September 24, 2003

<u>BY ELECTRONIC FILING</u>

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, N.W.
Washington, D.C. 20554

Re: **Request for FCC Approval of the Assignment of the OrbView-2 Experimental License; Expedited Consideration Requested**

Dear Ms. Dortch

In April 2002, Orbital Imaging Corporation ("ORBIMAGE" or the "Company") filed a voluntary petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code. In November 2002, the Federal Communications Commission (the "FCC") granted ORBIMAGE an experimental license to operate the OrbView-2 remote sensing satellite and Fairmont, West Virginia ground station using the 1702.5 MHz and 2092.59 MHz frequency bands (the "OrbView-2 Experimental License") for the purpose of performing certain U.S. Government contracts.[1] ORBIMAGE has been successful in its Chapter 11 restructuring efforts, and recently filed an amended plan of reorganization (the "Plan of Reorganization") with the U.S. Bankruptcy Court, Eastern District of Virginia (the "Court") seeking to exit Chapter 11 bankruptcy and assign the OrbView-2 Experimental License and transfer control of the Company to new owners. A copy of the Plan of Reorganization and the associated Disclosure Statement submitted to the Court, which includes the proposed amended and restated certificate of incorporation of ORBIMAGE as it will be in effect upon the consummation of the Plan of Reorganization, is attached as <u>Attachment A</u>.

As required by 47 C.F.R. §5.79 of the Commission's regulations, ORBIMAGE hereby submits an application for the assignment of the OrbView-2 Experimental License from Orbital Imaging Corporation, debtor-in-possession to reorganized ORBIMAGE, Inc. ("Reorganized ORBIMAGE") and requests that the Commission approve such assignment, which is a condition to the effectiveness of the Plan of Reorganization. Reorganized ORBIMAGE will be the same

[1] *See* FCC Experimental Radio Station Construction Permit and License dated November 1, 2002, granted to Orbital Imaging Corporation, Debtor in Possession (Call Sign WC2XYN; File No. 0161-EX-PL-2002).

corporate entity as Orbital Imaging Corporation, debtor-in-possession, except that it will change its name upon the effectiveness of the Plan of Reorganization.

As set forth in more detail in the Plan of Reorganization, all of the current equity securities of the company will be cancelled for no consideration upon the consummation of the Plan of Reorganization. Current holders of ORBIMAGE's preferred stock will receive warrants, and company employees will receive options, all exercisable for shares of Reorganized ORBIMAGE common stock. At the same time, additional shares of Reorganized ORBIMAGE common stock will be issued to the holders of general unsecured claims and holders of record as of a date to be established in the Plan of Reorganization (the "Record Date") of ORBIMAGE's 11 5/8% Senior Notes due 2005 (the "Old Notes"). Upon consummation of the Plan of Reorganization, therefore, almost all of the issued and outstanding voting equity of Reorganized ORBIMAGE will be held by those persons who beneficially owned the Old Notes as of the Record Date.[2]

Because the Old Notes are held in book entry form, as an eligible security though the Depository Trust Company ("DTC"), an accurate and comprehensive accounting of the identities of the beneficial owners is not available, even to ORBIMAGE. ORBIMAGE is able to receive a "Security Position Listing" from DTC, which lists the positions that DTC's participants hold with respect to the Old Notes as of any given date, but the participants are not generally the beneficial owners of DTC securities. Instead, most of the participants are financial institutions, who can generally be expected to be holding on behalf of their ultimate customers, the beneficial holders.

Through the cooperation of Houlihan Lokey Howard & Zukin ("Houlihan"), the Financial Advisor to the Official Committee of Unsecured Creditors in the bankruptcy (the "Creditors Committee"), through direct contacts with certain of the noteholders, and by making use of publicly available information, ORBIMAGE has been able to compile some information with respect to the identities of certain of those persons or entities that hold the Old Notes (the "Interim Noteholder Information"). The Interim Noteholder Information is based in part on information disclosed by the members of the Creditors Committee with respect to their holdings. The remainder of the Interim Noteholder Information was compiled based on information provided by other holders of the Old Notes who contacted Houlihan and ORBIMAGE over the course of the last several months in order to participate in, and obtain information regarding, the ORBIMAGE bankruptcy proceeding. In Houlihan's experience, it is common for significant holders of a bankrupt's bonds to contact the financial advisor to the committee representing the bondholders, such as the Creditors' Committee. Houlihan and ORBIMAGE believe that the holdings reported by the members of the Creditors Committee and those holders that contacted

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[2] The Plan of Reorganization estimates that 99.5 percent of the new shares of Reorganized ORBIMAGE common stock will be issued to holders of the Old Notes and 0.5 percent of the new shares of Reorganized ORBIMAGE common stock will be issued to holders of general unsecured claims. The Plan of Reorganization also provides for the possible issuance of new shares of Reorganized ORBIMAGE common stock to holders of administrative claims who agree to take new shares of Reorganized ORBIMAGE common stock in lieu of cash payment. Even if the holders of administrative claims agreed to be paid entirely in new shares of Reorganized ORBIMAGE common stock, it is estimated that the Old Note holders still would hold more than 90 percent of the new shares of Reorganized ORBIMAGE common stock.

Houlihan directly account for approximately 78% of the aggregate principal amount of the Old Notes outstanding.

Based on the Interim Noteholder Information, ORBIMAGE has compiled a list setting forth the identities of those persons or entities that hold in excess of 10% of the Old Notes (the "Interim List").[3] The Interim List is attached as Attachment B hereto.

While neither Houlihan nor ORBIMAGE have any reason to believe that any of the information provided by such holders of the Old Notes was inaccurate when given, there is no way of independently confirming its accuracy. Additionally, the Old Notes are registered securities, and can trade both before and after the Record Date. Consequently, no assurance can be given that the identities of the holders (if any) as of the consummation of the Plan of Reorganization will in fact be the same as those appearing on the Interim List, although the volume of trading in these securities has historically been fairly light. In order to address this uncertainty, the Court entered an order upon the motion of ORBIMAGE that requires all beneficial holders of 5% or more of original principal amount of the Old Notes as of September 16, 2003, to identify themselves to ORBIMAGE, together with their address, telephone number and citizenship. Moreover, the Court's order requires all those who at any time hold 5% or more of the Old Notes, prior to the effective date of the Plan of Reorganization (the "Effective Date"), or Reorganized ORBIMAGE's voting securities, after the Effective Date, to identify themselves to ORBIMAGE within 5 days after acquiring such a holding. These procedures were designed by ORBIMAGE to mirror the regulations implemented by the Securities and Exchange Commission under Section 13 of the Securities Exchange Act (the "Exchange Act"), which generally require all 5% holders of a public company's equity securities to identify themselves to the issuer and to the Securities and Exchange Commission.

Because the Old Notes are freely tradable and held in book-entry form, the identities of the holders cannot be ascertained with precision in advance. Nevertheless, because the Interim Noteholder Information is viewed as a reliable indicator and the Old Notes have not been frequently traded, ORBIMAGE respectfully submits that these holdings are sufficient for the Commission to commence the process for approval of the assignment of the OrbView-2 Experimental License to Reorganized ORBIMAGE. Moreover, based on the holdings of the holders of the Old Notes set forth on the Interim List, none of such holders are expected to control Reorganized ORBIMAGE, directly or indirectly, after such persons become holders of new shares of Reorganized ORBIMAGE common stock on the Effective Date. If any changes occur in the Interim Noteholder Information prior to the Effective Date, as a result of the Court's order or otherwise, ORBIMAGE will promptly report them to the Commission. Bear in mind, however, that compliance with the Court's order cannot be guaranteed, and it is also not possible to gather more detailed or reliable information with respect to the holders of the Old Notes in advance of, or even concurrently with, their obtaining such position. Thus, some holdings may be reported to the Commission even after it has approved the assignment of the OrbView-2 Experimental License. Regrettably, however, current law and regulation does not provide a mechanism for ORBIMAGE to obtain this information in advance. Therefore, if the important policies under the Bankruptcy Code that provide debtors like ORBIMAGE a "fresh start" are to

[3] The percentage ownership is based on the outstanding aggregate principal balance of the Old Notes, which equals $225,000,000.

be effectuated, ORBIMAGE respectfully requests that the Commission and the other governmental agencies involved in the review of this request rely on the information supplied through the process described above, retaining their power to withdraw OrbView-2 Experimental License in the unlikely event that an unacceptable ownership stake arises and cannot be addressed.[4] Moreover, in light of the Court's order, ORBIMAGE's position is essentially the same as that of a public company, which is also not able to guarantee the identity of its equity holders at any given time and cannot even identify the 5% holders until after the requisite disclosure has been made pursuant to the Exchange Act.

In addition to the changes in stock ownership, there will be changes in the composition of ORBIMAGE's Board of Directors as of the Effective Date, but fortunately these can be identified in advance with precision. Upon the Effective Date, the Board of Directors of ORBIMAGE will be expanded from three to seven members, with the four additional directors to be designated by the Chapter 11 Creditors Committee. The seven directors will be deemed elected or appointed pursuant to a confirmation order to be entered by the Court after the hearing scheduled for October 24, 2003. ORBIMAGE will update its assignment applications filed with the Commission to provide the identities of the new members of the ORBIMAGE Board of Directors as soon as such information is made available by the Creditors' Committee. A list of ORBIMAGE's current directors and officers is attached hereto as Attachment C.

Except as discussed above, all other information previously provided to the Commission in connection with the OrbView-2 Experimental License remains unchanged as of the date hereof.

Concurrently with the filing of this assignment application for the OrbView-2 Experimental License, ORBIMAGE is under separate cover requesting that the Commission waive the applicable Form 312 assignment application fees payable to the Commission, and refund the fees submitted with this application.

The consummation of the Plan of Reorganization is contingent upon, among other things, the Commission approving the assignment of the OrbView-2 Experimental License to Reorganized ORBIMAGE. It is crucial for the successful implementation of the Plan of Reorganization that ORBIMAGE be able to emerge from bankruptcy as soon as possible after the October 24, 2003, Court hearing on the confirmation of the Plan of Reorganization, in order to focus on completing its financial restructuring and managing its core remote sensing imagery business. ORBIMAGE therefore respectfully requests that the Commission approve the assignment application as soon as possible and in any event no later than December 1, 2003.

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[4] Under the Third Amended and Restated Certificate of Incorporation that the Plan of Reorganization proposes will govern Reorganized ORBIMAGE after it emerges from bankruptcy, ORBIMAGE will have the ability to redeem shares of stock held by entities if the continued holding by those entities would jeopardize Reorganized ORBIMAGE's ability to hold a governmental franchise or license, such as the OrbView-2 Experimental License. Thus, if the Commission were to determine after the Effective Date that a holding reported to it was inconsistent with the Commission's requirements, and such holder did not voluntarily make a suitable divestiture of shares, Reorganized ORBIMAGE would have the right to redeem shares as necessary to satisfy the Commission's concerns to the extent permitted under applicable corporate laws.

Thank you for your assistance with this request, and please contact Dan Connors of my office (703-480-7500) or James F. Rogers of Latham & Watkins (202-637-2215) if you have any questions about it.

Very truly yours,

Orbital Imaging Corporation

By: /s/ ARMAND D. MANCINI
Armand D. Mancini
Executive Vice President &
Chief Financial Officer

Attachments

<u>ATTACHMENT A</u>
<u>TO ORBIMAGE SEPTEMBER 24, 2003,</u>
<u>FCC LICENSE ASSIGNMENT APPLICATION</u>

See attached Plan of Reorganization and Disclosure Statement
(Annex A and B to Form 312)

ATTACHMENT B
TO ORBIMAGE SEPTEMBER 24, 2003,
FCC LICENSE ASSIGNMENT APPLICATION

Below is a list of each person or entity holding 10% or more of the Old Notes that upon the Effective Date will have a beneficial ownership interest equal to or greater than 10% in Reorganized ORBIMAGE:

GMAN Investment Funds Trust	**$ 40,545,000**	**18.02%**
Harbert Funds		
Harbert Distressed Investment Master Fund, Ltd.	$ 38,200,000	
PCMG Trading Partners XII, L.P.	995,000	
Alpha US Sub Fund VI, LLC	595,000	
	$ 39,790,000	**17.68%**
Putnam Funds		
Putnam Asset Allocation: Growth Portfolio	$ 415,000	
Putnam Managed High Yield Trust	200,000	
Putnam Variable Trust: Putnam VT High Yield Fund	1,990,000	
Putnam High Income Opportunities Trust	90,000	
Putnam High Income Bond Fund	100,000	
Putnam Master Income Trust	390,000	
Putnam Premier Income Trust	990,000	
Putnam Diversified Income Trust	4,390,000	
Putnam Master Intermediate Income Trust	620,000	
Putnam Variable Trust: Putnam VT Diversified Income Fund	500,000	
Putnam Asset Allocation: Conservative Portfolio	100,000	
Putnam High Yield Trust	440,000	
Putnam High Yield Advantage (private placement)	5,180,000	
Putnam High Yield Trust (private placement)	7,858,000	
Putnam Variable Trust: Putnam VT Diversified Income Fund (private placement)	60,000	
Putnam Diversified Income Trust (private placement)	60,000	
	$ 23,383,000	**10.39%**

ATTACHMENT C
TO ORBIMAGE SEPTEMBER 24, 2003,
FCC LICENSE ASSIGNMENT APPLICATION

Below is a list of the current directors and officers of ORBIMAGE that upon the Effective Date are expected to continue as the directors and officers of Reorganized ORBIMAGE:

Directors:

General James A. Abrahamson (Ret.) (Chairman)
20112 Marble Quarry Road
Keedysville, Maryland 21756

William W. Sprague
17 Courseview Road
Bronxville, NY 10708

Matthew M. O'Connell
228 Southdown Road
Lloyd Harbor, NY 11743

Officers:

Matthew M. O'Connell
Chief Executive Officer
228 Southdown Road
Lloyd Harbor, NY 11743

General James A. Abrahamson (Ret.)
President
20112 Marble Quarry Road
Keedysville, Maryland 21756

Armand D. Mancini
Executive Vice President and Chief Financial Officer
15453 Eagle Tavern Lane
Centreville, VA 20120

Timothy Puckorius
Senior Vice President, Worldwide Marketing & Sales
8307 Thoreau Drive
Bethesda, MD 20817

Anthony Anzilotti
Vice President, Finance
301 Ayita Road
Vienna, VA 22180