

**SAFETY EVALUATION REPORT**  
**PROPOSED LICENSE AMENDMENT, TRANSFER OF CONTROL, AND RELEASE OF**  
**FACILITY IN WEST HARTFORD, CONNECTICUT, FOR NRC BYPRODUCT MATERIALS**  
**LICENSE NUMBER 31-31412-01, AMMAN & WHITNEY, INC.**

**DATE:** October 31, 2018

**DOCKET NO.:** 030-38306

**LICENSE NO.:** 31-31412-01

**LICENSEE:** Amman & Whitney, Inc.  
96 Morton Street, New York, New York

**TECHNICAL REVIEWER:** Dennis Lawyer

**SUMMARY AND CONCLUSIONS**

Amman & Whitney, Inc. holds a byproduct materials license issued by U.S. Nuclear Regulatory (NRC). Under NRC Materials License 31-31412-01, Amman & Whitney, Inc. (A&W) is authorized to possess and use byproduct material for purposes of using portable gauging devices for measuring physical properties of materials at its facilities in New Haven, Connecticut; West Hartford, Connecticut; and at temporary job sites in the NRC's areas of regulatory jurisdiction.

By letter dated August 15, 2018, Agencywide Documents Access and Management System (ADAMS) Accession Number ML18242A047, Louis Berger U.S., Inc. (LBUS) requested the NRC's consent to a direct transfer of control of the above license from A&W to LBUS. This change is an internal reorganization associated with wholly-owned subsidiaries of Berger Group Holdings, Inc. Berger Group Holdings, Inc. is the same ultimate parent company for both A&W and LBUS. A&W was a wholly-owned subsidiary of Louis Berger Holdings, LLC with the ultimate parent company, Berger Group Holdings, Inc. LBUS is a wholly-owned subsidiary of the Louis Berger Group, Inc. with the same ultimate parent company Berger Group Holdings, Inc. On May 5, 2017, LBUS and A&W merged with LBUS being the surviving entity. A&W continued to perform its services until the A&W contracts with clients were assigned to LBUS on or about May 29, 2018.

All assets and facilities associated with licensed operations were transferred to LBUS as part of the merger. A&E and LBUS completed this transaction without first requesting and obtaining the NRC's prior written approval as required by 10 CFR 30.34(b) and section 184 of the Atomic Energy Act of 1954, as amended (the Act).

The request for consent was reviewed by NRC staff. The NRC staff applied the guidance in NUREG-1556, Volume 15, Revision 1, "Consolidated Guidance About Materials Licenses - Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated June 2016, and determined that this transaction is a direct transfer of control. The NRC staff finds that the information submitted by LBUS sufficiently describes and documents the transaction and commitments made by LBUS.

LBUS requested removal of 430 New Park Avenue, West Hartford, Connecticut facility from the license. Essentially, they requested release of this site for unrestricted use. The NRC staff sent a letter requesting additional information to support the unrestricted release of the facility on September 18, 2018, ADAMS Accession number ML18282A065. The applicant responded by letter dated September 19, 2018, ADAMS Accession number ML18283B394, providing the additional information needed for the unrestricted release of the West Hartford, Connecticut facility. This information was reviewed by NRC staff and was reviewed in accordance with NUREG-1757, Volume 1, Revision 2, "Consolidated Decommissioning Guidance: Decommissioning Process for Materials Licensees." The staff finds that the information submitted by LBUS provided sufficient information to allow the unrestricted release of the West Hartford, Connecticut facility.

As required by 10 CFR 30.34(b) and Section 184 of the Act, NRC staff has reviewed the application and finds that, other than a failure to obtain the NRC's prior written approval of the transfer of control, the transfer of control and unrestricted release of the West Hartford, Connecticut facility are in accordance with the Act. The staff finds that LBUS is qualified to use byproduct material for the purpose requested, and has the equipment, facilities, and procedures needed to protect public health and safety, and promote the common defense and security.

## **SAFETY AND SECURITY REVIEW**

According to the data obtained from the NRC's Web Based Licensing (WBL), A&W has been an NRC licensee since July 9, 2010. The NRC conducted a main office inspection of A&W on February 25, 2014, for NRC Materials License No. 31-31412-01 and no violations were identified during the inspection. The commitments made by LBUS state that under the transaction the following did not change:

- A. the radiation safety officer listed on the NRC license;
- B. the personnel involved in licensed activities;
- C. the equipment authorized in the NRC license;
- D. the radiation safety program authorized in the NRC license; or
- E. the maintenance of required surveillance records and decommissioning records.

LBUS did state that it requested removal of the West Hartford, Connecticut location where gauges were authorized to be stored. This change requires a license amendment. The facility at New Haven, Connecticut will remain as an authorized storage location on the license.

The licensed activities were transferred to LBUS and the name on the license will reflect the new company name. The transfer in ownership occurred on May 5, 2017. A pre-licensing visit was performed on October 25, 2018, because LBUS is not considered a known entity. The pre-licensing visit followed the guidance provided by the NRC's Nuclear Material Safety and Safeguards (NMSS) "Checklist to Provide a Basis for Confidence that Radioactive Materials Will be Used as Specified on the Application," August 9, 2018, revision. The purpose of this aspect of the review is for the NRC to obtain reasonable assurance from new license applicants or

NRC license transferees that the licensed material will be used for its intended purpose and not for malevolent use. Based on the pre-licensing visit the NRC has confirmed that there is reasonable assurance that LBUS will use the licensed material for its intended purpose and not for malevolent use.

A&M is not required to have decommissioning financial assurance based on the types and amount of material authorized in NRC Materials License No. 31-31412-01.

## **REGULATORY FRAMEWORK**

Section 184 of the Atomic Energy Act of 1954, as amended, prohibits the transfer of control of any license unless the Commission finds that the transfer is in accordance with the Act and consents to the transfer in writing.

A&M NRC Materials License No. 31-31412-01, was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

10 CFR 30.34(b) states: "No license issued or granted pursuant to the regulations in this part and parts 31 through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing."

10 CFR 30.34(c) states, in part: "Each person licensed by the Commission pursuant to the regulations in this part and parts 31 through 36 and 39 shall confine his possession and use of the byproduct material to the locations and purposes authorized in the license."

As previously indicated, the staff evaluation associated with the transfer of control is based on guidance in NUREG-1556, Volume 15, Revision 1. The central issue when determining whether a license is transferred is whether the authority over the license has changed. LBUS's request for consent describes a direct transfer of control of the NRC license held by A&M, resulting from ownership change from A&M to LBUS. Following the sale, LBUS assumed the licensed activities, and, as such, the transfer requires the NRC's consent.

As previously indicated, the staff evaluation associated with release of the facility at West Hartford, Connecticut was performed in accordance with NUREG-1757, Volume 1, Revision 2, "Consolidated Decommissioning Guidance: Decommissioning Process for Materials Licensees." Following the amendment, the facility at West Hartford, Connecticut will be removed from an authorized storage location on NRC Material License No. 31-31412-01.

## **DESCRIPTION OF TRANSACTION**

The transaction is described in ADAMS accession number ML18283B394 and ML18242A047. After completion of the merger, LBUS assumed the activities described under the license and is in control of all licensed activities under NRC Materials License No. 31-31412-01. With the exception of A&W and LBUS's failure to request and obtain the NRC's prior written approval of the license transfer, the NRC staff finds that the request for consent adequately provides a complete and clear description of the transaction, and is consistent with the guidance provided

in section 5 of NUREG-1556, Volume 15, Revision 1. The amendment will reflect LBUS as the licensee and will remove the facility at West Hartford, Connecticut.

### **TRANSFeree'S COMMITMENT TO ABIDE BY THE TRANSFEROR'S COMMITMENTS**

The NRC staff finds that the information submitted by LBUS sufficiently describes and documents the commitments made by LBUS, and is consistent with the guidance in NUREG-1556, Volume 15, Revision 1.

### **UNRESTRICTED RELEASE OF THE WEST HARTFORD, CONNECTICUT FACILITY**

In the letter dated August 15, 2018, LBUS requested the removal of the West Hartford, Connecticut facility from the license. LBUS effectively requested the release of this site for unrestricted use. LBUS provided in a letter dated September 19, 2018, that the facility had not been used as a temporary job site, not a storage facility. If the facility has not been used as a storage location, surveys are not required. Temporary job sites are not required to be submitted individually for removal from the license. As only sealed sources are used by this licensee, leak tests are required to be performed and are periodically inspected. Thus the facility meets the criteria for unrestricted use in accordance with NUREG-1757, Volume 1, Revision 2, "Consolidated Decommissioning Guidance: Decommissioning Process for Materials Licensees."

### **ENVIRONMENTAL REVIEW**

An environmental assessment for transfer of control is not required since this action is categorically excluded under 10 CFR 51.22(c)(21). An environmental assessment of releasing the West Hartford, Connecticut location is not required since this action is categorically excluded under 10 CFR 51.22(c)(20)(ii).

### **CONCLUSION**

The NRC staff has reviewed the request for consent submitted by LBUS with regard to a direct transfer of control of NRC Materials License No. 31-31412-01 pursuant to 10 CFR 30.34(b), and consents to the proposed direct transfer of control.

The submitted information sufficiently describes the transaction; documents the transferee's commitments, and demonstrates that personnel have the experience and training to properly implement and maintain the license and that they will maintain the existing records. The submitted information also demonstrates that the licensee will abide by all existing commitments in the license, consistent with the guidance in NUREG-1556, Volume 15, Rev 1.

The NRC staff has reviewed and approved the request for an amendment to remove the locations of use and release for unrestricted use the facility at West Hartford, Connecticut.

Therefore, the staff concludes that the proposed transfer of control, license amendment, and release of the facility for unrestricted use at West Hartford, Connecticut would not alter the previous findings, made under 10 CFR Part 30, that licensed operations will not be inimical to the common defense and security, or to the health and safety of the public.