assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of saccharin from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 11, 2002, by PMC Specialties Group Inc., Cincinnati, OH.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on February 27, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on March 13, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 7, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 10, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 6, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 20, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 20, 2003. On April 10, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 14, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means except to the extent provided by section 201.8 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 8, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–684 Filed 1–13–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Northrup Grumman Corporation and TRW Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant tot he Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Northrop Grumman Corporation and TRW, Inc.*, Civil No. 1:02 CV 02432 (GK).

On December 11, 2002, the United States filed a Complaint alleging that Northrop's acquisition of TRW would lessen competition substantially in development, production, and sale of radar reconnaissance satellite systems and electro-optical/infrared reconnaissance satellite systems, and the payloads for those systems, in the United States, in violation of section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed the same time as the Complaint, requires the defendant Northrop to act in a non-discriminatory manner in making teaming and purchase decisions on programs in which, by virtue of the

acquisition of TRW, it will be able to compete as both a prime contractor and the supplier of the payloads for the program. Copies of the Complaint, the proposed Final Judgment, and Competitive Impact Statement are available for inspection at the U.S. Department of Justice, Antitrust Division, Suite 215 North, 325 7th Street, NW., Washington, DC 20004 (telephone: 202–514–2692), and at the Clerk's Office of the U.S. Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001.

Public comment is invited within 60-days of the date of this notice. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer, II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (telephone: (202) 307–0924).

Constance K. Robinson,

Director of Operations.

Competitive Impact Statement

The United States, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On December 11, 2002, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Northrop Grumman Corporation (''Northrop'') of TRW Inc. (''TRW'') would violate section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Northrop is one of two companies that can supply certain payloads used in reconnaissance satellite systems sold to the U.S. Government, and that TRW is one of only a few companies with the capability to act as a prime contractor on U.S. reconnaissance satellite programs that use these payloads. The payloads at issue include radar sensors, which detect objects through radio waves, and electro-optical/infrared (''EO/IR'') sensors, which detect radiation emitted or reflected from objects within the electromagnetic spectrum from far infrared through far ultraviolet. The Complaint alleges that Northrop's acquisition of TRW will give Northrop the incentive and ability to lessen competition by favoring its in-house payload and/or prime contractor capabilities to the detriment or foreclosure of its competitors, and/or by refusing to sell, or selling only at disadvantageous terms, its in-house capabilities to its competitors. It further alleges that the acquisition will harm the U.S. Government because it will pose an immediate danger to competition in two current or future programs, the Space Based Radar and the Space Based InfraRed System-Low programs.

The prayer for relief in the Complaint seeks: (1) a judgment that the proposed acquisition would violate section 7 of the Clayton Act, and (2) a permanent injunction preventing any contract, agreement, understanding, or plan the effect of which would be to combine Northrop and TRW.

When the Complaint was filed, the United States also filed a proposed settlement that would permit Northrop to complete its acquisition of TRW, but require that Northrop submit to strict oversight by the U.S. Department of Defense (''DoD'') to ensure that Northrop does not use its position as a combined reconnaissance satellite system prime contractor and reconnaissance satellite payload provider to harm competition for or in reconnaissance satellite system programs.

The proposed Final Judgment requires that, when Northrop: (1) Is the prime contractor for a U.S. Government satellite program; (2) has the responsibility to select a radar or EO/IR payload; and (3) has the opportunity to select its own payload, Northrop will select the payload on a competitive and non-discriminatory basis. It also requires that Northrop act in a non-discriminatory manner in providing information to its own in-house team and to its payload competitors, and in making personnel, resource allocation, and satellite system design decisions. These non-discrimination provisions would apply, for example, to Northrop's post-merger selection of a payload provider for the SBIRS–Low program, for which TRW has already been selected as the prime contractor. To ensure that these provisions of the Final Judgment are enforced, the decree requires that the Secretary of Defense appoint a Compliance Officer to oversee Northrop's selection process, and provides for the Secretary of the Air Force to resolve any disputes.

The proposed Final Judgment also requires that, when Northrop is a competitor or a potential competitor to be the prime contractor on a U.S. Government reconnaissance satellite system program in which Northrop has the opportunity to select its own radar or EO/IR payload, Northrop will supply other prime contractors with the Northrop payload in a manner that does not favor Northrop's in-house team. It further requires that Northrop negotiate and enter into non-exclusive teaming agreements with other prime contractors that desire to use the Northrop payloads, which agreements may not favor Northrop's in-house team. To ensure that these goals are achieved, the proposed Final Judgment provides for direct oversight of Northrop's teaming decisions by the Compliance Officer and ultimately by the Secretary of the Air Force.

The proposed final Judgment further requires that Northrop maintain its payload and satellite prime businesses as separate entities, establish firewalls, and take other actions to protect the information provided by other payload providers or prime contractors. Northrop's actions in this regard again would be subject to review by the Compliance Officer.

In addition to the continuing oversight of the Compliance Office and DoD generally, the parties to the proposed Final Judgment shall be subject to the continuing supervisory jurisdiction of the Court over the Final Judgment and the independent authority of the Antitrust Division to ensure compliance with, and seek enforcement of, all provisions of the Judgment. The Antitrust Division to ensure compliance with, and seek enforcement of all provisions of the Judgment. The Antitrust Division is authorized to seek from Northrop a civil penalty of up to $10 million for each violation of the proposed Final Judgment.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Northrop is a Delaware corporation with its principal place of business in Los Angeles, California. Northrop is one of two leading suppliers of radar and EO/IR payloads for reconnaissance satellite systems. Northrop's primary radar and EO/IR operations are in its Electronic Systems Sector facilities in Baltimore, Maryland and Azusa. California. In 2001, Northrop represented net sales of approximately $13.6 billion, including $4.7 billion in sales by its Electronic Systems Sector.

TRW is an Ohio corporation with its principal place of business in Cleveland, Ohio. The company's offices are located in California, Ohio, Georgia, and Florida. Its Space & Electronics and System divisions produce sophisticated satellite systems. In fact, TRW is one of the few companies with the ability to serve as a prime contractor for reconnaissance satellite system. In 2001, TRW has sales of roughly $16.4 billion, including $5.2 billion form the Space & Electronics and Systems divisions.

On June 30, 2002, Northrop and TRW entered into an agreement pursuant to which Northrop would acquire TRW in a transaction valued at approximately $7.8 billion. The parties closed the transaction on December 11, 2002.

B. The Relevant Markets

Reconnaissance systems are electronic systems that gather and transmit information that maybe useful to the United States' military and intelligence forces. These systems may be located on a number of types of platforms, including aircraft and, most relevant for the purposes of this case satellites. Reconnaissance systems may gather information using various types of sensors, but the most relevant types for purposes of this proceeding are radar and EO/IR.

Reconnaissance satellite systems have advantages, and face challenges, that are not applicable to airborne or other types of reconnaissance systems. Reconnaissance satellite systems can gather information about a given geographic area for a much longer time than any other system, and can provide surveillance over geographic areas that aircraft or other platforms cannot reach. Because they operate at such great distances

from their targets, however, space-based systems also require much more capable and sophisticated sensors than do other kinds of reconnaissance systems. Furthermore, because space based systems cannot be maintained or repaired once they are launched, the components of the system must be designed and manufactured to withstand the rigors of constant use, over many years, without requiring any refurbishment or repair. Finally, components of reconnaissance satellite systems must be hardened against radiation, able to withstand the harsh environment of space, and capable of operating in substantial temperature ranges.

A reconnaissance satellite system consists of one or more satellites and associated ground facilities for support and data processing. A reconnaissance satellite has two primary components—the unmanned spacecraft itself, generally known as the ''bus,'' and one or more assemblies of sensors and other components, usually refereed to as the ''Payload.'' The payload enables the satellite to perform a specific reconnaissance mission. While the bus and the payload are separate products, the system and its payload have to be jointly developed because their performance is interdependent. The lead (''prime'') contractor for a reconnaissance satellite system has overall responsibility for the design, development, production, and integration of the system components. The prime contractor typically produces the spacecraft, and either produces or procures the ground facility components. The prime contractor may also produce or acquire launch vehicles or services for the satellites. The prime contractor typically acquires the payload from another manufacturer, and the U.S. Government relies on prime contractors to select payloads based on their competitive merits so as to optimize over all system performance.

TRW is one of the few companies that has the capability to be the prime contractor on a U.S. reconnaissance satellite system. Northrop is one of only two companies that has the capability to be the radar or EO/IR payload provider on U.S. reconnaissance satellite systems.

Radar Reconnaissance Satellite Systems

Radar is the process of sending out radio waves and listening for the echoes that result when they strike and bounce off an object. The United States deploys many types of radars using distinctive signal processing technologies. Imaging radars, for example, can create photograph-like images and identify and track moving targets. Because radars can see through clouds, operate at night, and function independently of the energy emitted by a target, radar reconnaissance satellite systems will be able to gather information of a type and under conditions that cannot be duplicated by other types of reconnaissance satellite systems.

The Space-Based Radar (''SBR'') program is a DoD program intended to develop and produce an operational radar reconnaissance satellite system. The Request for Proposal for SBR is expected to be issued in early 2003, and the first SBR satellite launch is scheduled for 2010. TRW is one of a few companies with the capability to be the prime contractor for the SBR program. The only companies with the capability to supply the advanced radar sensors for the SBR program are Northrop and one other company, both of which have been developing their radar capabilities, and receiving funds and evaluations from the U.S. Government, in anticipation of the SBR program. It is expected that the potential prime contractors and radar reconnaissance satellite payload providers will have to form teams for the SBR competition no later than 2003.

The Complaint alleges that the development, production, and sale of radar reconnaissance satellite systems is a product market. As described above, the mission and performance characteristics of such systems are sufficiently different from the mission and performance characteristics of non-radar reconnaissance satellite systems, and from non-space-based radar reconnaissance systems, that a small but significant increase in prices for radar reconnaissance satellite systems would not cause the only customer, the U.S. Government, to switch to other types of systems so as to make such a price increase unprofitable and unsustainable.

The Complaint also alleges that the development, production and sale of radar reconnaissance satellite payloads is a product market. As described above, the mission and performance characteristics of such payloads are sufficiently different from the mission and performance characteristics of non-radar reconnaissance satellite payloads, and from non-space-based radar reconnaissance payloads that a small but significant increase in prices for radar reconnaissance satellite payloads would not cause the only customer, the U.S. Government, or prime contractors competing to provide reconnaissance systems to the U.S. Government, to switch to other types of systems or other types of payloads, so as to make such a price increase unprofitable and unsustainable.

EO/IR Reconnaissance Satellite Systems

EO/IR systems detect electromagnetic radiation emitted or reflected from objects within the spectrum from far infrared to far ultraviolet. These components are used to detect, locate, identify, or track a target. EO/IR Early Warning (''EW'') systems are used in missile defense programs to detect the hot plumes of a missile launch. EO/IR sensors may be found on a number of different platforms, including aircraft and satellites, and are already used as part of the Defense Support Program (''DSP'') satellite system to provide early missile warning.

The current programs designed to provide space-based EO/IR reconnaissance capabilities are called the Space-Based Infrared System (''SBIRS'') High and SBIRS-Low. SBIRS-High will provide a system of satellites orbiting thousands of miles above the earth, scanning large sections of the planet for signs of a missile launch, and warning of that event if it occurs. One of TRW's competitors will serve as the prime contractor for SBIRS-High, and Northrop will supply the EO/IR payload. SBIRS-High will serve to provide essentially the same mission as the current DSP program, but will employ higher-performance instrumentation. SBIRS-Low is a planned system of satellites in lower-earth orbit that will ''acquire'' a missile and track it so that it may be intercepted. The acquisition function proposed for SBIRS-Low is similar to the work being done by DSP and planned for SBIRS-High; in contrast, the tracking function planned for SBIRS-Low is a different and much more technically difficult one.

The Missile Defense Agency (''MDA''), Which Controls the SBIRS program, established a ''national team'' for SBIRS-Low in April 2002, naming TRW as the prime contractor. The MDA plan calls for a continuing competition between the only two potential payload suppliers. Northrup and another company, throughout the SBIRS-Low program. The competition between the two SBIRS-Low payload suppliers is to be run by TRW as the prime contractor. TRW, with nominal oversight from the United States, will choose the winner of the payload competition.

The Complaint alleges that the development, production, and sale of EO/IR systems can provide coverage of geographic areas that cannot be reached by other EO/IR systems and can provide persistent coverage of specific geographic areas. Further, EO/IR systems can detect missile launches and track missiles better than other types of reconnaissance systems. A small but significant increase in prices for space-based EO/IR systems would not cause the only customer, the U.S. Government, to switch to other types of systems so as to make such a price increase unprofitable and unsustainable.

The Complaint also alleges that the development, production and sale of EO/IR reconnaissance satellite payloads is a product market. Space-based EO/IR payloads are specially designed to work in a space-based EO/IR reconnaissance satellite system: other space-based payloads cannot perform the same missions or be used in EO/IR reconnaissance satellite systems. A small but significant increase in prices for EO/IR reconnaissance satellite payloads would not cause the only customer, the U.S. Government, or prime contractors competing to provide reconnaissance systems to the U.S. Government, to switch to other types of systems or other types of payloads, so as to make such a prime increase unprofitable and unsustainable.

C. Harm to Competition as a Consequence of the Acquisition

If Northrop purchases TRW, it will own one of the few companies capable of competing as a prime contractor for radar or EO/IR reconnaissance satellite systems. TRW has demonstrated its technical, financial, and organizational ability to bid for, win, and perform on complex U.S. Government space systems by competing for and winning a number of such programs. Similarly, Northrop is one of only two companies with the capability to produce the payloads to be used on radar and EO/IR reconnaissance satellite systems.

Absent the protections afforded by the proposed consent decree, Northrop would have to incentive and ability post-merger to deny its competitors access to either its prime contractor or payload capabilities. If

Northrop has already been chosen to be a prime, it will have the incentive and ability to choose its own payload, lessening the incentive of competitors to compete for the program, and harming the U.S. Government by diminishing innovation and increasing program costs.

A further effect of the merger is the threat that it poses to proprietary information of rival primes and payload suppliers that enter into teaming agreements with Northrop. Absent the protections afforded by the proposed Final Judgment, a reconnaissance satellite system prime contractor that teams with Northrop risks the loss of its proprietary information to the former TRW's satellite system business, and a radar or EO/IR supplier that teams with the former TRW satellite system business risks the loss of its proprietary information to Northrop.

Effect of the Merger on the SBR Program

If Northrop owns TRW, it will have the incentive to deny access to the Northrop payloads if it believes that doing so will lessen the ability of its competitors to compete successfully for the specific reconnaissance satellite system program. This incentive will be strongest when Northrop believes that the presence on a team of either the Northrop payload or the TRW prime contractor capabilities provides the greatest chance of deciding the competition in that team's favor.

The SBR program is an immediate example of how the merged firm would have the ability and incentive to deny its competitors access to a Northrop payload. TRW plans to compete to be the prime contractor for the SBR program, and is a likely bidder on future space-based radar programs as well. Northrop is one of only two companies with the ability to provide payloads for radar reconnaissance satellite system programs, including the SBR program. The prime contractors and radar payload providers must work together at an early stage to develop an integrated system that can perform the mission required by the SBR program. The competition for the SBR program will be between teams, each with a potential prime contractor and potential payload provider. The U.S. Government will choose the team that offers the best value. No prime contractor/radar payload teams have yet been formed.

An important factor in competing for the SBR program is the performance of the radar payload. The purpose of any space-based radar program is to gather and transmit information with the use of radar technology, and the team with the best-performing radar will have an advantage in the competition. The U.S. Government is likely to prefer Northrop to supply the SRB payload, and so is more likely to award the prime contract to a team including a Northrop payload. The prime contractors and Northrop are aware of this.

After the proposed acquisition, Northrop will thus have the ability and incentive to foreclose SBR prime contractor competitors by denying them the Northrop payload or by making personnel, investment, design, and other payload-related decisions that disadvantage those competitors. Northrop's incentive to do so is straightforward—by winning both the SBR prime contractor competition and the SBR payload competition, it will make more money than if it wins only the SBR payload competition under existing DoD regulations. Northrop could not earn the same profit by simply raising its payload price because DoD has the ability to audit defense subcontractor costs and prevent overcharging through various pressures and the threat of lost future business. In economic terms, Northrop is not able to extract all of the economic rents at the payload level. The ability to obtain additional, otherwise unobtainable, profits by being both the prime contractor and the payload supplier gives Northrop the incentive to foreclose competitors.

Absent the protections afforded by the proposed consent decree, the United States would be harmed because innovation in the SBR program and similar future programs would be lessened, and the United States would be less likely to obtain a radar reconnaissance satellite system that includes both the best prime contractor and the best radar payload provider.

Effect of the Merger on the SBIRS-Low Program

If the post-merger Northrop has already been chosen to be the prime contractor on an EO/IR reconnaissance satellite system program, it will have the incentive and ability to choose its own payload for that system and program on a basis other than the competitive merits. If Northrop should choose its own payload under these circumstances, it would lessen the ability and incentive of competitors to compete for the payload, and thus harm the United States by diminishing innovation and increasing program costs.

Prior to the merger, TRW was selected as the prime contractor for SBIRS-Low, and has the authority to choose the EO/IR payload that will be used on the satellite, subject to the approval of the U.S. Government. Before that selection is made, the government's SBIRS-Low acquisition strategy calls for a continuing competition between Northrop and the only other supplier to provide the payload. Under an agreement with the U.S. Government, TRW was given broad authority to run that competition and determine the winner. This authority has passed to, and may be exercised by, Northrop through its purchase of TRW.

Northrop will benefit after the acquisition if the Northrop EO/IR payload is chosen for SBIRS-Low. Northrop will receive the additional profit generated by the EO/IR payload contract, and will be in an improved position to win future EO/IR payload contracts because of the experience gained through SBIRS-Low. Northrop thus has the incentive to influence the competition to increase the chances that its payload will be chosen.

Even though the U.S. Government has the authority to approve the SBIRS-Low payload choice made by a post-merger Northrop, Northrop as the prime contractor will still have the ability to influence the competition. Northrop would be able to effect design changes to the SBIRS-Low satellite or the system as a whole that would favor the Northrop payload or increase the costs to competitors of designing and producing a winning payload.

Northrop's post-merger ability to influence the selection of itself as the supplier for the SBIRS-Low payload will substantially lessen competition by reducing the ability of its competitor to win the award even if its payload is a better value for the United States. The United States will be harmed by its inability to obtain the best-quality SBIRS-Low payload at the lowest cost.

Entry

Successful entry into the complex, high technology markets for radar reconnaissance satellite systems, radar reconnaissance satellite payloads, EO/IR reconnaissance satellite systems, and EO/IR reconnaissance satellite payloads would not be timely, likely, or sufficient to deter any unilateral or coordinated exercise of market power as a result of the transaction. It would be extremely difficult for a new entrant to establish the technological expertise required to compete successfully in any of these markets. competitions are intermittent and infrequent, and require a substantial initial investment.

Potential Harm

The Complaint summarizes the potential harm to competition resulting from the proposed merger. It alleges that the transaction will likely have the following anticompetitive effects, among others: competition generally in the development, production, and sale of radar reconnaissance satellite systems, radar reconnaissance satellite payloads, EO/IR reconnaissance satellite systems, and EO/IR reconnaissance satellite payloads would be substantially lessened; prices for radar reconnaissance satellite systems, radar reconnaissance satellite payloads, EO/IR reconnaissance satellite systems, and EO/IR reconnaissance satellite payloads would likely increase; and quality and innovation in each of these markets would decline.

III. Explanation of the Proposed Final Judgment

The vertical combination of Northrop and TRW offers benefits to the United States that could not be obtained if structural relief were imposed. *See* section VI, *infra.* The United States, therefore, has consented in the unique circumstances of this case to the strict behavioral remedies described below. The proposed Final Judgment preserves competition in the relevant radar or EO/IR reconnaissance satellite system and payload markets by requiring specific non-discriminatory conduct from Northrop to prevent the foreclosure from these markets of competing prime contractors and payload providers. Section IV.A of the proposed Final Judgment sets out requirements to ensure that Northrop will select the payload on a non-discriminatory basis when Northrop has already been selected as the prime contractor for a given reconnaissance satellite system program. This section addresses immediate competitive concerns related to Northrop's post-merger conduct in the SBIRS-Low program, as well as conduct in future reconnaissance satellite system programs where Northrop is selected as the prime contractor.

Section IV.B ensures that, after the merger, Northrop will make its payloads available on a non-discriminatory basis to other prime contractor competitors in those reconnaissance satellite system programs for which Northrop has not yet been selected as the prime contractor or the payload provider. It addresses immediate competitive concerns related to Northrop's post-merger conduct in the SBR program, as well as conduct in future reconnaissance satellite system programs for which Northrop is a prime contract competitor and has the opportunity to select its own radar or EO/IR payload. Section IV.F establishes firewall provisions designed to protect the confidential business information of Northrop's satellite prime competitors and radar and EO/IR payload competitors. Four final Sections of the proposed Final Judgment ensure compliance with its terms. Section V provides for the appointment of a Compliance Officer and defines his or her powers and responsibilities; Section VI reserves important investigatory and enforcement powers for the Antitrust Division of the United States Department of Justice; Section VII permits the Court to impose substantial civil penalties for violations of the Final Judgment; and Section VIII confirms the Court's continuing jurisdiction to modify and enforce the proposed Final Judgment.

Non-Discrimination

Section IV.A of the proposed Final Judgment establishes that when Northrop is the prime contractor for a reconnaissance satellite system program, is responsible for selecting the payload, and has the opportunity to select its own payload, Northrop must select the payload on a competitive and non-discriminatory basis. To ensure that it makes an impartial payload selection, Northrop must propose and obtain approval of payload source selection criteria from the Compliance Officer and communicate the criteria to all competing payload suppliers. Should the Compliance Officer not approve the criteria, the Secretary of the Air Force shall have the sole discretion to approve, alter, or set the selection criteria. Under these circumstances, Northrop shall also provide information regarding its reconnaissance satellite systems to its in-house proposal teams and bona fide payload competitors, and make all personnel, resource allocation, and satellite system design decisions on a non-discriminatory basis. If Northrop selects its own payload, it must fully explain the basis for that selection to and seek the prior approval of the Compliance Officer. Where, however, Northrop notifies the Compliance Officer that it has elected not to use or supply its payload to itself as prime contractor, it need not comply with the above requirements.

Section IV.B requires that when Northrop is either a competitor or potential competitor for a prime contractor position on a reconnaissance satellite system program in which it has the opportunity to select its own payload, it must supply its payload on a non-discriminatory basis to all prime contractors that have expressed to Northrop a potential desire to utilize it. To that end, Northrop is required to supply its payload and related information to all such prime contractors in a manner that does not favor its in-house proposal team. For the purpose of bidding on satellite competitions and similar activities, it must also negotiate in good faith with such prime contractors to enter into commercially reasonable nonexclusive teaming agreement and contracts that do not discriminate in favor of its in-house proposal team. These teaming agreements will be subject to the approval of the Compliance Officer and the Secretary of the Air Force. Northrop also must, on a non-discriminatory basis, make all personnel, resource allocation, and design decisions concerning its payload and provide information regarding its payload to contractors with which it has teamed. If the Compliance Officer concludes that Northrop has failed to comply with these requirements, the Secretary of the Air Force has the sole discretion to decide with whom, and on what terms, Northrop enters into such teaming relationships.

The non-discrimination rules of Section IV.A and IV.B are the central provisions of this proposed Final Judgment and apply to a wide variety of conduct: the provision of information to competitors and in-house teams, payload selection criteria, payload selection, entering into contracts or teaming agreements, and numerous other decisions affecting such matters as personnel, design and investment. The term ''discriminate'' is defined in Section II.N. of the proposed Final Judgment as meaning ''to choose or advantage Northrop or to reject or disadvantage a Northrop prime or payload competitor for any reason other than the competitive merits; provided, however, that the determination of compliance or non-compliance with the non-discrimination provisions of this Final Judgment shall take into account that different firms will take different competitive approaches that may result in differences, individually or collectively * * *'' in a number of factors.

What this means in practice is that the United States will require Northrop to be equally aggressive in supporting all competing teams. While different firms will follow different competitive and technical approaches when competing for reconnaissance satellite systems and payloads, differences in treatment must be merit-driven. Northrop will not be permitted to favor its in-house approach and undermine competing teams and their innovation approaches. The proposed Final Judgment recognizes that discrimination may result from either a single event, such as a important design decision, or from a series of smaller actions.

Sections IV.A and IV.B of the Final Judgment preserve competition by providing other payload and prime contract competitors the opportunity to provide meaningful competition in their respective markets and by ensuring that Northrop makes payload selections in the best interests of the U.S. Government. Absent these requirements, Northrop could deny other payload competitors access to its reconnaissance satellite systems information or make discriminatory selections regarding its satellite systems, thereby precluding competitors from competing to provide the payload. Likewise, Northrop could deny access to its payloads and thereby deny its prime contractor competitors the opportunity to provide meaningful competition, and deny the U.S. Government the benefits of that competition. These provisions ensure that DoD has the maximum possible number of potential teaming possibilities in response to a request for proposals and that the highest-value payload and reconnaissance satellite system are selected. Absent these provisions, foreclosure by Northrop would reduce incentives to innovate and reduce the number of innovation approaches, thus harming the U.S. Government.

Firewalls

Section IV.F of the proposed Final Judgment requires that Northrop maintain its payload business separate and apart from its satellite prime business.[1] These provisions prevent the flow of information between the two businesses by requiring Northrop to establish separate communication networks, maintain separate locations, and use reasonable efforts to avoid transferring employees between the businesses. These firewall provisions further prevent Northrop's payload business from making available to its satellite prime business any non-public information provided by a prime contract competitor to Northrop as the payload provider. This will preserve competition by assuring other prime contract competitors that their confidential reconnaissance satellite system information will not be shared with Northrop's satellite prime business, thereby encouraging them to team their satellite systems with Northrop's payloads, providing DoD with the maximum number of teaming possibilities, and preserving the greatest number of innovation paths. Similar provisions assure other payload competitors that their confidential payload information will not be shared with Northrop's payload business.

Enforcement

To assure compliance with the Final Judgment. Section V requires the Secretary of Defense to appoint a Compliance Officer who, by the terms of the Final Judgment, has all necessary investigative and enforcement powers. The Compliance Officer, an employee of the U.S. Government, is authorized to hire, at the expense of Northrop, a team of contractors and other technical personnel to assist him or her in monitoring and ensuring compliance with the proposed Final Judgment. The team is limited to ten hired consultants, absent the approval of the Secretary of the Air Force to increase that number. Northrop may not object to the Compliance Officer selected by the Secretary of Defense, must use its best efforts to assist the Compliance Officer, and may take no action to interfere with or impede his or her duties. In practice, it is expected that the Compliance Officer will be proactive and will intercede early on to address and remedy any issues informally.

[1] The proposed Final Judgment describes this business as the ''current TRW Space & Electronics Satellite Systems business.'' This unit, which conducts TRW's satellite system prime contracting business, will conduct that business for the combined company, and the proposed Final Judgment will apply to any future reorganization.

The consequences of a violation of the proposed Final Judgment, apart from the significant civil penalties discussed below, are severe and substantial. Under Section IV.A of the proposed Final Judgment, if the Compliance Officer concludes that Northrop discriminated in its own favor in either its payload selection or the selection process, the Secretary of the Air Force is given ''the sole discretion to choose the [p]ayload supplier'' and to dismiss Northrop's selection. Under Section IV.B of the proposed final Judgment, if the Compliance Officer concludes that Northrop discriminated in favor of its in-house team, or failed to negotiate in good faith or enter into a commercially reasonable teaming agreement or contract, the Secretary of the Air Force is given ''the sole discretion to decide with whom, and on what terms, Northrop enters into such teaming relationships. * * * '' In effect, if the Compliance Officer determines that Northrop has discriminated in its own favor in a manner prohibited by the proposed Final Judgment, the Secretary of the Air Force is authorized to reverse any decision made by Northrop and to determine whether and on what terms Northrop will participate in the bid under consideration. These provisions collectively ensure that the U.S. Government, after the merger, will be able to detect discriminatory conduct prohibited by the proposed Final Judgment and to remedy quickly any selection or agreement that violates the proposed Final Judgment.

Sections VI, VII and VIII of the proposed Final Judgment confirm the significant investigative and enforcement authority of the Antitrust Division of the U.S. Department of Justice in this matter and the continuing supervisory jurisdiction of the Court in implementing the Judgment. The Antitrust Division, among other things, will be permitted to inspect and copy Northrop's documents; interview Northrop's officers, employees, or agents; and request reports from Northrop. The Antitrust Division will also have the discretion to seek enforcement of the proposed Final Judgment from the Court, which may order Northrop to pay civil penalties of up to $10 million for each violation of the Final Judgment. It is anticipated that the Antitrust Division and the General Counsel of the DoD will work closely together in enforcing the terms of the Final Judgment, and the Antitrust Division may take enforcement actions either on the recommendation of the General Counsel of the DoD or on its own initiative.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

V. Procedures Available For Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, if the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest. 15 U.S.C. 16(e).

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. 15 U.S.C. 16(b). Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The United States will evaluate and respond to the comments. All comments will be given due consideration by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the United States' responses will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court will retain jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Northrop and TRW. The United States could have brought suit and sought preliminary and permanent injunctions against Northrop's acquisition of TRW.

When the United States determines that a horizontal or vertical merger would result in a substantial lessening of competition, it generally seeks to block the merger or obtain structural relief. However, when a merger offers significant efficiencies, which cannot be obtained absent the merger or if a structural remedy is imposed, the United States will consider behavioral remedies.

With respect to this transaction, DoD, the only customer for the highly complex reconnaissance satellite systems affected by the transaction, determined that, with an appropriate decree resolving the vertical integration problems identified, the proposed acquisition offers the possibility of increased competition for DoD space requirements generally and of significant competitive benefits to DoD that would not be realized if the merger did not occur. Following a thorough review of the transaction, DoD concluded that entry of the proposed Final Judgment would remedy its potential anticompetitive effects, while permitting the potential achievements of significant benefits. Given the DoD's conclusion that the United States would benefit from the transaction if the competitive problems could be remedied, and given the importance of a vertically integrated firm structure to the achievement of those benefits, the Department of Justice determined that the proposed Final Judgment, containing strict behavioral prohibitions and significant potential sanctions, is the best available means of satisfying the public interest in competition. Neither the Department of Justice nor the DoD considers this proposed Final Judgment to be a general approval of behavioral remedies for all vertical or horizontal mergers, but rather consider it appropriate here under the unique circumstances of this case.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e). As the Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

In conducting this inquiry, ''the [C]ourt is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [2] Rather ''absent a showing of corrupt failure of the government to discharge its duty, the Court,

[2] 119 Cong. Rec. 24598 (1973). *See also United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. No. 93–1463, 93rd Cong. 2d See. 8–9 (1974), reprinted in 1974 U.S.C.C.A.N. 6535, 6538.

in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.'' [3]

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''enage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS Inc.,* 858 F.2d 456, 462 (9th Cir. 1988), (quoting *United States* v. *Bechtek Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also, Microsoft,* 56 F.3d 1458 (D.C. Cir. 1995). Precedent requires that

''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instanc, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is '*within the reaches of the public interest*.' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.'' [4]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest'.'' [5]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that the United States considered in formulating the proposed Final Judgment.

For Plaintiff United States of America:

J. Robert Kramer II, Chief, Litigation II Section, PA Bar No. 23963.

Maribeth Petrizzi, Assistant Chief, Litigation II Section.

Robert W. Wilder, Trial Attorney, Virginia Bar No. 14479, U.S. Department of Justice, Antitrust Division, 1401 H St., NW., Suite 3000, Washington, DC 20530, (202) 307–0924, (202) 307–6283 (Facsimile).

[3] *United States* v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

[4] *United States* v. *Bechtel,* 658 F.2d at 666 (internal citations omitted)(emphasis added); *accord United States* v. *BNS Inc.,* 858 F.2d at 463; *United States* v. *Nat'l Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 715. *See also United States* v. *Am. Cyanamid Co.,* 719 F.2d 558, 565 (2d Cir. 1983).

[5] *United States* v. *Am. Tel. and Tel Co.,* 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. at 716); *see also United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619. 622 (W.D. Ky. 1985).

Dated: December 23, 2002.

Certificate of Service

I, Robert W. Wilder, hereby certify that on December 23, 2002, I caused copies of the foregoing Competitive Impact Statement to be served on defendants Northrop Grumman Corporation and TRW, as indicated below:

Counsel for Defendant Northrop Grumman: James R. Loftis, III, Esquire, Gibson, Dunn & Crutcher LLP, 1050 Connecticut Ave. NW., Suite 900, Washington, DC 20036–5306, *Telephone No.:* (202) 955–8500, *Facsimile No.:* (202) 467–0539, Via Facsimile and U.S. Mail.

Counsel for Defendant TRW Corporation: Brian C. Mohr, Esquire, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW., Washington, DC 20005–2111, *Telephone No.:* (202) 371–7774, *Facsimile No.:* (202) 661–9067, Via Facsimile and U.S. Mail.

Robert W. Wilder, Virginia Bar No. 14479, U.S. Department of Justice, Antitrust Division, 1401 H. Street, NW., Suite 3000, Washington, DC 20530, *Telephone No.:* (202) 307–6336.

Stipulation and Order

It is hereby Stipulated by and between the undersigned parties, subject to approval and entry by the Court, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed with an entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedure and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though they were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

5. If the United States has withdrawn its consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provision of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendants represent that the required actions set forth in Sections IV and V of the proposed Final Judgment can and will be implemented and followed and that the defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained therein.

7. This Stipulation shall be effective only upon the closing of the Northrop Grumman/TRW transaction.

Respectfully submitted,

For Plaintiff

United States of America: J. Robert Kramer II, Pennsylvania Bar No. 23963, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530, *Telephone:* (202) 307–0924, *Facsimile*: (202) 307–6283.

For Defendant

Northrop Grumman Corporation: Robert E. Nelson, Corporate Vice President, Business Strategy, Northrop Grumman Corporation, 1840 Century Park East, Los Angeles, California 90067, *Telephone*: (310) 201–3493, *Fax*: (310) 201–3494.

For Defendant TRW Inc.: William B. Lawrence, Ohio State Bar No. 0031971, Executive Vice President, General Counsel, and Secretary, TRW, Inc., 1900 Richmond Road, Cleveland, Ohio 44124, Telephone: (216) 291–7230, Fax: (216) 291–7872.

Dated: December 11, 2002.

Order

It is so ordered, this_____day of_____, 2002.

_____

United States District Court Judge

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint in this action on December 11, 2002, and plaintiff and defendants, Northrop Grumman Corporation (''Northrop'') and TRW Inc. (''TRW''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of fact or law herein: and

Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court; and

Whereas, plaintiff requires defendants to agree to certain procedures for the purpose of remedying the loss of competition alleged in the Complaint; and

Whereas, defendants have represented to the United States that the procedures required below can and will be implemented and followed and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below:

Now Therefore, before the taking of any testimony, and without trial or adjudication

of any issue of fact or law herein, and upon consent of the parties hereto, it is ordered, Adjudged and Decreed as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definition

As used in this Final Judgment:

A. ''Northrop'' means defendant Northrop Grumman Corporation, a Delaware corporation with its headquarters in Los Angeles, California, its successors and assigns, and its subsidiaries, division, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees and, after consummation of the acquisition of TRW, all TRW businesses, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees acquired by Northrop.

B. ''TRW'' means defendant TRW Inc., an Ohio corporation with its headquarters in Cleveland, Ohio, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Defendants'' means, collectively or individually as the context requires, Northrop and/or TRW.

D. ''DoD'' means the United States Department of Defense.

E. ''Secretary of Defense'' means the United States Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of Defense's designee.

F. ''Secretary of the Air Force'' means the United States Secretary of the Air Force or the Secretary of the Air Force's designee.

G. ''Prime'' or ''Prime Contractor'' means any entity engaged in the research, development, manufacture, sale and/or integration of Satellite Systems that sells or competes to sell Satellite Systems directly to the United States government.

H. ''Payload'' means the assembly or assemblies on a Satellite that, using electro-optical technology, infrared technology, or radar technology, enable a Satellite to perform a specific mission. Payload also shall include, with the assembly or assemblies, all related components, software, interfaces, any other items within the assembly or assemblies that enable the Payload to perform its contemplated function, and all related technical data and information customarily provided by a Payload supplier to a Prime Contractor prior to entering into, or ion the course of working pursuant to, a teaming agreement or contract. Data and information customarily provided includes the types of data and information provided by Northrop to its inhouse Prime contract proposal team. Payload expressly excludes those payloads whose primary mission is communications.

I. ''Satellite'' means an unmanned vehicle that is launched with a Payload for the purpose of collecting and/or transmitting data back to Earth and that is designed either to orbit the Earth or to travel away from the Earth.

J. ''Satellite Systems'' means any Satellite and a system or series of systems designed, developed, or utilized in connection with the operation of a Satellite and corresponding subsystems and ground systems. Satellite Systems also shall include all information related to interfaces and any other defining parameters or specifications that enable the Payload to perform its contemplated function, and all related technical data and information, customarily provided by a Satellite Systems Prime Contractor to a Payload supplier prior to entering into, or in the course of working pursuant to, a teaming agreement or contract. Information and data customarily provided includes the types of information and data provided by Northrop to its in-house Payload proposal team.

K. ''Northrop Payload Business'' means that portion of Northrop engaged in the research, development, manufacture, or sale of Payloads, excluding former TRW Payload entities.

L. ''Northrop Satellite Prime Business'' means that portion of Northrop, or the TRW entity acquired by Northrop, that is engaged in the Satellite Systems integration business, including the research, development, manufacture, or sale of Satellite Systems or otherwise conducting business as a Satellite Systems integrator, and that performs contracts directly for the United States government.

M. ''United States Government Satellite Program'' or ''Program'' means any Satellite program executed by the DoD, which includes the National Reconnaissance Office.

N. ''Discriminate'' means to choose or advantage Northrop, or to reject or disadvantage a Northrop Prime or Payload competitor, in the procurement process for any reason other than the competitive merits; provided, however, that the determination of compliance or non-compliance with the non-discrimination provisions of this Final Judgment shall take into account that different firms will take different competitive approaches that may result in differences, individually and collectively, in price, schedule, quality, data, personnel, investment (including but not limited to, independent research and development), technology, innovations, design, and risk.

O. The terms ''and'' and ''or'' have both conjunctive and disjunctive meanings.

P. The terms ''he'' and ''his'' also include ''she'' and ''her.''

III. Applicability

This Final Judgment applies to Northrop and TRW, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Required Conduct

A. When Northrop is the Prime Contractor for a United States Government Satellite Program, has the responsibility to select a Payload for the Satellite, and has the opportunity to select its own Payload, the following is required:

(1) *Northrop shall*:

(a) Select the Payload on a competitive and non-discriminatory basis:

(b) on a non-discriminatory basis, provide information, as set forth in Definition J, regarding Satellite Systems to its in-house Payload proposal teams and any bona fide Payload competitors;

(c) make all personnel, resource allocation, and design decisions regarding Satellite Systems on a non-discriminatory basis; and

(d) propose non-discriminatory Payload source selection criteria, obtain approval from the Compliance Officer (as defined in Section V, below) for such criteria before the Payload providers are formally solicited, and communicate the approved source selection criteria to all competing Payload suppliers. The Compliance Officer shall not unreasonably withhold approval of the selection criteria and shall approve or reject the selection criteria within ten (10) business days of receipt of the criteria. If the Compliance Officer does not approve of the source selection criteria proposed by Northrop, the Compliance Officer shall refer the matter to the Secretary of the Air Force, who shall have the sole discretion to set non-discriminatory source selection criteria to be used by Northrop. The Secretary of the Air Force shall approve or alter the source selection criteria within five (5) business days of the decision of the Compliance Officer.

(2) When Northrop is the Prime Contractor for a United States Government Satellite Program, if it has decided to select a Northrop Payload, it shall seek the prior approval of the Compliance Officer and fully explain the reasons for the proposed source selection. The Compliance Officer shall review the proposed selection of Northrop, and shall approve or reject the selection within ten (10) business days of receiving the selection. If the Compliance Officer concludes that Northrop discriminated in its own favor, either in its Payload selection or the selection process, he shall refer the matter to the Secretary of the Air Force, who shall have the sole discretion to choose the Payload supplier. The Secretary of the Air Force shall approve or alter the selection within ten (10) business days of the decision of the Compliance Officer.

(3) In the event Northrop notifies the Compliance Officer in writing that: (i) Northrop, as the Prime Contractor, elects not to use the Northrop Payload; or (ii) the Northrop Payload Business elects not to supply its Payload to the Northrop Satellite Prime Business. Northrop need not comply with the requirements of Section IV.A after such notice.

B. When Northrop is a competitor (or, for potential future Programs, when Northrop has the capability to compete and has taken steps in anticipation of potentially competing) to be the Prime Contractor on a United States Government Satellite Program in which Northrop has the opportunity to select its own Payload, the following is required:

(1) Northrop shall:

(a) For each Program or potential future Program for which a Prime Contractor notifies Northrop that it potentially desires to

have Northrop supply the Payload, supply such Prime Contractor its Payload in a manner that does not discriminate in favor of its in-house proposal team against any other Prime Contractor on any basis, including but not limited to, price, schedule, quality, data, personnel, investment (including but not limited to, independent research and development), technology, innovations, design, and risk;

(b) for each Program or potential future Program for which a Prime Contractor notifies Northrop of a bona fide potential desire to have Northrop supply the Payload, negotiate in good faith with such Prime Contractor to enter into commercially reasonable nonexclusive teaming agreements and contracts for the purpose of bidding on Satellite competitions and similar activities; such agreements and contracts shall not discriminate in favor of its in-house proposal team against any other Prime Contractor on any basis, including but not limited to, price, schedule, quality, data, personnel, investment (including but not limited to, independent research and development), technology, innovations, design, and risk;

(c) prior to entering into any such teaming agreements and contracts, provide to the Compliance Officer copies of such agreements for his approval. The Compliance Officer shall not unreasonably withhold approval of such agreements and contracts, and shall approve or reject the agreements and contracts within five (5) business days of receipt of the agreement or contract. If the compliance Officer does not approve of the terms of an agreement or contract, the Compliance Officer shall refer the matter to the Secretary of the Air Force, and Northrop shall enter into teaming agreements and contracts on specific terms as required by the Secretary of the Air Force, in his sole discretion, such decision to be made within five (5) days of the decision of the Compliance Officer;

(d) on a non-discriminatory basis, provide information, as set forth in Definition H, regarding its Payload to its in-house proposal team(s) and to any Prime Contractor that has notified Northrop of a bona fide potential desire to have Northrop supply its Payload or with which Northrop has teamed to supply its Payload; and

(e) make all personnel, resource allocation, and design decisions regarding the Payload on a non-discriminatory basis between its in-house proposal team(s) and any Prime Contractor with which Northrop has teamed to supply its Payload.

(2) If the Compliance Officer concludes that Northrop has discriminated in favor of its in-house proposal team, failed to negotiate a teaming agreement or contract in good faith, or refused to enter into a commercially reasonable teaming agreement or contract, the Compliance Officer shall refer the matter to the Secretary of the Air Force who shall have the sole discretion to decide with whom, and on what terms. Northrop enters into such teaming relationships, such decision to be made within five (5) business days of the decision of the Compliance Officer.

(3) Notwithstanding any provisions of this Section IV.B, Northrop may refuse to supply a Payload to any Satellite Systems Prime if the number and/or burden of Satellite Systems Primes seeking the benefit of this Section becomes unreasonably large. In such event, Northrop shall notify the compliance Officer, who shall review the decision and make a recommendation to the Secretary of the Air Force within ten (10) business days. The Secretary of the Air Force shall have the sole discretion to decide with whom, and on what terms. Northrop enters into such teaming relationships, such decision to be made within ten (10) business days of the decision of the Compliance Officer.

(4) In the event that Northrop notifies the Compliance Officer in writing that: (i) Northrop, as the Prime Contractor, elects not to use the Northrop Payload; or (ii) the Northrop Payload business elects not to supply its Payload to the Northrop Satellite Prime Business; or (iii) Northrop elects not to compete at either the Prime or Payload level. Northrop need not comply with the requirements of Section IV.B after such notice.

C. When the Northrop Payload Business enters into teaming agreements or contracts or similar intra-company arrangements that function as teaming agreements with the Northrop Satellite Prime Business or with any other potentially competing Prime Contractor for any Program or potential future Program, and the team engages in joint investment or development activity for that Program, the provisions in this Final Judgment requiring non-discriminatory behavior shall not require that Northrop disclose the products and/or other results of such joint investments or developments of one team to any other team for the Program or potential future Program.

D. The provision of any information, technology, or product to any party pursuant to this Final Judgment shall be subject to appropriate confidentiality agreements on the treatment of competition-sensitive, national security-sensitive, ITAR-controlled, and/or proprietary information.

E. No provision of this Final Judgment shall require Northrop to provide products, services, or technology to any party without commercially reasonable compensation.

F. Northrop shall maintain the current TRW Space & Electronics Satellite Systems business (''S&E Business'') separate and apart from the Northrop Payload Business. To assure the above. Northrop:

(1) Shall establish a separately protected communications network for the S&E Business as distinct from the Northrop Payload Business:

(2) shall maintain separate physical locations for each such business:

(3) shall use commercially reasonable efforts to avoid transferring employees between the S&E Business and the Northrop Payload Business, and shall not transfer personnel, including employees and independent contractors, between the S&E Business and the Northrop Payload Business without first requiring such transferred personnel to acknowledge the restrictions of this Final Judgment as set forth herein. Records of such transfers, and copies of any such acknowledgments, shall be maintained during the term of this Final Judgment, and shall be available for inspection. Northrop shall notify the Compliance Officer of any such transfers:

(4) shall now allow the S&E Business to provide, disclose, or otherwise make available to the Northrop Payload Business any non-public information of any Payload competitor. All non-public information that a Payload competitor provides to the S&E Business shall be used only in Northrop's capacity as a Prime Contractor. The Northrop Payload Business shall not provide, disclose, or otherwise make avaiable to the S&E Business any non-public information of any Prime Contractor. All non-public information that a Prime Contractor provides to the Northrop Payload Business shall be used only in Northrop's capacity as a Payload supplier; provided, however, that the provisions of this paragraph shall not apply if the owner of the information consents to a broader lawful use of that information.

(5) shall within fifteen (15) business days of the closing of the transaction, submit a detailed plan for maintaining the Northrop Payload Business separate and apart from the S&E Business to the General Counsel of the DoD and the Assistant Attorney General in charge of the Antitrust Division, and the Assistant Attorney General in charge of the Antitrust Division, in consultation with the General Counsel of the DoD, shall in his sole discretion make changes to such plan to ensure compliance with the terms of this Final Judgment; and

(6) provided, that nothing in this Final Judgment shall require a separation of Northrop's Payload team and the team for the S&E Business at the implementation stage of a Program that has been awarded to Northrop at the Prime and Payload level.

G. Northrop shall inform all personnel of both the Northrop Payload Business and the S&E Business of the terms and requirements of this Final Judgment and require all personnel to adhere to such provisions.

H. When this Final Judgment places time limits on certain actions by the Compliance Officer and the Secretary of the Air Force, such limits may be modified by mutual agreement between the Compliance Officer or the Secretary of Air Force and Northrop.

I. (1) Northrop shall bear all its costs of monitoring, complying with, or enforcing this Final Judgment, and all such reasonable costs of the DoD arising solely from monitoring, complying with, or enforcing this Final Judgment, excluding the salaries and benefits of United States government employees, and including but not limited to, the costs of the Compliance Officer and the costs associated with the retention of third parties to assist the Compliance Officer.

(2) Northrop shall not charge to the DoD, either directly or indirectly, any costs of DoD referred to in Section IV.I(1). Northrop shall not charge to DoD, either directly or indirectly, any of Nortrop's costs, referred to in Section IV.I(1), including any remedial costs, as defined by Section IV.I(3); provided, however, that costs referred to in Sectin IV.I(1) incurred by Northrop, other than remedial costs, associated with normal business activities that could reasonably have been undertaken by Northrop in the absence of this Final Judgment are not subject to the

charging restrictions of this Section IV.I(2), whether or not such activities are affected by this Final Judgment; and further provided that, in the event that the Antitrust Division seeks to have the Court find Northrop in contempt or impose civil penalties and the conduct at issue is held by the Court to be compliant with the non-discrimination provisions of this Final Judgment, the remedial costs disallowed pursuant to this Section may be charged to DoD.

(3) remedial costs are those costs, incurred by Northrop, relating directly to the administration of measures to remedy conduct of Northrop in violation of this Final Judgment, where the following conditions are met:

(a) the conduct of Northrop was not undertaken pursuant to prior written direction or approval of the Compliance Officer:

(b) the Secretary of the Air Force has taken action in accordance with Sections IV.A(2) or IV.B(2) indicating concurrence with the Compliance Officer's conclusion that Northrop has engaged in conduct in violation of this Final Judgment with respect to a United States Government Satellite Program; and

(c) said costs are incurred after the date of the Secretary of the Air Force's action.

V. Appointment of Compliance Officer

To effect the procedures set forth in this Final Judgment, the Secretary of Defense shall appoint a Compliance Officer, who shall be an employee of the United States government. The Compliance Officer shall oversee compliance by the defendants with the terms of this Final Judgment, and shall have the power and authority to oversee such compliance and such other powers as this Court deems appropriate.

A. To perform his duties and responsibilities, and subject to any legally recognized privilege, the Compliance Officer may:

(1) Investigate any complaint or representation made to him or made available to him with respect to any matter arising in relation to or connected with compliance by Northrop with this Final Judgment;

(2) interview any Northrop personnel, subject to the reasonable convenience of such personnel, without restraint or interference by Northrop;

(3) during normal business hours, inspect and copy any document in the possession, custody of Northrop;

(4) during normal business hours, obtain reasonable access to any systems or equipment to which Northrop personnel have access;

(5) during normal business hours, obtain access to and inspect any physical facility, building, or other premises to which Northrop personnel have access;

(6) require Northrop to provide compilations of documents, data, and other information to Compliance Officer in such form as the Compliance Officer may direct;

(7) solicit and accept comments from third parties;

(8) utilize DoD or other United States government staff as appropriate to assist in the execution of the Final Judgment;

(9) hire, at the cost and expense of Northrop, a third party (or third parties) to assist in the execution of this Final Judgment, which third party (or third parties) shall be solely accountable to the Compliance Officer, and shall have such duties responsibilities as determined by the Compliance Officer and that do not exceed the Compliance Officer's duties and responsibilities as set forth in the Final Judgment; provided, however, that the professional staff (including third party consultants) reporting to the Compliance Officer shall be no larger than ten (10) persons (measured by full-time equivalents), with such maximum to be expanded solely with the permission of the Secretary of the Air Force as necessary to the execution of this Final Judgment; and provided that such professional staff (including third party consultants) shall maintain the confidentiality of business sensitive or proprietary information and documents of Northrop or any other person; and

(10) advise Northrop as soon as practical of the material nature of assertions or allegations of noncompliance that the Compliance Officer intends to investigate and, within reasonable time limits set by the Compliance Officer, attempt to resolve any deficiencies in Northrop's performing its obligations under this Final Judgment.

B. Defendants shall not object to the Compliance Officer chosen by the Secretary of Defense.

C. Defendants shall use their best efforts to assist the Compliance Officer in accomplishing the procedures established in this Final Judgment. Defendants shall take no action to interfere with or to impede the Compliance Officer's accomplishment of these procedures.

D. Defendants shall furnish to the Compliance Officer a compliance report, to be submitted as directed by the Compliance Officer, but in any event no less frequently than on an annual basis or more frequently than quarterly. The compliance report shall contain an affidavit that describes the actions defendants have taken and the steps defendants have implemented to comply with the terms of this Final Judgment. The Compliance Officer may direct defendants to include in their report any other information the Compliance Officer deems useful or necessary.

E. The Compliance Officer shall report in writing on an annual basis to the Secretary of the Air Force, the General Counsel of the DoD and the Assistant Attorney General in charge of the Antitrust Division a summary of the actions the Compliance Officer has undertaken in performing his duties pursuant to this Final Judgment. Such report shall include any compliance reports submitted by defendants to the Compliance Officer pursuant to Subsection D above. If the Compliance Officer is unable to perform his duties for whatever reason the Compliance Officer shall promptly notify the above individuals. The Secretary of Defense shall then appoint another Compliance Officer. The Secretary of Defense shall have the sole discretion to replace the Compliance Officer at any time when the Secretary of Defense considers such action appropriate.

F. If the Compliance Officer has reason to believe that there has been a failure of the defendants to comply with any term of this Final Judgment, he shall notify the Secretary of the Air Force and the General Counsel of the DoD. As soon as practical, the Compliance Officer shall inform Northrop that he has notified the Secretary of the Air Force and the general Counsel of the DoD of the failure and the material nature of the assertion or allegation of noncompliance.

VI. Compliance

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated and subject to any legally recognized privilege, from time to time duly authorized representatives of the Antitrust Division, including consultants and other persons retained by plaintiff, shall upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice of defendants be permitted:

(1) Access during defendants office hours to inspect and copy or at plaintiff's option to require defendants to provide copies of, all books, ledgers, correspondence, memoranda, accounts, records, and documents in the possession, custody, or control of defendants relating to any matters contained in this Final Judgment; and

(2) To interview, either informally or on the record defendants officers, employees, or agents, who may have their individual counsel present regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of the Attorney general or of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports under oath if requested, with respect to any matter contained in the Final Judgment and the Stipulation and Order.

C. No information or documents obtained by the means provided in this Section shall be divulged by a representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material. ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules Civil Procedure,'' then ten (10) business days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grant jury proceeding) to which defendants are not a party.

E. When the General Counsel of the DoD has reason to believe that there has been a failure by the defendants to comply with any

term of this Final Judgment, the General Counsel of the DoD shall notify the Assistant Attorney General in charge of the Antitrust Division.

F. The Assistant Attorney General in charge of the Antitrust Division shall have the sole discretion to seek appropriate enforcement of this Final Judgment with the Court, either as the result of a referral or on the Antitrust Division's own initiative.

VII. Civil Penalties

The Court may order Northrop to pay a civil penalty of up to $10 million for each violation of this Final Judgment.

VIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

IX. Third Party Rights

Nothing in this Final Judgment is intended to confer upon any other persons any rights or remedies of any nature whatsoever hereunder or by reason of this Final Judgment.

X. Expiration of Final Judgment

This Final Judgment shall expire seven (7) years from the date of entry; provided that, before the expiration of this Final Judgment, plaintiff, after consultation with DoD, may petition the Court to extend the Final Judgment for a period of up to three (3) years. In no event shall the terms of this Final Judgment exceed a period of ten (10) years.

XI. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

_____

United States District Judge

[FR Doc. 03–623 Filed 1–13–03; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–002)]

NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee (SSUAS).

DATES: Monday, February 3, 2003, 8 a.m. to 5 p.m., and Tuesday, February 4, 2003, 8 a.m. to 5 p.m.

ADDRESSES: South Shore Harbour Resort, 2500 South Shore Blvd., League, Texas 77573.

FOR FURTHER INFORMATION CONTACT: Dr. Neal Pellis, Code U, National Aeronautics and Space Administration, Houston, TX 77058, (281) 483–2357.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

- Research Report on Increment Five Research Plans for Increments 6 and 7
- Telecon with Investigators
- Operations Report
- Office of Biological and Physical Research Report
- International Space Station (ISS) Program Status/Plans
- ISS Payloads Office Report
- Response to Prior Recommendations
- Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–658 Filed 1–13–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Partnerships Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Partnerships Advisory Panel (National Services), to the National Council on the Arts will be held by teleconference from 2 p.m. to 3 p.m. on January 21, 2003 from the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

This meeting will be open to the public. Topics will include review of the National Services application and discussion of guidelines and policy issues.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Andi Mathis, State and Regional Specialist, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5430.

Dated: January 9, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–831 Filed 1–13–03; 8:45 am]

BILLING CODE 7537–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–2]

Virginia Electric and Power Company; Notice of Docketing, Notice of Proposed Action, and Notice of Opportunity for a Hearing for Renewal of Materials License SNM–2501 for the Surry Independent Spent Fuel Storage Installation

The U. S. Nuclear Regulatory Commission (NRC or Commission) is considering an application dated April 29, 2002, for the renewal of materials license SNM–2501 under the provisions of 10 CFR part 72, from Virginia Electric and Power Company (the applicant or Virginia Power) for the receipt, possession, storage and transfer of spent fuel and other radioactive materials associated with spent fuel at the Surry Independent Spent Fuel Storage Installation (ISFSI), located at the Surry Nuclear Power Station site in Surry County, Virginia. If granted, the renewed license will authorize the applicant to continue to store spent fuel in a dry cask storage system at the applicant's Surry ISFSI. Pursuant to the provisions of 10 CFR part 72, the renewal term of the license for the ISFSI would be twenty (20) years; however, the applicant has submitted a separate exemption request with the license renewal application, which, if granted,