

**From:** James Shepherd  
**To:** James, Curtiss,; Schwartz, Maria  
**Date:** 31-Oct-03 08:52:20  
**Subject:** RE: Comments on Proposed License Conditions

Jim,

Your understanding is correct. NRC will continue to amend SMB-911, as appropriate, but not renew it. The license will be terminated after decommissioning is complete, including Phase 4.

After "Fansteel" completes Phase 3, and NRC agrees with the Final Status Survey, you may contemplate a partial site release for areas that would not interfere with or impact Phase 4 activities. This would be accomplished with a license amendment (that, of course, carry rights of affected parties to request a hearing).

jim

>>> "Curtiss, James" <JCurtiss@winston.com> 30-Oct-03 18:23:35 >>>

Jim:

It is our understanding that, pursuant to 40.42(c), our license will continue in effect until we complete decommissioning and the license is terminated. That is what we are proposing here. We are not seeking a renewed or new license. Please let me know if you have any questions on this.

In addition, it is important for us to receive confirmation of our understanding that the EA/FONSI will not be published for a 30-day comment period. Could either you or Maria advise us as to whether this is the current plan? Thanks.

Jim

-----Original Message-----

**From:** James Shepherd [mailto:JCS2@nrc.gov]  
**Sent:** Thursday, October 30, 2003 5:42 PM  
**To:** Maria Schwartz; Curtiss, James  
**Cc:** gtessitore@fansteel.com; mmcentee@fansteel.com;  
jeffrey.sabin@srz.com; lawrence.gelber@srz.com;  
richard.gladstein@usdoj.gov  
**Subject:** Re: Comments on Proposed License Conditions

Thank you for the rapid response. I believe the condition should now read as follows:

3A. Licensee shall conduct an additional characterization of any additional contaminants at the site, including: all soils, buildings, and groundwater on the site, using guidance in NUREG-1757, Vol. 2. Upon agreement by NRC that any additional contamination is adequately characterized, Licensee shall identify the cost to remediate all contamination identified in this study. Work shall be performed according to the following schedule:

- a. Submit a site characterization plan not later than February 28, 2011.
- b. Submit a site characterization report (SCR) not later than December 29, 2011.
- c. Develop detailed work plans to be submitted with the SCR, including cost and schedule, for any additional work identified in the SCR.

In the actual license the condition number will, of course, be different to allow for other, existing conditions. It is our practice to leave the numbers of existing conditions in place and mark them as

deleted by a specified amendment.

Related is the question of the format of the license for FMRI. Fansteel asked for a "new", active license with a termination date of "completion of remediation." There is not currently a mechanism for issuing an indefinite license. Typical materials licenses are issued for 5 years; some for 10 years.

For many of the Site Decommissioning Management Program sites, we do not renew the licenses, but invoke the provision of 10 CFR 40.42(c) (that the conditions of a license stay in effect until NRC terminates it). We do continue to amend these expired licenses as necessary for decommissioning activities, but there is no renewal application.

After Fansteel considers these options, please let us know your preference.

thank you  
jim

>>> "Curtiss, James" <[JCurtiss@winston.com](mailto:JCurtiss@winston.com)> 29-Oct-03 18:22:12 >>>

Maria and Jim:

We have reviewed the proposed license conditions that you forwarded earlier today. We have a few, relatively minor changes that we would propose for your consideration, as set forth in the attached red-line version (please note that we have no objection to your modifications to our suggested changes to existing license conditions). If the proposed changes are acceptable to you, we do not see a need for the NRC to forward these proposed license conditions to Fansteel for further comment. Rather, they can accompany the license approvals when those are issued by the NRC. The proposed letter at the end of the document would no longer be necessary.

On a related matter, I understand from yesterday's meeting that there was apparently some discussion of whether the environmental assessment/FONSI would have to be published in the Federal Register for a 30-day comment period. You will recall that this is the issue that I raised in an e-mail back in May and, in response to which, we were advised that there is no requirement for a 30-day comment period on a final EA/FONSI. Thus, it would be our hope that the EA/FONSI could be sent directly to the Federal Register as a final action. I am enclosing a copy of the earlier e-mail on this matter. Please give me a call if you have any questions.

Finally, in discussions with Fansteel and Schulte Roth today, we discussed the process and timing for issuance of the required NRC approvals (i.e., license transfer, DP amendment, decommissioning scheduler extension, and financial assurance exemption). Currently, the schedule calls for the Plan of Reorganization to be confirmed at a hearing of the bankruptcy court on November 17th. Because the POR will first need to be confirmed before issuance of the required NRC approvals (i.e., the approvals won't be necessary if we don't get the POR confirmed), we would propose that the NRC consider issuing the required approvals shortly after the November 17th confirmation date (i.e., November 18th or 19th). This would avoid the complexity of issuing the approvals "contingent upon confirmation of the POR", and further would be consistent with the provision in the POR that provides for the NRC approvals to be issued not later than 30 days after the Confirmation Date. As you will hopefully be in a position to issue the required approvals earlier than the end of the 30 day period, we would propose that you consider issuing these approvals shortly after the confirmation of the POR on November 17th..

Please give me a call if you have any questions.

Jim Curtiss

<<Markup of NRC Staff License Conditions.DOC>> <<EA & FONSI.pdf>>

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