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June 24, 2009

Karen L. Peaceman
Associate Regional Counsel
U.S. Environmental Protection Agency - Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: Penalty Payment: Consent Agreement-Finding
In re GM Automotive North America
Docket Nos.: RCRA-03-2009-0099, 04-2009-4007(b), 05-2004-0001, 07-2009-0001

Dear Ms. Peaceman:

Thank you for your letter of May 27, 2009, sent by Certified Mail, which General Motors received on June 1, 2009. GM also received a duplicate package the same day. This is to confirm several telephone conversations contemporaneous to those mailings that General Motors Corporation filed for Chapter 11 Bankruptcy protection on June 1, 2009 and will not be paying the \$48,260 penalty set forth in Paragraph 98 of the Consent Order-Findings and Orders (CAFO) in the above captioned matter. Under the Bankruptcy Laws, EPA may file a claim for the amount it believes GM owes and seek recovery along with other unsecured creditors.

As you know through various Bankruptcy Notices EPA has received, a Motion has been filed for the sale of certain assets to a new, yet unnamed, entity (New GM). That motion is scheduled to be heard on June 30. Certain of the plants identified in the CAFO are to be sold to New GM while others, such as the Wilmington, DE site, will remain with Old GM.

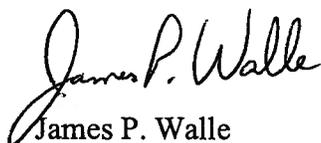
New GM will continue to comply with the regulatory aspects of the CAFO. The Wilmington, DE plant is scheduled to permanently close later this summer. I anticipate that the pipes and tanks with the Purge Mixture will be timely flushed, emptied and eventually removed. Once the tank is emptied, EPA will be notified pursuant to Paragraph 95 that compliance with the coating requirement will be achieved through the plant closure. The Fairfax, KS plant will remain operating under New GM. As we discussed on June 1, I believe that the CAFO has an inconsistency concerning the timing of the requirement for the Fairfax facility to coat the concrete below the Purge Mixture storage tank. As in the case of the Wilmington facility, Paragraph 96 delays the concrete coating requirement for three years after the effective date of the CAFO. However, Paragraph 97, unlike that in Paragraph 95 for the Wilmington plant, requires GM to certify compliance with the coating requirement "on or before March 1, 2012" rather than the effective day of the CAFO. GM believes this is a drafting oversight.

Pursuant to Paragraph 108, GM requests a written variance and/or clarification that the Certification for the Fairfax facility is due within three years of the effective date of the CAFO--- i.e., on or before May 26, 2012. Apart from the inadvertent inconsistency in the treatment of the two GM facilities, a strict reading of Paragraph 97 would result in the unintended consequence of GM certifying, as it could truthfully do today, that it is in Compliance with Paragraph 96. GM is in fact in compliance today with Paragraph 96 because that paragraph does not require coating of the concrete until no sooner than May 26, 2012. Therefore, for example, GM could comply with Paragraph 97, as currently written, by certifying on March 1, 2012 that it is in compliance with the time limits established in Paragraph 96. While GM intends on complying with the coating requirement (unless exempted as spelled out in the CAFO), we request that the date mix-up be rectified now while those involved in the negotiation and drafting of the CAFO retain the knowledge of the CAFO's original intent.

Finally, a minor clarification to your May 27 letter. Although this point now becomes irrelevant given the Bankruptcy bar on collecting unsecured debts, the due date for the payment of the \$48,260 penalty would have been June 30, 2009, which is 30 days after GM received "... a true and correct copy of the CAFO" (Paragraph 98) rather than "30 days from when the CAFO was filed (May 26, 2009)" [Paragraph 2 of your May 27 letter.]

Thank you for working so diligently and professionally in resolving this long standing matter. GM appreciates EPA and your cooperation in expanding the CAFO to include sites outside of the original three targeted in order to resolve the outstanding, historic, Purge Mixture issues. While a very resource intensive endeavor, the negotiated CAFO efficiently resolved in one document the multiple EPA RCRA enforcement investigations of GM's paint shops, ultimately, saving EPA, GM and the administrative tribunal time.

Sincerely,



James P. Walle
Attorney

JPW/pt

c: The Honorable Barbara A. Gunning
Ladawn Whitehead
Jeanna Henry
Larry Lamberth
Duncan Campbell
Elizabeth Koesterer

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