

NUCLEAR REGULATORY COMMISSION

[NRC-2011-0260, License No. SMB-911, Docket No. 40-7580, EA-13-183]

In the Matter of FMRI, Inc., Muskogee, Oklahoma Facility

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Order modifying license.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has issued a license amendment to FMRI authorizing indirect transfer of control, in accordance with its regulations. This Order is being issued, because the licensee informed the NRC that the transfer did not occur.

**ADDRESSES:** Please refer to Docket ID **NRC-2011-0260** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2011-0260**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each

document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** J. C. Shepherd, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001; telephone: 301-415-6712; e-mail: [James.Shepherd@nrc.gov](mailto:James.Shepherd@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I.**

Pursuant to Section 2.106 of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice in the matter of FMRI Order Modifying License

**II.**

FMRI (or Licensee) is the holder of the NRC License No. SMB-911 (License) issued by the NRC pursuant to 10 CFR Part 40. The License authorizes FMRI to possess natural uranium and thorium and to conduct remediation of the FMRI site, 10 Tantalum Place, Muskogee, Oklahoma. The License was issued on January 27, 1967, expired on September 2, 2002, was most recently amended on October 2, 2012, and remains in effect.

**III.**

On June 21, 2011, FMRI and its parent company, Fansteel, requested authority for an indirect change of control of FMRI from Fansteel to Green Lantern Acquisitions 1, LLC (GLA-1). On October 2, 2012, the NRC issued Amendment 14 to License No. SMB-911 authorizing the

change of control to GLA-1 and modifying certain activity schedules and reporting dates to reflect GLA-1 plans for site remediation activities.

#### IV.

By e-mail dated March 22, 2013 (ML13231A122), Fansteel and FMRI informed the NRC that: (1) the planned sale agreement with GLA-1 did not occur, (2) other changes related to the transfer will not occur; and (3) FMRI will pursue the possibility of resuming remediation on its own. Therefore, FMRI's current license does not accurately reflect ownership of and activities at the site.

#### V.

Accordingly, pursuant to Sections 81 and 161b of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 40, IT IS HEREBY ORDERED THAT LICENSE NO. SMB-911 IS MODIFIED AS FOLLOWS:

A. Amendment 14, which changed license conditions 1, 3, 10, 26, 29, 37, 50, 51, and 54, is null and void. This modification shall take effect twenty (20) days from the date of this order.

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

#### VI.

In accordance with 10 CFR 2.202, FMRI must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its publication in the *Federal Register*. In addition, FMRI and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the *Federal Register*. Where good

cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which FMRI relies and the reasons that the Order should not have been issued. If a person other than FMRI requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

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 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to request (1) a digital identification (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 the 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 the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's 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 the NRC guidance available on the NRC's 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 email 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's 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's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. 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 of the Commission, 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 the 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.

If a hearing is requested by FMRI or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), FMRI may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions of this Order, as specified in Section III shall be final 20 days from the date this Order is published in the *Federal Register*, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions of this Order, as specified in Section III, shall be final when the extension expires, if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 27th day of November, 2013.

For the Nuclear Regulatory Commission.

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Brian E. Holian, Acting Director,  
Office of Federal and State Materials  
and Environmental Management Programs.