

Dale A. Furney  
Engineering Group Manager  
Product Investigations  
General Motors Co.  
Mail Code:480-210-G11  
30001 Van Dyke Road  
Warren, MI 48090

MAR 29 2010

Re: Request for Reconsideration of Confidentiality Determination/PE08-056

Dear Mr. Furney:

This responds to your October 30, 2009 letter requesting reconsideration of the agency's October 13, 2009 partial denial of your November 24, 2008 request for confidential treatment for General Motors LLC (GM) materials submitted in the above listed agency investigation. GM has requested reconsideration for materials submitted by a GM supplier, Delphi Corporation (Delphi).

The agency's October 13, 2009 letter partially denied confidential treatment for Delphi information for failure to conform to the requirements of 49 C.F.R. Part 512, including: (a) failure to mark the Delphi CD-ROM "Confidential" as required by 49 C.F.R. § 512.6(c); and, (b) failure to describe the information that is the subject of its request, as well as failure to provide sufficient justification for the requests as required by 49 C.F.R. § 512.8(a).<sup>1</sup> In view of the foregoing, the request for confidential treatment of the Delphi information was not substantively reviewed. On reconsideration, Delphi has provided a revised CD-ROM and certification. You request that this information be kept confidential indefinitely.

You have now cured the deficiencies set forth in the agency's October 13, 2009 letter, and on reconsideration, I have decided to grant your request.

---

<sup>1</sup> You have not sought reconsideration for a document originating from third party BEI Technologies, Inc, Systron-Donner Automotive Division. The agency denied confidential treatment for the document "Q\_08\_B\_Yaw Sensor PVTP&R (CL08-016j).pdf" in your original submission because it was not accompanied by a certification from BEI Technologies. See 49 C.F.R. § 512.9.

GM was required to submit this information in response to an agency information request. Accordingly, your claims for confidential treatment were reviewed under the test set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) and its progeny. Under the *National Parks* decision, information concerning a commercial or financial matter may be withheld under FOIA Exemption 4 if disclosure would be likely to cause substantial harm to the competitive position of the submitter, or is likely to impair the Government's ability to obtain necessary information in the future. *Id.* at 770.

According to the Delphi certification, your submission contains engineering analyses, specifications, test plans, test results, test procedures, change procedures, and manufacturing plans. Delphi contends that release of this data would allow competitors to utilize Delphi's analyses without the expense of developing their own comparable analyses. Based upon our review, release of the information in this document would be likely to cause substantial competitive harm. Therefore, I am granting your request for confidential treatment for the materials submitted in your October 30, 2009 request for reconsideration.

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 C.F.R. § 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 C.F.R. § 512.10). 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)).

My decision is administratively final.

Sincerely yours,

**Original Signed By**

O. Kevin Vincent  
Chief Counsel

