

DOCKET NO: 40-7580  
LICENSEE: Fansteel Corp  
FACILITY: Speciality Metals Facility  
Muskogee, Oklahoma

SUBJECT: SAFETY EVALUATION REPORT, LICENSE AMENDMENT  
APPLICATION DATED MARCH 5, 2002

1. Background

In November 2001, Fansteel Corporation announced that it was going to file for bankruptcy and cease operations at the Speciality Metals processing facility in Muskogee, OK. Fansteel further stated that it intended to remediate the Muskogee site to unrestricted release conditions by removing all residual radioactive material greater than release limits; the previous plan included an on-site disposal and permanent site restrictions. The unrestricted option was estimated to cost an additional \$52 million, beyond the \$4,456,460 currently assured. On January 16, 2002, Fansteel formally filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code with the U.S. Bankruptcy Court for the District of Delaware.

License condition 21 of SMB-911 requires Fansteel to update its cost estimates and financial assurance for decommissioning every thirteen months. In this case, that condition translates to March 27, 2002, for that update. On March 5, 2002, Fansteel requested a ninety (90) day extension for the reporting requirements in license condition 21.

2. Discussion

2.1 Licensee Proposal

The licensee proposes a ninety (90) day extension for updating its financial assurance as required in license condition 21 as a result of delays in being able to contract with its decommissioning consultant. These delays are attributable to the need to receive Court approval for such expenditures in the bankruptcy proceeding.

2.2 Staff Evaluation

The staff reviewed the licensee's proposal and its current financial condition as described in pleadings to the bankruptcy court. The licensee has obtained debtor-in-possession (DIP) funding on an interim basis, and is seeking further DIP funding to enable it to remain in business during Chapter 11 reorganization proceeding. Based on this review, the staff agrees that Fansteel has made a sufficient showing of support for its amendment application for additional time to evaluate decommissioning costs and either procure necessary financial assurance or file a request for exemption from 10 CFR 40.36, pursuant to 10 CFR 40.14.

### 3. Staff Conclusions and Recommendations

#### 3.1 Conclusions

Fansteel has filed for bankruptcy protection in accordance with Chapter 11 of Bankruptcy Code. The licensee is in the process of attempting to obtain additional DIP funding to enable it to remain in business during the Chapter 11 reorganization proceeding. Fansteel has stated (Affidavit of Gary L. Tessitore, Chairman of the Board, President, and Chief Executive Officer of Fansteel, Inc., in support of First Day Motions, dated January 14, 2002) that it "...continues to maintain the french drain and the wastewater treatment plant, and to take all other actions necessary to maintain public health and safety" (Affidavit, p. 15). On the basis of this representation, the staff concludes that the changes requested in this license amendment application will not adversely affect the protection of the health and safety of employees, the general public, and the environment.

#### 3.2 Recommendations

Therefore, the staff recommends approval of the application.

Region IV has no objections to this action.

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\*See previous concurrence

\*\*Concurred via e-mail

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