



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

May 31, 2023

George Friez, RSO
Jim Gilman Excavating, Inc.
3099 Grand Avenue
Butte Montana 59701
03038107
25-29360-01

**SUBJECT: JIM GILMAN EXCAVATING, INC. REQUEST FOR WRITTEN CONSENT TO
DIRECT LICENSE TRANSFER**

By letter dated December 14, 2022 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML22355A517), Jim Gilman Excavating, Inc. 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 25-29360-01. 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.

Jim Gilman Excavating, Inc. is authorized by the NRC for the possession and use of byproduct material under Part 30. By letter dated December 14, 2022, Jim Gilman Excavating, 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.

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 package accession number ML22355A517, the direct transfer of control will result from Jeffery Contracting, LLC purchasing Jim Gilman Excavating, Inc. Jeffery Contracting, LLC plans to continue performing the same type of construction work. Nuclear gauges will be used for asphalt paving compaction testing. 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, Jim Gilman Excavating, Inc. provided information regarding its current decommissioning funding plans. Based on the information provided, Jim Gilman Excavating, Inc. 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 Jim Gilman Excavating, Inc. on 08/26/2021 at 3099 Grand Avenue, Butte, Montana. The NRC identified one Severity Level IV violation.

Additionally, as described in its request, Jeffery Contracting, LLC. commits that it:

- A. will not change the radiation safety program authorized in the NRC license;
- B. 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, Vol. 15, Rev. 1.

A pre-licensing visit to obtain reasonable assurance that the licensed material will be used for its intended purpose and not for malevolent use. 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 25-29360-01. 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. Please note that you will need to notify us promptly, in writing, after the transaction has been finalized and include a signed copy of the sales agreement confirming completion of the transaction. If this planned sale has not been consummated within 30 days of the date of this letter, please notify us in writing.

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 Michelle Simmons at 817-200-1590 or via electronic mail at Michelle.Simmons@nrc.gov.

Sincerely,

Michelle R.
Simmons

 Digitally signed by Michelle R.
Simmons
Date: 2023.05.31 14:07:42 -05'00'

Michelle Simmons, Sr. Health Physicist
Materials Licensing Branch