



March 31, 2006

*SENT VIA FEDEX (FedEx Tracking Number: 8558 8941 8615 0215)*

U.S. Nuclear Regulatory Commission  
ATTN: Mr. James C. Shepherd, Project Manager  
Decommissioning Branch  
Division of Waste Management  
11545 Rockville Pike  
Two White Flint North  
Rockville, Maryland 20852

Reference: License SMB-911; Docket No. 40-7580  
License Conditions 43, 44, and 45 – Annual Update

Dear Mr. Shepherd:

Pursuant to License SMB-911 Conditions 43, 44, and 45, the licensee, FMRI, Inc. ("FMRI"), submits the following information:

License Condition 43 (accounting of expenses)

This letter and the enclosed "Table 1 – Accounting of Expenses for Year 2005" provide the information required by License Condition 43 regarding FMRI expenses in 2005 including the following:

- a) Expenses incurred by FMRI in 2005, using the same line items as provided in Table 15-11 of the Decommissioning Plan.
- b) The amount spent on each line item during 2005.
- c) Cumulative expenses (i.e., spent in 2004 and 2005).
- d) Identification of variances, both positive and negative, between the planned expense projected by FMRI in the most recent previous annual update submitted to the NRC on March 30, 2005 and the actual expense for each line item during 2005.
- e) An explanation of the reasons for variances that exceed 5% of the planned expense for a line item during 2005 is provided as a footnote to Table 1.

Subparagraph (f) of License Condition 43 requests a comparison of the cost of work remaining to the funding remaining under the assurances provided to NRC. The cost of work remaining is to be determined by estimating the amount and cost of labor, materials, services, etc., required to

complete the work. If the cost of remaining activities exceeds the remaining amounts assured to the NRC, a detailed plan to adjust the work plan to the available funding is to be provided.

Enclosed is "Revised Table 15-11, Revised Closure Cost Estimate by Year" that provides the revised estimated cost of \$35,273,964 for the decommissioning work remaining to be incurred in 2006 and out years. This correlates to a decrease in total decommissioning cost estimate (i.e., including previous years expenses) to a total of \$40,994,542 which is less than the original estimate of \$41,605,000 on which the financial assurance mechanism was based.

For your information, a summary is provided below of changes in the project totals of line item expenses in the enclosed revised Table 15-11 that increased or that decreased from what was projected in the most recent previous annual update submitted to the NRC on March 30, 2005.

**Increases in line item total expenses in Revised Table 15-11:**

- ***Line Item 2 - Miscellaneous Costs, Legal & Other Consulting Services (net increase of \$154,661):*** This increase is based on additional legal expenses incurred in 2005 and additional legal expenses expected in 2006 for responding to NRC issues related to decommissioning and licensing issues.
- ***Line Item 3 - Prepare Decommissioning Plans and Reports (net increase of \$87,304):*** This increase was mostly due to the not previously anticipated pilot scale WIP drying study conducted in 2005 to assist Phase 1 contracting and construction activities.
- ***Line Item 6 - NRC Review of Decommissioning Plans and Reports (net increase of \$34,250):*** This increase was due to additional NRC payments in 2006 from what was previously estimated based on existing promissory notes with the NRC for installment payment of past due invoices (Note: This line item does not include the annual estimate for NRC inspections that is accounted for in Line Item 7).
- ***Line Item 7 - NRC Oversight and Miscellaneous (i.e., facility property taxes and insurance coverage) (net increase of \$278,827):*** This line item was increased to match actual insurance costs for 2005 and this incremental increase was carried through the out-years. This line item also includes the annual \$25,000 estimate for NRC inspections which was unchanged.
- ***Line Items 13, 14, & 15 - WIP Excavation, Drying, Transportation, and Reclamation (net increase of \$1,306,148):*** The WIP drying pilot scale study conducted in 2005 showed that the optimal target moisture content for drying the WIP for Phase 1 activities is 32 percent on a wet weight basis. Previous estimates for these line items were based on a WIP moisture content of 20 percent. These cost estimates to be spent in 2006 were increased to reflect the additional total weight of WIP estimated using a 32 percent moisture content versus the previous 20 percent moisture content estimate.

**Decreases in line item total expenses in Revised Table 15-11:**

- ***Line Item 4 – Facility Oversight Through Facility Closure (net decrease of \$64,014):***  
This decrease in facility oversight expenses in 2005 was mostly due to lower than estimated employee salary costs.
- ***Line Items 18 and 19 – CaF<sub>2</sub> Transportation and Disposal (net decrease of \$1,303,670):***  
This reduction is based on a lower quote for the transportation and disposal of the CaF<sub>2</sub> material (i.e., \$110 per ton or less) that was recently received from the vendor that is identified in the Decommissioning Plan for these activities. These reductions are based on using a \$110 per ton unit price for transportation and disposal.
- ***Line Items 22 and 23 – Soil Transportation and Disposal (net decrease of \$732,110):***  
This reduction is based on a lower quote for the transportation and disposal of impacted soils (i.e., \$110 per ton or less) that was recently received from the vendor that is identified in the Decommissioning Plan for these activities. These reductions are based on using a \$110 per ton unit price for transportation and disposal.

Paragraph (g) of License Condition 43 requests an explanation of the reason for all expenses not covered by the line items of Table 15-11. The only other FMRI “expense” that is not covered and provided by the line items of Table 15-11 are the FMRI repayments to the Decommissioning Trust. In 2005, these repayments to the Decommissioning Trust totaled \$767,829 (i.e., reflecting the amount that FMRI received in distributions of net insurance proceeds from Fansteel Inc. in 2005).

As previously described to the NRC in the FMRI submittals dated November 11, 2005 and January 13, 2006 and as discussed during the February 15, 2006 management meeting with NRC, it should be noted that these estimated expenditures and schedules are FMRI’s best estimates at this point in time based on available information and assuming a sufficient funding stream and are subject to change for reasons including, but not limited to, (1) scheduler changes in the work to be performed by contractors and other pertinent vendors (e.g., reclamation of removed WIP by IUC, including its timely receipt of a license amendment from the State of Utah to receive and process the WIP), (2) changes in work scope and cost in the work to be performed by contractors and other pertinent vendors, (3) changes in the actual amount of WIP, and/or CaF and/or contaminated soil materials encountered, (4) changes in the amount and/or timing of funding for the decommissioning activities (e.g., from Fansteel Inc., net insurance recovery proceeds from Fansteel Inc., surplus equipment sales), or (5) other unforeseen impacts to decommissioning taking into account considerations of preparation, scheduling, cost and weather.

In addition and as described in these previous submittals, FMRI is not certain that sufficient funds will be in place to ship all of the WIP removed from Ponds 2 and 3 in 2006 (i.e., assuming that FMRI only receives the minimum payments from Fansteel and no additional insurance recoveries or sales of surplus equipment through 2006). FMRI plans to proceed with the Phase 1

Decommissioning activities through excavation, drying, and bagging of the dried WIP. However, based on the short-term estimated decommissioning costs and certain cash flows, FMRI currently estimates that only about three quarters of the dried-bagged WIP material (i.e., about 14,000 tons of WIP at 32 percent moisture content by weight) can be transported and reclaimed in accordance with the current Phase 1 schedule while ensuring sufficient funds for the continued maintenance of facility environmental and safety controls. The remaining estimated 4,800 tons of dried-bagged WIP material at an average 32 percent moisture content by weight would have to remain on-site until FMRI has a sufficient cash balance to ship it for off-site reclamation while also ensuring sufficient cash for the continued maintenance of facility environmental and safety controls.

However, should FMRI receive sufficient funds in a timely manner from Fansteel Inc. and/or from insurance recovery claims already submitted to several historic insurance providers, FMRI estimates that the Phase 1 activities could be completed in 2006 (i.e., subject to no unforeseen events impacting the schedule and costs currently estimated). Since FMRI believes that the work can physically be completed in accordance with this schedule, the Phase 1 schedule for the WIP material has not changed. FMRI will not be certain until later in 2006 whether sufficient funding will be available to complete the Phase 1 activities in 2006 (i.e., while maintaining facility environmental and safety controls). In the event that FMRI determines that it is certain that Phase 1 cannot be completed in 2006, the NRC will be notified as soon as reasonably possible thereafter on the updated schedule for Phase 1.

The schedule for subsequent decommissioning phases is also dependent upon similar considerations described above and the availability of funds necessary to plan and execute the remediation and to dispose of contaminated material offsite. For example, scheduled expenditures still shows the Phase 2 work for the remediation of the CaF material as starting in mid 2007 (i.e., this is the date when FMRI expects to have a contract in place with a construction vendor to do the work and the construction vendor has started billing to the project). Depending on the FMRI cash balance available at that time compared to the expected Phase 2 costs, FMRI may not be able to authorize the start of Phase 2 in mid 2007 if these expenditures might jeopardize FMRI's commitment to the continued maintenance of facility environmental and safety controls. Whether sufficient funding will be available at that time will not be known with any certainty until early 2007 at which time Figure 8.3 showing the estimated Muskogee Decommissioning Schedule can be updated in accordance with License Condition 42 to provide more certain schedule information.

License Condition 44 (accounting of income)

The accounting of income in 2005 from Reorganized Fansteel showing amounts paid to FMRI following the format used in License Condition 44 is provided below:

- a) \$ 0.00 - annual mandatory prepayments
- b) \$ 1,400,000.00 - minimum semi-annual payments

- c) \$ 767,829.00 - additional annual prepayment (1) insurance proceeds, and (2) reorganized debtor asset sale proceeds [Note: The \$767,829.00 was for insurance proceeds received from Fansteel that was in turn repaid by FMRI to Subaccount No. 1 of the Decommission Trust.]
- d) \$ 0.00 - payments under the secondary promissory note
- e) \$ 0.00 - payments under the contingent promissory note

Subparagraph (f) of License Condition 44 also requests information on any other payments received. Other payments received by FMRI in 2005 are as follows:

- \$ 1,660,000.00 - from the Decommissioning Trust
- \$ 253,069.00 - from the sale of surplus equipment
- \$ 25,060.00 - from rental receipts

In addition, the ending FMRI cash balance as of December 31, 2005 was \$2,031,680.

#### License Condition 45

As requested in License Condition 45 and as discussed above, enclosed is an updated version of Table 15-11 (i.e., "Revised Table 15-11 – Revised Closure Cost Estimate by Year").

License Condition 45 also requests an updated version of Table 15-12 (Reorganized Fansteel Cash Flow by Year) showing actual figures for previous periods, and updated projections using current information. This matter is described in previous FMRI correspondence to the NRC dated March 30, 2005, April 18, 2005, August 23, 2005, October 11, 2005, January 13, 2006, and March 13, 2006 and was discussed during meetings with NRC on April 29, 2005 and February 15, 2006. As proposed to the NRC in the FMRI letter dated March 13, 2006, FMRI is submitting by separate letter to the NRC a request to modify a portion of License Condition 45 to eliminate the requirement for FMRI to provide the updated financial projections for Fansteel Inc. contained in Table 15-12 of the Decommissioning Plan for the Muskogee, Oklahoma site. The requested license amendment will also assure that License Condition 45 is not violated in the future.

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

Sincerely,



E. Jonathan Jackson  
President, FMRI

Enclosures

Copy to: Keyton Payne, Blair Spitzberg, Gary Tessitore  
File (NRC-033106-02)

Table 1 - FMRI - Accounting of Expenses for Year 2005 (License Condition 43, 03/31/06)

Line Item No.		Year 2005:			Years 2004 and 2005:	
		Projected in revised Table 15-11 on 3/30/05	Actual	Better (Worse)	Percent Variance	Cumulative Actual
<b>Site maintenance activities</b>						
1	Site maintenance costs in preparation for decommissioning	-	-	-	-	-
2	Miscellaneous costs, legal & other consulting services	\$ 100,000	\$ 200,658	\$ (100,658)	101	\$ 624,696
		\$ 100,000	\$ 200,658	\$ (100,658)		624,696
<b>Site plans &amp; maintenance</b>						
3	Prepare decommissioning plans and reports (Funded Cost)	\$ 183,698	\$ 211,002	\$ (27,304)	15	\$ 301,304
4	Facility oversight through facility closure in about 10 years	\$ 495,000	\$ 430,986	\$ 64,014	(13)	\$ 1,001,771
5	Preparation of Environmental Report	\$ -	\$ -	\$ -		\$ -
6	NRC review of decommissioning plans and reports (Funded Cost)	\$ 100,000	\$ 86,250	\$ 13,750	(14)	\$ 188,799
7	NRC oversight & misc. through facility closure over 10 years (Funded Cost)	\$ 165,000	\$ 198,827	\$ (33,827)	21	\$ 359,235
8	Health Physics support through facility closure over 10 years (Funded Cost)	\$ 198,380	\$ 45,000	\$ 153,380	(77)	\$ 45,000
9	NRC oversight of groundwater treatment	\$ -	\$ -	\$ -		\$ -
10	Survey activities (Funded Cost)	\$ -	\$ -	\$ -		\$ -
11	Decontaminate all buildings (Funded Cost)	\$ -	\$ -	\$ -		\$ -
12	Decontaminate equipment (Funded Cost)	\$ -	\$ -	\$ -		\$ -
		\$ 1,142,078	\$ 972,065	\$ 170,013		\$ 1,896,109
<b>WIP disposal (19 months beginning 9/1/04 ending 3/31/06)</b>						
13	Ponds 2&3 Residues (WIP), Excavation, on-site hauling, and drying (Funded Cost)	\$ 807,409	\$ 425,672	\$ 381,737	(47)	\$ 425,672
14	Ponds 2&3 Residues transportation (Funded Cost)	\$ 1,506,600	\$ -	\$ 1,506,600	(100)	\$ -
15	Ponds 2&3 Residues disposal (Funded Cost)	\$ 920,000	\$ -	\$ 920,000	(100)	\$ -
16	Backfill where removed Ponds 2 & 3 Residues (WIP residues) (Funded Cost)	\$ -	\$ -	\$ -		\$ -
		\$ 3,234,009	\$ 425,672	\$ 2,808,337		\$ 425,672
<b>CaF2 disposal</b>						
17	Ponds 5,6,7,8, & 9 Residues – Excavation, on-site hauling, and drying (Funded Cost)	\$ -	\$ -	\$ -		\$ -
18	Ponds 5,6,7,8, & 9 Residues transportation (Funded Cost)	\$ -	\$ -	\$ -		\$ -
19	Ponds 5,6,7,8, & 9 Residues disposal (Funded Cost)	\$ -	\$ -	\$ -		\$ -
20	Backfill where removed Ponds 5,6,7,8, & 9 Residues (Funded Cost)	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -		\$ -
<b>Soil disposal</b>						
21	Radiologically contaminated soils, Excavation & on-site hauling (Funded Cost)	\$ -	\$ -	\$ -		\$ -
22	Radiologically contaminated soils transportation (Funded Cost)	\$ -	\$ -	\$ -		\$ -
23	Radiologically contaminated soils disposal (Funded Cost)	\$ -	\$ -	\$ -		\$ -
24	Backfill where removed radiologically contaminated soils (Funded Cost)	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -		\$ -
<b>Groundwater treatment</b>						
25	Groundwater treatment for 3 years during decommissioning of WIP	\$ 282,000	\$ 282,000	\$ -	-	\$ 564,000
26	Groundwater treatment for 17 years after decommissioning of WIP	\$ -	\$ -	\$ -		\$ -
		\$ 282,000	\$ 282,000	\$ -		\$ 564,000
<b>Total Decommissioning Expenses in 2004</b>		<b>\$ 4,758,087</b>	<b>\$ 1,880,396</b>	<b>\$ 2,877,691</b>		<b>\$ 3,510,478</b>

Explanation of Variances that Exceed 5% of the Planned Expenses by Line Item:

- Line Item 2 (Miscellaneous costs, legal & other consulting services) - Additional legal expenses for responding to NRC issues related to the decommissioning and other licensing issues.
- Line Item 3 (Prepare decommissioning plans and reports) - Unanticipated decommissioning preparation expense related to conducting a pilot scale WIP drying study (at a cost of \$69,525) prior to initiating full-scale Phase 1 construction activities in 2005.
- Line Item 4 (Facility oversight) - Facility oversight expenses were less than previously projected mostly due to reductions in employee salary costs.
- Line Item 6 (NRC review of decommissioning plans and reports) - Decreased NRC oversight than expected (does not include routine inspections accounted for in Line Item 7).
- Line Item 7 (NRC oversight & misc.) - Higher insurance costs than estimated (these higher insurance costs will be reflected in out-year expense projections).
- Line Item 8 (Health Physics Support) - This cost was estimated from Section 15.1.7 of the DP for general HP support provided by Phase 1 Contractor for the last 6 months