

License No. SMB-911
Docket No. 040-07580



STEVEN A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

BRAD HENRY
Governor

RECEIVED

MAR 12 2007

DNMS

March 7, 2007

Blair Spitzberg
US Nuclear Regulatory Commission
Region IV
611 Ryan Plaza Drive
Arlington, TX 76011

Re: Request to review financial information
Muskogee, Oklahoma facility of FMRI, Inc. (subsidiary of Fansteel, Inc.)

Dear Dr. Spitzberg:

The Oklahoma Department of Environmental Quality (DEQ) seeks to review a December 4, 2006 letter from Fansteel, Inc or its subsidiary FMRI, Inc. that includes a revised future cash flow Table 15-112 (Letter). Bob Evans of Region IV informed DEQ that our request to review the letter has been denied because FMRI requested a privacy restriction. We are asking that NRC reconsider this decision and provide DEQ a copy of the Letter.

The DEQ is voluntarily deferring to NRC's decision-making in decommissioning the Muskogee site (per the Memorandum of Understanding between EPA and NRC). This does not lessen the DEQ's interest in, nor alter its statutory duty with respect to, clean-up of this Oklahoma site. We are interested in knowing that site clean-up continues unabated, and that the responsible party remains solvent and continues to commit adequate financial resources for the clean-up. The DEQ is concerned that non-radioactive contamination may remain at the conclusion of the NRC decommissioning. Radioactive and non-radioactive wastes are collocated at the site, and final clean-up requirements for non-radioactive wastes remain undefined. (By way of example, within the last year TCE has been discovered in groundwater at the site.) We ask that DEQ be permitted to review information submitted to the NRC that is relevant to current and anticipated cleanups, including financial assurance and financial projections to confirm that FMRI will be capable of meeting its long term remediation obligations at the site.

The DEQ gives its assurance that it will protect the Letter against public disclosure. In this regard, the DEQ notes the requirements and procedures which NRC must consider in reviewing requests to withhold information (10 CFR 2.390). The NRC is charged to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised, and also allows for



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the disclosure of information to government officials other than NRC officials under protective agreement. Further, the EPA-NRC MOU referenced above encourages the sharing of such information: "Each agency will ... respond to the other agency's requests for information to the extent reasonable and practicable ...". (Section B. General) In conclusion, the DEQ is a government agency with good reason to review the requested information, and is authorized by law to protect the requested information against public disclosure as provided in 51 O.S. §24A.13.

If you require additional information or have questions about this request, you may call me at (405) 702-5158. Please let me know by phone or letter what arrangements must be made to facilitate our review of the requested Letter.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Thompson", with a long horizontal flourish extending to the right.

Scott A. Thompson, Director
Land Protection Division

Copy: Kelly Burch