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October 4, 1977

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William S. McLaughlin
Executive Secretary
Occupational Safety and Health
Review Commission
1825 "K" Street, N.W.
Washington, D.C. 20006

Re: HL Industries, Inc. v. Marshall
OSHRC Docket No. 77-2539, Region III (SOL No. 2053)

Dear Mr. McLaughlin:

Enclosed herewith please find the original of the Respondent's
Objection to Petition for Modification of Abatement Date.

As shown on the Certificate of Service attached thereto, a copy
of the above has this day been forwarded to the Petitioner.

Very truly yours,

Marshall H. Harris
Regional Solicitor

Enclosure
SOL:RMH:raj

cc: *J* Jeffrey E. Silver, Esquire - HL Industries, Inc.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RECEIVED

OCT 19 1977

JEFFREY E. SILVER

N 27296

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

NL INDUSTRIES, INC.

Petitioner,

v.

**RAY MARSHALL, SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,**

Respondent.

**OSHRC DOCKET
NO. 77-2539**

REGION III

**RESPONDENT'S OBJECTION TO PETITION
FOR MODIFICATION OF ABATEMENT DATE**

Respondent, Ray Marshall, Secretary of Labor, United States Department of Labor, by his attorneys, hereby objects to Petitioner's Petition for Modification of Abatement Date, and as grounds therefor, states as follows:

1. As a result of an inspection of Petitioner's Cumberland Street, Philadelphia, Pennsylvania facility conducted between September 29, 1975 and October 7, 1975, Petitioner was issued a citation for violations of the lead exposure standard found at 29 CFR 1910.1000 (formerly 29 CFR 1910.93) on December 22, 1975..

N 27296.01

NL 000041341

A copy of the citation is attached hereto and made a part hereof as Exhibit A.

2. As noted on Exhibit A, Petitioner had been required to complete abatement of the violation by June 22, 1976. Respondent had been granted an extension of the abatement period to March 22, 1977.

3. On March 14, 1977, Petitioner filed a Petition for Modification of Abatement Date requesting that its abatement date be extended until March 22, 1978. A copy of the Petition is attached as Exhibit B.

4. The Secretary objects to said Petition on the grounds that Petitioner has been provided with ample time to implement engineering controls to limit employee exposure to amounts of lead in excess of the standard. Respondent's own data shows it to not have yet achieved compliance.

5. Petitioner's March 14, 1977 Petition on page 3 states:

With respect to administrative procedures, we have hired a safety/environmental specialist to take charge of all programs. We are continuing our respirator rule for all lead chemical producing areas and compliance with OSHA administration's published recommended lead control guidelines. Respirator washing stations have been set up and are in use for both the Lead Oxide and the Chemicals Depts. (emphasis supplied).

6. The OSHA recommended guidelines include requirements for medical surveillance and biological monitoring.

7. Pursuant to its agreement, Petitioner has been conducting medical surveillance and biological monitoring, including sampling employee blood lead levels.

8. Petitioner refuses to release this information.

Without the release of this information, the Secretary of Labor cannot evaluate Petitioner's success in abating the hazard, nor can the Secretary of Labor make any determination as to the safety of NL's employees from lead intoxication.

For all of the above reasons, Petitioner's PMA should be denied.

Post Office Address:

*Other -
this is not
the issue*
~~Marshall H. Harris~~
Regional Solicitor *Office*
U. S. Department of Labor
14480 Gateway Building
3535 Market Street
Philadelphia, PA 19104
(215) 596-1126

/s/ Carin Ann Clauss
Carin Ann Clauss
Solicitor of Labor

/s/ Marshall H. Harris
Marshall H. Harris
Regional Solicitor

/s/ Regina M. Kossek
Regina M. Kossek
Attorney

UNITED STATES DEPARTMENT OF LABOR
Attorneys for Respondent.

CERTIFICATE OF SERVICE

I, Regina M. Kossek, hereby certify that I served the
Respondents reply to the
Secretary's Objection to Petition for Modification of Abatement
Date, by mailing a true and correct copy thereof, in a government
envelope, postage prepaid, by certified mail, return receipt
requested, to the following:

~~Jeffrey E. Silver, Esquire
NL Industries, Inc.
Office of General Counsel
1230 Avenue of the Americas
New York, NY 10020~~

Dated: October 4, 1977

/s/ Regina M. Kossek
Regina M. Kossek
Attorney

JES

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