

NUS -214
Peter Kivett

NOV - 9 2005

Ms. Gay P. Kent
General Motors North America
Manager, Product Investigations
Mail Code 480-111-E18
30200 Mound Road
Warren, MI 48090-9010

Re: Request for Reconsideration of Confidentiality Determination/PE04-080

Dear Ms. Kent:

This responds to your August 26, 2005, request for reconsideration. General Motors North America (GM) requests reconsideration of the July 22, 2005, denial of its request for confidential treatment for Attachment 3, which contains information from Grede Foundries, Inc. ("Grede"). GM originally submitted the materials in response to an information request in connection with PE 04-80. GM seeks reconsideration based on changed circumstances, specifically, Grede's submission of a letter and certification in support of its request for confidentiality.

For the reasons set forth below, I am granting your request.

According to Grede, the information in Attachment 3 contains failure mode and effects analyses and material certifications, which Grede contends are trade secrets. Additionally, Grede asserts that the release of the information would cause it competitive harm because competing businesses could use the information to identify and quantify performance problems with their own products, and could then improve on those problems without the substantial expenditures Grede supplied to establish the analyses. Grede states the information is of the type granted class confidentiality in Appendix B to 49 C.F.R. 512.

Appendix B creates a general class determination that the release of certain types of information will presumptively be likely to cause competitive harm. 49 C.F.R. 512, App. B. Included in this classification are types of documents, including blueprints and engineering drawings, that relate to the production of objects and without which considerable reverse engineering would be required to construct the object. Id.

The information for which Grede seeks confidential treatment does not fall within this category.

Nevertheless, release of the information is likely to cause Grede substantial competitive harm. The failure mode analyses and other documents demonstrate substantial engineering and other work conducted by Grede that would benefit competitors and facilitate their production of similar products at no expense to them, even though they were compiled through substantial work on Grede's part. Therefore, under National Parks and Conservation Ass'n v. Morton, 498 F.2d 765 (D.C. Cir. 1974), the information is accorded confidential treatment because the failure to do so would likely cause competitive harm to Grede.

This grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 C.F.R. § 512.22 based upon newly discovered or changed facts, and, pursuant to 49 C.F.R. § 512.10, you must inform the agency of any changed circumstances that may affect the protection of the information. If necessary, you will be notified prior to the release of any information under the procedures established by our regulations. 49 C.F.R. § 512.22(b).

Sincerely,

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Guerci for

Stephen P. Wood
Acting Chief Counsel

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NCC-Subj/Chron
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