[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 040-7580; NRC-2011-0260]

Notice of Application from FMRI for Consent

to an Indirect Change of Control for Source Material

License SMB-911 to Green Lantern Acquisition 1, LLC

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of receipt of an application for indirect change of control and opportunity to request a hearing and provide written comments.

DATES: Requests for a hearing must be filed by January 17, 2012. Submit comments by January 17, 2012.

ADDRESSES: Please include Docket ID NRC-2011-0260 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see “Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- **Federal Rulemaking Web Site:** Go to http://www.regulations.gov and search for documents filed under Docket ID NRC-2011-0260**.** Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

- **Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
- **Fax comments to:** RADB at 301-492-3446.

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, http://www.regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

- **NRC's Public Document Room (PDR):** The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- **NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or received at the NRC are available online in the NRC Library at http://www.nrc.gov/reading-rm/adams.html. From this page, the public can gain entry

into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to *pdr.resource@nrc.gov*. The Application for Consent to Indirect Change of Control for Source Material License SMB-911 is available electronically under ADAMS Accession Number ML11174A044.

- **Federal Rulemaking Web Site:** Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC-2011-0260.

FOR FURTHER INFORMATION CONTACT: James C. Shepherd, Project Engineer, Reactor Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-6712; e-mail: james.shepherd@nrc.gov.

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application dated July 21, 2011, by FMRI (the "Applicant"), requesting consent for an indirect change of control with respect to its NRC Materials License SMB-911. Under this license, the Applicant owns a former rare earth processing facility located in Muskogee, Oklahoma. FMRI is currently a wholly-owned subsidiary of Fansteel, Inc. Consummation of the proposed transaction would result in the indirect change of control of FMRI from Fansteel, Inc. to Green Lantern Acquisition 1, LLC ("GLA 1"). The Applicant is requesting that the NRC consent to this indirect change of control.

The application states that there would be no change to FMRI's operations, its key operating personnel, or its licensed activities as a result of the transaction. After closing of the transaction, and if the indirect change of control is approved by the NRC, FMRI would continue to be the holder of license SMB-911. The Applicant would remain technically and financially qualified as the licensee and would continue to fulfill all responsibilities as the licensee. An administrative license amendment would be necessary to reflect a change in the financial surety mechanism for license SMB-911.

Pursuant to section 184 of the Atomic Energy Act of 1954, as amended (AEA) and Title 10 of the *Code of Federal Regulations* (10 CFR), section 40.46, no Part 40 license shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the AEA, and gives its consent in writing. An Environmental Assessment (EA) will not be performed for this proposed action because it is categorically excluded from the requirement to perform an EA under 10 CFR 51.22(c)(21).

Consent to the indirect change of control is contingent upon receipt of the fully executed financial assurance instruments that meet NRC requirements and are accepted by NRC, and a satisfactory completion of a safety review. If the NRC staff determines to approve the application, it will do so by issuing the necessary order, along with a supporting safety evaluation report. The Applicant may be required to obtain regulatory approvals by other Federal and State agencies or departments, independent of NRC review and approval.

An NRC administrative review, documented in a letter to FMRI dated July 21, 2011 (ML112000025), found the application acceptable to begin a technical review. If the NRC approves the amendment, the approval will be documented in an amendment to NRC License SMB-911. However, before approving the proposed amendment, the NRC will need to make

the findings required by the AEA and NRC's regulations. These findings will be documented in a Safety Evaluation Report.

II. Opportunity to Request a Hearing

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, “Hearing requests, petitions to intervene, requirements for standing, and contentions." Interested persons should consult 10 CFR Part 2, section 2.309, which is available at the NRC’s Public Document Room (PDR), located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 800-397-4209 or 301-415-4737). NRC regulations are also accessible electronically from the NRC’s Electronic Reading Room on the NRC Web site at http://www.nrc.gov.

III. Opportunity to Provide Written Comments

In accordance with 10 CFR 2.1305(a), as an alternative to requests for hearings, persons may submit written comments regarding this action. Written comments must be submitted no later than January 17, 2012. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested

governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through Electronic Information Exchange, users

will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov*, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve

the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Dated at Rockville, Maryland, this 27th day of October, 2011.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

/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
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