

July 31, 2003  
DOCKETED  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

August 7, 2003 (10:01AM)

BEFORE THE PRESIDING OFFICER

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of: )  
Fansteel Inc. )  
(Muskogee, Oklahoma Facility) )

Docket No. 40-7580-MLA-2  
ASLBP No. 03-813-04-MLA

RESPONSE OF FANSTEEL INC. TO STATE OF OKLAHOMA'S  
MOTION FOR LEAVE TO REPLY

Fansteel Inc. ("Fansteel") is in receipt of the State of Oklahoma's ("State") Motion for Leave to Reply, dated July 29, 2003, in which the State requests an opportunity to reply to the filings of Fansteel and the Nuclear Regulatory Commission ("NRC") Staff<sup>1</sup> made in response to the Presiding Officer's Order to show cause why this proceeding should not be terminated. Fansteel does not believe a reply by the State is necessary at this time, as the essential elements of the relief sought are already available to the State.

The State contends that the re-submission by Fansteel of its Decommissioning Plan ("DP"), in conjunction with submission in the bankruptcy court of a proposed plan of reorganization and associated disclosure statement,<sup>2</sup> demonstrates "Fansteel's effort to delay and ultimately deny the State any opportunity to be heard in any meaningful way on the subject of

<sup>1</sup> See "Response of Fansteel Inc. to the State of Oklahoma's Objection and Show of Harm to Fansteel Inc.'s Withdrawal of Decommissioning Plan," dated July 24, 2003 ("Fansteel Response"); "NRC Staff Response to the State of Oklahoma's Objection and Show of Harm to Fansteel Inc.'s Withdrawal of Decommissioning Plan," dated July 25, 2003 ("Staff Response").

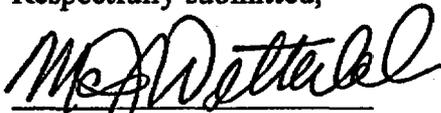
<sup>2</sup> To the extent the State of Oklahoma challenges the proposed plan of reorganization and/or disclosure statement, the proper forum for such a challenge is the bankruptcy court.

the funding of the DP.” (Motion at 5.) To the contrary, as discussed in the Fansteel Response (at 9-10), Fansteel has re-submitted its DP, as supplemented with information concerning financial assurance and a license amendment request, in order to reactivate the NRC review process. The NRC Staff has stated that it will notice receipt of this license amendment request in the *Federal Register*, Staff Response at 5, which will provide any member of the public with the opportunity to petition for leave to intervene and/or request a hearing.

The State’s June 16, 2003, Request for Hearing is currently pending before the Presiding Officer, who retains jurisdiction over this proceeding by virtue of the re-submission of the DP. The State will have the opportunity to review all material submitted by Fansteel to the NRC and file a supplement to its Request based on Fansteel’s July 24 submission. Stated simply, Fansteel agrees that the State will have the opportunity to proffer areas of concern with respect to the DP currently before the NRC, as supplemented; its opportunity to be heard has been in no way truncated.

Because the relief sought by the State is available to it, a further filing by the State is not necessary. The State’s Motion should be denied.

Respectfully submitted,



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ATTORNEYS FOR FANSTEEL INC.

Dated in Washington, D.C.  
this 31st day of July 2003

