



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

December 20, 2019

Ms. Jeanette Amstutz
c/o TNB Financial Services, Inc.,
a Division of Thomasville National Bank
5101 Washington St., Suite 1101
Gurnee, IL 60031

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

SUBJECT: DATE OF DECOMMISSIONING TRUST AGREEMENT

Dear Ms. Amstutz and Mr. Compernelle:

This letter clarifies any potential confusion regarding references to the original Decommissioning Trust Agreement. The copy of Decommissioning Trust Agreement on file with the U.S. Nuclear Regulatory Commission (NRC) and the copy on file with TNB Financial Services, Inc. (TNB Financial) have identical terms, but there are different dates at the top of the documents. The NRC's copy does not have an exact date, instead listing only "November __, 2003,"¹ and TNB Financial's copy has "November 18, 2003" listed as the date, with the "18" being handwritten. Adding to the confusion, Amendment No. 1 dated April 13, 2005, and Amendment No. 2 dated October 30, 2019 both refer to "The Decommissioning Trust Agreement, dated as of December 23, 2003."²

The variation in dates used to reference the original Decommissioning Trust Agreement are likely due to the pendency of Fansteel's reorganization plan before the U.S. Bankruptcy Court for the District of Delaware (the Bankruptcy Court) in November and December 2003. As part of its reorganization plan, Fansteel proposed to create FMRI to assume the NRC license and complete decommissioning.

The Bankruptcy Court had confirmed a reorganization plan on November 17, 2003—likely explaining why TNB Financial's copy of the Decommissioning Trust Agreement is dated the day

¹ The NRC's copy of the executed Decommissioning Trust Agreement is available in the NRC Agencywide Documents Access and Management System (ADAMS) Public Documents collection at Accession No. ML033380547.

² Amendment No. 1 is available at ADAMS Accession No. ML051090478 and Amendment No. 2 is available at ADAMS Accession No. ML19303C394.

after, November 18, 2003.³ After this reorganization plan was confirmed, however, Fansteel subsequently entered into a settlement agreement with the State of Oklahoma regarding the transfer from Fansteel to FMRI of Fansteel's Oklahoma Pollutant Discharge Elimination System Permit for the Muskogee site. Accordingly, Fansteel modified the reorganization plan to reflect this settlement agreement.⁴ Ultimately, the Bankruptcy Court confirmed this second reorganization plan on December 23, 2003.⁵ Therefore, both Amendment No. 1 and Amendment No. 2 refer to "The Decommissioning Trust Agreement, dated as of December 23, 2003."

The date discrepancy is the sole difference between the NRC's and TNB Financial's executed copies of the Decommissioning Trust Agreement—both documents are otherwise identical. As such, all parties agree that the date discrepancy has no effect on the effectiveness of the Decommissioning Trust Agreement, Amendment No. 1, and Amendment No. 2.

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 Gregory.Chapman@nrc.gov.

Sincerely,

A handwritten signature in dark ink, appearing to be "P. Holahan", with a horizontal line extending to the right. Below the signature, the word "for" is written in small, lowercase letters.

Patricia K. Holahan, Director
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Materials Safety
and Safeguards

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

cc: J. Burgess, FMRI
R. Gladstein, U.S. DOJ

³ See Findings of Fact and Conclusions of Law Relating to, and Order under 11 U.S.C. §§ 1129(a) and (b) and Fed. R. Bankr. P. 3020 Confirming, Amended Joint Reorganization Plan of Fansteel, Inc. and Subsidiaries (Nov. 17, 2003) (ADAMS Accession No. ML033380519).

⁴ See Letter from Gary L. Tessitore, Fansteel, to Daniel M. Gillen, NRC, "Fansteel Inc., Docket No. 40-7580, License No. SMB-911 Ministerial Changes to Financial Assurance Documents to Reflect Partial Settlement with State of Oklahoma" (Dec. 24, 2003) (ADAMS Accession No. ML040070531).

⁵ Order Pursuant to 11 U.S.C. §§ 1127(b) Confirming Debtor's Second Amended Joint Reorganization Plan Dated December 18, 2003 (Dec. 23, 2003) (ADAMS Accession No. ML040160325). The reorganization plan became effective January 23, 2004. See Second-Amended Joint Reorganization Plan of Fansteel Inc. and Subsidiaries, Art. 1, § B.51 (Dec. 23, 2003) (ADAMS Accession No. ML19340A754).

SUBJECT: DATE OF DECOMMISSIONING TRUST AGREEMENT
DECEMBER 20, 2019

DISTRIBUTION:

ADAMS Accession No.: ML19326A119

***via email**

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| OFFICE | DUWP | DUWP | OGC | DUWP | DUWP |
| NAME | GChapman | CHolston | JScro | BVonTill | BPham for PHolahan |
| DATE | 12/2/2019 | 12/4/2019 | 12/9/2019 | 12/10/2019 | 12/20/19 |

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