

Gary L. Tessitore  
Chairman, President and  
Chief Executive Officer



March 5, 2002

**FEDERAL EXPRESS**

Mr. Larry W. Camper  
Chief  
Division of Waste Management  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Re: Decommissioning Funding Plan Revision  
Docket No. 40-7580  
License SMB-911  
TAC No. L31592  
Fansteel, Inc.  
Muskogee, Oklahoma

Dear Mr. Camper:

Condition 21 of License No. SMB-911 for the Muskogee, Oklahoma site requires Fansteel, Inc. (Fansteel or Company) to review and update its Decommissioning Funding Plan (DFP) every 13 months. The next DFP update is due on or before March 27, 2002. For the reasons stated herein, Fansteel requests a 90-day extension, *i.e.*, until June 25, 2002, in which to submit its updated DFP. As the Nuclear Regulatory Commission (NRC) is aware, there have been significant developments which have necessitated changes in the proposed manner of decommissioning the facility and which have adversely affected the financial circumstances of Fansteel since the last such submittal occurred on February 27, 2001.

On January 15, 2002, Fansteel and eight of its subsidiaries filed for bankruptcy protection pursuant to Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware.<sup>1</sup> For reasons beyond the control of Fansteel, I do not believe it is

<sup>1</sup> A detailed recitation of the facts concerning the Muskogee site and the financial situation which forced the Company to take that action is contained in the 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, which was filed with the United States Bankruptcy Court for the District of Delaware on January 15, 2002, and served upon NRC representatives.

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possible to submit a well developed and appropriately supported decommissioning funding estimate by the deadline of March 27, 2002.

One of the impacts of the deterioration of the Company's finances has been the inability to pay certain of our suppliers and consultants, including Earth Sciences Consultants, Inc. (ESC), our principal environmental consultant for the Muskogee site since the early 1990's. ESC has participated in all site characterization activities at Muskogee, the development of all of the proposed decommissioning plans, and has been responsible for many of the key activities leading to the amendments to the current license and to the license termination for portions of the site. Most important, all prior filings to fulfill Condition 21 were made by the Company with, and in reliance upon, the active support and significant involvement and guidance of ESC. The expertise to analyze alternative decommissioning strategies and their associated costs resides with ESC.

The bankruptcy filing of January 15th acted to prohibit Fansteel from engaging consultants, such as ESC without court approval. Promptly after the bankruptcy filing, Fansteel moved the court on February 7, 2002 for permission to engage ESC. Such permission was granted on February 21, 2002. While company representatives attempted to consult with ESC prior to the official court approval, in an effort to obtain their necessary expertise in connection with the March 27th filing, ESC was reluctant to commit the necessary level of support without approval by the Bankruptcy Court. The company nevertheless urged its personnel to gather as much information from ESC as they were willing to provide in anticipation of the March 27th filing deadline.

Notwithstanding such efforts, additional time will be required to ensure that a reasoned and well documented decommissioning funding estimate can be submitted. The forthcoming decommissioning funding estimate will represent a significant departure from previous filings inasmuch as it will not assume the operation of the licensed processing facility. Moreover, Fansteel needs to confirm certain assumptions which may have significant impacts on the estimates. We also need to evaluate, with the assistance of ESC, various conceptual decommissioning alternatives (*e.g.*, different groundwater and waste water treatment alternatives), which, in turn, may affect the manner and costs for decommissioning. In addition, the decommissioning funding plan may address or attempt to address any limitations and/or restrictions which may be imposed by the current bankruptcy of Fansteel. Finally, Fansteel needs to ensure that its proposal is documented and defensible, in view of its implications in the bankruptcy arena as well as for the NRC.

I want to emphasize that the grant of such an extension will not affect the public health and safety. Fansteel continues to fulfill its responsibilities as a licensee at the Muskogee site, expending the necessary funds and taking all actions necessary to assure the ongoing maintenance of public health and safety. This includes maintaining the French drain and the waste water treatment plant. I would also note that the NRC has recently inspected Fansteel's

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compliance with the terms of our license, and found no violations. Finally, the 90-day extension will not result in any reduction in the current level of financial assurance for Muskogee.

Fansteel believes that the NRC Staff has the discretion to grant the extension, and the public interest would be served by its approval. For these reasons, we would request a 90-day extension of the date for in submission of the DFP, allowing us until June 25, 2002 to submit our updated DFP. If you have any questions, please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary L. Tessitore".

Gary L. Tessitore  
Chairman, President and Chief Executive Officer

cc: Stephen H. Lewis

bcc: Jim Curtiss, Winston & Strawn  
Jeff Sabin, Schulte Roth & Zabel  
Fred Dohmann, Fansteel  
Leslie Fields, U.S. NRC  
Mike McEntee, Fansteel