



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 E. LAMAR BLVD
ARLINGTON TX 76011-4511

April 19, 2021

Mr. Gerald M. Gaston
Vice President and Radiation Safety Officer
Gaston Engineering & Surveying, P.C.
P.O. Box 861
Bozeman, MT 59771

SUBJECT: FRENCH ONION, LLC REQUEST FOR WRITTEN CONSENT TO DIRECT
LICENSE TRANSFER

By letter dated February 26, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML21060B508), French Onion, 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 25-27006-01 to Gaston Engineering & Surveying, P.C. 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.

French Onion, LLC, is authorized by the NRC for the possession and use of byproduct material under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material." By letter dated February 26, 2021, French Onion, LLC, requested written consent to the direct transfer of control of its license from the NRC. Because the license was issued under Part 30, 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). 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 number ML21060B508, the direct transfer of control is being requested to clarify which of the two companies, French Onion, LLC and Gaston Engineering & Surveying, P.C., owns the portable gauges and provides oversight of the radiation safety program. Specifically, French Onion, LLC, requested a transfer of control to Gaston Engineering & Surveying, P.C., as a result of an NRC inspection conducted on February 5, 2021. The ownership of both French Onion, LLC, and Gaston Engineering & Surveying, P.C. is held by the same individual, Mr. Gerald Gaston, who is the current radiation safety officer (RSO) in NRC license number 25-27006-01 and has been the RSO for this license since at least 1999. ADAMS records show that Gaston Engineering & Surveying, P.C., held NRC license number 25-27006-01 under amendment number 2 issued on September 21, 1999, and that amendment number 3 issued on February 16, 2000, transferred the control of the NRC license from Gaston Engineering & Surveying, P.C. to French Onion, LLC.

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, Volume 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, French Onion, LLC, provided information regarding its current decommissioning funding plans. Based on the information provided, French Onion, 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, Volume 15, Revision 1.

Further, the NRC conducted an inspection of French Onion, LLC, on February 5, 2021. As a result, French Onion, LLC, submitted to the NRC a change of control license amendment request to clarify that Gaston Engineering & Surveying, P.C., has oversight of the radiation safety program.

Additionally, as described in its request, Gaston Engineering & Surveying, P.C., commits that it:

- A. will not change the radiation safety officer listed in the NRC license;
- B. will not change the personnel involved in licensed activities;
- C. will not change the locations, facilities, and equipment authorized in the NRC license;
- D. will not change the radiation safety program authorized in the NRC license;
- E. will change the organization's name listed in the NRC license from French Onion, LLC to Gaston Engineering & Surveying, P.C.; and
- F. will keep regulatory required surveillance records and decommissioning records.

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, Volume 15, Rev. 1.

Gaston Engineering & Surveying, P.C., held NRC license number 25-27006-01 prior to September 21, 1999. 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, Gaston Engineering & Surveying, P.C., is considered a known entity.

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 25-27006-01. 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.

Enclosed is amendment number 6 to NRC license number 25-27006-01, recognizing the new company name and commitments made as a result of the transfer of control. 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 and its enclosure 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>. You can contact me at 817-200-1189 if you have any questions regarding this letter.

Thank you for your cooperation.

Sincerely,

Roberto J. Torres, M.S., Senior Health Physicist
Materials Licensing and Decommissioning Branch

Docket: 030-31337
License: 25-27006-01
Control: 624720

Enclosure: As stated