

RAS 6645

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**DOCKETED  
USNRC**

**ATOMIC SAFETY AND LICENSING BOARD PANEL** July 22, 2003 (3:10PM)

Before Administrative Judge:

**OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF**

G. Paul Bollwerk, III, Presiding Officer

In the Matter of:

FANSTEEL, INC.

(Muskogee, Oklahoma Facility)

Docket No. 40-7580-MLA-2

ASLBP No. 03-813-04-MLA

July 15, 2003

**STATE OF OKLAHOMA'S OBJECTION  
TO NOTIFICATION OF FANSTEEL, INC.,  
IN CONNECTION WITH SHOW CAUSE ORDER**

The State of Oklahoma ("State") objects, for the reasons set forth below, Fansteel, Inc.'s ("Fansteel") request that this proceeding be held in abeyance pending further notification by Fansteel of its planned actions with respect to the Decommissioning Plan("DP").

Holding this proceeding in abeyance would cause the State legal harm by preventing the State from having its day in court to protest the withdrawal of the DP and any impact the withdrawal would have upon the health, safety and welfare of the citizens of Oklahoma.

In addition to the legal harm that would be suffered by the State, there is the

apparent attempt on the part of Fansteel to further delay this proceeding under the guise of resolving its Bankruptcy case. Fansteel states that its course is unknown, yet as the State's Show Cause brief will show, Fansteel has engaged in a pattern of delay to avoid properly addressing decommissioning funding requirements.

For these reasons, the State requests that the current schedule for responses in this proceeding be allowed to continue as previously set forth and Fansteel's request for an abeyance should be denied.

Respectfully submitted,

**W.A. DREW EDMONDSON  
ATTORNEY GENERAL OF OKLAHOMA**



Sarah E. Penn, Esq.  
Assistant Attorney General  
Environmental Protection Unit  
4545 N. Lincoln Blvd., Suite 260  
Oklahoma City, OK 73105  
Telephone: (405) 522-4413  
Telefax: (405) 528-1867

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of July, 2003, a true and correct copy of the foregoing, State of Oklahoma's Objection, was served upon the persons listed below by U.S. mail, first class, postage prepaid, and by electronic mail where indicated with a single asterisk. A copy was also sent by facsimile transmission to the Office of the Secretary.

G. Paul Bollwerk, III\*  
Administrative Judge  
Presiding Officer  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, D.C. 20555-0001  
E-mail: [gpb@nrc.gov](mailto:gpb@nrc.gov)

Office of Commission Appellate  
Adjudication  
Mail Stop: O-16C1  
U.S. Nuclear Regulatory  
Washington, D.C. 20555-0001

Gary L. Tessitore, Chairman, President\*  
and Chief Executive Officer  
Fansteel, Inc.  
Number One Tantalum Place  
North Chicago, IL 60064  
E-mail: [gtessitore@fansteel.com](mailto:gtessitore@fansteel.com)

Jeffrey S. Sabin, Esq.\*  
Schulte, Roth & Zabel, LLP  
919 Third Avenue  
New York, NY 10022  
E-mail: [jeffrey.sabin@srz.com](mailto:jeffrey.sabin@srz.com)

Office of the Secretary\*, \*\*  
Attn: Rulemaking & Adjudications Staff  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, D.C. 20555-0001  
E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)  
Telefax: (301) 415-1101

Marian L. Zobler, Esq.\*  
Office of the General Counsel\*  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-15D21  
Washington, D.C. 20555-0001  
E-mail: [ogcmailcenter@nrc.gov](mailto:ogcmailcenter@nrc.gov)  
E-mail: [mlz@nrc.com](mailto:mlz@nrc.com)

James R. Curtiss, Esquire\*  
Mark J. Wetterhahn, Esquire\*  
Brooke D. Poole\*  
Winston & Strawn  
1400 L Street, NW  
Washington, D.C. 20005  
E-mail: [jcurtis@winston.com](mailto:jcurtis@winston.com)  
E-mail: [mwetterh@winston.com](mailto:mwetterh@winston.com)  
E-mail: [bpoole@winston.com](mailto:bpoole@winston.com)

  
SARAH E. PENN

\*\* Original and 3 copies



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

July 15, 2003

VIA FACSIMILE (301) 415-1101 and  
U.S. Mail, First Class, Postage Prepaid

Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attention: Rulemaking and Adjudications Staff

Re: In the Matter of Fansteel, Inc., State of Oklahoma's Objection, U.S. Nuclear  
Regulatory Commission, Docket No. 40-7580-MLA-2

Sir or Madam:

An original and three conformed copies of the State of Oklahoma's Objection to Notification of Fansteel, Inc., in Connection with Show Cause Order are being sent via facsimile and mailed by U.S. mail, first class, postage prepaid for filing with the Office of the Secretary.

Upon receipt, please return the remaining file-stamped copy of the enclosed to this office in the self-addressed, stamped envelope enclosed for that purpose.

Thank you in advance for your assistance in this matter. Should you have any questions, please do not hesitate to call me at (405) 522-4413.

Sincerely,

A handwritten signature in black ink that reads "Sarah E. Penn". The signature is written in a cursive style.

SARAH E. PENN  
ASSISTANT ATTORNEY GENERAL

SEP/jb

Enclosures