

November 2, 2007

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

SUBJECT: FMRI's PLANNED SCHEDULE FOR COMPLETING DECOMMISSIONING AT
THE MUSKOGEE SITE

Dear Mr. Jackson:

As discussed below, FMRI is in the process of Phase 1 decommissioning at the Muskogee site, with scheduled completion by the end of 2007. By letter dated January 12, 2007 (ML070220171), FMRI stated that it plans to cease remedial activities at the site when all waste material is excavated from Pond 3 and shipped off site. Further, the letter stated that FMRI would not resume Phase 1 remediation work until it has accumulated sufficient funds to complete excavation and shipping of all material from Pond 2 without interruption. FMRI estimates that Phase 1 decommissioning would resume in about 2011. This approach concerns the U.S. Nuclear Regulatory Commission (NRC) because it impacts the availability of resources necessary to complete remediation of the site for unrestricted use.

(b)(4)

The NRC rejected the original decommissioning plan (DP) in 2003 for several reasons, including an excessively lengthy schedule. By letter dated May 8, 2003, Fansteel, FMRI's corporate parent and then the licensee of the Muskogee site, committed to remediate the site in a phased approach on a specified schedule. The NRC would not have approved the site DP without this commitment, which is incorporated in Condition 10 of License SMB-911. That revised schedule committed the licensee to decommission the site in phases as follows:

- i) Conduct Phase 1 of the decommissioning – off-site removal of waste from ponds 2 and 3 – with actual remediation to begin by September 1, 2004 and be completed by March 31, 2006;
- ii) Conduct Phase 2 of the decommissioning – remediation of Ponds 5 through 9 – with the goal of beginning the work by January 1, 2007, and completing the work by April 30, 2011; and
- iii) Conduct Phase 3 of the DP – completing all presently contemplated radiological remediation – in 2011.

(b)(4)

The current schedule, as updated in the referenced letter, is that FMRI expects to complete the first half of Phase 1 decommissioning, remediation of Pond 3, by the end of December 2007. The letter further states that FMRI does not expect to start the second half of Phase 1 decommissioning – the remediation of Pond 2 -- until about 2011. Therefore, the subsequent decommissioning phases

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will also be delayed beyond the original NRC-approved schedule, starting in about 2013 and continuing for several years beyond 2013.

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(b)(4) As part of the bankruptcy settlement, Fansteel provided an unsecured promissory note in the amount of about \$30 million to fund Phases 1 - 3 of the decommissioning. Fansteel also provided a second unsecured note of an unspecified amount to cover costs of remediating any additional contamination found on the site, if needed. The maturity date of the primary note is in 2013. At maturity, Fansteel must pay the lump sum balance of the value of the note. Also, as part of the settlement agreement, Fansteel also agreed to pay portions of excess available cash and prior fiscal year-end cash balances to FMRI.

(b)(4)

Fansteel further promised to pay over any settled insurance claims to FMRI.

(b)(4)

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To address these concerns, FMRI should arrange a meeting with NRC, within sixty days of the date of this letter, to explain how it will proceed to complete decommissioning at the Muskogee site.

(b)(4)

Because the meeting participants may discuss proprietary information, the meeting may be closed to members of the public.

Sincerely,

/RA/

Keith I. McConnell, Deputy Director
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

License: SMB-911

cc: Richard Gladstein, Esq., U.S. Department of Justice