

August 23, 1982

30-4291

A. Sidney Johnston, Esq.
135 South La Salle Street
Suite 1252
Chicago, Illinois 60603

Re: ISOTOPE MEASUREMENTS LABORATORIES, INC.
(License No. 12-13568-01; EA 81-32)

Dear Mr. Johnston:

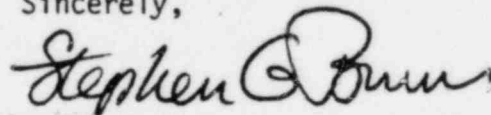
On the basis of our recent conversations with each other and with our respective clients, we have apparently been able to reach a tentative agreement in principle for settlement of the pending civil penalty proceeding against Isotope Measurements Laboratories, Inc. I have drafted a proposed settlement agreement for your review which the Office of Inspection and Enforcement is prepared to sign upon acceptance by IML.

As Judge Smith indicated in the telephone conference, settlement of the proceeding is subject to his approval of the settlement agreement in accordance with 10 C.F.R. 2.203 of the Commission's regulations. For this reason, I have enclosed a draft joint motion under which we would submit the agreement for Judge Smith's approval.

If the joint motion and settlement agreement are acceptable, please have them signed and returned to me for the Staff's signature and then submission to Judge Smith. Please call me if you have any questions or wish to further discuss the terms.

I am sending a copy of this letter without the enclosures to Judge Smith to keep him informed of the status of the parties' negotiations and progress toward settlement.

Sincerely,



Stephen G. Burns
Counsel for NRC Staff

Enclosures:
Draft Motion
Draft Agreement

cc: R. DeYoung, IE
J. Keppler, Reg. III
T. Fields, IML

Distribution:
NRC Central Formal file (2)
FLD Rdr Burns chron
Rda J.Lieberman, IE
Subject

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|---------|----------------------------------|--|---------------------|--|
| OFFICE | Hon. I.w. Smith (w/o enclosures) | | | |
| SURNAME | S. Burns: mm1 | | DESIGNATED ORIGINAL | |
| DATE | 8/23/82 | | Certified By | |

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE ADMINISTRATIVE LAW JUDGE IVAN W. SMITH

| | | |
|------------------------------------|---|-------------------------|
| In the Matter of |) | |
| ISOTOPE MEASUREMENTS LABORATORIES, |) | Docket No. 30-4291 |
| INC. |) | License No. 12-13568-91 |
| 3304 Commercial Avenue |) | |
| Northbrook, Illinois 60062 |) | (EA-81-32) |

JOINT MOTION TO TERMINATE CIVIL PENALTY PROCEEDING

Discussions between the NRC Staff and the Licensee, Isotope Measurements Laboratories, Inc., have resulted in a proposed settlement of this proceeding. On the basis of the attached agreement, the Licensee has agreed to withdraw its request for a hearing and to pay a civil penalty in the amount of \$4000. The Staff has agreed to accept payment of a \$4000 civil penalty in lieu of the penalty imposed by the Order Imposing a Civil Penalty dated October 22, 1981.

Accordingly, the Staff and the Licensee move that the Administrative Law Judge approve the attached settlement agreement in accordance with 10 CFR 2.203 and enter an order terminating this proceeding.

Respectfully submitted,

A. Sidney Johnston
Counsel for Isotope Measurements
Laboratories, Inc.

Stephen G. Burns
Counsel for NRC Staff

Submitted _____

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE ADMINISTRATIVE LAW JUDGE IVAN W. SMITH

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| In the Matter of |) | |
| ISOTOPE MEASUREMENTS LABORATORIES, |) | Docket No. 30-4291 |
| INC. |) | License No. 12-13568-01 |
| 3304 Commercial Avenue |) | (EA-81-32) |
| Northbrook, Illinois 60062 |) | |

AGREEMENT BETWEEN THE STAFF AND
LICENSEE CONCERNING SETTLEMENT OF
CIVIL PENALTY PROCEEDING

The NRC Staff and the Licensee, Isotope Measurements Laboratories, Inc. (IML), have agreed to settle this proceeding and to compromise the civil penalty imposed by order of the Director, Office of Inspection and Enforcement, on October 22, 1981. This agreement will be submitted to the Administrative Law Judge for his approval in accordance with 10 CFR 2.203. Contingent upon the approval of the Administrative Law Judge in a final decision or order, the Staff and the Licensee agree to the following terms:

1. IML admits that its agents received radiopharmaceuticals containing technetium-99m from Mason District Hospital, Havana, Illinois, and delivered them to Hopedale Medical Complex, Hopedale, Illinois, on August 26, September 2, 16 and 23, October 4, 7, 21 and 28, and November 4, 1980. IML admits that on August 11, 14, 18, 21, and September 2, 8, 9, 12, 13, 20, 22, and 23, 1980, its agent received radiopharmaceuticals containing technetium-99m from Pana Community Hospital, Pana, Illinois, and delivered them to Hillsboro Hospital, Hillsboro, Illinois.

2. Although IML admits that it received and distributed radioactive material as described in paragraph 1, IML neither admits nor denies that these actions were in noncompliance with NRC requirements. IML acknowledges, however, that the NRC staff does not consider the receipt and distribution of material between hospitals described in paragraph 1 to be authorized under NRC regulations and the pertinent license conditions. IML also acknowledges that it received a letter dated August 8, 1980, from James G. Keppler, Director of NRC Region III, which indicated that the Staff did not believe such receipt and distribution was authorized and that the Staff was under the belief that IML would discontinue such receipt and distribution of material.

3. IML agrees that it will cease and desist from any future receipt of radioactive material from persons who are not authorized as radiopharmaceutical suppliers to distribute material in accordance with 10 CFR 32.72, and from making further distribution of such material without a license under 10 CFR 32.72. In this regard, IML further acknowledges that hospitals such as Mason District Hospital and Pana Community Hospital are generally not authorized to distribute radioactive material as licensed radiopharmaceutical suppliers in the absence of an express license condition permitting such distribution.

4. IML agrees to withdraw its request for a hearing on the Order Imposing a Civil Penalty dated October 22, 1981.

5. In view of IML's agreement to cease unauthorized receipt and distribution and to withdraw its request for hearing, the Staff agrees

to accept a civil penalty in the compromised amount of \$4000. IML agrees to pay a civil penalty in the amount of \$4000.

FOR ISOTOPE MEASUREMENTS
LABORATORIES, INC.

Theodore Fields, President

Date:

FOR THE NUCLEAR REGULATORY COMMISSION

Richard C. DeYoung, Director
Office of Inspection and Enforcement

Date: