



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement under the Atomic Energy Act and Comprehensive Environmental Response, Compensation and Liability Act

On April 1, 2020, the Department of Justice lodged a proposed Settlement Agreement between the United States, on behalf of the Nuclear Regulatory Commission (“NRC”) and the Environmental Protection Agency (“EPA”), the Oklahoma Department of Environmental Quality (“ODEQ”), Fansteel, Inc. (“Debtor” or “Fansteel”), and FMRI, Inc. with the United States Bankruptcy Court for the District of Iowa in the case entitled *In re Fansteel, Inc.*, Case No. 16-01823-als11 (Bankr. S.D. Iowa).

The United States, on behalf of the NRC, filed a protective proof of claim on January 17, 2017, in this bankruptcy action, which, *inter alia*, asserted that Fansteel is liable to the United States to comply with Sections 62, 63, and 161 of the Atomic Energy Act, 42 U.S.C. 2092, 2093, 2201, applicable regulations under 10 CFR Parts 20 and 40, 10 CFR 40.36, NRC license SMB-911, and the Amended Decommissioning Plan for the Muskogee Property, the facility owned by Debtor and operated by FMRI, a wholly owned subsidiary of the Debtor, and to perform the decommissioning and remediation of that Property.

Under the Settlement Agreement: (1) the Debtor will transfer Parcel D of the Muskogee property to FMRI; (2) FMRI will use funds received from the Decommissioning Trust under the Amended Decommissioning Plan, from the Plan Administrator under Fansteel’s Plan of Reorganization, or from other sources for activities necessary to maintain health and safety, fulfill obligations mandated by the NRC License and Amended Decommissioning Plan, or conduct response actions pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. 9601-9675, or the Oklahoma

Environmental Quality Code 27A, Oklahoma Statutes § 2-1-101 *et seq.*, at the Muskogee Property; (3) the Debtor will transfer any and all causes of action the Debtor may have against potentially responsible parties at the Muskogee Property under CERCLA and Oklahoma law to FMRI; (4) the Debtor and the “Environmental Authorities” (NRC, EPA, and ODEQ) will allocate between them as provided in the Settlement Agreement any Net Proceeds received from the sale of Parcel B, any settlement reached with the Port of Muskogee regarding environmental liability for the Muskogee Property, and any other Net Proceeds received; (5) the Environmental Authorities will receive one hundred percent (100%) of any net insurance proceeds for losses related to environmental liabilities with respect to the Muskogee Property; and (6) the Environmental Authorities and FMRI will share on a fifty/fifty percent (50%/50%) basis as provided in the Settlement Agreement the proceeds from any settlement or adjudication of the third party environmental claims transferred from the Debtor to FMRI.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re Fansteel, Inc.*, Case No. 16-01823 als-11 (Bankr. S.D. Iowa) and DJ #90-10-07797/2. All comments must be submitted no later than fifteen (15) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the public comment period, the proposed Settlement Agreement may be examined and downloaded at this Justice Department website:

http://www.usdoj.gov/enrd/Consent_Decrees.html. We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$8.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief,

Environmental Enforcement Section,

Environment and Natural Resources Division.

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