



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005**

September 12, 2005

Mr. E. Jonathan Jackson, President/CEO
FMRI (a subsidiary of reorganized Fansteel Inc.)
Number Ten Tantalum Place
Muskogee, Oklahoma 74403

**SUBJECT: RESPONSE TO NRC INSPECTION REPORT 040-07580/05-001 AND NOTICE
OF VIOLATION**

Dear Mr. Jackson:

Thank you for your letter dated August 23, 2005, in response to Inspection Report 040-7580/05-001 and Notice of Violation dated July 26, 2005. The NRC has reviewed your response and has determined that it does not provide acceptable steps to achieving compliance with License Condition 45 requirements. In your letter, you stated that:

1. "The reason for this failure to include the updated version of Table 15-12 was because Fansteel Inc. had not provided this information to FMRI even though FMRI had made a timely request for it."
2. "FMRI will make timely requests to Fansteel Inc. for the updated Reorganized Fansteel cash projections and for a revised Table 15-12 providing this information prior to the next submission date required by the license condition. As necessary, FMRI will also continue to provide NRC with any future Fansteel Inc. Form 10-K filings as they become available."
3. "FMRI has requested guidance from the NRC regarding alternatives (e.g., a waiver or exemption) from this annual reporting requirement in License Condition 45 for the submittal of a revised Table 15-12. To date, NRC is still working on obtaining appropriate guidance on the alternatives available to FMRI." And,
4. "Based on the above, full compliance will be achieved when a waiver or exemption FMRI plans to request from the NRC from the portion of License Condition 45 requiring the submittal of a revised Table 15-12 providing updated financial projections for Fansteel Inc. has been approved by the NRC."

With regard to item 1 above, the NRC requests that FMRI, within 15 days of the date of this letter, provide copies of the documentation of its efforts to request information needed to update Table 15-12 as required by License Condition 45 from Fansteel Inc., and documentation of the Fansteel Inc. responses to these requests.

With regard to item 2 above, future Fansteel Inc. Form 10-K filings with the SEC providing updates on cash flow for the previous calendar/fiscal year do not meet the requirement to update Table 15-12, as required by License Condition 45. Table 15-12 shall show actual

figures with updated projections of cash flow using currently available information, and this information is not contained in the Form 10-K SEC filings.

With regard to item 3 above, NRC project management had a telephone discussion with you regarding compliance with License Condition 45. However, contrary to your assertions, the results of that conversation were that FMRI was to comply with the license condition as written. The NRC is not developing guidance for potential alternatives to compliance with this license condition. After discussions with the Office of Nuclear Materials Safety and Safeguards, our position is that License Condition 45 is a necessary requirement to provide the NRC with some assurance that funds will be available for decommissioning. As such, with regard to item 4, an exemption or waiver from License Condition 45 is not a viable solution.

Accordingly, we find your corrective actions are inadequate to restore compliance. FMRI must take actions to comply with its license and FMRI should document those actions to us. Please provide us with the requested information within 15 days of the date of this letter, including the date when compliance will be achieved. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/Adams.html>.

If you have any further questions concerning this response, please contact Dr. D. Blair Spitzberg at (817) 860-8191 or the undersigned at (817) 860-8100.

Sincerely,

/RA/

Leonard D. Wert Jr., Director
Division of Nuclear Materials Safety

Docket No.: 040-07580
License No.: SMB-911

cc w/ Enclosure (licensee's letter dated August 23, 2005):

Mr. Walter Beckham, City Manager
City of Muskogee
229 West Okmulgee
Muskogee, Oklahoma 74401

Mr. George Brozowski, Regional Health
Physicist
U.S. Environmental Protection Agency,
Region VI
1445 Ross Avenue
Mail Stop-6PDT
Dallas, Texas 75202

Timothy Hartsfield
District Environmental Manager
Tulsa District
U.S. Army Corps of Engineers
1645 South 101st East Avenue
Tulsa, Oklahoma 74128

Ms. Kelly Hunter Burch
Assistant Attorney General
Office of Attorney General
4545 North Lincoln Blvd., Suite 260
Oklahoma City, OK 73105

Ms. Afsaneh Jabbar, Manager
Oklahoma Department of Environmental
Quality
Industrial Permit Section
Water Quality Division
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

Mr. Mike Broderick, Administrator
Oklahoma Department of Environmental
Quality
Waste Management Division
Radiation Management Section
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

Mr. Kevin Sampson
Oklahoma Department of
Environmental Quality
Waste Management Division
Radiation Management Section
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

Ms. Pamela Bishop
Environmental Specialist
Oklahoma Department of
Environmental Quality
Waste Management Division
Radiation Management Section
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

Mr. Phillip Fielder
Oklahoma Department of
Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

Mr. Richard Gladstein, Esq.
Environmental Enforcement Section
Environment and Natural
Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Mr. John Flyn, Environmental Engineer
Oklahoma Department of Environmental
Quality
Waste Management Division
Radiation Management Section
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

bcc w/o licensee's letter dated August 23, 2005 (via ADAMS e-mail distribution):

LDWert

MVasquez

JCShepherd, NMSS/DWMEP/DCB

CMCraig, NMSS/DWMEP/DCB

MESchwartz, OE

MLBurgess, NMSS

DBSpitzberg

Kfuller

MVasquez

BASchlapper

RJEvans

FCDB File

RIV Nuclear Materials File - 5th Floor

SISP Review Completed: Bas

ADAMS: X Yes No Initials: BAS

X Publicly Available _____ Non-Publicly Available _____ Sensitive X Non-Sensitive

DOCUMENT NAME: S:\DNMS\Fcdb\BAS\50758001-ack.wpd

final r:_dnms

RIV:FCDB	RIV:FCDB	NMSS:DWMEP	RIV:ACES	C:FCDB	D:DNMS
BASchlapper	RJEvans	JMShepherd	MVasquez	DBSpitzberg	LDWert
/RA/	/RA/	/RA BASchlapper for/	/RA Gsanborn for/	/RA/	/RA/
09/12/05	09/12 /05	09/12/05	09/12/05	09/12/05	09/12/05

OFFICIAL RECORD

T=Telephone

E=E-mail

F=Fax