

July 27, 2006

MEMORANDUM TO: Michael T. Lesar, Chief  
Rules Review and Directives Branch  
Division of Administrative Services  
Office of Administration

FROM: Keith I. McConnell, Deputy Director */RA/*  
Decommissioning Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

SUBJECT: NOTICE OF DENIAL OF LICENSE AMENDMENT REQUEST  
AND OPPORTUNITY TO REQUEST A HEARING - FMRI -  
LICENSE SMB-911

Enclosed please find one signed original, four copies, and an electronic version on a 3.5-inch diskette of the subject *Federal Register Notice* for transmittal to the Office of the Federal Register for publication.

ADM/DAS/RDB has been given owner's rights to the Notice in the U.S. Nuclear Regulatory Commission (NRC) Agencywide Documents Access Management System (ADAMS) (ML061240462). Publicly available NRC documents referenced in the Notice have been finalized in ADAMS, and profiled for public release. ADAMS accession numbers for all such documents are provided in the text under, "III. Further Information." That section also tells the public how to obtain the documents, that are referenced in the Notice but are not electronically available in ADAMS.

Information about this license amendment request and opportunity to request a hearing has been forwarded to the Office of the Chief Information Officer (OCIO) staff at [WEBWORK@nrc.gov](mailto:WEBWORK@nrc.gov) for posting to the NRC public Web site.

Docket No: 40-7580  
License No: SMB-911

Staff Contact: J. C. Shepherd  
(301) 415-6712

Enclosures: 1. One original and four copies of *Federal Register Notice*  
2. One 3.5-inch diskette (electronic version)

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NAME	JShepherd	TMixon	CCraig	STreby	KMcConnell
DATE	06/ 27 /06	06/ /06	07/08/06	07/10/06	07/24/06

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**NUCLEAR REGULATORY COMMISSION**

**Docket No. 40-7580**

**Notice of Denial of License Amendment Request of FMRI, Muskogee, OK,  
And Opportunity to Request a Hearing**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of denial of license amendment request, and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by August 23, 2006.

**FOR FURTHER INFORMATION CONTACT:** J. C. Shepherd, Project Engineer,  
Decommissioning Directorate, Division of Waste Management and Environmental Protection,  
Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail  
Stop T7 E18, Washington, DC, 20555, telephone: (301) 415-6712; e-mail: [jcs2@nrc.gov](mailto:jcs2@nrc.gov); fax  
number (301) 415-5398.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

FMRI is the holder of a source material license issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to 10 CFR Part 40. By letter dated March 31, 2006 (ML060950342), FMRI submitted a license amendment application to the NRC requesting a modification of Materials License SMB-911, Condition 45, for its site located in Muskogee, Oklahoma. Condition 45 requires the licensee to update the financial projections in Tables 15-11 and 15-12 of its approved Decommissioning Plan (DP) from the current year through

completion of decommissioning. The request would remove the requirement for updating Table 15-12 and replace it with: "FMRI shall submit ... Form 10-K for Fansteel Inc. within five business days after filing with the Securities and Exchange Commission and a representative shall be available to the NRC on an annual basis upon timely request to discuss any matters disclosed in the Form 10-K." The NRC staff is denying FMRI's license amendment request because the proposed change does not provide assurance that the NRC will obtain sufficient information about FMRI's future financial ability to meet its decommissioning obligations under the approved DP, as more fully set forth in the staff's letter to FMRI dated July 27, 2006 (ML061710551).

## **II. Opportunity to Request a Hearing**

The NRC hereby provides notice that this is a proceeding on an application for a license amendment to modify financial reporting requirements for FMRI. In accordance with the general requirements in Subpart C of 10 CFR Part 2, as amended on January 14, 2004, (69 FR 2182), any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing.

In accordance with 10 CFR 2.302(a), a request for a hearing must be filed with the Commission either by:

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications;
2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff, between 7:45 a.m. and 4:15 p.m., Federal workdays;
3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov); or

4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Rulemakings and Adjudications Staff, at (301) 415-1101; verification number is (301) 415-1966.

In accordance with 10 CFR 2.302(b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. The applicant, FMRI, Inc., 10 Tantalum Place, Muskogee, Oklahoma 74403; and
2. The NRC staff, by delivery to the Office of the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD, 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC. 20555-0001. Hearing requests should also be transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415-3725, or by email to [ogcmailcenter@nrc.gov](mailto:ogcmailcenter@nrc.gov).

The formal requirements for documents contained in 10 CFR 2.304(b), (c), (d), and (e), must be met. In accordance with 10 CFR 2.304 (f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304(b), (c), and (d), as long as an original and two (2) copies otherwise complying with all of the requirements of 10 CFR 2.304(b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.103(b)(2), a request for a hearing must be filed by August 23, 2006.

In addition to meeting other applicable requirements a person other than FMRI requesting a hearing on this matter must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely.

In accordance with 10 CFR 2.309(f)(1), a person other than FMRI requesting a hearing on this matter must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the license amendment request that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the request fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting

reasons for the requester's/petitioner's belief.

Contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer. Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so in writing within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### **III. Further Information**

The license amendment request and any information referenced therein may be made available pursuant to a protective order and subject to applicable security requirements upon a showing that the petitioner has an interest that may be affected by the proceeding.

Dated at Rockville, Maryland, this 27 day of July 2006.

For the Nuclear Regulatory Commission.

**/RA/**

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Keith I. McConnell, Deputy Director  
Decommissioning Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards