



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION I
475 ALLENDALE ROAD – SUITE 102
KING OF PRUSSIA, PA 19406-1415

April 25, 2024

J. Brent Moore, Vice President
Lee Hy Construction, LLC
P.O. Box 5036
Glen Allen, Virginia 23058-5036

**SUBJECT: LEE HY CONSTRUCTION, LLC, ACCEPTANCE OF NOTIFICATION OF
DIRECT CHANGE OF CONTROL, MAIL CONTROL NO. 637751**

Dear J. Brent Moore:

By letter dated October 27, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML23306A132, Lee Hy Construction, 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 45-24958-01. 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.

Lee Hy Construction, LLC is authorized by the NRC for the possession and use of byproduct material under Part 30. By letter dated October 27, 2023, Lee Hy Construction, LLC 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 ML23306A132, the direct transfer of control will result from a Lee Hy Construction, LLC (Federal EIN 92-2335323) complete purchase of all assets of Lee Hy Paving Corporation (Federal EIN 54-0617394), including assumption of all physical equipment, namely the asphalt nuclear density gauges licensed under Lee Hy Paving Corporation. Because this direct transfer of control occurred on March 31, 2023, and the request for approval of a direct license transfer occurred without receiving prior written consent from the Commission, this non-compliance will be reviewed during the next scheduled inspection of Lee Hy Construction, LLC licensed program.

However, based on the documentation that you submitted, 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.

Based on the information provided, Lee Hy Construction LLC. is not required to have financial assurance for decommissioning because of the types and amount of material authorized in its license.

Further, the NRC conducted an inspection of Lee Hy Paving Corporation on 12/01/2022 at your facilities located at 2100 Quarry Road, Rockville, VA, and no violations of NRC requirements were identified.

Additionally, as described in its request, Lee Hy Construction, LLC commits that it:

- A. will not and did not change the personnel involved in licensed activities during the transition, including the radiation safety officer.
- B. will not change the locations, facilities, and equipment authorized in the NRC license.
- C. will not change the radiation safety program authorized in the NRC license.
- D. will change the organization's name listed in the NRC license from Lee Hy Paving Corporation to Lee Hy Construction, LLC; and
- E. will keep regulatory required surveillance records and decommissioning records.

*Note: Prior to the direct transfer of control, Brian H. Conrad, Jr. filled the position of Chief Operating Officer of Lee Hy Paving Corporation and after the direct change of control, Brian H. Conrad, Jr. filled the position of Chief Operating Officer for Lee Hy Construction, LLC. Brian H. Conrad, Jr. has since left that position and J. Brent Moore, Vice President, is now the NRC License point of contact for NRC License No. 45-24958-01.

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.

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, Lee Hy Construction, LLC is considered a known entity because Brian H. Conrad, Jr. was the Chief Operating Officer of Lee Hy Paving Corporation before the transfer and remained as the Chief Operating Officer for Lee Hy Construction, LLC, after the transfer, and because Lee Hy Construction, LLC is a licensee in the Commonwealth of Virginia (License No. 075-360-1), Lee Hy Construction, LLC, is considered to be 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 No. 45-24958-01. 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.

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 Randolph C. Ragland, Jr. at 610-337-5083 or via electronic mail at Randolph.Ragland@nrc.gov.

B. Moore

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Thank you for your cooperation in this matter.

Sincerely,

Randolph C. Ragland, Jr., Senior Health
Physicist
Commercial, Industrial, R&D
and Academic Branch
Division of Nuclear Materials Safety
Region I

License No. 45-24958-01
Docket No. 030-30308
Mail Control No. 637751

cc: Mark Condrey, Radiation Safety Officer

Enclosure:
Amendment No. 11

LEE HY CONSTRUCTION, LLC, ACCEPTANCE OF NOTIFICATION OF DIRECT CHANGE OF CONTROL, MAIL CONTROL NO. 637751 DATED APRIL 25, 2024

DOCUMENT NAME: G:\WBL Documents\WBL License Cover Letter\L45-24958-01.637751.Direct COC.docx

SUNSI Review Complete: RRagland

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