



September 30, 2011

Document Control Desk
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Washington, DC 2055-0001

Re: Reply to a Notice of Violation, License SMB-911, Docket 040-007580

Dear Sirs:

A Notice of Violation (NOV) was issued to FMRI, Inc. (FMRI) after an inspection by the U.S. Nuclear Regulatory (USNRC) on July 19, 2011. The violation was discussed at the conclusion of the onsite inspection and during an August 31, 2011 exit briefing via telephone with representatives from FMRI and the USNRC. The purpose of this letter is to provide the reason for the violation, detail procedures implemented to ensure it will not re-occur, and when all action items are expected to be complete.

Reason for the Violation

Comprehensive surveys were not being performed prior to releasing equipment for unrestricted release. As required in License SMB-911, Condition 33, a radiation survey is required that complies with the requirements of USNRC Regulatory Guide 1.86 before releasing equipment from the site. As noted in the inspection report, "... the majority of the records indicated that the licensee's staff had satisfactorily surveyed the equipment prior to off-site release." However, it was noted by the inspector that some scrap metal and conduit was released during May through June, 2011 after only completing a direct survey and not collecting a sample for removable activity, as required by Regulatory Guide 1.86. Further review of the circumstances and the procedures revealed that FMRI staff interpreted the requirements of License Condition 33 to be limited to equipment only and not to other materials, such as debris and waste, with no intrinsic value, released for unrestricted use.

A review of FMRI's radiation survey procedures and equipment release activities was performed immediately after identification of the violation. The licensed radioactivity at FMRI is comprised of natural uranium and natural thorium, and the survey methodology did not have sufficient detection sensitivity for natural thorium at the limits specified in Regulatory Guide 1.86. Direct surveys performed on the items did have the detection sensitivity to meet the natural uranium criteria, but not uranium and thorium when the unity rule is applied.

Corrective Action

A Condition Report was initiated (Number 11-08-1) on July 25, 2011 in order to document the violation and set the corrective action. The Project Radiation Safety

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Officer (PRSO) instructed the Health Physics Supervisor and other personnel authorized to perform release surveys regarding the requirements for License Condition 33 and the correct procedure for performing release surveys for equipment and materials from the site for unrestricted use. On September 7, 2011, the PRSO prepared and released Procedure No. HSDI-418, "Release Materials for Unrestricted Use", that contains the requirements for unrestricted release of both equipment and materials. The HP Supervisor and other survey personnel were trained in the requirements of HSDI-418 on September 7, 2011. The PRSO has reviewed all release survey records produced since September 7, 2011 to confirm proper implementation of HSDI-418.

When All Action Items Will be Complete

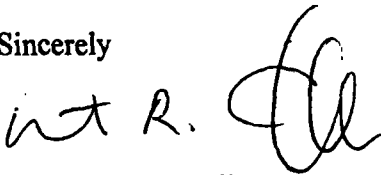
As of September 8, 2011, all corrective actions were implemented and Condition Report Number 11-08-1 was closed. The PRSO will continue to review survey records as licensed activities at the site progress to ensure there is no re-occurrence of the violation.

If you have any questions, please call me at 647-782-0377. All records associated with this response are being maintained for future regulatory inspections.

Open Item

With regard to the open item, FMRI accounts for all revenue, including revenue generated from equipment and scrap sales and lease income, and remits all funds to its bank account. Section 4(b) of the Trust Agreement covers payments as replenishments of withdrawals from the trust. It states "payments or proceeds that result in a cash balance greater than needed to fund the following six months of activities, as shown in the Decommissioning Plan, shall be transferred to the Trust Account". Based upon execution of the Decommissioning Plan and the current mobilization, FMRI does not have cash in excess of the projected next six months of required Decommissioning activities and therefore a transfer to the Trust is not required.

Sincerely



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Cc:

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