File

COPY

PREET BHARARA
United States Attorney for the
Southern District of New York
By: DAVID S. JONES
NATALIE N. KUEHLER
Assistant United States Attorneys
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel. No.: (212) 637-2800
Fax No.: (212) 637-2739/2741
E-mail: david.jones6@usdoj.gov
natalie.kuehler@usdoj.gov

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
MOTORS LIQUIDATION COMPANY,	)	Case No. 09-50026 (REG)
f/k/a/ GENERAL MOTORS CORP.,	)	Jointly Administered
Debtor.	)	

SECOND PROOF OF CLAIM OF THE UNITED STATES OF AMERICA ON BEHALF OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE UNITED STATES DEPARTMENT OF THE INTERIOR, AND THE UNITED STATES DEPARTMENT OF COMMERCE

1. The United States of America (the "**Government**") files this second proof of claim (the "**Second Proof of Claim**") as provided for under Paragraph 44 of the Consent Decree and Settlement Agreement Between the Debtors and the United States of America that was entered by the Bankruptcy Court on March 29, 2011 (the "**Non-Owned Site Consent Decree**"), and at the request of the United States Environmental Protection Agency ("**EPA**"), the United States Department of the Interior ("**DOI**"), and the United States Department of Commerce, acting through the National Oceanic and Atmospheric Administration ("**NOAA**"), against debtor Motors

Liquidation Company ("**MLC**" or "**Debtor**"), formerly known as General Motors Corporation ("**GM**"), for the recovery of: (i) response costs incurred and to be incurred by the Government under the Comprehensive Environmental Response, Compensation, and Liability Act ("**CERCLA**"), 42 U.S.C. §§ 9601-9675; and (ii) natural resource damages, including past assessment costs, under Section 107 of CERCLA. In addition, with respect to equitable remedies that are not within the Bankruptcy Code's definition of "claim," 11 U.S.C. § 101(5), this Second Proof of Claim is filed only in a protective fashion. Pursuant to Paragraph 46 of the Non-Owned Site Consent Decree, the distribution reserve amount established by the GUC Trust pursuant to Article VII of Debtors' Second Amended Joint Plan of Liquidation, dated March 18, 2011 (the "**Plan of Liquidation**"), for the claims asserted against the Debtor in this Second Proof of Claim is $250 million.

Central Foundry Division a/k/a Massena Superfund Site, NY

2. The Central Foundry Division Superfund Site, also known as the Massena Superfund Site, located in St. Lawrence County, New York (the "**Massena Site**") is owned by GM and was operated primarily as an aluminum diecasting plant from 1959 to May 2009. The Massena Site also includes undeveloped land and wetlands owned by the St. Regis Mohawk Tribe.

3. During its operation of the aluminum diecasting plant on the Massena Site, GM caused the disposal of hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a) at the Site. The hazardous substances disposed of by GM and detected at the Massena Site include PCBs, VOCs and phenols. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

4. CERCLA Sections 107(a) and (f), 42 U.S.C. §§ 9607(a) and (f), provide for the recovery of damages for injury to, or destruction or loss of, natural resources caused by the release of hazardous substances to the environment. Injured resources may include, but are not limited to, birds, mammals, fish, plants, and their supporting habitats. 40 C.F.R. § 300.600. The United States of America, through DOI and NOAA, is authorized to act on behalf of the public as a trustee to recover natural resource damages, as well as the reasonable costs of assessing the injury to, or destruction or loss of, natural resources. Moreover, pursuant to the Great Lakes Critical Programs Act of 1990, 33 U.S.C. § 1268(e), and the Great Lakes Water Quality Agreement of 1978/1987, as amended, by the Protocol signed Nov. 18, 1987, U.S.-Can., Article II, 30 U.S.T. § 1383, NOAA is a co-trustee for the water and sediments of the Great Lakes system, including the St. Lawrence River, its tributaries, and the flora and fauna they support.

5. NOAA, DOI, the State of New York, and the St. Regis Mohawk Tribe (collectively, the "**Massena Trustees**") have engaged in natural resource injury studies, damage assessments, and restoration planning relating to the Massena Site since 1991.

6. In January 1991, the Massena Trustees and the settling PRPs, including GM, entered into a funding agreement by which the settling PRPs agreed to provide funding for the conduct of a natural resources damage assessment by the Massena Trustees.

7. As of June 2009, NOAA had incurred approximately $532,135 in unreimbursed past costs associated with the natural resources damage assessment at the Massena Site.

8. The Massena Trustees also performed a Habitat Equivalency Analysis ("**HEA**") at the Massena Site to determine the costs of restoration needed to compensate for natural resource injury, recreational fishing loss, and remedial injury to aquatic resources due to releases of hazardous substances from the Site. The HEA determined that sediment, fish, birds, amphibians, and

mammals sustained ecological and remedial injuries valued at no less than $14,722,728 from the hazardous substances released at the Massena Site and from remedies necessary at the Site, including capping of a portion of the St. Lawrence River, destruction of wetland areas, and hardening of the shoreline of Turtle Cove. The HEA further determined that recreational fishing sustained ecological injuries of at least $2,289,360 from the hazardous substances released at the Massena Site. This claim is joint with the State of New York and the St. Regis Mohawk Tribe.

9. As set forth above, Debtor is liable to the Government for natural resource damages, including the reasonable costs of assessing injury, incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

10. On March 31, 2011, the Government and Debtors entered into, and lodged with the Bankruptcy Court, a Consent Decree and Settlement Agreement Regarding Natural Resource Damage Claims (the "**NRD Consent Decree and Settlement Agreement**" or "**Agreement**"), which would resolve the Debtor's liabilities for natural resource damages at the Massena Site. The NRD Consent Decree and Settlement Agreement is subject to public comment and will become effective if, after reviewing any public comments received, the United States determines that the Agreement is in the public interest, and the Bankruptcy Court approves the Agreement.

Diamond Alkali Superfund Site, NJ

11. The Diamond Alkali Superfund Site in and around Essex, Hudson, and Passaic Counties, New Jersey (the "**Diamond Alkali Site**") includes a former pesticide manufacturing facility at 80 Lister Avenue, Newark, New Jersey, that was operated by Diamond Shamrock Chemicals Company from 1951 to 1969, and surrounding property located at Lister Avenue, the 17-mile portion of the Passaic River and its tributaries known as the Lower Passaic River Study

Area ("**LPRSA**"), the Newark Bay Study Area, which includes Newark Bay and portions of the Hackensack River, the Arthur Kill, the Kill Van Kull, and areal extent of contamination. The Site comprises a significant but unknown number of acres, and is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9).

12. From 1918 to 1970, GM owned and operated the Hyatt Roller Bearings Company automotive facility in Harrison, New Jersey (the "**Harrison Facility**"), whose operations began in 1907 and included metal working, heat treating and grinding, and the use of oil for heat-treated metal.

13. By discharging hazardous substances from its Harrison Facility into the Passaic River from 1918 to 1970, GM disposed of or arranged for the disposal of, hazardous substances at the Diamond Alkali Site. Moreover, as corporate successor to Hyatt Roller Bearings Company, GM is also liable for the disposal of hazardous substances from the Harrison Facility into the Passaic River from 1907 to 1918. These hazardous substances have been determined to include PCBs, copper, lead, zinc and oil. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

14. Hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), have been detected in the soil, sediment, groundwater and surface water at the Diamond Alkali Site and include the following: PCBs, dioxins, VOCs, cadmium, copper, lead, mercury, nickel, zinc, polycyclic aromatic hydrocarbons, TCP, PAHs, dichlorodiphenyltrichloroethane ("**DDT**"), 2,3,7,8-TCDD, and 2,4-D, 2,4,5-T.

15. In response to the release or threat of release of hazardous substances at or from the Diamond Alkali Site, EPA listed the Diamond Alkali Site on the NPL on September 1, 1984.

16. On June 22, 2004, EPA entered into a settlement agreement with 31 settling PRPs, not including GM, that required the settling PRPs to fund an RI/FS conducted by EPA at certain areas of the Diamond Alkali Site and reimburse EPA for certain past and future response costs. The June 22, 2004 settlement agreement was amended on November 9, 2005 and August 28, 2007, to add additional PRPs, including GM.

17. On May 8, 2007, EPA issued an AOC to the same settling PRPs that were parties to the June 22, 2004 settlement agreement, as amended. The May 8, 2007 AOC required the settling PRPs, including GM, to take over the performance of the RI/FS from EPA and to reimburse certain future response costs incurred by EPA, including EPA's costs of overseeing the performance of the RI/FS. The settling PRPs are jointly and severally liable under the June 22, 2004 settlement agreement, as amended, and the May 8, 2007 AOC.

18. To date, EPA has incurred approximately $15 million in unreimbursed past response and oversight costs in connection with the Diamond Alkali Site. EPA has incurred additional response costs since that time, and expects to incur response costs in the future. EPA estimates that future response action at the Diamond Alkali Site's LPRSA will cost at least $790 million. EPA has not yet selected the remedy for the remaining portion of the Lower Passaic River that is part of the Diamond Alkali Site. The amount of future costs for which Debtor may be liable to EPA under CERCLA for this remaining portion of the Site has not yet been determined.

19. CERCLA Sections 107(a) and (f), 42 U.S.C. §§ 9607(a) and (f), provide for the recovery of damages for injury to, or destruction or loss of, natural resources caused by the release of hazardous substances to the environment. Injured resources may include, but are not limited to, birds, mammals, fish, plants, and their supporting habitats. The United States of America, through DOI and NOAA, is authorized to act on behalf of the public as a trustee to recover natural resource

damages, as well as the reasonable costs of assessing the injury to, or destruction or loss of, natural resources.

20. DOI and NOAA have not completed a natural resources damage assessment of the Diamond Alkali Site to determine the extent of damage done to the LPRSA and/or Newark Bay by the release of hazardous substances at or from the Site.

21. As of September 2009, NOAA had incurred approximately $1,205,593 in unreimbursed costs associated with its assessment of natural resource damages at the Diamond Alkali Site, and DOI had incurred approximately $1,490,695 in unreimbursed costs. The amount of future costs and damages for which Debtor may be liable to NOAA and DOI under CERCLA has not yet been determined.

22. As set forth above, Debtor is liable to the Government for response actions, and response costs, and natural resource damages incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

23. On March 31, 2011, the Government and Debtors entered into, and lodged with the Bankruptcy Court, the NRD Consent Decree and Settlement Agreement, which would resolve the Debtor's liabilities for natural resource damages at the Diamond Alkali Site. The NRD Consent Decree and Settlement Agreement is subject to public comment and will become effective if, after reviewing any public comments received, the United States determines that the Agreement is in the public interest, and the Bankruptcy Court approves the Agreement.

GM Bedford Plant Site, IN

24. The GM Bedford Plant Site in Lawrence County, Indiana (the "**Bedford Site**") contains an aluminum foundry and powertrain plant that has been operated by GM since 1946, and

is currently owned by New GM. The Bedford Site comprises approximately 150 acres, and is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9).

25. GM owned and operated the Bedford aluminum foundry from 1946 to July 2009, during which time hazardous substances were disposed of at the Bedford Site. These hazardous substances have been determined to include PCBs and oils. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

26. Hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), have been detected in the soil, groundwater and surface water at the Bedford Site and include PCBs and oils.

27. On July 5, 2009, the United States Bankruptcy Court for the Southern District of New York entered an order authorizing the sale of GM's assets pursuant to a Master Sale and Purchase Agreement, which allocated GM's environmental liabilities at the Bedford Site to MLC. In re Motors Liquidation Co., Case No. 09-50026 (Bankr. S.D.N.Y. 2009).

28. CERCLA Sections 107(a) and (f), 42 U.S.C. §§ 9607(a) and (f), provide for the recovery of damages for injury to, or destruction or loss of, natural resources caused by the release of hazardous substances to the environment. Injured resources may include, but are not limited to, birds, mammals, fish, plants, and their supporting habitats. The United States of America, through DOI, is authorized to act on behalf of the public as a trustee to recover natural resource damages, as well as the reasonable costs of assessing the injury to, or destruction or loss of, natural resources.

29. DOI completed a natural resources damage assessment of the Bedford Site to determine the extent of damage done by the release of hazardous substances from the Site, and GM has agreed to perform restoration measures, including lake dredging and the creation of restoration easements.

30. As of September 2009, DOI had incurred approximately $339,677 in unreimbursed costs associated with its assessment of natural resource damages at the Bedford Site. DOI estimates that future restoration costs at the Bedford Site will be at least $5,226,000.

31. As set forth above, Debtor is liable to the Government for natural resource damages, including reasonable costs of assessing injury, incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

32. On March 31, 2011, the Government and Debtors entered into, and lodged with the Bankruptcy Court, the NRD Consent Decree and Settlement Agreement, which would resolve the Debtor's liabilities for natural resource damages at the Bedford Site. The NRD Consent Decree and Settlement Agreement is subject to public comment and will become effective if, after reviewing any public comments received, the United States determines that the Agreement is in the public interest, and the Bankruptcy Court approves the Agreement.

Hayford Bridge Road Groundwater Superfund Site, MO

33. The Hayford Bridge Road Groundwater Superfund Site (the "**Hayford Bridge Site**") is a former chemical reprocessing facility that was operated by Findett Corporation ("**Findett**") in St. Charles, Missouri from 1962 to 1973. The Hayford Bridge Site, which is owned by Findett Real Estate Corporation, comprises approximately 40 acres with three OUs, and is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9). OU1 consists of contaminated soils and groundwater at the property where Findett conducted chemical reprocessing operations. OU2 consists of adjacent property where there was and is PCB soil contamination that migrated from OU1. OU3 consists of a groundwater plume emanating from OU1.

34. GM arranged for the transport of hazardous substances to, and the disposal of those hazardous substances at, the Hayford Bridge Site. These hazardous substances were determined to include hydraulic fluids containing PCBs. GM was the largest generator of PCBs at the Hayford Bridge Site. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

35. Hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), have been detected at the Hayford Bridge Site and include the following: PCBs and VOCs, including trichloroethylene ("**TCE**"), vinyl chloride, benzene, toluene, 1,1-dichloroethene, 1,2-dichloroethane, 1,1-dichloroehtae, and 1,2 dichloroethene.

36. Contamination at the Hayford Bridge Site was discovered by EPA in the 1980s, when Findett reported its onsite handling of PCBs to EPA and the State of Missouri. EPA's follow-up investigations determined that residue containing PCBs and VOCs was discharged into the groundwater and soil at the Hayford Bridge Site.

37. On May 14, 1990, the United States District Court for the Eastern District of Missouri entered a CD between the United States and Findett, requiring Findett to perform the soil and groundwater remediation on OU1. United States v. Findett Corp., Civ. A. No. 90-8417 (E.D. Mo. 1990).

38. In 1997, the United States entered into a settlement agreement with 20 *de minimis* parties pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622.

39. Also in 1997, the United States filed a cost recovery action pursuant to Section 107 and 122 of CERCLA, 42 U.S.C. §§ 9606 and 9622, against Findett and seven other PRPs, including GM, in the United States District Court for the Eastern District of Missouri (the "**Missouri District Court**"). In 1999 the Missouri District Court entered judgment of liability for the United States

against Findett on a motion for summary judgment. *See* United States v. Findett Corp. 75 F. Supp. 2d 982 (E.D. Mo. 1999). Also in 1999, the Missouri District Court entered three separate CDs to which the United States and the seven PRP-defendants other than Findett were parties, including a CD in which GM and two other PRP-defendants jointly agreed to pay certain past response costs pursuant to Sections 107 and 122 of CERCLA, §§ 9606 and 9622.

40. On October 4, 2000, EPA issued an AOC to the major generators of hazardous substances, including GM, requiring the settling PRPs to undertake remedial measures at the Hayford Bridge Site's OU2, including soil removal actions and the placement of deed restrictions on the property to restrict groundwater and soil excavation. In 2001, the major generators of hazardous substances, including GM, conducted a soil removal action pursuant to the October 4, 2000 AOC.

41. In 2003, 25 PRPs, including GM and the *de minimis* parties, performed an RI/FS to determine the nature and extent of the OU3 groundwater contamination and the appropriate groundwater remedial actions.

42. On September 28, 2005, EPA signed a ROD selecting the appropriate remedial actions to be performed at OU3 including monitored natural attenuation, groundwater monitoring, contingency plans should other remedial measures become necessary, and institutional controls, including restrictive covenants and easements on private property.

43. On July 3, 2007, the Missouri District Court entered a CD to which the United States and the 25 PRPs, including GM and the *de minimis* parties, (the "**settling PRPs**") were parties, which required the settling PRPs to perform the groundwater remedy determined for OU3 in the September 28, 2005 ROD. United States v. Findett Real Estate Corp., et al., Civ. A. No. 07-1215 (E.D. Mo. 2007).

44. Although the settling PRPs have reimbursed EPA for certain of its past response costs, EPA estimates that future response action at the Hayford Bridge Site will cost at least $7.8 million in connection with OU1 and $1,431,500 in connection with OU3.

45. As set forth above, Debtor is liable to the Government for future response actions and response costs incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

Kane & Lombard Street Drum Superfund Site, MD

46. The Kane & Lombard Street Drum Superfund Site in Baltimore County, Maryland (the "**K&L Site**") is a former open dump at which demolition, municipal and industrial wastes were disposed of between 1962 and 1984. The K&L Site comprises an unknown number of acres with two OUs, and is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9). The K&L Site's OU1 consists of the portion of the landfill south of Lombard Street and is currently owned by Bayview Golf Center, Inc., and comprises approximately 10 acres. The Site's OU2 consists of the remainder of the landfill and the groundwater impacted by the entire landfill, and as of September 2003, was partially owned by Register Photo, Commercial Transportation, Inc., and PICORP, Inc.

47. GM arranged for the transport of hazardous substances from its Broening Highway plant in Baltimore, Maryland to, and the disposal of those hazardous substances at, the K&L Site from 1963 through 1973. These hazardous substances have been determined to include lead, nickel, zinc, chromium and copper. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

48. Hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), have been detected in the soil, groundwater and surface water

at the K&L Site and include the following: arsenic, beryllium, chromium, copper, nickel, selenium, naphthalene, chlorobenzene, dichlorobenze, ethylbenze, toluene, cyanide, trichloroethene, 1,2-dichloroethene, vinyl chloride and other VOCs.

49. In April 1984, the State of Maryland requested EPA's assistance in securing the cleanup of the K&L Site's OU1, which at the time was being operated as a landfill. From March 6 to June 28, 1984, EPA conducted emergency removal actions at OU1.

50. In response to the threat of release of hazardous substances at or from the K&L Site, EPA listed the K&L Site on the NPL on June 10, 1986.

51. On September 30, 1987, EPA signed a ROD for the K&L Site's OU1 and selected the remedy, including the removal of drums and contaminated soil, construction of subsurface containment and diversion structures, construction of multilayer soil caps over certain areas, construction of a drainage system, clearance of a drainage ditch, development of surface water runoff management facilities and continued groundwater monitoring. These remedial measures were implemented by EPA.

52. On November 17, 1995, the United States District Court for the District of Maryland entered a CD to which the United States, the State of Maryland, and 20 settling PRPs, including GM, were parties. United States v. Edward Azrael, et al., No. Wn-89-2898 (D. Md. 1995). The November 17, 1995 CD required GM and the other settling PRPs to reimburse approximately 76% of EPA's past response costs, assume responsibility for the operation and maintenance of the K&L Site's OU1 remedial action, and reimburse all past and future oversight costs incurred by the EPA. The settling PRPs are jointly and severally liable under the November 17, 1995 CD.

53. On July 16, 1993, EPA issued an AOC to four settling PRPs, including GM, that provided for the settling PRPs to conduct an RI/FS for the K&L Site's OU2. This study was completed in July 2002.

54. Following the completion of this study, the EPA on September 30, 2003, issued a ROD for the K&L Site's OU2 and selected the remedy, including treatment of the groundwater using enhanced reductive dechlorination and institutional controls, limitation of the use of groundwater, and restriction of soil excavation in certain areas.

55. On November 3, 2006, the United States District Court for the District of Maryland entered a second CD to which the United States, the State of Maryland, and four settling PRPs, including GM, were parties. United States et al. v. Browning Ferris et al., No. L-06-1134 (D. Md. 2006). The November 3, 2006 CD required the settling PRPs to design and implement the remedial measures selected for the K&L Site's OU2 in the September 30, 2003 ROD and reimburse EPA's future response action costs. The settling PRPs are jointly and severally liable under the November 3, 2006 CD.

56. To date, EPA has incurred approximately $270,934 in unreimbursed past response costs. Under the terms of November 17, 1995 and November 3, 2006 CDs, the settling PRPs, including their successors, are jointly and severally liable to reimburse EPA for its past and future response action costs. EPA estimates that future remedial action at the K&L Site will cost at least $80,000 in connection with OU1, $735,000 in connection with future oversight costs at OU2, and $7,899,700 in future response action costs at OU2.

57. As set forth above, Debtor is liable to the Government for response and oversight costs incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

Kin-Buc Landfill Superfund Site, NJ

58. The Kin-Buc Landfill Superfund Site located in Middlesex County, New Jersey (the "**Kin-Buc Site**") is a former landfill that was operated by various individuals and corporations, including Kin-Buc, Inc. from the late 1940s to 1976, and accepted industrial and municipal wastes from 1971 to 1976. The Site, which is owned by Inmar Associates, comprises approximately 220 acres with two OUs, and is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9). OU1 includes the waste mounds Kin-Buc I and Kin-Buc II, as well as low-lying areas and a leachate collection pond. OU2 includes Mill Brook/Martins Creek, Edmonds Creek, and associated wetlands.

59. GM arranged for the transport of at least 15 million gallons of hazardous substances from various GM facilities, including GM's former Delco Remy Division, to, and the disposal of those hazardous substances at, the Kin-Buc Site from 1971 through 1976. These hazardous substances included PCBs and hydraulic fluids. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

60. Hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), have been detected in the soil, groundwater and surface water at the Kin-Buc Site and include the following: mercury, metals, cadmium, chromium, copper, zinc, oils, VOCs, and PCBs.

61. CERCLA Sections 107(a) and (f), 42 U.S.C. §§ 9607(a) and (f), provide for the recovery of damages for injury to, or destruction or loss of, natural resources caused by the release of hazardous substances to the environment. Injured resources may include, but are not limited to, birds, mammals, fish, plants, and their supporting habitats. The United States of America, through

NOAA, is authorized to act on behalf of the public as a trustee to recover natural resource damages, as well as the reasonable costs of assessing the injury to, or destruction or loss of, natural resources.

62. NOAA has conducted a natural resources damage assessment of the Kin-Buc Site and, as of June 2009, NOAA had incurred approximately $28,713 in unreimbursed past costs associated with the natural resources damage assessment at the Kin-Buc Site.

63. As set forth above, Debtor is liable to the Government for natural resources damage assessment costs incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

64. On March 31, 2011, the Government and Debtors entered into, and lodged with the Bankruptcy Court, the NRD Consent Decree and Settlement Agreement, which would resolve the Debtor's liabilities for natural resource damages at the Kin-Buc Site. The NRD Consent Decree and Settlement Agreement is subject to public comment and will become effective if, after reviewing any public comments received, the United States determines that the Agreement is in the public interest, and the Bankruptcy Court approves the Agreement.

National Lead Industries Superfund Site, NJ

65. The National Lead Industries Superfund Site located in Salem County, New Jersey (the "**NL Site**") is a former secondary lead smelting facility that was operated from 1972 to 1982, and was sold to National Smelting of New Jersey, Inc. ("**NSNJ**") in 1983. The facility, which recycled lead from spent automotive batteries, continued to operate until 1984, when NSNJ filed for bankruptcy. The Site comprises approximately 44 acres with two OUs, and is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9). OU1 includes the NL Site's groundwater, surface water, contaminated soil, and sediment, and OU2 includes ponded water, slag pits, building structures, and debris.

66. GM arranged for the transport of hazardous substances to, and the disposal of those hazardous substances at, the NL Site from 1983 to 1984. These hazardous substances included dust, sulphuric acid, lead scrap, lead oxide, and slag. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

67. Hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), have been detected in the soil, groundwater and surface water at the NL Site and include lead.

68. CERCLA Sections 107(a) and (f), 42 U.S.C. §§ 9607(a) and (f), provide for the recovery of damages for injury to, or destruction or loss of, natural resources caused by the release of hazardous substances to the environment. Injured resources may include, but are not limited to, birds, mammals, fish, plants, and their supporting habitats. The United States of America, through NOAA, is authorized to act on behalf of the public as a trustee to recover natural resource damages, as well as the reasonable costs of assessing the injury to, or destruction or loss of, natural resources.

69. NOAA has conducted a natural resources damage assessment of the NL Site, which documents past injuries to estuarine and freshwater habitat.

70. As of September 2009, NOAA had incurred approximately $41,537 in unreimbursed past costs associated with the natural resources damage assessment at the NL Site.

71. As set forth above, Debtor is liable to the Government for natural resources damage and assessment costs incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

72. On March 31, 2011, the Government and Debtors entered into, and lodged with the Bankruptcy Court, the NRD Consent Decree and Settlement Agreement, which would resolve the Debtor's liabilities for natural resource damages at the NL Site. The NRD Consent

Decree and Settlement Agreement is subject to public comment and will become effective if, after reviewing any public comments received, the United States determines that the Agreement is in the public interest, and the Bankruptcy Court approves the Agreement.

Onondaga Lake Superfund Site, NY

73. The Onondaga Lake Superfund Site located in Onondaga County, New York (the "**Onondaga Lake Site**") consists of the Onondaga Lake (the "**Lake**"), seven major and other minor tributaries, and contamination sources upland of the Lake. The Onondaga Lake Site contains property, owned by co-debtor Remediation and Liability Management Company, Inc. ("**REALM**"), an MLC subsidiary, where GM Corporation operated its Inland Fisher Guide Facility (the "**IFG Facility**") from 1952 to 1994. At various times the operations at the IFG Facility included plating, buffing, and finishing of metal automobile parts, as well as injection, molding, painting, and assembly of plastic body and trim components for automobiles. The Onondaga Lake Site comprises approximately 185,000 acres with multiple subsites and a separate tributary site, and is a "facility" within the meaning of CERCLA Section 101(9), 42 U.S.C. § 9601(9).

74. Of the various sites at the Onondaga Lake Site, the following five subsites and the separate tributary site are relevant to this Second Proof of Claim: The first subsite includes the Lake bottom ("**Subsite 1**"). Historically, industrial processing plants and municipal wastewater treatment plants routinely discharged their wastes into the Lake, and Solvay Process Company, later purchased by Allied Signal, Inc. and then Honeywell International, Inc. ("**Honeywell**"), operated a soda ash production company on the western shore of the Lake. Subsite 1 was also contaminated by Ley Creek, among other tributaries, which discharges into Onondaga Lake and received hazardous substances from the IFG Facility. Accordingly, during its operation of the IFG

Facility, GM caused the disposal of hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), at Subsite 1. The hazardous substances disposed of by GM and detected at Subsite 1 include PCBs, polychlorinated dibenzo-p-dioxins, and furans. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

75. On July 1, 2005, EPA signed a ROD for the Onondaga Lake's Subsite 1 and selected the remedy, including dredging of contaminated soils, construction of a hydraulic control system, placement of thin-layer caps over certain areas, treatment and off-Site disposal of contaminated soils, water treatment, lake-wide habitat restoration, institutional controls, and long-term operation, management, and maintenance.

76. On January 4, 2007, the United States District Court for the Northern District of New York entered a CD relating to Subsite 1, to which the State of New York and Honeywell were parties. State of New York v. Honeywell Int'l, Inc. 89-CV-815 (N.D. NY 2007). The January 4, 2007 CD required Honeywell to implement the remedy selected by the July 1, 2005 ROD.

77. The second subsite includes the certain areas alongside Ley Creek, which discharges into Onondaga Lake, including the 85 acres on which GM operated the IFG Facility ("**Subsite 2**"). During its operation of the IFG Facility, GM caused the disposal of hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), at Subsite 2. The hazardous substances disposed of by GM and detected at Subsite 2 include heavy metals, PCBs, TCE, xylene, toluene, ethylbenzene, fly ash, chromium, polychlorinated dibenzo-p-dioxins, and furans. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a). EPA and the Debtor entered into an Environmental Response Trust Consent Decree and Settlement Agreement, which

was approved by the Bankruptcy Court on March 29, 2011 (the "**ERT Consent Decree**"), and settles certain of the Debtor's environmental liabilities at Subsite 2 while reserving other of the Debtor's environmental liabilities at Subsite 2.

78. The third subsite includes a former municipal landfill in the Town of Salina that comprises approximately 55 acres and was owned and operated by East Plaza, Inc. and the Town of Salina for industrial and other waste disposal from at least 1964 to 1974 ("**Subsite 3**"). The Subsite 3 property is currently owned by the Town of Salina, East Plaza, Inc., Onondaga County, Niagara Mohawk Power Corporation and the Onondaga County Resource Recovery Agency. From 1964 to 1973, GM arranged for the transport of hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a) to, and the disposal of those hazardous substances at, Subsite 3. The hazardous substances disposed of by GM and detected at Subsite 3 include paint sludge, waste paint thinner, paint reducer, boiler ash, buffing sludge and PCBs. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

79. On March 29, 2007, EPA signed a ROD for the Onondaga Lake's Subsite 3 and selected the remedy, including capping of landfilled areas, excavation and consolidation of contaminated sediments, construction of groundwater and leachate collection trenches, drainage controls, fencing, institutional controls, on-Site groundwater treatment, and ongoing operation and maintenance. In September 2010, EPA signed a ROD Amendment for Subsite 3 that modified the geographic areas where the capping and consolidation are to occur, as well as the extent of the related leachate collection.

80. The fourth subsite includes approximately 18 acres of banks alongside Ley Creek on property formerly owned by Onondaga County and the Niagara Mohawk Power Corporation,

on which Onondaga County placed 100,000 cubic yards of PCB-contaminated dredging that it removed from Ley Creek ("**Subsite 4**"). The property has since been purchased by REALM, an MLC subsidiary. During its operation of the IFG Facility, GM disposed or arranged for the disposal of PCBs, which are hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), at Subsite 4. GM's IFG Facility was the primary source of contamination at Subsite 4. The ERT Consent Decree settles the Debtor's environmental liabilities at Subsite 4.

81. The fifth subsite includes certain downstream banks of Ley Creek ("**Subsite5**"). Subsites 2, 3 and 4, which are upstream of Subsite 5, historically contributed to the contamination of Subsite 5. During its operation of the IFG Facility, GM disposed or arranged for the disposal of PCBs, which are hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), at Subsites 2, 3 and 4. The hazardous substances disposed of by GM at Subsites 2, 3 and 4 and detected at Subsite 5 include PCBs. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

82. In July 2009, EPA took over as the lead agency for the Onondaga Lake Site's Subsite 5.

83. The tributary site includes the Old Ley Creek Channel, a tributary to Ley Creek, which in turn is a tributary to Onondaga Lake, (the "**Tributary Site**"). Subsite 3, which abuts Old Ley Creek Channel, historically contributed to the contamination of the Tributary Site. From 1962 to 1973, GM arranged for the transport of hazardous substances within the meaning of CERCLA Sections 101(14) and 102(a), 42 U.S.C. §§ 9601(14) and 9602(a), to, and the disposal of those hazardous substances at, Subsite 3. The hazardous substances disposed of by GM at Subsite 3 and

detected at the Tributary Site include PCBs, paint thinner, and paint sludge. MLC is the successor to GM and therefore is liable to the Government pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

84. In 1993, EPA and NYSDEC entered into a cooperative agreement by which EPA designated NYSDEC as the lead agency with respect to the Onondaga Lake Site and its subsites. This cooperative agreement expired in October 2008 and has not been renewed.

85. In response to the threat of release of hazardous substances at or from the Onondaga Lake Site, EPA listed the Onondaga Lake Site on the NPL on December 16, 1994.

86. In total, EPA has incurred unreimbursed oversight and response costs of more than $11,383,881 in connection with the Onondaga Lake Site. EPA continues to incur oversight costs in connection with the Onondaga Lake Site. Debtor is liable for EPA's unreimbursed costs and interest under Section 107 of CERCLA, 42 U.S.C. § 9607.

87. CERCLA Sections 107(a) and (f), 42 U.S.C. §§ 9607(a) and (f), provide for the recovery of damages for injury to, or destruction or loss of, natural resources caused by the release of hazardous substances to the environment. Injured resources may include, but are not limited to, birds, mammals, fish, plants, and their supporting habitats. The United States of America, through DOI, is authorized to act on behalf of the public as a trustee to recover natural resource damages, as well as the reasonable costs of assessing the injury to, or destruction or loss of, natural resources.

88. DOI has completed a natural resources damage assessment of the Onondaga Lake Site to determine the extent of damage done by the release of hazardous substances from the Site, and as of September 2009, DOI had incurred approximately $85,171 in unreimbursed costs associated with its assessment of natural resource damages at the Onondaga Lake Site.

89. DOI, together with State authorities, completed a HEA at the Onondaga Lake Site to determine the costs of restoration needed to compensate for natural resource injury, recreational fishing loss, and remedial injury due to aquatic resources due to releases of hazardous substances from the Site. The HEA determined that sediment and fish sustained substantial ecological injuries from the hazardous substances released at the Onondaga Lake Site. The HEA further determined that the amount of natural resource damages, including the restoration necessary to restore the sediment and fish at Onondaga Lake Site, such as dam removal and water quality improvements, will cost at least $9.5 million. In addition, DOI's future oversight costs in connection with remedial measures at the Onondaga Lake Site will be at least $1.5 million. This claim is joint with the State of New York and the Onondaga Nation.

90. As set forth above, Debtor is liable to the Government, including EPA and DOI, for future response actions, response costs, and natural resource damages and assessment costs incurred and to be incurred under CERCLA, plus interest. Other potentially responsible parties, if any, may be jointly and severally liable along with Debtor.

PROTECTIVE FILING FOR WORK OBLIGATIONS

91. MLC must comply with mandatory injunctive, regulatory and compliance requirements arising under Orders of Courts, Administrative Orders, and other environmental regulatory requirements imposed by law. The United States reserves the right to take future actions to enforce any such obligations of MLC, provided, however, that nothing herein modifies the covenants and reservations of rights set forth in the ERT Consent Decree, the Non-Owned Site Consent Decree and the Priority Order Site Consent Decrees and Settlement Agreements (as defined in the Plan of Liquidation). Nothing in this Second Proof of Claim constitutes a waiver of any rights of the United States or an election of remedies with respect to such rights and

obligations.

ADDITIONAL TERMS

92. This Second Proof of Claim is filed as an unsecured non-priority claim, except to the extent: (i) any rights of setoff secure the Government's claims; (ii) any secured/trust interest exists in insurance proceeds received by Debtor on account of the Government's claims; and (iii) any financial assurance (such as letters of credit or performance bonds) posted by the Debtor in favor of the Government or any federal agency in connection with the matters discussed herein. The Government's position as to injunctive remedies is set forth in Paragraph 91.

93. This Second Proof of Claim is also filed to the extent necessary to protect the Government's rights with respect to any insurance proceeds received by Debtor, and any funds held in escrow by Debtor, in connection with the matters discussed herein.

94. This Second Proof of Claim is without prejudice to any right under 11 U.S.C. § 553 to offset, against this claim, debts owed (if any) to Debtor by the Government or any federal agency.

95. The Government has not perfected any security interest on its claims against Debtor.

96. Except as stated in this Second Proof of Claim, no judgments against Debtor have been rendered on the claims set forth herein.

97. No payments to the Government have been made by Debtor on the claims set forth herein.

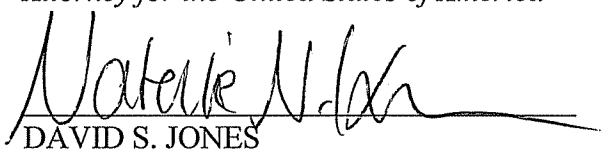
98. This Second Proof of Claim reflects certain known liabilities of Debtor to the United States of America. The Government reserves the right to amend this Second Proof of Claim to assert additional liabilities, including but not limited to liabilities for additional costs for the matters discussed herein.

99. Additional documentation in support of this Second Proof of Claim is too voluminous to attach, but is available upon request.

Dated: New York, New York
April 8, 2011

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for the United States of America

By: 

DAVID S. JONES
NATALIE N. KUEHLER
Assistant United States Attorneys
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel. No.: (212) 637-2800
Fax No.: (212) 637-2739/2741
E-mail: david.jones6@usdoj.gov
natalie.kuehler@usdoj.gov

- and -

PATRICK CASEY
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
Washington, DC 20044
Tel. No.: (202) 514-1448
Fax No.: (202) 514-0097
E-mail: patrick.casey@usdoj.gov