



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

August 21, 2009

Helena Sand & Gravel, Inc.
ATTN: Jeremiah B. Bowser
Radiation Safety Officer
2209 Airport Road
P.O. Box 5960
Helena, MT 59604-5960

SUBJECT: LICENSE AMENDMENT REQUEST DATED MAY 18, 2009

Dear Mr. Bowser,

We have reviewed your application dated May 18, 2009. The application for NRC License number 49-27538-01 requested a change of control from Evans Construction Co. to Helena Sand & Gravel, Inc., and requested to add two additional sister companies as locations of use on the license and with binding commitments as indicated by "et al." Ms. Jackie Cook, Sr. Health Physicist with NRC Region IV, Nuclear Materials Safety Branch B had discussions with you regarding the specifics of your request. A telephone conference was held between you and Mr. Jack Whitten, Branch Chief, Ms. Cook and me on August 19, to discuss the incorporation of each entity that had requested to participate in the change of control. It is our understanding that each business entity intends to retain their identity and not dissolve to become a part of Helena Sand & Gravel, Inc.

The NRC has requirements for change of control as specified in 10 CFR 30.34(b) and for issuance of NRC licenses to the lowest level of incorporation to the extent that the person's facilities and activities are subject to the licensing authority as described in 10 CFR 30.4, *person*.

We can not take further action on your request, because each entity identified on the change of control is retaining ownership of their respective business and therefore a merger or change of control to one incorporated business unit is not going to occur. Each entity will either have to submit their own license application for the material that is currently possessed or one incorporated business unit for the "Montana Companies" will have to take responsibility for all of the possession and uses of the devices under one NRC license. We have enclosed your check that was submitted with the original application.

Please recognize that the NARM waiver for the State of Montana was terminated on November 30, 2007, and the NARM Transition allowed 12 months for a new entity to submit a license application to the NRC. Please ensure that an application(s) response to this letter is received within 30 days from the date of this letter for all radium gauges possessed by the "Montana Companies." If you need additional time to respond, please submit your request in writing to this office. Where good cause is shown, consideration will be given to extending the response time. If an adequate response or extension request is not received within the time specified in this letter, further appropriate enforcement action will be considered.

Helena Sand & Gravel, Inc.

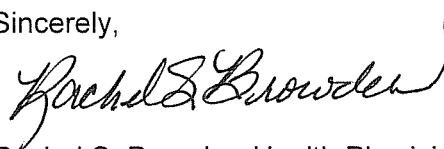
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If you have any questions regarding the termination of this action, please contact me at (817) 276-6552 or Ms. Jackie Cook at (817) 860-8132.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at:
<http://www.nrc.gov/reading-rm/adams.html>.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, reading "Rachel S. Browder". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Rachel S. Browder, Health Physicist
Nuclear Materials Licensing Branch

Docket: 030-34035
License: 49-27538-01
Control: 472270