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AND ASSOCIATES

May 20, 1994

TO: Dick White
Walter Woodson

FROM: Jim Savarese

SUBJECT: Strategy Meetings with National Energy Management
Institute (NEMI)

This memorandum is to report on our meetings last week with leadership and staff of the National Energy Management Institute (NEMI), including newly appointed administrator Richard Peck, former administrator Jim Golden and staff engineer Eli Howard.

The primary purpose of our meetings was to discuss what further activities could be conducted with respect to the OSHA rulemaking. Along those lines, I am enclosing a copy of NEMI's recent letter to the Labor Department requesting a delay in the public hearing on the proposed rule. We also discussed with NEMI additional efforts to stop the Waxman bill which, as you know, cleared the Health Subcommittee last week.

Based on these discussions, we agreed that NEMI and the Sheet Metal Workers (SMWIA) will proceed simultaneously on two levels, one technical, and the other political.

Technical -- NEMI has a high degree of credibility as a technical authority on the subject of indoor air quality (IAQ). As a not-for-profit organization with expertise in mechanical engineering, HVAC system design, installation and maintenance, NEMI's credentials are unimpeachable. Moreover, NEMI has conducted hundreds of building studies throughout the country, working with labor and management to identify IAQ-related problems and recommend corrective steps. In most cases, the problem and solution in a so-called "sick building" which NEMI encounters is directly related to ventilation. This wealth of technical experience puts NEMI firmly in the "systems approach" school.

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Below are specific activities related to NEMI's technical expertise which NEMI/Sheet Metal Workers will pursue:

1. NEMI/Sheet Metal have agreed to develop and submit a substantive, sophisticated document to OSHA which addresses the IAQ issue from NEMI's pro-ventilation technical perspective, including material related to NEMI's case studies in buildings throughout the U.S. This submission will help build the record of evidence related to comprehensive IAQ rather than the present imbalanced record which leans heavily towards source control of ETS.
2. In coordination with the sheet metal union's Legislative Department, NEMI will continue to educate members of Congress and key staff regarding IAQ and the role of ventilation.
3. In the near-term, NEMI/Sheet Metal Workers will solicit a follow-up meeting with Rep. Joe Kennedy to discuss both the Waxman anti-smoking bill and the OSHA regulation.

Message -- The Waxman bill and the OSHA regulation threaten future passage of Kennedy's own IAQ legislation. Further, OSHA's narrow and politicized focus greatly reduces the likelihood of serious, comprehensive IAQ standards ever being developed.

Political -- In the political arena, the Sheet Metal Workers union (rather than NEMI) will take the lead in making the political arguments against the proposed OSHA regulation. The central message in a political context will be the Sheet Metal Workers' interest in jobs creation through comprehensive IAQ regulation. Conversely, the present proposed rule effectively blocks SMWIA from gaining any work in the IAQ field, since the field will be reduced to enforcement of smoking bans under the proposed "source control" approach. And since the ETS-driven rule will kill any momentum for genuine IAQ policy at the federal level, the union views the rule as costing them real job opportunities, a prospect they view extremely negatively. Thus, the union is prepared to solicit meetings with key members of Congress, the Labor Department and the Democratic National Committee to express their political perspective on the IAQ issue.

Below are specific activities the union is prepared to pursue on the political front:

1. NEMI/Sheet Metal Workers will solicit a meeting with Sen. Ted Kennedy to discuss the OSHA regulation. Also in the meeting may be a Massachusetts Sheet Metal union leader.

Message -- The OSHA regulation will cost unionized sheet metal workers jobs in Massachusetts and across the country; jobs that could have been created through a more comprehensive approach to IAQ regulation. Instead, adoption of the proposed rule effectively prevents the union from ever securing work in this field, since the regulation focuses so heavily on source control of ETS and abandons the philosophy of a systems approach rooted in proper ventilation installation, maintenance and control.

In addition, the Sheet Metal Workers can express organized labor's overall sentiment that the regulation sets up OSHA, which is already understaffed and underfunded in their opinion, to be the "workplace smoking police."

The net result of the regulation, therefore, would be to de-emphasize the agency's mandate to help protect workers in the full range of occupational safety and health.

Moreover, the Sheet Metal Workers can indicate that the goal of OSHA reform legislation is threatened by the regulation for the same reason; namely, that the agency will be too preoccupied by its role as smoking enforcement agency to concern itself with the host of issues which OSHA reform legislation would require of the agency.

2. NEMI/Sheet Metal Workers meeting with Labor Secretary Reich.

Message -- same as above with particular emphasis on the agency's mandate being narrowed to serve only the anti-smoking activists rather than American workers who need the agency to help protect them in their workplace. Another argument which might interest Secretary Reich -- OSHA's failure to develop comprehensive IAQ approach puts America's schoolchildren at further risk from IAQ-related illness.

3. NEMI/Sheet Metal Workers meeting with Kitty Higgins, chief of staff, U.S. Department of Labor. Ms. Higgins was formerly staff director for Sen. Kennedy on the Senate Labor and Human Resources Committee.

Message -- same as above. We would also hope to get advice regarding how best to reach Secretary Reich with labor's concerns with and objections to the pending regulation.

4. NEMI/Sheet Metal Workers meeting with DNC Chair David Wilhelm. The union, which supported the Democratic Party during the Clinton's Presidential campaign, can ask Wilhelm to discuss the issue with Secretary Reich.

5. NEMI/Sheet Metal Workers can solicit a meeting with Commerce Secretary Ron Brown. The objective of this meeting would be to provide a counterpoint to traditional objections from the business community related to the alleged cost inefficiencies of comprehensive IAQ standards and implementation.
6. NEMI/Sheet Metal Workers meeting with American Federation of Teachers, a strongly pro-Clinton union, to discuss the negative impact of the proposed rule on IAQ in the schools. If the OSHA rule goes into effect as drafted, there is virtually no chance that schoolchildren will be protected from the host of indoor air contaminants still present in the schools since there will be no regulation to cover broad IAQ concerns. Since most schools have already implemented a smoking ban, we may be able to convince the teachers' union that it is in their best interest to oppose the OSHA rule.

We also learned that NEMI participated recently in a joint review of the White House structure with the American Institute of Architects. NEMI's role was to review and report on engineering issues related to energy management and indoor air quality within the White House. We are awaiting a copy of the document from NEMI so that we can review it for any politically favorable information. Depending upon the document's content, there may be some value in promoting the study's findings within OSHA, Secretary Reich's office and on the Hill.

We look forward to discussing the above strategy with you at your earliest convenience.