UNITED STATES ANNOUNCES $23.8 MILLION SETTLEMENT WITH GM TO RESOLVE ENVIRONMENTAL LIABILITIES AT THREE SUPERFUND SITES IN NEW JERSEY, MARYLAND, AND MISSOURI

Preet Bharara, the United States Attorney for the Southern District of New York, announced today that the United States has entered into a Settlement Agreement with a successor trust to Chapter 11 debtor MOTORS LIQUIDATION COMPANY (“Old GM”), formerly known as General Motors Corporation, to settle Old GM’s environmental liabilities arising from its releases of hazardous substances at Diamond Alkali Superfund Site in New Jersey, the Kane & Lombard Street Drum Superfund Site in Maryland, and the Hayford Bridge Road Groundwater Superfund Site in Missouri. The Settlement Agreement was lodged yesterday in Manhattan bankruptcy court.

The Settlement Agreement resolves claims brought by the United States against Old GM under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), commonly known as the Superfund Statute, to recover the cleanup costs of the Environmental Protection Agency (“EPA”) at the three sites. Under the terms of the agreement, EPA will receive allowed bankruptcy claims collectively exceeding $20.9 million to settle environmental claims at these sites. These allowed claims will be paid in stock and warrants of GENERAL MOTORS CORPORATION (“New GM”) in an amount to be determined through the bankruptcy. The United States anticipates that, as a function of bankruptcy law, the New GM stock and warrants received by EPA will have a cash value of less than the face amount of EPA’s allowed claim. In addition to this allowed claim of $20.9 million, certain third parties will perform cleanup work valued at $2.89 million at the sites.

The Diamond Alkali Superfund Site is located in and around Essex, Hudson, and Passaic Counties in New Jersey and includes a 17-mile portion of the Passaic River, Newark Bay, and portions of the Hackensack River, the Arthur Kill and the Kill Van Kull. The United States’ claim alleged that, from 1918 to 1970, OLD GM had discharged hazardous substances, including Polychlorinated biphenyls (“PCBs”), copper, lead, zinc and oil, from its Hyatt Roller Bearings Company automotive facility in Harrison, New Jersey, into the Passaic River. The claim further alleged that this pollution contributed to the overall contamination at the Diamond Alkali Superfund Site, for which dozens of other responsible parties are also liable. The settlement allocates an allowed general unsecured claim of $19.5 million for the cleanup costs at the Diamond Alkali Superfund Site.
The Kane & Lombard Superfund Site is a former open dump that is located in Baltimore County in Maryland. The United States’ claim alleged that, from 1963 through 1973, OLD GM arranged for the transport of hazardous substances from its Broening Highway plant in Baltimore, Maryland, to the Kane & Lombard dump, where their disposal resulted in environmental contamination. The claim alleged that the hazardous substances trucked to the dump by OLD GM included lead, nickel, zinc, chromium, and copper, and contributed to the overall contamination at the Kane & Lombard Superfund Site, for which multiple other parties are also responsible. In accordance with the terms of a bond posted by OLD GM, the settlement allocates up to $2,448,334 for the cleanup at the Kane & Lombard Street Superfund Site.

The Hayford Bridge Superfund Site is a former chemical reprocessing facility that is located in St. Charles, Missouri, and was operated from 1962 to 1973. The United States’ claim alleged that OLD GM arranged for the transport of hazardous substances, including PCBs, benzene, toluene, and vinyl chloride, to the site, where their disposal resulted in environmental contamination. The settlement allocates work up to $448,000 in accordance with the terms of a bond posted by OLD GM and an allowed general unsecured claim in the amount of $1,402,000 for the cleanup at the Hayford Bridge Superfund Site.

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In June 2009, Old GM – then the second-largest automotive manufacturer in the world – and three wholly-owned subsidiaries filed Chapter 11 petitions in the U.S. Bankruptcy Court for the Southern District of New York. The same day it filed for bankruptcy, Old GM also filed a motion to sell substantially all of its assets to a newly formed corporation, now known as General Motors Company (“New GM”), which was approved by the Bankruptcy Court in July 2009. Old GM thereafter filed a plan of liquidation, which was confirmed by the Bankruptcy Court on March 29, 2011. Old GM has since dissolved, and transferred its remaining assets and liabilities to various successor trusts.

The United States filed proofs of claim against Old GM and its affiliated debtors for environmental liabilities at over 100 sites. The United States also sought civil monetary penalties for violations of The Resource Conservation and Recovery Act and the Clean Air Act. The settlement is the tenth in a series of settlements of Old GM’s environmental liabilities that have recovered more than $860 million in cash, allowed general unsecured claims, and other assets for cleanup of contaminated sites across the nation and an environmental response trust created to remediate and redevelop contaminated properties formerly owned by Old GM.

Before being considered by the Bankruptcy Court for approval, this tenth settlement agreement will be lodged with the Bankruptcy Court for a period of 30 days and published in the Federal Register to provide public notice and to afford members of the public the opportunity to comment on the settlement. The settlement is subject to the approval of U.S. Bankruptcy Judge Robert E. Gerber.

Mr. Bharara praised the EPA and the Justice Department’s Environment and Natural Resources Division for their extraordinary work on this case.

This case is being handled by the Office’s Environmental Protection Unit and Tax and Bankruptcy Unit. Southern District of New York Assistant U.S. Attorneys David S. Jones and
Natalie N. Kuehler, along with Alan S. Tenenbaum and Patrick M. Casey of the Environment and Natural Resources Division of the Department of Justice, are in charge of this case.