



Washington

Group

February 13, 2001

Mr. Theodore R. Quay
U.S. Nuclear Regulatory Commission
NRC Branch Chief
Quality Assurance
Vendor Inspection Maintenance and Allegations Branch
Mail Stop 06F2, One White Flint North
11555 Rockville Pike
Rockville, MD 20852

Re: Confirmatory Order Commitments

Dear Mr. Quay:

This letter will advise you of activities and recent developments related to the Confirmatory Order issued on November 24, 1999 to Morrison-Knudsen Corporation and SGT, Inc. As this letterhead reflects, Morrison-Knudsen Corporation changed its name during the past year to Washington Group International, Inc. (WGI), following the acquisition of Raytheon Engineers & Constructors, Inc. and Raytheon Nuclear, Inc. Some of the acquired assets involve activities within the NRC's regulatory jurisdiction, and we describe below our actions and plans for applying the commitments in the Order to our expanded scope.

Activities at Sites Covered by Confirmatory Order

Pursuant to the Order, surveys were performed during 2000 at the Cleveland Home Office (CHO) and projects operating at Calvert Cliffs, Oconee, Indian Point and Waltz Mill. The completed survey forms were previously provided to you. We will be repeating the surveys at CHO, Calvert Cliffs and Oconee during the first quarter of 2001. The Indian Point project has been completed, and our involvement at Waltz Mill is expected to terminate in June, so no further surveys will be performed at those sites. As before, all completed survey forms will be submitted in accordance with the Order.

Following the survey performed in 2000 at the Waltz Mill site, WGI pursued additional steps to address concerns prompted by a few of the survey responses. WGI, in cooperation with the licensee (Westinghouse) and the health physics contractor (GTS Duratek) conducted an investigatory audit, and identified a number of additional steps to be taken to strengthen the employee concerns program at the site. These steps were

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documented and tracked on an action item list, and all the recommended items were completed last year.

Our consultant reviewed training materials for use at these sites, and the enhanced training has been provided at the CHO, Waltz Mill, Calvert Cliffs, Oconee and Indian Point sites during 2000. Pursuant to the Confirmatory Order, training will be repeated this year at CHO, Calvert Cliffs and Oconee. In addition, the other elements of the Order will continue to be implemented at those sites in accordance with our commitments.

Expanded Activities at Newly-Acquired Sites

The purchase of Raytheon Engineers and Constructors (RE&C) by Morrison Knudsen was finalized in July 2000. M-K also acquired a wholly owned subsidiary of RE&C, Raytheon Nuclear Inc. which was the organization utilized for providing services to nuclear industry clients. These services consist of engineering, inspection and testing, maintenance support and related technical activities. Approximately 125 engineers and technical support personnel are based in three offices, located in Downers Grove, IL, Princeton, NJ and Denver, CO. Those facilities will be treated in the same manner as the CHO under the Confirmatory Order.

Additional engineering personnel (approximately 70) are seconded to client (licensee) organizations at approximately 12 nuclear sites in the United States and Canada. The majority of these sites have less than five WGI engineers, although there are approximately 30 currently assigned at the Fermi site. WGI does not provide supervision of its personnel at these sites, as the engineers are trained and supervised by the licensee. They perform their duties in accordance with licensee programs and procedures. For these personnel, WGI will continue to rely on the licensee for training related to 10 CFR §50.7 and access to employee concerns programs. WGI will also provide each of these seconded engineers with a written notice of the availability of the WGI hotline as an alternative method for raising concerns.

WGI also provides outage support personnel in the areas of maintenance, inspection and testing at various licensee facilities. WGI currently has approximately 40 contracts for such services. Hourly employees drawn from a pool are solicited to work on these outages. In some instances, a small number of WGI personnel (typically less than 10) remain at the site between outages. As with the seconded engineers, WGI will continue to rely on the licensee's program for training in 10 CFR §50.7 and access to employee concerns programs. For those seconded engineers and outage support personnel described above, where we rely on the licensee's program, we will not be implementing cultural assessments, exit interviews or audits of the program.

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Those supervisory personnel who are stationed at WGI's Princeton office will be included in the program prescribed in the Confirmatory Order for the CHO. We will also include selected site supervisory personnel in the training to be conducted at Princeton.

New Program Manager

Responsibility for WGI's Employee Concerns Program and activities under the Confirmatory Order has been reassigned following the Raytheon acquisition. The new Program Manager is Mr. Barry Scott. Mr. Scott continues to serve as the Quality Assurance Director for WGI's Power Group, and is stationed at our Princeton office. Questions regarding the Program or this letter may be addressed to him at barry.scott@wgint.com or (609) 720-2790.

Sincerely,



Thomas H. Zarges
President, Washington Power



William A. Fox
President, SGT, Inc.

September 24, 1999

EA 98-081

Mr. Thomas H. Zarges
President and CEO
Morrison Knudsen Corporation
MK Ferguson Plaza
1500 West Third Street
Cleveland, OH 44113-1406

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)

Dear Mr. Zarges:

The enclosed Confirmatory Order is being issued to Morrison Knudsen (MK) and its affiliate, SGT, LLC, (SGT) in order to confirm certain commitments, as set forth in Section V of the Order, and to ensure that MK's process for addressing employee protection and safety concerns will be enhanced. In view of the Confirmatory Order, and your consent to these commitments described in Mr. Patrick Hickey's letter dated July 23, 1999, the NRC staff is exercising its enforcement discretion pursuant to Section VII.B.6 of the NRC Enforcement Policy and will not issue a Notice of Violation or a civil penalty in this case. In addition, by correspondence dated August 9, 1999, MK and SGT, LLC, have consented to the issuance of the Confirmatory Order and waived their right to request a hearing on all or any part of the Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalties.

Questions concerning this Order should be addressed to Mr. Michael Stein, Office of Enforcement, who can be reached at (301) 415-1688. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

Sincerely,

Frank Miraglia
Deputy Executive Director
For Reactor Programs

Enclosure: Confirmatory Order (Effective Immediately)

cc w/enclosure:
Patrick Hickey, Esq.
M. Reddemann, Site Vice President
Point Beach Nuclear Plant

UNITED STATES
NUCLEAR REGULATORY
COMMISSION

In the Matter of

EA 98-081

Morrison Knudsen
SGT, LLC

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CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

I

Morrison Knudsen (MK) is a construction engineering firm with operation at multiple reactor and nuclear materials facilities regulated by the U.S. Nuclear Regulatory Commission (NRC or Commission). MK headquarters is located in Cleveland, Ohio. SGT, LLC (SGT) is an affiliate of MK involved in the steam generator replacement projects for MK.

II

On March 13, 1997, the NRC Office of Investigations (OI) initiated an investigation to determine if a former Corporate Group Welding Engineer (GWE) for MK had been discriminated against for raising safety concerns. In its report issued on February 6, 1998 (OI Case No. 3-97-013), OI concluded that there was sufficient evidence to substantiate that discrimination occurred. Specifically, OI concluded that the GWE's identification of deficiencies in welding procedures by MK and SGT employees at the Point Beach Nuclear Plant was at least a contributing factor in MK's decision to remove him from his position as MK Corporate GWE on January 15, 1997. In addition, in a decision issued on October 28, 1997, a Department of Labor (DOL) Administrative Law Judge (ALJ), in DOL Case No. 97-ERA-34, determined that the removal of the GWE was in retaliation for his engaging in protected activity. Subsequently, on May 21, 1998, the ALJ approved a settlement agreement between the GWE and MK.

On January 27, 1999, a predecisional enforcement conference was held between MK and the NRC staff to discuss the apparent violation of the NRC's employee protection requirements (10 CFR 50.7). MK retained the services of a law firm to perform an independent investigation. MK submitted the report of this investigation and additional materials to the NRC for review in support of its position that the removal of the GWE was based upon legitimate performance considerations and not upon the GWE having engaged in protected activity. While MK and SGT⁽¹⁾ do not agree that a violation of the Energy Reorganization Act, as amended, or the Commission's regulations occurred, in response to the DOL and OI findings, MK and SGT have agreed to take the actions as described in Section V of this Order.

III

MK, and its affiliate SGT, have agreed to take certain actions to assess the work environment at their corporate headquarters and temporary nuclear reactor and materials job sites. Specifically, MK and SGT have committed to conduct a comprehensive cultural assessment to be performed by an independent consultant and to utilize the results of such an assessment to improve their employee concerns program and to implement a mandatory continuing training program for all supervisors and managers. The training program will have the objectives of reinforcing the importance of maintaining a safety conscious work environment and of assisting managers and supervisors in responding to employees who raise safety concerns in the workplace. MK and SGT agreed to include in such training the requirements of 10 CFR 50.7, including, but not limited to, the definition of protected activity and discrimination, and appropriate responses to the raising of safety concerns by employees. MK and SGT also agreed that such training will be conducted by an independent trainer with expertise in employee concerns programs and employee protection requirements in the nuclear

industry.

In addition, MK and SGT also have committed to taking the following corrective action to ensure that employees feel free to raise safety concerns without fear of retaliation: (1) posting this Confirmatory Order and the employee protection requirements of Section 211 of the Energy Reorganization Act, as amended, and NRC Form 3, at all MK and SGT temporary nuclear reactor and materials job sites and at the MK corporate headquarters in Cleveland, Ohio; (2) implementing the recommendations of the independent third party assessment to improve the MK and SGT employee concerns program; (3) conducting periodic updates of an employee cultural survey developed by an independent contractor to ensure that MK and SGT employees feel free to raise safety concerns without fear of retaliation; and (4) expanding the current MK and SGT exit surveys to include safety conscious work environment issues and to conduct exit surveys of their permanent and contract employees to ensure that such employees feel free to raise safety concerns while employed by MK or SGT.

IV

Since MK and SGT have committed to taking comprehensive corrective actions as set forth below, and since MK and SGT have committed to monitor the work environment and to promote an atmosphere conducive to the raising of safety concerns by employees without fear of retaliation by implementing this Confirmatory Order, the NRC staff has determined that its concerns regarding employee protection at MK corporate headquarters and at MK and SGT temporary nuclear reactor and materials job sites can be resolved through NRC's confirmation of MK and SGT commitments as outlined in this Order. Accordingly, the staff is exercising its enforcement discretion pursuant to Section VII.B.6 of the NRC Enforcement Policy and will not issue a Notice of Violation or a civil penalty in this case.

By letter dated July 9, 1999, MK and SGT consented to issuance of this Order with the commitments described in Section V below. By letter dated August 9, 1999, MK and SGT waived any right to a hearing on this Order. MK and SGT further consented to the immediate effectiveness of this Order.

I find that MK and SGT's commitments, as set forth in Section V below, are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that these commitments be confirmed by this Order. Based on the above, and MK and SGT's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. MK and SGT shall hire an independent consultant to conduct audits, to review the MK and SGT Employees Concerns Program (ECP), and to conduct training for MK and SGT supervisors and managers as discussed below in Condition #2 of this Order. MK and SGT will hire this independent consultant, with experience in ECPs, to also conduct an independent evaluation of MK's and SGT's ECP to be completed by March, 2000. MK and SGT shall inform the NRC by November 1, 1999, as to the identity of its independent consultant. MK and SGT shall either implement the recommendations outlined by the consultant to ensure a safety conscious work environment exists at MK and SGT corporate and temporary nuclear reactor and materials job sites or explain to the NRC why it cannot implement such recommendations outlined by the consultant. MK and SGT shall provide the report of recommendations of their independent consultant by March, 2000 to the NRC Branch Chief, Quality Assurance, Vendor Inspection, Maintenance and Allegations Branch, Office of Nuclear Reactor Regulation at U.S. NRC, Mailstop O-9A1, Washington DC 20555.
2. MK and SGT will conduct mandatory continuing training programs on an annual basis beginning

in the calendar year 2000 for all MK and SGT supervisors and managers at their corporate and temporary nuclear reactor and materials job sites. All temporary craft and permanent MK and SGT employees shall receive initial employee protection training as part of their access program or orientation when they begin work at an MK or SGT job site. The independent consultant, as outlined in Condition #1 of this Order, will approve this training. The training program for supervisors and managers should be conducted by an independent trainer as approved by the independent consultant, if the consultant does not conduct such training, and include:

(A) Annual training on the requirements of 10 CFR 50.7, or similar regulations, through at least calendar year 2002, including, but not limited to, what constitutes protected activity and what constitutes discrimination, and appropriate responses to the raising of safety concerns by employees. Such training shall stress the freedom of employees in the nuclear industry to raise safety concerns without fear of retaliation by their supervisors or managers.

(B) Scheduled training on building positive relationships and conflict resolution. The training program will have the objective of reinforcing the importance of maintaining a safety conscious work environment and assisting managers and supervisors in dealing with conflicts in the work place in the context of a safety conscious work environment at MK and SGT and at their temporary nuclear reactor and materials job sites.

3. MK and SGT will integrate, into their overall program for enhancing the work environment and safety culture at their corporate headquarters and their temporary nuclear reactor and materials job sites, a cultural assessment survey (i.e. questionnaire) developed by the independent consultant. The time frame for integration of cultural assessments into the ECP shall be submitted, to the NRC Branch Chief mentioned in Condition #1 of this Order, by the MK and SGT independent consultant. MK and SGT agree to conduct at least three additional annual assessments. These audits should be geared toward ensuring that employees are aware of the provisions of 10 CFR 50.7, or similar regulations, are willing to come forward and report safety concerns when appropriate, and know how to implement the ECP (e.g. that the existence of the safety concerns hotline is well known to all employees). MK and SGT also agree to conduct audits at their temporary nuclear reactor and materials job sites soon after the initial staffing of the sites and periodically afterwards as warranted. Lastly, MK and SGT also agree to expand their exit survey to include safety conscious work environment issues and to conduct exit surveys of their permanent corporate employees and contract employees so as to ensure that all employees feel free to raise safety concerns without fear of retaliation. The questionnaires, audits, surveys, and the resulting analysis reports of these ECP documents will be submitted to the NRC for review for a period of three years from the date of this Order by sending the materials to the NRC contact stated in Condition #1 of this Order. MK and SGT will provide information to the NRC pertaining to any follow-up actions to address issues raised by the survey and audit results.

4. Following the issuance of this Confirmatory Order, MK and SGT will issue and post this Confirmatory Order, Section 211 of the Energy Reorganization Act, as amended, and NRC Form 3, to inform all of its employees of this Confirmatory Order, as well as their right to raise safety concerns to management and to the NRC without fear of retaliation. These publications shall also be posted at all temporary nuclear reactor and materials job sites and at the companies' corporate headquarters.

The Director, Office of Enforcement may relax or rescind, in writing, any of the above conditions upon a showing by MK and SGT of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than MK or SGT, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted

to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532-4351, and to MK and SGT. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order shall be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceeding. If an extension of time requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR A HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER

FOR THE U.S. NUCLEAR REGULATORY
COMMISSION

Frank Miraglia
Deputy Executive Director
For Reactor Programs

Dated at Rockville, Maryland
this 24th Day of September, 1999

1. Both MK and SGT employees were involved in the alleged discrimination against the MK Corporate Group Welding Engineer.