

# HUSCH BLACKWELL

December 4, 2018

## VIA FEDERAL EXPRESS

Attention: Document Control Desk  
U.S. Nuclear Regulatory Commission, Region III  
2443 Warrenville Rd, Suite 210  
Lisle, Illinois 60532-4352

RE: Application for Consent to Indirect Transfer of Control of  
Bayer CropScience LP ("Bayer CropScience") License No. 24-03830-01 (the "License")

Dear Sir or Madam:

Bayer CropScience anticipates that the controlling interest in Bayer CropScience will be transferred from one wholly owned subsidiary of Bayer AG to another wholly owned subsidiary of Bayer AG, KWA Investment II LLC, on or before December 31, 2018. Bayer entities are undergoing an internal corporate reorganization to satisfy commitments made to the Committee on Foreign Investment in the United States, an inter-agency committee of the United States government. Prior to and after completion of the transfer, Bayer CropScience will remain the holder of the License and will continue to fulfill all responsibilities as the licensee. In addition, Bayer AG will continue to be the ultimate parent of Bayer CropScience and will continue to hold a 100% indirect ownership interest in Bayer CropScience. As such, Bayer CropScience requests concurrence from the United States Nuclear Regulatory Commission (the "Commission") that this corporate reorganization does not constitute an indirect transfer of control of the License because the ultimate parent of Bayer CropScience will remain unchanged.

In the event the Commission finds that an indirect transfer of control has occurred, please find enclosed Bayer CropScience's application for consent by the Commission to the indirect transfer of control of the License resulting from the transfer of the controlling interest in Bayer CropScience to KWA Investment II LLC, a wholly owned subsidiary of Bayer AG. Bayer CropScience respectfully requests that the Commission consent by no later than December 21, 2018 to the indirect transfer of control of the License to KWA Investment II LLC.

Please do not hesitate to contact me at (314) 345-6242 if you require any additional information to process this request.

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Husch Blackwell LLP

# HUSCH BLACKWELL

Sincerely,

A handwritten signature in black ink, reading "Megan McLean". The signature is written in a cursive, flowing style.

Megan McLean  
Attorney

**APPLICATION OF MONSANTO COMPANY FOR  
CONSENT TO INDIRECT TRANSFER OF CONTROL OF  
NRC LICENSE NO. 24-03830-01**

**I. INTRODUCTION**

Pursuant to 10 C.F.R. § 30.34(b)(1), Bayer CropScience LP ("Bayer CropScience") hereby requests that the United States Nuclear Regulatory Commission ("NRC" or the "Commission") consent to the indirect transfer of control of NRC License No. 24-03830-01 resulting from the transfer of the controlling interest in Bayer CropScience from one wholly owned subsidiary of Bayer AG to KWA Investment II LLC, another wholly owned subsidiary of Bayer AG. This transfer of control is being made to satisfy commitments made by Bayer CropScience to the Committee on Foreign Investment in the United States ("CFIUS"), an inter-agency committee of the United States Government.

Bayer CropScience, headquartered in St. Louis, Missouri, is a leading manufacturer of crop protection products, professional turf and ornamental solutions, and seeds. It offers fungicides, harvest aids/plant regulators, herbicides, insecticides, seed treatment equipment, seed growth products, traits, and weed management products. Bayer CropScience holds License No. 24-03830-01 associated with byproduct materials used in research and development activities conducted at its facilities located at 8400 W. Hawthorn Road, in Kansas City, Missouri (the "License").<sup>1</sup> Prior to and after completion of the transaction described in this application, Bayer CropScience will remain the holder of the License and will continue to fulfill all responsibilities as the licensee. No amendment to the License is anticipated.

With operations in the U.S. dating to the mid-19th century, Bayer AG, headquartered in Leverkusen, Germany, is currently a leading supplier of prescription and non-prescription pharmaceuticals, crop protection products, and seeds. Bayer AG is listed on the Frankfurt Stock Exchange and all other German stock exchanges. Additional information regarding Bayer AG's corporate profile and structure is included in Bayer AG's 2016 annual report to its shareholders (<http://www.annualreport2016.bayer.com>). At the end of 2016, Bayer AG had approximately 115,200 employees worldwide and employed approximately 15,800 employees in North America.

KWA Investment II LLC ("KWA") is a Delaware limited liability company that has its principle place of business at 800 North Lindbergh Blvd., St. Louis, Missouri. KWA is an indirect, wholly-owned subsidiary of Bayer AG. KWA currently has indirect control of U.S. operations licensed and regulated by the NRC.<sup>2</sup>

Bayer AG, a German stock corporation, is currently the ultimate parent of both Bayer CropScience and KWA. Thus, as part of an internal reorganization, the controlling interest in Bayer CropScience will be transferred from one wholly owned subsidiary of Bayer AG to

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<sup>2</sup> On June 7, 2018, Monsanto Company became a wholly-owned subsidiary of KWA. In advance of this transaction, the Commission approved the indirect transfer of control of Monsanto Company's License No. 24-32488-01 for operations in St. Louis, Missouri to KWA.

another wholly owned subsidiary of Bayer AG (the "Transaction"). As a result of this Transaction, Bayer CropScience will become an indirect wholly-owned subsidiary of KWA. Following the Transaction, Bayer AG will remain the ultimate parent of Bayer CropScience.

Bayer CropScience anticipates the Transaction will be completed December 31, 2018.

## **II. INFORMATION REQUIRED FOR INDIRECT TRANSFER OF CONTROL APPLICATION**

In accordance with NUREG-1556 Volume 15 Revision 1, Bayer CropScience provides the following information regarding the Transaction to allow the Commission to review the proposed indirect transfer of control.

### **A. CHANGES IN ORGANIZATION**

Bayer AG is currently the ultimate parent of Bayer CropScience. As part of an internal reorganization, the controlling interest in Bayer CropScience will be transferred from one wholly owned subsidiary of Bayer AG to KWA, another wholly owned subsidiary of Bayer AG. As a result of this Transaction, Bayer CropScience will become an indirect wholly-owned subsidiary of KWA. However, Bayer AG will remain the ultimate parent of Bayer CropScience following the Transaction. Bayer CropScience anticipates the Transaction will be completed December 31, 2018.

The Transaction is not expected to result in any change in Bayer CropScience's officers or directors. No name change will occur as of the effective date of the Transaction. In addition, the Transaction will not result in any change in Bayer CropScience's contact information, including its phone number, mailing address, or email address as of the effective date of the Transaction.

### **B. CHANGES IN PERSONNEL OR DUTIES**

The Transaction will not result in any changes in Bayer CropScience personnel having control over the licensed activities, including the personnel named in the License and the duties of such personnel. In addition, the Transaction will not result in any changes to the training, qualifications and experience, and responsibilities required of new personnel, nor in any changes to Bayer CropScience's training program.

### **C. CHANGES IN LOCATION, FACILITIES, EQUIPMENT, RADIATION SAFETY PROGRAM, USE, POSSESSION, WASTE MANAGEMENT, OR OTHER PROCEDURES**

Related to the License, the Transaction will not result in any changes in Bayer CropScience's location, facilities, equipment, radiation safety program, use, possession, waste management, or other procedures, including the place of use and potentially affected adjacent areas, the nature and amount of licensed materials used and possessed, and the purpose for such use and possession.

Bayer CropScience recently relocated its headquarters from Research Triangle Park to St Louis Missouri. However, this change does not affect the License.

**D. STATUS OF FACILITIES, EQUIPMENT, AND RADIATION SAFETY PROGRAM**

To Bayer CropScience's knowledge, there is no contamination of Bayer CropScience's facilities or equipment that would exceed the NRC criteria of free release for unrestricted use and no decontamination is therefore planned to occur prior to the effective date of the Transaction.

The Transaction does not affect Bayer CropScience's surveillance records. Bayer CropScience's licensed facilities and equipment have been operated and will continue to be operated pursuant to Bayer CropScience's radiation safety program, with all calibrations, leak tests, area surveys, wipe tests, trainings, and quality control measures performed, documented, and reviewed (including the results, if appropriate) as required. All surveillance items and records are expected to be current as of the effective date of the Transaction. In addition, Bayer CropScience has maintained and will continue to maintain records of all activities relating to its facilities, equipment, and radiation safety program.

**E. CHANGES IN DECOMMISSIONING FUNDING PLANS**

The License does not authorize the possession or use of byproduct material in quantities exceeding those set forth in 10 CFR 30.35. As such, Bayer CropScience is not required to carry any financial assurance or maintain a Decommissioning Funding Plan related to the License. Consequently, no financial instruments will be affected by this transaction.

**F. TRANSFER OF DECOMMISSIONING RECORDS**

The Transaction will not affect Bayer CropScience's decommissioning records. Because Bayer CropScience will continue to operate as the licensee, all records relating to the License, including those required for safe and effective decommissioning, will remain the property of Bayer CropScience after the effective date of the Transaction. Bayer CropScience will continue to maintain records as required by law and by its License.

**G. CONFIRMATION OF AGREEMENT TO INDIRECT TRANSFER**

Both Bayer CropScience and KWA agree to the Transaction and, as a result, the indirect transfer of control of the licensed material and activity to KWA. KWA has been made aware of its responsibility and the responsibility of its subsidiaries with any ownership interest and/or control of Bayer CropScience and/or the License for any open inspection items and/or any resulting enforcement actions against Bayer CropScience relating to the License. To Bayer CropScience's knowledge, there are no open inspection items.

## **H. CONFIRMATION OF TRANSFEREE'S AGREEMENT TO ABIDE BY CONSTRAINTS, CONDITIONS, REQUIREMENTS, REPRESENTATIONS, AND COMMITMENTS**

The Transaction does not create a new licensee and does not change any of Bayer CropScience's existing commitments under the License. Bayer CropScience will continue to abide by all constraints, conditions, requirements, representations, and commitments of its License. Once the Transaction is complete, KWA, as the new parent of Bayer CropScience, will abide by, and will ensure that its subsidiaries with any ownership interest and/or control of Bayer CropScience and/or the License will abide by, all such constraints, conditions, requirements, representations, and commitments of Bayer CropScience. Accordingly, a letter from KWA to the Commission confirming KWA's commitment is attached hereto as Exhibit A.

## **I. FINANCIAL QUALIFICATIONS**

No fuel cycle facility is involved in the Transaction, so submission of documentation regarding KWA's financial qualifications is not required.

## **III. CONSISTENCY OF INDIRECT TRANSFER WITH PUBLIC INTEREST**

Pursuant to the Atomic Energy Act of 1954, the Commission must find that the transfer of control will not be "inimical to the common defense and security, and would not constitute an unreasonable risk to the health and safety of the public." The indirect transfer of control of NRC License No. 24-03830-01 resulting from Bayer CropScience's acquisition by KWA meets this standard for the following reasons:

- One of KWA's wholly-owned subsidiaries, Monsanto Company, currently holds NRC license No. 24-32488-01 for operations in St. Louis, Missouri. The Commission has therefore already determined that KWA's indirect ownership and control of corporations that are licensed to use byproduct and source material is acceptable for purposes of those activities.
- Bayer AG is currently and will continue to be the ultimate parent of Bayer CropScience. The Commission has therefore already determined that Bayer AG's indirect ownership and control of Bayer CropScience and the License is acceptable to the Commission.
- The Transaction will not result in any changes in Bayer CropScience's corporate officers or in personnel having control over the licensed activities, including the personnel named in the License and the duties of such personnel.

Because the Commission has already approved Bayer AG and KWA's control of licensed operations and because of the lack of significant changes that Bayer CropScience will experience due to the Transaction, Bayer CropScience requests that the Commission find that the indirect transfer of control to KWA pursuant to the Transaction is not "inimical to the common defense and security, and would not constitute an unreasonable risk to the health and safety of the public."

**IV. CONCLUSION**

For the reasons stated above, Bayer CropScience respectfully requests that the Commission consent by no later than December 21, 2018, to the indirect transfer of control of NRC License No. 24-32488-01 resulting from Bayer CropScience's acquisition by KWA. As set forth in the attached commitment letter, KWA joins in this request.

Respectfully submitted,

**BAYER CROPSCIENCE LP**

By: Megan McLean  
Name: Megan McLean  
Its: Attorney

Attachment:

Exhibit A      KWA Investment II LLC Commitment Letter



Attention: Document Control Desk  
U.S. Nuclear Regulatory Commission, Region III  
2443 Warrenville Rd, Suite 210  
Lisle, Illinois 60532-4352

**RE: Application for Consent to Indirect Transfer of Control of Bayer CropScience LP ("Bayer CropScience") License No. 24-03830-01 (the "License")**

Dear Sir or Madam:

In accordance with NUREG-1556 Volume 15 Revision 1, this letter is filed to support Bayer CropScience's application (the "Application") seeking the consent of the U.S. Nuclear Regulatory Commission (the "Commission") to the indirect transfer of control of the License resulting from the transfer of the controlling interest in Bayer CropScience from one wholly owned subsidiary of Bayer AG to KWA Investment II LLC ("KWA"), another wholly owned subsidiary of Bayer AG (the "Transaction").

In support of the Application, KWA hereby represents that:

1. I am authorized to file this letter with the Commission on behalf of KWA.
2. Once the Transaction is complete, KWA, as the new indirect parent of Bayer CropScience, will abide by, and will ensure that its subsidiaries with any ownership interest and/or control of Bayer CropScience and/or the License will abide by, all constraints, license conditions, requirements, representations, and commitments identified in and attributed to Bayer CropScience in the License.
3. KWA agrees to the Transaction and, as a result, the indirect transfer of control of the licensed material and activity to KWA.
4. KWA is aware of and agrees to its responsibility and the responsibility of its subsidiaries with any ownership interest and/or control of KWA and/or the License for any open inspection items and/or any resulting enforcement actions against KWA relating to the License.
5. KWA concurs in Bayer CropScience's request that the Commission consent by no later than December 21, 2018, to the indirect transfer of control of the License to KWA.

//////////

**December 4, 2018**

John D. Fred

Bayer U.S. LLC

2400 Ellis Road  
Durham, NC 27703 USA

Tel. +1 919 549 2646  
John.Fred@bayer.com

[www.bayer.com](http://www.bayer.com)





Please do not hesitate to contact me if you need any additional information with respect to this letter or the Application.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "John Fred".

John Fred  
Assistant Secretary  
KWA Investment II LLC

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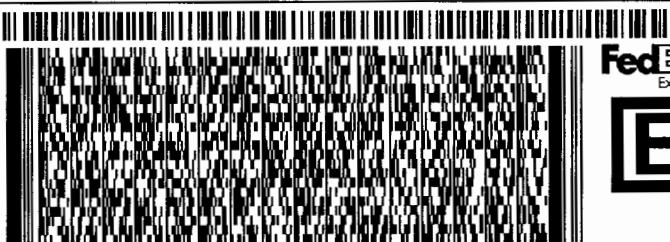
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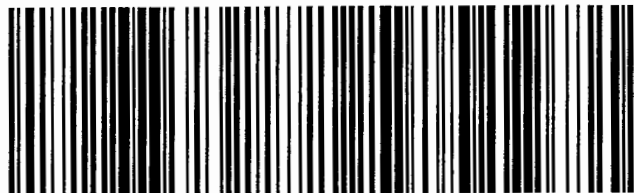
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