



March 31, 2006

U.S. Nuclear Regulatory Commission
ATTN: Mr. James Shepherd, Project Manager
Decommissioning Branch, Division of Waste Management
11545 Rockville Pike
Two White Flint
Rockville, Maryland 20852 *Via FedEx: 8558 8941 8626 0215*

Reference: Application for License Amendment
 License SMB-911; Docket No. 40-7580

Dear Mr. Shepherd:

In accordance with Title 10, Code of Federal Regulations (CFR), Part 40, FMRI, Inc. ("FMRI") requests an amendment to Nuclear Regulatory Commission ("NRC") License No. SMB-911. This amendment will modify the present License Condition 45 to eliminate the requirement to submit on an annual basis multi-year financial projections for Fansteel Inc. ("Fansteel") in Table 15-12 of the Decommissioning Plan which is referenced in such license condition.

The changes to the license are needed for the following reasons:

- The present License Condition 45 requires that the licensee, FMRI submit to the NRC material based upon multi-year financial projections made by Fansteel, an entity over which FMRI has no control.
- The NRC issued a Notice of Violation (*see* Inspection Report 040-7580/05-001) for failure to fulfill this element of License Condition 45 although FMRI had requested that Fansteel provide the needed input to allow it to file the updated Table 15-12 in a timely manner.
- Fansteel has informed FMRI that, consistent with the practice of other public corporations, it is not making any multi-year financial projections, including 10-year projections.
- It is FMRI's understanding that Fansteel's reasons for ceasing making such financial projections are two-fold: (1) due to significant market changes it is not possible to make long term reliable financial projections and (2) due to changes in securities laws and their

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#Ten Tantalum Place, Muskogee, OK 74403
Phone 918-687-6303 / Fax 918-687-6112

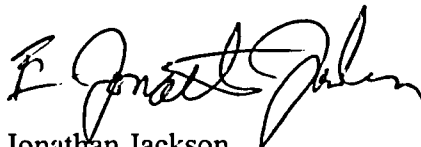
implementation, the development and sharing of financial projections with the NRC even pursuant to 10 C.F.R § 2.390, would be potentially detrimental to Fansteel's interests. This is also consistent with the actions of other public companies.

- The license amendment would assure NRC's access to financial information regarding Fansteel in the form of Form 10-K as filed with the Securities and Exchange Commission and access to a person knowledgeable regarding the information contained therein on an annual basis. While Form 10-Ks for Fansteel are usually filed at the end of March of each year, this may change in the future and the proposed license condition is designed to give sufficient flexibility to FMRI to accommodate this situation. This information would aid the NRC in understanding the financial assurance mechanism for the decommissioning of the Muskogee, Oklahoma site.
- In further response to the July 25, 2005 Notice of Violation, as a corrective action, FMRI agreed to seek this license amendment which would provide the NRC with information regarding the financial condition of Fansteel. The grant of this license amendment would also prevent future violations of this license condition which requires periodic updating of Table 15-12.

Enclosed is a revised License Amendment Application including an executed copy of NRC Form 313, the requested amendment to License Condition 45, and the current License No. SMB-911 with the requested modification marked the remainder of the license is unchanged). In addition and as described on the Form 313, two executed copies of the entire completed application are also being sent to NRC Region IV in Arlington, TX.

If you have any questions, please call Keyton Payne or me at (918) 687-6303.

Sincerely,



E. Jonathan Jackson
President

Enclosures

cc: w/enclosures

Leonard D. Wert, Jr. and Blaire Spitzberg (NRC Region IV)
Nuclear Materials Licensing Branch, U.S. Nuclear Regulatory Commission, Region IV,
611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011-4005 (w/two original
application enclosures)
Document Control 033106-01

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**ATTACHMENT A
FMRI APPLICATION FOR LICENSE AMENDMENT
LICENSE SMB-911; DOCKET NO. 40-7580
MARCH 31, 2006**

EXECUTED NRC FORM 313*

*Note: No changes are requested to Items 5 through 11 of NRC Form 313.

Estimated burden per response to comply with this mandatory collection request: 4.4 hours. Submittal of the application is necessary to determine that the applicant is qualified and that adequate procedures exist to protect the public health and safety. Send comments regarding burden estimate to the Records and FOIA/Privacy Services Branch (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet e-mail to infocollects@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0120), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

APPLICATION FOR MATERIAL LICENSE

INSTRUCTIONS: SEE THE APPROPRIATE LICENSE APPLICATION GUIDE FOR DETAILED INSTRUCTIONS FOR COMPLETING APPLICATION. SEND TWO COPIES OF THE ENTIRE COMPLETED APPLICATION TO THE NRC OFFICE SPECIFIED BELOW.

APPLICATION FOR DISTRIBUTION OF EXEMPT PRODUCTS FILE APPLICATIONS WITH:

DIVISION OF INDUSTRIAL AND MEDICAL NUCLEAR SAFETY
OFFICE OF NUCLEAR MATERIALS SAFETY AND SAFEGUARDS
U.S. NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555-0001

ALL OTHER PERSONS FILE APPLICATIONS AS FOLLOWS:

IF YOU ARE LOCATED IN:

ALABAMA, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, KENTUCKY, MAINE, MARYLAND, MASSACHUSETTS, MISSISSIPPI, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, NORTH CAROLINA, PENNSYLVANIA, PUERTO RICO, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, VERMONT, VIRGINIA, VIRGIN ISLANDS, OR WEST VIRGINIA, SEND APPLICATIONS TO:

LICENSING ASSISTANCE TEAM
DIVISION OF NUCLEAR MATERIALS SAFETY
U.S. NUCLEAR REGULATORY COMMISSION, REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PA 19406-1415

IF YOU ARE LOCATED IN:

ILLINOIS, INDIANA, IOWA, MICHIGAN, MINNESOTA, MISSOURI, OHIO, OR WISCONSIN, SEND APPLICATIONS TO:

MATERIALS LICENSING BRANCH
U.S. NUCLEAR REGULATORY COMMISSION, REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, IL 60532-4352

ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, HAWAII, IDAHO, KANSAS, LOUISIANA, MONTANA, NEBRASKA, NEVADA, NEW MEXICO, NORTH DAKOTA, OKLAHOMA, OREGON, PACIFIC TRUST TERRITORIES, SOUTH DAKOTA, TEXAS, UTAH, WASHINGTON, OR WYOMING, SEND APPLICATIONS TO:

NUCLEAR MATERIALS LICENSING BRANCH
U.S. NUCLEAR REGULATORY COMMISSION, REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TX 76011-4005

PERSONS LOCATED IN AGREEMENT STATES SEND APPLICATIONS TO THE U.S. NUCLEAR REGULATORY COMMISSION ONLY IF THEY WISH TO POSSESS AND USE LICENSED MATERIAL IN STATES SUBJECT TO U.S. NUCLEAR REGULATORY COMMISSION JURISDICTIONS.

| | | | | | |
|---|---------|---|-----------------|--------------|----------|
| 1. THIS IS AN APPLICATION FOR (Check appropriate item) | | 2. NAME AND MAILING ADDRESS OF APPLICANT (Include ZIP code) | | | |
| <input type="checkbox"/> A. NEW LICENSE <input checked="" type="checkbox"/> B. AMENDMENT TO LICENSE NUMBER <u>SMB-911</u> <input type="checkbox"/> C. RENEWAL OF LICENSE NUMBER _____ | | FMRI, Inc. Number Ten Tantalum Place Muskogee, OK 74403 | | | |
| 3. ADDRESS WHERE LICENSED MATERIAL WILL BE USED OR POSSESSED | | 4. NAME OF PERSON TO BE CONTACTED ABOUT THIS APPLICATION | | | |
| FMRI, Inc. Number Ten Tantalum Place Muskogee, OK 74403 | | E. Jon Jackson TELEPHONE NUMBER (918) 687-6303 | | | |
| SUBMIT ITEMS 5 THROUGH 11 ON 8-1/2 X 11" PAPER. THE TYPE AND SCOPE OF INFORMATION TO BE PROVIDED IS DESCRIBED IN THE LICENSE APPLICATION GUIDE. | | | | | |
| 5. RADIOACTIVE MATERIAL a. Element and mass number; b. chemical and/or physical form; and c. maximum amount which will be possessed at any one time. | | 6. PURPOSE(S) FOR WHICH LICENSED MATERIAL WILL BE USED. | | | |
| 7. INDIVIDUAL(S) RESPONSIBLE FOR RADIATION SAFETY PROGRAM AND THEIR TRAINING EXPERIENCE. | | 8. TRAINING FOR INDIVIDUALS WORKING IN OR FREQUENTING RESTRICTED AREAS. | | | |
| 9. FACILITIES AND EQUIPMENT. | | 10. RADIATION SAFETY PROGRAM. | | | |
| 11. WASTE MANAGEMENT. | | 12. LICENSE FEES (See 10 CFR 170 and Section 170.31) | | | |
| | | FEE CATEGORY <u>14.A</u> AMOUNT ENCLOSED \$ <u>0.00</u> | | | |
| 13. CERTIFICATION. (Must be completed by applicant) THE APPLICANT UNDERSTANDS THAT ALL STATEMENTS AND REPRESENTATIONS MADE IN THIS APPLICATION ARE BINDING UPON THE APPLICANT. THE APPLICANT AND ANY OFFICIAL EXECUTING THIS CERTIFICATION ON BEHALF OF THE APPLICANT, NAMED IN ITEM 2, CERTIFY THAT THIS APPLICATION IS PREPARED IN CONFORMITY WITH TITLE 10, CODE OF FEDERAL REGULATIONS, PARTS 30, 32, 33, 34, 35, 36, 39, AND 40, AND THAT ALL INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF. WARNING: 18 U.S.C. SECTION 1001 ACT OF JUNE 25, 1948 62 STAT. 749 MAKES IT A CRIMINAL OFFENSE TO MAKE A WILLFULLY FALSE STATEMENT OR REPRESENTATION TO ANY DEPARTMENT OR AGENCY OF THE UNITED STATES AS TO ANY MATTER WITHIN ITS JURISDICTION. | | | | | |
| CERTIFYING OFFICER - TYPED/PRINTED NAME AND TITLE | | SIGNATURE | DATE | | |
| E. Jonathan Jackson, President/CEO | | <i>E. Jonathan Jackson</i> | 03/29/2006 | | |
| FOR NRC USE ONLY | | | | | |
| TYPE OF FEE | FEE LOG | FEE CATEGORY | AMOUNT RECEIVED | CHECK NUMBER | COMMENTS |
| | | | \$ | | |
| APPROVED BY | | | | DATE | |
| | | | | | |

**ATTACHMENT B
FMRI APPLICATION FOR LICENSE AMENDMENT
LICENSE SMB-911; DOCKET NO. 40-7580
MARCH 31, 2006**

REQUESTED CHANGE TO LICENSE CONDITION 45:

License Condition 45 is changed to read:

45. FMRI shall submit
- a. by March 31 of each year an updated version of Table 15-11 showing actual figures for previous periods and updated estimates of costs of decommissioning, and
 - b. Form 10-K for Fansteel Inc. within five business days after filing with the Securities and Exchange Commission and a representative shall be available to the NRC on an annual basis upon timely request to discuss any matters disclosed in the Form 10-K.

**ATTACHMENT C
FMRI APPLICATION FOR LICENSE AMENDMENT
LICENSE SMB-911; DOCKET NO. 40-7580
MARCH 31, 2006**

THE CURRENT LICENSE SMB-911 WITH CHANGES SHOWN

**MATERIALS LICENSE
SUPPLEMENTARY SHEET**

License Number

SMB-911

Docket or Reference Number

40-7580

Amendment No. 12

- d. payments under the secondary promissory note,
e. payments under the contingent promissory note, and
f. any other payments received.
45. FMRI shall submit, ^{Insert} ~~by March 31st of each year, updated versions of Tables 15-11 and 15-12, showing actual figures for previous periods, and updated projections using current information.~~
46. **a. by March 31 of each year an updated version of Table 15-11 showing actual figures for previous periods and updated estimates of costs of decommissioning, and**
47. **b. Form 10-K for Fansteel Inc. within five business days after filing with the Securities and Exchange Commission and a representative shall be available to the NRC on an annual basis upon timely request to discuss any matters disclosed in the Form 10-K.**
48. **actions initiated to collect the payments below:**
- a. **Payment Due Date Under Primary Promissory Note**
- i. April 10 - annual mandatory prepayment
- ii. June 30 - first minimum semi-annual payment
- iii. December 31 - second minimum semi-annual payment
- b. **Payment Due Date under the Primary Promissory Note for additional annual prepayment (insurance proceeds and reorganized debtor asset sale proceeds), if any, within 30 days after receipt by Reorganized Fansteel**
- c. **Payment Due Date for Secondary Promissory Note by January 1 of each year, commencing in 2009**
- d. **Payment Due Date under the Contingent Promissory Note as determined at the time the principal amount of the note is established**
49. FMRI shall, up to the amount available, replenish any withdrawal from the Decommissioning Trust Fund within 30 days of receipt of any payments or proceeds intended to provide for replenishment, as provided in the Decommissioning Plan or the terms and conditions of the Joint Reorganization Plan as approved by the United States Bankruptcy Court.
50. Licensee shall provide to NRC not later than August 2, 2004, the experience and education requirements for the HPS [Health Physics Supervisor], the CS [Construction Supervisor], and the QCO [Quality Control Officer].
51. Not later than August 2, 2004, Licensee shall define changes to the FSSP [Final Status Survey Plan] that may be made without prior approval of NRC.
52. Not later than August 1, 2004, Licensee shall make available at the site for review by NRC a revised RWMP and QA Plan, for Phase 1 of decommissioning activities. Thereafter, Fansteel shall update and have available at the site the RHSP, EMP, RWMP and QA Plan prior to the beginning of each phase of decommissioning.