two years or so in that, a year and a half, two years.
Q And where did you go from there?
A I went to the regional office as the regional transition meteorologist.
Q What is a regional transition meteorologist?
A I was responsible for assisting the region transition from where it was to what we call the modernized National Weather Service.
Q Okay. And is that the -- we've been referring to it as the MAR, is that what you mean?
A Correct.
Okay. So what did you have to do with respect to the MAR as this regional transition meteorologist?

My biggest responsibility was ensuring offices that we called spin-up, or those offices that were gaining more responsibility, were ready to go to take on that responsibility. I was also responsible for presenting what were called closer certifications to the Modernization Transition Committee, and that was to certify that those offices that we deemed were ready to close were ready to close and the MTC, Modernization Transition Committee, approved that closure.

Are you familiar with the term "Stage 2 operations"?

Yes.

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

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

And did that have anything to do with the certification that you were providing to this
committee?

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

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

A Okay.

Q Are you familiar with that document?

A Yes.

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

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

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

A I would say yes.

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

A Yes.

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 sorry. We got a little off track from your employment history. You said that you were the regional transition manager at the Eastern Region headquarters, and what years was that happening? How long I guess did do that?

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

12 Q Okay. And how long did you serve in that 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 Services Division.

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

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

24 Q Okay. Did you still have any responsibilities over the transitional activities in
the Eastern Region?

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

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

A That would have been two years also.

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

A The deputy director for Eastern Region.

Q And that was about what year?

A 1999.

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

A Yes.

Q And what are those responsibilities?

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

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

A I have, yes.

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

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

THE WITNESS: Negotiating team.

ARBITRATOR SHARNOFF: For which?

THE WITNESS: The current contract.

ARBITRATOR SHARNOFF: The current.

THE WITNESS: Yes.

BY MS. CIOFFALO:

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

A Yes.

Q Is that the contract that you assisted in negotiating?

A Correct.

Q Okay. Continue.

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

Q Okay. Have you taken any labor/management relations training?
A I have taken a few courses, yes.

Q What types of courses have you taken?

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

Q Okay. So you give LMR training as well?

A Yes.

Q What types of training do you give?

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

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

A Yes. Yes.

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

A For?

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

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

Q Okay. If you can flip to that article. It's Joint Exhibit 1. Let me check the page number 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
that rotation?

A They do.

Q What kind of input?

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

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

A Into the rotations themselves?

Q Yes.

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

Q Okay. So management creates the planning schedule?

A Yes. According to the contract, yes.

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

A Well, any change to that has to be
Q Okay. I see. So a change to it?
A Yes.
Q Okay. Got it. So what happens if there are not as many people in the unit as there are positions in the unit? If a particular unit has vacancies, how does management make the planning schedule with that in mind?
A Well, that particular position that's vacant doesn't go away. It's still on the schedule itself. And there are a number of options to fill that vacant slot if you will.
Q What are those options?
A You can use overtime. You can use other people within the office that are qualified.
Q Who in the office would be qualified to fill in that slot?
A Management could fill in. Some offices have what's called a service hydrologist, not all. As long as the service hydrologist is qualified to work a shift, is MET-qualified or qualified to work that particular shift, as I said. You could use temporary promotions.
Q What's a temporary promotion?
A That's when a lower graded employee who has
the proper time in grade can be temporarily promoted
to a higher graded position.

Q Okay. And are there any agreements with the
Union about that?
A Yes. Article 16 discusses temporary
promotions.

Q So temporary promotions, overtime,
management. Any other options that management has to
fill those slots?
A You can leave the shift vacant. You can
also bring in somebody from another location.

Q And what is that referred to as?
A Well, we could TDY somebody.

Q Okay. And have you ever had to TDY somebody
in the Eastern Region?
A I have. I have TDYed people to offices to
help out with shifts.

Q Okay. You mentioned that management doesn't
have to fill the vacant slot. Why would that be?
A Well, if management determines that the
shift isn't necessary to fill, then it's not going to
be filled.

Q Are you aware of any minimum number of
shifts that have to be filled at any given time?
A There should be two people on 24 hours a
So, with respect to a vacant slot, if there are two other people scheduled otherwise besides that vacant slot, that may not need to be filled at all?

That's one way --

To summarize?

That's a correct statement.

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

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

Okay. And who are they?

The meteorologist in charge, the warning coordination meteorologist, and the science and operations officer.

I'm sorry. Could you repeat that?

Sure. The meteorologist in charge, which our acronym for that is MIC; the warning coordination meteorologist, and our acronym for that is WCM; and the science and operations officer, and our acronym for that is SOO.
ARBITRATOR SHARNOFF: Thank you.

BY MS. CIOFFALO:

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

A Yes.

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

A Yes.

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

A Yes.

Q And what was your involvement in this plan?

A I helped to develop it.

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

A Yes.

Q And did the Union have any impact in the implementation proposals for that plan?
Q Other than the initial vacancy announcement requirement here in Section 2(b) of the plan on page 2, did you discuss with the Union any deadlines for when vacancies in this plan would be filled?

A Not that I can recall.

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

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

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

A Not that I can recall.

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

A Not that I recall.

Q Could you have filled a vacancy in the Eastern Region if you didn't have the funds to cover the hiring process?
A Could have we? Yes.
Q Would you have?
A Most likely no.
Q Why not?
A That's just not a good management practice.
Q Okay. Do you happen to know if that violates any financial management principles?
A If the Agency doesn't have enough money to hire an employee on an Agency basis, then I think the Agency has an issue somewhere along the line.

MS. CIOFFALO: Okay. I'm going to mark for identification Agency Exhibit 15.
(The document referred to was marked for identification as Agency Exhibit No. 15.)

BY MS. CIOFFALO:
Q Do you recognize this document?
A Yes.
Q All right. And what is this document?
A This was an agreement between NWSEO and Weather Service management about a process to assist in filling general forecaster positions.
Q Okay. And did you negotiate this agreement?
A I was at the table when we went through this process. This process was actually done at a -- the
acronym is CADRO, which I believe it was CADRO, which is part of the FLRA. It's a group, part of the FLRA that helps labor and management resolve issues.

Q Okay. And you signed this agreement, correct?

A Yes, I did.

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

MR. HIRN: Sure.

ARBITRATOR SHARNOFF: Okay. It's admitted. (The document referred to, previously identified as Agency Exhibit No. 15, was received in evidence.)

BY MS. CIOFFALO:

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

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

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

A Through the process, if we had a vacancy and we went through the solicitation to the people that
were identified within the agreement, even if we did get interest, it wasn't necessary for the Weather Service to issue the vacancy announcement and should a vacancy announcement had been issued, the Weather Service had the option of canceling the vacancy.

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

A I do.

Q And why?

A I believe that's a management right.

Q What's a management right?

A Hiring of employees.

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

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

Q What is your role in that process?

A I take in the -- when a vacancy becomes -- when a position becomes vacant, my office gets what's called a Standard Form 52 from the office that has lost the individual, where the vacancy is. That's a recruiting tool if you will or recruiting document. Normally we would get that through the process in
terms of putting that down to WFMO, getting that to Workforce Management. We use a system called RADS now, and I can't tell you what the acronym stands for, and it's simply a website where we put recruiting documents so Workforce Management can do the recruiting process.

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

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

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

A That's where it would go.

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

A Yes.

Q -- in March of 2013?

A Yes.

Q All right. So if you could go to Joint

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Exhibit 2-A.

A Okay.

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

A Yes.

Q And which offices are those?

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

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

A That's correct.

Q And do you recall that to be the case?

A Yes.

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

(The document referred to was marked for identification as Agency Exhibit No. 16.)
BY MS. CIOFFALO:

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

A Yes.

Q Did you create this document?

A Yes.

Q And what is this document?

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

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

A Yes.

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

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

MS. CIOFFALO: And we gave it to you.

You've got it.

MR. HIRN: -- I have no objection.

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

MS. CIOFFALO: Noted.

ARBITRATOR SHARNOFF: All right. It's admitted.

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

BY MS. CIOFFALO:

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

A Yes.

Q Okay. And which ones were those?

A Mount Holly, New Jersey.

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

A Well, actually five.

Q Five total, okay.

ARBITRATOR SHARNOFF: Wait a minute. I'm
MS. CIOFFALO: How many lead forecaster vacancies.

ARBITRATOR SHARNOFF: Lead forecaster.

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

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

ARBITRATOR SHARNOFF: Okay.

BY MS. CIOFFALO:

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

ARBITRATOR SHARNOFF: I'm with you.

BY MS. CIOFFALO:

Q -- by March, right?

A Correct.

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

MS. CIOFFALO: You got it. Okay.

BY MS. CIOFFALO:

Q Have any of those vacancies been filled?

A Yes.
Q Which ones have been filled?
A Two at Sterling, one at Pittsburgh, and one at Mount Holly.
Q Okay. And does this document show when those positions were filled?
A Yes.
Q And when were the positions filled?
A That would be the column labeled "EOD," which stands for enter on duty date. Sterling had two positions filled on June 16, 2013, Pittsburgh had one position filled on September 22, 2013, and Mount Holly had one position filled on December 15, 2013.
Q Okay. Let's talk about the Sterling positions for a minute. I see they became vacant at different times. One of them had been vacant since August of 2012. Why did it take so long to fill that position?
A Uncertainty within the budget.
Q And what do you mean by that?
A We weren't quite sure if we would have enough money to fill the position.
Q So eventually, though, it was filled?
A Correct.
Q And did you have to go through the Hiring Freeze Board procedures to get those positions filled?
A No.

Q Okay. Why not?

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

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

A September 22, 2013.

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

A Correct.

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

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

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

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

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

THE WITNESS: That would be Pittsburgh.

BY MS. CIOFFALO:

Q So they were coming from a different office
within the Weather Service?

A Yes.

Q They were moving. Okay. Now you said also the Mount Holly position, that one had been filled. Oh, I'm sorry. Did you have to go through the Hiring Freeze Board for the Pittsburgh position?

A No.

Q And why not?

A That was already in the system.

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

A Yes.

Q And why did you fill that position?

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

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

A I didn't.

Q Who discussed it with --

A My director did.

Q Oh, okay. And was that sent to the board
for approval?

A  Yes, it was.

Q  And I'm guessing it was approved.

A  Yes.

Q  It was filled?

A  Yes.

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

A  In the senior forecaster ranks, that left Raleigh.

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

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

Q  Why not?

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

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

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

Q  Okay. Let's talk about general forecaster vacancies. That's Joint Exhibit 2-C, if you can flip to that.
A Okay.
Q Okay. As I mentioned, this is the Union's grievance alleging the Agency's failure to fill journeymen or general forecaster positions, and they list a number of offices again in this grievance. Are any of these offices in your region?
A Yes.
Q Which ones are in your region?
A Cleveland, Ohio and Binghamton, New York.
Q Okay. And were there any other general or journeymen forecaster vacancies in your region other than those two as of March 2013?
A Not at a WFO.
Q Okay. All right. So what happened with these vacancies? Have any of them been filled?
A The Binghamton office, the Binghamton position, I'm sorry, the Binghamton position, the general forecaster at Binghamton was filled.
Q Okay. When was that filled?
A May 5, 2013.
Q All right. And did that have to go through the Hiring Freeze Board to get that filled?
A No.
Q And again, was that due to where it was in the system at the time?
A Yes.

Q So Cleveland has not been filled?

A Correct.

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

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

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

A Okay.

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

A Yes.

Q All right. Which ones are in your region?
A Wilmington, Ohio; Charleston, West Virginia. On the second page, Mount Holly, New Jersey; Sterling, Virginia; and Burlington, Vermont.

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

A Yes.

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

A Yes.

Q What other vacancies were there at that time?

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

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

A Yes.

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

A Yes.

Q Okay. Which ones?

A The two positions at Sterling, Virginia.

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

A No.
Q  Why not?
A  One of the vacancies was already in the system.
Q  Okay. So were you able to hire two vacancies from that certificate?
A  Actually, we didn't use the certificate to fill those vacancies.
Q  How did you fill them?
A  Those vacancies were filled with employees that were in what was called at the time the Student Career Employment Program.
Q  Okay.
A  Which the acronym is SCEP, and I believe it's called Pathways now. There were two people that were eligible for noncompetitive placement into permanent positions.
Q  Okay. And when were they filled?
A  One was filled on August 11, 2013, and the other one was October 6, 2013.
Q  Okay. So I see that the one that was filled on August 11, 2013, that's in the top portion of this A-16 exhibit. I notice that that one had been vacant since October of 2012, so why did it take so long to fill that position?
A  We went through a process of prioritizing
them, and it didn't float to the top if you will right away.

Q So when did it float to the top?
A Well, it certainly became an issue when we knew the other position was coming vacant and also around the same time there were two positions vacant in the senior forecaster ranks.
Q So, at that time, it became a priority?
A At the end of the day, they were going to be four people short in their operational units.
Q And all four of those positions have since been filled?
A Those four that are listed, yes.
Q Okay. So now any others that were filled that were on this list other than the two Sterling positions?
A In the HMT/intern unit?
Q Right.
A No.
Q And why not?
A They didn't rise to the top of -- they weren't prioritized to be filled.
Q Why not?
A They were one short in that particular unit for a period of time.
Q Okay. What do you mean they were one short?

Meaning this was the only vacancy in that unit?

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

Yes.

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

A Yes.

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

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

Q Okay.

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

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

A It has.

Q How so?

A It varies. It varied upon the position
where back before the transition from what were called
the administrative support centers, that was the time
I was dealing with the folks in Norfolk, we were
pretty efficient. When the transition occurred to
what is now called the staffing unit I believe,
depending on the position, it takes a little longer to
get them out.

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

A  Yeah, it's come up in conversation.

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

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

Q  Okay. During the timeframe of the Union's
grievances, and that's basically the mid-March
timeframe, and before that, let's just talk about
eyearly 2013, the Union's grievances are alleging that
these vacancies came vacant on or about January 2013
and beyond and in some cases before. So, during that
time period, did the Eastern Region bring any
employees on station? Did any employees EOD during
January through March of 2013?
A  I believe they did.
Q  Okay.  Do you know how many?
A  I think it's nine or so.

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

ARBITRATOR SHARNOFF:  Thank you.

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

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

MR. HIRN:  Okay.

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

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

MS. CIOFFALO:  No problem. I'll repeat.
MR. HIRN: Could you try again?

MS. CIOFFALO: Sure.

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

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

MR. HIRN: Okay, hold.


MR. HIRN: Filtered December?


MR. HIRN: RADS report.

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

MR. HIRN: Right.

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

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

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

MR. HIRN: Okay.

MS. CIOFFALO: Okay. So, to proffer, what I had done was filtered that RADS report so that we had one page of it just showing demonstratively positions in the National Weather Service of people who came on duty for the National Weather Service between it looks
like late December or December 30, 2012, through the end of March 2013. I think the last --

MR. HIRN: Again those dates? From when?

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

MR. HIRN: Right.

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

MR. HIRN: Okay.

MS. CIOFFALO: Okay.

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

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

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

MR. HIRN: No, Western.

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

MR. HIRN: ENSUB.

ARBITRATOR SHARNOFF: ENSUB, and Marie Hoffpauer is Central.

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

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

ARBITRATOR SHARNOFF: More loudly.

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

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

MS. CIOFFALO: They're regional headquarters
positions, right.

MR. HIRN: Okay.

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

MR. HIRN: Not WFMO people.

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

MR. HIRN: Got it.

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

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

MS. CIOFFALO: Okay.

MR. HIRN: I got it. Thank you.

BY MS. CIOFFALO:

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

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

MR. HIRN: Sure.

ARBITRATOR SHARNOFF: Okay. It's admitted.

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

BY MS. CIOFFALO:

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

A We have the observing program leader position.

Q Is that in the HMT unit?

A Yes.

Q Okay. And where was that?

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

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

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

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

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

A Yes.

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

A Yes.

Q How many did you submit?

A Four.

Q And have they been granted?

A Yes.

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

A Yes.

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

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

ARBITRATOR SHARNOFF: Okay. Did you want a minute?

MR. HIRN: No, I'm good.

ARBITRATOR SHARNOFF: Okay.

MR. HIRN: Thank you.

CROSS-EXAMINATION

BY MR. HIRN:

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

A No, they were all bargaining unit.

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

ARBITRATOR SHARNOFF: I'm sorry, which exhibit?

MR. HIRN: This is 16.

ARBITRATOR SHARNOFF: 16. I'm with you.

BY MR. HIRN:

Q Or you can tell us which ones are in, but I think most of them are bargaining unit positions.
A Yeah. I'll go down the list and do the non-bargaining.

Q Yeah.

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

Q Uh-huh.

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

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

A That was correct.

Q So it looks like you don't have to wait until the position is actually vacant to begin to backfill, is that correct?
I'm not aware of any requirement.

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

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

Okay.

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

Okay.

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

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

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

Right.

-- which includes a password and the vacancy
number, and that's where you can go to -- you go to view the names of those on the certificate.

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

A Yes.

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

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

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

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

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

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

Q Okay.

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

Q Okay.

A Because I made up this spreadsheet. The certificate was available, but it was not reviewed because at that particular time those positions
 weren't ready to be -- we didn't prioritize them to be selected.

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

A It's the same thing.

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

A Correct.

Q Or has not yet been filed.

A Correct.

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

A Yeah.

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

A Yes.

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

A Correct. No, I was not.

Q Okay. And is it fair to assume that with regard to Joint Exhibit 5, which I will ask you to look at, the MOU with the Union, this was negotiated 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?
MS. CIOFFALO: Richard, do you have --

MR. HIRN: Union Exhibits 22 and 23.

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

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

All right, that's fine. Yes.

MS. CIOFFALO: That was actually our set.

MR. HIRN: Okay.

(Pause.)

BY MR. HIRN:

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

MS. CIOFFALO: Oh, I'm sorry. I thought you

were digging it out of that stack.

(Discussion held off the record.)

THE WITNESS: Richard, I have both of them.

BY MR. HIRN:

Q Okay, 22. Now, Mickey, you talked about the

2004 change to the HMT unit, correct?

A Yes.

Q And those discussions started when

management sent the Union a proposal to change the

structure of the HMT unit, correct?

A I believe that was the case.

Q Right. And then the structure had been

established by the 2000 floater plan, correct?

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

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

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

A That's what it says.

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

A Correct.

Q And do you know who Charlie Schein is?

A I do not.

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

A I don't, Richard, no.

Q Okay. And do you see that your boss said that the entire implementation plan is currently under negotiation, correct?
A It does say that.

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

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

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

A Okay. Okay.

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

A Yes.

Q -- for collective bargaining?

A Yes.

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

A Honestly, I don't.

Q Okay. Do you recall that in the ensuing months both in formal bargaining sessions and in discussions that you and I and you and I and Melanie
had over the plan to reduce the number of HMTs, we had
those discussions in both formal and informal
settings?
   A I would say yes.
   Q And isn't it true during the course of those
discussions between then and these -- directing your
attention to Union Exhibit 25.
   A Okay.
   Q Well, let me back up a little bit. Isn't it
correct that management's original proposal was to
alter the three H -- in the HMT unit, there were three
slots designated for HMTs, one for an intern, correct?
   A In the 2000 floater plan, that's what was
articulated.
   Q Right. And if I recall correctly, and
correct me if I'm wrong, what management proposed to
do in 2004 was effectively to flip that, to designate
three positions for interns and only one for an HMT.
   A What I recall is that -- I don't recall the
exact number or the makeup, HMT versus intern, but I
do recall that management was interested in changing
the three plus one.
   Q Right. And you understand the Union had
great heartburn with that, correct?
   A I do recall that.
Q    And we wanted to preserve as much as possible the opportunities for filling the HMT, what is called the HMT unit, with HMTs, correct?
A    I believe the Union was interested in assisting the HMTs maintain employment.
Q    Yes, and we wanted -- especially, we were concerned about that especially because there were a lot of MET techs, meteorologist technicians, at Grade 9 in Alaska who wanted to get the hell out of the small WSOs and have promotional opportunities, correct?
A    Correct.
Q    And we viewed that management's plan would cut off their progression, correct?
A    I believe that was the case.
Q    And we were also concerned, you know, sometimes HMTs even in grade would want to move around the country, maybe they're closer to someplace where they would like to retire at the end of their career or to be closer to family or because they just grabbed a job anywhere they could find it to begin with, correct?
A    I believe that's the case.
Q    And management's interest, however, was they felt they needed to increase the available slots as
Pathways or as training grounds to bring in more young
degreed meteorologists in order to fill an anticipated
growing number of forecaster vacancies over the years.

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

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

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

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

A If I remember correctly, there was somewhere
along the line where management withdrew its proposal, and then with that we began predecisional discussions.

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

A They were all discussed.

Q And we had asked for them, correct?

A That, Richard, I do not remember.

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

MS. CIOFFALO: I'm going to object to that. He already testified that he doesn't remember what the
Union asked for, so the question is a bit inappropriate.

BY MR. HIRN:

Q Well, isn't it true --

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

THE WITNESS: Thank you, yes.

ARBITERATOR SHARNOFF: Please repeat that if you can.

BY MR. HIRN:

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

MS. CIOFFALO: You can answer.

THE WITNESS: Yes.

BY MR. HIRN:

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

A I think the way I characterize it was that through the predecisional discussions that we had, we came up -- we were able to incorporate what was discussed into this management plan and we transmitted
Okay. Now, looking at the letter that Mr. David wrote, he doesn't say anything about predecisional —

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

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

BY MR. HIRN:

Q There's nothing here about predecisional, correct?

A I would say that he stated that the parties conducted a series of informal discussions —

Q Right.

A -- in which they explored staffing changes.

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

A They can be.

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

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

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

MS. CIOFFALO: Right.

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

MS. CIOFFALO: So is there a question pending?

BY MR. HIRN:

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

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

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

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

MR. HIRN: Okay.

ARBITRATOR SHARNOFF: If you want him to
MR. HIRN: No, that's okay. I'll withdraw it.

BY MR. HIRN:

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

A Correct.

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

A That's my understanding.

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

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

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

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

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

A I believe I do, but I would feel more
comfortable looking at it.

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

A  Yes, I do.

Q  And what in your understanding is a permissive subject?

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

Q  And is staffing included in that to your knowledge?

A  Hiring isn't.

Q  Okay.

A  I believe tour of duty is.

Q  The number, kinds and grades of employees?

A  The numbers, types and grades. Yes.

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

A  Yes. Yes.

Q  So, if there is an agreement, if theoretically there is an agreement based on your understanding, if there is an agreement on staffing negotiated pursuant to 7106(b)(1), it is correct to
say that that agreement is binding even if it 
interferes with management's rights to hire under 
7106(a)?

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

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

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

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

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

ARBITRATOR SHARNOFF:  Well, he has some 
expertise. Again, the Agency in your capable hands
will have the final word on what management's position
is on all these matters, but you can ask him his
understanding, if any.

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

MR. HIRN: Thank you. Okay. I'm good.

Thank you very much, Mickey.

THE WITNESS: Thank you.

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

MS. CIOFFALO: Oh, okay, sure.

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

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

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

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

MR. HIRN: Thank you.

MS. CIOFFALO: Thank you.

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

ARBITRATOR SHARNOFF: No second thoughts?

MR. HIRN: No.
ARBITRATOR SHARNOFF: You're sure?

MR. HIRN: Yes.

ARBITRATOR SHARNOFF: Okay.

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

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

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

ARBITRATOR SHARNOFF: This is your final opportunity.

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

ARBITRATOR SHARNOFF: Going once, going twice.

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

ARBITRATOR SHARNOFF: You're excused.

THE WITNESS: Thank you, sir.

(Witness excused.)

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

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

MS. CIOFFALO: He really wanted to exit.

Could we just go off the record for a second?

ARBITRATOR SHARNOFF: Off the record.
(Whereupon, a short recess was taken.)

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

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

ARBITRATOR SHARNOFF: Okay.

Whereupon,

STEVEN COOPER

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

DIRECT EXAMINATION

BY MS. CIOFFALO:

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

A Yes, I am.

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

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

Q Okay. And what is your permanent position?

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

Q Okay.

A For Southern Region.

Q Okay. And how long have you been a Weather
Service employee?
A Almost 35 years.
Q Okay. So how did you come up through the ranks? What was your first position with the Weather Service?
A My first position was basically a student trainee type position, and I worked in Augusta, Georgia, while I was still in school.
Q Okay. And how long did you do that?
A A total of about seven or eight months.
Q Okay. And after that?
A After that my first permanent position was a meteorologist intern in Albuquerque, New Mexico, and then also in Albuquerque I became a forecaster in Albuquerque.
Q Okay. When did you start in Albuquerque? What year?
A I started in 1980.
Q 1980, okay. And you said you started as an intern and went up to a forecaster?
A Yes.
Q Okay. So do you remember when you became a forecaster?
A It was somewhere around 1982.
Q Okay. And how long were you a forecaster in
that office?

A  About four years.

Q  Okay. And what other jobs?

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

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

A  Yes, the meteorologist in charge, MIC.

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

A  1986.

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

A  I was MIC for two years.

Q  And then what position did you hold after that?

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

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

A  Yes.

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

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

Q Okay. And you were the MIC of that office?
A I was the MIC at that office as well.
Q And how long were you MIC there?
A I was MIC for four years.
Q So what year are we up to?
A I was MIC in Amarillo from 1988 to 1992.
Q Okay. So, in 1992, where did you go?
A I was selected to go to the regional --
National Weather Service regional headquarters in Fort Worth as assistant chief of meteorological services.
Q Okay. And is that the Southern Region?
A Southern Region Headquarters, yes.
Q What is the assistant chief of meteorological services?
A Obviously assistant to the chief of meteorological services, but we were responsible for the day-to-day services that the weather offices provided across the Southern Region.
Q Okay. And that was in 1992?
A That was in 1992, that's correct.
Q Okay. And how long did you serve in that position?
A I served in that position from '92 to 2000.
Q Okay. And where did you go after that?
A After that, then I was selected as chief of the services division in 2000 to 2004.
Q All right. And in 2004, where did you go?
A In 2004, I was selected as deputy regional director for Southern Region.
Q And have you held that position since then?
A Yes, I have.
Q Now you said that you're currently the acting regional director for the Southern Region?
A Yes.
Q And have you acted in any other capacity for the Weather Service?
A Yes. In 2007, I was acting regional director for about eight months, and then, in 2012, I worked here in Silver Spring as the deputy assistant administrator for weather services for approximately eight months.
Q Okay. So you were the deputy director of the Weather Service?
A I was acting deputy director for the Weather Service.
Q Okay. And that's currently Ms. Furgione?
A Yes. I was Ms. Furgione's -- her deputy.
Q Okay. And what period of time were you at
headquarters in that position? You said it was 2012, but when in 2012?

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

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

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

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

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

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

A Yes.
Q And what types of responsibilities over personnel matters?
A I was frequently, depending on where and at what level, but I would typically be a deciding official.
Q What were you deciding?
A Deciding official for if there were some type of personnel action of suspension or those type activities.
Q Okay. Did you have any responsibilities with respect to hiring and recruitment?
A Yes.
Q Okay. So let's go backwards for a little bit. You've been in the Weather Service for a long time. Are you familiar with the modernization, otherwise referred to as the MAR?
A Yes. I was very involved in the modernization.
Q Okay. How were you involved with modernization?
A My first area of modernization when I was meteorologist in charge, MIC, at Amarillo. Amarillo was the very first office to begin to spin-up the new facility and beginning the new equipment coming into the offices, along with some others, but one of the
first, so I was involved with the spin-up of bringing
in forecasters and developing and looking at new
services.

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

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

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

A There were I think it was 52 Weather Service
Forecast Offices that were staffing meteorologists
around the country and approximately 200 other smaller
offices that were primarily staffed with
meteorological technicians and interns. So the
modernization, some of those offices closed, and some
of those -- the term we use is spin-up -- where we
spun them up to an equivalent level where instead of
having a two-tier structure we have a one-tier
structure that we have now of 122 Weather Forecast
Offices.
Q Okay. So what services were being transferred from where to where?

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

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

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

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

A In my capacity at the region?

Q Right.
A Not primarily the installation of equipment, but I did with the services.

Q Okay. So what do you mean by that?

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

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

A Yes.

Q In what way were you responsible for that?

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

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

A Yes, it was.
Q  How was it related?
A  There were timetables where staffing and people reporting for duty were tied to equipment being delivered, and so --
Q  Why was that?
A  Well, equipment was being delivered at different times at different locations, so what I was primarily involved with was matching the people with the equipment and then the services.
Q  Okay. And why was the timing of the people coinciding with the timing of the equipment? What was happening there?
A  The equipment had to be installed and then there was quite a bit of training that was involved, especially with the radar.
Q  Why was there so much training involved?
A  It was a brand new technology. It was the first Doppler radar that the Weather Service had installed, and there was a four-week training course in Norman, Oklahoma, that all the forecasters had to go to. So before we could transfer these services people had to be trained on the AD8D and how to use the new technology.
Q  Okay. And how long did you have this role in overseeing this process?
Throughout a good chunk of the modernization. I mean, as assistant chief and then as chief, but by 2000, by the year 2000, I assumed the chief position, a lot of the modernization and the activities were starting to spin down. Most of the modernization, these transfer of services occurred during the '90s.

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

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

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

Yes.

And what does Stage 2 mean to you?

Stage 2 was after ALIF was delivered.

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

Yes.

If you can flip in your binder there in front of you to Joint Exhibit 6, about halfway through, does this document look familiar to you?
A: Yes.

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

A: Yes.

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

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

Q: Okay.

A: And that was primarily what we used this for.

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

A: Not to my knowledge, no.

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

A: Yes, I do.

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

ARBITRATOR SHARNOFF: I'm sorry. Which one?

MS. CIOFFALO: It's Joint Exhibit 7.
ARBITRATOR SHARNOFF: 7. Okay.

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

MS. CIOFFALO: We offered.

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

(Laughter.)

ARBITRATOR SHARNOFF: The Agency did offer and I refused.

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

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

MS. CIOFFALO: Binders everywhere.

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

MS. CIOFFALO: Fair enough.

ARBITRATOR SHARNOFF: All right.

BY MS. CIOFFALO:

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

A This was a document that gave instructions of how to fill positions, the process. It put a process in place, and I'm looking at it. A process in place of how to fill forecaster positions. As I said, we --
Q What forecaster positions did this document cover?
A GS-13s and the GS-12s, it was required. We had to fill the 13s before the 12s so we would know what vacancies we have. But basically it was to give us a process to put in some order too.

Q Okay. And to your understanding, was this document specific to that transition, or did it have applicability after the transition had completed?
A From my understanding, it was just during that time of what we would do to get the offices spun up at an equitable level.

Q Okay. And did you have any role in executing this plan?
A Yes, I did. We had a trip to San Diego where we went and sorted through the applications I think as outlined in the document, sorted through the applications to try to keep duplication of selections, to try to put again some order to all this mass bidding of jobs.

Q So it was a mass bidding of jobs. Does that mean that all of these employees applied for the positions at once? That's what you were sorting through?
A Yes.
Q Okay. And sorting through them, what were you sorting them into?

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

Q So the locations area.

A The location, yes.

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

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

Q Okay.

A Second choice.

Q And this was all done at once, right?

A Yes.

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

A Joint Exhibit 7?

Q The one you're looking at right now.

A Oh.

Q Had you ever heard that term before?

A I've heard the -- yes, I've heard the name,
Q Okay. So, to your knowledge, did the HR staffing plan or the meteorologist placement plan require -- do they require the Agency today to fill any vacancies within a particular period of time?

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

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

A No, I'm not.

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

A Yes.

Q Does that include filling vacancies in the region?

A Yes, it does.

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

A As deputy regional director and now as acting regional director, we kind of share the duties, but all selections in the region have to come through and clear with either the deputy or the regional
Q Okay. And I don't know if we established this. When did you take over as the acting regional director of the Southern Region?

A February 1, 2013.

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

A You mean beginning February 1?

Q Yes.

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

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

A Not when I returned.

Q Did you at some point become aware of that?

A Yes. One of the first, the very first week that I was there I had asked for our budget folks to bring me up to date on the budget, and then Mike and then Gena Morrison, who handles our personnel, I asked for briefings there, where we were with respect to vacancies and where we were in the process.
Q And what did you learn from those briefings?
A With respect to the budget, we were going to be extremely tight.

ARBITRATOR SHARNOFF: Excuse me.

Approximately when did those discussions take place?

MS. CIOFFALO: Oh, I'm sorry.

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

BY MS. CIOFFALO:

Q So sorry. What were they showing in the budget, about the budget?
A The budget was going to be -- was extremely tight. We could not have maintained all the positions, could not fill all the positions and have the budget in the black at the end of the year.

Q So what does that mean, you couldn't have filled all the positions? What does that refer to?
A If we didn't have enough budget dollars for labor to pay for -- there were somewhere, I don't know the exact number, there were somewhere between 35 and 40 personnel actions. Some of those were promotions, so those occurred, but most of those were vacancies.
Q Okay. And so you're talking about actions that were already submitted to RADs or vacancies in general? What was --
A They were --
Q -- the distinction at that time?
A Excuse me. They were in different levels of the process.
Q Okay. All right. So what did you do about that?
A We were --
Q Well, actually let me back up for a second. When you said that you could not have filled all of those vacancies in the system and still maintained in the black, could you have then filled all those positions? What would have happened if you did fill all those positions?
A The budget, the projections that our budget office gave me was we would have been in the red by the end of the year.
Q Okay. And can you be in the red at the end of the year?
A No.
Q Okay. So what did you do?
A There was no order to the vacancies. There was a problem with the vacancies being filled with
Workforce Management. We may have a vacancy that had been sitting there for four or five, six, eight months where another one opened up after a week or two being open. So we wanted to prioritize the vacancies and try to fill the most needed ones so we could have some control.

Q Why didn't you have control before that?
A They were all just thrown up, as I said, in different levels of process, but they were all just thrown up toward Workforce Management to fill.

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

Q Okay. So who handled the prioritization primarily?
A I tasked that to Michael and his deputy director.

Q Okay. And did you intend to fill all those vacancies?
A We intended to fill as many as we could with the budget allowing.

Q Okay. So at some point did you become aware of the NOAA hiring freeze on March 27 that occurred?
A Yes.
Q And once that freeze was in place, were any Southern Region positions submitted to the Hiring Freeze Exception Board for consideration?

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

Q And who primarily handled that?

A Mike Coyne primarily handled that.

Q Okay. And were you supervising that function?

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

Q Okay.

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

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

A No, I did not.

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

A The request went from the region to Laura Furgione, our deputy assistant administrator, deputy director, and she would review them, and then there was the NOAA hiring board.
Q Okay. Got it. Now how long have you been at the Southern Region Headquarters? I don't remember the year that you said you --

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

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

A Yes.

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

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

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

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

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

A Yes. To my knowledge, we never had less
than two people on staff.

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

A I'm not aware of any, no.

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

CROSS-EXAMINATION

BY MR. HIRN:

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

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

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

A Yes. What I asked was could we put just a halt, a temporary halt until we could prioritize those positions because, as I said, they were being filled just haphazardly, and we wanted to fill the jobs that we felt like was necessary. So, in order to get a handle on it, I asked that they halt, but I also asked that I did not want for us to have to restart the process so that they could see it through the process, it would not have to start over. And we were told by
Workforce Management it wouldn't. We could just basically suspend them and start them back up if we wanted to.

Q Did you suspend all recruitment actions?
A We put a halt on all until we could look at them.

Q What happened to the Memphis, Little Rock, Houston, Morristown, and Huntsville general forecaster vacancies?
A I don't know. I mean, I --
Q Do you recall having them suspend and canceled returned as a result --
A I truly don't remember.
Q Let me finish the question. As a result because you did decide you didn't want to pay PCS expenses?
A No.
Q So you didn't cancel the Huntsville forecaster vacancy in February?
A No, I said I don't remember those specific ones.
Q Did you cancel any, did the Southern Region cancel any vacancies?
A We didn't cancel. We didn't cancel. I asked for just a temporary halt to be put on

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

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

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

Q Is he generally a reliable and informed MIC?

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

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

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

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

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

MS. CIOFFALO: Okay.

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

MS. CIOFFALO: So he didn't testify that they were not canceled. He testified as to what his
intent was with respect to having time to prioritize the vacancies. So the record will speak for itself.

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

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

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

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

MR. HIRN: 48 and 49.

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

(Pause.)

BY MR. HIRN:

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

A That is correct, yes.

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

MS. CIOFFALO: Objection. That is not what he said. He said that that could be interpreted multiple ways I think was his response. That was his response.
MR. HIRN: No, it wasn't.

THE WITNESS: Yes, it was.

MS. CIOFFALO: Yes, it actually was.

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

MS. CIOFFALO: Okay.

BY MR. HIRN:

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

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

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

A Yes.

Q That's an official Agency email address?

A Sure it is. Absolutely.

Q Directing your attention to Union Exhibit 49.

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

THE WITNESS: Mr. Coyne actually handled most of this stuff, and that's -- I'm not trying to
avoid. I just don't remember stuff from a year ago, you know, as I was asked about certain positions.

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

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

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

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

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

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

THE WITNESS: Okay.

ARBITRATOR SHARNOFF: -- what you remember.

BY MR. HIRN:

Q Directing your attention to Union Exhibit 49, the second page, Ms. Linda Diddy, the HR specialist, wrote that the announcement for Morristown
forecaster has been canceled per management. Is it your testimony that she is incorrect?

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

(Pause.)

BY MR. HIRN:

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

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

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

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

Q Yes. At the time you returned --

A Okay.

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

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

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

A I don't know.

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

A To be filled.

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

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

Q Had you seen such a list?

A I'm sure I did.

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

A I don't remember.

MR. HIRN: No more questions.

MS. CIOFFALO: I just have one or two followups.
REDIRECT EXAMINATION

BY MS. CIOFFALO:

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

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

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

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

Q Okay. So, following up on Mr. Hirn's
questions regarding the cancellations of vacancies,
whatever your request was to Workforce Management,
were you in control of how they handled that request?
   A No.
   Q I mean, so, if Workforce Management canceled
it or had to cancel it for whatever reason, was there
anything that you could have done, you know, to
prevent that?
   A No.

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

ARBITRATOR SHARNOFF: Anything additional?
MR. HIRN: No.

ARBITRATOR SHARNOFF: Okay. You're excused.
Thank you very much.
(Witness excused.)

ARBITRATOR SHARNOFF: What is your pleasure?
MS. CIOFFALO: Why don't we take a lunch
break.
(Whereupon, at 12:06 p.m., the hearing in
the above-entitled matter was recessed, to reconvene
at 1:00 p.m. this same day, Wednesday, January 15,
2014.)
//
//
ARBITRATOR SHARNOFF: On the record.

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

MR. POTTS: Yes. John Edward Potts, P-O-T-T-S.

ARBITRATOR SHARNOFF: Okay.

Whereupon,

JOHN E. POTTS

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

ARBITRATOR SHARNOFF: Okay.

MR. HIRN: Would the both of you please speak more loudly?

MS. CIOFFALO: Sure.


DIRECT EXAMINATION

BY MS. CIOFFALO:

Q Mr. Potts, you currently work for the Weather Service, right?

A Yes.

Q And what position do you have with the Weather Service?

A I'm the chief financial officer, chief
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.
Q Okay. And the same type of duties as the CEO of Weather Service?
A Yes.

Q All right. And prior to that position what was your job?
A Prior to that position, I was in an acting capacity, acting CFO over at the National Ocean Service, also part of NOAA, and then prior to that, so that started in -- that's in the 2008 timeframe -- my whole remaining or first part of my career was spent here at the National Weather Service.

Q How long were you a Weather Service employee prior to 2008?
A Oh, geez. About 17 years, so I started in December of 1990.

Q Okay. And what positions have you held in the Weather Service?
A Budget analyst at different grades, and I was the director of the Budget Formulation and Program Analysis Division, a division within the CFO's office, and then was deputy CFO.

Q When were you deputy CFO?
A During the years of 2005 to mid-2008.

Q And that's when you became the acting CFO of NOS?
A Correct.

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

A No, this is something different.

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

(Pause.)

MS. CIOFFALO: All right. Everyone ready?

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

MS. CIOFFALO: Do we have an extra?

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

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

(Pause.)

ARBITRATOR SHARNOFF: Okay. Sorry about that.

MS. CIOFFALO: All right. We've got it.
Mr. Hirn, are you okay?

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

(Discussion held off the record.)

ARBITRATOR SHARNOFF: All right. Back.

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

BY MS. CIOFFALO:

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

A Yes.

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

A Yes.

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

A Yes.

Q Can you tell us what this document is?

A Yes. This is a spreadsheet that takes information from our accounting system, specifically
is comparing the final funds availability that we get from NOAA under the appropriation for FY '12, fiscal year '12, and compares it to that same availability for fiscal year '13 and then in the third column compares to that the obligations in the accounting system to date which were as of August 17, 2013.

Q And did you generate this report?
A Yes.

Q Okay. So let's focus in on a couple of specific things. Today we're mostly talking about the Local Warnings and Forecast base PPA, and can you tell us which line of these columns represents the Local Warning and Forecast base dollars?
A Yes. The first funding line at the top of the chart. It's labeled "Local Warnings and Forecast Base."

Q So let's talk about the columns. The first column that says "NOAA BEX, FY 12, Final Funding Target," can you explain for us in layman's terms what that refers to?
A Sure, and I should clarify. When I say "I prepared this," my staff --

Q Got it.
A -- within the CFO's office prepared this.
Q Okay.
A: Yeah, so I'm sorry, the first column?
Q: The first column that refers to the FY 2012 final funding target, what is that?
A: Yes, so that's the final funding availability that we received, so that's the allotment that we get under the appropriation through the NOAA budget office, so that's the net funds available for us to obligate for the fiscal year.
Q: And that was for FY '12?
A: Correct.
Q: Okay. What is the next column, the FY '13 final funding target? What does that refer to?
A: Yes, that column is the same thing, only for fiscal year 2013.
Q: Okay. Now that number is roughly -- this is in millions, right? This is in real dollars?
A: Yes.
Q: So that number is 625.6, rounding up, million dollars?
A: Correct.
Q: And so that's what the Weather Service had in its Local Warnings and Forecast base PPA as of August 17, 2013?
A: That's correct.
Q: Was there ever a different number in that
column from what you understood that you had in FY '13?

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

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

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

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

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

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

A About, correct.

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

A Oh, you're right. Yes.

Q Okay. Why did you have so much, you know, so much money still in the PPA, still available in the PPA when your fiscal year -- let me ask, when did your fiscal year end?
A September 30.

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

A Correct.

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

A A number of reasons. Number one, the uncertainty involved and surrounding the appropriations process for fiscal '13 that started all the way back on October 1, the beginning of the fiscal year, having continuing resolutions, and then later in the fall getting a final appropriations bill for the year, but then that amount, at the roughly $610 million level for Local Warnings and Forecasts was so far below what we positioned or postured as our requirement level and what we requested in the budget. Then the uncertainty surrounding NOAA's efforts to reallocate and mitigate that inherent shortfall through their spin plan, and the timing of the approval of that spin plan and our receipt of the actual funding that the National Weather Service had to be very constrained in terms of its spending, very conservative in terms of its spending with all of those uncertainties out there. So that led to a good deal of conservative constraint in terms of the rate
of spending, which includes labor and hiring.

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

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

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

MS. CIOFFALO: He came on in May.

BY MS. CIOFFALO:

Q So to your knowledge --

MR. HIRN: In 2013.

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

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

MS. CIOFFALO: Yes.

//
BY MS. CIOFFALO:

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

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

Q Okay.

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

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

A Correct.

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

A Until early August. We did not have the
final allotment at the 625 level until that timeframe.

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

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

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

A Oh, as of the --

Q Yeah.

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

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

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

BY MS. CIOFFALO:

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

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

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

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

Q Okay. Explain.

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

Q Okay. So once money is obligated, is it available anymore at that time?
A: No.
Q: And can you obligate funds that are not currently in the PPA at the time?
A: No.
Q: So how much did you end up executing or obligating by the end of fiscal year '13, by September 30? Do you happen to know that number?
A: Yes. Within this specific line item --
Q: Within that PPA, yeah.
A: -- which is just focusing on the fiscal '13 appropriation for Local Warnings and Forecast base, we obligated about $616 million as of the fiscal close, September 30.

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

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

BY MS. CIOFFALO:
Q: So is that -- I'm sorry, let me ask you this. Do you recognize this document?
A: Yes.
Q: What is this document?
A: This is a report out of our financial system that compares the actual obligations as of the fiscal
year close to the final allotment and then shows the balance or the allotment variance.

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

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

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

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

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

A Yeah, about $9.4 million.

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

A Correct.

Q Okay. And I'm not sure if I asked this. What percentage of your overall Local Warnings and
Forecast allotment does that represent, if you know math?

A That represents about a 98.5 percent obligation rate.

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

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

Q Okay. And why is that a good rate?

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

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

A Yes.

Q What could happen if that occurred?

A Well, per the statute, the Anti-Deficiency Act, you know, could be fined, disciplinary action, could be taken at the worst case, there is potential imprisonment.
Q There's criminal penalties associated?
A Correct.
Q Okay. Could you have taken that money and, you know -- so that extra $9 million that was left over, had there been plans for that money as well?
A Yes.
Q And so why wasn't it obligated?
A Well, principally because of those constraints that I mentioned earlier with contracting mainly.
Q What were those constraints again?
A In that with the way we receive the funds, not being able to have sufficient lead time for contracting officers and staff to do their due diligence on contracts and funding actions with a month and a half left in the fiscal year. So some of even what we planned to do once we got the funding we still couldn't execute.
Q Okay. When you say contracts and other obligations, would this only have been tied up in contracts, or were there other things that you planned to do?
A No, there are other things, so it ranges from -- and again, if we had -- I mentioned the 610 and the 625. NOAA's intent with their final spin plan
and reallocations that got us to the 625 level was to be able to restore, to try to get back on track with hiring and staffing. By the time NOAA's spin plan was approved in the June timeframe, we already knew that we couldn't fully execute the increase on labor spending alone. We had already gotten well into the fiscal year, so there's not as much time left in the fiscal year to fully execute on labor, and the further that got pushed to the right in terms of when we actually received the allotment, our chances for actually obligating funds on labor became physically constrained just due to the timing.

So we did identify shorter term liabilities that we could execute that we knew we were going to have to meet either in the end of fiscal '13 or early '14 having to do with deficiencies across the Agency ranging from a IT technology refresh where we had gotten way off of our refresh cycle in field offices for our computers, training where we had generated a large training backlog at our training center, things like just basic office supplies and logistics at our field offices where we were down to really bare cupboards in those. So those are some examples. We also had reduced under that original appropriation level quite aggressively our Bowie
center operations contract support, so that was
probably one of the main areas other than the IT
refresh that I mentioned where we were trying to
restore our technical contract support services for
Bowie operations. So those are some key examples.

Q Okay.

A But knowing that, again, timing left in the
fiscal year for labor spending was diminished, we were
trying to tackle some of those other liabilities that
we knew from a mission continuity standpoint going
into '14 that we would have to meet regardless, and
even those, as I mentioned before, we were not able to
fully execute.

Q Okay. And you characterized those actions
as shorter term liabilities. What do you mean by
shorter term and what does that compare to?

A Well, I said short term in the sense that we
knew we could execute them, that we can obligate them
within two months, a month and a half left in the
fiscal year, whereas you cannot obligate a full-year
staffing for an individual, for an employee in a month
and a half.

Q Okay. And if the Agency had been able to
execute a hiring action say during that time period,
would that have been considered a short-term
liability?

A No. The hiring actions are long-term liabilities in that when we hire employees, and our workforce is made up of permanent federal employees, that you have to look at that as a long-term permanent liability because once you hire them, unless there's a performance issue, you're liable to pay them as long as their tenure is with the Agency.

Q And did you have any concern about the long-term liability, you know, the long-term nature of employee salaries at that time?

A Yes. And I already touched on the timing of the final apportionment and allotment of the '13 spin plan, but then looking forward to '14, we had a lot of uncertainty with regard to the '14 appropriations process wherein we didn't know what was in store with the second round of sequestration cuts which were required by law, and there was an amendment proposed in Congress that would crank up that second round of sequestration cuts up to potentially 11 percent, which would be almost a $70 million reduction for the National Weather Service. So we were going into '14 in that context being very conservative about the permanent liability footprint that we were creating.

Q Okay. You mentioned earlier execution of
contracts, and there was some discussion throughout this proceeding. Do you know, as CFO, are you aware if by the end of FY '13 the Agency had spent more or less in contracts than it had in FY '12?

A Yes. We spent less in contracts compared to '12.

Q Do you know about how much?

A About $22 million less.

Q Okay. And there's been some discussion of grants also in the last couple days. Are you aware if the Agency spent more or less in grant funding in FY '13 than it did in FY '12?

A Yes. We spent also less in grants compared to '12.

Q Okay. Do you know about how much in grants?

A More than $3 million. I'm thinking almost $4 million less in grants, in that range.

MS. CIOFFALO: Oh, I'm sorry, can I enter into evidence this budget closeout document chart that we've been referring to, please?

ARBITRATOR SHARNOFF: Agency 18?

MS. CIOFFALO: Agency 18.

ARBITRATOR SHARNOFF: Any objection or questions?

MR. HIRN: No.
ARBITRATOR SHARNOFF: Okay. Admitted.

(The document referred to, previously identified as Agency Exhibit No. 18, was received in evidence.)

MS. CIOFFALO: All right. We're good.

CROSS-EXAMINATION

BY MR. HIRN:

Q  John, how much did you spend on grants in FY '13? How much did the Weather Service spend on grants in FY '13?

A  Richard, I don't have that number off the top of my head. I just remember looking at the comparison I just focused on the variance in my mind that it was between 3 to $4 million.

Q  Okay.

A  But traditionally we're in the -- we're in the 10 to $15 million range at the most in grants.

Q  You're not required by law to issue any grant money, however, correct?

A  Correct.

Q  On the Local Warnings and Forecast base line, not all of that is labor, correct?

A  Correct.

Q  How much --
MS. CIOFFALO: Are you referring to Agency Exhibit 18?

MR. HIRN: Anywhere.

MS. CIOFFALO: Oh.

MR. HIRN: Within 18 or wherever it appears.

BY MR. HIRN:

Q Local Warnings and Forecast base, that PPA, that line item, that's not all labor?

A Correct.

Q Do you know how much of it is labor?

A Not off the top of my head. I know that within our entire operations, research and facilities budget, okay, that we refer to as ORF, our labor spending traditionally is about 65 percent of the entire ORF. I guess subactivity I think is the proper term for that. So, within just the Local Warnings and Forecast line, Richard, it's going to be a much higher percentage than that.

Q In reading Agency Exhibit 18, looking at the grand total at the second page, it looks like to me if I read it right the Weather Service could have spent 144 -- well, let me put it this way. At the end of the fiscal year, you had $144 million in the total pot that was not spent that you could have spent, is that right?
A I think I would just caveat that slightly in that you're including, and I'm looking at the report, obligations versus plan for our reimbursement agreements as well.
Q Right.
A So you almost have to --
Q Back that out.
A -- treat those a little bit differently because those are traditionally multi-year interagency agreements where the funds are made available under the auspices of that multi-year agreement, and it's expected that they are there for a multi-year period. So they're not governed by the NOAA appropriation.
Q Okay.
A So you might want to just focus on the ORF and leave PAC out.
Q So, in other words, if you back out the 19.588 from reimbursable total unspent, you'd still end up with about $125 million that could have been spent but that wasn't.
A Roughly, that's correct. Uh-huh. Now keep in mind these balances, I should clarify, are against an allotment amount that includes both the FY '13 appropriation and carryover funds from the FY '12 appropriation.
Q Okay.

A Because it's important to note that these are multi-year appropriations. In ORF, it's a two-year duration, and in PAC, there are three years in duration. So Congress has appropriated these funds with the authority given to us that we have up to two years and then for PAC up to three years to actually fully execute them.

Q So, in ORF, do I understand that in ORF, that's operations, research and facilities, of which Local Warnings and Forecasts is an element, that you could have used leftover FY '12 funds that had not been rescinded to pay '13 bills? Is that correct?

A That's correct.

Q Do you know whether there was any money left over at FY '12?

A Yes. If you look on this exhibit, everything under that code that's labeled 1011 --

Q Okay.

A -- those are all FY '12 appropriations.

Q So that was carryover money?

A Correct.

Q Okay. So you added it in, you've added that in the total that was available and then subtract, and then -- got it. I understand.
A Yeah. In terms of our financial statements and our closeout, we have to --
Q Gotcha.
A -- we have to reflect both, all appropriations.
Q Gotcha. So then, in other words, the $9.4 million left over in Local Warnings and Forecast under Code 1015, that goes into the -- can be put into the FY '14 hopper?
Q So, when I go and I analyze what Congress is in the process of passing, I can add that number to that, is that correct?
A In terms of total availability, yes.
Q Okay. So that means you've got $125 million from last year which you can roll over until FY '14 in addition to whatever Congress gives you by the end of the week, right?
MS. CIOFFALO: Objection. I think that mischaracterizes. He said $9 million.
MR. HIRN: No, no, but in total.
MS. CIOFFALO: Oh, in total. Okay.
BY MR. HIRN:
Q Right?
A Correct.
Q And if you want to move it from one PPA to another, that's where you have to do the reprogramming request to Congress, correct?
A That's correct.
Q But that's just a matter of sending over a letter and having the appropriations staff say it's okay.
A That's the process, yeah.
Q Okay.
A It can take a while sometimes.
Q Pardon?
A It can be a protracted process.
Q Like if maybe they don't like it --
A Right.
Q -- then you can have some discussions about changing it. Right.
A And I should just clarify. When you say rollover, you know, it's not quite so simple. We do have to get it reapportioned. So OMB has to approve those funds to be made available again in the next fiscal year, and then we have to go through the allotment process.
Q But they generally do that, don't they?
A They generally do that, correct, and in fact
we've already apportioned and allotted the '13
balances into '14, so that's been accomplished.

Q Okay. So, in other words, if you wanted to
use the $125 million left over at the end of the last
fiscal year for labor in the Weather Service, all you
have to do is ask Congress in a letter to move it from
one line to another line, correct?

A I would say that's a major understatement of
the task.

Q Well, because OMB has got to sign off.
You've got to get the department to --

A No, I think I see that the main reason is
that all of these different PPAs or funding lines that
we're looking at all have their specific intent as was
originally appropriated by Congress per our
President's budget request, and I'll highlight many of
these lines have to do with the Sandy supplemental
funding.

Q Uh-huh.

A So those all have specific intents and
expectations associated with them. For the Agency
then to come forward and say, stop, forget all of
that, we need to take that balance and use it for
something else, I would just submit that would be not
accepted very well or easily, so it's --
Q But that's what happened when --
MS. CIOFFALO: Let him finish his answer, please.
MR. HIRN: He did.
MS. CIOFFALO: Sorry. You may not have heard him. He was still talking.
MR. HIRN: I apologize.
ARBITRATOR SHARNOFF: You said your answer. If not, complete it.
THE WITNESS: I'm complete. That's fine.
BY MR. HIRN:
Q But in fact that's what happened when the Agency submitted a reprogramming request to abort the furloughs.
A In part, yes. I mean, it was a reallocation of funds from the original appropriation.
Q Right.
A It did include in part some of the Sandy supplemental funding, but it wasn't a wholesale shift.
Q But the Agency elected not to do so with regard to filling the growing number of vacancies in the Weather Service, isn't that correct?
A I'm not certain what specific I guess timeframe are you referring to there.
Q Since the time you became CFO.
Okay. So I'm sorry, what's the specific question?

Okay. After you became CFO --

Yes.

-- the Agency submitted a reprogramming request to move funds from Hurricane Sandy supplemental and other line items in order to avoid furloughs.

Correct.

But the Agency elected not to do so with regard -- not to ask Congress to move -- make a similar reprogramming to backfill vacancies.

I don't get the distinction. The spin plan that NOAA submitted in '13, its original intent was designed, and I can't speak on behalf of all the NOAA components, but for the Weather Service, to be able to, as I mentioned previously, restore some hiring to fill vacancies. The timing of that did not lend itself to that full implementation of that intent in fiscal '13.

Okay. Has there been any discussions now about lifting the hiring freeze?

I'm sorry, about?

Has there been any discussions now about lifting the hiring freeze?
A No, I haven't been privy to any discussions along those lines. I think we've been stating, and I'm assuming that NOAA is really taking a wait-and-see approach to this, depending on the outcome of the final appropriation for '14.

MR. HIRN: I don't have any more questions, John. Thank you. You've been very helpful.


MS. CIOFFALO: Let me just see if I have any followups.

(Pause.)

MS. CIOFFALO: I don't have anything else.

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

THE WITNESS: Okay, sure. Thanks.

(Witness excused.)

MS. CIOFFALO: If we can go off the record for a couple minutes, I'll get the next witness.

ARBITRATOR SHARNOFF: Off the record.

(Whereupon, a short recess was taken.)

ARBITRATOR SHARNOFF: Back on the record.

MS. YOUNG: Sure. I'm Lindsey Young, co-counsel. I'll be examining this witness.

Mr. Coyne, can you please state and spell your name for the record?

ARBITRATOR SHARNOFF: Okay.

Whereupon,

JOHN M. COYNE

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

DIRECT EXAMINATION

BY MS. YOUNG:

Q Mr. Coyne, where are you currently employed?

A I'm currently employed at Southern Region Headquarters, the National Weather Service, in Fort Worth, Texas.

Q And how long have you been with the National Weather Service?

A I have been with the National Weather Service permanently since 1996. Started off as a summer student in 1993, so I worked several summers that didn't count toward my official time.

Q Can you briefly take us through your career progression with the Weather Service?

A Yes. I started out in Corpus Christi as a co-op student for several summers. Then I got on as a co-op once I completed my degree. I came on as an intern at the office, worked my way up to a forecaster.
position. In 2002, I moved over to Southern Region Headquarters for a promotion. The position was performance and evaluations meteorologist. Was there for three years. 2005, I went to Huntsville as the meteorologist in charge, and then almost three years ago came back to Southern Region Headquarters in the position I'm in now, which is deputy director for performance and resources, but I'm also the acting deputy regional director.

Q And how long have you been the acting deputy regional director?
A Since February of last year.
Q Last year being '13 or '12?
A Yeah, 2013. I'm sorry.
Q Okay.

ARBITRATOR SHARNOFF: I'm sorry. And you are located where?

THE WITNESS: In Fort Worth, Texas.

ARBITRATOR SHARNOFF: Fort Worth.

THE WITNESS: Yes, sir.

BY MS. YOUNG:

Q What are your duties in the acting deputy regional director role?
A Well, there's a lot of duties. There are several components to it. There's a budget component
where you're watching over current budget allocation
we get, giving advice on how we should be spending
money or what we should be doing. There is a LMR
element in my regular job but also somewhat in the
acting role job where you're working with the regional
chair, which is John Warner, talking with him about
issues as they come up, trying to work through those.
Also, giving advice to managers that fits within the
CBA and current labor practices. There's also giving
advice to offices in terms of if there's discipline
issues that can be involved.

Also, in my job duties, I'm in charge of the
regional operations center, so I'm watching over the
employees there, making sure we're meeting all of our
needs day-to-day with supporting FEMA, some of our
regional partners, doing things along those lines. So
a lot of different job tasks.

Q  You mentioned some labor/management
relations responsibilities. Are you familiar with the
collective bargaining agreement?
A  I am.

Q  Okay. Are you familiar with a NOAA-wide
hiring freeze that took effect in March of 2013?
A  I am.

Q  Prior to that freeze guidance, did you have
any responsibilities with respect to the filling of
vacancies in the Southern Region?

A Yes. Part of my job duties, I should have
also mentioned, in my regular job is to help manage
the vacancies, so help get jobs processed and bid. We
have a Workforce Management person for lack of a
better term, workforce person, Gena Morrison, who
helps make sure all the paperwork is done correctly.
I'm making sure that things are moving along as best
we can make them move along.

Q Now you called Ms. Morrison a workforce
person. Do you mean that she's a Workforce Management
Office employee?

A No, no. That's just -- her title I believe
is workforce program manager. So she's in charge of
gathering all the paperwork from the field offices.
I'll sign whatever paperwork is needed. And then she
submits that to Workforce Management, and then she
keeps track of the vacancies as they go through.

Q Again, prior to the freeze guidance, were
you involved in any discussions or process regarding
determining how or when to fill Southern Region
vacancies?

A Well, I guess there's different time phases
to that. You know, when I first came into the job,
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budgets were fairly good for us, and so it was an automated process strictly speaking. You know, a vacancy would come open in a field office, a promotion, someone would retire. The paperwork would be sent up to us. There was always money in the budget to fill those vacancies, so we would go ahead and send those up as quickly as they came in and then tried to work with Workforce Management on getting those positions, if they had any clarifications. Anything that they needed, we would try to meet their needs so we could have the job hit the street.

Q Okay. You said that there was sort of a phase to that?

A Yeah, sorry. Yeah As we moved into 2012, the budget was getting tighter, so we had to watch --

ARBITRATOR SHARNOFF: Excuse me. When you say -- just because we have a distinction between the fiscal year and the calendar year, as we moved into 2012, are you talking about the fiscal year or the calendar year?

THE WITNESS: Sorry. Yes, fiscal year, fiscal year. As we started to move into the latter parts of the fiscal year, and this happened a little bit in '11, it really became a problem in '12. You would have a job bid out and there would be a PCS
attached with it, permanent change of station, and so there is money that's involved to move an employee from one location to the other.

What we would end up doing towards the end of the fiscal year if money was really tight and we weren't going to be able to afford that, sometimes the employee, their assignment date was pushed into the following fiscal year to try to make sure we could pay for it and not obligate our budget in a way we couldn't.

BY MS. YOUNG:

Q And when you say "obligate our budget in a way we couldn't," can you go into more detail about what that means?

A Well, we're given an allocation from headquarters and that's the money we have to operate, and I'm sure that's been talked about to some degree here, and the simple fact is we can't go into the red in our budget. If something happens that's unplanned and we're behind what we project to be our, you know, spend rate at the end of the year, we have to take measures to try to bring us back into the black so we're not anti-deficient.

Q You mentioned the budget situation in FY 2012. What about between that time and the hiring
freeze in March of 2013?

A Well, during that timeframe in fiscal year 2013, we were under a continuing resolution and money was very tight, and so that was a constant problem. The orders I was given by the regional director at the time was to continue to process the jobs, put those in, and then, you know, when a selection was made, if there was insufficient money, we would not give a report date to the employee. The report date would be sometime in the future, determined later. So that was a problem through the first part of '13.

Q What about following the hiring freeze? What, if any, responsibilities do you have with respect to filling vacancies in your region after that point?

A Well, what would happen at that point, everything goes through the job board. There's a Hiring Freeze Board that would look at every job that's submitted to them and give an okay whether or not we could go forward with a job announcement.

So my job responsibility turned from one where we would just sign the paperwork and putting it in to -- giving it to Workforce Management to one where we're now writing justifications and submitting those to the job board when we felt like we could meet
the criteria and pass their criteria to get a job put out.

Q Now, when you say you're submitting things to the job board, do you mean directly to the job board?

A No. This would go to Laura Furgione, who is the DAA, deputy assistant administrator for the Weather Service, and she would in turn, if it garnered her support, she would then take it to the job board.

Q And do you have a sense of what it is that garners her support?

A Yes. I mean, we had some broad channel markers, you know, more than -- if an office fell below 10 operational meteorologists, that was usually a criteria that could garner her support. On the electronics side, if we started to fall really short to where we didn't have enough people to safely maintain equipment or go out and do maintenance work that was needed, that would generally go through. So there were some, you know, criteria out there, and we would submit those, you know, when we thought we could get them through.

Q What was your understanding of the rationale behind the first criteria that you listed about not falling below 10?
Well, an office typically -- a typical office, not always --

Q You mean a typical WFO?

A Yes, sorry, a typical WFO, you would have five lead forecasters, five journey forecasters, and to staff 24 hours a day, two shifts, well, six shifts a day, two people on each shift, you need to have approximately 10 people. And so, if you lose a forecaster, you could move a management person into that role to fill those shifts and take some other actions. There are other actions we could take. So, you know, you have that number of meteorologists still to kind of fill in that number 10. So, if you lose two or three forecasters, the position of the job order is you're still okay. You could move those managers in to fill in those roles and keep things going operationally. But when we fall below that line is when we could go before the -- send them up to the job board and get it passed.

Q Prior to the freeze, did your region have any difficulties filling vacancies?

A Yes. You know, even when we had jobs that we knew, you know, we needed to put forward and we had already put them in the system, they had to go to Workforce Management, and they were having very, very
significant problems in terms of getting jobs out, processing jobs.

Q What timeframe are you talking about?
A Well, this really started in fiscal year 2012 when we really started to see things happen. For Southern Region, most of our jobs were processed through a group in Boulder, and Workforce Management made the decision to close that office and eliminate those positions. So, as people moved on from other jobs, there were fewer and fewer people there to process our jobs. Eventually all of our job bids went to people in either Seattle or in Silver Spring or Kansas City. Eventually they've also shut down Seattle effectively. I think there's still a few people there.

But the long and short of it was there were fewer and fewer people to process our jobs, so there were significant delays there. Additionally, when they did bring on new people, there was a learning curve there for those folks, and so there was just a lot of pain involved in trying to get jobs through Workforce Management.

Q In terms of the jobs that you did submit to Workforce Management, do you have a sense of what a typical timeframe would be in terms of how long it
took WFMO to take it from start to completion?

A Yeah. When things were going fairly quickly, and we're talking five years in the past, we'll just go back, you know, a normal baseline. We could have somebody from the time we had a vacancy and started to submit the paperwork until the time the person reported, you're talking about a four-month turnaround, which is pretty quick.

You know, you submit the paperwork. The person from Workforce Management would get the vacancy posted within a couple of weeks. Job's posted for a couple of weeks. People bid. We get a certificate within a couple of weeks. So you start to add all those up, there's a little bit of timeframe. And then there's a six- to eight-week period after a person is selected for them to report to the job.

So, when things are going really well, you're talking about a four-month turnaround to get somebody into the position, and that was pretty typical for that timeframe.

Q Okay. You mentioned that that was as long as five years ago.

A Yeah.

Q Can you estimate to the best of your knowledge the timeframes that you dealt with going
forward?

A  Yeah. It ranged. I mean, we did have a few jobs that went through very quickly, and that was part of the problem we started to run into. We had so many jobs in what's called the RADS system at Workforce Management that they were randomly picking jobs out that we necessarily didn't have as --

Q  They being who?

A  Workforce Management. I'm sorry. Workforce Management. And they would pluck these jobs out and some of them would go very quickly. Some of the jobs would take an extremely long period of time and just stay stuck in the system, and you could call and beg and plead and the people just wouldn't roll the job forward to get them out.

Q  Can you think of any examples of that that you could give us?

A  Yeah. I mean, a job that went through very quickly, for instance, was the ASA job in Fort Worth, Texas. The person was going to retire at the end of the year, end of 2012 I believe, and the job was bid out before the person actually retired. We put in the paperwork and they grabbed it within days and things progressed on, you know, very quickly in that job.

And then at Southern Region Headquarters, we
I have a position called meteorological services branch chief position, and that job, I probably called daily to every other day to people at Workforce Management that went through the process, and it easily took 14 months for me to get that job through. Seemingly there was just no rhyme or reason to some of the extreme jobs, why it took so long to go through.

Then there were other jobs, the SOO position, science operations officer, I'm sorry, I'm trying not to use acronyms, the science operations officer position in Norman never was picked up by someone at Workforce Management and stayed in the system for a very long time, and others would go through, so it was a knot in your system. You had these jobs in, and you couldn't assign a priority to it and you couldn't talk to anybody to get the job, the jobs you needed to get through the system.

Q In situations where a lower priority job, lower priority for Southern Region type of job went through faster than one of your higher priority jobs, was there any consequence of that as far as you were concerned?

A Well, yes, there was some very significant consequences, especially as we got into that continuing resolution in FY '13. What ended up
happening was you'd have a job that maybe was not your highest priority job go through very quickly, and that eats up some of your labor dollars and PCS down the line. Meanwhile you may have a job where you had multiple openings. Lead forecaster job in San Juan comes to mind at that time. That job we couldn't get through, and so you're eating up PCS dollars for what is going to be a higher priority job down the line, so it made things very difficult for us.

Q Did Southern Region take any steps to try to address that problem?
A Yes, we did. In February, mid-February, we had had a change in leadership.
Q Sorry, of what year?
A I'm sorry. 2013. We had a leadership change and one of the things we briefed our acting regional director on was the budget situation along with our workforce situation of what was occurring with Workforce Management.
Q And who was the acting regional director at that time?
A Steven Cooper was.
Q Okay.
A So we explained the problem, and our solution was to take the jobs that were in the RADS
system because we couldn't get Workforce Management to work on the ones we needed to or not work on the ones, pull the jobs back, and keep the ones, or resubmit if we needed to, the jobs that were the highest priority, and if we could do those in blocks of three, perhaps blocks of four, we felt like that then we could call Workforce Management daily on those three jobs and just beg and plead can we get just this one job through the system. That's all I'm asking for today, just this one job, and ride roughshod over those higher priority jobs, and that would be a more efficient system because then we could keep an eye on our budget that way so we're not eating up, you know, some of the budget dollars for these high priority jobs and hopefully we could get Workforce Management to work a little more expediently on the jobs that were in the system.

Q And to the best of your knowledge, did Southern Region take back its recruitment actions as of February 2013?

A Yes, we did. We pulled quite a few of them back and we're reprioritizing. We left certain jobs in the system. Shreveport forecaster comes to mind, San Juan forecaster positions come to mind. So we left the ones where we had multiple openings and were
the highest priority through because, again, another element to this whole thing was the budget at the time. The continuing resolution ended at the end of the month, and we were told absolutely we could not come in in the red. And so we were trying to manage that process as well while trying to get the highest priority jobs through.

Q And just to be even more clear, what was it about the number of jobs that were in RADS that correlated to the potential for ending up in the red?

A Well, what would happen is if we left all those jobs in the system, Workforce Management could pluck those out at any time, and it may not be the jobs that we really needed to go through right at that time.

Q By pluck out, you mean actually --

A Actually take action on them. Since it was something we didn't have a lot of control over at the time, they were being pulled out, you know, seemingly randomly to us. I know that there's probably a process in place for them, but it removed the control for us to be able to say, okay, we really need these jobs to go through and we're going to allocate our PCS dollars that we have left towards these few jobs.

And then if we had left them all in the
system, they could have grabbed this other one, and all of a sudden we're obligated to meet those PCS needs as well, and that's something that we couldn't have happen.

Q So, aside from the handful of exceptions that you just mentioned, were all the Southern Region vacancies pulled from the RADS system in February 2013?

A Not all of them. The handful of ones that we deemed the highest priority, the ones that had to go through remained in the system, but virtually every other job was pulled back on.

Q And did you have any conversations with -- well, with anyone but particularly with anyone at Workforce Management about what the effect would be on those vacancies? I mean, were they -- well, I'll leave it at that.

A Okay. Well, can you restate the question? I'm not sure I --

Q Sure. Let me ask it another way. In terms of the vacancies that -- I think you used the phrase "take out" or "take back" from the RADS system -- did that mean that they would have to be later resubmitted back into RADS, or were they more or less on hold?

A Well, we couldn't -- the RADS system, the
way it's built, and it's a Workforce Management system, you can't simply put a hold on a job and say ignore these jobs. You can either give it to Workforce Management or take it back. And so we had to in essence take those jobs back. In the RADS system, it's called canceled. So we had to in essence cancel that particular RADS number.

Everything was electronic in terms of the documents that we needed to send and everything. So, when we needed to resubmit the job and, you know, it reached its highest priority and we wanted to put those next set of jobs in, it was really a matter of taking those same electronic documents that we had and putting those under a new RADS number and resubmitting them.

Q  When you resubmitted -- well, if and when you were going to resubmit the vacancies that had been pulled from RADS, what was your understanding of where the action would be compared to where it was previously?

A  Well, are you speaking in terms of who has control over that part of the process of pulling?

Q  Sure. I'm also asking, you know, where in the process would it be? Like would it lose time in the process is what I'm getting at.
A No, it really wouldn't because once you submit all the paperwork and, you know, it's submitted, it's just sitting there, you know, for Workforce Management to pick up and move with. It's just in the system. So the fact that, you know, if we pull them back and they either were pulled back or waiting to put those in or they're sitting in there and they're not being dealt with, there's really no difference.

In essence, it would be -- if you're equating it to email, you could send an email message and it can sit unread in someone's inbox for forever, and that's in essence what happens when you submit those jobs into RADS. Until Workforce Management takes them, assigns them to one of their specialists, it's just sitting in there like an unread message.

Q Were the majority of the Southern Region vacancies that were pulled back from the system, I mean, were they the unread messages? Were they at that status?

A Yes, the majority of them were.

Q Okay. In February of 2013, when you were in the process of pulling these vacancies back and talking with Workforce Management, did you discuss that process with Steven Cooper, the acting regional
director?

A Yes. Well, in terms of what we were going to do with the RADS system and have jobs canceled?

Q Yes.

A We might have explained the process to him. He doesn't have access to RADS, so I'm not sure he would understand exactly what was going on when we say we were pulling them back or whatnot. But yeah, I think we explained that we were going to pull back these jobs, submit certain ones as a higher priority, and we went over that priority listing with him.

Q So you made a priority listing to go from in terms of, okay, now we've pulled these back, and where do we start from there?

A Right.

Q Okay. Have you ever at any point had any discussions with the Union's regional chair with respect to Workforce Management issues or delays that impact vacancies?

A Yes, we did. John Warner is the regional chair. We've had conversations, many conversations about particular jobs going back through -- well, even when I first got there, fiscal year '11, into fiscal year '12 because, you know, as the regional chair, he's hearing from all his local folks and they're
asking, well, when is this job going to get filled, you know. My job is the most important one, when are you going to -- you know, what can you do to help me. So we would have a lot of conversations.

Starting in I want to say October of 2012, he had requested having a listing of jobs, the current vacancies, so we would send those to him, and we were open to hearing if, you know, he felt like there were some jobs that are a higher priority that we really need to push, we would have conversations and get his feedback on that.

Q When those conversations did occur, did you take his feedback into account?

A Oh, yes, certainly, you know, because when you're talking about, you know, the LMR issues, good communication is a key point to all that. So, you know, I'm hearing from managers of what they feel like their biggest needs are, but it's also important on his side to hear what his local stewards are saying, you know, are important jobs to them and what he sees as being high priority jobs. So certainly we took it into consideration.

Q How often did management's priorities match up with what Mr. Warner's priorities were?

A I think they matched up fairly well. You
know, when you looked at the listing of vacancies, and
during that timeframe, you know, we were still at, you
know, between 30 and 50 depending on what timeframe
you're looking at vacancy-wise, it's pretty obvious
when you have your highest priority vacancies out
there, you know, talking multiple openings in a office
or an office that is going to be in a higher impact
area.

I keep bringing up San Juan. That was a
pretty obvious one. You had multiple forecaster
openings in that office, and we really wanted to get
those jobs filled before the summer season and you
have tropical season because you have several
logistical challenges in trying to augment staffing
since they're on an island. Literally and
figuratively they're on an island, so you want that
office fully staffed if possible. So we'd have
conversations like that, and I would say they lined up
generally.

Q Are you aware of Union grievances with
respect to the Agency's alleged failure to fill
certain vacancies?

A I am.

Q Okay. I want to turn your attention to the
binder in front of you and if you could turn to Joint
Exhibit 2A. Do you recognize that document?

A I do.

Q What is that document?

A That is the Union grievance concerning lead forecaster vacancies.

Q Okay. If you would look at the listing of lead forecaster vacancies in the grievance, do you see any of those offices there that are part of the Southern Region?

A In that first grouping, there are none. As we go down, there is a listing for San Juan, which is our office.

Q Okay.

A And then in the start of page 2, we have Nashville, Jackson, Miami, and Melbourne are all listed as vacancies, and those are all Southern Region offices.

Q And do you recall whether or not at the time of this grievance, which is March 13, 2013, do you recall whether or not there were lead forecaster vacancies in each of the offices you just named?

A I believe there were.

Q Okay. I want to turn your attention to what I'll mark for identification as Agency 19.

//
(The document referred to was marked for identification as Agency Exhibit No. 19.)

BY MS. YOUNG:

Q Take a moment to look at this document and let me know if you recognize it.

A I do recognize it.

Q What is this document?

A This is a document that lists the vacancies we had in Southern Region at the time of the grievances that were filed.

Q And roughly what timeframe was that in these grievances?

A Yes, I'm sorry. March 2013.

Q Okay. Who created this document?

A Myself and Gena Morrison at Southern Region.

MS. YOUNG: Okay. I'd like to admit Agency 19 into evidence, please.

MR. HIRN: Voir dire quickly?

ARBITRATOR SHARNOFF: Sure.

VOIR DIRE EXAMINATION

BY MR. HIRN:

Q Is this all the vacancies or only those that had been submitted to Workforce Management?

A With the exception -- all of them submitted
Could you restate? I'm sorry.

Q    Is this a list of all the vacancies in the Southern Region at the time or all the ones that had been submitted to Workforce Management?

A    These are the listings -- this is not a complete listing of all the vacancies. This is a listing of the vacancies that are in the grievances with the exception of I believe the Shreveport one under the journey forecaster listing.

Q    So, when you said this is a listing of all the vacancies in the Southern Region in March, that was not correct?

A    I'm sorry. No, it wasn't. When I meant all, I apologize. I was meaning the ones that were listed within here.

MR. HIRN: Okay.

ARBITRATOR SHARNOFF: Any objection?

MR. HIRN: No.

ARBITRATOR SHARNOFF: Okay. It's admitted.

(The document referred to, previously identified as Agency Exhibit No. 19, was received in evidence.)
DIRECT EXAMINATION RESUMED

BY MS. YOUNG:

Q Okay. If I can direct your attention to page 2 at the bottom of this document, do you see the area that says "Lead Forecasters"?

A I do.

Q And then so we actually have to turn to page 3 for the listing. Can you tell us whether or not the various offices that you just named off, if those appear under the lead forecasters?

A Yes, they do.

Q Okay. Do you know if there were any other lead forecaster vacancies in the Southern Region at the time of the grievance aside from the ones that appear here?

A I do not believe there were.

Q Okay. Have any of the vacancies that you mentioned been filled?

A Yes. Three of the vacancies have been filled.

Q Okay. Let's start with San Juan. When was San Juan filled? And it actually looks like there were two, is that correct?

A Correct. There were two vacancies there in the office. They were filled when somebody reported
to the office on April 21, 2013, and May 19, 2013.

Q Okay. And can you tell by looking at this whether or not those were filled from the same recruitment action?

A They were. When you have a recruitment action where you have a vacancy, if you have multiple openings within an office, you can select two people off of that certificate.

Q Okay. And how do we know that from this chart?

A Well, you have the two vacancies that came open, one and two, the dates that they became open, and then over in the far right-hand side, those were the dates that we had people report into those positions.

Q Okay. What about Nashville? Was that position filled?

A Yes, it was.

Q When was Nashville filled?

A It was filled on May 19, 2013.

Q And do you know if that position had to go through the Hiring Freeze Board that you mentioned earlier?

A I do not believe it had to go through the job board.
Q Okay. I see a listing here for Jackson as well. What about Jackson? Was that position filled?
A It was. It was filled by reassignment. We had a science and operations officer there in the office request for personal reasons a reassignment.
Q And what about the other vacancies at Miami and Melbourne? Have those been filled?
A Those have not been filled at this time.
Q Okay. Why not?
A Well, we're currently under the hiring freeze and neither job at those locations would meet the criteria that the job board require for us to be able to bid the job out.
Q Okay. Under the column with the heading "Current Status of the Vacancy", do you see for Miami and for Melbourne where it says, "RADS case returned to line office on 2/14/13 due to budget issues."
A Yes, I do.
Q What does that status mean?
A That gets into the process that we were talking about where we were pulling back on all the jobs. So both of those dates, the February 14 and February 12, is when we asked for those jobs, those vacancies to be returned to our office so that we could reprioritize and resubmit them as needed.
Q  Do you know, if you know, why have the Miami and Melbourne positions not been submitted even since the hiring freeze -- you mentioned justifications that were written before. Why has that not occurred?

A  Well, simply because we know the markers for the forecaster positions would be multiple openings within the office in terms of the meteorologist, and we need at least three vacancies before we would garner their support, and at both of those offices, they're not close to that criteria, so there's no need to submit something that's going to be turned away immediately.

Q  Okay. I want to turn your attention now to Joint Exhibit 2C in the binder in front of you. You can switch charts there. Take a moment to look at 2C and let me know if you recognize that document.

A  I do recognize the document.

Q  And what is it?

A  That is the Union grievance concerning the filling of journeymen forecaster vacancies.

Q  Okay. And what's the date of this grievance?

A  March 21, 2013.

Q  Okay. Do any of the offices in either cluster appearing here in the grievance, are any of
those Southern Region offices?

A Yes, they do. In the first cluster, Midland, Texas, is one of the offices in our region. In the second cluster, Memphis, Little Rock, Houston, Morristown, and Huntsville are all Southern Region offices.

Q Okay. And do you recall whether or not all of those offices you just listed actually had journeymen forecaster vacancies at the time of this grievance?

A Yes, I believe they did.

Q Okay. And can you point those out on your chart if they appear there on A-19?

A Yes. They're on page 2. That's almost the entire listing there. It's a listing of all the offices.

Q Okay. Were there any other general forecaster grievances -- excuse me -- vacancies at the time of the grievance?

A There was one additional one and that's at the bottom. Shreveport, Louisiana, had a vacancy.

Q At the time of the grievance?

A At the time of the grievance.

Q Okay. Have any of these general forecaster vacancies been filled?
A  Yes. One of them has. The one in Shreveport was filled.

Q  Okay. And do you know why Shreveport in particular has been filled?

A  Yes. We had a severe need in that office. We had several vacancies. I would have to go back and look, but we had a multiple vacancy situation there not necessarily in the general forecaster but I believe in other areas.

Q  And what about all of the other offices? Why have those positions not been filled?

A  Well, in all those cases, they still have not met the criteria that the job board has where we need multiple openings that would be sufficient for us to get it through the hiring board.

Q  But the chart shows that some of those offices had vacancies, you know, well before the hiring freeze. We could look at Memphis, Tennessee, for example, vacant as of August 11, 2012. Do you know what, if anything, occurred prior to the freeze to prevent that vacancy from being filled?

A  Well, Workforce Management simply didn't get to it. We had submitted the paperwork and we would make calls, but we were not getting any response to them that would get the job through the system.
Q: And then according to the status column, it looks like this was ultimately returned to the line office.

A: Yes. Again, all these jobs through February were returned to us so that we could reprioritize.

Q: Okay. So by the time February rolled around with respect to this vacancy it was part of the group that was pulled back?

A: Correct.

Q: And why was this one pulled back in particular?

A: The Memphis one in particular?

Q: Sure.

A: Well, again, it was a lower priority job in terms of what we were seeing across the entire region. It was the only vacancy at the time there in the office, and there are other offices that had multiple openings that we felt like really needed to be processed, and so we pulled back on these jobs and left the ones in that were of highest priority to us.

Q: Okay. And can we assume that the same is true of, let's see, Little Rock, Morristown, Huntsville, Houston, and Midland? Are those all a similar situation?

A: That's correct.
Q Okay. I want to turn your attention to Joint Exhibit 2B, please. Take a second and look at that document and let me know if you recognize it.

A 2B you said?

Q 2B as in boy.

A 2B, okay. Yes, I do recognize the document.

Q And what is that document?

A That document is the Union grievance for the hiring of HMT/interns.

Q And what's the date of this grievance?

A March 15, 2013.

Q Okay. Do any of the offices appearing in this grievance fall within the Southern Region?

A Yes. In that first cluster, the Fort Worth, Texas, office is within our region.

Q And there may be some additional listed in the text. Any others?

A Yes. Yeah. On the second page, first full paragraph, Lubbock and Tampa Bay are listed there within our region.

Q Okay. To the best of your knowledge, were there vacancies at those offices in the HMT/intern unit at the time of the grievance?

A Yes, there were, and I should add in the first grouping Mobile, Alabama. I missed that one.
That's also in our region.

Q Okay. Turning back to Agency 19.

A Yes.

Q Do those vacancies appear on the chart?

A Yes, they do.

Q Okay. And what page are they on?

A They're on page No. 1.

Q All right. It appears from the chart that there were two vacancies at both Fort Worth and Tampa Bay at the time of the grievance.

A That's correct.

Q Do you know if any of the vacancies listed here in the chart under the HMT unit have been filled?

A Yes. One of the positions in Fort Worth was filled, and then the two at Tampa were filled.

Q Why was one of the Fort Worth positions filled?

A Well, it had gotten to the point where the MIC could make a selection, and we chose to select one off of that panel, and that was a budget consideration.

Q So you're talking about the one where the employee entered on duty on April 8, 2013?

A That's correct.

Q Okay. And you said the MIC was able to make
a selection. Did that occur prior to the hiring freeze, if you know?

A To the best of my knowledge, I want to say that occurred just before the hiring freeze.

Q Okay. Do you know if the Southern Region intends to fill the remaining Fort Worth vacancy?

A Yes, we do.

Q And has that been submitted to the Hiring Freeze Board?

A No, it has not.

Q And why not?

A Again, it hasn't met the criteria that the hiring board uses for those positions where we just know we couldn't get it through at this point.

Q What other positions or what other vacancies in the HMT/intern unit have been filled?

A The Tampa -- you're speaking to the Tampa one on the last line there?

Q Yes.

A The Tampa job, both jobs were filled before the hiring freeze.

Q Okay. What about the remaining vacancies at Mobile and Lubbock? Why have those not been filled?

A Again, those are single openings and they wouldn't meet the criteria at this point for the
Q Okay. And one more time, when you say single opening, what do you mean by that?

A That means there's just that one opening. There's not multiple openings, and the office is able to maintain their critical operations.

Q Openings in terms of like any vacancies at all in the office or particular openings?

A Particular. With the HMT/intern units, we're looking at their particular work roles in terms of if the office is an upper air office, if they're able to maintain staffing to do balloon launches and meet the operational needs that they have.

Q Okay. Looking at the chart, it appears that Mobile's vacancy actually became vacant after the grievance was filed on March 15, is that correct?

A Yes.

Q Nevertheless, an HMT/intern vacancy at Mobile does appear in the grievance. Do you know to the best of your knowledge if the vacancy listed on your chart is the vacancy that the Union is referencing?

A To the best of my knowledge, it is. That was a retirement. So what happens normally is somebody would announce their retirement, put in
paperwork some period of time in the advance. And in this case, what likely happened was this was an upcoming vacancy that was known about and the retirement paperwork had already been put in.

Q Okay.

A There's other considerations that could have been there that I don't particularly know. I don't know if the employee was out for some sort of long-term disability reason, something along those lines, to where the person wasn't physically in the office at the time even before they retired.

Q There's an allegation that there was a de facto hiring freeze that occurred even before the NOAA-wide hiring freeze in March of 2013. Do you agree that there was a hiring freeze, a freeze before the freeze if you will?

A Well, not in our case. We were simply trying to get jobs through as best we can with the budget numbers that we were given. The largest drag on us being able to process jobs through most of FY '12 was the fact that we couldn't get Workforce Management to process these jobs in a timely manner.

So, from our level, we certainly were not freezing jobs. We were trying to do everything we could to get jobs processed as quickly as we could.
We just were simply met with -- we were simply met with a lot of roadblocks.

Q Are you aware of any requirement to fill a vacancy in a particular amount of time?

A No, I'm not.

Q In the months leading up to the March 2013 hiring freeze, was your region filling vacant positions?

A Yes, we were. You know, again, we went through the whole process, you know, that I had outlined, but, yes, we were filling vacancies.

Q Okay. I want to direct your attention to Agency Exhibit 17, which should be here. Agency 17 is a document already in evidence that shows a subsection of a larger RADS report where the entrance on duty date for the person filling the position falls roughly between January of 2013 and March of 2013, and I was wondering if you could look at this list and let us know if any of these listings are from Southern Region.

A Yes. There were several there from Southern Region. If you look over on the column that says "POC", it says "Gena.Morrison". That's the Southern Region employee who enters the information into RADS, so all those jobs listed with her name beside it would
be Southern Region positions.

Q  Thank you. Did you see an increase in overtime in your region in fiscal year 2013?
A  No, not a significant one. The main driver for overtime at least when you're looking at it from a regional scale is going to be your big weather events that occur across large areas that affect multiple Weather Forecast Offices.

So, if you have a big weather event, and I'll use the 2011 tornado outbreak as an example, that is going to drive your overtime probably more than any other factor that you have. And so looking back at 2013, our overtime numbers as a region were actually fairly benign, fairly level from the previous year because really overtime is driven by the weather that we see, and it was a fairly quiet year.

Q  Do you know of any leave cancellations that occurred in any Southern Region offices in FY '13?
A  No, I do not.

Q  What about any situations where an employee was TDY or on travel?
A  Yes, there have been a couple of instances where we have had to TDY people into offices. Two that come to mind, the Midland office, and I'd have to go back and look at the particular time, we had to
send some people into that office to maintain their forecast rotation, and the Brownsville office.

Q And what about the usage of temporary promotions? Has that occurred?
A Yes. Yes, it has.

Q Okay. And what about management filling shifts? Has that occurred in FY '13?
A Yes, it has.

Q Okay. And does management typically fill operational shifts in the Southern Region?
A Typically, yes, it's a fairly -- I don't know what kind of nomenclature you want to attach to it, fairly routine. Within Southern Region, I would say typically warning coordination meteorologists and science operations officer would work something on the order of 25 percent of their work shifts would be operational shifts. MICs within the region, meteorologist in charge, people who are heads of the offices, that would vary somewhat, but I would say a typical average would probably be 10 percent of their shifts would be covering operational shifts.

Q Okay. In fiscal year 2013, do you know whether or not Southern Region was able to maintain or schedule two people per shift in each office?
A To my knowledge, every office met that
1 requirement.

2 MS. YOUNG: Okay. I don't have any more.

CROSS-EXAMINATION

BY MR. HIRN:

Q Prior to the hiring freeze, were there any vacancies in the Southern Region that were not submitted to Workforce Management?

A No. In terms of -- you're talking about any vacancy at any time before the hiring freeze?


A Not to my knowledge, no.

Q So anytime a vacancy came open within some reasonable amount of time you requested that it -- you sent the paperwork to Workforce Management for it to be filled?

A That's correct.

Q Do you somewhere have a list of the dates that the vacancies became -- positions became vacant prior to their submission to Workforce Management?

A A unified listing, we probably do not, one that maintains everything, you know, for all time.

Q Not for all time, but let's say positions that were vacant in 2013 before the freeze.

A Well, that data can be mined probably through the SF-52s that are submitted because when a
vacancy becomes a vacancy --

Q Yes.

A -- you have an effective date listed on

that. We would have to go back. One of the things

that Gena Morrison does is provide us with a bi-weekly

jobs report, and that gives us the incoming job

vacancies, the current job vacancies, and any that are

what would be called outgoing, ones where you had

somebody selected for the position, but they haven't

moved into the position yet. And so a combination of

looking at that against 52s, you could probably come

up with a listing of what you're looking for there.

Q Okay. So that information is normally

maintained by your office?

MS. YOUNG: Objection to the extent that

he's asking for a legal conclusion on that.

MR. HIRN: It's a factual question.

MS. YOUNG: I don't think you used it

factually, but if so, that's all right.

ARBITRATOR SHARNOFF: Well, there are two

points to his answer. One is he would have to create

a document, and the other one was it was somewhere in

the files.

THE WITNESS: Yes.

ARBITRATOR SHARNOFF: The information. I
just wanted to make sure it's clear which question he
was answering.

THE WITNESS: Yes.

ARBITRATOR SHARNOFF: And which question was
that?

THE WITNESS: Oh. Well, I think the data is
there. You would just have to pull it out. You know,
we don't have an Excel spreadsheet that lists, you
know, job X became open at this date, and just keep it
open, but there is a listing that keeps in essence a
running count of what's going on, and we would have to
go back through those and look at the information. So
the information is out there. It's not in a unified
listing.

MR. HIRN: Lindsey, do you have Union
Exhibit 48 to share with Mr. Coyne?

MS. YOUNG: We only have one copy of it, the
witness copy. Do you have another copy for us to look
at? I think you had had two copies over there when
you put it all in because they were your witnesses.
We only had the one on this side of the table.

MR. HIRN: That's okay. Look, I heard you.
I heard you the first time.

(Pause.)

MS. YOUNG: Oh, we have it. We have 48 and
49. Do we need both?

MR. HIRN: I can't find my second copy of 48.

(Laughter.)

MS. YOUNG: It may be in my hand.

MR. HIRN: Yes. I suspect they're in your hand.

MS. YOUNG: So everybody's got a copy then, right?

MR. HIRN: Right, and I'm going to need those back if that's a second copy.

MS. YOUNG: As long as we end up with one over here.

MR. HIRN: Okay.

BY MR. HIRN:

Q If you would look at 48.

A Yes, sir.

Q I'm looking at this email from Chris Darden and he seems to say that the Huntsville -- that the certificate had been issued for the Huntsville forecaster office general forecaster position by February 22.

A Yes. That was one of those cases when we pulled back on all the jobs. The Huntsville case had had a certificate issued on it, and we pulled it back
to reprioritize the jobs because of the limited PCS dollars.

Q Okay. But I thought you testified a moment ago that Workforce Management had taken no action whatsoever on these cases.

MS. YOUNG: Objection. Mischaracterizes the testimony.

MR. HIRN: Well, that's why I'm asking if that's what he said. Isn't that what you said a moment ago? This is his opportunity to correct it if I misunderstood what he said a moment ago.

MS. YOUNG: Well, he said what he said, but I think you're mischaracterizing it.

ARBITRATOR SHARNOFF: Do you understand the question?

THE WITNESS: Yes, I do.

ARBITRATOR SHARNOFF: And do you have an answer?

THE WITNESS: Yes. My recollection of that timeframe when we were doing this, this was the only job that had gotten to a certificate process and had been processed by Workforce Management. So I thought I had said when we pulled back on the jobs the majority of them had not been dealt with because I don't know what different things had been done by
Workforce Management at the time.

BY MR. HIRN:

Q So then it is not correct to state that Workforce Management had done nothing with these positions?

MS. YOUNG: Objection again. It's not what he stated.

THE WITNESS: For this particular job, no, they had done something with it.

MR. HIRN: Okay.

THE WITNESS: As far as the notifications we had gotten, I do not know of any other job that had been processed that we had pulled back on.

BY MR. HIRN:

Q All right. Then let's go to Exhibit 49.

A Okay.

Q Looking at the bottom --

MS. YOUNG: Just a minute. I only gave him 48.

THE WITNESS: This is 49?

MS. YOUNG: Yes.

THE WITNESS: Okay.

BY MR. HIRN:

Q Looking at the bottom of 49, the bottom of the first page, top of the second page, it looks like
an HR specialist sent a letter, an email, to "Dear Applicant" saying that the Morristown general forecaster vacancy had been canceled. Is that not correct? Which would seem to indicate to me that it had been advertised and people had applied for it.

A Yes, it would appear that way. I did not realize from looking over where the jobs were that if this had been bid out or was open where people had applied.

Q So this is a second general forecaster vacancy that Workforce Management did process and at least got to the point of advertising.

A Yes, it would appear so. This is the Morristown job?

Q Yes. Okay. So looking at Agency Exhibit 19, and the second page, one, two, three, four, five, six, there are seven journeymen positions listed. You testified that Shreveport was processed and filled. We've just established that one of the others, the certificate had been issued, and with regard to another one, we got to the point of at least they had been advertised and people had applied, correct?

A Correct.

Q So can you say for certainty that Workforce Management took no action on the Memphis general
forecaster vacancy?

A Well, given the Morristown one, I'm not going to venture a guess at this time where it was in the process. But again, we weren't able to get the jobs through and it wasn't a higher priority job. That's the reason --

Q No, I understand that.
A Okay.

Q I understand that, but I'm just focusing on what I thought I had heard you said that with regard to the six, other than Shreveport, that Workforce Management took -- you had submitted it to Workforce Management and they had taken no action to recruit for those positions?
A Yes. To my knowledge, they had taken no action.

Q Okay. But we did establish that your knowledge was mistaken with regard to Huntsville and Morristown. I mean, not Huntsville and Morristown. Yes, Huntsville and Morristown, did we not?
A Yes.

Q And knowing now that your knowledge was mistaken with regard to Huntsville and Morristown, do you really know whether Workforce Management took no action on the Memphis vacancy?
A Well, given the information I have, I would say that they had not moved on it at least significantly enough where I would get notified. But can I say with certainty that absolutely nothing was done? No, of course not. I'm not running Workforce Management.

Q Okay. So you don't know whether it was advertised or not?

A I don't believe it was.

Q And you didn't believe Morristown and Huntsville were?

A Morristown, I did not know. Huntsville, after you showed me this document, yes, I remember that that was.

Q Okay. How about Little Rock? Are you at all confident that your knowledge of what happened with Little Rock is --

A It would be the same with Memphis. My best recollection at the time is that indeed the job hasn't been moved on, and part of the reason we pulled back on those jobs was some of the aforementioned reasons.

Q Right. All right. We'll get to that. We'll get to that.

A Okay.

Q But you don't know for certain that Little Rock
Rock, that they took no action with regard to Little
Rock?

A  Absolute certainty, no, not right now.

Q  Okay.

A  I could with some computer searching.

Q  You could have been as mistaken with regard
to that as you were with regard to Huntsville and
Morristown.

A  Unlikely, but I'll give you that it could
happen.

Q  Okay. Could you have been mistaken with
regard to Houston as you were mistaken with regard to
Huntsville and Morristown?

A  At some point I would say no because these
jobs were not moving as a whole, although at the time
I want to say there were on the order of 50 vacancies
in our region. So, to be quite honest, I can't give
you an update off my recollection of what was
happening with every one of the 50 jobs.

Q  Okay.

A  But I will say it was unlikely that all of
them were moving, and the likelihood that none of them
were moving was higher.

Q  But we have established that your testimony
a moment ago earlier on direct that Workforce
Management took no action on any of these general forecaster vacancies other than Shreveport, we have established, you have now conceded that that was ill-informed, mistaken?

MS. YOUNG: Objection. This is all asked and answered. I think the point has been made.

MR. HIRN: I don't think so.

ARBITRATOR SHARNOFF: Well, we've been over it several times already.

MR. HIRN: Okay. All right. But I haven't asked about Midland.

MS. YOUNG: Same objection. You know, could he not remember, could he remember, I mean, I think you've elicited the testimony that this witness has on that point.

ARBITRATOR SHARNOFF: Well, with regard to Midland, which you haven't been asked about yet.

THE WITNESS: Shall I answer that?

ARBITRATOR SHARNOFF: Yes.

THE WITNESS: My recollection would be the same as Memphis and Little Rock. I do not believe there was anything moving on that particular job, but of course, having seen the evidence that you presented for Morristown, I would certainly go back and look at the system, but my recollection at the time was that
there was nothing moving.

BY MR. HIRN:

Q Okay. Looking at the entry on this exhibit, case returned to line office due to budget issues for those six journeymen forecaster positions. They were returned at the Southern Region's request, not at the initiative of Workforce Management, correct?

A That's correct.

Q And that was due at least in part to a decision not to pay PCS costs that were originally offered, correct?

A Well, that is slightly incorrect. It was because the determination is we didn't have the money to pay those PCS dollars at that time.

Q Okay.

A So the PCS dollars we had left needed to go towards higher priority vacancies.

Q Gotcha. And then looking at the lead forecasters, Miami and Melbourne, were those returned at the request of Southern Region or at the initiative of Workforce Management?

A At Southern Region's request. LO stands for line office, which would be us.

Q Yeah, returned to line office, but it doesn't indicate here whether it was at the line
A Yes, we made that request for those positions.

Q And was it also because you did not feel at the time you were ready to pay the PCS costs?

A It was a combination of the PCS dollars we had left needed to go towards higher priority jobs and at the same time Workforce Management's ineptitude on processing jobs in a timely manner so we could put a few in the system that were the highest priority and continue to ride those through the system.

Q Okay Looking at the first page of Agency Exhibit 19, the Lubbock HMT position, was that also returned at the request of the Southern Region or at the initiative of Workforce Management?

A That was done by Southern Region.

Q Was that also due to at least in part PCS costs?

A Actually, that one was not. What occurred, if you see, it was 9/19/13 was the date that we asked for it to be returned.

Q Yes.

A The job had been sitting there in the system for so long and not moved on that the information that was in there in terms of who you'd get in terms of
applicants and who you would get on your certificate would be so outdated because of the job freeze there was little validity to having the job in the system. We need to pull it back so when it goes back into the system we would have a credible list of candidates.

Q  Gotcha. Hold on then.
A  Okay.
(Que.

BY MR. HIRN:

Q  Forgive me for asking, if I'm repeating my question just to make sure I understood your answer.
A  Okay.
Q  Did or did not Workforce Management take any action to fill that position?
A  The Lubbock position?
Q  Yes.
A  To be quite honest, I don't know where it was in that, in the system, but I know that it was caught by the job freeze to where it was not being moved on, and so that timeframe, the March to that September, that's why we moved that one back.
(Que.

BY MR. HIRN:

Q  Now I asked you a few moments ago whether there were any vacancies that arose in the Southern
Region during 2012 or 2013 before the hiring freeze
that you had not submitted to Workforce Management,
and do I recall your answer correctly as being no,
that you had submitted everything?

A    Yes, but I will make one caveat to that. I
would say certainly through all of '12 that was
certainly the case. '13, after we had pulled back on
these positions in mid-February and we were
prioritizing, there might have been a job, two jobs, I
don't know, where if the vacancy came open we wouldn't
have submitted those to Workforce Management at that
time simply because it's in the mix with all the other
ones being reprioritized.

Q    All right. But that would be a vacancy that
arose after February 14 when you asked the others to
come back, right?

A    In rough numbers perhaps. When the
paperwork started to come in, it could have been a
month before.

Q    All right. Okay. Then I'm going to ask you
to look at Union Exhibit 79, and I'll bring over
another copy of it.

ARBITRATOR SHARNOFF: Was it 79A?

MR. HIRN: Oh, I'm sorry.

MS. YOUNG: Yeah, which letter?
MR. HIRN: I'm sorry. It would be 79F.

BY MR. HIRN:

Q And directing your attention to the first page, these are senior forecaster vacancies. A senior forecaster position became vacant on January 26, 2013, at Jackson. Is that Jackson, Mississippi?

A Yes, sir, it would be.

Q And that was not submitted to Workforce Management, correct?

A That looks like correct, yes.

Q Okay. Turning to the next page -- no, to the third page, this is the HMT/intern vacancies. A HMT/intern, a Fort Worth position became vacant July 15, 2012. It was not submitted, correct?

A That's what this appears to indicate.

ARBITRATOR SHARNOFF: I'm sorry, which one was that?

MR. HIRN: Fort Worth, this is page 3 of 79F, Fort Worth HMT/intern. On July 15, 2012, that position became vacant and you did not submit it.

Then on June 30, 2012 --

MS. YOUNG: Was that a question or --

MR. HIRN: Well, he answered that. He did answer that, and Mr. Sharnoff just asked me what again I was referring to.
BY MR. HIRN:

Q And then looking further down this chart, on June 30, 2012, an HMT/intern position in Norman, Oklahoma, became vacant and it was never submitted to Workforce Management, correct?

A I would say perhaps on that. Yes, it may have not been put out for vacancy during that timeframe. You could have Pathways students or SCEPs moved into HMT. So Pathways students are your college students that once they graduate you have a 90-day period before you move them noncompetitively into a position, typically an intern position like this. And if this job was not submitted in that timeframe, what I would surmise out of that would be that we had a Pathways student move into that job.

Q Well, the problem I have with that answer is this exhibit was provided to us by the Agency stating that these were vacancies.

A Okay.

MS. YOUNG: Is that a question?

MR. HIRN: No. I'm just noting for the record what this document is.

BY MR. HIRN:

Q So you don't have any real knowledge that a Pathways student was given that position, do you?
Okay. And then on the next page, the ITO position in Shreveport became vacant on January 26, 2013, two months before the hiring freeze, exactly two months before the hiring freeze, but that was not submitted, correct?

That's correct.

So earlier when you testified that every vacancy in your region in 2012 and at least within one month prior up to February 2013, every vacancy that became open was submitted to RADS, you did your part to try to get it filled, that was not a correct statement, was it?

No, I think you're mischaracterizing this. Now I'd have to go back and look at the HMT ones that are listed because that would be stunning to me that those were not filled. The ones in January, late January --

Right.

-- everything that starts off with a vacancy gets started off with a SF-52 that is signed and sent by the MIC.

Right.

So, in this case, Shreveport, if that information wasn't processed to us, if there's leave
involved, I don't know the circumstances, but if that came into us by that timeframe, around February 10 when we asked Workforce Management to pull them back, these jobs would be sitting in the prioritization list with all those other jobs that we had pulled back on, so that's that.

When you're asking if it's specifically February 14, that's why I said no, there could be some lag.

Q  Right. I understand.
A  Because there's going to be a delay in that process.

Q  Okay. But for at least 2012 you did testify that every job, every position that became vacant you submitted to RADS.
A  Yes.

Q  Did you not testify to that?
A  Yes.

Q  And according to this exhibit, this document provided to us by the Agency, that was not correct.
A  Not necessarily. Well, okay. I don't know the source of -- I don't know all this information here within the document.

Q  Okay.
A  Again, I would say emphatically,
particularly those jobs that were in during the summer
of 2012, at that time, we were processing jobs and
that HMT/intern job, it would be stunning to me if we
weren't submitting those. Again, there was no
delay --

Q Well, there was two of them, HMT, there were
two of them.

A Yes, and we would have to go back and look
and see the particular details on those, but I simply
cannot answer on why they're not in the system as
being in there. We obviously had those vacancies
filled by the time March came around. Otherwise they
would be listed in the grievance or on our listings
here.

So through RADS you have job vacancies that
are submitted in. Also, your Pathways students are
converted in through that system. There is other
mechanisms. So I don't know particularly what
occurred in those two positions, but to my knowledge,
both of those jobs were filled. I just don't know the
source of why they're not listed here.

MR. HIRN: Mr. Sharnoff, that leaves me in a
little bit of a puzzle because I have the Agency's
witness testifying --

MS. CIOFFALO: I'm going to object.
MR. HIRN: -- that the information that Agency counsel provided us, a result of a 7114(b)(4) request, their official information response is inaccurate. I don't know what to make of that or how that leaves the record in this case.

MS. CIOFFALO: Can I respond if you don't mind?

ARBITRATOR SHARNOFF: You may.

MS. CIOFFALO: I think as I discussed in detail the first day that we talked about this and as Mr. Coyne aptly testified, these records come from a lot of different sources and this is not a perfect system. So to the extent, again, that you can pore through pages and pages of, you know, a RADS report with 4,000 entries in it and find a few that hadn't been updated, then I think that is reasonable.

So to suggest that there's any kind of, you know, prejudice based on that would be inappropriate. I think the witness has testified, again very aptly due to his knowledge of what was going on at the time, what he understands to have happened with those positions, and you can argue, you know, whatever you want in your brief about that.

MR. HIRN: Well, why don't we, rather than arguing in the brief, why don't we give the Agency an
opportunity to correct the record and provide the SF-50 appointment document for the positions involved that they initially told us was not even submitted, Mr. Coyne said were filled, or at least some document, copies of the submission to RADS or some -- you know, it seems to me they have the access to physical records to correct -- to either tell us whether this document is wrong or that Mr. Coyne is mistaken.

ARBITRATOR SHARNOFF: Okay.

MR. HIRN: That's a minimum obligation that they have.

ARBITRATOR SHARNOFF: I think if we can get a list of those names that you want -- I mean, I don't know that they have to go through all 4,000.

MR. HIRN: No, no, the ones we just talked about here.

ARBITRATOR SHARNOFF: Right. To the extent that you want clarification on four names or whatever it was.

MR. HIRN: Yes.

ARBITRATOR SHARNOFF: Make a list of the four names on a piece of paper, anything, and hopefully we can get a response on what happened to those jobs.

MR. HIRN: Well, I've been trying to get a
response to this stuff for six months.

ARBITRATOR SHARNOFF: All right.

MR. HIRN: And it's also funny --

MS. CIOFFALO: And I think this would have

been --

ARBITRATOR SHARNOFF: Now we can try again.

MR. HIRN: And I also note, Mr. Sharnoff,

that the question, the simple question that I have

been asking for six months about these positions

returned to the line office --

MS. CIOFFALO: I'm going to object to this.

MR. HIRN: -- whether or not the Weather

Service --

MS. CIOFFALO: We're on the record right

now.

MR. HIRN: Yeah.

MS. CIOFFALO: And you're making arguments

about things that we have resolved already. Enough

already with this, honestly. We have gone through

this issue in detail. The resolution was that you

were going to question the witnesses about it. You've

done that. If you want to make an argument about that

later, make an argument about it in your brief, but I

think we've beaten that horse to death.

MR. HIRN: No, I think there may be future
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1 cases, you know, for -- I was played around with for
2 six months.
3
4 MS. CIOFFALO: Again, I highly object to
5 this kind of argument being made on the record yet
6 again.
7
8 ARBITRATOR SHARNOFF: All right. At this
9 point, do you have any further questions of the
10 witness? Let's get back to questions.
11
12 BY MR. HIRN:
13
14 Q Okay. Is there a lead forecaster vacancy in
15 Amarillo, Texas?
16 A Currently?
17 Q Yes.
18 A I would have to go look at the list. I
19 believe there is a forecaster vacancy. I'm not
20 certain if it's a senior forecaster.
21 Q Okay. Do you know when it became vacant?
22 A Not off the top of my head.
23 Q Key West, Florida, is there a lead
24 forecaster vacancy there?
25 A I would have to go back and look at my
26 listing.
27 Q San Antonio, Texas, is there a general
28 forecaster vacancy there?
29 A Yes, there is.
Q And how long has that been vacant?

A There were recent retirements at the end of this year I believe. I don't know if there has been a longer one sitting there before that time.

Q In Jacksonville, Florida, is --

ARBITRATOR SHARNOFF: Excuse me. When you say San Antonio, there are retirements, plural, are there plural vacancies?

THE WITNESS: Yes, sir. The reason I know that one is because there was a recent retirement. It did meet the criteria for the job board recently. Although they did not have that three vacancy criteria, I think at this point they only have two, but they also have one forecaster who is out on a medical issue, long-term medical issue. So, in essence, they have three people out, and we did submit that before the job board and that was recently approved and it's going to be going out for vacancy here shortly.

So I remember that because I've recently written up the documents for that, and it was approved.

BY MR. HIRN:

Q Is there an intern HMT vacancy in Jacksonville, Florida?
A I would have to look at my list. There's currently within Southern Region 91 vacancies. It's a very long list. I cannot tell you every one of those 91 jobs.

Q All right. Well, then let me ask a shorter way.

A Okay.

Q Looking back at Union Exhibit 79 --

MS. YOUNG: 79F?

MR. HIRN: 79F. Thank you.

BY MR. HIRN:

Q On the first page, senior forecaster vacancies. No, never mind.

MR. HIRN: I have no more questions.

MS. YOUNG: Nothing further.

ARBTRATOR SHARNOFF: Okay. You're excused as a witness subject to getting that information on those four names, if you could arrange to -- I don't know when you're going to be back, where you have to be, or if you can call somebody to dig it out, but if you can get--

THE WITNESS: We'll certainly get that information as quick as we can.

ARBTRATOR SHARNOFF: Subject to that, you are excused. Thank you.
THE WITNESS: Okay. Thank you, sir.

(Witness excused.)

MR. HIRN: And if I could collect my exhibits.

(Pause.)

MS. CIOFFALO: Richard, I think that's all that we have of yours right now is 48, 49, and 79F.

MR. HIRN: Yes, yes, yes. And here is a list of the three positions we discussed.

MS. CIOFFALO: Okay. Can we take a break?

ARBITRATOR SHARNOFF: Off the record.

(Whereupon, a short recess was taken.)

ARBITRATOR SHARNOFF: Okay. Good. I'm not sure what time it is out there.

MR. DRAGOMIR: I don't even know if I know. It's about 12:30.

ARBITRATOR SHARNOFF: Okay. Well, good afternoon then. My name is Joe Sharnoff, the guy in the middle. I'm the arbitrator. They will ask you to state your name for the record. At that point, I will swear you in, and then they'll have some questions for you. I guess you can't see the individual, but there is a court reporter present who will be taking down your testimony. Is there anybody else in the room with you?
MR. DRAGOMIR: No.

ARBITRATOR SHARNOFF: Okay. All right.

MS. CIOFFALO: Ms. Young will be questioning this witness.

MS. YOUNG: John, could you please state and spell your name for the record?


ARBITRATOR SHARNOFF: Okay.

Whereupon,

JOHN DRAGOMIR

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

ARBITRATOR SHARNOFF: Okay.

DIRECT EXAMINATION

BY MS. YOUNG:

Q John, it looks like you have some documents in front of you. Can you just push those aside until we refer to them?

A Okay.

Q You can leave them on the table. Just don't put them directly in front of you. Great, thank you. John, who do you currently work for?

A For the National Weather Service, Alaska Region.
Q What is your current position title?
A I'm the acting deputy director of the Alaska Region.
Q Okay. How long have you held that position?
A Officially it's been since May of 2013.
Q Okay. And prior to that, what position did you hold?
A The director of operations.
Q For the Alaska Region?
A For the Alaska Region, yes.
Q Okay. How long have you worked for the National Weather Service?
A It's been about 20 -- a little over 24 years.
Q Okay. And can you tell us briefly, starting from your first Weather Service position, the different positions that you've held?
A I was a meteorologist intern at the Weather Forecast Office in Pittsburgh. That was from '89 to '92. In '92, I came to Alaska. I think my title was a computer applications meteorologist. I basically wrote software for the Alaska Region headquarters, supporting communications and field operations. Later, I can't remember the dates on this. I think it was probably about 1996 I became the -- or maybe it
was '94 I became the special project meteorologist
where I helped integrate the NEXRAD radar into
Aeronet, which was our computer network, similar to
AWIPS.

After that I was lateraled into the
techniques development meteorologist position, which I
held 'til 2001. During that time, I continued to
develop software, that sort of thing. In 2001, I
accepted a SOO position in Fairbanks, Alaska. And I
believe in December of 2002 I became the MIC and then
ran the office from 2002 to I guess it was October of
2010. At that point in time, I officially transferred
to Anchorage regional headquarters.

Q Okay.

A And then that's where I became the director
of operations and then over time kind of assumed a lot
of the responsibilities of the deputy director because
I believe our director left about, I'm thinking about
two years ago, and so Amy Devaris has been the acting
director, and so I've helped I guess alleviate some of
the workload on her and picked those responsibilities
up.

Q What are your responsibilities in the acting
deputy director role?

A Probably the biggest time sink is strategic
planning. I do a little bit of budget formulation and
oversight, probably oversight more than formulation,
and then we set regional goals and, you know, work on
taskers for headquarters for NOAA and that sort of
thing. Also labor/management as well as personnel
issues.

Q Okay. What type of labor/management
responsibilities do you have?

A I'm pretty much it as far as the region
goes. If we have discussions with the regional chair,
who is Jim Brader, I'm typically the guy that would
have those communications or discussions.

Q Did you have any labor/management
responsibilities in any of your previous roles?

A When I was at WFO-Fairbanks as the MIC.

Q Okay. Can you just tell us briefly about
the structure of the Alaska Region in terms of
staffing?

A I guess I'm not sure I understand your
question.

Q Well, can you describe the structure of the
Alaska Region in terms of the different offices, et
cetera?

A In the Alaska Region, we have WSOs, Weather
Service Offices, which are located in remote areas of
Alaska. They typically have upper air responsibility tied to them. They're a service or product or service outlet so to speak for mostly the local community, but it can extend a little further out. Then we have three WF -- I think there's like 12 of those, and then we have three WFOs, Weather Forecast Offices, one in Fairbanks, one in Anchorage, and one in Juneau, and those of course put out our forecast products and services, watches, warnings, advisories and such. And then we have our regional headquarters. I believe our staffing is about 35 here at headquarters when we're fully staffed.

Q In your current acting deputy director role, do you have any responsibilities with respect to the filling of vacancies in the Alaska Region?

A Yes.

Q And what are those?

A When a position becomes vacant, I try to make sure that we get the vacancy announced or I guess put into the RADS system, working with WFMO, which requires a lot of I guess processing of paperwork before it gets into the system. Then once it's in the system, we try to follow it through to announcement, certs, and then hiring.

Q Have you ever encountered any difficulties
with respect to filling positions in your region?

A Yes.

Q And what would be an example of some of those difficulties?

A Probably the biggest problem we probably had is -- I guess there are several problems. The process I think it was in 2010 changed quite significantly. I don't recall what the system was referred to before 2010, but in 2010, I believe RADS came online, and then that required us to change the way we submitted hiring actions to WFMO.

During that time, from then, from 2010 to now, the process seemed to change quite a bit over time, so we never quite kept up with the changes, or by the time we figured it out it changed again. We had trouble with PDs not being valid anymore. One day they're valid and we hired probably hundreds of forecasters using a specific PD, and then one day guess what? The PD is not valid any longer, got to develop a new PD.

Q Not valid according to whom?

A To Workforce Management.

Q Okay.

A I couldn't tell you specifically who at Workforce Management made that determination, but
generalization, it was Workforce Management.

Q    And you talked about some different changes
that were initiated. Did you receive or did your
region receive any guidance with respect to those
changes from Workforce Management?

A    There were times that we did and there were
times that we didn't.

A    Okay.

Q    There were times that we were told and maybe
given some short explanation. There were times where
a change was made and there was no for lack of a
better word training that was going to be available or
that it was going to be available in a short time
period.

Q    To the best of your knowledge, how long
would it typically take for the Workforce Management
Office to process a vacancy?

A    It would take anywhere from two months to a
year. Typically the ones that took two months were
piggy-backed off the hiring action that we submitted
to RADS probably several months prior.

Q    And why did that contribute to those being
filled in two months versus a longer timeframe?

A    They kind of showed up. There may have
been -- in the cases that I'm referring to, there was
a time period where maybe a year ago somebody quit or
found another job, so there was a vacancy. So we
started the process, and during the process of getting
the position processed another person would resign or
quit or whatever, so then we had to get another
vacancy.

So instead of having two RADS cases, which
would mean either somebody had to double the work or
you had to assign it to another person, we just would
put the cases together so that once they got approved
and the vacancies were pushed through the process, we
would maybe fill two or however many positions we
threw in there while we were waiting for Workforce
Management to do what they needed to do to process
them or -- go ahead.

ARBITRATOR SHARNOFF: Yeah, I was just going
to ask approximately when was that happening?

THE WITNESS: I can recall there were two
times where we had I believe it was three forecasters
on the same RADS case, and we had one where we had
five I believe, and typically last in would look like
they filled it pretty quick, but in reality -- and
they did, but it was only because we waited eight
months to get the other four through. I don't know if
I'm making sense.
ARBITRATOR SHARNOFF: Go ahead. Go ahead.

BY MS. YOUNG:

Q I think what he's asking you is when in
time, you know, in terms of like what year it was, if
you know.

ARBITRATOR SHARNOFF: It doesn't have to be
exact, just roughly.

THE WITNESS: I'm thinking it was
probably -- both were probably within the last two
years. So from about 2012 timeframe.

BY MS. YOUNG:

Q Okay. And so did --

A I'm not sure. I don't think we've had too
many in 2013 because we've had the hiring freeze.

Q Okay. And to the best of your knowledge,
when did the hiring freeze come into play?

A I believe it was March 27, 2013.

Q Okay. Did your role with respect to getting
vacancies or filling vacancies in the Alaska Region
change as a result of the hiring freeze?

A I'm not sure I understand what your question
is.

Q Well, I think your testimony before was that
your responsibilities with respect to filling
vacancies involved, you know, trying to get the
position announced and working with Workforce Management, et cetera, et cetera. Did those responsibilities change after the freeze?

A  Sure. Yes.

Q  How so?

A  Prior to the freeze, because we were funded really fairly well with labor dollars, we didn't have to worry about whether we would have the budget to cover any of the vacancies that we had if we needed to fill them, which we did. After the hiring freeze, we still had the funds in labor, we just couldn't hire people. So where things changed was with respect to the hiring freeze waiver process, which was implemented about two weeks after the freeze was established, and that allowed us to put in hiring waivers for offices that were not meeting the like minimal staffing required to I'll say meet the mission, two people on shift, that kind of thing. That was at the WFOs. WSOs, it was a different deal.

Q  Okay. So you mentioned two people on shift. How did that play into your role or your considerations?

A  Well, there needs to be two people on shift, and so an office, in addition to the forecast staff at the office, a typical WFO has other meteorologists
that are qualified to work the forecast desk, and that
would be typically the MIC, the WCM, the SOO, and not
in all offices but probably in most the service
hydrologist would be another.

So, as long as there were enough people in
the office to cover all the shifts between those two
groups of the forecasters and kind of like the
management group, then they were okay. You weren't
going to get an approval for a hiring waiver. Once
they went below that minimum, that's when we would
submit a hiring waiver. Now there is one exception to
that.

Q Okay. What's that exception?
A And we're in the process of operationalizing
our grids up here, and the Fairbanks office, I believe
they were three general forecasters short. We were
able to get a hiring waiver to allow us to keep on
track with getting our grids operationalized. So we
were able to get a waiver for that.

Q Okay. John, the waiver that you just
mentioned for Fairbanks, are you saying that you got a
waiver for a single position at that office or more
than one?
A The last waiver we put through for Fairbanks
was for three forecasters, general forecasters. Prior
to that, we submitted one for I think it was a general forecaster and an intern, and that was off the top of my head about six months ago.

Q Okay.

A No, actually, actually it was back like within a month of the hiring freeze. Once the hiring waiver process was established, we were like the first office I believe in the Weather Service to have positions waived so we could hire them.

Q Okay. That was going to be my next question. The waiver or waivers for Fairbanks were approved?

A Yes.

Q Okay.

A We're in the process of hiring -- I believe the positions closed on the 10th. The three forecasters, general forecasters closed on January 10, and I'm not sure if they've gotten certs yet or not.

Q Was there a situation within the past year or so with respect to leave getting canceled at the Fairbanks office, if you know?

A Yes, there was.

Q Okay. What do you know about the details of that?

A The office, the forecasters, I think they
were probably anywhere from two to three forecasters short. Management was pulling shifts. And it was discussed with the Union. I wasn't there for the discussions, so I don't know exactly what was discussed, but an arrangement was made that allowed everyone to take two weeks off, so 80 hours, and the rest of the leave would be denied, and they also -- well, that's what I've got right now.

Q So are you saying that the arrangement was negotiated at the local level there at Fairbanks?

A I don't know if negotiations is the right term for it, but it was discussed with the Union.

Q Okay. How do you know that?

A Through communications with the MIC.

Q Okay. Going back just briefly to the discussion with respect to the Workforce Management office, given some of the issues that you discussed, is the Alaska Region considering any action with respect to that, you know, to address those issues?

A I believe it was probably close to a year and a half ago we initiated a process to contract out Workforce Management with the National Finance Center, and we received approval from headquarters to pursue it. Right now I believe the document is -- the contract document is with Legal right now. I don't
know where that is at this point in time, but we plan
to effectively fire Workforce Management from doing
our hiring actions.

Q Currently, though, Workforce Management is
still responsible for Alaska Region hiring actions?

A Yes.

Q Okay. Did you ever discuss any delays or
issues with Workforce Management with Jim Brader? I
think you mentioned he's the Union's regional chair.

A Yes. On a couple occasions, Jim brought up
the question concerning why it was taking so long to
hire positions, and my response to him was basically
the same responses I've given you, is that things were
changing, Workforce Management wasn't being
responsive. We were putting them into the system as
fast as we can, but nothing is really happening.

Q And when did that conversation or
conversations occur, if you know?

A It was probably -- I don't know the exact
dates, but I'm -- I remember one time, it was last
January at our RLC, and we were walking across the
street to my car, and he had asked me that question.
The other time I can't recall.

Q What, if anything, was Mr. --

ARBITRATOR SHARNOFF: If I can interrupt.
Do you recall it being before or after the conversation you do remember?

THE WITNESS: You mean the other time that I can't recall when it was? It would have probably been before, but I don't recall.

BY MS. YOUNG:

Q So you recall one conversation last January, meaning January of 2013, at the RLC?

A That would be correct. Now it wasn't at the RLC, but it was during the few days that we had the RLC. We were walking back to my car and having a conversation and he had asked me about that.

Q Okay. And you testified that you told him, you know, similar things to what you've told us here today. What, if anything, was Mr. Brader's response?

A I think it was kind of like disbelief. Not that I was telling him a lie or anything, but disbelief that how can it take Workforce Management so long to do what they're supposed to be doing, to process the hiring actions.

Q Are you aware of a series of Union grievances with respect to the Agency's failure to fill certain vacancies?

A Yes.

Q Okay. Do you have copies of those
grievances with you today?

A Yes.

Q Okay. Could you put those grievances in front of you now?

A Okay.

Q All right. I want to refer you to what we've marked here as Joint Exhibit 2A, which is a grievance with respect to lead forecaster positions. It's dated March 13, 2013. Can you let me know when you're looking at that document?

A I'm looking at that document.

Q Okay. And have you seen this document before?

A Yes, I have.

Q Okay. Take a look at the document and let me know if any of the offices listed which purportedly have lead forecaster vacancies fall within the Alaska Region.

A It looks like Fairbanks and Juneau are identified.

Q Okay. Do you recall whether as of March 13, 2013, there were lead forecaster vacancies at Fairbanks and Juneau?

A I don't recall.

Q Okay. I want to turn your attention to a
document that I'm going to mark Agency Exhibit 20.

This is a chart, John, that I believe you prepared.

(The document referred to was marked for identification as Agency Exhibit No. 20.)

BY MS. YOUNG:

Q  Do you have that document with you?
A  Yes.  I have it.

Q  Okay.  Thank you.  Take a moment and look at this document and let me know if you recognize it.
A  I recognize it.

Q  Okay.  What is this?

MR. HIRN:  Can I have a moment first before we proceed to look it over?

MS. YOUNG:  Oh, yes, I'm sorry.
John, we'll just take a moment so that Union counsel can review the document.

THE WITNESS:  Okay.  Would there be any way that I could go fill my glass of water?

ARBITRATOR SHARNOFF:  Sure.

MS. YOUNG:  Yes.

THE WITNESS:  Okay.  I'll be back in like two minutes.

MS. YOUNG:  Sure.

THE WITNESS:  Thank you.
MR. HIRN: I'm ready, Lindsey.

MS. YOUNG: Okay. I'm not sure we were off the record, but go back on I suppose.

BY MS. YOUNG:

Q Okay, John, do you recognize this document?
A Yes, I do.

Q What is this document?
A This document identifies vacancies, lead forecaster vacancies in this case in the Alaska Region it looks like from 2012 timeframe to present.

Q Okay. The document that we're looking at, it covers positions in addition to lead forecasters. Are you looking at the same document?
A Right. The entire document covers general forecasters and HMT/interns as well.

Q Okay. Do you know who created this document?
A I did with the help of Karolyn Maldonado.

MS. YOUNG: Okay. I'd like to offer A-20 into evidence, please.

MR. HIRN: Sure.

ARBITRATOR SHARNOFF: Okay. It's admitted.
BY MS. YOUNG:

Q John, take a look at what for us is page 1 of the document with respect to the lead forecaster vacancies. Does that refresh your recollection as to whether or not there were lead forecaster vacancies at Fairbanks and Juneau at the time of the grievance?

A Yes, it looks like if I'm doing my calculations correctly, it looks like there were three.

Q Okay. Why don't you just list them out, the ones from the time of the grievance.

A Well, do you want -- because there's a vacant date and then there's an EOD date.

Q Right. We're talking about the positions --

A And the date 3/13. Okay, so it looks like the lead forecaster position at Fairbanks, Vice Bodell.

Q Okay. That's the first one on the list, right?

A Right.

Q Okay. So that position it looks like was
vacant as of October 21, 2000 --

Q Okay, you need to let me finish asking the
question.

A Okay.

Q Okay. That one was vacant as of October 21,
2012, right?

A Right.

Q Okay. And why don't you continue on down
the list here.

A The second one, the second position that was
vacant, 11/27/2012.

Q And what office was that?

A That would be Juneau.

Q Okay.

A And then the third position, WFO-Fairbanks,
January 27, 2013.

Q Okay. So are those the three lead
forecaster vacancies that you can identify with
respect to the time of the grievance, March 13, 2013?

A Yes.

Q Okay. And it looks like the fourth line is
a Juneau vacancy that's listed. When did that one
become vacant?

A That would be November 29, 2013.
Q Okay. So that was after the grievance, correct?
A Correct.
Q I guess limiting your response to the first three that we talked about, have any of those vacancies been filled?
A Yes. All three.
Q Okay. Okay. So starting with the first Fairbanks, when was that one filled?
A March 24, 2013.
Q Okay. What about the second Fairbanks vacancy?
A That would be May 5, 2013.
Q Are you sure you're not looking at the Juneau line?
A Oh, did you say Fairbanks?
Q Yeah, sorry. I thought we'd keep the Fairbanks together.
A I apologize. That would be the same date, 3/24/2013.
Q Okay. And what about the Juneau vacancy? Has that one been filled?
A That one's been filled.
Q As of what date?
A May 5, 2013.
Q Okay. Let's turn to journeymen forecasters. Are you aware of a grievance with respect to the filling of journeymen forecaster vacancies?

A Yes, I am.

Q Okay. If you could get that grievance and put it in front of you. That's our 2C, Joint Exhibit 2C.

A Okay.

Q Do you recognize that document?

A Yes, I do.

Q And what is it?

A It's a grievance for not hiring general forecasters.

Q What's the date of the grievance?

A March 21, 2013.

Q Looking at the list of offices the Union alleges had a vacancy at that time, can you let us know if any Alaska Region offices appear on the list?

A It looks like in the first list Fairbanks, Alaska, is listed.

Q Okay. Any from the second list?

A No.

Q Okay. And referring to your chart with respect to general forecasters if you need to, was there a vacancy for general forecaster at Fairbanks as
of March 21, 2013?

A Yes.

Q Okay. And looking at your spreadsheet, it appears that there were also other general forecaster vacancies in your region as of that time. Is that accurate?

A That's accurate.

Q Okay. Why don't you start at the top of the list and enumerate which office and when the position was vacant in terms of those vacant at the time of the grievance.

A At the time of the grievance?

Q Correct.

A That would be the -- the office would be WFO-Fairbanks. It became vacant July 15, 2012.

Q What about the Juneau office listed above that?

A Oh, okay. I'm getting my years mixed up here. Yes, that would be the other one, WFO-Juneau, 4/22/12, April 22, 2012.

Q Okay. And then you already mentioned --

A And it looks like --

Q You already mentioned Fairbanks, that was next. What about Anchorage?

A Right. Anchorage had a vacancy 10/21/2012,
and I think that's it.

Q There are several other vacancies listed here. Are we to assume they all came after the grievance?

A Those appear to have come after the grievance.

Q Okay. Have any of these general forecaster positions --

A Oh.

Q Go ahead.

A I just wanted to make sure I was looking at the right document, and my statement's correct.

Q Okay. You do have the general forecaster --

A Yes.

Q -- portion of the spreadsheet in front of you?

A Yes.

Q Okay. Have any of these general forecaster vacancies been filled?

A The WFO-Fairbanks position was filled.

Q Okay. Are you meaning the one second from the top?

A Yes, the second from the top.

Q Vice Aldrich.

A Vice Aldrich.
Q Okay. When was that position filled?
A September 8, 2013.
Q Okay. And I think you testified previously that you got a waiver for multiple positions at Fairbanks. How does that fit in?
A This would have been the general forecaster that we submitted for the waiver, for the first waiver that we were able to get.
Q Okay. All right. Let's look at the HMT/interns, if you'll turn the page. Are you aware of a Union grievance with respect to the filling of HMT/intern vacancies?
A Yes.
Q Okay. That is our Joint Exhibit 2B, and if you could put that grievance in front of you.
A I have it in front of me.
Q Okay. Do you recognize it?
A I recognize it.
Q Okay. What is the date of this grievance?
A March 15, 2013.
Q Looking over the list of offices, are any of these on this grievance located in the Alaska Region?
A Yes. The Anchorage, Alaska.
Q Okay. And what about in the text? Do any other Alaska Region offices appear?
A It does not appear to be any other offices in Alaska.

Q Okay. All right. So let's look at your chart. Was there a HMT/intern vacancy at Anchorage at the time of the grievance?

A Yes.

Q Okay. And can you identify it for us on the chart?

A It's the first one.

Q Okay. So it looks like this position has been vacant for quite a while, is that correct?

A That's correct.

Q And the status says, "This position was identified as a floater." Is that your comment in the status box?

A Yes, it is.

Q So what did you mean by that?

A We identified this position with the Union that we were considering a floater and that we weren't going to fill it until we knew what we were going to do with it as far as which office it might go into and those kind of details.

Q Okay. Are those details still being worked out?

A I would say we haven't discussed this issue...
probably since the last RLC meeting, January 2013.

Q Okay. So why can't you or why haven't you
made a selection for this position, or why haven't you
begun the process of filling it?

A Because our position is that we want to turn
it into a general forecaster position per the floater
plan.

Q Okay. And so why can't you or why haven't
you done that and filled that position?

A I think we just haven't come to -- agreement
maybe is too strong a word, but we haven't come up
with consensus as to what general forecaster and
where.

Q Who is "we"?

A Management and the regional chair.

Q The regional chair of the Union?

A Yes.

Q Okay. Now the other positions on this
spreadsheet, there's another vacancy at Anchorage and
one at Fairbanks. It looks like they both came vacant
shortly after the grievance was filed. Do you agree?

A I agree.

Q Okay. And you mentioned previously a hiring
freeze. Were those positions affected by the hiring
freeze?
A Yes.

Q Well, have you submitted either of those positions for consideration to the Hiring Freeze Board?

A Yes. We submitted the Fairbanks position to the Hiring Freeze Board, and we went through the process and selected an individual.

Q Okay. And has that position been filled?

A Yes.

Q And when did that individual enter on duty?

A September 22, 2013.

Q Okay. And what about the Anchorage position directly above it, RADS No. 4845? Has that one been submitted?

A We have not --

Q Has that one been submitted to the Hiring Freeze Board?

A We have not submitted that. No, that has not been submitted to the Hiring Freeze Board.

Q Okay. Why not?

A Because I believe they have the minimal number of staff to fill the positions or fill the shifts that they need to fill to meet the mission.

Q There's an allegation that positions or vacancies were not being filled prior to the hiring
freeze, so in essence, that there was a freeze before
the freeze. Do you agree with that allegation?
   A No.
   Q Why not?
   A Because with the exception of the one HMT
   position at the Anchorage office we submitted every
   position that we could. And we filled them. Just
   some took a long time to fill, but it was not because
   we put the brakes on any hiring action. It was a
   result of Workforce Management making changes, the
   process was slow, and we were just on the wrong side.
   You know, we have no say in how Workforce Management
   does what they do. They just do what they do.
   Q Are you aware of any requirement to fill a
   position in a particular amount of time?
   A No.

   MS. YOUNG: I don't have any further
   questions.

   CROSS-EXAMINATION

   BY MR. HIRN:
   Q Mr. Dragomir, hi. This is Richard Hirn.
   A Hello.
   Q Mr. Dragomir, I wrote down a quote early in
   your testimony, and if I wrote it down correctly, you
   said, "After the hiring freeze, we still had funds in
labor, but we couldn't hire anyone." What did you mean by that?

A That since there was a hiring freeze we didn't have permission to hire anybody.

Q What did you mean when you said "After the hiring freeze, we still had funds in labor"?

A It's my understanding that in the past our labor budget in the Alaska Region was based on however many employees you were allocated to have, and those were funded at 95 percent, so understand the 95 percent, that's how it was, and that we had more than enough vacancies -- we typically had more money in our labor funds because the Alaska Region typically has more vacancies.

So, if we hire one person, two people leave, and then we hire two people and five people leave. It's a game of catch-up. So, if you're given your pot of money to fund I'll say 200 people and you're always hanging around 190, you're going to have the funding to hire, to continue hiring.

Q Okay. Do I understand you correctly that you did in fact have sufficient labor funds to continue hiring in the second half of FY '13 if there wasn't a freeze?

A I believe so.
Q  Okay. And when you say you're only funded at 95 percent, could you explain that a little bit more? I mean, who funds you at 95 percent?

A  I think that's part of the -- I'm probably going to get this wrong, but it's part of the budget formulation, maybe part of MAR I think or --

Q  Do you understand that to be unique to the Alaska Region, or is that uniform amongst all the regions?

A  No, I think that's how they do funding across the Weather Service. I think it has to do with vacancies and that kind of thing they take in account, and it just turns out to be 95 percent. But I'm not a budget person. I don't know the specifics.

Q  Okay. You refer to the Fairbanks leave issue, and you said some accommodation had been worked out, but ultimately people did get denied leave, is that correct?

A  That's correct.

Q  And had the office been more fully staffed, those folks would have been able to take the leave that they sought, is that correct?

A  I believe so.

Q  Did anybody lose leave in the use-or-lose category?
A No. We submitted them all in for I guess reinstatement of their leave.

Q The waiver provision, the carryover waiver thing.

A The waiver, yes.

Q Yeah. Okay.

A That's it.

Q And then finally, Mr. Dragomir, on Agency Exhibit 20 --

A Which one is that?

Q The last one, the chart that you made --

A Okay.

Q -- that you spent a lot of time discussing. The second page, the general forecaster position at Juneau, can you give us a little better explanation of the notations you made under status in that situation?

A Okay. Let's see if I can do that.

MS. YOUNG: Sorry, Richard. Are you at the first line, RADS No. 4651?

MR. HIRN: Yes.

MS. YOUNG: Okay. The witness: Okay. That position became open as a result of an intern/HMT position becoming vacant, and we used the floater plan. So basically it was taking an HMT position and converting it to a
forecaster position. So the office originally had 10 forecasters. By doing this, they had 11. And so that's how this became to being.

BY MR. HIRN:

Q And you wrote "Delay was a result of decision process." Could you explain in particular why there was a delay and what that decision process was?

A It was management trying to ascertain whether the Juneau office needed another forecaster and what impact that might have to the public service unit.

Q And that took 10 months to figure out?

A I think for the most part, yes. It wasn't necessarily something we worked on every day, but we did go back and forth several times as to whether we were going to move forward with the idea.

MR. HIRN: Thank you, Mr. Dragomir. I don't have any more questions.

THE WITNESS: Thank you.

(Pause.)

MS. YOUNG: Nothing further.

ARBITRATOR SHARNOFF: Okay. You're excused as a witness. Thank you very much for cooperating and your help in getting this thing functioning.
MS. CIOFFALO: Feel better, John.

MS. YOUNG: Thank you, John.

THE WITNESS: Yeah, I hope. Okay, thank you.

MS. YOUNG: Bye.

THE WITNESS: Bye.

(Witness excused.)

ARBITRATOR SHARNOFF: Anybody know how to disconnect it?

(Discussion held off the record.)

(Whereupon, at 5:36 p.m., the hearing in the above-entitled matter was adjourned, to resume at 9:30 a.m. the following day, Thursday, January 16, 2014.)
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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