

Document #2

MARYLAND DEPARTMENT OF THE ENVIRONMENT  
AIR AND RADIATION MANAGEMENT ADMINISTRATION  
RADIOLOGICAL HEALTH PROGRAM

FACSIMILE TRANSMITTAL SHEET

TO: Fred C. Combs  
Deputy Director

FROM: Ray Mankin

MDE -ARMA - Radiological Health Program  
2500 Broening Highway - Baltimore MD 21224  
(Phone) 410- 631-3300 410-631-3198 (fax)  
or 1-800 633-6101 (in Maryland only)

Date: 4 126 12000

# of pages (including this sheet): 10

COMMENTS:

Additional NPI information  
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\_\_\_\_\_  
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\_\_\_\_\_

IN THE CIRCUIT COURT FOR MONTGOMERY, COUNTY, MARYLAND

STATE OF MARYLAND  
DEPARTMENT OF THE ENVIRONMENT

Plaintiff

V.

NEUTRON PRODUCTS, INC.

Defendant

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CIVIL CASE NO. 76639

STIPULATION

This Stipulation is being made this 12th day of November, 1997, by and between the Maryland Department of the Environment (MDE) and Neutron Products, Inc. (NPI), and is entered as an order of this Court.

The parties hereby stipulate and agree as follows:

1. On or before March 1, 1998, NPI shall have received all approvals from Montgomery County Department of Permitting Services (DPS), which include review and approval by DPS' Plan Review Section, Land Use Compliance Section, and the Division responsible for Sediment Control and Stormwater Management, for construction of NPI's courtyard enclosure.

2. The deadline for approvals required in paragraph 1 of this Stipulation does not include approvals for water and sewer (from the Washington Suburban Sanitary Commission (WSSC) or the County Health Department or the County Department of Environmental Protection) and the Montgomery County Park and Planning Commission, also known as the Maryland National Park and Planning Commission.

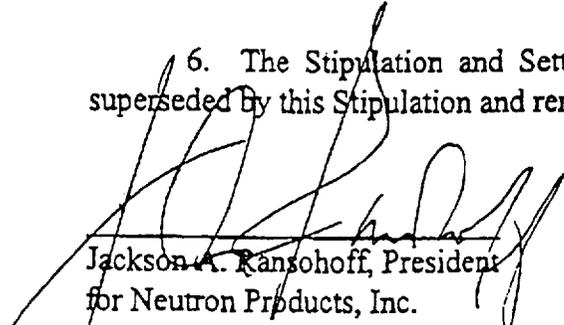
3. If NPI does not meet the deadline in paragraph 1 of this Stipulation, NPI shall pay MDE \$25,000 by April 1, 1998, without requirement of a prior hearing.

4. At such time as NPI receives the approval set forth in paragraph 1, NPI may perform one cobalt-60 melting campaign, but no more thereafter until the courtyard is enclosed.

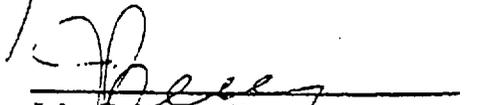
5. The parties will have a status conference with Judge Pincus on January 5, 1997, and approximately every 60 days thereafter. Beginning 30 days after the initial

conference, NPI shall submit monthly status reports to the Court and MDE. The conference with the Court and the reports shall include an update on approvals for water and sewer and from the Park and Planning Commission, in addition to any other relevant information regarding the construction of the courtyard enclosure and compliance with the Stipulation and Settlement Agreement, dated January 3, 1994.

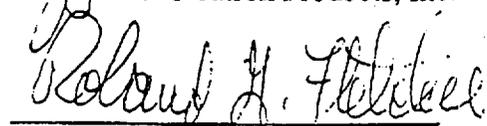
6. The Stipulation and Settlement Agreement, dated January 3, 1994, is not superseded by this Stipulation and remains in full force and effect.

  
\_\_\_\_\_  
Jackson A. Ranshoff, President  
for Neutron Products, Inc.

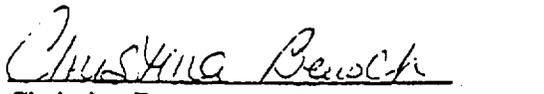
11/12/97  
Date

  
\_\_\_\_\_  
John F. Myers, Esq.  
Counsel for Neutron Products, Inc.

11/12/97  
Date

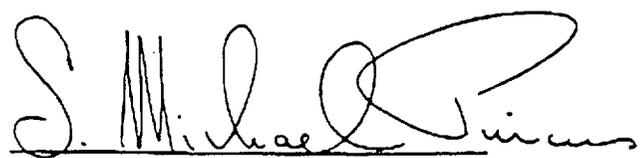
  
\_\_\_\_\_  
Roland G. Fletcher, Manager,  
Radiological Health Program, MDE

11/12/97  
Date

  
\_\_\_\_\_  
Christina Beusch, AAG  
Counsel to MD Dept. of the Environment

11/12/97  
Date

**IT IS HEREBY ORDERED**, this 12th day of November , 1997.

  
\_\_\_\_\_  
S. Michael Pincus, Judge  
Circuit Court for Montgomery County,  
Maryland

**MDE****MARYLAND DEPARTMENT OF THE ENVIRONMENT**2500 Broening Highway • Baltimore Maryland 21224  
(410) 631-3000 • 1-800-633-6101 • [http:// www.mde.state.md.us](http://www.mde.state.md.us)Parris N. Glendening  
Governor**OCT 15 1998**Jane T. Nishida  
Secretary**CERTIFIED MAIL**

Return Receipt Requested

Jackson A. Ransohoff, President  
Neutron Products, Inc.  
Mt. Ephraim Road, P.O. Box 68  
Dickerson, Maryland 20842**Radioactive Material License**Numbers MD-31-025-01 and  
MD-31-025-03

Dear Mr. Ransohoff:

Enclosed you will find a Complaint, Order, and Administrative Penalty against Neutron Products, Inc. resulting from violations of Maryland's law and regulations governing use of radioactive materials. The Air and Radiation Management Administration is assessing a penalty of \$25,000 in this case.

Please read the following paragraphs carefully, paying close attention to the time period for appeal. Additional information on requesting a hearing on the Complaint, Order and Administrative Penalty is enclosed. If a hearing on the corrective Order is elected, it must be requested within **ten (10)** calendar days following receipt of this document. If you elect to request a hearing on the Administrative Penalty, you must request such a hearing within **thirty (30)** calendar days following receipt of this document. The assessment and amount of the penalty may increase or decrease as a result of the hearing. If payment of the penalty is elected, you should contact Ms. Deborah I. Kemp at (410) 631-4117 to arrange for an invoice to be sent to you for the above amount. Please notice that if no hearing on the Order is requested within ten days you must abide by the terms of the Order or you may become subject to additional penalties and further orders.

If you have any questions concerning this matter, please contact Mr. Carl E. Trump, Radioactive Materials Division, Air and Radiation Management Administration, at (410) 631-3300. However, if you have an attorney, please have your attorney contact the Assistant Attorney General whose signature appears on the enclosed document at (410) 631-3053.

Sincerely,

Merrylin Zaw-Mon, Director  
Air and Radiation Management Administration

Enclosure

cc: Office of the Attorney General  
Deborah I. Kemp (w/o encl)  
William K. Bonta  
Facility File

IN THE MATTER OF:

STATE OF MARYLAND  
DEPARTMENT OF THE  
ENVIRONMENT

NEUTRON PRODUCTS, INC.  
Mt Ephraim Road, P.O. Box 68  
Dickerson, Maryland 20842

Radioactive Material License  
Numbers MD-31-025-01and  
MD-31-025-03

Serve On:  
MR. JACKSON A. RANSOHOFF, PRESIDENT

Air & Radiation Management  
Administration  
2500 Broening Highway  
Baltimore, Maryland 21224

\* \* \* \* \*

COMPLAINT

WHEREAS, the State of Maryland, Department of the Environment, Air and Radiation Management Administration, pursuant to the powers, duties and responsibilities vested in the Secretary of the Environment by Environment Article, Sections 8-101 through 8-601, inclusive, Annotated Code of Maryland, and delegated to the Director, Air and Radiation Management Administration (hereinafter, "the Administration") is charged with the responsibility of regulating sources of radiation within the State;

WHEREAS, within the Administration, the Radiological Health Program ("RHP") has the responsibility and duty to implement and enforce the statutes relating to radiation control, and the regulations promulgated thereunder and found in Code of Maryland Regulations ("COMAR") 26.12.01.01;

**WHEREAS**, Neutron Products, Inc. ("NPI") is the holder of Maryland Radioactive Material License Nos. MD-31-025-01 ("the 01 License") and MD-31-025-03 ("the 03 License") issued by the Administration on November 25, 1975 and on September 7, 1995, respectively;

**WHEREAS**, NPI conducts operations under its 01 and 03 Licenses at its facility in Dickerson, Maryland;

**WHEREAS**, on March 25, 26 and April 2, 1998, RHP inspectors conducted a routine, unannounced radioactive materials inspection of NPI's operations at its Dickerson facility under its 01 and 03 Licenses;

**WHEREAS**, on April 9, 1998, RHP inspectors held an exit interview with NPI to review the results of the inspection;

**WHEREAS**, the Administration has reasonable grounds to believe that NPI has violated Maryland law regarding the Control of Ionizing Radiation and provisions of its 01 and 03 Licenses;

**WHEREAS**, Amendment 33, Condition 13.1 of the 01 License requires NPI to conduct random inspections of the Limited Access Area ("LAA") on a monthly basis;

**WHEREAS**, NPI's letter dated May 14, 1993, entitled "Random Inspection Program," which is incorporated in NPI's 01 License at Condition 13.1 of Amendment 33, requires NPI to conduct management reviews every quarter of the random inspections;

**WHEREAS**, during the April 1997 inspection, RHP inspectors discovered that

NPI had failed to conduct random inspections of the LAA during the months of September 1996, October 1996, and December 1996;

**WHEREAS**, during the April 1997 inspection, RHP inspectors discovered that NPI failed to conduct quarterly management reviews of the monthly random inspections during the third and fourth quarters of 1996 and the first quarter of 1997;

**WHEREAS**, the RHP issued NPI a Notice of Violation, dated June 26, 1997, citing NPI for its failure to conduct random inspections of the LAA and quarterly management reviews of the inspections;

**WHEREAS**, in response to the NOV, in a letter dated July 16, 1997, NPI committed to complying with these inspection requirements in the future and represented that it was expanding the staff available to conduct the inspections;

**WHEREAS**, during the March/April 1998 inspection, RHP inspectors discovered that NPI again failed to conduct random inspections of the LAA in April and July 1997 and January 1998;

**WHEREAS**, during the March/April 1998 inspection, RHP inspectors found that NPI again failed to conduct quarterly management reviews for the second and fourth quarters of 1997;

**WHEREAS**, COMAR 26.12.01.01 Section C.29(f) states, in part, that each person licensed under Part C shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated;

**WHEREAS**, during the April 1997 inspection, RHP inspectors discovered that NPI had failed to maintain all records of information important to the safe and effective decommissioning of the facility in an identified location;

**WHEREAS**, the RHP issued NPI a Notice of Violation, dated June 26, 1997, citing NPI for its failure to comply with Section C.29(f);

**WHEREAS**, in response to the NOV, in a letter dated July 16, 1997, NPI represented that it was in the "process of compiling the records and other information required under C.29(f) so that copies are available in a 'decommissioning file'" but that it was then in "substantial compliance and hope[d] to complete the collation of the required records by July 30, 1997;"

**WHEREAS**, during the March/April 1998 inspection, RHP inspectors discovered that NPI is still not maintaining decommissioning records as required by C.29(f);

**WHEREAS**, in a Memorandum and Opinion, dated December 29, 1993, entered by Judge Pincus of the Montgomery County Circuit Court in MDE v. Neutron Products, Inc., Case No. 76639, summary judgment was entered against NPI for storing Depleted Uranium in an unsecured barn which was not posted with a "Caution, Radioactive Materials" sign;

**WHEREAS**, on April 2 and 9, 1998, RHP inspectors observed Depleted Uranium, which is authorized under NPI's 03 License, in a unlocked Sea Land container with the door open located in NPI's parking lot. The Depleted Uranium was not secured against unauthorized removal or access from the place of storage. The Sea Land container

was not under constant surveillance. The door to the container was not posted with a "Caution, Radioactive Materials" sign, and the area was not identified as restricted. In addition, the contents of the Sea Land container, which were teletherapy parts containing Depleted Uranium, did not bear labels with the words "Caution, Radioactive Material" or "Danger, Radioactive Material";

WHEREAS, COMAR 26.12.01.01 Section D.801 requires sources of radiation to be secured against unauthorized removal from the place of storage;

WHEREAS, COMAR 26.12.01.01 Section D.802 requires a licensee to control and maintain constant surveillance of licensed radioactive material that is in an unrestricted area and that is not in storage;

WHEREAS, COMAR 26.12.01.01 Section D.904 requires a licensee to ensure that each container of a licensed material bears a durable, clearly visible label bearing the radiation symbol and the words "Caution, Radioactive material" or "Danger, Radioactive Material."

#### ORDER

NOW THEREFORE, pursuant to Section 8-303 and 8-503 of the Maryland Radiation Act, Environment Article, Annotated Code of Maryland, the Administration Orders NPI to take the following actions:

1. NPI shall conduct monthly random inspections as described in NPI letter dated May 14, 1993 (Random Inspection Program) and incorporated in Condition 13.I of Amendment 33 and submit to RHP a record of each monthly inspection within thirty

(30) days of its completion.

2. NPI shall conduct management reviews of the monthly random inspections by meeting on a quarterly frequency as described in NPI letter dated May 14, 1993 (Random Inspection Program) and incorporated in Condition 13.1 of Amendment 33 and submit to RHP documentation of results of each meeting within thirty (30) days of its completion.

3. NPI shall submit to RHP within forty-five (45) days of receipt of this Order, copies of the records of information important to the safe and effective decommissioning of the facility required to be maintained by the licensee under COMAR 26.12.01.01 Section C.29(f), and shall maintain such records at the facility in an identified location.

4. NPI shall immediately cease storing radioactive material in the Sea Land container in violation of COMAR 26.12.01.01 Sections D.801, 802, and 904.

#### **ADMINISTRATIVE PENALTY**

Pursuant to Section 8-510 of the Maryland Radiation Act, Environment Article, Annotated Code of Maryland, the Air and Radiation Management Administration is authorized to impose a fine of \$1000.00 a day for each day a violation occurs, not to exceed a maximum of \$50,000.00. Based upon the factors in Section 8-510, the Administration is assessing an administrative penalty of \$25,000. This penalty is being assessed for six violations of NPI's 01 License for its failure to conduct monthly random inspections. five violations of NPI's 01 License for its failure to conduct

quarterly management reviews of the random monthly inspections, continuing violations of C.29(f) from April 30, 1997 to the present for failure to maintain decommissioning records, two days of violation for each of Sections D.801 and 802, and eight days of violation for Section D. 904.

10/15/98  
Dated

Merylin Law-Mon  
Merylin Law-Mon, Director  
Air and Radiation Management Administration

Approved as to form and legal

sufficiency on this 24 th

day of September, 1998

Valerie J. Smith  
Valerie J. Smith  
Assistant Attorney General

### NOTICE OF HEARING RIGHTS

You have a right to a hearing on the Complaint, Order and Administrative Penalty pursuant to Sections 8-506 and 8-510 of the Environment Article and the Administrative Procedure Act, which is codified in Title 10, Subtitle 2 of the State Government Article of the Maryland Code. Payment of the penalty would constitute a waiver of your right to request a hearing on the administrative penalty.

You may obtain a hearing to contest the Complaint and Order by filing a written request for a hearing within ten (10) calendar days of receipt of this document in accordance with the Maryland Administrative Procedure Act, and Section 8-505 of the Environment Article. You may obtain a hearing to contest the Administrative Penalty by filing your request within thirty (30) days following receipt of this document. Your request(s) must include a copy of this document and a brief statement of the factual and legal basis for the request, and should be sent to Mr. Roland G. Fletcher, Program Manager, Radiological Health Program, 2500 Broening Highway, Baltimore, Maryland, 21224, with a copy to the attorney whose signature appears on the Complaint, addressed to the Office of the Attorney General, Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

You have the rights of any party in a contested case provided by the Administrative Procedure Act. Depending on the evidence presented at the hearing, the Administrative Law Judge may assess any penalty up to \$1,000.00 for each day of each violation up to a maximum of \$50,000.00.

If you choose not to request a hearing, or do not request one within the time stated above, the administrative penalty and/or Order will become final. You will be legally required to pay the penalty and comply with the terms of the Order. If you request a hearing, but fail to participate in a pre-hearing conference, the hearing, or any other stage of the adjudicative proceeding, a default order may be entered against you. If you fail to pay a penalty that has become final, a lien may be placed against your property for the amount of the penalty, plus costs and interest. In addition, your account may be transferred to the State's Central Collections Unit for enforced collection action.

If you are a corporation, you must be represented by an attorney in an administrative hearing. Any attorney representing you, whether or not you are a corporation, must be admitted to the Bar in the State of Maryland or must be specially admitted to the Maryland Bar pursuant to Maryland Rule 14 of the Maryland Rules, which governs special admission of out-of-state attorneys.

STATE OF MARYLAND,  
DEPARTMENT OF THE  
ENVIRONMENT  
2500 Broening Highway  
Baltimore, Maryland 21224

Plaintiff

v.

NEUTRON PRODUCTS, INC.  
22301 Mt. Ephraim Road  
P.O. Box 68  
Dickerson, Maryland 20842

Defendant

Serve on:

Prentice-Hall Corp. System  
929 North Howard Street  
Baltimore, Maryland 21201  
Resident Agent

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* MONTGOMERY COUNTY,  
\* MARYLAND

CASE NO. 199 036

Registration Month  
Received: 4/28/99  
File No: \_\_\_\_\_

\* \* \* \* \*

MOTION FOR PRELIMINARY INJUNCTION

The State of Maryland, Department of the Environment (the "Department"), by its attorneys, J. Joseph Curran, Jr., Attorney General of Maryland, M. Rosewin Sweeney, and Robert Field, Assistant Attorneys General, hereby moves this Court, pursuant to Section 8-507 of the Maryland Environment Article and Maryland Rule 15-502, for preliminary injunctive relief requiring the Defendant, Neutron Products, Inc. ("Neutron" or "NPI"), to cease and desist from accepting or using radioactive material at its Dickerson facility under its current license MD-31-025-01, and to preserve and protect all such material it presently has at this site.

1. COMAR 26.12.01.01C.29(g)(2) provides that:

No person shall receive, possess, use, transfer, own or acquire radioactive material of a type described in paragraph (a) or (b) of this section for more than 180 days following the dates prescribed in this section for submittal of

a decommissioning funding plan or certification, if that decommissioning funding plan or certification has not been approved by the Agency.

2. NPI is licensed under Radioactive Materials License No. MD-31-025-01 (the 01 license) and Radioactive Materials License Nos. MD-31-025-04 and MD-31-025-05 (the 04 and 05 licenses) by the Department of the Environment (the "Department") to possess materials of a type described in COMAR 26.12.01.01C.29(a) under its 01 license and as described in C.29 (b) under its 04 and 05 licenses at its facility in Dickerson, Maryland (the "Facility"). (Hereafter, COMAR 26.12.01.01C.29 will be referred to as Section C.29.) Section C.29 requires that NPI submit financial responsibility in the amount of \$750,000.00 unless it can meet the requirements for self-guarantee contained in Section C.29, Appendix G, for its 01 license and in the amount of \$75,000.00 each for its 04 and 05 licenses.
3. The 180 day limit referred to in paragraph 1 expired on April 13, 1999.
4. NPI did not have an approved decommissioning funding plan nor certification in place for the licenses cited in Paragraph 2 by the expiration of the deadline on April 13, 1999.
5. NPI still has substantial quantities of radioactive material at the Facility which it obtained under the 01, 04 and 05 licenses, but has lost the right by operation of law, as of April 13, 1999, to receive, possess, use, transfer, own or acquire such material.
6. In addition, there is substantial radioactive waste material at the Facility that NPI is obligated to dispose of in an approved manner.

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7. NPI and Plaintiff are in the process of attempting to reach an agreement with regard to the \$150,000.00 financial responsibility required for the 04 and 05 licenses, but no agreement has yet been reached.

8. Despite numerous requests, NPI has not demonstrated that it has, or can obtain, the necessary assets to fulfill its obligations under Section C.29 for the 01 license.

NPI is therefore currently in violation of the regulation in that it possesses unlicensed material and has lost the right to use, store or ship this material.

**WHEREFORE**, in order to protect the public interest and preserve conditions at the Facility pending resolution of the terms of the permanent injunction requested in this matter, Plaintiff requests that this Court issue a preliminary injunction, in the form of the proposed order submitted with these papers, that:

1. NPI abide by all of the limitations and requirements of statutes and regulations and of its existing licenses;
2. NPI is prohibited from accepting or using radioactive materials under the 01 license;
3. NPI may not undertake any phase of cobalt-60 source production or fabrication;
4. NPI may not remove any source of radiation (any radioisotope) currently in the Limited Access Area (LAA) from the LAA; and
5. NPI may not sell or ship any radioactive material without the prior permission of the Department.

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Respectfully submitted,

J. JOSEPH CURRAN, JR.  
ATTORNEY GENERAL OF MARYLAND

M. Rosewin Sweeney  
M. Rosewin Sweeney

Robert Field  
Robert Field  
Assistant Attorneys General  
Maryland Department of the Environment  
2500 Broening Highway  
Baltimore, Maryland 21224  
(410) 631-3053

**REQUEST FOR EXPEDITED HEARING**

Plaintiff hereby request an expedited hearing on the Motion for Preliminary Injunction.

Robert Field  
Robert Field

Department Health  
Received: 4/28/99  
File No: \_\_\_\_\_