



March 28, 2008

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

SENT VIA OVERNIGHT CARRIER

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 2007" (Attachment 1) provide the information required by License Condition 43 regarding FMRI expenses in 2007, including the following:

- a) Expenses incurred by FMRI in 2007, using the same line items as provided in Table 15-11 of the Decommissioning Plan ("DP").
- b) The amount spent on each line item during 2007.
- c) Cumulative expenses (i.e., spent in 2004, 2005, 2006, and 2007).
- 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, 2007 and the actual expense for each line item during 2007.
- e) An explanation of the reasons for variances that exceed 5% of the planned expense for a line item during 2007 (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

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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" (Attachment 2) that provides the revised estimated cost of \$34,672,606 for the decommissioning work remaining to be incurred in 2008 and out years. This correlates to an increase in total decommissioning cost estimate (i.e., including previous years expenses) to a total of \$46,906,172, which is about \$5,301,000 more than the original estimate of \$41,605,000 on which the financial assurance mechanism was based.

This increase in the current total decommissioning cost estimate from the original estimate provided in the 2003 DP is due to several factors, including:

- Phase 1 - Additional materials in Pond 3 (from both an increase in the total amount excavated from Pond 3 from that estimated in the DP and an increase in the average dried moisture content from the original 20 percent by weight estimate).
- Phase 1 – Construction costs greater than originally expected, including: the re-starting of Pond 3 activities, additional drying and re-bagging of a large amount of WIP material that was bagged improperly by the original contractor at too high of a moisture content; additional completion costs of Pond 3 related to the termination for cause of the original Phase 1 contractor; and the increased projection of Pond 2 costs based on the WIP unit costs from Pond 3 work to date.
- Phase 1 – Additional costs for construction and maintenance of staging areas for the initial bagged WIP pending the reclaimer's receipt of regulatory approval to receive the WIP material in order that off-site shipments of the bagged WIP could commence.
- Phase 1 – WIP transportation costs (i.e., to the reclaimer) consisting of a higher unit cost and more WIP material being shipped than originally estimated (again due to higher moisture content and an increase in the total estimated amount of WIP).
- Phase 1 – Increased legal costs from originally anticipated related to lawsuit with former Phase 1 construction vendor, unsubstantiated former contractor employee allegations, and compliance-related activities.
- Phase 1 to 3 – Extension of decommissioning period and related facility operations expenses for an additional 2 years (see FMRI letter to NRC dated January 12, 2007).

These cost increases were off-set somewhat by decreases in the estimated CaF and contaminated soil transportation and disposal costs to be completed during Phases 2 and 3 based on a lower vendor quote for these activities that was received after the preparation of the original DP.

The total decommissioning cost estimate increased about \$1,621,000 from last year's estimate (i.e., submitted to the NRC by letter dated March 30, 2007). This was mostly due to increased Phase 1 construction costs for the replacement of the original contractor and the additional drying and re-bagging of a large amount of previously bagged WIP material, increased estimated WIP transportation and reclamation costs, increased projection of Pond 2 Phase 1 costs based on the WIP unit costs from Pond 3 work to date, and other increases for legal (i.e., for lawsuit with

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former Phase 1 construction vendor, unsubstantiated former contractor employee allegations, and compliance-related activities), and consulting expenses.

As discussed in previous submittals, FMRI plans to pursue the reclamation of the calcium fluoride in Ponds 8 and 9 in lieu of disposal as currently contemplated in the DP. These materials, when addressed in 2013 to 2015 as part of Phase 2, could be reclaimed for use in cement kilns (i.e., the fluoride acts as a catalyst reducing the energy needs of the kilns), incorporated into road base or similar road construction material, or in other possible applications.

As currently shown in Table 15-11, the transportation and disposal cost for the calcium fluoride materials in Ponds 8 and 9 total \$7,447,330. However, reclaiming the CaF (i.e., instead of disposal) at nearby cement kilns (i.e., as opposed to transporting the CaF to another state for disposal) could reduce total unit transportation and reclamation costs by as much as half or more (i.e., from \$110 per ton to about \$55 per ton for transportation and disposition). This would reduce the total CaF transportation and disposition costs by \$3,700,000 and similarly lower the total estimated decommissioning estimate by \$3,700,000.

In addition, the Muskogee property is a valuable asset especially considering its location in the Port of Muskogee and for its additional use as a railway corridor linking the nearby main railway corridor to the Port of Muskogee (i.e., thereby avoiding the transport of rail cars for several miles through the City of Muskogee). The value of this property (and adjoining FMRI parcel that is not part of the license) and buildings may be in excess of \$2,000,000. The reduction in CaF costs and proceeds from the eventual sale of the property should be sufficient to cover the estimated increase in the decommissioning cost to allow completion of the decommissioning with the available funding.

Finally, 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. There were no other expenses that are not covered by the line items of Table 15-11 in 2007.

License Condition 44 (accounting of income)

The accounting of income in 2007 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) \$ 0.00 - additional annual prepayment (1) insurance proceeds, and
(2) reorganized debtor asset sale proceeds
- d) \$ 0.00 - payments under the secondary promissory note
- e) \$ 0.00 - payments under the contingent promissory note

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Subparagraph (f) of License Condition 44 also requests information on any other payments received. Other payments received by FMRI in 2007 are as follows:

- \$ 776,313.18 - from the Decommissioning Trust
- \$ 22,506.80 - from the sale of surplus equipment
- \$ 66,000.00 - from rental receipts
- \$ 66,827.63 - from interest income

License Condition 45

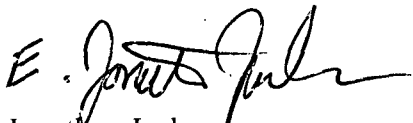
As required in License Condition 45, and as discussed above, enclosed is an updated version of Table 15-11 (i.e., "Revised Table 15-11 – Revised Closure Cost Estimate by Year").

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. FMRI encloses an updated version of Table 15-12 (i.e., "Revised Table 15-12 –Reorganized Fansteel Cash Flow by Year") showing actual figures for previous periods, and updated projections using current information (Attachment 3). This table is based upon information recently supplied by Fansteel Inc. ("Fansteel") and reflects actuals for 2007 with some changes of projections for out-years. As the footnote in the attached table indicates, forecasts of future financial results over an extended period of time are extremely difficult.

Pursuant to 10 C.F.R. § 2.390, FMRI requests that the NRC withhold the March 31, 2008 Table 15-12 update from public disclosure in accordance with 10 C.F.R. § 2.390. This information is essentially identical to the information already determined by the NRC in its January 9, 2007 letter to contain proprietary commercial information that should be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended. In support of this request, FMRI submits the affidavit of E. Jonathan Jackson dated March 27, 2008 (Attachment 4).

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

Sincerely,



E. Jonathan Jackson
President, FMRI

Enclosures

Copy to: Jack E. Whitten (Region IV NRC)

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