

DEC 14 2009

James E. Gulland
Secretary
Futaba Corporation of America
711 E. State Parkway
Schaumburg, IL 60173

Re: Request for Reconsideration/Confidentiality Determination/PE07-044

Dear Mr. Gulland:

This responds to your March 19, 2009 request for reconsideration of Mr. Otto Matheke's March 9, 2009 denial of Futaba Corporation of America's (Futaba) request for confidential treatment for materials related to the above-referenced investigation. Mr. Matheke denied Futaba's original request based on its failure to submit copies of the materials claimed to be confidential as required by our regulations. *See* 49 CFR 512.5. The materials at issue have now been properly submitted. Accordingly, your request may now be considered on the merits.

Your letter and accompanying certificate indicate that the information provided is confidential and has never been released or become available outside Futaba, except as specified.

I have decided to grant your request.

The information provided by Futaba was requested pursuant to 49 USC § 30166, which authorizes the agency to conduct investigations and require manufacturers to submit reports. Therefore, because the information was not submitted voluntarily, I have examined your submission using the competitive harm standard set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

I have reviewed your submission, including the materials that you claim are entitled to confidential treatment and the arguments that you assert in support of your claim. I have concluded that the public release of materials enclosed with your reconsideration request (which were also provided to the Agency by General Motors in its submission in this investigation as Q 08 A CL07-015-0466.pdf (Bates CL07-015-0466 to 0488), Q 08 A

CL07-015-0489.pdf (Bates CL07-015-0489 to 0511) and Q 08 A CL07-015-0551.pdf (Bates CL07-015-0551 to 0563)) would be likely to cause Futaba to suffer substantial competitive harm. Therefore, this information is entitled to confidential treatment pursuant to Exemption 4 of the Freedom of Information Act, 5 USC § 552(b)(4).

Subject to the conditions below, this grant of confidential treatment will remain in effect indefinitely.

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

My decision is administratively final.

Sincerely yours,

Original Signed By

O. Kevin Vincent
Chief Counsel

