

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
GENERAL MOTORS CORPORATION,) Docket No. RCRA-03-2007-0096
)
Respondent.)

ORDER GRANTING MOTION TO WITHDRAW AMENDED COMPLAINT

This matter was initiated on September 27, 2007 and an Amended Complaint was filed on October 11, 2007. On November 1, 2007, Respondent filed its Answer. With the consent of the parties the matter was referred to Alternative Dispute Resolution by Order dated November 27, 2007 where it has been pending ever since. By Motion dated March 28, 2008, Complainant now moves to withdraw the Amended Complaint in its entirety, with some portions being withdrawn with prejudice and others not. The reason given by Complainant for withdrawing certain portions of the Amended Complaint with prejudice is that the Agency has determined not to pursue those claims any further based upon evidence provided to it by the Respondent after the filing of the Complaint. As to those portions of the Complaint it wishes to withdraw *without prejudice* Complainant proffers as explanation therefor that the "validity of such allegations claims may depend upon the outcome of the appeal before the Environmental Appeals Board ("EAB") in *In Re: General Motors Automotive-North America*, Appeal Docket Number RCRA (3008) 06-02" and/or the parties wish to retain the discretion to recommence and/or conclude by settlement such allegations and claims at a later date. The Motion indicates that the Respondent consents to the relief sought.

Rule 22.14(d) of the Consolidated Rules of Practice provides as follows:

(d) Withdrawal of the complaint. . . . after the filing of an answer, the complainant may withdraw the complaint, or any part thereof, without prejudice only upon motion granted by the Presiding Officer.

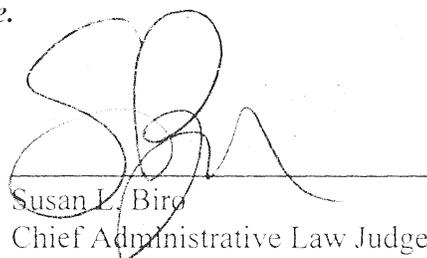
40 C.F.R. § 22.14(d).

For the reasons set forth in Complainant's unopposed Motion, the Motion to Withdraw the Amended Complaint is hereby **GRANTED**, as follows:

- A. Paragraphs 56, 57, 59-61, 64, 65, 70, 71, 113, 116-119, 121-123, 125, 126 of the Amended Complaint as well as all claims for relief set forth in the Compliance

Order and Civil Penalties portions of the Amended Complaint which specifically relation to the claims set forth in such Paragraphs are *withdrawn with prejudice*;

- B. Paragraphs 38, 107, 113, 119, 123, 131, 136, 142 of the Amended Complaint are *withdrawn with prejudice* only insofar as they may be construed to incorporate and reallege any of the Paragraphs of the Amended Complaint identified above in section "A" of this Order being withdrawn with prejudice, and otherwise are *withdrawn without prejudice*;
- C. All other provisions of the Amended Complaint, including all claims for relief and the bases for such relief set forth in the Compliance Order and Civil Penalties portions of the Amended Complaint which relate to such provisions are *withdrawn without prejudice*.



Susan L. Biro
Chief Administrative Law Judge

Dated: April 1, 2008
Washington, D.C.

In the Matter of General Motors Corporation. Respondent
Docket No. RCRA-03-2007-0096

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Granting Motion To Withdraw Amended Complaint** dated April 1, 2008, was sent this day in the following manner to the addressees listed below:



Maria Whiting-Beale
Legal Staff Assistant

Dated: April 1, 2008

Original and One Copy by Pouch Mail to:

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