

SAFETY EVALUATION REPORT
TRANSFER OF CONTROL AND NAME CHANGE FOR NRC BYPRODUCT MATERIALS
LICENSE NUMBER 52-25066-01, ARGOS SAN JUAN, CORP.

DATE: November 1, 2017

DOCKET NO.: 030-31302

LICENSE NO.: 52-25066-01

LICENSEE: Argos San Juan, Corporation
P.O. Box 1477, Vega Alta, PR 00692-1477

TECHNICAL REVIEWER: Dennis Lawyer

SUMMARY AND CONCLUSIONS

Essroc San Juan holds a byproduct materials license issued by U.S. Nuclear Regulatory (NRC). Under NRC Materials License 52-25066-01, Essroc San Juan is authorized to possess and use byproduct material for purposes of using fixed gauging devices for controlling industrial processes and measuring elemental composition of bulk material at their facility in Dorado, Puerto Rico.

By letter dated August 3, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML17228A059), Essroc San Juan requested an amendment to change the name of the license from Essroc San Juan to Argos San Juan, Corp. Effective August 1, 2017, Essroc San Juan Inc., had changed its name to Argos San Juan, Corp. A request for additional information was sent by electronic mail on September 5, 2017 (ADAMS Accession Number ML17250B307) asking for information regarding an indirect change of control of the license. In the response letter dated October 2, 2017 (ADAMS Accession Number ML17289A477), Argos San Juan, Corp. is requesting approval for the indirect transfer of control that was performed on February 9, 2017. Wetvan Overseas, Ltd., an indirect subsidiary of Cementos Argos S.A. acquired 100% of all issued and outstanding shares of Essroc San Juan from Essroc Cement Corp. pursuant to a Stock Purchase Agreement dated February 8, 2017. Essroc Cement Corp and Wetvan Overseas, Ltd. completed this transaction without first requesting and obtaining the NRC's prior written approval as required by 10 CFR 30.34(b) and section 184 of the Atomic Energy Act of 1954, as amended (the Act).

The request for consent was reviewed by NRC staff. The NRC staff applied 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, and determined that this transaction is an indirect transfer of control. The NRC staff finds that the information submitted by Argos San Juan Corp. sufficiently describes and documents the transaction and commitments made by Argos San Juan Corp. and Cementos Argos S.A.

As required by 10 CFR 30.34(b) and section 184 of the Act, NRC staff has reviewed the application and finds that the transfer of control and name change is in accordance with the Act. The staff finds that Argos San Juan Corp. is qualified to use byproduct material for the purpose

requested and has the equipment, facilities, and procedures needed to protect public health and safety and promote the common defense and security.

SAFETY AND SECURITY REVIEW

According to the data obtained from the NRC's Web Based Licensing (WBL), Essroc San Juan has been an NRC licensee since October 20, 1989. The NRC conducted a main office inspection of Essroc San Juan on August 22, 2013, for NRC Materials License No. 52-25066-01 and no violations were identified during the inspection. The commitments made by Argos San Juan, Corp. state that, under the transaction, the following did not change:

- A. the radiation safety officer listed on the NRC license;
- B. the personnel involved in licensed activities;
- C. the locations, facilities, and equipment authorized in the NRC license;
- D. the radiation safety program authorized in the NRC license; and
- E. the maintenance of required surveillance records and decommissioning records.

Argos San Juan, Corp. committed to abide by all the constraints, license conditions, requirements, representations, and commitments identified in and attributed to the existing license.

Cementos Argos S.A. an indirect parent company of Wetvan Overseas Ltd. has subsidiaries that possess an active NRC License, NRC License No. 47-11451-01, which authorizes fixed gauges for level or density measurements and for elemental analyzers. Therefore, for security purposes, Cementos Agros S.A. is considered a known entity following the guidance provided by the NRC's Office of Federal and State Materials and Environmental Management Programs (FSME) "Checklist to provide a basis for confidence that radioactive materials will be used as specified on the license", September 3, 2008 revision (ADAMS Accession Number ML082630238). 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.

Argos San Juan, Corp. is not required to have decommissioning financial assurance based on the types and amount of material authorized in NRC Materials License No. 52-25066-01.

REGULATORY FRAMEWORK

Section 184 of the Atomic Energy Act of 1954, as amended, prohibits the transfer of control of any license unless the Commission finds that the transfer is in accordance with the Act and consents to the transfer in writing.

Argos San Juan, Corp.'s NRC Materials License No. 52-25066-01, was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

10 CFR 30.34(b) states: "No license issued or granted pursuant to the regulations in this part and parts 31 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."

10 CFR 30.34(c) states, in part: "Each person licensed by the Commission pursuant to the regulations in this part and parts 31 through 36 and 39 shall confine his possession and use of the byproduct material to the locations and purposes authorized in the license."

As previously indicated, the staff evaluation associated with the transfer of control is based on guidance in NUREG-1556, Volume 15, Revision 1. The central issue when determining whether a license is transferred is whether the authority over the license has changed. Argos San Juan, Corp.'s request for consent describes an indirect transfer of control of the NRC license held by Argos San Juan, Corp., resulting from ownership change from Essroc Cement Corp. to Wetvan Overseas, Ltd. Following the sale, Wetvan Overseas, Ltd. has indirect control of Argos San Juan, Corp. and, as such, the transfer requires the NRC's consent.

DESCRIPTION OF TRANSACTION

The transaction is described in ADAMS accession number ML17289A477. After completion of the sale, Argos San Juan, Corp. will continue as the licensee and remain in control of all licensed activities under NRC Materials License No. 52-25066-01. As discussed above, the NRC staff finds that the request for consent adequately provides a complete and clear description of the transaction, and is consistent with the guidance provided in Appendix E of NUREG-1556, Volume 15, Revision 1, notwithstanding the fact that the transfer of the license occurred contrary to section 184 of the AEA and 10 CFR 30.34.

TRANSFeree'S COMMITMENT TO ABIDE BY THE TRANSFEROR'S COMMITMENTS

The NRC staff finds that the information submitted by Argos San Juan, Corp. sufficiently describes and documents the commitments made by Argos San Juan, Corp. and is consistent with the guidance in NUREG-1556, Volume 15, Revision 1.

ENVIRONMENTAL REVIEW

An environmental assessment for transfer of control is not required since this action is categorically excluded under 10 CFR 51.22(c)(21). An environmental assessment for changing the corporation's name is not required since this action is categorically excluded under 10 CFR 51.22(c)(10)(iii).

CONCLUSION

The NRC staff has reviewed the request for consent submitted by Argos San Juan, Corp. with regard to an indirect transfer of control of NRC Materials License No. 52-25066-01 pursuant to 10 CFR 30.34(b), consents to the indirect transfer of control.

The submitted information sufficiently describes the transaction; documents the transferee's commitments and demonstrates that personnel have the experience and training to properly implement and maintain the license and that they will maintain the existing records. The submitted information also demonstrates that the licensee will abide by all existing commitments in the license, consistent with the guidance in NUREG-1556, Volume 15, Rev 1.

Therefore, the staff concludes that the proposed transfer of control would not alter the previous findings, made under 10 CFR Part 30, that licensed operations will not be inimical to the common defense and security, or to the health and safety of the public.