

June 21, 2000

Dr. Benjamin Pellegrini
[]
Mason & Hanger Corporation
P.O. Box 30020
Amarillo, TX 79120-0020

EA 2000-07

Subject: Consent Order Incorporating Agreement between U.S. Department of Energy
and Mason & Hanger Corporation

Dear Dr. Pellegrini:

This letter refers to the Department of Energy's (DOE) evaluation of the facts and circumstances presented to DOE by Mason & Hanger Corporation's (M&H or the contractor) internal evaluation of the Building 12-79 HPFL Valve Misposition at the Pantex Plant, which was identified on November 19, 1999.

In January 1998, the contractor identified a systemic problem at the site in Building 12-98 when it was determined that certain high-pressure fire suppression valves were left in the closed position, which would have prevented their activation in the event of a fire. The contractor recognized this as a noncompliance with the work processes section of the quality assurance nuclear safety rule, 10 CFR 830.120 (c)(2)(i). M&H developed a comprehensive corrective action plan consisting of 23 corrective actions and completed implementation of its plan on July 29, 1999. The Amarillo Area Office completed an evaluation of the contractor's actions in September 1999 and concluded that (a) the corrective action plan was appropriately comprehensive and (b) the corrective actions had been successfully implemented. The noncompliance was closed on November 4, 1999.

A similar problem was identified by the contractor on November 19, 1999, in Building 12-79, which Mason & Hanger also promptly reported to DOE (See NTS-ALO-AO-MHSM-PANTEX-2000-0005 and ORPS report ALO-AO-MHC-PANTEX-1999-0083) and designated the internal audit and assurance group to conduct an independent evaluation of the matter. That group completed a comprehensive review of this matter on February 2, 2000, concluding that M&H failed to maintain all of the corrective actions put in place in its original corrective action plan and that there were weaknesses in various administrative procedures for assuring system configuration and operability. A new corrective action plan has been developed by M&H to address the additional findings of the internal audit and assurance group.

DOE has concluded that M&H has disclosed all relevant facts, and it understands both the programmatic and safety significance of this matter. In light of the comprehensive nature of the contractor's investigation, DOE concludes that any further investigation is unnecessary and unwarranted. Further, the corrective actions and heightened attention to these issues allowed the contractor to immediately identify and correct another work process issue in Building 12-84.

Although DOE has a concern about the recurring nature of these issues, M&H has been forthcoming with respect to identification of the programmatic problem and its past failure to adequately address the problem to prevent recurrence. Additionally, the identification and correction of the subsequent event is directly attributable to increased management focus on this matter. M&H conducted an investigation that fully acknowledged its role and responsibility in the programmatic failure. It is in the public interest to encourage this type of response to programmatic deficiencies. In order to encourage such full disclosure and responsiveness in the future, DOE has elected to issue the enclosed Consent Order in accordance with 10 CFR 820.23, in lieu of enforcement proceedings, including a possible Notice of Violation and/ or civil penalties. With this Consent Order, Mason & Hanger has agreed to remit a \$75,000 monetary remedy in recognition of its programmatic work control problems and the failure to remedy the issue in 1999.

No written response to this letter is required. As provided in the enclosed Consent Order, Mason & Hanger will remit the \$75,000 monetary remedy payable to the Treasurer of the United States.

In accordance with the terms and conditions of the enclosed Consent Order, any required changes to corrective action completion dates regarding this matter must receive prior written approval from the Manager, DOE Amarillo Area Office. The original Consent Order signed by the parties has been filed with the Office of the Docket Clerk in the Office of Enforcement and Investigation.

Sincerely,



R. Keith Christopher
Director
Office of Enforcement and Investigation

Enclosure: Consent Order

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

cc: B. Costner, S-1
D. Michaels, EH-1
M. Zacchero, EH-1
S. Carey, EH-1
H. Wilchins, EH-10
D. Stadler, EH-2
N. Goldenberg, EH-3
J. Fitzgerald, EH-5
T. Gioconda, DP-1
D. Minnema, DP-45
R. Glass, DOE-AL
B. Eichorst, DOE-AL PAAA Coordinator
D. Glenn, AAO
J. Bernier, DOE-AAO PAAA Coordinator
M. Reaka, DOE-AAO PAAA Coordinator
D. Turcotte, M&H Contractor PAAA Coordinator
R. Azzaro, DNFSB
Docket Clerk, EH-10



U.S. DEPARTMENT OF ENERGY

Office of Enforcement and Investigation

In The Matter of) Report No. NTS-ALO-AO-MHSM-PANTEX-2000-0005
Mason & Hanger Corporation)
Pantex Plant) Enforcement Action 2000-07

CONSENT ORDER INCORPORATING AGREEMENT BETWEEN U.S. DEPARTMENT OF ENERGY AND MASON & HANGER CORPORATION

I

Mason & Hanger Corporation (M&H) is the Department of Energy's (DOE) management and operating contractor at the DOE Pantex plant in Amarillo, Texas. M&H is responsible for all activities related to the work at the plant, including all work related to nuclear safety.

II

In January 1998, M&H identified a problem in Building 12-98 at the site, wherein the sectional post indicator valve for the high pressure fire loop supplying two cells in the building was in the closed position contrary to the facility's design and operating requirements. Thus, in the event of an occurrence requiring the activation of the sprinkler system, that system would fail to properly function. M&H reported the matter on the DOE noncompliance tracking system (NTS-ALO-AO-MHSM-PANTEX-1998-0003) and developed a comprehensive sitewide corrective action plan to provide reasonable assurance there would be no recurrence of this problem. On July 29, 1999, M&H reported to DOE that all corrective actions had been successfully implemented. The DOE Amarillo Area Office independently confirmed implementation of corrective actions and recommended closure of the matter on November 3, 1999. The noncompliance (NTS report) was closed by the Office of Enforcement and Investigation on November 4, 1999.

III

On November 19, 1999, M&H identified that a lead-in post indicator valve for the high pressure fire loop in Building 12-79 had been left in the closed position for a period of four days, contrary to established regulatory requirements, and immediately convened a

team to provide an independent assessment of the matter. Among other things, the assessment report, which was completed on February 2, 2000, found that fire department personnel informally suspended, with no replacement procedures or processes, six of the sub-actions of the twenty-two actions reported to DOE as complete. Further, no replacement procedures or processes were put in place to mitigate this failure. The team performing the assessment concluded that additional procedures were not necessary but that corrective actions needed to be developed and implemented for accountability of responsible personnel. The corrective actions included training, mentoring and the risk of termination for those individuals who fail to adhere to necessary procedural compliance.

IV

On April 11, 2000, M&H identified an additional similar incident in Building 12-84, in which the outside screw and yoke valve on the deluge system was not repositioned to the fully opened position (ORPS Report ALO-AO-MHC-PANTEX-2000-0036). This incident occurred subsequent to the retraining of responsible personnel. M&H took immediate appropriate disciplinary action in response to the incident.

V

DOE has evaluated the independent assessment and has concluded that its findings and conclusions are comprehensive. DOE has concluded that all relevant facts have been fully and accurately disclosed, including the identification of potential violations of nuclear safety requirements in the area of quality assurance. Further, DOE has concluded that Mason & Hanger will take all action necessary to control or eliminate the programmatic safety risks emerging from this problem. In short, DOE has concluded that an additional independent investigation into these matters by the Office of Enforcement and Investigation is unnecessary and unwarranted.

VI

DOE has evaluated and confirmed the comprehensive nature of the corrective actions completed and the schedule of those corrective actions that remain to be completed in the captioned NTS report. In consideration of the foregoing, DOE and M&H have reached an agreement on this matter under which both have agreed to issuance of this Consent Order to avoid potentially protracted and unnecessary additional investigation by DOE and possible enforcement proceedings, including the issuance of a Notice of Violation with the imposition of civil penalties. DOE and M&H agree that in recognition of the response by M&H in this matter, the payment provided by M&H in lieu of fines and penalties is less than the amount that could have been imposed as fines and penalties if this action concluded with a formal enforcement process. The relevant sections of nuclear safety rules that may have been involved in such an enforcement process include 10 CFR 830.120(c)(1)(ii), 10 CFR 830.120(c)(1)(iii), 10 CFR 830.120(c)(2)(i) and 10 CFR 820.11.

VII

DOE acknowledges that M&H's execution of and payment in accordance with this Consent Order does not constitute or imply admission by M&H of potential regulatory violations. Both DOE and M&H agree that the sum paid by Mason & Hanger to resolve this matter does not constitute a reimbursable cost.

VIII

This Consent Order is issued under DOE's authority in Section 234A of the Atomic Energy Act of 1954, as amended (42 USC 2282a), and 10 CFR 820.23. M&H agrees to pay the sum of \$75,000 to the Treasurer of the United States (Account Number 891099), mailed to the Director, Office of Enforcement and Investigation, U.S. Department of Energy, in lieu of any subsequent investigation, Notice of Violation, and imposition of civil penalty.

This Consent Order does not preclude DOE from investigating or pursuing enforcement action against M&H for (1) cases other than that described in the captioned noncompliance report or (2) failure to implement the corrective actions outlined in their plans as described in the referenced noncompliance report.

DOE agrees that it will not pursue an enforcement action and civil penalty for any potential violations pertaining to the referenced matters. DOE may subsequently consider enforcement action if it later becomes known that any of the facts or information provided, regarding the described events, were knowingly false or inaccurate in any material way.

ACCORDINGLY, It is hereby Ordered as follows:

1. In accordance with its authority under the Atomic Energy Act of 1954, as amended (42 USC 2282a) and 10 CFR 820.23, DOE issues this Consent Order. In accordance with the terms set forth herein, M&H will complete the corrective actions set forth in NTS-ALO-AO-MHSM-PANTEX-2000-0005. Any extensions of time proposed for completion dates established in the NTS report requires the prior written approval of the Manager, DOE Amarillo Area Office. Any subsequent failure to timely complete such corrective actions may, in the sole discretion of DOE, constitute sufficient basis to open an investigation with respect to the subject potential violations.
2. M&H agrees to pay \$75,000 to the Treasurer of the United States within 15 days of the issuance of this Order. It shall be mailed to the Director, Office of Enforcement and Investigation, U.S. Department of Energy, P.O Box 2225, Germantown, MD 20874-2225, Attention: Office of the Docketing Clerk.
3. Completion of all corrective actions to the satisfaction of DOE and the payment made to DOE under this Consent Order shall completely resolve and serve as full

and final settlement of any and all enforcement actions that could potentially be taken under 10 CFR 820, arising from the referenced NTS report.

4. This Consent Order shall become a Final Order upon receipt of said amount referenced in Section 2, above.
5. M&H hereby waives any and all rights to appeal or otherwise seek judicial review of this Consent Order. However, both DOE and M&H retain the right to judicially enforce the provisions of this Order by all legal means.
6. This constitutes an agreement to which there is mutual agreement and does not constitute a directive requiring the signature of the NNSA Administrator.

On behalf of my respective organization, I hereby agree to and accept the terms of the foregoing Consent Order.

FOR U.S. Department of Energy

R. Keith Christopher 6/20/00

 R. Keith Christopher
 Director
 Office of Enforcement and
 Investigation

FOR DOE Area Office

_____/ /
 Daniel Glenn
 DOE Area Office Manager
 Amarillo Area Office

FOR Mason & Hanger Corporation

_____/ /
 Benjamin J. Pellegrini
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 Pantex Plant