

February 14, 2002

MEMORANDUM TO: John T. Greeves, Director
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

FROM: Michael F. Weber, Director **/RA/**
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety
and Safeguards

SUBJECT: FORMAL TRANSFER OF FANSTEEL INC., MUSKOGEE, OK,
SUB-911 LICENSE FROM THE DIVISION OF FUEL CYCLE
SAFETY AND SAFEGUARDS TO THE DIVISION OF WASTE
MANAGEMENT

On January 31, 2002, a meeting (See Attachment 1) was held between staff from the Division of Waste Management (DWM) and the Division of Fuel Cycle Safety and Safeguards (FCSS) regarding the transfer of licensing responsibilities for the SMB-911 Fansteel Inc. license to DWM. The license is authorized for the possession, use, short-term storage, and transfer of uranium and thorium and their progenies contained in processing residues. Thirty-five acres of the Fansteel Northwest property have been released for unrestricted use, 56 acres of the Fansteel Eastern property (known as the SDMP portion of the site) has an approved decommissioning plan, and approximately 56 acres of the Eastern property remain to be decommissioned. Fansteel is currently in a shutdown/standby mode and all material has been drained from the plant systems. The DWM staff agreed to the transfer of the of the SMB-911 license from FCSS to DWM. Fansteel is required to submit financial assurance instruments on March 28, 2002, and Fansteel has requested a public meeting in the near future.

Docket 40-7580
License SMB-911

Attachments: 1. Meeting briefing sheet
2. FCLB reading files (5 boxes)

cc w/o Attachments:

M. Virgilio, NMSS M. Federline, NMSS
R. Pierson, FCSS W. Reamer, DWM

Contact: Michael Lamastra, FCLB
(301) 415-8139

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Region IV FCLB r/f LRoché
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OFC	FCLB		FCLB		FCLB		FCLB		FCLB	
NAME	LFields* (ML)		Pshea*		MBailey*		MLeach*		MWeber	
DATE	2/04/02		2/04/02		2/04/02		2/07/02		2/14/02	

*See Previous Concurrence

OFFICIAL RECORD COPY

TRANSFER OF FANSTEEL CORPORATION LICENSE TO THE DIVISION OF WASTE MANAGEMENT

DESCRIPTION OF THE FANSTEEL LICENSE

As noted in the SMB-911 license, the license is for the possession, use, and storage of source material in the form of natural uranium and thorium. The maximum quantity of source material to be possessed and used on site is 43,000 kg of U and 71,000 kg of Th. In 1999, Fansteel was authorized to process wastewater treatment residues, primarily calcium fluoride, from outdoor ponds with work-in-progress (WIP) material such as acid sludge residues. WIP residues were generated as a result of initial hydrofluoric acid digestion of the ore concentrates.

FACILITY STATUS

From 1958 until 1989, the 110-acre Fansteel facility produced tantalum and columbium oxide extracted from ore and slag feedstock. Fansteel is in currently in shutdown/standby mode and cleaning and draining of residual material from all plant systems has been completed. The residual WIP material will be packaged and stored in the Sodium Reduction Building. The calcium fluoride will be returned to the waste ponds via the waste water treatment system.

Plant systems that will be maintained in service and not placed in standby mode include the following: groundwater treatment system; waste water treatment plant; plant boilers; air compressors; and building utilities (electricity, heat, water).

The major contaminants at the site include natural uranium and its decay products, natural thorium and its decay products, metals including tantalum, niobium, chromium, antimony, tin, barium, arsenic, ammonia fluoride, and methyl isobutyl ketone.

OPEN LICENSING ISSUES

Financial assurance instruments are due March 28, 2002.
Fansteel license renewal package is due September 30, 2002.

POTENTIAL PUBLIC MEETING

On January 9, 2002, staff from NRC visited the Muskogee facility and discussed the possibility of having a Fansteel /NRC meeting to discuss technical issues during the day and host a public meeting open to local citizens after business hours to answer bankruptcy questions and the public health and safety of the facility.

BANKRUPTCY STATUS

A Bankruptcy Response Team (BRT) was formed on November 27, 2001, by staff of the Office of Fuel Cycle Safety and Safeguard (FCSS). The members of the BRT include the following: Melvyn Leach, FCLB Branch Chief; Leslie Fields/ Michael Lamastra, FCSS BRT lead; Leah Tremper, Fees and Accounts; Stephen Lewis/Jared Heck, OGC; Thomas Fredrichs, DWM; Jennifer Dixon-Herrity, OE; Mark Sitek, IMNS; and Blair Spitzberg, Region IV

On January 15, 2002, Fansteel filed a Chapter 11 bankruptcy petition and several "first day" motions, including:

1. Motion to have District Court, rather than Bankruptcy Court, hear the case due to complex legal issues involving the interplay of the Atomic Energy Act (AEA) and Bankruptcy Code;
2. Various motions authorizing the employment of certain attorneys, accountants, and other professionals;
3. Operational motions:
 - a) authorizing payment of back wages, retirement benefits, taxes, etc.;
 - b) authorizing payment of pre-petition critical vendor and shipper claims;
 - c) prohibiting utilities from discontinuing service;
 - d) prohibiting parties from interfering with delivery of goods to Fansteel.

4. Financing motions:
 - a) seeking approval of \$3 million financing to be used in the ordinary course of business (Debtor-in-Possession, or DIP, financing)
 - i. Lender takes a security interest in all assets of Fansteel except for Muskogee or anything subject to licensing by NRC

- ii. Lender receives superpriority right to repayment of \$3 million, authorized under § 364(c) of the Bankruptcy Code.
 - b) seeking approval of an accounts receivable auction procedure, whereby Fansteel expects to receive 85% of the value of certain accounts from CIT Group, Inc. (estimated \$6 million bid)

On January 17, 2002, Bankruptcy Court enters orders granting Fansteel's motions to pay back wages, claims of critical vendors. Approves interim DIP financing of \$500,000; enters bridge order prohibiting discontinuation of utility services.

On January 22, 2002, District Court withdraws the case per Fansteel's motion, authorizes payment of pre-petition claims relating to the shipment of goods, sales and use taxes. Fansteel re-files all motions not granted by Bankruptcy Ct. with the District Ct.

February 5, 2002, is the deadline for objections to final DIP financing, final utility services motions.

February 7, 2002, is the final hearing on DIP financing and utility services motions.

February 11, 2002, is the deadline for objections to motions to employ certain professionals (attorneys, accountants, investment bankers), accounts receivable sale.

February 14, 2002, is the final hearing on motions to employ professionals, auction accounts receivable.

As is the case with many Chapter 11 debtors, Fansteel has already filed several motions with the court that will help ensure that the company is able to operate on a daily basis. Without these orders in place, Fansteel could face interruption of utility services, shipments of goods, and day to day operations. Nothing unusual appears in these motions that will unduly prejudice the rights of NRC.

NRC did not object to the interim DIP financing order authorizing Fansteel to borrow \$500,000 from HBD Industries, even though HBD gets a superpriority right to repayment that trumps NRC's claim. NRC will not object to entry of the final order authorizing Fansteel to borrow up to \$3 million. There is no strong legal basis for making an objection, since the Bankruptcy Code authorizes a Chapter 11 debtor to enter into this kind of arrangement if certain conditions are met. It appears Fansteel has met those conditions, and as a tactical matter, it would not help NRC to make its first appearance before the judge with a token objection.

DECOMMISSIONING STATUS

The request to approve an onsite containment cell was put on hold in September 2000, as a result of revised cost estimates for off-site disposal and opposition from the State of Oklahoma regulators to on-site storage of contaminated soils. The licensee does not intend to revise its decommissioning plan at this time. In the November 2001 Press Release, Fansteel stated that they do not anticipate commencing commercial operations at the processing plant. The company also stated that they intend to decommission the Muskogee site by offsite disposal of the contaminated materials and soils. The licensee's long-term plans for the plant will be a corporate decision that will be made at a later date.

OKLAHOMA ATTORNEY GENERAL INTEREST

The state of Oklahoma is opposed to the use of an on-site containment cell storage of contaminated soils for decommissioning purposes.

COORDINATION WITH EPA

NRC Headquarters has contacted the EPA headquarters
EPA Headquarters has contacted the EPA region
NRC region has also contacted the EPA region

FCLB CONTACTS

Michael Lamastra, FCLB Project Manager 415-8139
Pamela Shea, FCLB Licensing Assistant 415-8029

FANSTEEL, INC. 40-7580 TRANSFER OF CORRESPONDENCE

BOX 1

Project Manager Files

BOX 2 (Branch Files)

July 1997-December 1997 Correspondence
January 1998-December 1998 Correspondence
August 1999-October 1999 Correspondence
February 1999-July 1999
Fansteel Renewal 1997
Fansteel 3/14/96 Suppl. Rad. Survey Act.
Fansteel Letter dated 12/28/93- Remedial Assess Final Volume 2 of 4
Fansteel Letter dated 12/28/93 - Remedial Assess Final Volume 3 of 4 partial
Fansteel Letter dated 12/28/93 - Remedial Assess Final Volume 4 of 4

BOX 3

Binder Decommissioning Plan July 1998
Binder Decommissioning Plan July 1999
Binder Inspection Reports
Binder Fansteel Licensing 1994-1995
Binder WIP Amendment Application Project No. 111, January 1995
Binder Fansteel Licensing 1998
Red Binder Fansteel Inc. Processing Operations Proprietary
Folder Fansteel Suppl 1 to Report entitled: Radiation Survey & Remedial Assessment
Northwest Property Area, Volumes 1 & 2
Folder Radiation Survey and Remedial Assessment Northwest Property Area Volume 2 of 2
Supplement No. 1
Binder Fansteel 2000

Box 4

Fansteel folder Renewal/Amendments
Fansteel January - Correspondence Folder
Fansteel D&D/Financial Assurance folder
Binder Fansteel Licensing 1996-1997
Binder Fansteel Decommission Plan Volume 1 of 2
Binder Fansteel Radiation Safety Manual Volume 3 of 4
Binder Fansteel January 2000
Binder Fansteel Safety Plan February 1999
Binder Fansteel EA

Technical Report Remediation Assessment Fansteel Volume 3 of 4
Technical Report Remediation Assessment Fansteel Volume 1 of 4
Technical Report Remediation Assessment Fansteel Volume 4 of 4
Technical Report Remediation Assessment Fansteel Volume 2 of 4
Technical Report Remediation Assessment Fansteel Volume 3 of 4 part 2
Technical Report Remediation Assessment Fansteel Volume 1 of 2

Box 5

Binder Fansteel January 2000
Binder Fansteel Decommission Plan June 1999
Binder Fansteel Operatons Plan Volumne 2 of 4
Binder Fansteel Decommissioning Plan 8/99
Binder Fansteel Treatabiitiy Study 8/99
Binder Fansteel Remedial Design Report Vol. 2
Binder Fansteel February 1999
Binder Fansteel May 1999
Maps