

**UNITED STATES OF AMERICA**  
**NUCLEAR REGULATORY COMMISSION**  
**OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS**  
**Martin J. Virgilio, Director**

In the Matter of	)	Docket No. 70-698
	)	
	)	
Westinghouse Electric Company LLC	)	License No. SNM-770
	)	
Waltz Mill Service Center, Madison, PA	)	10 CFR 2.206

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**DIRECTOR'S DECISION UNDER 10 CFR 2.206**

**I. Introduction**

By letter dated October 30, 2002, Viacom, Inc. ("Viacom") filed a Petition pursuant to Title 10 of the *Code of Federal Regulations*, Section 2.206. The Petitioner requested that the U.S. Nuclear Regulatory Commission (NRC) issue an Order to Westinghouse Electric Company LLC ("Westinghouse"), the holder of license SNM-770 on the Waltz Mill Service Center near Madison, PA, which would require Westinghouse to:

- (1) provide certain radiological survey data to NRC which NRC has requested, and;

(2) accept under SNM-770 certain residual byproduct materials (within the structural material) now held under Viacom license TR-2 and located at the former Westinghouse Test Reactor (WTR) facility at the Waltz Mill Service Center.

As the basis for the request, Viacom states that Westinghouse's refusals to provide the survey data and to accept the residual byproduct materials now held under license TR-2 violates enforceable commitments made to the NRC. Viacom also states that, alternatively, Westinghouse's refusals constitute a violation of 10 CFR 50.5, *Deliberate misconduct*, which causes Viacom to be in violation of a license condition, the approved Decommissioning Plan (DP) for the WTR. The requests for orders are not based on any imminent health and safety concern at the Waltz Mill Service Center.

In a separate letter dated October 29, 2002, Viacom applied to the NRC to issue two orders, requesting that the NRC: (1) terminate the 10 CFR 50 portion of the TR-2 license, and; (2) declare that all of Viacom's obligations under the DP have been satisfactorily completed, except for submission of the survey data and transfer of the TR-2 residual materials to the SNM-770 license. Although Viacom makes reference to the October 29, 2002, application in the §2.206 Petition, NRC did not consolidate the October 29, 2002, application for orders with the Viacom request for action under 10 CFR 2.206 because they are requests for actions concerning the Viacom TR-2 license and do not ask for enforcement action under 10 CFR 2.206 against Westinghouse, the holder of the SNM-770 license.

In a letter dated December 20, 2002, the SNM-770 Licensee, Westinghouse, responded to the October 30, 2002, Viacom §2.206 Petition and the separate Viacom requests for orders dated October 29, 2002.

The Petitioner and the Licensee both participated in a meeting with the NRC's Office of Nuclear Material Safety and Safeguards (NMSS) Petition Review Board (PRB) on February 20, 2003. At this meeting, the Petitioner provided additional information concerning the bases for the Petition, and the Licensee provided additional information concerning their response to the Petition. The written presentations of the parties, as well as the transcript of this meeting, have been treated as a supplement to the Petition and are available in the Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the internet at <http://www.nrc.gov/reading-rm.html>. The ADAMS Accession Number for the presentations and the transcript is ML030620600. If you do not have access to ADAMS or there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

In a letter dated March 13, 2003, the NRC staff informed the Petitioner that its request for NRC to issue an Order to Westinghouse would be reviewed under 10 CFR 2.206, and that this review would be conducted by NMSS and the Office of Nuclear Reactor Regulation (NRR).

In a letter dated March 26, 2003, Westinghouse informed the NRC that it would be submitting supplemental information concerning its December 20, 2002, response to the original Petition, and that this information would be submitted by May 5, 2003. On March 28, 2003, Viacom submitted an objection to the Commission accepting the supplemental information from Westinghouse and considering it with the Petition evaluation. NRC responded to the Westinghouse letter and the Viacom objection in a letter dated April, 14, 2003, asking Westinghouse to submit the supplemental information by April 18, 2003. The Westinghouse supplemental information was received by the NRC on April 14, 2003. Viacom submitted comments on the Westinghouse supplemental information on April 22, 2003. Westinghouse submitted a second supplemental response to the Viacom Petition on April 28, 2003.

In a letter dated May 20, 2003, Westinghouse informed the NRC that the data referred to in the first of the requested actions of the Viacom §2.206 Petition was being made available to Viacom on Tuesday, May 27, 2003. Viacom replied to this letter on May 23, 2003, requesting that NRC take note of Westinghouse's continuing refusal to provide the data to NRC.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to the Licensee for comment on June 18, 2003. The Petitioner and the Licensee responded with comments on July 11, 2003. The comments and the NRC staff's response to them are included in the decision.

In its comments submitted on the proposed Director's Decision, Viacom states that the data that is the subject of its first request for an Order in the 2.206 petition has been received from Westinghouse, and that it is in the process of reviewing it for completeness, after which it will be given to the NRC. Thus, Viacom states that this aspect of the petition is now moot and need not be addressed by NRC staff.

## **II. Background**

The Waltz Mill Service Center is located approximately 30 miles southeast of Pittsburgh in Westmoreland County, PA. The WTR facility is located in the northwest portion of the Service Center. The WTR was a low-pressure, low-temperature, water-cooled 60 Megawatt reactor housed in a cylindrical vapor containment structure originally licensed to operate by Westinghouse Electric Corporation ("old" Westinghouse, or WEC) on June 19, 1959, and is maintained under NRC License Number TR-2 pursuant to 10 CFR Parts 30 and 50. The reactor was permanently shutdown in 1962. Amendment No. 2 to the TR-2 License, issued March 25, 1963, allows possession of the radioactive materials but not operation of the reactor. Other nuclear material activities take place in the balance of the Waltz Mill Service Center under NRC License Number SNM-770 pursuant to 10 CFR Parts 30, 33, and 70. These activities include the ongoing nuclear services work of Westinghouse, and cleanup of retired facilities and contaminated soils from past work and events.

In 1997, WEC acquired CBS and subsequently changed its name to CBS Corporation, Inc. (CBS). In March 1999, CBS sold the facilities and the activities under the SNM-770 license to British Nuclear Fuels, PLC (BNFL) who established Westinghouse Electric Company LLC, (“Westinghouse”) as a subsidiary to run all of BNFL’s nuclear-related business units. NRC approved transfer of the SNM-770 license to Westinghouse Electric Company LLC on March 10, 1999, which became effective on March 22, 1999. In May 2000, CBS was merged into Viacom, Inc. and NRC approved this name change on the TR-2 license. So, from issuance in 1959 to March 1999, the TR-2 and SNM-770 licenses were both held by the same Licensee - the “old” Westinghouse,” or WEC, and then CBS. After March 1999, the licenses were held by separate Licensees - the TR-2 license by CBS, now Viacom, Inc., and the SNM-770 license by Westinghouse Electric Company LLC. The “old” Westinghouse Electric Corporation or WEC, that held both licenses at the Waltz Mill Service Center from 1959 to 1999 and the current Westinghouse Electric Company LLC, that holds the SNM-770 license are not related.

The NRC identified the Waltz Mill Service Center as a Site Decommissioning Management Plan (SDMP) Site in 1990, requiring it to address remediation of significant contamination in the soils that created the potential for offsite groundwater contamination. In response, the SNM-770 Remediation Plan was submitted November 1996 to address decommissioning of the Waltz Mill Service Center. The Remediation Plan was supplemented with additional information by WEC, and portions of the work in the Plan were approved by NRC (in letters from the NRC to WEC, dated March 16, 1998, and August 21, 1998) to allow WEC to begin remediation. Those parts of the Remediation Plan not already approved were approved by NRC, as revised and

supplemented, in Amendment #21 to the SNM-770 license on January 19, 2000. The SNM-770 Remediation Plan (Page 1-1) states that it is not a decommissioning plan because Westinghouse is not pursuing license termination and will continue to conduct licensed operations at the facility.

WEC submitted a Decommissioning Plan (DP) for the WTR in July 1997. The DP was approved by the NRC in Amendment #8 to the TR-2 license on September 30, 1998, after receiving supplemental information from WEC in March and July 1998. The DP was revised through a 10 CFR 50.59 change to add a third option for removal of the reactor vessel in January 2000. The DP (Page 1-1) states the TR-2 license will be terminated with the completion of decommissioning work at the WTR and the residual radioactive material will be transferred to the SNM-770 license.

The CBS sale of its nuclear assets to BNFL was pursuant to a 1998 Asset Purchase Agreement (APA). At most sites addressed in the APA, the new Westinghouse Electric Company LLC became the sole licensee after the NRC approved the license transfers. However, at the Waltz Mill Service Center, CBS (now Viacom) agreed to retain the license and to decommission the WTR in accordance with the TR-2 DP as approved by the NRC. The APA includes provisions containing commitments about the Waltz Mill Service Center, namely Sections 5.31, 8.1(a), 8.2(x), and 8.8. Section 8.1(a) incorporates the TR-2 DP and the SNM-770 Remediation Plan by reference and Section 8.8 commits Westinghouse Electric Company LLC and CBS (now Viacom) to binding arbitration to settle disputes arising under any of the Waltz Mill Service

Center decommissioning provisions of the APA, including the two decommissioning plans as approved by NRC. In reviewing the APA leading to NRC's March 10, 1999, approval of the SNM-770 license transfer (See Safety Evaluation Report: Application to Transfer and Amend Westinghouse Materials Licenses, Quality Assurance Program Approvals and Certificates of Compliance, dated March 10, 1999), NRC found these provisions about the NRC-approved decommissioning plans to be consistent with NRC regulatory requirements.

Also, as part of the arrangement between Viacom and Westinghouse, the Agreement for Radiological Project Management, Engineering, and Field Services Provided by Westinghouse Electric Company LLC for the Waltz Mill Remediation Project, was signed on March 22, 1999, under which Westinghouse provided project management, engineering, and field services to Viacom to complete the necessary work to decommission the WTR.

Removal of the reactor and internals in accordance with the TR-2 DP (as revised by the §50.59 process) was completed in May 2000. Viacom requested that Westinghouse accept the residual radioactive material located at the WTR. (see July 5, 2000, Viacom letter to Westinghouse) and transfer it to the SNM-770 license, as agreed by the parties and approved by the NRC. From this point, disagreement arose and is documented in communications between Viacom and Westinghouse as to whether Viacom has completed its decommissioning responsibilities under the TR-2 license and the APA.

As a result of the disagreement, Westinghouse filed a demand for arbitration on October 2, 2002, in connection with Viacom's refusal to pay Westinghouse for services and expenses in connection with the Agreement for Radiological Project Management, Engineering, and Field Services Provided by Westinghouse Electric Company LLC for the Waltz Mill Remediation Project (Agreement). The disputed data that is the subject of the Viacom §2.206 petition was generated under the Agreement. The arbitration demand states that Viacom has refused to pay Westinghouse more than \$3 million in connection with work it performed for Viacom under the Agreement. Westinghouse refuses to release the disputed data to Viacom until they are paid. Westinghouse also filed a second demand for arbitration charging that Viacom has breached its obligations under the APA by failing to implement the remedial measures that are required under the TR-2 DP and the SNM-770 Remediation Plan. The board to decide the arbitration filings has been empaneled and held pre-hearing conferences with the parties in April 2003. The discovery stage of the dispute resolution process is now ongoing. In a May 20, 2003, letter, Westinghouse informed the NRC that the disputed data is now available to Viacom through discovery. A hearing date for the first of the arbitration filings is set for November 11, 2003.

### **III. Discussion**

The Viacom Petition requests that two orders be issued related to the situation at the Waltz Mill Service Center. The requested actions are both based on NRC Inspection Report No. 50-22/1999-202 (IR) transmitted to Viacom on September 6, 2002, that documents the results of NRC inspections of the WTR decommissioning and safety programs. The IR identifies there are

two provisions of the TR-2 DP which still need to be accomplished prior to termination of the TR-2 license, “. . . determining the residual radioactivity remaining in-situ and preparing the necessary amendments for and requesting the transfer of the remaining residual radioactivity and WTR facilities to the SNM-770 License.” Viacom also requests, as an alternative, if NRC does not take enforcement action against Westinghouse under either the TR-2 DP or SNM-770, that an order be issued requiring Westinghouse abate a violation of 10 CFR 50.5, *Deliberate Misconduct*, based on Westinghouse’s refusal to turn over the data and accept transfer of the residual radioactive materials. Lastly, Viacom requests the question of the interpretation of the DP and whether they have completed decommissioning of the WTR be resolved by NRC as part of its consideration of Viacom’s October 29, 2002, application for orders rather than this 10 CFR 2.206 Petition. The requested actions, the Viacom basis for the requested actions, and the response by the NRC staff, are as follows:

**1. Request for Order Concerning Data**

Request: Westinghouse should be required to provide certain radiological survey data which NRC has requested.

Basis: Viacom states that the time is now ripe under the DP for NRC to be granted access to the completed survey of the TR-2 residual materials based on NRC Inspection Report No. 50-22/1999-202. Viacom cites the special position the NRC is in to assure that its decommissioning requirements are met and seeks to enforce compliance with the DP and NRC regulations.

Response: As stated in the Introduction, Viacom states that this request for an Order is now moot. Accordingly, this request is not discussed.

## **2. Request for Order Concerning Transfer of Residual Material**

Request: Westinghouse should be required to accept under SNM-770 certain residual byproduct materials now held under Viacom license TR-2 and located at the former WTR facility at the Waltz Mill Service Center.

Basis: Viacom says Westinghouse's refusal to cooperate in the required transfer is contrary to what NRC intended when it approved the TR-2 DP, and should be addressed by NRC taking enforcement action to compel Westinghouse to accept the materials. Also, Viacom states that Westinghouse's current refusals to accept the transfer of the materials is contrary to a solemn commitment it made to NRC in order to obtain a renewed SNM-770 license, because the refusals are contrary to any concept that TR-2 decommissioning will be a priority for the SNM-770 license, as stated in a November 27, 1996, letter to NRC.

Response: When the NRC approved the TR-2 DP, it expected the residual radioactive material to be transferred to the SNM-770 license and appropriately managed under that license. (See Safety Evaluation by the Office of Nuclear Reactor Regulation Supporting Amendment No. 8 to Facility License No. TR-2). However, as pointed out in the Petition, at the time the DP was approved by the NRC, the same entity (Westinghouse Electric Corporation, or WEC) was the

NRC Licensee under both TR-2 and SNM-770 and so the transfer of the residual radioactive material from one license to another was straightforward. The two licenses are now held by entirely different entities, Viacom and Westinghouse. Their agreement on their respective decommissioning responsibilities at the Waltz Mill Service Center is set forth in the Asset Purchase Agreement (APA). As previously discussed, the dispute resolution process under the APA has commenced with the intended purpose of resolving the commercial dispute between the parties. Viacom stated in its Petition, and both parties concurred during the February 20, 2003, meeting with the PRB, that the circumstances at the WTR do not present a threat to the public health and safety or common defense and security. The residual contamination at the WTR is carefully controlled and will remain so, both in the control of Viacom and within a site controlled by Westinghouse. The dispute resolution process will resolve the parties' dispute as to their respective responsibilities for completing decommissioning of the WTR in accordance with the approved decommissioning plans. Hence, NRC has assurance that its requirements will be met and that the required transfer will take place in due course. NRC retains the final responsibility and authority over the WTR and the Waltz Mill Service Center because it will approve the licensing actions that follow the implementation of the decisions of the arbitration panel.

The NRC does not agree that the actions of Westinghouse concerning the transfer of residual radioactive materials at the WTR are contrary to a commitment Westinghouse made to the NRC in renewing the SNM-770 license that the TR-2 decommissioning will be a priority for the SNM-770 license. The November 27, 1996, letter, included by reference in Table 5.2-1 of the Application for Renewal of USNRC License No. SNM-770, serves to identify specific references

as license conditions in the SNM-770 license, namely the June 17, 1996, schedule for remediation of the Waltz Mill Site and the Conceptual Remediation Plan dated September 30, 1996. The November 27, 1996, letter itself contains only a restatement of the priorities and objectives reflected in the references, one of which is to decommission the WTR so that the TR-2 license can be terminated before its expiration date. The June 17, 1996, schedule for remediation provides dates for actions that were forthcoming at that early stage of remediation. This schedule includes the following two milestones:

TR-2 Facilities - TBD

Total Project Completion - Before 11/2003

Section 2.1.3, Schedule, of the September 30, 1996, Conceptual Remediation Plan refers to Figure 2-1, the “Waltz Mill Proposed Remediation Schedule.” This figure includes a timeline that shows the time period of 1999 through 2003 for WTR License Termination. Section 2.1.3 includes the following paragraph:

“Changes to the schedule may be made at Westinghouse’s discretion as a result of annual budget constraints, availability of a radioactive waste burial site, interference with ongoing Waltz Mill operations, ALARA considerations, the potential cross contamination of adjacent facilities, further characterization measurements and/or temporary on-site radioactive waste storage operations.”

In issuing a renewed SNM-770 license on June 14, 2002, the NRC accepted the information in the June 17, 1996, letter, the September 30, 1996, Conceptual Remediation Plan, and the November 27, 1996, SNM-770 Remediation Plan statement that completion of the project, to

include the decommissioning of the TR-2 facilities before the license expired, remained an objective of the SNM-770 Remediation Plan, but that no certain date was implied by any of the documents. Also, schedule changes under some circumstances at the discretion of the Licensee were also contemplated and approved. Furthermore, the parties chose arbitration to resolve their disputes concerning matters about decommissioning responsibilities at the WTR, such as those now in arbitration.

Thus, at the time of license renewal, it was reasonable for NRC to conclude that the stated objective in the correspondence could still be realized, but also, NRC was well aware of the disagreement over the termination of the TR-2 license (See e.g., Letter from Viacom to NRC Document Control Center, March 25, 2002). Therefore, it was just as reasonable for NRC to conclude that the termination of the TR-2 license would not be completed by the time the license expired, but NRC found no health and safety or common defense and security issues with the circumstances at the time of license renewal. NRC is satisfied that public health and safety and common defense and security will continue to be protected if there is an extension of the schedule due to the disagreement, and considers it a reasonable justification for such an extension, as contemplated in license renewal, if the arbitration does not result in a resolution of matters in dispute by the time the TR-2 license expires. Hence, NRC does not perceive any actions of Westinghouse to date to be contrary to any expectations of NRC or Westinghouse representations or commitments in renewing the SNM-770 license concerning their commitment in completing the decommissioning of the WTR.

NRC agrees with the Petitioner that acceptance of the TR-2 residual radioactive materials remains an obligation of Westinghouse. Based on information provided in their December 20, 2002, response to the Petition and restated at the February 20, 2003, meeting with the PRB, NRC is satisfied that Westinghouse is committed to the decommissioning of the WTR and will meet its obligation to accept the TR-2 residual radioactive materials upon completion of the ongoing arbitration process. NRC does not agree with the Petitioner's arguments made in the February 20, 2003, meeting with the PRB and again in supplemental information that the arbitration will result in an indefinite delay in the decommissioning process. As discussed in the Introduction, the arbitration is underway, and that in accordance with the APA, NRC understands the decision will be binding on both parties. Based on information presented at the February 20, 2003, meeting with the PRB, and augmented by the fact that the arbitration process is already in the discovery stage, the NRC does not expect the process to interfere with completion of decommissioning activities at the WTR and license termination "indefinitely." Rather, the NRC expects completion of decommissioning in a timely fashion following the decisions in the arbitration proceedings.

Accordingly, there is no basis to require Westinghouse to accept the residual radioactive materials held under the TR-2 license at this time and the request of the Petitioner is denied.

**3. Request for Order to Abate Violation of 10 CFR 50.5**

In the alternative, Viacom states if NRC does not take enforcement action against Westinghouse under either the TR-2 or SNM-770 Licenses, that an order be issued requiring Westinghouse abate a violation of 10 CFR 50.5, *Deliberate Misconduct*.

Request: Westinghouse should be required to abate a violation of §50.5 by accepting transfer of the materials and making the data available to the NRC.

Basis: Viacom says Westinghouse's refusal to provide the survey data and to cooperate in the transfer of the byproduct material are deliberate, they constitute acts of misconduct which cause Viacom to violate the TR-2 DP, and since the DP is required by NRC rule and constitutes a license condition, Westinghouse's refusals violate 10 CFR 50.5.

Response: 10 CFR 50.5, *Deliberate Misconduct*, says a person may be subject to enforcement action if they engage in deliberate misconduct. §50.5(c) states, "For the purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows: (1) would cause a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition or limitation, of any license issued by the Commission". . .

As indicated above, the alleged failure of Westinghouse to provide survey data is moot. With respect to Westinghouse's alleged failure to cooperate in the transfer of byproduct material, the NRC staff's evaluation of Viacom's petition has not identified any violation of TR-2 license conditions, either deliberately by Westinghouse or by Viacom due to actions of Westinghouse.

Additionally, NRC stated in the statement of considerations for 10 CFR 50.5 (56 FR 40675) that the "... NRC will take action only in those relatively rare instances where the deliberate misconduct, or deliberate submission of incomplete or inaccurate information raises concerns about the public health and safety. . ." Viacom stated in their Petition and both parties concurred during the February 20, 2003, meeting with the PRB that the circumstances at the WTR do not present an immediate threat to the public health and safety and that the residual contamination at the WTR is carefully controlled and will remain so.

Therefore, there is no violation of 10 CFR 50.5, *Deliberate Misconduct*, and no basis for enforcement action against Westinghouse. The request of the Petitioner is denied.

#### **4. Request for Interpretation of DP**

Viacom states that it is their belief that they have completed decommissioning of the WTR under the TR-2 DP, but Westinghouse has taken the position that Viacom has not completed decommissioning. Among the issues concerning whether Viacom has completed

decommissioning is whether the DP requires Viacom to remove the remainder of the WTR biological shield.

Request: NRC should interpret the DP and decide whether Viacom has completed decommissioning of the WTR as part of its consideration of Viacom's October 29, 2002, application for orders rather than this 10 CFR 2.206 Petition.

Basis: Viacom bases its belief that it has completed decommissioning as detailed in the DP on the statements in NRC Inspection Report No. 50-22/1999-202, which does not bring up the issue of removal of the remainder of the biological shield, and states that this §2.206 Petition and the separate application for orders are premised on this belief. Viacom asks for a determination as to whether they are finished as part of the NRC's response to the October 29, 2002, application. Viacom also has asked for a determination of whether the WTR structures must be decommissioned for unrestricted release promptly after transfer to the SNM-770 license.

Response: As discussed previously, the §2.206 Petition concerns requests for enforcement action against Westinghouse. The application for orders submitted by Viacom on October 29, 2002, concerns the termination of the TR-2 license. NRC agrees it is more appropriate to consider the question of whether Viacom has completed decommissioning of the WTR in accordance with the approved Plans in addressing Viacom's October 29, 2002, application for orders rather than in response to the §2.206 Petition. Therefore, the request of the Petitioner is granted and NRC is responding to the Viacom application for orders in a separate correspondence.

#### **IV. Conclusion**

We are not addressing the request of the petitioner to issue an Order to Westinghouse, the holder of license SNM-770 on the Waltz Mill Service Center near Madison, PA, which would require Westinghouse to:

(1) provide certain radiological survey data to NRC which NRC has requested. The request is now moot and the NRC is not addressing it further.

We have denied the requests of the Petitioner to issue an Order to Westinghouse, the holder of license SNM-770 on the Waltz Mill Service Center near Madison, PA, which would require Westinghouse to:

(2) accept under SNM-770 certain residual byproduct materials now held under Viacom license TR-2 and located at the former Westinghouse Test Reactor (WTR) facility at the Waltz Mill Site.

We have also denied the request of the Petitioner to:

(3) issue an Order to Westinghouse to abate a violation of 10 CFR 50.5, *Deliberate Misconduct*, by accepting the residual byproduct materials now held under Viacom license TR-2 at the WTR and producing the survey data.

We have granted the request of the Petitioner to:

(4) consider the issue of the interpretation of the DP and whether Viacom has completed decommissioning of the WTR in addressing Viacom's October 29, 2002, application for orders rather than this 10 CFR 2.206 Petition. NRC is responding to the October 29, 2002, Viacom application for orders in a separate correspondence.

As provided in 10 CFR 2.206(c), a copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 26th day of August 2003.

**/RA/ M. Federline for**

Martin J. Virgilio, Director  
Office of Nuclear Material  
Safety and Safeguards

We have granted the request of the Petitioner to:

(4) consider the issue of the interpretation of the DP and whether Viacom has completed decommissioning of the WTR in addressing Viacom's October 29, 2002, application for orders rather than this 10 CFR 2.206 Petition. NRC is responding to the October 29, 2002, Viacom application for orders in a separate correspondence.

As provided in 10 CFR 2.206(c), a copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 26<sup>th</sup> day of August, 2003.

**/RA/** MVF for

Martin J. Virgilio, Director  
Office of Nuclear Material  
Safety and Safeguards

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\*See Previous Concurrence

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NAME	D. Widmayer*	C. Craig*	D. Gillen*	J. Greeves*	P. Goldberg	M. Virgilio
DATE	08/13/03	8/12/03	8/15/03	8/15/03		8/26/03

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