

June 1, 2007

Scott A. Thompson, Director
Land Protection Division
Oklahoma Department of Environmental Quality
707 North Robinson
Oklahoma City Oklahoma 73101-1677

SUBJECT: REQUEST FOR PROPRIETARY INFORMATION FROM FMRI

Dear Mr. Thompson:

The Oklahoma Department of Environmental Quality (ODEQ) letter dated March 7, 2007, to Dr. Blair Spitzberg of Region IV of the U.S. Nuclear Regulatory Commission (NRC), has been transferred to the Decommissioning and Uranium Recovery Licensing Directorate (DURLD) for reply. In the letter, ODEQ requests to review a letter from Fansteel, Inc., or its subsidiary FMRI, Inc., dated December 4, 2006 that includes a revised future cash flow as an update to Table 15-12 of the site decommissioning plan (DP).

The ODEQ states it is 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 ODEQ states it is concerned that non-radioactive contamination may remain on the site at the conclusion of the NRC mandated decommissioning.

In the review of ODEQ's request, DURLD has determined that the requested information is related to the financial operations of Fansteel, Inc., the parent company of FMRI. Pursuant to discussions among NRC, Fansteel, Fansteel's counsel, and the U.S. Department of Justice, NRC determined that it is appropriate to withhold this information from public disclosure under NRC regulations specified in 10 CFR 2.390.

As one part of the request, ODEQ states it is concerned with the financing for remediation of non-radioactive contamination after NRC remediation is complete. NRC regulatory control over remediation of radioactive material will remain in effect until the site meets appropriate license termination criteria. The licensee estimates that this will occur in about 2023. The financial information in the letter ODEQ requests does not address that time frame.

As another part of the argument for release of the information, ODEQ makes reference to a Memorandum of Understanding (MOU) between NRC and the U.S. Environmental Protection Agency as a basis for releasing the financial information. This MOU addresses exchange of technical information related to residual radioactivity at a site seeking license termination, not the type of financial information at issue here. The process of exchanging such technical information between federal agencies is not relevant to the ODEQ request.

For the above stated reasons, and in accordance with 10 CFR 2.390, NRC has determined that it will not release the proprietary information that ODEQ specifically requests. However, the following information is responsive to the ODEQ request and is publically available through the NRC Agencywide Documents Access & Management System (ADAMS):

FMRI annual submittals on cost in accordance with License Condition 43 of SMB-911 (See, for example ML060950344)

FMRI annual submittals on revenue in accordance with License Condition 44 (See, for example ML060950344)

FMRI annual submittals of projected costs by year (Table 15-11 of DP) in accordance with License Condition 45, (See, for example ML060950344) and

Fansteel Forms 10 Q and 10-K in accordance with License Condition 47 (also available on the Fansteel website (www.fansteel.com) and the SEC website (www.sec.gov)).

If you have any questions on this matter, please contact me at (301) 415-6712 or jcs2@nrc.gov.

Sincerely,

/RA/

James C. Shepherd, Project Engineer
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-7580

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