

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

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IN THE MATTER OF:)
) RCRA (3008) Appeal No. 06-02
General Motors Automotive - North America)
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Docket No. RCRA-05-2004-0001)
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MOTION TO REDACT PORTIONS OF THE JUNE 12, 2008 EAB DECISION FOR CBI AND NOTICE OF FACTUAL ERROR

Now comes General Motors Corporation (GM), through its attorney, James P. Walle, responding to U.S. EPA Environmental Appeal Board's June 12, 2008 Order Establishing Review Period for Remand Order.

The Environmental Appeal Board (EAB) issued a Remand Order in the above captioned case on June 12, 2008 partially deciding an administrative appeal by GM and remanded the RCRA enforcement action to Administrative Law Judge Barbara Gunning for reconsideration and further fact finding. Since GM has previously raised Confidential Business Information (CBI) claims to portions of the record, the EAB temporarily withheld general publication of the June 12th Remand Order until June 23 so that GM could have an opportunity to review these documents to determine whether there were any CBI material present.

GM appreciates the EAB's efforts to protect CBI and to give GM the opportunity to review the Remand Order. After reviewing the EAB Remand Order GM respectfully requests the Board to redact certain words in paragraph two of footnote 12 on page 18 of the Order. Near the bottom of paragraph two the EAB wrote:

PPG Industries adds a *short chain alcohol* compound (*a mehenal or an isopropanol*) to the Lake Orion purge solvent to “end-cap” or arrest the 2-K isocyanate reactions. The *alcohols* react faster with” (emphasis added)

GM and its supplier consider the bolded language to be CBI and request that the EAB redact the language so that the official, published version of footnote 12 will read in relevant part

“PPG Industries adds a [REDACTED] compound [REDACTED] to the Lake Orion purge solvent to “end cap” or arrest the 2-K isocyanate reactions. The [REDACTED] [“*compound*”] react{s} faster with”

Redacting the name and general description of the compound will help protect the confidentiality of PPG’s product formulation and GM’s process without materially changing the gist of the footnote.

Separate from this CBI claim, please note that there is a factual error in footnote 11 on page 17. The second sentence of the footnote states that: “Moraine paints its vehicles with waterborne primer . . . “ when in fact the Moraine assembly plant uses powder primer. GM expert Fred Blair testified to this at the bottom of page 91 of the Transcript (lines 24-25) (See attached). The EAB cites to this testimony in the footnote but mistakenly substituted waterborne for powder primer. While this detail is not important to the outcome of the case, GM is bringing this matter to the EAB’s attention for purposes of accuracy in the published opinion.

Now, therefore, GM moves that the EAB redact paragraph two of footnote 12 on page 18 of the Remand Order as indicated above in order to preserve confidential business information.

Respectfully submitted,

A handwritten signature in black ink that reads "James P. Walle". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

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9 of time there with the people and I know the people
10 there and I know the process pretty well.
11 Q Can you even count the number of days you've spent
12 in the Moraine plant?
13 A No, I couldn't tell you. I have to go there next
14 week, I believe, again. So I've spent a lot of time
15 in those facilities.

16 Q In each of these three facilities.
17 A Yes.

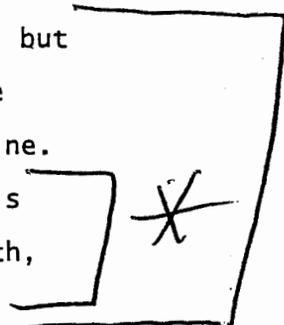
18 Q Let's talk a little bit about the paints that are
19 used at each of these three facilities, okay?
20 A Mm-hmm.

J. Kyle

21 Q Let's take Moraine first. You've alluded to it, but
22 if you can just walk the Judge through the three
23 different kinds of paints that are used at Moraine.

F. Blair

24 A Moraine was -- Moraine has powder primer. That's
25 zero VOC powder primer. And then from that booth,



1 we go to four parallel booths that have a section
2 that's got waterborne base coat, and then a section
3 that's downstream from it that is a solventborne
4 clear coat.
5 Q Solventborne clear coat being the final coat of --
6 A Final finish before the oven, right.
7 Q Okay. Are you familiar -- let's go through each of
8 the three plants.
9 A Each one?
10 Q Let's to go --
11 A Orion.
12 Q Let's go to Orion.
13 A Orion has solventborne primer and a waterborne base

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of June, 2008, service of a true and complete copy of GM's Motion to Redact Portions of the June 12, 2008 EAB Decision for CBI was made upon each party or attorney of record herein by first class mail, postage prepaid, addressed to:

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