



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

May 5, 2022

Kevin A. Koesel
Radiation Safety Officer
James A. Sewell & Associates, LLC
600-4th Street West
Newport, WA 99156

SUBJECT: JAMES A. SEWELL & ASSOCIATES, LLC REQUEST FOR WRITTEN
CONSENT TO A DIRECT LICENSE TRANSFER

By letter dated March 8, 2022 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML22094A083), James A. Sewell & Associates, LLC (licensee) submitted to the Nuclear Regulatory Commission (NRC) a request for written consent to a direct transfer of control of NRC license number 46-27605-01 to a group of individuals. In accordance with Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Title 10 of the Code of Federal Regulations (10 CFR) 30.34, the NRC consents to the transfer.

NRC license number 46-27605-01 authorizes the storage and use of byproduct material in portable gauging devices in accordance with 10 CFR Part 30. By letter dated March 8, 2022, James A. Sewell & Associates, 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 required by 10 CFR 30.34 and section 184 of the Atomic Energy Act of 1954, as amended (the Act), NRC staff has reviewed the application and finds that the direct transfer of control was not in accordance with the Act. Specifically, the licensee transferred control of the license, through the sale of the business, without receiving the Commission's consent in writing contrary to 10 CFR 30.34. This noncompliance was identified during the NRC inspection conducted on March 3, 2022, and a violation was cited in NRC inspection report number 030-34842/2022-001 dated April 18, 2022 (Accession Number ML22108A193). As a corrective action, the licensee requested NRC consent to the direct change of control in letter dated March 8, 2022. As described in letter dated March 8, 2022 (Accession Number ML22094A083) and additional information submitted in email dated April 8, 2022 (Accession Number ML22101A224), the sole owner of James A. Sewell & Associates, LLC, retired and sold the business to several employees of the company, namely, Kevin A. Koesel, Katherine A. Burgess, Kevin T. Akesson, and B. Scott Brown. This transaction occurred on January 1, 2021, and the NRC was officially notified on letter dated March 8, 2022 as a result of an NRC inspection finding.

The NRC staff finds that James A. Sewell & Associates, LLC, adequately provided 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 control 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 reviewing the request for a direct transfer of control, the NRC staff determined that James A. Sewell & Associates, LLC, is not required to have financial assurance for decommissioning based on the types and amounts of material authorized in NRC license number 46-27605-01. The NRC staff finds that the licensee's request adequately addresses financial assurance for decommissioning, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Volume 15, Revision 1.

Additionally, as described in its request, James A. Sewell & Associates, LLC:

- A. commits that it will not change the radiation safety officer listed in the NRC license;
- B. commits that it will not change the personnel involved in licensed activities;
- C. commits that it will not change the locations, facilities, and equipment authorized in the NRC license;
- D. commits that it will not change the radiation safety program authorized in the NRC license;
- E. stated that the company name will not change; and
- F. commits that it will keep regulatory required surveillance records and decommissioning records.

Based on these commitments, the NRC staff finds that the licensee's 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.

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, the licensee has provided sufficient information for the NRC to reach a basis for confidence that licensed material will be used as intended.

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 46-27605-01. The NRC staff finds that the requested 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 8 to NRC license number 46-27605-01 documenting the 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 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 Branch

Docket: 030-34842
License: 46-27605-01
Control: 630556

Enclosure: As stated