

1 Michael N. Feuer, City Attorney (111529x)
Timothy McWilliams, Ass't. City Atty. (167769)
2 Robert M. Mahlowitz, Deputy City Atty. (160125)
200 North Main Street, City Hall East Room 701
3 Los Angeles, California 90012-4131
4 Telephone: (213) 978-8205
robert.mahlowitz@lacity.org
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6 Attorneys for Third-Party Defendant City of Los Angeles
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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL and
12 the TOXIC SUBSTANCES CONTROL
13 ACCOUNT,

14 Plaintiffs,

15 v.

16 NL INDUSTRIES, INC., a New Jersey
17 corporation; et al.,

18 Defendants.
19

20 NL INDUSTRIES, INC.,

21 Counterclaimant,
22

23 v.

24 CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL and
25 the TOXIC SUBSTANCES CONTROL
26 ACCOUNT,
27

28 Counterdefendants.

Case No.: 2:20-cv-11293-SVW-JPR

Hon. Stephen V. Wilson
Hon. Jean P. Rosenbluth

**Declaration of Robert Mahlowitz in
Support of Stipulation Requesting the
City of Los Angeles' Time to Respond to
the Third Party Complaint filed by NL
Industries, Inc. be Extended 28 days
(ECF 133)**

3rd Party Complaint Served: 8/31/21
Response Deadline: 9/21/21
Proposed New Deadline: 10/19/21

Action Filed: December 14, 2020

1 NL INDUSTRIES, INC.,

2 Third-Party Plaintiff,

3
4 v.

5 EXXON MOBIL CORPORATION, a
6 New Jersey corporation; et al.,

7 Third-Party Defendants.
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10 Third Party Defendant City of Los Angeles submits the following declaration of
11 Robert M. Mahlowitz in support of the Stipulated Request to Extend the City of Los
12 Angeles' Time to Respond to the Third Party Complaint filed by NL Industries, Inc. be
13 Extended 28 days. (ECF 133).

14 DATED: September 13, 2021

15 Michael N. Feuer, City Attorney
16 Timothy McWilliams, Asst. City Attorney
17 Robert M. Mahlowitz, Deputy City Attorney

18 By: /s/ Robert M. Mahlowitz

19 Robert M. Mahlowitz
20 Attorneys for Third-Party Defendant,
21 CITY OF LOS ANGELES
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DECLARATION OF ROBERT M. MAHLOWITZ

I, Robert M. Mahlowitz, declare:

1. I am employed as a deputy city attorney in the Los Angeles City Attorney’s Office, am licensed to practice law in the State of California, and am admitted to practice before the Federal District Court for the Central District of California. I have been assigned to temporarily represent Third Party Defendant City of Los Angeles (“City”) in the above-referenced action while the City identifies an internal or outside counsel experienced in Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) law.

2. On August 31, 2021, the City was first served with the Third Party Complaint filed by NL Industries, Inc. in this above-referenced action seeking contribution pursuant to CERCLA for significant alleged environmental contamination and the City has since been diligently attempting to learn the facts and claims of the initial 11 parties named in the action filed by the California Department of Toxic Substances Control, as well as the facts concerning the 67 parties named by the Third Party Complaint. Additionally, the City has been diligently attempting to review the docket of this action which currently consists of 127 separate entries.

3. The Third Party Complaint asserts the City is responsible for environmental contamination caused by a City incinerator that allegedly operated from the 1920s to the 1940s. (ECF 93). Because this allegation concerns historical facts from more than 100 years ago, it will take time for the City to investigate the contention.

4. The City is also diligently seeking outside counsel to represent it in this action. I have personally sent requests to nine law firms with experienced environmental law practitioners seeking proposals and those firms interested in representing the City are conducting conflict checks and preparing proposals for City consideration. Given that the Third Party Complaint names 67 other parties and a number of other public entities, I expect some of these counsel may already be representing other parties to this action or have existing conflicts which may make it more difficult for the City to immediately

1 retain outside counsel.

2 5. September 21, 2021 is the City's current deadline to respond to the Third
3 Party Complaint pursuant to Federal Rules of Civil Procedure 12 and 14, because the
4 City was served with the Third Party Complaint on August 31, 2021. The current
5 deadline does not provide sufficient time for the City to respond to the Third Party
6 Complaint given the number of complex factual and legal issues already at issue in this
7 action as well as the City's need to identify experienced CERCLA counsel. The City
8 believes a 28-day extension of its time to respond to October 19, 2021, will enable the
9 City to retain counsel and respond to the Third Party Complaint.

10 6. The City has not previously sought an extension of its time to respond to the
11 Third Party Complaint or any other matter in this action.

12 7. An extension of time for the City to respond to the Third Party Complaint
13 will not significantly delay the progress of this case or prejudice any party. The requested
14 extension of time will not delay any deadlines set by the court in this case because the
15 scheduling conference has not been set and no scheduling order has issued. Trial has not
16 been set.

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct. Executed on September 13, 2021, at Pasadena, Los Angeles
19 County, California.

20 /s/ Robert M. Mahlowitz

21 Robert M. Mahlowitz

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