

AUG 23 2004

Gay P. Kent, Director
Product Investigations
General Motors Corporation
30500 Mound Road, Mail Code 480-106-304
Warren, MI 48090-9055

Re: Request for Confidential Treatment (BA04-012)

Dear Ms. Kent:

This is in response to your letter dated July 23, 2004, to Ms. Jacqueline Glassman in which General Motors Corporation (GM) requests confidential treatment for certain information contained in its response to the above matter. The letter requests that a portion of GM's response to Question 15 of the agency's information request, which is contained on a single CD-ROM in a directory labeled "Attachment 15B," be granted confidential treatment for an unspecified period of time. In support of this request, GM states that the information in Attachment 15B, which consists of fourteen (14) Excel files, contains trade secrets and commercially valuable information that, if released, would cause GM to suffer competitive harm.

I have decided to grant your request for confidential treatment.

Because the information described above was required to be submitted to the agency under the above matter, the agency reviewed GM's claim for confidential treatment under the test announced in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) and its progeny. Under that test, information is confidential under Exemption 4 of the Freedom of Information Act (FOIA) if its disclosure is likely to cause substantial competitive harm to the submitter or to impair the government's ability to collect the information in the future.

GM asserts that the electronic files described above contain trade secrets, the disclosure of which would cause substantial competitive harm to GM. GM describes these materials as containing the company's proprietary customer information and evaluations as well as

consumer marketing study results and data on intended product usage. GM states that disclosing this information would enable competitors to obtain valuable information without incurring expenses needed to develop it independently. GM believes that because this information relates to its core business of manufacturing vehicles, the level of harm it would sustain as a result of disclosure would be substantial.

I have examined the materials for which you seek confidential treatment. Attachment 15B contains a series of Excel spreadsheets containing detailed analyses of consumer responses on a variety of issues. These fourteen (14) Excel spreadsheets contain a detailed breakdown of the responses to the questions contained in a GM survey. These data provide analyses that, if disclosed, would be likely to cause substantial competitive harm to GM. Accordingly, the agency will withhold the contents of these spreadsheets under Exemption 4.

Notwithstanding this grant of confidential treatment, the information may be disclosed under the various provisions set forth in 49 U.S.C. § 30167 and 49 C.F.R. Part 512. You will be notified prior to any such release of information.

If you disagree with this determination, you may request reconsideration. To request reconsideration, you must comply with the requirements of 49 CFR § 512.19, which must be submitted within 20 working days after the receipt of this letter. The request for reconsideration should show the particular competitive harm to your company from the disclosure of the information for which confidentiality has been denied and contain any legal arguments and citations upon which you rely (49 CFR § 512.8). If no written request is submitted pursuant to 49 CFR § 512.19 within the required period of time, your submitted information will be placed in the public file.

Sincerely,

151

Otto G. Matheke, III
Senior Attorney

NHTSA:NCC-111:Kido:08/16/04: NCC04-005115
NCC-113:Subj/Chron, mk, cyt
CC: NVS-214: N.Seymour w/enclos.
U:NCC30\CONF\misc04\GM04-005115mk.doc