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November 15, 2004

VIA MESSENGER

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Richard P. Boyd, Chief
M&HDT Division
Office of Defects Investigation
National Highway Traffic Safety Administration
Department of Transportation
400 Seventh Street, S.W.
Room 5326
Washington, D.C. 20590-0001

CONFIDENTIAL BUSINESS
INFORMATION - TRADE SECRET -
PROPRIETARY

Re: NHTSA Case No. PE04-057

Dear Mr. Boyd:

On behalf of Polaris Industries Inc. ("Polaris"), I am submitting this letter in response to the National Highway Traffic Safety Administration's (NHTSA) letter of August 4, 2004. The August 4 letter requests that Polaris' Victory Motorcycle Division ("Victory") provide responses to a series of NHTSA requests related to an alleged defect in the transmissions in Victory motorcycles. Specifically, the alleged defect involves "unintentional, spontaneous transmission downshifting and/or transmission lock-up" occurring on model year (MY) 1999 and 2000 Victory brand motorcycles.

Subsequently, NHTSA informed Victory that NHTSA also seeks information regarding MY 2001, 2002, and 2003 Victory motorcycles. In addition, for requests 5 through 7, NHTSA granted Victory an extension until November 15, 2004 for the submission of responses to these requests. Information responsive to these requests is therefore submitted in this letter.

* * * *

Chicago

London

Los Angeles

New York

San Francisco

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As requested in the August 4, 2004 letter, the individual NHTSA requests are repeated below, followed by the Polaris responses, for the NHTSA requests.

1. *Separately, for each month/year of production, state the number of subject vehicles sold in the United States by model year/model.*

This information was previously submitted in Polaris' response of September 30, 2004.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

a. owner complaints;

This information was previously submitted in Polaris' response of September 30, 2004.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

b. field reports;

Subsequent to the September 30, 2004 submittal, Polaris conducted additional word searches of the Victory dealer service reports for MY 1999-2003 Victory motorcycles using broader search criteria. In addition, during these subsequent searches, even if a field report might be determined to be unrelated through other records (e.g., a subsequent follow-up report that identified a different unrelated cause of the condition), the field report was retained in the final list. Please find attached (Attachment A) copies of the additional field reports received which relate, or could relate, to the alleged defect (16 total additional field reports.). Please also find attached (Attachment B) an updated Excel spreadsheet containing a tabulation of all of the field reports. An electronic copy of Attachment B (and all of the Excel spreadsheets attached to this letter) is provided on a CD labeled Attachment I. The newly identified field reports are marked with an asterisk in the last column of the spreadsheet. The revised list contains 89 records involving 62 unique VINs. The prior list of field reports submitted on September 30, 2004 identified 73 such records involving 46 unique VINs.

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2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

c. *crash/incident claims;*

This information was previously submitted in Polaris' response of September 30, 2004.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

d. *subrogation claims;*

This information was previously submitted in Polaris' response of September 30, 2004.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

e. *lawsuits; and*

This information was previously submitted in Polaris' response of September 30, 2004.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

f. *third-party arbitration proceedings (where Polaris is a party to the arbitration).*

This information was previously submitted in Polaris' response of September 30, 2004.

3. *If Polaris has issued any service or technical bulletins, advisories, or other communications to dealers, zone offices, or field offices pertaining to the alleged defect, provide a copy of each such document. If no such documents have been issued, so state. For each document identified:*

This information was previously submitted in Polaris' response of September 30, 2004.

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3. a. *Provide a complete chronology listing all activities or events, including, but not limited to incidents involving the subject component, which led Polaris to believe it needed to undertake the communication;*

This information was previously submitted in Polaris' response of September 30, 2004.

3. b. *Provide a listing (in chronological order) of all information related to any testing through which the need for the communication was identified and/or assessed, even if the testing was being conducted for another purpose. Please provide a copy of each item listed; and*

This information was previously submitted in Polaris' response of September 30, 2004.

3. c. *Provide the number of repairs and/or replacement paid for by Polaris that resulted from the communication identified. List your response by repairing dealer (and include the dealer name, address, and phone number.*

This information was previously submitted in Polaris' response of September 30, 2004.

4. *Provide a listing of all warranty claims, including extended warranty claims, and requests for "good will," field, or zone adjustments received by Polaris that relate to the alleged defect, by model, model year, build month, VIN, calendar month of claim, and problem claim code. Each problem claim code must be identified.*

Subsequent to the September 30, 2004 submittal, Polaris conducted additional word searches of the Victory warranty records for MY 1999-2003 Victory motorcycles using broader search criteria. In addition, during these subsequent searches, even if a warranty record might be determined to be unrelated through other records (e.g., a subsequent follow-up report that identified a different unrelated cause of the condition), the warranty report was retained in the final list. Please find attached (Attachment C) copies of the additional warranty reports received which relate, or could relate, to the alleged defect (12 total additional warranty reports.). Please also find attached (Attachment D and included on the CD provided as Attachment I) an updated Excel spreadsheet containing a tabulation of all of the warranty reports. The Excel spreadsheet lists these claims by model, model year, build month, VIN, calendar month of claim, and problem claim code. The newly identified warranty reports are marked with an asterisk in the last column of the spreadsheet. The revised list contains 29 records involving 29 unique VINs. The prior list of field reports submitted on September 30, 2004 identified 17 such records involving 17 unique VINs. Also attached is an updated Excel spreadsheet (Attachment E and included on the CD provided as Attachment I) which includes an updated listing of the

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definitions of each of the problem codes. The problem code list includes additional codes that were identified in the additional warranty records being submitted.

5. *Identify and provide copies of all documents reflecting any study, survey, and investigation (including assessments of motorcycles involved in field failures, including those identified in the attached reports) pertaining to the alleged defect that is known to Polaris. Include all pertinent documents, regardless of whether they are in interim, draft, or final form.*

Polaris has included in Attachment F a copy of records relating to studies, surveys, and investigations pertaining to the alleged defect. These documents are provided in chronological order, to the extent possible, and include:

- (a) internal Victory documents and memoranda concerning transmission issues;
- (b) development and durability testing reports (Polaris' September 30, 2004 letter noted that data from the MY 2002 Durability Test Vehicles was relied upon and/or assessed by Polaris in determining the need for the transmission kits and the associated communications. This testing documentation was actually from the MY 1999, 1999.5, and 2000 Durability Test Vehicles, not MY 2002, and is included in Attachment F.);
- (c) internal engineering analysis of transmission durability issues;
- (d) internal quality control related documents; and
- (e) other internal Victory documents.

Please note that several of the Attachment F documents, titled "CLOSED TEST ISSUES - LONG'S & MGA" or "VICTORY TEST ISSUE LIST - OSCEOLA & MGA," identify various engineering projects that Polaris tracked. The majority of these projects, however, are unrelated to the transmission issue and, therefore, have been redacted. In addition, included as Attachment I to the September 30, 2004 Polaris submittal was an April 20, 2000 memorandum from Dan Bauer to Geoff Burgess that describes transmission issues. That document is also responsive to request 5. Polaris has not located any other documents relating to assessments of motorcycles involved in field failures pertaining to the alleged defect, including those identified in the attached reports.

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6. *Identify and describe all significant modifications or changes made by or on behalf of Polaris that may relate in any way to the alleged defect. This would include any changes made to subsequent model years that could impact transmission shift-quality and longevity. The following information must be included for each such modification or change:*

- a. the component name, original and modified part number(s), and the approximate date on which the modification or change was incorporated into production;*
- b. a description of the modification or change;*
- c. the reason for the modification or change;*
- d. whether components produced after the change/modification date can be interchanged with earlier production components;*
- e. the number of subject vehicles produced both before and after each modification or change; and*
- f. a complete chronology of events leading to the modification or change.*

Attachment G contains an Excel spreadsheet (also included on the CD provided as Attachment I) that tracks the design changes to the transmission used in MY 1999-2003 Victory motorcycles. This Excel spreadsheet lists the following attributes:

- (a) the original or modified part number(s);
- (b) the component name;
- (c) the date the modification went into production;
- (d) a description of the modification/change;
- (e) the reason for the modification/change;
- (f) whether a component can be interchanged with earlier production components;
- (g) the number of vehicles produced before and after each modification; and
- (h) the chronology of events leading to modification/change.

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Polaris' record system does not track component revision levels while in production. Thus, the production build number for a given component was generated using all revision levels. Given that it is not possible to give an exact production number that corresponds to each design change to the transmissions in MY 1999-2003 Victory motorcycles, the Attachment G Excel spreadsheet provides Polaris' best estimate of the production numbers.

Also being submitted as Attachment H are copies of the drawings associated with the transmission components in MY 1999-2003 Victory motorcycles, the engineering documentation accompanying the design changes to these components, and the product order screens that document the component changes. The Attachment H documents are arranged in order by component number corresponding to the order in which the components are listed in the Attachment G Excel file.

7. *Furnish Polaris's assessment of the alleged defect. Please address the following:*

- a. all causal or contributory factors;*
- b. failure mode;*
- c. root cause of the failures;*
- d. potential for future occurrences of unintentional side stand deployment [subject transmission issue]; and*
- c. safety consequences.*

Polaris has reviewed the documents submitted with this letter and its September 30, 2004 letter. Polaris firmly concludes that the issues related to the Victory transmissions are durability-based issues and not the result of a design defect in the transmission. The transmission condition being discussed results from gradual wear of transmission components, with cues being provided to the operator, not the unexpected and sudden failure of the transmission without warning. Since this failure mode is progressive, the operator has ample time to service the vehicle.

While it is unusual on a motorcycle to miss a shift or have the gears "ratchet" during a shift, such events do occasionally occur. The increased frequency of such events should alert the operator that the motorcycle should be examined, diagnosed, and serviced by a qualified dealer. At the same time that the shifting performance of the transmission is degrading, the transmission is providing both audible and tactile signals to the operator. An operator would hear noises or irregular sounds from the drivetrain. In addition, an operator sometimes would feel the transmission grind or "chatter" through the shift lever, handlebars, or chassis. These warning signals to operators alert consumers to have their motorcycles serviced before further transmission wear results.

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There are several potential causes of "unintentional, spontaneous transmission downshifting and/or transmission lock-up." The primary cause of a "Spontaneous Downshift" is the inability of the transmission to remain in the selected gear. The root cause of this is wear of the gear engagement dogs along with thrust loading by engaged gears during high-load conditions (*i.e.*, heavy acceleration).

The thrust loads generated by the engaged gears, even during such high-load events, generally do not load the transmission's shift fork and shift drum. Consequently, the shift fork and shift drum are not designed to withstand such loading. The gear engagement dogs rely on their load-bearing surface areas and the friction developed on those surfaces to remain engaged. If the gear engagement dogs are worn (*e.g.*, rounded or chipped), then these loads may be transferred to the shift forks and shift drum which are not explicitly designed to handle such loading. Under such a combination of events, a spontaneous transmission downshift could occur.

With respect to a "Locked Transmission," as opposed to a "Spontaneous Downshift," there are fewer possible causes. A worn, bent, or damaged shift fork could potentially allow the transmission to select two different gears simultaneously, thereby locking the transmission. Another possibility is axial movement of the transmission shafts and/or shift drum such that the transmission selects two or more gears, simultaneously locking the transmission. The root causes for these potential failure modes are the same as those listed above for the "Spontaneous Downshift" condition.

All motor vehicles will eventually fail due to durability issues if the vehicles are used long enough. Regular maintenance, proper operation, and servicing will extend the useful life of any vehicle. Engagement dog wear, as discussed above, will occur on almost any motorcycle if it is ridden long enough. Improper shifting techniques and aggressive operating practices will reduce the time needed to wear transmission components. When Polaris customers have had issues with a transmission during the warranty period, Polaris has serviced the vehicle to ensure that the transmission functioned as intended. In cases where the issue arose after the warranty period had expired, Polaris has almost always serviced the vehicle in order to maintain the customer's goodwill. Customer satisfaction is vital for any new brand such as Victory as it enters a market to compete with established brands.

Although the durability of Victory's original transmission design for MY 1999 through MY 2000 is less than expected, Polaris does not believe that the transmission design is a safety defect. This conclusion results from the progressive nature of the transmission condition, if, in fact, it occurs in a particular vehicle. Among the thousands of Victory motorcycles

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manufactured, including the many units which have had their transmissions serviced, Polaris was able to find only five separate vehicles where an incident/accident was alleged to have occurred as a result of the alleged defect. See Attachment F to Polaris' September 30, 2004 submittal. Of these five vehicles, at least three could not be confirmed to have any fault in the transmission. Most importantly, there has been only one claim that alleges any injury whatsoever. This claim provided no details beyond the bare allegation of an injury, and the injury was never substantiated. Moreover, there was no indication in this report that any sort of medical attention was required.

Subsequent efforts by Victory to improve its transmission have successfully resolved the durability issues discussed above. In particular, the transmission redesign for MY 2001 motorcycles eliminated the helical final drive gear set and the resultant thrust loads, and incorporated: new gear engagement dogs with a more optimal engagement dog mating-pocket size; reduced engaging gear differential speeds; a new drive clutch; and more robust transmission and shift drum axial retention methods. The improved durability of the Victory motorcycle transmissions is confirmed by fewer warranty claims, field reports, and customer service calls for the MY 2001 and later vehicles.

The number of transmission-related reports should also decrease for MY 2001 and later motorcycles because of a new transmission design that was an improvement over the older transmission in numerous ways, including durability. It is therefore highly unlikely that consumers will experience early durability issues in MY 2001 and later Victory motorcycles. This conclusion also has been confirmed by warranty claim, field report, and service call data which contain far fewer reports for MY 2001 and later motorcycles that might be related to the alleged defect.

* * * *

Additional NHTSA Questions. Polaris received the following questions from Bob Young of NHTSA on November 7, 2004:

I'm reviewing the crash claim spreadsheet and have a couple of initial questions: What does "37354" in the date field mean? Many of these claims appear open-ended. What was the final resolution for each?

Polaris has reviewed the Attachment G Excel file from its September 30, 2004 submittal, which contains crash/incident claim documents. Polaris was not able to locate a "37354" notation in the Excel file date field. The date field (column A) appears to only contain dates.

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Polaris notes that the date entries for rows 5 and 6 were inadvertently entered as "4/12/2002" and "2/25/2002," respectively. This is different from the date notation/convention (day-month-year; e.g., 01-Dec-00) used in the other rows. This may explain the "37354" notation.

Based on the information available to Polaris, all of the claims identified in this Attachment G have been resolved. Specifically:

(1) [REDACTED] Polaris has no other information relating to this incident.

(2) [REDACTED] Polaris has no other information relating to this incident.

(3) VIN [REDACTED]: The hard copy of the consumer contact that was submitted has a few more lines than appear on the Excel summary (see September 30, 2004 submittal, Bates POL-VIC-F-0015 through 18). Polaris has no other information relating to this incident.

(4) VIN [REDACTED] There is a warranty claim for a transmission repair, and the comment on the warranty claim reads: "FOURTH GEAR BAD." There are also two tech comments that occur after the one produced in the September 30, 2004 submittal. These two comments state:

"5235M: 1ST GEAR TEETH ALL GONE (BOTH DRIVEN & DRIVE ALSO HAS MANY GEAR TEETH WITH DAMAGE.
PARTS: TRANS KIT, DRIVE BELT, FRONT SPROCKET.
LABOR: 13 HOURS
AUTHO: 260107"

and

"HOW TO FILL OUT WARRANTY CLAIM. PLEASE WAIT UNTIL REPAIR IS COMPLETED. WENT THROUGH PROCESS. ALSO, TRANS PACKAGES ARE ON BO. BUT SHOULD HAVE BY NEXT WEDNESDAY."

The documents related to these warranty claims and tech comments are included as Attachment J.

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(5) VIN [REDACTED] Polaris has no other information relating to this incident.

* * * *

As Polaris noted in its September 30, 2004 submittal, to obtain the materials submitted, Polaris conducted searches of the places where responsive material should be located in the ordinary course of business. Other responsive materials may exist that have not been produced because they have not been located. It is possible that additional documents responsive to NHTSA's requests will be identified in the future. If such records are identified, they will be provided as appropriate.

With respect to a privilege log, no privileged documents have been identified other than documents generated by Polaris and its counsel in responding to this NHTSA investigation. Polaris assumes that these documents, generated through the routine process of responding to NHTSA, are not required to be included in a privilege log. Generating such a privilege log would be unduly burdensome, would not be relevant to the investigation, and would relate only to the process of responding to NHTSA.

As Polaris also noted in its September 30, 2004 submittal, it is not technically feasible to systematically retrieve e-mails that may be related to the alleged defect. There may be instances where isolated e-mails have been saved by individuals in their working files. Where such records are located, they have been produced to the extent that they are responsive to NHTSA's requests.

* * * *

Polaris requests that this letter be afforded confidential treatment by NHTSA indefinitely. This submission includes information that is commercial in nature and is not customarily disclosed to the general public. The information being submitted includes some material that is entitled to protection from disclosure as self-critical analysis as well as confidential business or trade secret information. It therefore is exempt from disclosure under the Trade Secrets Act, 18 U.S.C. § 1905, and/or the Freedom of Information Act, 5 U.S.C. § 552(b). These materials also include some information about private individuals that should not be disclosed to the public. Accordingly, Polaris submits this information in expectation of confidential treatment (*see* 49 C.F.R. Part 512). A separate letter forwarding this submittal to the Office of Chief Counsel, is also being submitted. This separate letter requests confidential treatment and includes the required redacted copy of this submittal as well as the justification for confidential treatment.

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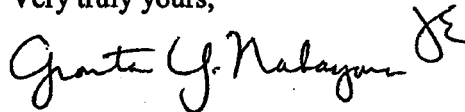
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If you have any further questions about this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Granta Y. Nakayama", followed by a stylized monogram or flourish.

Granta Y. Nakayama

Attachments

cc: Otto Matheke, Office of the Chief Counsel, NHTSA