



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 26, 2017

Mr. Jim Mahoney, CEO
Fansteel, Inc.
1739 Commerce Road
Creston, IA 50801

Mr. Robert Compernelle, President
FMRI, Inc.
10 Tantalum Place
Muskogee, OK 74403

SUBJECT: RELAXATION OF ORDER EA-17-102 REQUIREMENTS DESIGNATING
FANSTEEL AS CO-LICENSEE FOR LICENSE SMB-911

Dear Mr. Mahoney and Mr. Compernelle:

On July 14, 2017, the NRC issued Order EA-17-102, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17191A324) ("Order"), which modifies license SMB-911 by adding Fansteel as a co-licensee with FMRI. The Order also requires, among other actions, Fansteel and FMRI to take any and all actions necessary at the Muskogee, Oklahoma site to: (1) prevent the unauthorized release of radiological contamination into the Arkansas River; (2) collect and treat groundwater and surface water in accordance with all regulatory requirements; (3) secure the Muskogee site to prevent any unintended public exposure to radiation in excess of NRC regulatory requirements; and (4) take any additional actions to ensure the public health and safety.

Section V of Order EA-17-102 allows relaxation of the Order by the Director, Office of Nuclear Material Safety and Safeguards. In a letter dated July 24, 2017, (ML17206A340) Mark Steger requested, on behalf of FMRI and Fansteel, relaxation of certain provisions of the Order for good cause. Specifically, FMRI and Fansteel requested that the NRC relax Section V, paragraphs A and B in their entirety, paragraph C generally by removing Fansteel, and paragraph C(3) in its entirety. Mr. Steger stated that "[i]n return, FMRI will continue to comply with paragraph C(1) as long as FMRI is provided funding."

In the letter seeking relaxation, FMRI and Fansteel assert that the Order is "based upon inadequate evidence, mere suspicion, unfounded allegations and error." The NRC staff strongly disagrees and continues to believe that the basis for the Order is sound. However, based on the stated commitment of Fansteel, along with the support of other interested parties in the Iowa bankruptcy proceeding, to fund FMRI in order to accomplish the activities, prescribed in paragraph C(1) of the Order, that are necessary for reasonable assurance of adequate protection, the staff finds that Fansteel and FMRI have demonstrated good cause and that the Order may be relaxed as requested by FMRI and Fansteel. This relaxation will remain in effect as long as FMRI remains in compliance with paragraph C(1).

Fansteel shall provide sufficient funding, as detailed in the Stipulation pending before the United States Bankruptcy Court for the Southern District of Iowa, to FMRI to provide for site maintenance and operations activities necessary to protect public health and safety. In the event of a failure to provide this funding, or a determination by the NRC that the funding being provided is insufficient to protect the public health and safety in violation of paragraph C(1) of the Order, the NRC reserves the right to take appropriate action.

By this letter, the time for the licensee, and any other person adversely affected by the Order, to submit an answer to this Order, request a hearing, or move the presiding officer to set aside the immediate effectiveness of the Order, is also extended until 30 days after this relaxation is terminated.

This relaxation does not relax, or modify in any way, NRC requirements other than those specifically contained in Order EA-17-102 and further described in this letter.

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 ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Please contact Mr. Greg Chapman if you have any questions concerning the above. He can be reached at (301) 415-8718 or via e-mail at the address noted above.

Sincerely,

/RA/

Marc L. Dapas, Director
Office of Nuclear Material Safety
and Safeguards

Docket No. 040-7580
License No. SMB-911

cc: James Burgess, FMRI
Pam Dizikes, Oklahoma Department
of Environmental Quality
Richard Gladstein, U.S. Department of Justice
Jeanette Amstutz, NorStates Wealth Management

Mahoney

- 2 -

SUBJECT: RELAXATION OF ORDER EA-17-102 REQUIREMENTS DESIGNATING
FANSTEEL AS CO-LICENSEE FOR LICENSE SMB-911
DATE July 26, 2017

DISTRIBUTION: R. Kellar, R-IV

ADAMS Accession No.: **ML17206A359**

OFFICE	DUWP	OE	DUWP:LA	OGC
NAME	G. Chapman	N.Hilton	C. Holston	M.Lemoncelli
DATE	07/26/17	07/26/17	07/26/17	07/26/17
OFFICE	DUWP: BC	DUWP: Dir	NMSS	
NAME	A. Snyder for S. Koenick	J. Tappert	M.Dapas	
DATE	07/26/17	07/26/17	07/26/17	

OFFICIAL RECORD COPY