

March 17, 2006

Mr. Richard Smith, Vice President  
Environmental Remediation  
CBS Corporation  
11 Stanwix Street  
Pittsburgh, PA 15222

RE: *Westinghouse Electric Company, LLC and Viacom Inc.*, Case 16V 192 0093702  
American Arbitration Association  
NRC File No. TR-04-12

Dear Mr. Smith:

An October 8, 2004 letter to the NRC from attorneys representing Westinghouse Electric Company, LLC (Westinghouse) and Viacom, Inc. (Viacom) contained a joint request for an NRC response to two questions developed in the course of the above-named proceeding involving a commercial dispute at the 85-acre site near Pittsburgh, Pennsylvania known as the Waltz Mill Service Center (Waltz Mill).

In that proceeding, the Arbitration Panel's Initial Arbitration Opinion and Order directed Westinghouse and Viacom attorneys to jointly seek the response of the U.S. Nuclear Regulatory Commission (NRC) to two questions: whether the decommissioning of the Westinghouse Test Reactor had been satisfactorily completed (and if not, what further remediation remained); and whether the remediation associated with the Special Nuclear Material License had been satisfactorily completed (and if not, what further remediation remained). The NRC provided its answers to these two questions to Westinghouse and Viacom attorneys in an attachment to a letter dated March 17, 2006.

I have attached to this letter a document entitled "Path Forward." It gives additional information necessary to effect both the transfer of residual radioactive materials onto the NRC's Special Nuclear Material License SNM-770 and the completion of the license termination at the Westinghouse Test Reactor under the currently approved Remediation Plan and Decommissioning Plan, respectively. It also addresses other areas of concern related to these two licenses. A similar cover letter and attachment, with appropriate contact information, has been sent to your counterpart at Westinghouse.

Mr. Richard Smith

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March 17, 2006

If you have any questions regarding the information contained in this attachment, please contact Patrick Isaac at (301) 415-1019.

Sincerely,

**/RA/**

Christopher I. Grimes  
Director, Policy and Rulemaking  
Office of Nuclear Reactor Regulation

Docket Nos: 50-22,  
70-698  
Attachment: As stated

Mr. Richard Smith

-2-

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NAME	M.Roberts	M. Miller	G. Pangburn	P. Isaac	C. Grimes
DATE	3/16/2006	3/16/2006	3/16/2006	3/09/2006	3/09/2006

OFFICE	NMSS	NMSS	NMSS	OGC/LC	OGC/LC
NAME	D. Widmeyer	A. Persinko	D. Gillen	G. Fehst	J. Cordes
DATE	3/10/2006	3/13/2006	3/14/2006	3/16/2006	3/16/2006

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cc:

John Cordes, Gerri Fehst, Geary Mizuno - OGC

Marie Miller, Mark Roberts, George Pangburn - Region I

Patrick Isaac, Chris Grimes - NRR

Drew Persinko, Nick Orlando, Dan Gillen - NMSS

Derek Widmayer - ACNW

## PATH FORWARD

Based on the approved TR-2 Decommissioning Plan (DP) and the SNM-770 Remediation Plan (RP), the following path forward addresses the steps necessary to complete the Decommissioning Plan and the transfer of materials to the SNM-770 License, and also addresses other areas of concern related to these two licenses.<sup>1</sup>

(1) Because the Westinghouse Test Reactor (WTR) reactor component and equipment removal actions required by the TR-2 DP are complete, the next regulatory action the NRC expects is receipt of the application for an amendment to the SNM-770 License for the transfer of any residual radioactive material remaining in the WTR facilities. The application for an amendment to the SNM-770 License must be submitted by Westinghouse.<sup>2</sup>

(2) NRC will conduct an acceptance review of the Westinghouse application. Once found acceptable, NRC will review the Westinghouse license amendment application to accept transfer of any residual radioactive material remaining in the WTR facilities to the SNM-770 License. Approval of the application may require Westinghouse to respond to one or more requests for additional information (RAIs). (Guidance for this license amendment application can be found in the next section of this attachment).

(3) The Westinghouse application must include an estimate of the types and quantities of radioactive materials so that these quantities can be delineated in the amended SNM-770 License. The NRC will review the documentation already submitted by Viacom in support of termination of the TR-2 License (Viacom Report). If additional information is necessary to complete its review, NRC may require Viacom to respond to one or more RAIs.

(4) Upon completion of its review, NRC will issue an amendment to the SNM-770 License to include the WTR facilities and structures, and to approve the revisions to the SNM-770 RP.

(5) NRC will terminate the TR-2 License. NRC will issue a Notice of Termination supported by a Safety Evaluation Report documenting its conclusion that the requirements for termination of a non-power reactor at 10 CFR §50.82(b)(6) have been satisfied. (Guidance for this license termination procedure can be found in the next section of this attachment).

(6) NRC will consider removing the Westinghouse-Waltz Mill facility from the list of

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<sup>1</sup> Items also under consideration by the NRC are: Viacom's October 29, 2002 application for an Order to terminate the Part 50 TR-2 License and to declare Viacom's obligations to decommission the WTR completed except for the actions requiring the cooperation of Westinghouse; the NRC's subsequent RAI and Viacom response to the RAI; the November 4, 2003 Viacom Report; Viacom's December 9, 2003 request to remove the Waltz Mill Site from the SDMP List; the February 17, 2004 Westinghouse submittal containing revisions to the radiological status report in the Viacom Report; Viacom's March 8, 2004 submittal of three reports (*Groundwater Monitoring and Remediation Program; Summary Report, Current Condition of the Process Drain Line; and Waltz Mill Facility SNM-770 Retired Facilities Radiological Status Report*).

<sup>2</sup> April 22, 2004 letter from NRC's Ronald Bellamy to CBS/Viacom's Richard K. Smith.

Complex Decommissioning Sites<sup>3</sup> once the objectives of the SNM-770 RP have been accomplished.<sup>4</sup>

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### Guidance On SNM-770 License Amendment Application

In the SNM-770 RP,<sup>5</sup> NRC approved a process whereby detailed work procedures for each remediation activity would be evaluated to assess consistency with the generalized remediation methods described in the RP. If necessary, the licensee was to seek NRC approval prior to performance of work. This approach has resulted in reviews of specific remediation procedures by the NRC of the soils, groundwater, and certain facilities and structures associated with the SNM-770 RP.<sup>6</sup> For any further remediation of WTR structures and materials transferred to the SNM-770 License, this same approach is acceptable. An entirely new SNM-770 RP is unnecessary if demolition and removal of equipment and buildings is proposed as part of the further remediation because such activity would be consistent with the objectives and requirements approved in the SNM-770 RP.<sup>7</sup>

This application should include the plans and costs for remediation of the structures, materials, and equipment transferred from the TR-2 License to meet the criteria for “retired facilities” as approved under the SNM-770 RP.<sup>8</sup> The application should also include the plans

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<sup>3</sup> NRC has eliminated the Site Decommissioning Management Plan (SDMP) Action Plan and no longer tracks sites under the SDMP nomenclature. The Westinghouse-Waltz Mill Site is now managed under NRC’s Comprehensive Decommissioning Program; completion of remediation at the site would potentially make it eligible to be removed from that Program.

<sup>4</sup> The objectives of the SNM-770 RP are listed in Section 1.2 of the RP. Objective 1 states, “Remediate soils to a condition which targets a 15 mrem/yr dose from applicable pathways, as demonstrated by the RESRAD computer model.” This objective has been revised and replaced in accordance with the objectives of the “Revised Soil Plan,” submitted by Westinghouse to NRC in an August 9, 1999 letter and approved by NRC on January 19, 2000.

Objective 2 states, “Remediate retired facilities to radiological levels which would not require the application of radiation protection controls for high radiation areas or airborne radioactive material areas.” This objective has been revised and replaced in accordance with the objectives of the June 19, 1998 letter titled *Submittal of Additional Information to Support Application for Approval of Remediation Plan* and approved by NRC on August 21, 1998. Thus, removal of the Waltz Mill facility from the list of Complex Decommissioning Sites can be accomplished when all “retired facilities” and “soil areas” have been remediated in accordance with all commitments in both the TR-2 DP and SNM-770 RP, as amended.

<sup>5</sup> See Section 1.4, “Administration of the Remediation Plan,” SNM-770 RP, p. 1-2.

<sup>6</sup> For example, the NRC reviewed the August 9, 1999 Revised Soil Plan and approved it on January 19, 2000.

<sup>7</sup> SNM-770 RP, section 2.1.3.4, “Demolition and Component Removal,” p. 2-19.

<sup>8</sup> Criteria are in a June 19, 1998 letter from Westinghouse’s A. Joseph Nardi to NRC’s Marie Miller, and approved by the NRC in an August 21, 1998 letter from NRC’s Mark C. Roberts to Nardi.

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The criteria are:

a) Criteria Applicable to Inactive Restricted Areas Which May Be Used For Future Licensed Activities Within Buildings That Are Used for Other Principal Licensed Activities

Surfaces or equipment within buildings that are being remediated from inactive (retired) areas to restricted areas which may be used for future use under the license will be decontaminated to levels which do not exceed four times the unrestricted release criteria for total contamination (fixed plus removable) specified in Section 10.6.1(f) of the license application. The criteria for removable contamination will be consistent with the limits specified in Section 10.6.1(f) of the license application.

A reasonable effort shall be made to remove inactive (no potential for future use) contaminated pipes, drain lines, or ductwork within these areas. If complete removal is impractical or a future licensed use is feasible, the interior surfaces will be cleaned to the extent reasonably achievable. The final criteria will be established on a case by case basis, justified using an ALARA approach, and approved by the Radiation Safety Officer and, in certain cases, the Radiation Safety Committee. . . .

These areas will continue to be maintained as restricted areas under the license until released for unrestricted use in accordance with the criteria specified in b) below.

b) Criteria Applicable to Inactive Areas Which Will Not Be Used for Future Licensed Activities

Areas within buildings and separate buildings that are being converted over from inactive (retired) areas to unrestricted areas within the controlled areas of the Waltz Mill Site will be decontaminated to levels which do not exceed the unrestricted release criteria specified in Section 10.6.1(f) of the license application. . . .

and costs for remediation of “soil areas” that are listed in the SNM-770 RP for which insufficient remediation has been accomplished (as identified by Westinghouse),<sup>9</sup> and any other specific structure or equipment (e.g., Process Drain Line) listed in Table 2-1 for which insufficient remediation has been accomplished. Additionally, any changes and/or additions to the facilities, structures, and soil areas listed in Table 2-1 that require remediation to meet the objectives of the SNM-770 RP should be included with information on their remediation. Guidance for preparation of the license amendment can be found in NUREG-1757, *Consolidated NMSS Decommissioning Guidance*. see [www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1757](http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1757).

The application for an amendment should also include: changes to the descriptions of remedial activities in the SNM-770 Plan, if necessary; the details of specific remedial work procedures like those that have been submitted separately for NRC approval of work that is not consistent with the descriptions in the RP; proposed changes to any methodologies approved by the NRC in the SNM-770 RP, or supplemental documents, and management and disposal of radioactive waste generated by the work procedures.

The application must also address how the financial assurance requirements of 10 CFR §70.25 will be satisfied, taking into account the material transferred from the TR-2 License.

NRC anticipates that the license amendment application would address areas of uncertainty that have been discussed in the Arbitration Panel’s Initial Opinion and Order, such as the future uses of the facilities/structures, the schedule for finishing the decommissioning, and the methods to be employed to complete remediation (e.g., if demolition of buildings and structures will be used).

The Westinghouse license amendment application should include, by reference, any or all of the data and information contained in any Viacom transmittals as determined by Westinghouse to support the application.<sup>10</sup>

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### **Guidance On TR-2 License Termination**

As previously discussed, Viacom has already requested termination of the TR-2

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<sup>9</sup>For example, in the December 3, 2004 letter from Wetterhahn and Murphy, Counsel for Westinghouse, to NRC’s John Cordes.

<sup>10</sup> The February 17, 2004 letter from Westinghouse to NRC states that two reports previously submitted by Viacom with its December 9, 2003 letter can be accepted as if submitted by Westinghouse (with changes shown in the attachment to the letter). The Westinghouse application should reinforce this position and reference any other documents submitted by Viacom, as appropriate.

License,<sup>11</sup> and the NRC and Viacom have exchanged letters<sup>12</sup> regarding this request. The NRC will terminate the TR-2 License when: 1) the amendment to the SNM-770 License is issued (there must not be any period of time that the radioactive materials remaining in the WTR are not under an NRC license); and 2) when NRC's license termination requirements for non-power reactors have been satisfied. These termination requirements, found at 10 CFR 50.82(b)(6), provide that the Commission may terminate a non-power reactor license after finding that the decommissioning has been performed in accordance with the approved decommissioning plan;<sup>13</sup> and that the terminal radiation survey and associated documentation demonstrate that the facility and site are suitable for release under the criteria for decommissioning in the License Termination Rule (LTR).<sup>14</sup>

To support its TR-2 License termination request, Viacom submitted a report to the NRC (Viacom Report).<sup>15</sup> The NRC has not reviewed the Viacom Report in detail, but is prepared to review it in the context of a license amendment proceeding for transfer of the residual radioactive material, as described in Path Forward, Step 3.

Until the data in the Viacom Report has been reviewed in depth, NRC cannot state with certainty that the Viacom Report provides sufficient documentation to complete the transfer of residual radioactive material to the SNM-770 License; Viacom may need to provide additional technical information – as well as any other additional information NRC may require – to support the transfer.

#### *Meeting the License Termination Rule Requirements*

LTR requirements involve radiation surveys and supporting documentation to meet certain prescribed dose calculations. As stated before, the NRC must conclude that the requirements of the LTR at 10 CFR 50.82(b)(6)(ii) have been satisfied in order to terminate the TR-2 License. In accordance with the commitments in place concerning the TR-2 DP and the SNM-770 RP, Westinghouse has agreed to meet the LTR requirements at the Waltz Mill site for all of the residual materials connected with operations (including the materials transferred from the TR-2 License) when it seeks license termination after all activity has ceased at the site.<sup>16</sup> Therefore, in order to terminate the TR-2 License and implement the current commitment to meet the LTR at a later time, NRC would issue an exemption to 10 CFR 50.82(b)(6)(ii) in accordance with Section 50.12, document this exemption in the SER supporting the TR-2 License termination, and include appropriate conditions in the amended SNM-770 License that assures the preservation of this commitment for the residual materials transferred from the TR-

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<sup>11</sup> October 29, 2002 Viacom application for an Order to terminate the Part 50 TR-2 Plan.

<sup>12</sup> August 26, 2003, letter from NRC's Patrick Isaac to CBS/Viacom's Richard K. Smith and the November 12, 2003 letter from Smith to Isaac.

<sup>13</sup> 10 CFR §50.82(b)(6)(i).

<sup>14</sup> The LTR, which can be found at 10 CFR Part 20, subpart E, is incorporated by reference in 10 CFR §50.82(b)(6)(ii).

<sup>15</sup> Viacom's November 4, 2003 *Westinghouse Test Reactor Licensed Facilities Radiological Status Report*.

<sup>16</sup> May 26, 1999 letter from NRC's Ronald Bellamy to Westinghouse's Nardi.

2 License. This exemption request must be submitted either jointly by the two parties or submitted by Viacom with concurrence or an affidavit from Westinghouse that they are willing to accept the facility in the condition as left.