

July 27, 2006

Mr. E. Jonathan Jackson, President
FMRI
10 Tantalum Place
Muskogee, OK 74403

SUBJECT: DENIAL OF LICENSE AMENDMENT REQUEST FOR CONDITION 45 OF SMB-911 FOR THE MUSKOGEE SITE (TAC NO. L52977)

Dear Mr. Jackson:

The U.S. Nuclear Regulatory Commission (NRC) staff has completed its review of your license amendment request, dated March 31, 2006, for the FMRI site in Muskogee. The current license condition requires, in part, that FMRI provide annual updates to Table 15-12 of its approved decommissioning plan (DP). That Table contains certain financial projections from the current year through completion of Phase 3 decommissioning, as defined in the DP. FMRI is requesting that the yearly requirement to provide written updates on multi-year financial projections of its parent corporation (Fansteel Inc.) be changed, because necessary information has not been provided by Fansteel Inc. Instead, FMRI offers to provide the "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."

These proposals are not an adequate substitute for the existing license requirement. The NRC staff has determined that FMRI must continue to provide it with documented information to maintain adequate assurance that future funding will be available so that the decommissioning actions set forth in the approved DP will be taken as required. The form 10-K is a publically available document and contains data limited to the previous financial year. The proposed change does not offer a way to obtain sufficient information about FMRI's future financial ability to meet its decommissioning obligations at the Muskogee site.

FMRI also offered a meeting with a representative; the representative is not specified as having any unique knowledge of FMRI's financial future.

Further, because the NRC is a regulatory agency, it does not need a licensee's permission to request meetings on topics related to license requirements, nor is it constrained by a licensee's definition of "timely" in effecting such meetings.

The staff has concluded that the proposed changes to the license condition are not responsive to NRC's needs for financial information upon which to evaluate the likelihood that FMRI will decommission its site in accordance with its license. Therefore, the amendment request is denied.

Note that FMRI continues to be in noncompliance with its license and should take prompt action to achieve compliance. If FMRI elects to revise its amendment request to achieve compliance, it should fully address NRC's needs for insights to the financial future of the organization in its submittal.

In accordance with 10 CFR 2.103, FMRI may demand a hearing on this matter within 20 days of the date of this letter. If you have any questions on this matter please contact Mr. James Shepherd, of my staff, at (301) 415 6712 or jcs2@nrc.gov.

Sincerely,

/RA/

Keith I. McConnell, Deputy Director
Decommissioning Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Materials Safety
and Safeguards

Docket No.: 40-7580
License: SMB-911

cc: Service List

E. J. Jackson

-2-

Note that FMRI continues to be in noncompliance with its license and should take prompt action to achieve compliance. If FMRI elects to revise its amendment request to achieve compliance, it should fully address NRC's needs for insights to the financial future of the organization in its submittal.

In accordance with 10 CFR 2.103, FMRI may demand a hearing on this matter within 20 days of the date of this letter. If you have any questions on this matter please contact Mr. James Shepherd, of my staff, at (301) 415 6712 or jcs2@nrc.gov.

Sincerely,

/RA/

Keith I. McConnell, Deputy Director
Decommissioning Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Materials Safety
and Safeguards

Docket No.: 40-7580
License: SMB-911

cc: Service List

DISTRIBUTION:

DWMEP r/f DCB r/f Docket File 40-7580 DSpitzberg/R IV

ML061710551

OFFICE	DCD:PM	DCD:LA	DCD:TR	DCD:SC	OGC	DCD:DD
NAME	JShepherd	CWalls	TFredrichs	CCraig	STreby	KMcConnell
DATE	7/7/06	7/27/06	7/13/06	07/14/06	07/10/06	7/24/06

OFFICIAL RECORD COPY

FMRI/ Fansteel Service List

cc:

E. Jonathan Jackson
President
FMRI, INC.
Number Ten Tantalum Place
Muskogee, OK 74403-9296

Gary L. Tessitore
Chairman, President, CEO
Fansteel, Inc.
570 Lake Cook Rd, Suite 200
Deerfield, IL 60015

Michael Broderick
Land Protection Division
Oklahoma Department of Environmental
Quality
707 N. Robinson
Oklahoma City, OK 73102

Mr. Quang Pham
Water Quality Division
Oklahoma Department
of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Ms. Pamela Bishop
Environmental Specialist
Land Protection Division
Radiation Management Section
Oklahoma Department of Environmental
Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Mr. Phillip Fielder
Air Quality Division Oklahoma Department
of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Environmental Protection Division
Office of the Attorney General
State of Oklahoma
2300 Lincoln Blvd. Suite 260
Oklahoma City, OK 73105-4894

James Curtiss, ESQ
Winston & Strawn
1400 L St NW Suite 800
Washington, DC 20005

Mark Whetterhahn, ESQ.
Winston & Strawn
1400 L St NW Suite 800
Washington, DC 20005

David Mullin
Cherokee Nation
115 W. North Street
Tahlequah, OK 74464

Timothy Hartsfield
District Environmental Manager
US Army Corps of Engineers
1645 South 101st East Ave
Tulsa, OK 74121-0061

Mr. George Brozowski, Regional Health
Physicist
U.S. Environmental Protection Agency,
Region VI
1445 Ross Avenue
M.S.-6PDT
Dallas, TX 75202

Scott Thompson, Director
Land Protection Division
Oklahoma Department of Environmental
Quality
707 N. ROBINSON
OKLAHOMA CITY OK 73102

Kimberly Winton
District Chief
US Geological Survey
202 NW 66th Bldg 7
Oklahoma City, OK 73116

Hershel McBride
City Manager
City of Muskogee
229 West Okmulgee
Muskogee, OK 74401

Richard Gladstein, ESQ
Environmental Enforcement
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611