

NUS-21
Peter Day

AUG 27 2004

Don Bearden
Director, Governmental Affairs Department
Subaru of America Inc.
Subaru Plaza
P.O. Box 6000
Cherry Hill, NJ 08034-6000

Re: Request for Confidential Treatment of Information -- EA04-002

Dear Mr. Bearden:

This responds to your March 4, 2004 request for confidential treatment for information contained in Subaru of America, Inc.'s (Subaru) response to the above matter concerning allegations of fuel line leakage in MY 2002 Subaru Impreza WRX vehicles. Specifically, you request confidentiality for certain documents in the appendices that accompanied your response to an information request. You request that these materials be protected for an indefinite period of time.

Your letter states that this information, which is closely guarded, reveals internal company operating procedures and that its disclosure would aid competitors in learning the details of such procedures. Subaru's supporting certificate describes this information as proprietary data and avers that the information has not been revealed to the public.

I am granting 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 Subaru'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), 5 U.S.C. § 552(b)(4), 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.

Subaru's submission contains five separate sets of document(s) related to the alleged defect. The first two sets of documents (Appendices 8b1 and 8b2) pertain to minutes of two Nissan safety meetings together with test results, brief analyses, and

conclusions. The third set of documents (Appendix 8c) contains minutes and a handout (summarizing the results of an earlier safety meeting) from a recall committee meeting. The fourth set of documents (Appendix 8f1) consists of test protocols and results. The fifth document (Appendix 8f2) contains test results.

Review of these materials indicates that they contain information that is not publicly available and, if released, could be used by Subaru's competitors and result in substantial economic harm to Subaru.

As requested by Subaru, this grant of confidential treatment is indefinite. 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.

Sincerely,

/s/

Otto G. Matheke, III
Senior Attorney

OCC:MGoode:65263:08/24/04
NCC-111 subj/chron, 0002129
NVS-21:Peter Ong w/enclos.
NCC30/CONF/misc04/Subaru04-002129mtg.doc