

May 18, 2015

Ms. Jeanette Amstutz  
NorStates Wealth Management  
Trust & Investment Services  
3233 Grand Avenue, Suite 204  
Waukegan, IL 60085

SUBJECT: FMRI's PROPOSED SIXTEENTH WITHDRAWAL FROM THE FMRI  
DECOMMISSIONING TRUST

Dear Ms. Amstutz:

In an April 22, 2015, e-mail, FMRI informed the U.S. Nuclear Regulatory Commission (NRC) of their intent to request the withdrawal of funds from the FMRI Decommissioning Trust Fund. To that e-mail the following documents were attached:

1. Letter dated April 17, 2015, notifying the NRC of FMRI's intent to withdraw funds from the Decommissioning Trust Fund; and
2. FMRI's letter dated April 20, 2015, to NorStates Wealth Management with an enclosed Withdrawal Certificate No. 16 for withdrawal from Subaccount #2.

FMRI's letter to NorStates indicated that copies of the invoices for charges from Denison Mines, which had not been previously reimbursed, were provided with the letter. The NRC requested copies of those invoices, and they were provided in an April 29, 2015, e-mail from FMRI to the NRC.

Pursuant to section 14 of the Trust Agreement, the NRC is instructing the Trustee not to grant the requested withdrawal of funds. We have reviewed FMRI's request for withdrawal of funds and have concluded that their request does not meet the stipulations of the Trust Agreement. Specifically, the Trust Agreement states that:

The Trustee is required to make payments from the Decommissioning Trust Fund upon FMRI presenting:

- a) An invoice for disposition charges from the licensed site to which residue material from FMRI was disposed including the tons disposed,
- b) Receipt of a withdrawal certificate executed by FMRI stating that the amount is for borrowing for Phase 1 activities, stating the amount requested, the total amount of withdrawals under the subaccount including the one requested and attesting to the following conditions:
  - (1) Material dispositioned under the invoice presented is WIP residue from Ponds 2 and 3;

- (2) Requested funds do not exceed the amount calculated by the formula: number of tons of WIP residues removed from Ponds 2 and 3 and disposed at a license site x \$231.25;
- (3) FMRI has received all payments and proceeds to which it is entitled under the FMRI license and Decommissioning Plan, the FMRI Notes or the terms and conditions of the Joint Reorganization Plan of Fansteel, Inc. and Subsidiaries as approved by the U. S. Bankruptcy Court for the District of Delaware and the NRC License and DP;
- (4) that such payments and proceeds received by Grantor are insufficient to fund the decommissioning activities as planned and budgeted in the DP;
- (5) that all replenishments of the Trust specified in the FMRI Notes, or which Grantor was reasonably capable of making, were in fact made;
- (6) that the total of all outstanding withdrawals from this subaccount shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000);
- (7) that 30 days prior to Grantor's request for withdrawal, the NRC received:
  - (i) notice of the Grantor's intent to withdraw funds from the trust fund, and
  - (ii) a copy of the withdrawal certificate; and
- (8) that the funds will not be used for litigation expenses.

Contrary to the above, FMRI has not satisfied conditions 3-5 and 7. FMRI has not received all payments and proceeds to which it is entitled as prescribed in Condition 3. Specifically, FMRI received neither the balloon payment nor certain primary and secondary note payments and some insurance settlements. As of December 31, 2014, the Department of Justice (DOJ) had determined that Fansteel was over \$18.75 million in arrears on the primary note and over \$1.1 million in arrears on the secondary note. Because such payments and/or proceeds have not been received, FMRI cannot attest to Condition 4. FMRI also cannot attest to Condition 5 as all replenishments to the Decommissioning Trust Fund have not been made. A March 1, 2006, insurance settlement of \$63, 531.86 was never deposited into the Decommissioning Trust Fund. An insurance settlement of \$1,238,680.51 was received by Fansteel from Home Insurance in November 2010 but the insurance settlement funds were utilized in Fansteel's operations and never forwarded to FMRI. Contrary to the requirements of Condition 7, FMRI's request for withdrawal was received by the NRC less than 30 days prior to the request for withdrawal. The requested withdrawal date is May 18, 2015. The NRC received notification on April 22, 2015.

In addition, FMRI specified in their letter to you that the invoices totaled 1852.28 tons of WIP but the cost was based upon 1670.88 tons. The NRC's review of the invoices determined that the tonnage totaled 2033.26. Therefore, there are obvious discrepancies associated with the computation of the amount that could be withdrawn from the Decommissioning Trust Fund. Also, the invoices of February 9, 2009, and December 8, 2008, for \$45,442.24 and \$39,881.19 were previously paid on March 31, 2009, and February 20, 2009, respectively (check numbers 14723 and 14657). Their inclusion seems inappropriate.

Because of FMRI's failure to meet the above identified conditions, as stated in the Decommissioning Trust Agreement, the NRC instructs the Trustee through this letter not to grant FMRI's proposed withdrawal request. Further, withdrawal from the Decommissioning Trust Fund cannot be granted until all conditions of the Agreement are satisfied. Consistent with the Decommissioning Trust's Section 14, Instructions to the Trustee, as specified for NRC orders, requests or instructions, we are, in writing, instructing you not to grant FMRI's April 20, 2015, request for disbursement of money from the Decommissioning Trust Fund.

In addition, by this letter we are requesting that you provide the NRC copies of all previous FMRI requests for disbursement of funds from the Decommissioning Trust Fund along with copies of FMRI's certifications and the associated invoices for each request.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Please contact Mr. John Hayes if you have any questions concerning the above. He can be reached at (301) 415-5928 or via e-mail at [John.Hayes@nrc.gov](mailto:John.Hayes@nrc.gov).

Sincerely,

**/RA/**

Larry W. Camper, Director  
Division of Decommissioning, Uranium Recovery,  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 40-7580  
License No.: SMB-911

cc: Robert Compennolle, FMRI  
Pam Dizikes, Oklahoma Department  
of Environmental Quality  
Richard Gladstein, Department of Justice

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Sincerely,

**/RA/**

Larry W. Camper, Director  
 Division of Decommissioning, Uranium Recovery,  
 and Waste Programs  
 Office of Nuclear Material Safety  
 and Safeguards

Docket No.: 40-7580  
 License No.: SMB-911

cc: Robert Compennolle, FMRI  
 Pam Dizikes, Oklahoma Department  
 of Environmental Quality  
 Richard Gladstein, Department of Justice

DISTRIBUTION:  
 G. Slapper, RIV

**ML15127A283**

<b>OFC</b>	DUWP	DUWP	DUWP	OGC/RMR	DUWP	DUWP
<b>NAME</b>	JHayes	CHolston	MNorato	CEngland	DPersinko	LCamper
<b>DATE</b>	5/ 12/15	5/13/15	5/13/15	5/14/15	5/18/15	5/18/15

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