



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION IV
1600 E. LAMAR BLVD
ARLINGTON, TX 76011-4511

April 29, 2024

Troy Hull
Radiation Safety Officer
Earth Engineers, Inc.
99-1421 Koaha Place
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**SUBJECT: RMA GROUP NORTHWEST, LLC DBA EARTH ENGINEERS, INC., LLC
REQUEST FOR WRITTEN CONSENT TO A DIRECT LICENSE
TRANSFER**

By email dated March 7, 2024 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML24071A215), Earth Engineers, Inc., (licensee) submitted to the Nuclear Regulatory Commission (NRC) a request for written consent to a direct transfer of control of NRC license number 53-35555-01 to another entity. In accordance with Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Title 10 of the Code of Federal Regulations (10 CFR) 30.34, the NRC consents to the transfer.

NRC license number 53-35555-01 authorizes the storage and use of byproduct material in portable gauging devices in accordance with 10 CFR Part 30. By email dated March 7, 2024, which contained an attached letter, Earth Engineers, Inc., 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.

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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 required by 10 CFR 30.34 and section 184 of the Atomic Energy Act of 1954, as amended (the Act), NRC staff has reviewed the application and finds that the direct transfer of control was in accordance with the Act. As described in ADAMS accession number ML24071A219, RMA Group Northwest, LLC acquired substantially all the assets of Earth Engineers, Inc., and is now the sole owner of the licensee.

As described in ADAMS accession number ML24071A219, RMA Group Northwest, LLC acquired substantially all the assets of Earth Engineers, Inc., and is now the sole owner of the licensee. The transfer of control occurred on March 13, 2024, prior to the NRC approving this request, which is not in accordance with 10 CFR 30.34(b). A Notice of Violation for initiating an indirect license transfer without receiving prior written consent from the Commission will be provided in separate correspondence. However, notwithstanding the timing of the request, the NRC staff finds that the licensee request adequately provides a complete and clear description of the transaction, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Volume 15, Revision 1. The sufficiency of the description is evaluated below.

The NRC staff finds that Earth Engineers, Inc., adequately provided 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, Volume 15, Rev. 1. The sufficiency of the description is evaluated below.

The request for a direct transfer of control 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 reviewing the request for a direct transfer of control, the NRC staff determined that Earth Engineers, Inc., is not required to have financial assurance for decommissioning based on the types and amounts of material authorized in NRC license number 53-35555-01. The NRC staff finds that the licensee's request adequately addresses financial assurance for decommissioning, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Volume 15, Revision 1.

Additionally, as described in its request, Earth Engineers, Inc.:

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- A. commits that it will not change the radiation safety officer listed in the NRC license;
- B. commits that it will not change the personnel involved in licensed activities;
- C. commits that it will not change the locations, facilities, and equipment authorized in the NRC license;
- D. commits that it will not change the radiation safety program authorized in the NRC license; and
- E. commits that it will keep regulatory required surveillance records and decommissioning records.

Based on these commitments, the NRC staff finds that the licensee's 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, Volume 15, Rev. 1.

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, the licensee has provided sufficient information for the NRC to reach a basis for confidence that licensed material will be used as intended.

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 NRC license number 53-35555-01. The NRC staff finds that the requested direct transfer of control is in accordance with Section 184 of the AEA and 10 CFR 30.34(b) and consents to the transfer.

Enclosed is amendment number 2 to NRC license number 53-35555-01 documenting the commitments made as a result of the transfer of control and updating the name of the licensee. 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.

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NRC's Regulatory Issue Summary (RIS) 2005-31, Revision 1, provides criteria to identify security-related sensitive information and guidance for handling and marking of such documents. This ensures that potentially sensitive information is not made publicly available through the NRC's Agencywide Documents Access and Management System (ADAMS). The RIS may be located on the NRC Web site at: www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/2005/. Pursuant to NRC's RIS 2005-31, Revision 1, the enclosed materials license will not be made publicly available.

Thank you for your cooperation.

Sincerely,

Casey Alldredge, Health Physicist
Materials Licensing Branch

Docket: 030-39182
License: 53-35555-01
Control: 639944

Enclosure: As stated