

TRANSCRIPT OF PROCEEDINGS

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

Pages: 797 through 921
Place: Silver Spring, Maryland
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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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

18th Floor Conference Room
 135 East West Highway
 Silver Spring, Maryland

Thursday,
 January 16, 2014

The parties met, pursuant to the notice, at
 9:42 a.m.

BEFORE: JOSEPH SHARNOFF
 Arbitrator

APPEARANCES:

For the Union:

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

For the Agency:

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 National Oceanic and Atmospheric Administration
 1315 East West Highway
 SSMC3, Room 5106
 Silver Spring, Maryland 26910
 (301) 713-2527

C O N T E N T S

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
<u>For the Party:</u>					
Theresa Schwein	800	840	849	--	--
Brian Sadler	853 868	-- 891	-- --	-- --	864 --
Jason Gilbert	896	914	--	--	--

E X H I B I T S

<u>AGENCY'S</u> <u>EXHIBITS:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
21	821	823
22	860	867

P R O C E E D I N G S

(9:42 a.m.)

MS. CIOFFALO: Ms. Schwein, could you please state and spell your name for the record.

MS. SCHWEIN: Yes. My formal name is Theresa, T-H-E-R-E-S-A, Lynn, L-Y-N-N, Schwein, S-C-H-W-E-I-N.

Whereupon,

THERESA L. SCHWEIN

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

DIRECT EXAMINATION

BY MS. CIOFFALO:

Q All right. Ms. Schwein, how long have -- you're a Weather Service employee currently, correct?

A I have been in Weather Service since 1976. Little embarrassed to admit that.

Q And in what position? So you can just describe your career.

A You want me to go ahead and describe --

Q Yes. Correct.

A I started in Kansas City as an intern. I worked one year there and then went up to Denver, Colorado in 1977. I was a forecaster out there until 1982. In 1982 I came to the central region

1 headquarters in the, as a capacity as assistance
2 person in the Meteorological Services Division.

3 In 1985 I became the division chief for what
4 was then known as the Data Acquisition Division. In
5 1988 I became the division chief for the Systems
6 Operations Division in central region. I stayed in
7 that capacity until 2010, an awfully long time, but I
8 was, became the deputy director in 2010.

9 Q Of the central region?

10 A Of the central region. I served in that
11 capacity until just this last September when I became
12 the acting regional director.

13 Q This past September. You mean September
14 2013?

15 A '13, yes.

16 Q Okay. Let's talk about some of the duties
17 of those positions. The position that you held the
18 longest was the chief of the?

19 A Chief of the Systems Operations Division.

20 Q What did you do in that role?

21 A In that capacity I was responsible for the
22 oversight and management of all the central region
23 systems, facilities, and engineering activities. I
24 had supervisory responsibility direct for about 28
25 employees, and indirect for about 128. I was

1 responsible, for a large part, for the execution of
2 nonlabor funds in the central region. I had a lot of
3 direct input into how those funds were spent.

4 And also, of course with my supervisory
5 responsibilities I provided input on the
6 prioritization of labor. Of course I approved the
7 selections for folks under my jurisdiction.

8 Q All right. And then you said you became the
9 deputy regional director for the central region in
10 2010?

11 A 2010.

12 Q Do you still hold that position today?

13 A That is still my official position, although
14 I'm serving in an acting capacity as director.

15 Q Is anyone serving in the deputy regional
16 director's spot in your absence or are you covering
17 both?

18 A Yes. I have a -- Robert Brauch is currently
19 serving in that capacity and we're going to rotate
20 that. We rotate about every four months.

21 Q Okay. So as the deputy regional director,
22 what were your responsibilities?

23 A As deputy regional director I'm responsible
24 for executing all the personnel and LMR activities of
25 the central region. I'm the principal negotiator with

1 our regional NWSEO counterparts.

2 I also am responsible for executing all of
3 the personnel actions. Hiring, firing, recruitment
4 actions, all of that. I also had direct input to the
5 director on prioritization of vacancies. The
6 strategic planning for labor and nonlabor.

7 Q Okay. As the regional director, what are
8 you doing in that role? Are you --

9 A As regional director I have the final
10 decision, the final accountability for all decisions
11 related to expenditure of resources, labor and
12 nonlabor, and for other provisional services by our 45
13 field offices.

14 Q Now, when you -- you mentioned that you have
15 labor management relations responsibilities as the
16 deputy regional director.

17 A Yes.

18 Q What does that entail?

19 A I interact with my counterparts in NWSEO at
20 the regional level.

21 ARBITRATOR SHARNOFF: I'm sorry. You
22 interact with?

23 THE WITNESS: My regional counterparts in
24 NWSEO, the regional chair and the regional vice chair.

25 //

1 BY MS. CIOFFALO:

2 Q Who are they?

3 A That would be Martin Lee, who is the
4 regional chair, and Jim Sieviking, who is the vice
5 chair. I interact with them on any issues that are
6 related in the region.

7 Q So are you still in that role as the acting
8 regional director?

9 A I have moved out of that role. That now is
10 served by my deputy, Robert Brauch.

11 Q All right. Sorry. I didn't mean to
12 interrupt you.

13 A No problem. I forgot where I was though.

14 Q Sorry about that. Well let's talk about the
15 personnel matters. You mentioned that as the deputy
16 regional director you have primary responsibilities
17 over personnel and hiring actions. Did budget play a
18 role in your recruitment responsibilities?

19 A Absolutely. The budget was a very
20 significant factor in all the decisions.

21 Q In what way?

22 A Labor is a permanent commitment of funds and
23 so we would, I would work with the director to review
24 the current vacancies that exist in the region, match
25 it up against the available resources to, for labor

1 costs, and then prioritize the vacancies that we had
2 based on the most urgent need against the available
3 labor funds.

4 Q Okay. When you said the vacancies that you
5 had against the current funds, did that always match
6 up? Could you fill all of your vacancies?

7 A No. No. That was a very rare instance that
8 we could do that. I could go into that.

9 Q Well sure.

10 A Okay. During the years 2011, 2012, and
11 2013, what I noticed was the gradual degradation of
12 the amount of funding available for labor.

13 I could tell you the reason for that was
14 even though the amount was roughly the same, the cost
15 of increase in terms of labor that occurred, cost of,
16 the increasing cost of our utilities and other
17 nonlabor items continue to degrade the amount of funds
18 which are available to utilize for labor purposes.

19 Q So did you intend to fill the vacancies that
20 you had?

21 A Yes. If we had the funding, we would fill
22 the vacancy. No question about it.

23 Q Okay. So what, you know, would you do in
24 order to compensate for vacancies in the field?

25 A We would work with our field managers and

1 interact with them to obtain an understanding of what
2 sort of impacts were occurring from their vacancies at
3 their office, and we would obviously discuss the labor
4 problem that we had in terms of the available funding,
5 and we would work with them to understand how critical
6 their need was.

7 Then we would assess that need at every
8 office against other offices around the region and
9 also utilize our own experience and insight to
10 prioritize which offices were in the most dire need of
11 filling vacancies.

12 Q Are you aware of a requirement that offices
13 be staffed with at least two people at any given time?

14 A Yes. Yes, I am.

15 Q To your knowledge, were the offices in the
16 central region able to meet that --

17 A Yes.

18 Q You were.

19 A Yes. That was a standard guidance to all
20 MOCs, that they had to have the two people at one
21 shift.

22 Q Did they meet that?

23 A Yes.

24 Q To your knowledge, how did management meet
25 that criteria if it had vacancies on the staff? I

1 mean what did they do?

2 A The managers have several different tools
3 available to them to maintain that level of staffing
4 on a shift. They can assign overtime, they can have
5 other employees in the unit work, if they're
6 available, for a supernumerary shift.

7 Q What's a supernumerary shift?

8 A A supernumerary shift is a shift that is not
9 assigned as a forecast shift, so it's, for all intents
10 and purposes, an extra shift. Forecasters often use
11 it for training, development, those sort of things,
12 special projects they're working on.

13 Q That employee could be, could work the
14 operational --

15 A In need, they're -- in times of need you can
16 move that employee over to an operational shift, as
17 long as it's in compliance with the CBA. There are
18 specific rules, but it has to be within plus or minus
19 two hours of the assigned shift.

20 So we would obviously comply with the CBA
21 requirements with regard to movement of the
22 supernumerary shift, offering overtime to employees
23 dealing with a manager. They used all those tools to
24 fill those shifts.

25 Q Did you notice any increase in the amount of

1 overtime your employees were working in central region
2 let's say in 2013?

3 A Yes. We really didn't see, I don't think, a
4 significant increase, but I'll tell you, I think the
5 primary tool that our office used, and we encouraged
6 use of temporary promotions.

7 Q Temporary promotions were what?

8 A We would use a junior employee in a higher
9 graded position and assign them the work in that
10 higher graded position. With that, we would give them
11 a temporary promotion. They could work in that
12 assignment for up 120 days.

13 That provided benefit to us in terms of it
14 just, it simplified the whole process of filling the
15 shifts. It also provided the employee the opportunity
16 to gain experience, professional development in their
17 career at the same time. So it really benefitted the
18 organization in several ways.

19 Q Okay. Great. Do you know that the offices
20 in your region were using that tool?

21 A Yes. Yes, they did. Yes. Very definitely.

22 Q You mentioned earlier that you had to
23 compare, you know, what your budget reality was with
24 how many vacancies that you had. Do you feel that you
25 filled what you could had, given the budget that you

1 had?

2 A Yes. Absolutely. We would meet frequently
3 with the director. The director and I would meet and
4 we would review every month the latest projections on
5 the budget and match it up against the current
6 assessment of prioritization --

7 ARBITRATOR SHARNOFF: Can you keep your
8 voice up, please.

9 THE WITNESS: I'm sorry.

10 ARBITRATOR SHARNOFF: That's all right.

11 THE WITNESS: Is this the microphone?

12 MS. CIOFFALO: It is --

13 ARBITRATOR SHARNOFF: It is, but it's
14 recording it, not making it louder.

15 THE WITNESS: Okay.

16 MS. CIOFFALO: Did you hear the last part
17 or --

18 ARBITRATOR SHARNOFF: Yes.

19 BY MS. CIOFFALO:

20 Q Okay. Other than budget issues, were there
21 any other, you know, issues with getting vacancies
22 filled in the region?

23 A Would you repeat that again. I'm sorry.

24 Q Sure.

25 A I was off somewhere else.

1 Q No worries. Other than budget issues, were
2 there any other issues that the region was seeing with
3 getting vacancies filled?

4 A One of the challenges we had with getting a
5 vacancy filled was the process that our workforce
6 service, WFMO -- our process, we do not have the
7 authority to hire directly, so once we decide to hire
8 into a position we have to submit a request to fill
9 that position to our workforce management office and
10 then they take the action to recruit, rate, rank, and
11 then deliver us a certificate.

12 The WFMO -- that's the name of the
13 organization -- went through some process, internal
14 process change, and also quite a bit of personnel
15 turnover, and their turnaround rate for vacancies I
16 think became much longer.

17 It took much longer to get a vacancy through
18 the WFMO, and so that would be very frustrating to us
19 because when we made this decision, we had the funds
20 identified to fill the position, it seemed like we
21 were in a forever wait to get to the certificate
22 issue.

23 Q Would there be any cases where recruitments
24 would take, you know, in your opinion, an inordinately
25 long time to fill?

1 A They all seemed like they were inordinately
2 long, but we had one in particular that I can remember
3 which was a Jackson lead forecaster position.

4 During this time WFMO, as a part of the
5 process, changed. They decided that all the position
6 descriptions, the rating and ranking criteria, all the
7 supporting process paperwork required to fill a
8 position had to be updated and modified, and so they
9 halted all the hiring practice, all hiring actions
10 during a period when they went and had all that
11 paperwork updated, and that was about a three to four
12 month ordeal before we could resume the recruitment.

13 So that was particularly frustrating
14 because, you know, we had an urgent need for a lead
15 forecaster and we couldn't get it through.

16 ARBITRATOR SHARNOFF: Excuse me.
17 Approximately when was that? When was the vacancy,
18 and then when was that three to four month --

19 THE WITNESS: If I remember correctly, it's
20 off the back of my head, I believe it was the middle
21 of 2012 when we sent in the application request, and
22 it wasn't until toward the end of 2012 when they
23 finally were able to get the vacancy on the street.

24 BY MS. CIOFFALO:

25 Q Had you discussed your vacancy issues with

1 your regional chair?

2 A Yes. Yes.

3 Q Were they aware of the issues with workforce
4 management?

5 A Absolutely. Yes.

6 Q Okay. What else would you discuss with the
7 regional chair with respect to the vacancies that you
8 were having?

9 A Well we talked with the regional folks on
10 the fact that the budget was the constraint that was
11 keeping us from being able to hire and fill all
12 positions.

13 Q When were you having those discussions?

14 A We had them routinely during all those,
15 2011, 2012, 2013. We meet routinely at what is called
16 a regional labor council meeting and every one of
17 those meetings, that was at the top of the agenda was
18 the current labor situation and the vacancies that
19 exist.

20 ARBITRATOR SHARNOFF: Who were the official,
21 the Union representatives that you were dealing with
22 at that time?

23 THE WITNESS: I was dealing with the
24 regional chairs. That would be Martin Lee, who is the
25 regional chairperson, and Jim Sieviking,

1 S-I-E-V-I-K-I-N-G, who is the vice chair.

2 BY MS. CIOFFALO:

3 Q So what, in particular, did you discuss with
4 them regarding the budget situation and the vacancies?

5 A We would discuss and present what the budget
6 outlook was at the current moment and what our outlook
7 was in terms of the ability to fill vacancies. We
8 also offered to, and asked for their input into the
9 prioritization process. We wanted it to be a
10 collaborative process where we worked together on a
11 set of criteria that we considered the Union's input.

12 Q Did they give you input into that
13 prioritization?

14 A They did. For about I'm going to roughly
15 say it was about maybe four or five, six months during
16 2012 they actually, they were very, felt empowered.
17 They would provide that input, and they provided us
18 prioritized lists of what their preferences were in
19 filling the vacancies.

20 Q Did you take that input into consideration?

21 A Yes, we absolutely did. As a matter of
22 fact, we made it a point to make sure that we gave
23 them some wins so that we --

24 Q What do you mean some wins?

25 A So that if they had some priorities for

1 vacancies that maybe were not as high on our list, we
2 tried to give them some so that they had something to
3 take back for their efforts, too, in the interest and
4 spirit of collaborative interaction.

5 Q Okay. What period of time did you say this
6 was going on?

7 A That would have been during the early part
8 of 2012. I can't remember the specific dates but my
9 recollection is it would have been from winter of 2012
10 through the summer.

11 Q Did the priorities -- now, you've talked
12 about giving them some wins that maybe weren't as high
13 up on your priority list. Did other priorities tend
14 to match up?

15 A There were some cases when priorities
16 matched up. There were other cases where they did
17 not. I attribute that to different motivations which
18 are appropriate on both sides, but obviously we have
19 different points of view.

20 Q Okay. At any time did those consultations
21 that you had going on change with the Union?

22 A It did. There came a point where we, our
23 Union representatives declined to provide that input.

24 Q Why?

25 A They alluded, indicated to me verbally that

1 they had gotten into trouble over providing us that
2 direct feedback in terms of prioritization.

3 Q Got into trouble? How?

4 A I don't know. They did not go in to
5 describe what trouble it was, but they said that from
6 that point on, after they were instructed, presumably,
7 from what they indicated to me, they no longer
8 provided us any sort of prioritized list.

9 The tone changed drastically from a
10 collaborative tone to we demand all these positions be
11 filled. You can see that reflected in the email
12 correspondence that would occur frequently between us
13 both about the demands to fill those positions.

14 Q What did you think about that?

15 A We felt that they were getting direction
16 from elsewhere. This was out of character because
17 we'd always had what I felt was a very collaborative
18 relationship. I felt that they were under the gun.
19 There were bigger issues at play and so they needed to
20 do what they needed to do.

21 Q About when was that?

22 A That would have been, and again, my
23 recollection's not precise, I think it was toward the
24 middle of 2012. The summer.

25 Q Summer 2012?

1 A But again, don't quote me precisely.

2 Q So after the tone changed, as you put it,
3 did you still continue to offer to consult with the
4 Union?

5 A Yes, we did. Every one of the RLCs, we
6 asked for input. They would -- while their input was
7 less direct, they would continue to provide demands
8 for specific offices. So there were several offices
9 which were high on their list and we would get demands
10 that were kind of focused on those offices, so we
11 gathered that was from some of their priorities.

12 Q Okay. Were there any longer term vacancies
13 in your region that you, you know, had discussed in
14 particular with the Union?

15 A Yes. We had several which were constant
16 sources of disagreement. We had -- I could go into
17 the specific --

18 Q Sure. Well which, what positions are you
19 recalling?

20 A There are three primary ones that I can
21 think of. One was a journey forecaster at Chicago
22 which was there for an extended period of time, a
23 second which was a intern position at Jackson,
24 Kentucky, and the third was an intern position at
25 Peducah, Kentucky.

1 Q All right. Well let's talk about, you said
2 there was a general forecaster in Chicago?

3 A General forecaster in Chicago.

4 Q What was going on with that position? When
5 was that vacant about?

6 A Good Lord. I don't really recall exactly
7 when that position became vacant, but I do remember
8 the circumstances of why we left it vacant.

9 Q Okay. What were those circumstances?

10 A At Chicago we had another employee who was,
11 needed to be reassigned from her current position and
12 so she was in a temporary billet, an unfunded billet,
13 and so we did not have the funds to pay for her
14 position and also fill this other position, so what we
15 did is we had her work in the forecast unit to perform
16 the work and used the funds from that vacant journey
17 to offset the costs for her position.

18 Q Was that discussed with the Union at all?

19 A Yes. Yes, it was.

20 Q Who in the Union --

21 A Actually, Dan called me to give me a, ask me
22 what in the heck was going on with Chicago and express
23 his concerns. He talked about it and I explained it
24 to Dan, what the situation was. I definitely went
25 away, at least I went away with the feeling that Dan

1 was gracious.

2 I explained to Dan that this person was
3 about to retire in the next few months, and Dan was
4 gracious and he said, okay, we're, understand we
5 don't, Union doesn't want to have to displace an
6 employee for lack of funding, but I think we had an
7 informal agreement that once she retired we would be
8 refilling the position, which was our intent.

9 Q Have you refilled that position yet?

10 A We did not because of the freeze. Yeah.

11 Q Okay. Do you intend to fill that position?

12 A Yes, we do.

13 Q Do you have the funds to fill that?

14 A As a matter of fact, I have an exemption
15 request in the works now for that general forecaster.

16 Q Okay. Has it been approved yet?

17 A It has not. It's actually final
18 coordination with the MIC to go up, so it should be
19 going out the next week or so.

20 Q Are there any other -- now you mentioned two
21 other intern positions that were long term.

22 A We have another intern position at Jackson,
23 Kentucky, which again was a long term.

24 Q Was that position a priority?

25 A That was not a priority.

1 Q Why not?

2 A The reason for that is the way that the
3 Jackson office operated, they only ran one shift per
4 day in their HMT intern unit so they did not require
5 as much staff to maintain the basic operation.

6 They used this extra position strictly for
7 training, which is obviously a worthwhile cause, but
8 at the time, maintaining operations was the most
9 critical need so we opted to put that at a lower
10 priority relative to other red intern positions which
11 were working operations at sites and those sort of
12 things.

13 Q You mentioned another longer term vacancy in
14 Paducah, Kentucky.

15 A Yes.

16 Q Had that position been a priority during
17 that time?

18 A At that time it was not. It was there was
19 one vacancy at Paducah. We opted not to fill that
20 because we had additional staffing at that office that
21 could help augment and fill operational shifts to
22 maintain the services from that office. So that one
23 was, you know, relative to other offices, the
24 priorities were not quite the same.

25 Q All right. Well let's talk about some of

1 the vacancies that are particularly at issue in this
2 grievance. I'm going to ask you to turn in your black
3 binder here, in front of you, to Joint Exhibit 2A.
4 It's the binder right there.

5 Joint Exhibit 2A is the finely summarized --
6 the Union's grievance regarding the Agency's alleged
7 failure to fill lead forecaster vacancies. It would
8 be Joint Exhibit 2A.

9 So again, this is about the lead forecaster
10 vacancies and the Union here has listed a number of
11 vacancies and also mentions a few offices in line in
12 the Texas Gulf. Are any of the positions listed here
13 from your region?

14 A Yes. Duluth is from our region.

15 Q Duluth, and any others?

16 A And that's it.

17 Q Okay. Are there any from your region
18 mentioned later in the text, do you notice?

19 A Let's see. I don't believe so, unless I've
20 missed -- I'm sorry. I don't think so.

21 Q If I can direct you to the last line of the
22 first page, there's two vacancies.

23 A Yes. Thank you. Thank you.

24 Q Which of these were from your region?

25 A Minneapolis and Bismarck would be my region.

1 Q Okay. So there's Duluth, Minneapolis, and
2 Bismarck lead forecaster vacancies. Are you aware of
3 any other vacancies at the time of the grievance?

4 A No, not at the time of the grievance. There
5 were some that came shortly thereafter, I believe.

6 (The document referred to was
7 marked for identification as
8 Agency Exhibit No. 21.)

9 MS. CIOFFALO: Okay. I'm going to mark for
10 identification Agency Exhibit 21, and let's talk about
11 that.

12 Just by way of information, Agency Exhibit
13 21 is a chart, Richard, that is an updated version of
14 a chart that we provided you it was either Friday or
15 Sunday for central region vacancies. We were able to
16 fill in some more of the information -- it's got more
17 stuff.

18 BY MS. CIOFFALO:

19 Q Ms. Schwein, do you recognize this chart?

20 A Yes, I do.

21 Q Did you create this chart?

22 A Yes, I did.

23 MS. CIOFFALO: Okay. I'd like to admit this
24 into the record, please.

25 MR. HIRN: Well, I would prefer that you

1 give it a little more explanation of what --

2 MS. CIOFFALO: Okay. Sure.

3 MR. HIRN: -- just what it is. I mean, you
4 know, what it covers.

5 MS. CIOFFALO: Sure. I thought you
6 understood what I meant. This is a chart that covers
7 vacancies in the central region that were vacant at or
8 around the time of the grievances at issue, and it
9 indicates the RADS number, where there was one,
10 status, and various relevant dates. Ms. Schwein here
11 has testified that she created the document, and we'd
12 like to enter it.

13 MR. HIRN: Is this all vacancies at the
14 time, at or about the time of the grievance?

15 MS. CIOFFALO: So like -- I mean obviously,
16 like we've been discussing many times, the records are
17 vast and in various different places, but what we
18 tried to do here is compile the ones that at least we
19 believed were at issue at the time of the grievances
20 so that --

21 MR. HIRN: Well, you said at issue.

22 MS. CIOFFALO: Yes. They're listed in the
23 grievances and/or vacant at the time, or around the
24 time of the grievances. Now, I'm not going to certify
25 that we didn't miss something, and, you know, you've

1 gone through these documents, clearly, with a, you
2 know, fine toothed comb, so if you find a couple that
3 aren't on this list, I'm not going to say that's
4 impossible.

5 MR. HIRN: Okay.

6 MS. CIOFFALO: But this is to the extent
7 that she was aware of what was vacant at the time.

8 MR. HIRN: I may be dense. Just to be
9 clear, is it just the ones in the grievance or all the
10 positions that, to the best of your ability, you've
11 compiled that were vacant.

12 MS. CIOFFALO: Yes, in these --

13 MR. HIRN: In those three job categories.

14 MS. CIOFFALO: Yes. Vacant -- yes, vacant
15 at the time of the grievance in these three job
16 categories, to the best of --

17 MR. HIRN: Regardless of whether they were
18 mentioned in the grievance or not.

19 MS. CIOFFALO: Exactly.

20 MR. HIRN: Okay. No objection.

21 ARBITRATOR SHARNOFF: It's admitted.

22 (The document referred to,
23 previously identified as
24 Agency Exhibit No. 21, was
25 received in evidence.)

1 BY MS. CIOFFALO:

2 Q So, Ms. Schwein, you testified that you
3 created this document.

4 A Yes.

5 Q There are, there's a section here entitled
6 LMET toward the bottom of the document. What does
7 that, what does LMET mean?

8 A That is lead meteorologist. Those are our
9 senior METs.

10 Q Okay. Is that otherwise known as a lead
11 forecaster or a senior forecaster?

12 A Yes. Exactly.

13 Q We've been referring to them different ways
14 throughout the week.

15 A Okay. All right.

16 Q All right. So we've got here -- now you
17 mentioned Duluth, Minneapolis, and Bismarck. There
18 are two others listed here under LMET. Do you see
19 those two positions?

20 A That's Pleasant Hill and Lincoln.

21 Q To your knowledge, were those vacant at or
22 around the time of these grievances also?

23 A The Pleasant Hill became vacant after the
24 time of the grievance, I believe, because the
25 grievance was March 13.

1 Q So the chart here says that the -- yes. I'm
2 sorry. Yes. So then that became vacant in October --

3 A Yes.

4 Q Is that possibly a typo? Was it October of
5 2012?

6 A Yes, I think so. I'm thinking back and I'm
7 thinking that was not '13, so yes, that is a typo.

8 MS. CIOFFALO: Okay. So apologize. Let's
9 just note that it's October 21st of 2012 that the
10 Pleasant Hill lead forecaster position became vacant.
11 All right. Have any of these positions been --

12 ARBITRATOR SHARNOFF: So just --

13 MS. CIOFFALO: I'm sorry.

14 ARBITRATOR SHARNOFF: So the Pleasant Hill
15 would have been also at the time of the grievance. So
16 there's only one that is after the grievance?

17 MS. CIOFFALO: None on this chart are after
18 the grievance.

19 ARBITRATOR SHARNOFF: Okay. So the March
20 2nd -- okay.

21 MS. CIOFFALO: March 2nd was just before
22 because the grievance was filed on March 13.

23 ARBITRATOR SHARNOFF: Yes. Right. Okay.

24 BY MS. CIOFFALO:

25 Q All right. So we've got five positions

1 here. Which of these positions have been filled?

2 A We have filled two of them. One was filled
3 at Duluth and the other at Pleasant Hill.

4 ARBITRATOR SHARNOFF: I'm sorry. Duluth was
5 filled?

6 THE WITNESS: Duluth. Uh-huh.

7 ARBITRATOR SHARNOFF: And the one in
8 Pleasant Hill?

9 THE WITNESS: At Pleasant Hill. Correct.

10 ARBITRATOR SHARNOFF: Okay.

11 BY MS. CIOFFALO:

12 Q So the Duluth vacancy I see was, became
13 vacant in November of 2012.

14 A That's correct.

15 Q Why did you fill this position?

16 A Lead forecasters are always considered our
17 top priority, so if we had funds available we would
18 target the lead forecast positions because those were
19 the senior meteorologists.

20 Q Okay. Did you have to go through the hiring
21 freeze board to fill this position?

22 A No, we did not. We had the paperwork and
23 the selection completed before the hiring freeze was
24 put into place.

25 Q Now, I see the person did not come on

1 station until, or entry on duty until June 16th of
2 2013. Why did it, why was --

3 A Why so long?

4 Q Yes. Why so long?

5 A This was a case, as often happens, with
6 employee requests and extended report date due to
7 personal concerns. I don't remember the specific
8 reason the employee had, but we were meeting the
9 employee's needs in this case to the extended report
10 date.

11 MS. CIOFFALO: Okay.

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

14 THE WITNESS: That was the Duluth --

15 ARBITRATOR SHARNOFF: The Duluth?

16 THE WITNESS: -- lead forecaster.

17 BY MS. CIOFFALO:

18 Q And is that the first line here under LMET?

19 A Yes, that's it. Uh-huh.

20 Q Then Pleasant Hill you said you also filled,
21 correct?

22 A Pleasant Hill we also filled.

23 Q It looks here -- Pleasant Hill is the second
24 line from the bottom of the sheet, right?

25 A That is correct.

1 Q Okay. So it looks here like it took from
2 October 2012 to August of 2013 to fill that position.
3 What was going on there?

4 A The selection for that one was actually made
5 -- I'm looking for the date here. It was made, I
6 don't know, I think January or December. It was made
7 much earlier than August. I think it was January or
8 February.

9 However, that created a second vacancy at
10 Topeka and so we opted to delay the reporting date for
11 this individual at Pleasant Hill by a number of months
12 so that the person could cover shifts during the peak
13 leave season at Topeka. We gave the individual a
14 temporary promotion.

15 Q Was it a temporary promotion?

16 A It was a temporary promotion to a 13.
17 That's really with the, the mechanics of making that
18 happen. It was a billet management.

19 Q I see. So to your knowledge, did the
20 employee lose any promoted pay that he would have
21 had --

22 A No. No. Should not have.

23 Q Now the other three that are listed here,
24 why have those not been filled?

25 A The other three, that would be the

1 Minneapolis, Bismarck, and Lincoln, those all occurred
2 during the early part of '13.

3 Q Have they been identified as priorities?

4 A They were identified as priorities; however,
5 we typically would review those about once a month and
6 so they really hadn't come up for review.

7 Q Are they currently priorities that --

8 A They are currently not priorities.

9 Q Why is that?

10 A I mentioned that we use criteria. We always
11 have to apply criteria to selecting which offices to
12 fill vacancies. We applied our own criteria prior to
13 the hiring freeze which was, dealt with operational
14 considerations and also other program considerations.

15 Q Are there other vacancies in the offices
16 that are listed here, the Minneapolis, Bismarck, or
17 Lincoln offices, in the lead forecaster vacancy, in
18 the lead forecaster unit?

19 A Are there others?

20 Q Yes.

21 A I understand. Other vacancies at these
22 offices.

23 Q Right. Right. Are these the only ones?

24 A As far as lead forecasters, no, there are no
25 other lead forecaster vacancies.

1 Q Okay. Let's talk about general forecasters.
2 The Union filed a grievance on March 21st dealing with
3 general forecasters, and that's Joint Exhibit 2C in
4 your binder. If you can look at the listing of
5 offices that the Union has here and tell us if any of
6 them are from your region.

7 A Yes. Quite a few of them.

8 Q Which ones are from your region?

9 A The La Crosse, Wisconsin, from the top.

10 Q I'm sorry. I think you're on the --

11 A I'm on the wrong one?

12 Q I think you're on the intern one. Yes.

13 Turn to Joint Exhibit 2C. I think you have it.

14 A 2C. Okay. I'm sorry about that.

15 Q No problem.

16 A Okay. Yes, there are some.

17 Q Which ones here are from the central region?

18 A Toward the middle, Duluth, Minnesota and
19 Chicago, Illinois.

20 Q Do those appear on Agency Exhibit 21?

21 A I would think so. Yes, those are on there.
22 Yes, they're both on there.

23 Q Just to be clear, the middle section of this
24 chart that's labeled MET, is that --

25 A That is the general forecaster. Yes. Yes.

1 Q Those are general forecasters. Okay. The
2 Duluth and Chicago are listed here as the first and
3 third lines, right?

4 A That is correct.

5 Q Okay. Now it looks like you had a couple of
6 other vacancies around this time as well.

7 A That is correct. There's several other
8 vacancies which occurred right around that time which
9 were not in the grievance. Listed in the grievance.

10 Q So have any of these positions been filled?

11 A Yes. The Topeka, one of the Topeka
12 positions, we applied for an exemption hiring request
13 for that position because they reached really critical
14 mass.

15 Q When you say critical mass, what do you
16 mean?

17 A We reached a point where we felt we could
18 not maintain our operational shift schedule without
19 filling that position.

20 Q What do you mean by that?

21 A We would not be able to maintain two
22 forecasters on every shift without filling this
23 position.

24 Q Okay. So did that position get approved for
25 recruitment?

1 A It was approved.

2 Q And that's been filled?

3 A It has now been -- recruitment's complete,
4 the selection's been made, and a reporting date has
5 been established of January 26th.

6 Q Okay. That was on this chart as labeled WFO
7 Topeka No. 1?

8 A That's correct. That's the one.

9 Q Then we may need your judgment on another
10 typo here. WFO Topeka No. 2 indicates that it was not
11 submitted to workforce management, and then it
12 indicates under current status, EOD pending. Is that
13 true, or what about that one?

14 A Yes, that is a typo. Topeka No. 2 is
15 another general forecaster at Topeka who was selected
16 for a lead forecaster position at Pleasant Hill.

17 Q That's the Pleasant Hill vacancy that we
18 just talked about.

19 A Right. Right.

20 Q Okay. I see. So that's the vacancy that
21 was created.

22 A That's the vacancy that was created.

23 Q And that one is still vacant.

24 A And that one is still vacant. It has not
25 been submitted.

1 Q Okay. Now it looks like you also filled
2 another general forecaster position in Jackson,
3 Kentucky.

4 A Yes. We filled a general that did not show
5 up on the Union grievance. That was done back in late
6 2012.

7 Q When did that person come on duty?

8 A They reported in May of 2013. Again, my
9 recollection is that was, again, a personal employee.
10 To meet the needs of the employee with a delayed
11 reporting date.

12 Q All right. Let's talk about HMT interns.
13 If you want to turn to Agency, Joint Exhibit 2B.

14 A That's where I was before.

15 Q Okay. You said there were a couple here
16 from your region.

17 A Yes. Quite a few.

18 Q Which ones are from your region?

19 A From the top, La Crosse, Green Bay,
20 Des Moines, Wichita, Jackson, Paducah, and Topeka.

21 Q Have you filled any HMT positions, or were
22 there any others, actually, vacant at the time?

23 A Let's see. I have to go back and summarize
24 here. At the time -- no, not at the time. There were
25 some -- well, let's see. I take it back. There's a

1 couple here that look like they occurred right
2 afterwards.

3 So, for instance, I think that not Topeka.
4 Aberdeen. It looks like Aberdeen, Grand Rapids, and
5 Milwaukee had vacancies that occurred in January of,
6 or in late 2012.

7 Q So have any HMT intern positions been filled
8 in your unit? Any of these positions listed?

9 A There was just one filled at Duluth,
10 Minnesota. Actually, two. It might be two. Two
11 selections. It's kind of a -- it was an unusual
12 selection where we had a cert, we advertised for the
13 position at Duluth. That was the RADS No. 3482.

14 We had a certificate and we made one
15 selection. At the same time, we became aware of a
16 second vacancy at Duluth and we opted to go ahead and
17 make a second selection off that same certificate. So
18 we filled both of the HMT intern vacancies at that
19 time. It's slightly reporting, different reporting
20 things.

21 Q Now the rest of these it looks like are
22 still vacant. Are these offices, are the vacancies on
23 this list identified as priorities?

24 A Yes. We actually had a number that we
25 submitted solicitations to WFMO to have them filled.

1 We did that back in December once we had a indication
2 of the FY '13 budget. We submitted those. The
3 vacancies were opened, closed. However, before the
4 certificates were issued for most of those, before the
5 certificates were issued they, NOAA announced the
6 hiring freeze.

7 Q You said that you sent them through before
8 you got an indication of the FY '13 budget. Were you
9 able to fill these positions after the budget issues
10 happened in FY '13?

11 A Not sure I understand the question. I'm
12 sorry.

13 Q Well were there budget issues surrounding
14 filling these positions?

15 A What happened in early '13 is that we had
16 some preliminary indications from our CFO's office
17 that we would have some flexibility in labor to allow
18 us to fill some positions, and so looking at our
19 priority list we decided that some of these HMT
20 positions were at the top of our list in terms of
21 criticality so we went ahead and submitted the
22 paperwork to have those filled and began the
23 recruitment process.

24 There were a couple that as we went along
25 we, the numbers changed, the projections changed, and

1 so we pulled back a couple of those. Then the others
2 we continued on with, to fill those, and we were very
3 close to having the certificates issued but a hiring
4 freeze was announced.

5 Q In those offices have you been able to
6 maintain your original --

7 A Yes. Yes. We've managed to get by. Again,
8 using all the techniques available to the managers.

9 Q Okay. Did you bring any other employees on
10 station between, you know, around the time of the
11 Union's grievances and earlier? Let's say January
12 2013 through the end of March 2013.

13 A In terms of what type of positions?
14 Anything --

15 Q Any of these unit positions.

16 A There were some positions that reported
17 after the freeze where they had already been offered
18 and accepted the position but their reporting dates
19 were delayed for various reasons, and so those people
20 came on board after the hiring freeze.

21 There was only one position which we applied
22 a hiring exemption for. That was the Topeka, the
23 general forecaster. That was granted and, as I
24 mentioned, that's just in the process now of the
25 person reporting in the next few weeks.

1 MS. CIOFFALO: Okay. I'm going to show you
2 what's -- sorry. One second. I'm going to show you
3 Agency's Exhibit 17, and also, we've discussed before
4 Agency Exhibit 17 as a demonstrative evidence, as a
5 demonstrative exhibit of a portion of the RADS report
6 showing positions that came, entered on duty between
7 January and March of 2013.

8 ARBITRATOR SHARNOFF: I'm sorry. Agency's
9 17?

10 MS. CIOFFALO: Agency Exhibit 17.

11 ARBITRATOR SHARNOFF: Okay. You can go
12 ahead.

13 BY MS. CIOFFALO:

14 Q Okay. Who was the point of contact in your
15 region for hiring matters?

16 A The point of contact for hiring matters,
17 typically when an office -- I hope I understand your
18 question correctly.

19 Q Well, I mean I can make it easier.

20 A Okay.

21 Q Do you recognize the names in the column
22 headed TOC?

23 A Yes. Yes. I was going to say that's --
24 Marie Hoffpauer is the point of contact.

25 Q Marie Hoffpauer is the point of contact --

1 A Yes.

2 Q How many employees came on station in the
3 central region from January through March of 2013?

4 A Let me check here. It looks like we had
5 one, two, three, four, five, six.

6 Q Six people come in station in that time?

7 A Yes.

8 Q You mentioned earlier that you have brought
9 people on the station after the hiring freeze. Had
10 you submitted any positions to the DAA for -- well,
11 have any positions in the central region been
12 submitted to the hiring board for a waiver?

13 A We have had one that's gone through the
14 process. That was the Topeka general forecaster.

15 Q That's been approved?

16 A That was approved. The recruitment's
17 complete and we're actually to the point of the
18 selection has been made.

19 Q Any others that have been submitted to the
20 board for --

21 A We have one that is in the works for
22 recruiting a general forecaster at Chicago, and that's
23 just, it's beginning right now.

24 ARBITRATOR SHARNOFF: Excuse me. If I could
25 interrupt. I believe at some point you had been asked

1 in the recent questioning how many employees had come
2 on. You said six.

3 THE WITNESS: Six. Yes.

4 ARBITRATOR SHARNOFF: I'm assuming that one
5 of them was not named NALV. That's one of the six, I
6 believe.

7 THE WITNESS: Yes. I noticed that. That is
8 a position which -- we originally had submitted a
9 request to fill the position in the first quarter of
10 FY '13, in October/November. That was when we had
11 some fairly good projections of our budget and we
12 just, we wanted to fill that.

13 When we got updates that indicated that the
14 budgets were not as favorable as we thought we needed
15 to pull back on a few of those positions and that was
16 one that we pulled back on was that developmental
17 hydrologist.

18 ARBITRATOR SHARNOFF: So it would have been
19 five that were filled or --

20 MS. CIOFFALO:

21 Q So five were actually filled or?

22 A No. Actually, that would have been number
23 seven, if I count them right. That would have been
24 number seven. One, two, three, four, five -- let me
25 go back here.

1 ARBITRATOR SHARNOFF: I count it as six.

2 THE WITNESS: You're right. You're a six.
3 Number six.

4 ARBITRATOR SHARNOFF: So it would mean five
5 that were filled and Mr. NALV.

6 MS. CIOFFALO: Mr. NALV.

7 BY MS. CIOFFALO:

8 Q All right. So you were bringing people on
9 station even in 2013.

10 A Right. Right. Right.

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

13 ARBITRATOR SHARNOFF: Do you want a minute
14 to collect your thoughts?

15 MR. HIRN: No, but to find an exhibit.

16 ARBITRATOR SHARNOFF: Does anybody -- will
17 you need a rest break?

18 THE WITNESS: No, I'm fine. Thank you for
19 offering.

20 ARBITRATOR SHARNOFF: Okay. Why don't we go
21 off the record just the last moment.

22 (Whereupon, a short recess was taken.)

23 CROSS-EXAMINATION

24 BY MR. HIRN:

25 Q Ms. Schwein, I'm Richard Hirn. We haven't

1 met before --

2 A Nice to meet you, sir.

3 Q -- but I'm sure you've heard of me.

4 A Yes.

5 Q I'm the Prince of Darkness, the --

6 A I've seen you on TV. You're smooth. I love
7 watching you. Seriously.

8 Q Ms. Schwein, could I direct your attention
9 to Union Exhibit 82B, on the third page of that.

10 A Okay. I'm with you.

11 Q Before I ask you about some specifics on
12 this page, I want to make sure that I understand some
13 of your testimony just a moment ago that there were
14 some positions in the central region that were in the
15 process of, in the recruitment process at the time of
16 the March 27th hiring freeze, but because certificates
17 had not been issued yet you did not make selections.
18 Is that correct?

19 A That is correct.

20 Q Okay. Then before you look at 82B would you
21 please look at Joint Exhibit 10.

22 A Joint Exhibit 10.

23 Q It's probably going to be in the binder
24 before you. Directing your attention to the last
25 sentence of the first paragraph, I'm sorry, the last

1 sentence of the second paragraph, do you see where it
2 reads, "Job opportunity announcements that had been
3 advertised and closed by the date of this memo", that
4 being March 27, "will continue to be processed to
5 completion of hire".

6 A Yes.

7 Q Directing your attention to Joint Exhibit
8 11, Dr. Sullivan's memorandum of March 27th, the last
9 sentence of the first paragraph says the same thing,
10 does it not?

11 A Yes, it does.

12 Q Directing to the second page of Joint
13 Exhibit 11, Dr. Sullivan's March 27th memorandum, the
14 first bulleted paragraph -- no. Strike that. Then
15 let's now go look at 82B, and the third page.

16 A That's this right here?

17 Q Yes.

18 A Okay.

19 Q Directing your attention to the section for
20 the CR vacancies on the OPL and HMT intern positions,
21 isn't it true that the Wichita OPL position, the job
22 vacancy announcement closed on 2/26, a month before
23 the hiring freeze?

24 A That's correct.

25 Q But a selection was not made.

1 A That's correct.

2 Q Isn't it true that the Gaylord, Michigan
3 intern HMT position, that, too, the job vacancy
4 announcement closed over a month before the hiring
5 freeze, correct?

6 A That is correct.

7 Q And no selection was made.

8 A That is correct.

9 Q Isn't it true that there are one, two,
10 three, four, five other HMT vacancies, six other HMT
11 vacancies that were closed before the hiring freeze,
12 in fact, over a month before the hiring freeze, for
13 which no selections were made.

14 A That is correct. The following six behind
15 there all fit criteria.

16 Q Okay. Now, in your testimony you talked
17 about workforce management delaying, or their delays
18 in the process of their recruitment actions, isn't
19 that correct?

20 A That's correct.

21 Q Let's go back and look at the Wichita OPL
22 position. It appears to me that between the date
23 central region submitted that vacancy to workforce
24 management, it took them no more than two weeks to
25 have it advertised, or three weeks to have it

1 advertised, is that correct?

2 A Yes, that is correct.

3 Q But it did take almost two months for the
4 central region even to submit it to workforce
5 management.

6 A That is correct.

7 Q Then looking at the Gaylord position, it
8 looks to me that workforce management advertised it
9 within a month of it being submitted to them, correct?

10 A That is correct.

11 Q But it also looks to me that the central
12 region delayed submitting it to workforce management
13 by over three months.

14 A That is correct.

15 Q With regard to the Gaylord, excuse me, the
16 Rapid City vacancy, it looks like the central region
17 delayed submitting it by about five months.

18 A That's correct, too.

19 Q And with regard to the Rapid City, excuse
20 me, the Springfield, Missouri vacancy, it looks like
21 the central region delayed submitting that by four
22 months as well, correct?

23 A That's correct. Yes.

24 Q With regard to the Paducah vacancy it looks
25 like the workforce management advertised that vacancy

1 within a month of receiving it from the central
2 region, correct?

3 A That's correct.

4 Q But it looks to me that central region
5 delayed, is that two years in submitting it to
6 workforce management after it became vacant?

7 A That's correct. Uh-huh.

8 Q With regard to the Grand Rapids, Michigan
9 vacancy, workforce management advertised it within a
10 month of receiving it from the central region,
11 correct?

12 A Uh-huh. That's correct.

13 Q But central region delayed submitting it by
14 four months faster it became vacant.

15 A Correct. Uh-huh.

16 Q With regard to the Aberdeen, South Dakota
17 vacancy, it looks like there's another case where
18 workforce management advertised it within a month of
19 receiving it from you, correct?

20 A That's correct.

21 Q But it looks like central region delayed
22 submitting it by nearly five months after it became
23 vacant.

24 A Uh-huh. Correct.

25 Q The same is true with regard to Milwaukee,

1 is that not?

2 A That's true, too.

3 Q Okay. Then following that on this chart I
4 see one, two, three, four, five, six, seven, eight
5 vacancies, positions that became vacant well before
6 the hiring freeze which the central region failed to
7 submit to workforce management.

8 A That is correct.

9 Q Is there anything on this chart which would
10 indicate any delay in any position, processing nay
11 position by workforce management after you folks had
12 submitted it to them?

13 A No. No. There's nothing.

14 Q Well, let's go to the first page of Union
15 Exhibit 82. Let's look at the Pleasant Hill senior
16 forecaster vacancy. Now I understand that this
17 position was filled, but let me ask you about whether
18 the workforce management processing of this position
19 confirms your testimony that workforce management
20 delays in processing positions. Isn't it true that
21 they advertised that position within two weeks of
22 receiving it from you?

23 A That is correct.

24 Q And isn't it true that the central region
25 delayed in submitting that position to workforce

1 management for two months after it became vacant?

2 A That is correct.

3 Q Looking at the Duluth lead forecaster
4 vacancy, if I'm reading this correct it looks like
5 workforce management posted that position in about two
6 to three weeks after receiving it from you folks,
7 isn't that correct?

8 A That is correct.

9 Q But it also looks to me, well it looks to me
10 that you did, you only, there was -- it took a month
11 to send that one over, did it not?

12 A Yes. That's correct.

13 Q Okay. This list also shows two more
14 positions at Minneapolis and Bismarck that opened
15 months before the hiring freeze but you did not
16 submit, correct?

17 A That's correct. Uh-huh.

18 Q Turning to the second page of this exhibit
19 which covers the Topeka, covers the general
20 forecasters, Topeka, isn't this another instance where
21 the announcement closed a month before the hiring
22 freeze?

23 A I believe that is right. Yes, it did close.

24 Q And there was no selection made.

25 A Selection was not made.

1 Q Okay. And you also testified that Chicago
2 and Duluth, those positions were vacant before the
3 hiring freeze but were not submitted, correct?

4 A That's correct. Uh-huh.

5 Q Is there anything on Exhibit 82B that
6 indicates -- could you show me one example here of
7 where workforce management delayed in any way in
8 timely processing central region requests to recruit
9 and fill vacancies.

10 A There's nothing on this chart that indicates
11 that.

12 Q And you will agree with me that although Dr.
13 Sullivan's hiring freeze memorandum instructed line
14 offices to process to the completion of hire any job
15 vacancy announcements that had closed before the
16 hiring freeze date, you folks did not do that.

17 A I would not agree specifically. I would say
18 that we were waiting for the guidance from our
19 leadership as to what our disposition of those closed
20 vacancies would be. Our preference would have been to
21 hire, but a decision was made, I do not know where, to
22 not exercise that. I can't explain.

23 Q So in other words, you got instructions from
24 Weather Service headquarters that notwithstanding Dr.
25 Sullivan's instructions, you were not to fill the

1 positions that had closed by --

2 A We were to allow them to expire naturally.

3 Q I'm sorry. I think your answer's important,
4 but I think it jumped over my question and I want the
5 transcript to read it very carefully.

6 A Could you repeat it?

7 Q Yes. So if I understand correctly, that
8 notwithstanding Dr. Sullivan's directive to process to
9 the completion of hire any job vacancies that had been
10 closed before the hiring freeze date, you received
11 instructions from Weather Service headquarters not to
12 do so.

13 A To allow them to expire. Yes. To not do
14 so. Allow them to expire.

15 MR. HIRN: I have no further questions.
16 Thank you.

17 REDIRECT EXAMINATION

18 BY MS. CIOFFALO:

19 Q I want to point your attention to, Mr. Hirn
20 spent some time talking about workforce management's
21 delays on, with respect Union Exhibit 2B. Are there
22 any examples of workforce management delay that are
23 not on this list that you can share with us?

24 A I mentioned the specific one of the Jackson
25 general, lead forecaster. There were -- also similar

1 delays occurred, for instance, on MIC vacancies, that
2 occurred on general forecaster. Every vacancy
3 experienced delays because they were redeveloping all
4 of the supporting documentation for advertising the
5 position.

6 Q So that occurred prior to the date that the
7 position was advertised?

8 A Yes. Yes.

9 Q And that was in positions that were not
10 listed here, in this chart?

11 A Yes. That's right.

12 Q Okay. I also point you to the first page of
13 Union Exhibit 82B. We talked specifically about
14 Pleasant Hill and Duluth, the first two positions that
15 were listed. How long did it take workforce
16 management to return the, to issue the certificate for
17 those pay grades?

18 A Let's see. I've got to look at my own data
19 here. Let's see. Certificate was issued in August or
20 March for those two.

21 Q Okay. So the certificate was issued over
22 two months after --

23 A Yes. Right.

24 Q -- the job had closed, is that correct?

25 A Right.

1 Q Would that indicate to you any workforce
2 management delay?

3 A That's longer than what were experienced in
4 '11 and '12, yes. That's longer.

5 Q Mr. Hirn asked you some questions about how
6 long it took the central region to initially submit
7 some of those vacancies to workforce management.
8 Given your budget, could you have submitted those
9 vacancies any sooner?

10 A No, we could not have. I can explain the
11 rationale. Why that is.

12 Q Sure.

13 A If you look at the dates of those vacancies,
14 they all occurred in the fourth quarter of the prior
15 fiscal year, at the end of the fiscal year, and so we
16 were not in the position at that time of making a
17 decision to commit the permanent funding for those
18 positions.

19 We needed to wait for the next year's budget
20 to see what that looked like, if it was healthy enough
21 to allow us to pay that salary for an entire year, and
22 so there were no decisions being made in terms of
23 hiring until after October 1st. You'll see in the
24 data that the decisions came out after October 1st and
25 that's when we started filling the HMT and intern

1 vacancies.

2 MS. CIOFFALO: Thanks. Nothing else.

3 MR. HIRN: I have no further questions, Mr.
4 Sharnoff.

5 ARBITRATOR SHARNOFF: Okay. You're excused
6 as a witness. Thank you very much.

7 THE WITNESS: All right. Thank you.

8 (Witness excused.)

9 ARBITRATOR SHARNOFF: Did we admit 21? Yes,
10 we did.

11 MS. CIOFFALO: Did we admit 21?

12 ARBITRATOR SHARNOFF: Yes.

13 MS. CIOFFALO: Okay. Good.

14 ARBITRATOR SHARNOFF: Yes.

15 MS. CIOFFALO: Why don't we go off the
16 record --

17 ARBITRATOR SHARNOFF: Off the record.

18 (Whereupon, a short recess was taken.)

19 ARBITRATOR SHARNOFF: Okay.

20 MS. CIOFFALO: Brian, could you please state
21 and spell your name for the record.

22 MR. SADLER: Sure. My name is Brian J.
23 Sadler. B-R-I-A-N, middle initial J, last name
24 Sadler, S-A-D-L-E-R.

25 //

1 Whereupon,

2 BRIAN J. SADLER

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

5 DIRECT EXAMINATION

6 BY MS. CIOFFALO:

7 Q Brian, where are you currently employed?

8 A I'm employed with the National Weather
9 Service in western region. It's in Salt Lake City,
10 Utah.

11 Q What is your current position?

12 A I'm chief of the Administrative Management
13 Division in the western region of National Weather
14 Service.

15 Q How long have you held that position?

16 A It's been approximately nine and a half
17 years.

18 Q How long have you been with the Weather
19 Service?

20 A For the same period of time. Five and a
21 half years.

22 Q Can you briefly describe your
23 responsibilities in your current position.

24 A Sure. I oversee all the administrative
25 functions for the western United States as to eight

1 western states, the eight contiguous western states.
2 Administrative functions include budgeting travel,
3 procurement, property management, human resources, all
4 the personnel actions, employee relations. I also
5 currently oversee the labor relations management side
6 for the western region.

7 Q What does that particular responsibility
8 entail?

9 A I'm the management representative for labor
10 relations, so I'm the chief negotiator for regional-
11 related issues for management.

12 Q Is there a counterpart for the Union that
13 you work with?

14 A Correct. There's a regional chairperson.
15 Her name is Suzanne Sims. So she's my primary contact
16 with NWSEO at the regional level.

17 Q Do you have any responsibilities with
18 respect to the filling of vacancies in the western
19 region?

20 A I do. All personnel actions, including
21 recruitment, flow through my office, so I'm involved
22 with all recruitments.

23 Q Okay. Can you explain for us what your
24 involvement entails.

25 A Sure. When there's -- well, all personnel

1 action. So if any employee is leaving a region, or
2 leaving their position, or receiving a career
3 promotion, any of those actions require a 52, an SF-52
4 action, which is a personnel action request.

5 I review and, review all of those actions as
6 they come across my desk. Some of those actions are
7 recruitment actions to fill in vacancies, so I'm
8 certainly receiving those actions and reviewing them
9 and discussing any particulars of that recruitment or
10 vacancy before we send that off to workforce
11 management for beginning the recruitment process.

12 Q Okay. Are you familiar with a NOAA-wide
13 hiring freeze that began in March of 2013?

14 A Yes, I am.

15 Q Prior to that time were you involved in any
16 determinations in the western region as to whether or
17 not to fill particular vacancies?

18 A Yes.

19 Q Can you explain what your involvement was in
20 those determinations prior to the freeze.

21 A Prior to the freeze our regular practice is
22 to fill positions, you know, as they're becoming
23 vacant or prior to them becoming vacant. There are
24 certainly some certain positions where we may be
25 considering doing something different with a

1 particular position where we may discuss what we're
2 going to do, and that may affect our decision to begin
3 a recruitment action.

4 Q Before the freeze did your region experience
5 any challenges filling vacancies?

6 A We certainly did. Our biggest challenge is
7 with workforce management. NOAA workforce management
8 is our official human resource office and they're
9 responsible for all the official posting of our
10 positions and providing us our certificate of
11 eligibles and making official offers and that sort.

12 So workforce management, probably beginning
13 in 2010 or '11 started their, they started having a
14 series of audits, both internally from Department of
15 Commerce and also from OPM. At the same time, they
16 began multiple reorganization processes throughout
17 their organization.

18 That significantly hurt our recruitment
19 efforts. 2012 was the worst, I would say. We had
20 significant challenges filling positions due to delays
21 through workforce management.

22 Q In 2012, can you estimate the length of time
23 it took workforce management to process a vacancy.

24 A Yeah. I would say it -- yeah, it probably
25 close to doubled the time. If I remember our records

1 correctly, our time to fill vacancies was somewhere
2 along the lines of 120 days.

3 Q You're saying it took 120 days per vacancy
4 in 2012 or before that?

5 A In 2012. If I remember our data correctly,
6 it's about 120 days from when the vacancy occurred to
7 when we had put somebody in that position. Prior to
8 that it was closer to, you know, 70, 80, 90 days.

9 Q Okay. Did you ever discuss these delays at
10 WFMO with the Union's regional chair?

11 A Yes. I would estimate there are multiple
12 casual conversations. I do recall there was one
13 formal agenda topic at our, one of our regional labor
14 council meetings in 2012 where we discussed it.

15 Q Do you remember when in 2012 that meeting
16 occurred?

17 A Yes. It was in the winter of 2012. I
18 believe it was the last day of February, first day of
19 March is when our RLC took place.

20 Q Okay. What do you recall about the
21 conversation specifically?

22 A I mean initially it was concern that we were
23 holding vacancies, because they certainly saw that it
24 was taking a long time to fill these positions.
25 Longer than it has in the past. So they, it was their

1 -- initially, it was a general topic at a RLC. We
2 explained to them --

3 Q When you say -- sorry. Just a minute. When
4 you say they were concerned that you were holding
5 vacancies, what did you understand that to mean?

6 A They felt that it was management, western
7 region management's fault that these positions were
8 not being filled. That we were holding those
9 vacancies for whatever reason.

10 Q As in holding them and not submitting them
11 to workforce management?

12 A Correct.

13 Q Okay. What was your response?

14 A Our response was that, you know, I explained
15 to them the challenges that we were having with
16 workforce management, their audits and how they lost
17 authority to recruit for the delegated examining
18 authority. They lost that authority and we had to go
19 through OPM.

20 I explained to them that their, due to the
21 reorganizations and the audits, that we had to change
22 our job analysis that we submitted to workforce
23 management to meet their new requirements and those
24 requirements were changing regularly, and that we were
25 working with workforce management on a daily basis to

1 get these positions filled. Get them on the street
2 and get them filled.

3 Q Did the regional chair have a reply to your
4 response?

5 A I don't recall a specific reply, but I
6 certainly recall that they were satisfied with what we
7 were saying. It was, it seemed to me that it was
8 relief that we were attempting to fill, and as long as
9 that we were looking to fill those jobs, that they
10 weren't concerned, and so we moved off of that topic.

11 Q Okay. Are you familiar with a series of
12 grievances that NWSEO has filed with respect to the
13 filling of vacancies and particular positions in the
14 Weather Service?

15 A Yes, I am.

16 Q I want to turn your attention to the lead
17 forecaster grievance. If you could put that document
18 in front of you. It's our Joint Exhibit 2A.

19 A Okay. I have that in front of me.

20 Q Do you recognize this document?

21 A Yes, I do.

22 Q What is this document?

23 A It's a grievance submitted by NWSEO dated
24 March 13th to the director of Weather Service
25 concerning the failure to fill certain lead forecaster

1 positions.

2 Q March 13th of what year?

3 A I'm sorry. March 13th of 2013.

4 Q Okay. Could you please look at the listing
5 of offices and let us know if any of those fall within
6 the western region.

7 A Yes. There are four offices in the western
8 region. Portland, Boise, Eureka, and Monterey.

9 Q There's also some offices listed in the text
10 further down. Are any of those in western region?

11 A No. None of those positions.

12 Q Okay. To the best of your knowledge, were
13 there lead forecaster vacancies at the offices you
14 just named at the time of this grievance?

15 A I don't recall if they were vacant at the
16 time of the grievance. I do recall that these
17 positions were filled. I just don't recall when the
18 effective dates were.

19 (The document referred to was
20 marked for identification as
21 Agency Exhibit No. 22.)

22 BY MS. CIOFFALO:

23 Q No, I'm -- okay. I want to refer you now to
24 a chart of vacancies that you should have there, and I
25 will tentatively mark this Agency Exhibit 22.

1 A Okay. I have that in front of me.

2 Q Okay. Just a moment while we get it in
3 front of us. Brian, are you familiar with this
4 document?

5 A Yes, I am.

6 Q What is this document?

7 A This is the results of a query of our
8 internal database where we track all of our personnel
9 actions. It's for fiscal year 2012 and 2013.
10 Isolated to recruitment actions.

11 Q Who created this document?

12 A My workforce program manager who works for
13 me.

14 Q Okay. Have you reviewed the document?

15 A Yes, I have.

16 Q To the best of your knowledge, is it
17 accurate?

18 A Yes.

19 MS. CIOFFALO: I'd like to move A22 into
20 evidence, please.

21 MR. HIRN: Well I'm still not sure what it
22 is. I think you really have to tell us a little bit
23 more.

24 MS. CIOFFALO: Well, in addition to what the
25 witness says, what we're looking at is a chart of

1 vacancies in the western region. We've got various
2 columns here that tell us when the, for example, what
3 type of position it is, when the position was vacant,
4 when the regional director approved the position.

5 You're also seeing columns for, columns
6 showing the timeframe from the date the position was
7 vacant to the date of the regional director's
8 approval.

9 Another column shows when the vacancy
10 announcement opened, when the vacancy announcement
11 closed, when the certificate was issued, the
12 employee's entrance on duty date, or the selectee's I
13 should say, and there's also a column at the end for
14 any comments.

15 MR. HIRN: Are these all the vacancies
16 during the period of time?

17 BY MS. CIOFFALO:

18 Q Brian, do you know if these are all the --
19 are we seeing all western region vacancies at the time
20 of the grievance, March 13, 2013, in this chart?

21 A No. What this chart is is a listing of all
22 of our recruitment actions.

23 Q So if a position was vacant but not being
24 recruited is it showing up in this chart?

25 A No. It would not show up on this chart

1 until we initiated a recruitment action. That's when
2 my staff enters it into our database, which creates a
3 dated entry. So there are a few vacancies that would
4 not show up on this sheet.

5 Q Can you estimate how many a few is with any
6 more certainty?

7 A Well I was recently looking at our rotating
8 shift positions and identified four positions that
9 were vacant prior to the hiring freeze that, where
10 they do not show up on this sheet. There are also
11 some additional positions that are not rotating shift
12 worker positions that are not on this sheet.

13 There are a few that are regional
14 headquarters. There may be -- I believe that's it.
15 All regional headquarters positions, there may be one
16 that is a regional headquarter position that's
17 stationed outside of Salt Lake city.

18 MS. CIOFFALO: Okay.

19 MR. HIRN: Are you going to have him explain
20 the vacate date versus RD approval date, what that
21 means, and what, that column timeframe?

22 MS. CIOFFALO: I may, or you can certainly
23 ask him on cross.

24 MR. HIRN: Well then -- okay.

25 ARBITRATOR SHARNOFF: Voir dire?

1 MR. HIRN: I'm not going to -- okay, I'll
2 voir -- would that be best?

3 ARBITRATOR SHARNOFF: Sure.

4 MR. HIRN: Okay. Hi, Brian. It's Richard
5 Hirn.

6 ARBITRATOR SHARNOFF: Okay. We're just
7 going to switch the camera so that you can see Mr.
8 Hirn while he's asking questions.

9 THE WITNESS: Okay.

10 VOIR DIRE EXAMINATION

11 BY MR. HIRN:

12 Q Brian, the RD approval date, could you
13 explain what that column means.

14 A Sure. As we route our SF-52 -- that's our
15 personnel action request to recruit -- we have our
16 regional director sign off on those recruitment
17 actions.

18 Q Yes?

19 A Those RDs on those actions, we enter it into
20 our database that date.

21 Q Okay. So looking at the first one, the
22 position actually became vacated November 20th, but do
23 I understand it, that the RD approved back filling
24 that position even earlier than that date?

25 A That's correct. Our regular practice has

1 been to begin the recruitment action prior to the
2 position actually becoming vacant. Normally we're
3 aware of the position becoming vacant well in advance.
4 It's usually, you know, two weeks in advance at a
5 minimum, but oftentimes prior to that if the
6 employee's retiring or has been selected for another
7 position.

8 Q Okay. Then looking at the next column,
9 isn't the order reversed then? Isn't that the
10 timeframe from RD approval date to vacate date rather
11 than the other way around?

12 A Perhaps. It's the way that -- the order it
13 was put in, as far as being a positive or negative
14 number, what date you're starting with versus ending
15 date. So yes, if it's a positive number, you can see
16 that it was approved prior to the vacate date.

17 Q So then if I'm reading this correctly,
18 everything that's a positive number should be a
19 negative number and everything that's a negative
20 number should be a positive number, correct?

21 A I guess it's just a matter of interpretation
22 of how you're viewing the data. If you're viewing as
23 a positive number -- as far as the number of days from
24 when the position was vacant to RD approval, it's 47
25 days.

1 If you could, if you wanted to reverse that
2 and say that vacate date to RD approval -- I
3 understand what you're saying because if you start at
4 the vacate date and go to RD approval you would be
5 going back in time. It would be a negative number.

6 Q Right.

7 A Well, I'm following you. Yeah, I agree --

8 Q Yes. It's the wrong order, isn't it? It's
9 really showing the timeframe date from RD approval to
10 the vacate date.

11 A That is correct.

12 Q So it's reversed. Those numbers are
13 reversed. They should be -- the positive should be
14 negative, negative should be positive, or the titles
15 should be reversed, correct?

16 A Correct.

17 Q This does not show when you submitted it to
18 workforce management, correct?

19 A No, it does not.

20 MR. HIRN: I have no objection then with it.
21 If the Agency wants to submit a corrected version
22 later, that's fine.

23 MS. CIOFFALO: I think we can all just agree
24 that they look at it as a positive number, you look at
25 it as a negative number, and we'll just, we understand

1 what they mean.

2 MR. HIRN: Well I don't -- I mean this is a
3 situation where, you know, not everybody's entitled to
4 their own facts. I mean they're --

5 MS. CIOFFALO: It's 47 days. Whether it's
6 plus or minus -- look fine. Fine. Okay.

7 MR. HIRN: Well it's not either plus or
8 minus. It's one or the other. It's not up to --

9 MS. CIOFFALO: Okay, all right.

10 MR. HIRN: I mean it's wrong.

11 MS. CIOFFALO: Okay, Richard. We'll give
12 you a chart that has the pluses in the minuses side
13 and the minuses in the plus side.

14 MR. HIRN: Okay.

15 MS. CIOFFALO: Everybody will get that
16 chart. Just making sure it's admitted.

17 ARBITRATOR SHARNOFF: Yes. I'm sorry.

18 (The document referred to,
19 previously identified as
20 Agency Exhibit No. 22, was
21 received in evidence.)

22 MS. CIOFFALO: Okay. Thank you.

23 ARBITRATOR SHARNOFF: I didn't know you were
24 waiting.

25 MS. CIOFFALO: I thought you were still

1 looking at it to see if it was or not.

2 ARBITRATOR SHARNOFF: I was still stunned by
3 the pluses or minuses.

4 MS. CIOFFALO: Stunned into silence. All
5 right. Thank you.

6 DIRECT EXAMINATION (RESUMED)

7 BY MS. CIOFFALO:

8 Q All right, Brian. So turning back to the
9 vacancies identified in the lead forecaster grievance,
10 I believe you said they were Portland, Boise, Eureka,
11 and Monterey.

12 A Yes.

13 Q Now looking at what we've marked Agency 22,
14 your chart, can you let us know whether or not those,
15 whether or not lead forecaster vacancies at those
16 offices appear on this chart.

17 A Yes. Let me just go through the chart. I
18 can identify them for you, if you'd like.

19 Q Yes, please.

20 A All right. Yeah. I'm basing the grievance
21 on it indicating that the vacancy announcement was
22 closed on January 28th for all four of these
23 positions. You can see the first one in Eureka is
24 near the end of the 2012 sheet. It's --

25 Q All right. Let me stop you there. Our

1 sheet is not differentiated that way, so if you could
2 give us the REQ number you're looking at, that would
3 be the easiest. The first column.

4 A Okay. Certainly. So the requisition number
5 for the Eureka office is 12-0239.

6 Q Okay. I think it's on page 2 for our
7 purposes. All right. So, Brian, are you looking at
8 the column that says the REQ number is 12-0239, the
9 action is recruit, the position title is LDFCSTR, and
10 the station is EKA?

11 A That's correct. EKA is our three letter
12 designation for Eureka.

13 Q And what about that LDFCSTR designation?

14 A That's our terminology for lead forecaster.

15 Q When was this position vacant?

16 A Position became vacant on September 23rd of
17 2012.

18 Q Has that position been filled?

19 A Yes. That position was filled -- the person
20 came on duty on April 7th of 2013.

21 Q As of the date of this grievance, March 13,
22 2013, does your chart tell us where this was in the
23 process at that time?

24 A Yes. If you look at the vacancy, VA_CLOSED
25 column, you can see that the vacancy announcement was

1 closed on January 28th, a certificate of eligibles was
2 issued to the selecting official on March 15th, so it
3 looks like the certificate was issued two days after
4 the grievance was submitted.

5 Q Then the person EOD'd after that, on 4/7,
6 April 7, 2013.

7 A Correct.

8 Q Okay. Can you direct us to the next vacancy
9 mentioned in the grievance.

10 A Yes. You'll need to move on to the 2013
11 chart which, where the REQ numbers are, begin with 13.
12 Near the top of that one it's labeled 13-0013.

13 Q So this is our page 3 for the record. All
14 right. Go ahead, Brian.

15 A You'll see that position title is again LD,
16 lead forecaster. PQR is our three letter designation
17 for Portland, so this is the Portland vacancy
18 identified on the grievance. You also see that this
19 position closed on January 28th and the certificate
20 was issued on March 15. Those are the same dates.
21 And coincidentally, the person who was selected
22 entered on duty on April 7, 2013 as well.

23 Q Okay. You can move on to the next one,
24 please.

25 A Okay. If you move down approximately six or

1 seven rows you'll see REQ No. 13-0037. It was also
2 for a lead forecaster. The station three letter
3 designation is BOI for Boise. You will see that
4 position also closed on January 28th, certificate of
5 eligibles was issued on March 15th, and again the
6 person started on April 7th of 2013.

7 Q Thank you. What about Monterey vacancy on
8 this chart?

9 A Okay. The Monterey one is just below that
10 one. Looks like four rows below. Identified as
11 13-0054. MTR is the three letter designation for
12 Monterey. That position also closed on January 28th.
13 It's the same certificate of eligible, dated March
14 15th. This person entered on duty on May 19th of
15 2013.

16 Q Do you know of any other lead forecaster
17 vacancies at the time of this grievance?

18 A At this time I'm not aware of any other lead
19 forecaster vacancies.

20 Q As of March 13, 2013.

21 A No. I'll review my chart just to make sure.
22 I'm not aware of any additional lead forecaster
23 vacancies.

24 Q Okay. I'd like to move to the general
25 forecaster grievance so if you could put that document

1 in front of you now. That is our Joint Exhibit 2C.

2 A Okay. I have that in front of me.

3 Q Mr. Sadler, what is the date of this
4 grievance?

5 A The date of the grievance is March 21, 2013.

6 Q Can you do the same as before and look at
7 the offices listed and let me know if any of those are
8 from western region.

9 A Okay. Reviewing these offices, none of them
10 are within western region.

11 Q Do you recall if you had any general
12 forecaster vacancies as of March 21, 2013?

13 A Yes, we certainly did.

14 Q Okay. Can you use your chart and direct us
15 to those vacancies, please.

16 A Sure. Moving back up, it's probably your
17 page 2 where the requisition number begins with 12.

18 Q All right.

19 A Near the bottom there are two forecaster
20 positions and you'll see them labeled as FCSTR. The
21 REQ numbers for those are 12-0256 and 0257.

22 Q Okay. And --

23 A You'll see in the station --

24 Q I'm sorry.

25 A -- the station identified in there -- I'm

1 sorry. Go ahead.

2 Q Okay. Just for the record, we're on our
3 page 2. You can go ahead, Brian.

4 A Okay. So those are two forecaster positions
5 that are next to each other. One is designated as PET
6 for Pendleton, Oregon. The next one down is MFR for
7 Medford, Oregon. I guess maybe it's easier to talk
8 about one at a time.

9 So the Pendleton position was, became vacant
10 on September 23rd of 2012. I'm not sure how much data
11 you want on this particular position but you'll see
12 that the position was filled on May 19th of 2013.

13 Q At the time of the grievance on March 21,
14 2013, where was this position in the process?

15 A On March 21st, this position was with the
16 selecting official. Selecting official had the
17 certificate of eligibles and was evaluating
18 candidates.

19 Q And then your testimony is that on May 19th
20 of 2013 someone actually entered on duty.

21 A That's correct.

22 Q All right. Let's look at the next one that
23 you identified.

24 A Okay. So the next one right below that is
25 the MFR, Medford, position. That position became

1 vacant on October 7th of 2012. This position had the
2 same vacancy open and close date and the certificate
3 of eligible dates were the same as well.

4 So the status of this one was the same
5 during the, at the grievance. At the time of the
6 grievance this position had the cert issued to the
7 selecting official. In this case, the position
8 entered on duty on March 24th of 2013.

9 Q All right. Any additional vacancies at the
10 time of the grievance in your general forecaster
11 ranks?

12 A Yes, there are some more that stand in the
13 category probably on your next page.

14 Q All right. So for the record -- sorry.
15 Just a second. For the record, we'll look at our page
16 3.

17 A Okay. The requisition number is 13-0025,
18 and the station identifier for this position is MSO
19 for Missoula, Montana. This position became vacant on
20 December 2nd of 2012. The certificate of eligibles
21 was issued on March 6th of 2013.

22 So the status is the same for this one in
23 that the cert was with the selecting official at the
24 time of the grievance. A person entered on duty on
25 March 24th of 2013.

1 Q Thank you. Can you move on to the next one,
2 please.

3 A Sure. The next one is labeled 13-0043. The
4 station identifier is GGW for Glasgow, Montana. That
5 position became vacated on December 4th of 2012, and
6 that position has not been filled.

7 Q I see in the comments that it says case
8 cancelled per HQ, 7/17/13. Can you explain what that
9 means.

10 A Sure. This position had closed and no
11 certificate of eligibles was issued to the selecting
12 official at the time of the hiring freeze, and no
13 certificate of eligibles has ever been issued for this
14 position.

15 It was in I guess a suspended status, you
16 could say, and on July 17th we were requesting whether
17 we ought to maintain it in that suspended status or
18 not and the decision was made to go ahead and cancel
19 that position. That's what we did.

20 Q Are there any plans to submit that vacancy
21 to the hiring freeze board?

22 A No. Not currently.

23 Q Why is that?

24 A The staffing levels in Glasgow and their
25 need in Glasgow has not reached a critical level that

1 we would be successful if we submitted it to the board
2 or submitted it through our headquarters office to the
3 board.

4 Q And how do you know that you wouldn't be
5 successful?

6 A Our direction is that we must reach a
7 critical need in our offices before we submit them.
8 Every vacancy that we submit up to our headquarters to
9 be routed to the board is scrutinized in detail.

10 We evaluate many factors, including the
11 number of forecasters that are at the office, and that
12 would include all positions that are able to work
13 rotating shifts, so it would include management and
14 other forecasters and non, positions that are nonlead,
15 or journey forecasters. In Glasgow, this was their
16 only vacancy -- their only journey vacancy.

17 Q Is there a bright line that you're looking
18 at? You mentioned, you know, that you're looking at
19 several criteria and that the number of forecasters
20 there or individuals able to work forecaster shifts
21 there is one of them. Is there a bright line for that
22 particular number?

23 A There really isn't. It's something that
24 we're evaluating on a case by case basis. We
25 understand that everything we submit we're going to

1 need to defend. In this particular case, having one
2 vacancy certainly does not meet that criteria.

3 Some offices have additional forecasters for
4 live weather purposes so that's something that we
5 would look at as well, how many forecasters are in
6 each office and what their requirements are.

7 Q What do you mean by additional forecasters?
8 Additional to what?

9 A This was prior to my time working for the
10 Weather Service, but there was a staffing plan that
11 was established as part of the modernization for each
12 of our forecast offices.

13 In western region, and particularly in
14 western region because fire weather is our big program
15 out here, we received many, in fact, there was 27
16 additional forecaster positions for our fire weather
17 program. That work is to address fire weather within
18 the office. We also have many incident meteorologists
19 that are deployed for larger fires.

20 Q Okay. Let's turn back to the chart. Were
21 there any other general forecaster vacancies that
22 you're aware of at the time of the grievance that you
23 can show us?

24 A Yes, there is one right below that one we
25 just discussed. The requisition number is 13-0045.

1 The three letter designation for that station is BYZ
2 for Billings, Montana. That position became vacant on
3 January 27th of 2013, and that position was never
4 filled. It falls along the same category as Glasgow
5 that we just discussed where the certificate was never
6 issued, and it was later canceled on July 17th.

7 Q Any plans to submit that position to the
8 hiring freeze board?

9 A No. There are no current plans for that
10 position either. That is also the only forecaster
11 vacancy in this, in Billings, Montana, so the
12 reasoning is the same as Glasgow.

13 Q Any other lead, excuse me, general
14 forecaster vacancies at the time of this grievance?

15 A Yes, there is one more on this sheet. It is
16 listed as 13-0179. It's the last one. The three
17 letter designation is DEF for Las Vegas, Nevada. You
18 know, actually I'm mistaken in bringing that one up as
19 the position did not become vacant on September, until
20 September of 2013, which is after the grievance, so I
21 apologize for that.

22 Q Okay. That's all right.

23 A There was, I will bring up another
24 forecaster position that was vacant that's not on this
25 sheet. That is a journey forecaster in Portland,

1 Oregon. It was a unique position that became vacant
2 probably a year or two prior to the grievance.

3 It was an extra position that was added
4 approximately in the year 2000 for a particular fire
5 weather purpose we had in Portland. It became vacant
6 and we're currently evaluating how to utilize that
7 position. We've had some precision on the
8 negotiations or discussions with the regional steward.

9 Q Are those ongoing discussions related to the
10 length of time that it's taken to fill that vacancy?

11 A No. It's certainly understood by NWSEO at
12 the regional level that's not a normal position and so
13 we're looking at our needs. In fact, we're looking at
14 potentially converting that over to a hydrologist
15 position at one of our river forecaster centers.

16 MR. HIRN: Objection. Move -- objection.

17 MS. CIOFFALO: Wait. Wait, Brian. Brian,
18 can you stop for a second.

19 MR. HIRN: Objection. Move to strike his
20 last answer which was totally about what NWSEO
21 understood. He would have no basis in knowing that.

22 MS. CIOFFALO: Well I was going to ask him a
23 follow-up question about -- he can testify as to his
24 understanding of a --

25 MR. HIRN: No. But he can't --

1 MS. CIOFFALO: -- conversation.

2 MR. HIRN: Right, but he can't testify to
3 NWSEO's understanding. He said certainly NWSEO
4 understands X, Y or Z.

5 MS. CIOFFALO: Yes, and if you'd allow me to
6 ask the follow-up question, I think we can clarify
7 that.

8 ARBITRATOR SHARNOFF: Well, go ahead.

9 MR. HIRN: Then the follow-up question may
10 be proper, but not the last answer.

11 MS. CIOFFALO: I disagree. I think we've
12 heard a lot of that sort of testimony over the past --

13 ARBITRATOR SHARNOFF: All right. Well this
14 is an arbitration, we're not in --

15 MR. HIRN: Not from this side.

16 ARBITRATOR SHARNOFF: -- Court, but go
17 ahead.

18 BY MS. CIOFFALO:

19 Q Okay. Brian, a moment ago in your answer
20 you alluded to -- what is your understanding of
21 NWSEO's position with respect to the Portland vacancy
22 that you just mentioned?

23 A We've had some discussions concerning that
24 vacancy, both informally over the phone, or through
25 email, and also through some regional labor council

1 meetings. We've made some proposals about what we'd
2 like to do with that position and how, we've
3 explicitly discussed how this position was an extra
4 position added in after the standard staffing model so
5 that we have some flexibility to move that around.

6 So we were seeking some input from NWSEO
7 about what they felt about what we felt the need was
8 and what they felt -- it was pre-decisional
9 discussions.

10 Q Who is we on each side that you're referring
11 to?

12 A Our conversations with this particular
13 position was primarily with the former regional chair,
14 Robert Garibaldi, and myself.

15 Q What is your understanding of NWSEO's
16 position currently with respect to the status of that?

17 ARBITRATOR SHARNOFF: If you could indicate
18 or have him indicate the basis for his understanding.

19 MS. CIOFFALO: Sure.

20 Brian, what is the basis of your
21 understanding of NWSEO's position with respect to the
22 current status of the Portland vacancy?

23 THE WITNESS: I can't speak to the current
24 regional chair's position because she started this
25 position not too long ago and I can't recall having

1 any direct conversation with her about this position.

2 Prior to her taking that role and talking to
3 the previous chairs, we certainly have discussed about
4 positions that were part of the original staffing
5 model. The regional chair at the time was not willing
6 to discuss changing those positions at the regional
7 level. Would rather defer to be at a national
8 decision.

9 It certainly was discussed that this
10 position was outside of that staffing model, so we
11 would have authority at the regional level to make
12 changes to it.

13 BY MS. CIOFFALO:

14 Q All right. Have we discussed all of the
15 general forecaster vacancies that you're aware of as
16 of the time of this grievance?

17 A Yes.

18 Q All right. I'd like to move on to the HMT
19 intern grievance. If you could put that in front of
20 you. That is our Exhibit 2B. Joint Exhibit 2B.

21 A Okay. I have that in front of me.

22 Q Do you recognize this document?

23 A Yes, I do.

24 Q What is the date of this document?

25 A This documented was dated March 15th of

1 2013.

2 Q Are you looking at a grievance filed by
3 NWSEO over HMT and intern positions?

4 A Yes.

5 Q All right. Take a look at the grievance
6 itself and let me know if any of the offices listed
7 are within the western region.

8 A None of these locations are in western
9 region.

10 Q Okay. Are you aware of any HMT intern
11 vacancies as of March 15, 2013 in western region?

12 A Yes, we had some, that intern HMT vacancies
13 at that time.

14 Q Using your chart, can you direct us to those
15 one by one, please.

16 A Sure. We'll go to I believe it's your page
17 2 where the requisition number is 12-0218. This
18 position is titled MET intern. This first one is, has
19 a three letter designation for SGX. That's for San
20 Diego, California.

21 This particular position became vacant on
22 June 12th of 2012. This position was -- certificate
23 of eligibles was issued for this position on
24 February 4th of 2013, and then the selectee came on
25 board on April 8th of 2013.

1 Q Okay. Thank you. Are there any others?

2 A Yes. There is one right below that one
3 designated as 12-0224. The three letter designation
4 for that one is TWC for Tucson, Arizona. This
5 position became vacant on September 23rd of 2012 and
6 the selectee came on board on April 8th of 2013.

7 Q All right. Are there any others?

8 A There is another one right below that one.
9 That particular position is labeled as 12-0225. The
10 three letter designation for that station is LKN for
11 Elko, Nevada. This position became vacant on August
12 26th of 2012, and the person who was selected for that
13 position entered on duty on June 3rd of 2013.

14 Q Are the three positions that we've discussed
15 so far, were those all from the same certificate of
16 eligibles?

17 A Yes. At the time, workforce management
18 prefers to announce multiple locations at the same
19 time to save work. This was part of their effort --
20 some of the challenges I discussed in 2012 of filling
21 positions, one of their solutions to try to save
22 workload by announcing multiple locations at the same
23 time.

24 Q All right. Any other HMT intern vacancies?

25 A Yes. You need to look at probably your next

1 page. The requisition number for the next one is
2 titled or is numbered 13-0006. The --

3 Q All right. Just a minute. For the record,
4 we're on our page 3 of the document. You can
5 continue.

6 A Okay. This position, the station identifier
7 is SEW for Seattle, Washington. This particular
8 vacancy, the position became on November 4th of 2012,
9 and this position was filled, the person selected for
10 this position entered on duty on March 24th of 2013.

11 Q Was this position part of the same
12 certificate as the others that we just discussed?

13 A Yes. Yes, it was. I'm looking at the
14 dates, and yes. Absolutely.

15 Q Okay. Any additional HMT intern vacancies?

16 A Yes. If you move down three rows you'll see
17 another one. The requisition number for this one is
18 13-0016. The three letter designation for this
19 position is MFR for Medford, Oregon. This position
20 became vacant on December 2nd of 2012, and the person
21 selected for this position entered on duty on April
22 8th of 2013.

23 Q Same certificate as the previous HMT intern
24 vacancies we've discussed?

25 A Yes.

1 Q Any others?

2 A Yes. There's one right below that one. The
3 requisition number for this one is 13-0022. Three
4 letter designation is MSO for Missoula, Montana. This
5 position became vacant on November 17th of 2012, and
6 the entry on duty date for the selectee was May 20th
7 of 2013. This was the same announcement and
8 certificate as well.

9 Q Any additional vacancies?

10 A There is one more near the bottom of the
11 sheet. This position is designated -- sorry. The
12 requisition number is 13-0077. The three letter
13 designation is also MFR for Medford, Oregon. This
14 position became vacant on March 10th of 2013, and the
15 person selected for this position came on board on
16 April 22nd of 2013.

17 Q Was that position, again, on the same
18 certificate?

19 A Yes, it was. The same certificate was used.

20 Q All right. Have we discussed all of the HMT
21 intern vacancies in your region at the time of this
22 grievance?

23 A Yes.

24 Q Okay. Is it accurate to say that all of
25 those that you're aware of have been filled?

1 A Yes.

2 Q Brian, in terms of the period of time, the
3 several months leading up to the March 2013 hiring
4 freeze, do you know whether or not the western region
5 was filling vacancies at that time?

6 A Yes. Certainly most of the vacancies that
7 we went through over the last few minutes was a
8 reflection of our effort to try to fill vacancies
9 prior to the hiring freeze.

10 Q I want to direct your attention to what
11 we've marked Agency 17. Brian, that is a document
12 with EOD dates on it between January and March,
13 roughly, of 2013.

14 A I have this document. It's just a little
15 bit problematic to look at printed out due to the grid
16 lines, so it might take me a minute to follow on.

17 Q Okay. All right. Brian, are you looking at
18 the document?

19 A I am.

20 Q Okay. So previously at the hearing you've
21 established that this is a document that is a filtered
22 version of a larger RADS report that shows EOD, or
23 entrance on duty, dates that fall roughly between
24 January 2013 and March of 2013. It may be easiest if
25 you look at the point of contact column, but I'd like

1 you to let us know if any of these positions fall
2 within western region.

3 A Okay. I am seeing three positions that are
4 within western region.

5 Q Can you point them out, please.

6 A I guess the first one is approximately
7 halfway down. The RADS number on the left-hand side
8 is labeled as R0004007. It states Seattle next to
9 that. Under the case description it states WFO
10 Phoenix, Arizona, supervisory IT specialist ESA, vice
11 -- steward.

12 Q What is the point of contact on that
13 particular line that you're showing?

14 A Kim Pendleton.

15 Q Okay. So this is a position from WFO
16 Phoenix. It's a supervisory IT specialist, GS-13. Is
17 that correct?

18 A That's correct.

19 Q When did that position, when did the
20 selectee enter on duty?

21 A The person entered on duty on March 10th of
22 2013.

23 Q Can you identify any other positions in
24 western region on this list?

25 A Yes. The next one in western region, it has

1 a RADS number designation as R0004067.

2 Q Is this from Boise, Idaho?

3 A That's correct. Boise, Idaho. The point in
4 contact is labeled as Kim Pendleton.

5 Q This is an ET position, is that correct?

6 A Correct. Electronics technician.

7 Q What's the EOD date of this vacancy?

8 A The EOD date of this position is January
9 27th of 2013.

10 Q Okay. I think you said you saw a third one.

11 A That's correct. There is a third one. It
12 is three down from the last one. The RADS number for
13 this one is R0004148.

14 Q Okay. We're not showing that one on this
15 chart. Can you read what the position is and when it
16 was filled?

17 A Sure. This is a physical, it's labeled as a
18 recruit physical scientist, ODSO vice Atlantic.
19 That's what it says in the case description. This is
20 a physical scientist program manager position that we
21 have in our regional headquarters office. The point
22 of contact for this one is labeled as Diane McArthur.

23 Q When did that position -- when did someone
24 enter on duty in that position?

25 A For this position it was February 24th of

1 2013.

2 Q Okay. Thank you. Brian, are you aware of
3 any requirement to fill a position in a particular
4 amount of time?

5 A No, I'm not.

6 Q Has the western region, to the best of your
7 knowledge, seen any increase in overtime in fiscal
8 year 2013 as compared to previous years?

9 A No. I recently looked at that data. In
10 fact, we've had a slight decrease in overtime in 2013
11 based on previous years.

12 Q What about TDY, temporary duty assignments?
13 Has there been any increase in TDY in your region?

14 A No. In fact, I would -- I certainly don't
15 have the data in front of me, but I know that we spent
16 very little on travel in 2013 and so our travel
17 decreased. Our TDY decreased.

18 MS. CIOFFALO: Thank you. I have nothing
19 further.

20 MR. HIRN: Mr. Sharnoff, I'm going to move
21 around --

22 ARBITRATOR SHARNOFF: Yes. Sure.

23 MR. HIRN: -- so Brian can see me.

24 ARBITRATOR SHARNOFF: Any time. And you can
25 stay here if it's easier. Whatever works for you.

1 CROSS-EXAMINATION

2 BY MR. HIRN:

3 Q Hi, Brian. It's Richard again. Can you
4 hear me okay?

5 A Yes. Just fine.

6 Q You testified that there were four
7 operational positions that were vacant before the
8 hiring freeze that were not submitted to workforce
9 management. Can you tell us what those positions were
10 and, to the best of your recollection, about when did
11 they open up.

12 A There were, if I remember, two journey
13 forecaster positions that became vacant on March 24th
14 of 2013. One of them was in Missoula, Montana, and
15 another one was in Pendleton, Oregon.

16 We discussed the journey forecaster position
17 in Portland, Oregon. That was the position that was
18 extra that we received sometime in early 2000 for fire
19 weather purposes.

20 Then there is also an OPL position in
21 Oxnard, California that was vacant, I believe the
22 date, it was in February of 2013. I don't recall the
23 exact date. I believe it was the 25th, but I'm not
24 too confident in that.

25 Q Okay. I think you also said there might

1 have been other nonoperational positions open. Did I
2 hear you correctly?

3 A That's correct. Yes.

4 Q Were any of them bargaining unit positions?
5 I'm sorry. Were any of them bargaining unit
6 positions?

7 A Yes. Absolutely. There's -- I certainly
8 cannot give you an all-inclusive list confidently, but
9 I am certainly aware of some positions that are, that
10 we were making at the time.

11 We had one or two administrative support
12 assistant positions that are, that were vacant and are
13 vacant here, in our regional headquarters position,
14 headquarters office -- excuse me -- here, in Salt Lake
15 City.

16 We also have a supply technician position,
17 GS-7 supply technician position, that was vacant and
18 is vacant. I am aware of an RMS position that's out
19 of our regional headquarters. The position's located
20 outside of Salt Lake City but it's a regional
21 headquarters position. That position has been vacant
22 for quite some time.

23 That's all I can think of. I believe that I
24 gave probably most, if not all, of the positions that
25 are bargaining unit.

1 Q Okay. Brian, would you look at the last
2 page of Agency Exhibit 22.

3 A Okay.

4 Q The one, two, three, four, five, six, seven,
5 eight -- the ninth entry down is an ESA. Is that
6 Medford?

7 A Just one minute. Yes, MFR is Medford,
8 Oregon.

9 Q And that position was advertised and closed
10 a month before the hiring freeze, correct?

11 A That is correct.

12 Q You said that there was, a decision was made
13 to cancel the positions that were advertised and
14 closed before the hiring freeze, correct?

15 A That's correct.

16 Q Who made that decision?

17 A Well I would say the -- if you're referring
18 to the decision that's labeled in the comments
19 section, that was a decision that eventually came from
20 our national headquarters to go ahead and cancel those
21 vacancy announcements.

22 Q That's the Weather Service headquarters?

23 A That's correct.

24 Q Okay. There were forecaster positions in
25 Billings and Glasgow that had also, had advertised and

1 closed a month before the hiring freeze that were not
2 filled, correct?

3 A That's correct.

4 Q As well as an ET position at MTR. No. I'm
5 sorry. The OPL position at VEF -- where's VEF?

6 A That's Las Vegas. That's correct.

7 Q And then directing your attention to the ITO
8 position at FGZ, which I understand to be Flagstaff --
9 is that correct?

10 A Yes.

11 Q Can you tell me, the Agency Exhibit 22, when
12 was this prepared?

13 A I could not give you an exact date but I
14 would say within the last month.

15 Q There's an entry that says awaiting GC to
16 sign documents so FOO can release cert to selecting
17 official. Has that been done yet?

18 A Yes. In fact, the certificate was issued to
19 the selecting official just recently. I would say in
20 the last week. A decision was made not to make any
21 selection off of that certificate. We're currently
22 seeking to --

23 Q How many applicants -- I'm sorry, I
24 interrupted your answer.

25 A I said we're currently seeking to

1 readvertise that position.

2 Q Why was that?

3 A Due to the settlement agreement. We're
4 following the terms.

5 Q No, but why did you not make a selection
6 from that certificate?

7 A I was not part of the panel to review the
8 applicants, but I am aware that there were multiple
9 applicants, I believe four, that were selected for
10 interviews. Some of them were initially interested
11 and then backed out of consideration for the position
12 so there was no other viable candidates on the cert
13 that the selecting official would like to select.

14 MR. HIRN: Okay. All right. I have no more
15 questions. Thank you.

16 MS. CIOFFALO: Nothing more.

17 ARBITRATOR SHARNOFF: Okay. You're excused
18 as a witness. Thank you very much.

19 THE WITNESS: Okay. Thank you.

20 (Witness excused.)

21 ARBITRATOR SHARNOFF: We'll go off the
22 record.

23 (Whereupon, a short recess was taken.)

24 MS. CIOFFALO: Name for the record.

25 MR. GILBERT: My name is Jason Gilbert,

1 J-A-S-O-N, G-I-L-B-E-R-T.

2 Whereupon,

3 JASON GILBERT

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

6 DIRECT EXAMINATION

7 BY MS. CIOFFALO:

8 Q Jason, where are you currently employed?

9 A I'm employed with the National Weather
10 Service, Pacific region.

11 Q How long have you been -- what is your
12 current position title?

13 A I'm the administrative management division
14 chief.

15 Q How long have you held that position?

16 A I've been here just under six years.

17 Q How long have you been with the National
18 Weather Service?

19 A Been with the National Weather Service about
20 13 years.

21 Q Prior to holding your current position what
22 other positions have you held with NWS?

23 A Prior to this position I was the lead budget
24 analyst for budget formulation in the CFO's office of
25 the National Weather Service.

1 Q What is the CFO's office?

2 A Chief financial officer's office. Yeah.

3 Q Where is that position located?

4 A That position is located in Silver Spring,
5 Maryland.

6 Q Where is your current position located?

7 A In Honolulu, Hawaii.

8 Q Okay. What are your responsibilities in
9 your current position?

10 A My current position as administrative
11 management division chief is I'm essentially the
12 administrative officer for the region, so it ranges
13 everything from procurement, to budget, finance,
14 travel. I have some LMR responsibilities. I have, I
15 also facilitate human resources for the region and
16 just general administrative.

17 Q You mentioned labor and management relations
18 duties. What are those that you currently have?

19 A I was designated as the regional chair for
20 management, and I'm also the management representative
21 for our local office team at our regional
22 headquarters.

23 Q Do you have any responsibilities with
24 respect to the filling of vacancies in the Pacific
25 region?

1 A I do in the sense that I facilitate and work
2 with our, the hiring officials, each of our managers,
3 supervisors, as vacancies become available to provide
4 them with the necessary steps to start the process of
5 filling their vacancies.

6 Q Okay. Are you familiar with the March 27,
7 2013 hiring freeze?

8 A I am aware of that. Yes.

9 Q Do you know whether or not the Pacific
10 region has submitted any vacancies to the hiring
11 freeze board?

12 A We have.

13 Q How many, if you know.

14 A We've submitted and been successful with two
15 submissions to date.

16 Q Okay. Have you submitted any that have not
17 been successful?

18 A We did submit -- just after the freeze we
19 submitted a few that were not approved, and I'm not
20 sure at which level they were not approved. We didn't
21 really get good feedback on where they were in the
22 status and the process.

23 Q What do you mean by you're not sure at which
24 level?

25 A Well, after we put together the

1 justifications they went up to the Weather Service
2 senior management and at least initially in the
3 process there was some confusion as to what was
4 required for that so we put together a justification
5 memo.

6 Then subsequent to that there was a form
7 that needed to be filled out, so when the form was,
8 when we were given direction to issue the form, I
9 think some of the positions that we had requested as
10 exceptions did not get resubmitted, and for various
11 reasons things changed on our end.

12 Q Can you explain just briefly what the
13 structure is of the Pacific region in terms of the
14 different types of offices that you have?

15 A Yeah. We have a very unique region. We've
16 got a lot of -- we're somewhat isolated. We have --
17 and each of our offices is unique.

18 We have two weather forecast offices, one in
19 Honolulu and one in Guam; we have a Weather Service
20 office, WSO, in American Samoa; and we have data
21 collection offices here, in Hawaii, which are, in
22 terms of the structure of the Weather Service, they're
23 not full Weather Service offices because they have a
24 limited responsibility where they only take
25 observations. They don't do forecasting.

1 Then we have the Pacific Tsunami Warning
2 Center and the International Tsunami Information
3 Center. So obviously we're small in terms of numbers
4 of offices because I just listed them all.

5 Q Thank you. Prior to the hiring freeze that
6 you mentioned, once a position was authorized to be
7 filled did you have any challenges actually filling a
8 position in your region?

9 A We do. We have a lot of turnover because of
10 the isolation. I think people think that it's going
11 to be paradise when they come to the Pacific and
12 sometimes it's, they're a little more isolated than
13 they had imagined, and so there's some turnover. Then
14 it takes -- the recruitment process also has its
15 challenges.

16 Q What is challenging, in particular, about
17 the recruitment process?

18 A The resources available at the workforce
19 management office. We struggle to get those
20 requirements in. Over the past few years the
21 requirements have changed. We know that they only
22 have a certain capacity to be able to process a
23 certain number of vacancy announcements.

24 So it is a challenge, and we try to approach
25 it in a, in pushing forward the vacancy announcements

1 and doing our best to meet the new requirements.

2 Q When you're speaking of requirements, can
3 you be more specific in terms of what it is that has
4 changed?

5 A Well, yeah. The system has changed pretty
6 significantly from a few years ago when I first
7 started here.

8 Q Wait. Let me stop you just for a second.

9 A I'm sorry.

10 Q When you say the system has changed, what is
11 the system?

12 A In terms of what needs to be submitted and
13 how they're submitted. So the package of, recruitment
14 package of documents that needs to go to workforce
15 management hasn't changed overall, but the roles and
16 responsibilities as to who puts together that
17 information has changed.

18 Originally, or a few years ago, it was done
19 primarily by the workforce management HR assistant.
20 Today, it's done by the hiring official with some
21 assistance from our region.

22 The way that it's submitted has changed in
23 terms of a few years ago it was submitted to a single
24 point of contact in workforce management, and then as
25 of about two years ago, maybe, we went to a intake

1 team where we would send those packages in to an email
2 and then they would get tasked to each of the hiring
3 assistants.

4 Then maybe a year and a half ago,
5 approximately, that changed and we moved to this RAD
6 system where we entered things into a database and
7 then they're tasked through that database and tracked
8 that way.

9 Q Tasked to whom?

10 A To -- well, yeah. Again, initially it was
11 to the, to a single point of contact. Now it goes to,
12 I think there's some load balancing on who gets tasked
13 with those so it's spread to, for the next available
14 HR advisor. So it's a variety of people.

15 Q So you're saying it gets tasked to someone
16 in workforce management.

17 A In workforce management, yes.

18 Q Okay. Did you ever discuss any of your
19 challenges related to workforce management with the
20 regional chair of your Union?

21 A I have on occasion. If he asks a question
22 about, you know, maybe he's had somebody from, one of
23 his shop stewards or somebody in the office is asking
24 him about where a particular vacancy may be in the
25 process, he'll express his concern and I've talked to

1 him about it. But we haven't had specifically, you
2 know, a conversation about just the challenges that
3 are, that we have.

4 Q Have you shared any information regarding
5 vacancies with the NWSEO chair?

6 A I have. For a couple of years we had him on
7 our staff meeting calls and I would distribute to that
8 list, a list of vacancies that we have, so he's had
9 that available for at least a couple years. I update
10 it when there's a significant change.

11 Q Can you give us a more, if you can, a better
12 timeframe of when this was occurring?

13 A Yeah. I want to say it's in the probably
14 2010 timeframe he was invited to attend those
15 meetings, and at that point he was put on that list,
16 email list, and so any time I would send out an update
17 to that.

18 Then we haven't had many changes recently,
19 but I did share it with him. I want to say April to
20 May timeframe of this year I think is probably when I
21 sent him the last version of that.

22 Q Okay. You said it was a list of vacancies.
23 Was the list in any particular order?

24 A Yeah. We have a priority listing and it's
25 sort of a notional priority we assign to each of those

1 positions to ensure that workforce management
2 primarily is focused on our highest priority items.

3 Q Did the NWSEO regional chair, during the
4 time period that you're providing him this priority
5 list did he ever give you any input into the
6 prioritization of those vacancies?

7 A He did not. You know, we did have -- we met
8 with a mediator and he had some questions about the
9 list during that discussion, and so I shared with him
10 the list again and offered for him to provide me some
11 feedback and he did not give me any feedback in terms
12 of the priorities specifically.

13 Q Right. I think you said before that he
14 might ask about the status of a particular vacancy.
15 Is that right?

16 A Correct. Correct.

17 Q Okay. But you're not aware of any feedback
18 he gave on the order of the vacancies in terms of
19 management's priority.

20 A No, he did not.

21 Q Are you aware of a series of NWSEO
22 grievances with respect to the Agency's failure to
23 fill particular vacancies?

24 A I am.

25 Q Okay. I want to turn your attention to the

1 grievance regarding lead forecasters. We've marked it
2 here as Joint Exhibit 2A. Can you let me know when
3 you're looking at the lead forecaster grievance.

4 A Yes. I have it here.

5 Q Have you seen this document before?

6 A Yes, I have.

7 Q What is the date of this grievance?

8 A March 13, 2013.

9 Q Looking over the list of vacancies here, can
10 you let me know if any that appear on the list are
11 within the Pacific region.

12 A There's none in the list, but down, the
13 second to last paragraph to the, on the first page,
14 lead forecaster for WFO Honolulu is within our region.

15 Q Okay. I want to refer you now to a chart
16 that I think that you have, so if you could get that
17 document. That is already in evidence as Union
18 Exhibit 82B. Jason, do you recognize this document?

19 A I do.

20 Q Does the WFO Honolulu lead forecaster
21 vacancy appear on this document?

22 A Yes.

23 Q Could you direct us to that vacancy?

24 A Yes. It's the last item on the page that
25 has the lead, the senior forecasters listed.

1 Q Is it the one that has the designation PR to
2 the very left, and then the RADS number 4175?

3 A That's the one.

4 Q Okay. I see that the office column is
5 blank, although it does identify the position as a
6 senior forecaster and other information is filled out.
7 How do you know that position is the Honolulu lead
8 forecaster?

9 A The RADS number, the grade, and the date of
10 the vacancy and submission all correspond with that
11 vacancy.

12 Q Okay. According to this information, has
13 that vacancy been filled?

14 A Yes, it has.

15 Q When was it filled?

16 A September 22, 2013.

17 Q I see that the position became vacant on
18 December 31st of 2012. Do you know why the position
19 was not filled until September of 2013?

20 A Well there were some delays initially in
21 getting it through the hiring process, but then it,
22 where there was additional delay is after the hiring
23 freeze this one was sort of grandfathered through
24 because it had made it out -- it was announced I think
25 just after -- but then once a certification was issued

1 we delayed filling it or making a selection because of
2 ambiguity with our budget and whether or not there
3 would be a relocation authorized.

4 So the certification was open for a
5 significant period of time, but we then did go ahead
6 and make a selection.

7 Q Are you aware of any other lead forecaster
8 vacancies at the time of the grievance on March 13,
9 2013 in your region?

10 A No other senior forecasters. No.

11 Q Okay. I want to turn to the general
12 forecaster grievance, so if you could let me know when
13 you have that in front of you. It is our Joint
14 Exhibit 2C.

15 A Yes. I have it out.

16 Q Do you recognize this document?

17 A I do.

18 Q What's the date of this grievance?

19 A March 21, 2013.

20 Q Do any of the offices listed here fall
21 within Pacific region?

22 A No, they do not.

23 Q Do you know if your region had any general
24 forecaster vacancies as of March 21, 2013?

25 A We did.

1 Q Okay. Can you identify that vacancy, or
2 vacancies, for us on the chart that we're looking at.

3 A Yeah. On the general forecaster page it's,
4 again, the last item.

5 Q So for the record, we're on page 2 of our
6 document. Go ahead. Can you identify it?

7 A Yes. It's the last item on the page with
8 the list of general forecaster vacancies.

9 Q Okay. So to the left it has PR, and then
10 RADS number 4165, office is Honolulu?

11 A Yes.

12 Q When did this position become vacant?

13 A This position was vacant December 31, 2012.

14 Q Has it been filled?

15 A This position has not been filled.

16 Q Why not?

17 A Initially we -- again, you know, working
18 through the process of getting the hiring package in
19 to workforce management was a bit delayed, but we also
20 tried to strategize.

21 Assuming that there would be candidates
22 internal to the forecast office who would apply to the
23 senior forecaster job, we were somewhat hopeful that
24 when this finally did get announced and the
25 certifications were available we would be able to

1 select to fill behind possibly another vacancy created
2 by a promotion, so we kind of lagged this one behind
3 the lead forecaster with the intent of trying to fill
4 two at one time.

5 Then by the time that we sort of got through
6 the process of getting the lead forecaster out, the
7 hiring freeze came into place and then we didn't
8 pursue this further at that point.

9 Q Why did you want to try to fill two
10 positions -- you said fill two at one time. Why was
11 that a goal?

12 A Well, just to expedite the process of
13 hiring. You know, sometimes it's easier. You don't
14 have to go through another selection process or
15 announcement and the whole process of recruitment. If
16 there's a certification available and there are
17 qualified candidates we could potentially have chosen
18 two off of the one certification.

19 Q Okay. So that was going on prior to the
20 hiring freeze, those considerations?

21 A That's why we delayed and at that point got
22 caught up in the freeze. Yeah.

23 Q Have you submitted this position to the
24 hiring freeze board?

25 A We did initially and I think, as I mentioned

1 earlier, the guidance wasn't quite clear, very clear
2 when the freeze first went into effect.

3 Then after we got clear guidance as to the,
4 what the process was, and the form that needed to be
5 filled out, and that sort of thing, we subsequently
6 have had a disciplinary action that resulted in an
7 employee deciding to take a voluntary downgrade, so we
8 figured that this would be an opportunity to go ahead
9 and use this vacancy and then eventually announce
10 another lead position.

11 Q Okay. I just want to clear up. You've
12 given some testimony about some confusion right after
13 the freeze with, for example, this vacancy being
14 submitted for consideration to the hiring freeze
15 board. How close in time did you try to submit that
16 position to the actual freeze?

17 A It was probably within a couple weeks. I
18 can't recall exactly.

19 Q Okay. Do you know of any other general
20 forecaster vacancies in your region at the time of the
21 grievance?

22 A I'm not aware of any. No.

23 Q Let's move to the HMT intern grievance,
24 please.

25 A Okay. I have that.

1 Q That's our Joint Exhibit 2B. Do you
2 recognize this document?

3 A Yes, I do.

4 Q What's the date of this grievance?

5 A March 15, 2013.

6 Q Do any of the offices listed here fall
7 within Pacific region?

8 A They do not.

9 Q Do you know if you had any HMT intern
10 vacancies at the time of the grievance?

11 A No, we did not.

12 Q Have you had any subsequent vacancies in
13 that unit?

14 A We have.

15 Q Is that the one that appears on page 3 of
16 the chart?

17 A Page 3.

18 Q Specifically, I'm looking at the bottom of
19 our page 3 where it says PR over to the left. There's
20 a few blanks but then it does say HMT intern, and the
21 position was vacated on June 2, 2013.

22 A Not sure I printed it correctly.

23 Q Okay. Can you take a second.

24 A Sorry. It's wrapped on the back page.

25 Q That's okay.

1 A Yes. Yeah. On the bottom of that chart
2 there's an HMT intern vacancy that's designated as PR,
3 Pacific region.

4 Q Sitting here today, do you know which office
5 that HMT intern vacancy is associated with?

6 A Yeah. That's the WFO in Honolulu.

7 Q How do you know that?

8 A The time of the vacancy, the June 2nd date
9 corresponds with the HMT intern position that was
10 vacated on that date.

11 Q Okay. I see that the status for this
12 vacancy says not submitted. What does that mean?

13 A It was never -- I guess, per the date of
14 this exhibit, it wasn't submitted into RADS.

15 Q Did that have to do with the hiring freeze?

16 A Yes.

17 Q Why have you not submitted it to RADS --
18 well, strike that. Why have you not submitted it for
19 consideration to the hiring freeze board?

20 A We've determined that at this point it's not
21 a priority. We had discussions with the managers and
22 just did not see that as a critical position at this
23 point in time.

24 Q Why is that?

25 A Just justifying it based on overall staffing

1 levels it just doesn't raise to the level of
2 criticality at this point and so we didn't want to put
3 that in to the board.

4 Q How do you know when an office has reached
5 the level of criticality? What does that mean?

6 A For example, we have other offices, data
7 collection offices that only have four people in the
8 office and if they're down one it really creates some
9 stress on the shift schedule so we try to, you know,
10 those become more critical.

11 This one, because we are only down one in an
12 office where we have additional staff and we have, we
13 believe we can make all the shifts without creating
14 any, a situation where we can't meet our mission.

15 Q Does WFO Honolulu have upper air
16 responsibilities?

17 A They do not, no, so HMTs have a little
18 different, they have a different role.

19 Q Okay. Did that factor into your
20 determination process with respect to this vacancy?

21 A Yes. Because we have the data collection
22 offices that do the observations, we don't, the HMTs
23 at the forecast office do not have that
24 responsibility.

25 MS. CIOFFALO: Nothing further.

1 CROSS-EXAMINATION

2 BY MR. HIRN:

3 Q Mr. Gilbert? Yeah, hi. This is Richard
4 Hirn. Were there any other bargaining unit vacancies
5 in the Pacific region other than the forecaster, lead
6 forecaster, and HMT vacancies which you've just
7 discussed which were, became vacant before the hiring
8 freeze but which you did not submit to workforce
9 management?

10 A Yes.

11 Q Could you tell us what they were, and when
12 they became vacant.

13 A Well I don't know if I could describe them
14 all off the top of my head but we do have 15 current
15 vacancies and we did submit, if I remember correctly,
16 a number of them.

17 We did submit at least our top three, which
18 included an assis admin IT position here, at our
19 headquarters, which is critical; we did submit for
20 some HMT positions at our WSO in Pago Pago; and then
21 we did submit, initially at least, for the journeyman
22 forecaster position that I discussed earlier. I don't
23 think we, I don't know if we submitted anything
24 further than that.

25 Q Okay. I think maybe you've misinterpreted

1 my question or answered it the other way around.

2 A Okay.

3 Q I'm trying to find out about positions that
4 were both vacant before the hiring freeze and which
5 you did not submit to workforce management at any time
6 to fill.

7 A Okay. Like I said, there's more on our
8 list. So I know there's a watch standard position, a
9 GS-14 geophysicist position at the Pacific Tsunami
10 Warning Center.

11 Q Do you recall when that -- when was that,
12 when did that become vacant?

13 A That was vacant -- it's been vacant a couple
14 years. It's taken time --

15 Q That was never -- I'm sorry. I'm talking
16 over you. We're speaking at the same time because of
17 the delay.

18 A Okay. So I missed your question then.

19 Q Okay. So one was the watch standard at the
20 Tsunami Warning Center that's been vacant for a number
21 of years, and you testified, correct, that was never
22 submitted to workforce management.

23 A It was not, it was never -- it was submitted
24 in to RADS, but then because of some changing
25 requirements with RADS, I don't think they're, it was

1 never revised. I believe that's just due to the
2 director of the Tsunami Warning Center, who's the
3 hiring official on that one, just has not had a chance
4 to get back to that.

5 Q Okay. Are there any other bargaining unit
6 positions that became vacant before the hiring freeze
7 which were never submitted to workforce management?

8 A Looking down the list. That one stands out.
9 Bargaining unit positions. No. I can't think through
10 all of what's on the list. Like I said, we have 15
11 vacancies but there are, I know I have a bunch of
12 technician in my office that wasn't submitted.

13 There's an ASA at our regional headquarters
14 position for our environmental services science
15 division that was not submitted. Was vacant. The
16 question is that weren't submitted to workforce
17 management --

18 Q Correct.

19 A -- or you're talking about the hiring board?

20 Q No. No. Workforce management.

21 A Those were --

22 Q Let's go back.

23 A Okay. Yeah. So those were, those have been
24 put into the RADS system for processing, but they have
25 not been assigned to an HR advisor, the ones I just

1 mentioned. Sorry.

2 Q Okay. So let me go back up again. I'll
3 start all over because perhaps you misunderstood my
4 question. Are there any bargaining unit positions
5 that became vacant before the hiring freeze which were
6 never submitted to workforce management?

7 A That were never submitted. So I think
8 there's probably two that were, that never got entered
9 into the process at any point in time. Those two
10 positions are a facilities tech position in our
11 Honolulu electronics technical unit, and the budget
12 technician that I just mentioned.

13 Q How long have they been vacant?

14 A They've been vacant for a couple of years.

15 Q And a third position was watch stander at
16 the Tsunami Warning Center. You entered it into RADS,
17 workforce management sent it back for some kind of
18 revision, but the geophysicist in charge never did the
19 paperwork, correct?

20 A Essentially, yes, from my understanding.

21 MR. HIRN: Okay. That's all I have. Thank
22 you.

23 THE WITNESS: Okay.

24 MS. CIOFFALO: Nothing further.

25 ARBITRATOR SHARNOFF: Okay. You're excused

1 as a witness. Thank you very much.

2 MS. CIOFFALO: Thank you, Jason.

3 THE WITNESS: Thank you.

4 (Witness excused.)

5 ARBITRATOR SHARNOFF: All right. Where are
6 you?

7 MS. CIOFFALO: We are done. We have
8 everything.

9 ARBITRATOR SHARNOFF: Okay. So the Agency
10 is resting.

11 MS. CIOFFALO: Correct.

12 ARBITRATOR SHARNOFF: And does the Union
13 have any rebuttal at this point?

14 MR. HIRN: No.

15 ARBITRATOR SHARNOFF: This would be the
16 point.

17 MR. HIRN: No. No. No, thank you.

18 ARBITRATOR SHARNOFF: Okay. All right. Is
19 there anything else that we need to discuss on the
20 record, off the record? Obviously briefing and all
21 that, but any other evidentiary matters or can we get
22 to the briefing?

23 MS. CIOFFALO: No.

24 ARBITRATOR SHARNOFF: All right. Why don't
25 we go off the record.

1 (Whereupon, a short recess was taken.)

2 ARBITRATOR SHARNOFF: Okay. During the off
3 the record discussion we agreed that when the parties
4 get the transcript they will communicate with each
5 other and attempt to come up with a date for the
6 submission of posthearing briefs, to the extent that
7 they can work it out. This goes for any other dates
8 that may come up.

9 To the extent that they can work it out,
10 just work it out and let me know. If we need to
11 discuss a sticking point we can have a conference
12 call. If either side feels they need an extension of
13 time given the voluminous nature of the issues and
14 evidence in this case, just communicate with each
15 other and, again, if you can work it out, that's fine
16 with me.

17 Do not automatically assume that you can put
18 in any evidence other than those documents, charts,
19 graphs, whatever that we've already discussed
20 somewhere on the record.

21 If it's something new that, my God, I didn't
22 put this in, don't automatically put it in. Call. We
23 can have a conference call to see if the record should
24 be reopened to admit that, such a document or whatever
25 the evidence may be. If you want to cite any cases,

1 please send me copies, hard copies of the cases, hard
2 copies of the brief.

3 On reply briefs, don't automatically assume
4 that you can submit a reply brief. Let's have a
5 conference call, discuss whether there will be a reply
6 brief, what issue, how the other side may or may not
7 respond, et cetera.

8 I think that's everything, but anybody think
9 of anything I mentioned before and forgot this time
10 around, or anything either side has thought of that I
11 didn't mention?

12 (No response.)

13 ARBITRATOR SHARNOFF: All right. Hearing
14 nothing, I thank you all for your patience, your
15 cooperation, and we are adjourned.

16 (Whereupon, at 2:14 p.m., the hearing in the
17 above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

DOCKET NO.: FMCS 13-02465-A
CASE TITLE: Arbitration between NOAA and
NWS Employees Organization
HEARING DATE: January 16, 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 16, 2014

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