

July 14, 2017
RN-17-021

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT REGULATORY ACTION

Licensee: FMRI, Inc., (a subsidiary of Fansteel, Inc.) EA-17-102
and Fansteel, Inc. Docket No: 040-7580
Muskogee, OK License SMB-911

Subject: ISSUANCE OF IMMEDIATELY EFFECTIVE ORDER MODIFYING LICENSE

This is to inform the Commission that an Immediately Effective Order (EA-17-102) will be issued on or about July 14, 2017, to FMRI, Inc., (a subsidiary of Fansteel, Inc.) and Fansteel, Inc., modifying U.S. Nuclear Regulatory Commission (NRC) Byproduct/Source/Special Nuclear Material License No. SMB-911, held by FMRI, to add Fansteel as a co-Licensee. Fansteel is the parent company of FMRI which was created in 2003 as part of a court-approved Reorganization Plan and settlement agreement for Fansteel, the original licensee, to exit bankruptcy. Through the Reorganization Plan and settlement agreement, Fansteel committed, in accordance with several Promissory Notes and other financial instruments, to fund the remediation of the Muskogee, OK site that was to be performed in accordance with an approved Decommissioning Plan. The NRC license was transferred from Fansteel to FMRI by license amendment on December 4, 2003, reflecting this arrangement.

Subsequent to the license transfer, Fansteel failed to fulfill the commitments it made to provide financial assurance for decommissioning the Muskogee site. On numerous occasions, Fansteel failed to make timely or complete payments under its Promissory Notes to FMRI. In addition, numerous payments made by Fansteel to FMRI were rapidly returned by FMRI to Fansteel instead of being used for site remediation activities. Further, Fansteel has failed to deposit all insurance proceeds into the Decommission Trust, as required by the Reorganization Plan. Specifically, in 2010 Fansteel failed to deposit an approximately \$1.25 million insurance settlement related to the Muskogee site into the Decommissioning Trust. Instead, Fansteel used this insurance settlement to fund its independent operations. As a result of Fansteel's conduct, FMRI has failed to decommission the Muskogee site in accordance with the schedule set forth in the license and the Decommissioning Plan.

The NRC, the DOJ, and the Oklahoma Department of Environmental Quality (ODEQ) have worked with Fansteel and FMRI over the past several years to offer relief from certain financial obligations while requiring continued remediation at the site, albeit at a reduced rate. The intent of these arrangements was to ensure that the licensee maintained public health and safety while making progress on the required remediation. With financial difficulties continuing, Fansteel filed again for reorganization under Chapter 11 in September, 2016. However, once it was determined that Fansteel could not obtain sufficient funding to move forward on a reorganization plan, Fansteel then took a position in the courts to expend no resources on FMRI and the Muskogee site. As a result, Fansteel has not funded FMRI since April of 2017. The staff believes that the site is at risk of being abandoned because FMRI now has almost no cash assets with which to compensate site employees or pay other ongoing costs providing for site security, environmental surveillance, and groundwater pump and treatment operations. This situation was confirmed by a letter dated July 6, 2017 from Mr. Robert Compornolle (FMRI) to

the NRC stating that FMRI has no money to pay for the continued monthly health and safety costs for the site beyond July 14. The abandonment of the Muskogee site would create unacceptable health and safety risks to the public. As a result of these risks—and given that the NRC’s conclusions in its safety evaluation approving the transfer were premised upon the financial assurance that Fansteel agreed to provide—the NRC has concluded it is necessary to issue this Order to maintain reasonable assurance of adequate protection of public health and safety at the Muskogee site. In addition, the staff finds that—in light of the likelihood of site abandonment and the associated risks of further radiological contamination—the public health, safety, and interest require that the Order be made immediately effective.

It should be noted that the licensee will be informed of the issuance of the Order in accordance with the following schedule:

Mailing of Notice	July 14, 2017
Telephone Notification of Fansteel	July 14, 2017

CONTACTS: Greg Chapman, NMSS/DUWP/MDB (301) 415-8718	Nick Hilton, OE (301) 287-9526
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