

May 18, 2015

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

SUBJECT: PROPOSED SIXTEENTH WITHDRAWAL FROM THE FMRI
DECOMMISSIONING TRUST

Dear Mr. Compernelle:

In an April 22, 2015, e-mail, you informed the NRC Fansteel Project Manager, John Hayes, of FMRI's intent to withdraw funds from the Decommissioning Trust Fund. To that e-mail the following documents were attached.

1. Letter dated April 17, 2015, notifying the NRC of FMRI's intent to withdraw funds from the Decommissioning Trust Fund; and
2. FMRI's letter dated April 20, 2015, to NorStates Wealth Management with an enclosed Withdrawal Certificate No. 16 for withdrawal from Subaccount #2.

In the letter to NorStates, you indicated that copies of the invoices for charges from Denison Mines that had not been previously reimbursed were provided to NorStates. The NRC requested copies of those invoices and they were provided in an April 29, 2015, e-mail from James Burgess to John Hayes, the NRC Project Fansteel Manager.

Pursuant to section 14 of the Trust Agreement, the NRC instructed the Trustee not to grant the requested withdrawal of funds. We have reviewed your request for withdrawal of funds and have concluded that your request does not meet the stipulations of the Trust Agreement. Specifically, the Trust Agreement states that:

The Trustee is required to make payments from the Decommissioning Trust Fund upon FMRI presenting:

- a) An invoice for disposition charges from the licensed site to which residue material from FMRI was disposed including the tons disposed,
- b) Receipt of a withdrawal certificate executed by FMRI stating that the amount is for borrowing for Phase 1 activities, stating the amount requested, the total amount of withdrawals under the subaccount including the one requested and attesting to the following conditions:
 - (1) Material dispositioned under the invoice presented is WIP residue from Ponds 2 and 3;

- (2) Requested funds do not exceed the amount calculated by the formula: number of tons of WIP residues removed from Ponds 2 and 3 and dispositioned at a license site x \$231.25;
- (3) FMRI has received all payments and proceeds to which it is entitled under the FMRI license and Decommissioning Plan, the FMRI Notes or the terms and conditions of the Joint Reorganization Plan of Fansteel, Inc. and Subsidiaries as approved by the U. S. Bankruptcy Court for the District of Delaware and the NRC License and DP;
- (4) that such payments and proceeds received by Grantor are insufficient to fund the decommissioning activities as planned and budgeted in the DP;
- (5) that all replenishments of the Trust specified in the FMRI Notes, or which Grantor was reasonably capable of making, were in fact made;
- (6) that the total of all outstanding withdrawals from this subaccount shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000);
- (7) that 30 days prior to Grantor's request for withdrawal, the NRC received:
 - (i) notice of the Grantor's intent to withdraw funds from the trust fund, and
 - (ii) a copy of the withdrawal certificate; and
- (8) that the funds will not be used for litigation expenses.

Contrary to the above, FMRI has not satisfied conditions 3-5 and 7. FMRI has not received all payments and proceeds to which it is entitled as prescribed in Condition 3. Specifically, FMRI received neither the balloon payment nor certain primary and secondary note payments and some insurance settlements. As of December 31, 2014, the Department of Justice (DOJ) had determined that Fansteel was over \$18.75 million in arrears on the primary note and over \$1.1 million in arrears on the secondary note. Because such payments and/or proceeds have not been received, FMRI cannot attest to Condition 4. FMRI also cannot attest to Condition 5 as all replenishments to the Decommissioning Trust Fund have not been made. A March 1, 2006, insurance settlement of \$63,531.86 was never deposited into the Decommissioning Trust Fund. An insurance settlement of \$1,238,680.51 was received by Fansteel from Home Insurance in November 2010, but the insurance settlement funds were utilized in Fansteel's operations and never forwarded to FMRI. Contrary to the requirements of Condition 7, FMRI's request for withdrawal was received by the NRC less than 30 days prior to the request for withdrawal. The requested withdrawal date is May 18, 2015. The NRC received notification on April 22, 2015.

In addition, FMRI specified in the letter to NorStates Wealth Management that the invoices totaled 1852.28 tons of WIP but the cost was based upon 1670.88 tons. The NRC's review of the invoices determined that the tonnage totaled 2033.26. Therefore, there are obvious discrepancies associated with the amount that could be withdrawn from the Decommissioning Trust Fund. Also, the invoices of February 9, 2009, and December 8, 2008, for \$45,442.24 and \$39,881.19 were previously paid on March 31, 2009, and February 20, 2009, respectively (check numbers 14723 and 14657). Their inclusion seems inappropriate.

Because of FMRI's failure to meet the above identified conditions, as stated in the Decommissioning Trust Agreement, the NRC instructed the Trustee not to grant FMRI's proposed withdrawal request. Further, withdrawal from the Decommissioning Trust Fund cannot be granted until all conditions of the Agreement are satisfied. Consistent with the Decommissioning Trust Agreement's Section 14, Instructions to the Trustee, as specified for NRC orders, requests or instructions, we instructed the Trustee in writing not to grant FMRI's April 20, 2015, request for disbursement of money from the Decommissioning Trust Fund.

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 the Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Please contact Mr. John Hayes if you have any questions concerning the above. He can be reached at (301) 415-5928 or via e-mail at John.Hayes@nrc.gov.

Sincerely,

/RA/

Larry W. Camper, Director
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

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

cc: Jeanette Amstutz, NorStates Wealth
Management
Pam Dizikes, Oklahoma Department of
Environmental Quality
Richard Gladstein, Department of Justice

Because of FMRI's failure to meet the above identified conditions, as stated in the Decommissioning Trust Agreement, the NRC instructed the Trustee not to grant FMRI's proposed withdrawal request. Further, withdrawal from the Decommissioning Trust Fund cannot be granted until all conditions of the Agreement are satisfied. Consistent with the Decommissioning Trust Agreement's Section 14, Instructions to the Trustee, as specified for NRC orders, requests or instructions, we instructed the Trustee in writing not to grant FMRI's April 20, 2015, request for disbursement of money from the Decommissioning Trust Fund.

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 the Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Please contact Mr. John Hayes if you have any questions concerning the above. He can be reached at (301) 415-5928 or via e-mail at John.Hayes@nrc.gov.

Sincerely,

/RA/

Larry W. Camper, Director
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

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

cc: Jeanette Amstutz, NorStates Wealth
Management
Pam Dizikes, Oklahoma Department of
Environmental Quality
Richard Gladstein, Department of Justice

DISTRIBUTION:
G. Slapper, RIV

ML15131A524

OFC	DUWP	DUWP	DUWP	OGC/RMR	DUWP	DUWP
NAME	JHayes	CHolston	MNorato	CEngland	DPersinko	LCamper
DATE	5/12 /15	5/13/15	5/13/15	5/ 14 /15	5/18/15	5/18/15

OFFICIAL RECORD COPY