

April 18, 2014

Mr. Robert Compernelle, President
FMRI, Inc.
10 Tantalum Pl
Muskogee, OK 74403-9297

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION CONCERNS ABOUT FMRI'S
PROPOSED ACTIVITIES TO CLOSE PONDS 6 AND 7 AT THE MUSKOGEE,
OKLAHOMA SITE

Dear Mr. Compernelle:

On March 26, 2013, FMRI and Oklahoma Department of Environmental Quality (ODEQ) signed a Consent Order by which FMRI will close Ponds 6 and 7 of the waste water treatment system. At the request of ODEQ, the U.S. Nuclear Regulatory Commission (NRC) previously reviewed FMRI's Closure Plan and provided comments to ODEQ on November 21, 2013. NRC has also reviewed FMRI's February 28, 2014 response to (ODEQ) comments, and FMRI's Closure Plan for Ponds 6 and 7, and has several concerns. First, in its submittals to ODEQ, FMRI states that these ponds are not necessary for operation of that system. This statement is not consistent with the statements in FMRI's approved Decommissioning Plan that the ponds were necessary for operation of the waste water treatment system.

Second, the NRC review shows that some of FMRI's proposed actions are not consistent with requirements of its NRC license and the associated work plans, and NRC regulations. Specifically, FMRI states it plans to backfill the Pond 6 – 7 areas without conducting radiological surveys. Because FMRI presented data showing the area is radiologically contaminated, the proposed action would constitute an on-site burial without NRC approval.

Third, moving radiologically contaminated material – the clay liners of Ponds 6 - 7 – into Pond 3 prior to complete excavation of the "WIP" does not appear consistent with requirements of Condition 30 of SMB-911.

And fourth, NRC is also concerned with the impact on the total cost of site remediation of the proposed actions for ODEQ.

Therefore, if FMRI proceeds as stated in its Closure Plan for ODEQ, it must also comply with NRC requirements. Specific items in the Closure Plan and actions necessary for NRC compliance are stated below.

A REMOVE THE NEED FOR PONDS 6 AND 7 FROM DP

If Ponds 6 and 7 are no longer essential to the waste water treatment system, FMRI must provide technical justification in a submittal requesting revision to its NRC-approved decommissioning plan (DP), including but not limited to Sections 2.2.3, 2.4, 4.2.8, 4.4.1.3, to remove the necessity for Ponds 6 and 7. Revision of a DP is a licensing action.

B AUTHORIZATION FOR ON-SITE DISPOSAL OR CONDUCT SURVEYS

In its February 28, 2014 response to ODEQ comments on the Pond Closure Plan, FMRI states it cannot conduct radiological surveys of Ponds 6 – 7 prior to backfill because it does not have site-wide DCGL's. In 2007, FMRI provided survey results demonstrating that Ponds 6 – 7 are radiologically contaminated. Backfilling that area without conducting surveys to demonstrate all radiological contamination above release limits has been removed would constitute an on-site disposal of licensed material. Such disposals require NRC authorization in accordance with 10 CFR 20.2002. Therefore, FMRI would be required to submit a request to NRC for authorization for an on-site disposal per §20.2002 prior to backfilling. The request must include its plans for remediating and surveying the area within two years, as required by §40.42(d)(4). A request for authorization for on-site disposal is a licensing action that offers opportunity for a hearing and requires public review of the associated staff environmental assessment. NRC may hold a public meeting in the vicinity of the site to obtain stakeholder input. FMRI should allow six months to obtain NRC approval for an on-site disposal.

Alternately, FMRI may add radiological surveys using NUREG-1757 (MARSSIM) methods to its ODEQ Pond Closure Plan prior to backfill. If it does so, in accordance with NRC License Condition 38, FMRI must obtain NRC approval of the methods, and notify NRC thirty (30) days prior to performing the surveys. Prior to NRC approval of site-wide DCGL's, FMRI may use the screening values in Appendix B of NUREG-1757 Volume 1 to estimate if an area meets release limits.

C COMPLIANCE WITH CONDITION 30 OF NRC LICENSE SMB-911

FMRI states it will move the clay liner from Ponds 6 – 7 to Pond 3 prior to completing excavation of "WIP" from Pond 3. Condition 30 states: "At the time Ponds 2 and 3 are emptied, Licensee shall undertake to excavate and dispose of any identified WIP material that migrated from the ponds." FMRI includes this action in its Phase I Implementation Work Plan. FMRI would be required to complete the actions specified by Condition 30 and the Phase 1 Work Plan prior to moving the liner from Ponds 6 - 7.

D COMPLIANCE WITH CONDITIONS 31, 37, AND 52 OF NRC LICENSE SMB-911

Condition 31 states that the licensee shall conduct an additional characterization of any additional contaminants at the site, including all soils, buildings and groundwater on the site Upon agreement by NRC that any additional contamination is adequately characterized, Licensee shall identify the cost to remediate all contamination identified in this study. To comply with this requirement, FMRI must define the impact of interim relocation of radiologically contaminated material from Ponds 6 and 7 on the cost of final remediation.

Condition 37 states that in accordance with 10 CFR 40.42(g)(4)(ii), Licensee shall provide to NRC ... detailed plans, including work to be performed by contractors and the qualifications of all contractors, for remediating contamination at the site identified in the July 24, 2003 DP: Because the ODEQ plan is different from the DP, prior to commencing any activities identified in its ODEQ Pond Closure Plan, FMRI must update its work plans and provide the required information to NRC.

Condition 52 states, in part: "FMRI shall update and have available at the site the RHSP, EMP, RWMP and QA Plan prior to the beginning of each phase of decommissioning." The activities identified in the Pond Closure plan are not identified in the Phase 1 or Phase 2 work Plans, therefore FMRI must update these documents prior to commencing work.

In accordance with Title 10 of the Code of Federal Regulations (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning the above, please contact me at (301) 415-6712 or via email at James.Shepherd@nrc.gov, or Jack Hayes at (301) 415-5928 or via email at John.Hayes@nrc.gov.

Sincerely,

/RA/

James Shepherd. Project Engineer
Reactor Decommissioning Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

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

cc: Pam Dizikes, ODEQ
FMRI Service List

Condition 52 states, in part: "FMRI shall update and have available at the site the RHSP, EMP, RWMP and QA Plan prior to the beginning of each phase of decommissioning." The activities identified in the Pond Closure plan are not identified in the Phase 1 or Phase 2 work Plans, therefore FMRI must update these documents prior to commencing work.

In accordance with Title 10 of the Code of Federal Regulations (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC's

website at <http://www.nrc.gov/reading-rm/adams.html>. If you have any questions concerning the above, please contact me at (301) 415-6712 or via email at James.Shepherd@nrc.gov, or Jack Hayes at (301) 415-5928 or via email at John.Hayes@nrc.gov.

Sincerely,

James Shepherd. Project Engineer
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Decommissioning and Uranium Recovery
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and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-7580

License: SMB-911

cc: Pam Dizikes, ODEQ
FMRI Service List

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