

R. Latane Montague
Hogan & Hartson LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004

NOV 17 2009

Re: Request for Confidential Treatment in EA08-009

Dear Mr. Montague:

This letter responds to your September 29, 2009, request for confidential treatment for a Mercedes-Benz USA, LLC ("Mercedes") report submitted in EA08-009. You ask that the document labeled "Technical Report" remain confidential. Your letter seeks confidential treatment indefinitely.

I have decided to grant your request.

Because Mercedes was required to submit the documents in response to a formal agency investigation, I reviewed your claim for confidential treatment under the test announced in *National Parks & Conservation Ass'n v. Morton (National Parks)*, 498 F.2d 765 (D.C. Cir. 1974). Under that test, information is confidential under Exemption 4 of the Freedom of Information Act 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.

You argue that the *Technical Report* contains information not customarily released by Mercedes and that the release of this information would likely cause Mercedes to suffer competitive harm. I agree and am granting your request.

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)).

Sincerely,

Original Signed By

Otto G. Matheke, III
Senior Attorney

