

1 UNITED STATES OF AMERICA  
2 MERIT SYSTEMS PROTECTION BOARD  
3 Washington Regional Office

4 TERESA C. CHAMBERS, x  
5 :  
6 Appellant, : Docket Number  
7 vs. : DC-1221-04-0616-W-1  
8 :  
9 DEPARTMENT OF INTERIOR, :  
10 :  
11 Agency. x

12 Washington, D.C.

13 Wednesday, August 11, 2004

14 DEPOSITION OF:

15 DONALD W. MURPHY,

16 a witness, was called for examination by counsel  
17 for the appellant, pursuant to Notice and  
18 agreement of the parties as to time and date,  
19 beginning at approximately 8:42 o'clock, a.m., in  
20 the offices of the Public Employees for  
21 Environmental Responsibility, 2001 S Street,  
22 Northwest, Suite 570, Washington, D.C. 20009,  
before Catherine S. Boyd, a Court Reporter and  
Notary Public in and for the District of

1 Columbia, when were present on behalf of the  
2 respective parties:

3 APPEARANCE OF COUNSEL:

4 For the Appellant:

5 KENTUCKY ENVIRONMENTAL FOUNDATION  
6 BY: MICK G. HARRISON, ESQUIRE  
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9 (859) 986-7565

10 For the Agency:

11 McNAMARA & L'HEUREUX, ESQUIRES  
12 BY: ROBERT D. L'HEUREUX, ESQUIRE  
13 1522 King Street  
14 Alexandria, Virginia 22314  
15 (703) 739-1339

16 and

17 U.S. DEPARTMENT OF THE INTERIOR  
18 BY: JACQUELINE JACKSON, ESQUIRE  
19 Attorney-Advisor  
20 Division of General Law  
21 Office of the Solicitor  
22 1849 C Street, Northwest  
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(202) 208-6848

ALSO PRESENT

TERESA CHAMBERS, Appellant  
RICHARD CONDIT, ESQUIRE  
JEFFREY P. RUCH, Public Employees for  
Environmental Responsibility

1       what are called the knowledge, skills, and  
2       abilities -- KSAs.

3           Q.   And that would have gone out to the  
4       candidates?

5           A.   That's correct.

6           Q.   Okay.  Was there any job description  
7       that you prepared for the chief of the United  
8       States Park Police subsequent to Ms. Chambers  
9       taking that position?

10          A.   No.

11          Q.   Okay.  To your knowledge, was there any  
12       job description prepared subsequent to Ms.  
13       Chambers taking that position by any person other  
14       than yourself?

15          A.   No.

16          Q.   Have you prepared a written performance  
17       appraisal for Ms. Chambers in her position as the  
18       chief since she took that job?

19          A.   Yes.

20          Q.   And that was a written appraisal?

21          A.   Yes.

22          Q.   And what form did it take?  Was it a

1 narrative? Was it --

2 A. It was a narrative.

3 Q. Okay. Was it titled a job appraisal?

4 Performance appraisal?

5 A. It was just titled performance  
6 appraisal.

7 Q. And was it communicated to Ms. Chambers?

8 A. No.

9 Q. Okay. And when do you recall preparing  
10 that?

11 Let me rephrase that question while  
12 you're thinking.

13 Did you first -- let me ask you did you  
14 prepare it?

15 Were you the one who prepared it?

16 A. Yes.

17 Q. Okay. Then go ahead and think about  
18 when you prepared it.

19 A. It was in the summer, around the summer,  
20 late summer of 2003.

21 Q. Okay. Now Ms. Chambers came on into the  
22 position of chief around February of 2002, is

1           that correct?

2           A.    That's correct, somewhere around there.

3           Q.    Okay.  So you don't recall preparing a  
4           performance appraisal for Ms. Chambers in her  
5           first calendar year of work or first 12 months of  
6           work?

7           A.    No.

8           Q.    Do you know why this particular  
9           appraisal was not communicated to Ms. Chambers?

10          A.    It was simply a matter of scheduling.  
11          We often prepared things, had things that we  
12          tried to schedule.

13                 There wasn't any other reason than that.

14          Q.    Okay.  Is there a particular document, a  
15          final or a draft?

16          A.    It was, it was a final.  It was going to  
17          be -- we would have sat down and discussed it.

18                 I had put it in final form.

19          Q.    Had this document been communicated to  
20          any person other than yourself once it was  
21          prepared?

22          A.    Yes.

1 Q. And who had seen it?

2 A. Our Human Resources office.

3 Q. Okay. And how did they come to see it?

4 A. They have the forms. I prepare that in  
5 conjunction with the Human Resources office.

6 They review it to make sure it's proper,  
7 appropriate, and I followed all of the right  
8 protocols.

9 Q. Okay. So you gave it to them for that  
10 purpose?

11 A. Yes.

12 Q. And were you given a form or a format to  
13 use, or did you prepare that yourself?

14 A. No. We're given a format. It's a  
15 fairly standard format.

16 Q. Did someone ask, encourage, or invite  
17 you to prepare an appraisal for Ms. Chambers at  
18 that time?

19 A. No.

20 Q. It was on your own initiative?

21 A. Yes.

22 Q. And when did you first begin working on

1       that draft of the appraisal before it became  
2       final?

3           A.    I don't remember the exact date.  Again,  
4       it was some time during the late summer.

5           Q.    Of 2003?

6           A.    2003, yes.

7           Q.    All right.  Was there anything that  
8       prompted you to begin that appraisal given that  
9       you had not done an appraisal the prior calendar  
10      year?

11          A.    No, not in particular.

12          Q.    You were doing it as a matter of  
13      routine?

14          A.    That's correct.

15          Q.    Had the personnel office, the Human  
16      Resources office, communicated with you in any  
17      manner regarding the absence of a performance  
18      appraisal for Ms. Chambers for her first 12  
19      months or more?

20          A.    No.

21          Q.    Okay.  Who in the Human Resources office  
22      saw the document that you prepared as a

1 performance appraisal for the chief?

2 A. The personnelist is no longer with us.  
3 It's, I believe, I'm not sure if I'm absolutely  
4 correct about this, but it would have been Terrie  
5 Fajardo.

6 Q. And is that a male or female?

7 A. It's a female.

8 Q. Female -- okay. And is Terrie still  
9 with the Human Resources?

10 A. No, she's not.

11 Q. Is she still with the Department of  
12 Interior?

13 A. No, she's not.

14 Q. Do you know where she might be employed?

15 A. She's retired.

16 Q. Oh, she retired. Okay. Do you know  
17 when she left?

18 A. Probably in April, March or April of  
19 2004.

20 Q. All right. She's been retired for a few  
21 months.

22 Does she still reside in the District of



1 Columbia area?

2 A. I don't know.

3 Q. Was there anyone else in Human Resources  
4 who would have seen the performance appraisal  
5 you're referring to for the chief?

6 A. Not that I know of.

7 Q. Okay. That would include anyone in the  
8 Human Resources office?

9 A. Not that I know of.

10 Q. No attorneys, for example, would have  
11 seen it?

12 A. No.

13 Q. All right. The information in this  
14 appraisal would have reflected the chief's  
15 performance for what time period exactly?

16 A. Well, it would have been for, I prepared  
17 it for the period that would have ended around  
18 the end of the fiscal year, October, so it would  
19 have been for the, like the previous September  
20 through, through the following September, would  
21 have been roughly for that period, so 2003  
22 through 2004, or 2002 through 2003.

1                   Excuse me.

2                   Q.    So you intended it to be for the chief's  
3                   performance for the fiscal year?

4                   A.    Yeah, approximately.

5                   Q.    Like September to October, something  
6                   like that?

7                   A.    Yes.

8                   Q.    Maybe October through September,  
9                   depending on how you calculate those dates?

10                  A.    Yes.

11                  Q.    Okay.  Now you had it basically in final  
12                  form by July of 2003 you think?

13                  A.    Yes, somewhere around there.

14                  Q.    Okay.  So the document would not have  
15                  reflected performance for August, September, or  
16                  October of 2003?

17                  A.    No.

18                  Q.    But perhaps the months prior to, say  
19                  nine to twelve months prior?

20                  A.    Yes.

21                  Q.    Okay.  And you had not yet sat down with  
22                  the chief to talk about it?

1           A.    No, I had not.

2           Q.    Okay.  Had you received any input from  
3           the chief in any manner regarding that  
4           performance appraisal?

5           A.    No.

6           Q.    Had you formally solicited any input  
7           from any other party regarding that performance  
8           appraisal?

9           A.    No.

10          Q.    Do you know whether any person other  
11          than Terrie from the Human Resources office was  
12          aware that you had prepared it?

13          A.    No.

14                   (There was a pause in the proceedings.)

15                   BY MR. HARRISON:

16          Q.    Do you recall getting a communication  
17          from Ms. Debbie Weatherly any time in November of  
18          2003 regarding the communication that Chief  
19          Chambers had with Ms. Weatherly?

20          A.    Yes.

21          Q.    All right.  And I take it you know who  
22          Ms. Weatherly is?