



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

December 9, 2021

Larry D. Adams, P.E., Vice President –
Permitting and Environmental Affairs
Southeastern Land, LLC
81 Enterprise Drive
Debord, KY 41214

**SUBJECT: SOUTHEASTERN LAND, LLC, ACCEPTANCE OF NOTIFICATION OF
CHANGE OF CONTROL, MAIL CONTROL NO. 625769**

Dear Mr. Adams:

By letters dated March 8, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML21139A093) and August 30, 2021 (ML21243A251), Southeastern Land, LLC submitted to the U.S. Nuclear Regulatory Commission (NRC) a request for written consent to a direct transfer of control of NRC Materials License number 16-35383-02. In accordance with Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 30.34, the NRC consents to the transfer.

Southeastern Land, LLC is authorized by the NRC for the possession and use of byproduct material under Part 30. By letter dated March 8, 2021, Southeastern Land, LLC requested written consent to the direct transfer of control of its license from the NRC. Because the license was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," the NRC must find that the transfer is in accordance with the provisions of the AEA and, if so, must give its consent in writing prior to the transfer, in accordance with Section 184 of the AEA and 10 CFR 30.34(b). Additionally, the NRC staff reviewed the direct transfer of control request using 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.

10 CFR 30.34(b) states:

- (1) No license issued or granted pursuant to the regulations in [parts 30] 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.
- (2) An application for transfer of license must include:
 - (i) The identity, technical and financial qualifications of the proposed transferee; and

- (ii) Financial assurance for decommissioning information required by [10 CFR] 30.35.

As described in ADAMS accession numbers ML21139A093 and ML21243A251, the direct transfer of control resulted from the foreclosure of a significant debtor and the subsequent acquisition of the Southeastern Land, LLC assets, including the location of NRC licensed activities under Southeastern Land, LLC's License No. 16-35383-02, by Coal-Mac LLC. At that time, the facility was idle and all Southeastern Land, LLC employees were terminated. Pursuant to the management agreement, Coal-Mac LLC is providing all management services including managing the day-to-day affairs, budgetary plans, operating plans and policies and procedures, as well as all radiation safety activities including security and accountability of licensed materials and radiation safety training of employees. Because the transfer of control occurred on December 12, 2019, and the request is dated March 8, 2021, this request was for approval of a direct license transfer, without receiving prior written consent from the Commission. The NRC staff finds that the licensee request adequately provides a complete and clear description of the proposed transaction, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1. The sufficiency of the description is evaluated below.

The request for a direct transfer of ownership was posted for public comment on the NRC website for 30 days in accordance with 10 CFR Part 2, Subpart M and as described in NRC's Regulatory Issue Summary 2014-08, Revision 1. No comments were received from members of the public.

In the request for a direct transfer of ownership, Southeastern Land, LLC provided information regarding its current decommissioning funding plans. Based on the information provided, Southeastern Land, LLC is not required to have financial assurance for decommissioning because of the types and amount of material authorized in its license. The NRC staff finds that the licensee's request adequately provided information for financial assurance for decommissioning, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1.

Further, the NRC conducted an inspection of Southeastern Land, LLC on September 20 and December 6, 2017 at the Bickmore, West Virginia location. The NRC identified two violations: failure to amend the license to name a new Radiation Safety Officer, and failure to perform a review of the radiation safety program at least annually (ML17345A506 and ML18023A402).

Additionally, as described in its request, Coal-Mac LLC commits that it:

- A. Ensure the security of, and account for, all licensed materials under License No. 16-35383-02;
- B. Provide radiation safety training to employees as required by the current training program under the Coal-Mac, LLC License No. 47-25599-01;
- C. Operate the license under the same radiation safety program as is authorized by the Coal-Mac LLC License No. 47-25599-01;
- D. Implement the radiation safety program by Doug Boyd, the Radiation Safety Officer for Coal-Mac LLC's License No. 47-25599-01, who will become the Radiation Safety Officer for License No. 16-35383-02; and
- E. Will perform activities authorized by License No. 16-35383-02 under the name "Coal-Mac LLC". Southeastern Land, LLC will continue as a licensed entity because it retains possession of License No. 16-35383-01.

Based on these commitments, the NRC staff finds that the licensee request adequately documents the constraints, license conditions, requirements, representations, and commitments made by the transferee, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1.

Coal-Mac, LLC holds NRC License No. 47-25599-01 for use of fixed gauges. The NRC staff used the guidance provided by the NRC's Office of Nuclear Material Safety and Safeguards' "Checklist to provide a basis for confidence that radioactive materials will be used as specified on the application," January 29, 2019 revision. The purpose of this checklist is for the NRC to obtain reasonable assurance from new license applicants or NRC licensees transferring control of licensed activities that the licensed material will be used for its intended purpose and not for malevolent use. Therefore, for security purposes, Coal-Mac LLC is considered a known entity because it has a current NRC license.

An environmental assessment for this action is not required because this action is categorically excluded under 10 CFR 51.22(c)(21).

The staff has reviewed the request for a direct transfer of control of 16-35383-02. The NRC staff finds that the direct transfer of control is in accordance with Section 184 of the AEA and 10 CFR 30.34(b) and consents to the transfer.

Future changes in the licensee's name, licensed use, licensed materials, licensed location, persons responsible for licensed material, or other changes to the corporate organizational structure require submission of a request to amend the license or a request to transfer the license. NRC approval must be received prior to implementation of any such proposed change.

In accordance with 10 CFR 2.390, a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>. If you have any questions regarding this letter, please contact Betsy Ullrich at (610) 337-5040 or via electronic mail at Elizabeth.Ullrich@nrc.gov.

L. Adams

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Thank you for your cooperation in this matter.

Sincerely,

Betsy Ullrich, Senior Health Physicist
Commercial, Industrial, R&D
and Academic Branch
Division of Radiological Safety and Security
Region I

License No. 16-35383-02
Docket No. 030-39003
Mail Control No. 625769

cc: Doug Boyd, Radiation Safety Officer
Terry C. Potter, P. E., Manager of Engineering, Coal-Mac LLC

SOUTHEASTERN LAND, LLC, ACCEPTANCE OF NOTIFICATION OF CHANGE OF CONTROL, MAIL CONTROL NO. 625769 DATED DECEMBER 9, 2021

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SUNSI Review Complete: Betsy Ullrich

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