DAIMLERCHRYSLER

DaimlerChrysler Corporation
Stephan J. Speth
Director
Vehicle Compliance & Safety Affairs

March 12, 2007

Ms. Kathleen C. DeMeter
Office of Defects Investigation
National Highway Traffic Safety Administration
U.S. Department of Transportation
400 Seventh Street, SW
Washington, D.C. 20590

Reference: NVS-213swmc; EA06-010

Dear Ms. DeMeter,

This document contains DaimlerChrysler Corporation's (DCC's) response to the referenced inquiry dated January 25, 2007 regarding unshielded fuel tanks may punctures from contact with road debris in 2004-2006 model year Chrysler Pacifica ("CS") and 300C ("LX") peer vehicles as requested. In reaching the analysis and conclusions, and by providing the information contained herein, DCC is not waiving its claim to attorney work product and attorney-client privileged communications.

According to the NHTSA, DCC's level of input was higher than other manufacturers who responded to the PE05-050 peer inquiry. DCC submitted a greater number of field reports because it maintained a part restriction program that created inputs for dealer fuel tank replacements, which are not typically submitted or tracked by the manufacturer. Of the data collected only a small portion specifically alleges a fuel tank puncture from road debris while the majority of the data alleges fuel tank damage without specifically noting a puncture.

The Chrysler Pacifica and 300C meets or exceeds all requirements outlined in FMVSS 301. DCC is not aware of any reports involving crash, injury, fire, property damage or fatality related to the subject vehicle fuel tank damage from road debris. DCC contends that the subject component poses no unreasonable risk to motor vehicle safety.

Sincerely,

for Stephan Speth

Stephan J. Speth

Attachments and Enclosures

DaimlerChrysler Corporation
800 Chrysler Drive CIMS 482-00-91
Auburn Hills MI USA 48326-2757

State, by model and model year, the number of subject vehicles, and peer vehicles, DCC has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by DCC, state the following:

a. **Vehicle identification number (VIN);**
b. **Model;**
c. **Model Year;**
d. **Date of manufacture;**
e. **Date warranty coverage commenced; and**
f. **The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).**

Note: Unless otherwise indicated in the question response, all data contained in this response is from March 2, 2006 to January 25, 2007.

Provide the table in Microsoft Access 2000, or a compatible format, entitled "PRODUCTION DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table which provides further details regarding this submission.

A1 CS Subject Vehicle Production Volumes

Model Year (MY)	Make / Model	U.S. Market Volume
2004	Chrysler / Pacifica	98,583
2005	Chrysler / Pacifica	118,564
2006	Chrysler / Pacifica	82,547
Total Volume: 299,694		

The following are the production for the Peer Vehicles requested.
LX Production Volumes (LX launched as a 2005 vehicle)

Model Year (MY)	Make / Model	U.S. Market Volume
2005	Chrysler 300 and 300C Dodge Magnum ("LX")	238,465
2006	Chrysler 300 and 300C Dodge Magnum and Charger ("LX")	395,521
Total Volume: 633,986		

2. **State the number of each of the following, received by DCC, or of which DCC is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles and peer vehicles:**

a. **Consumer complaints, including those from fleet operators;**
b. **Field reports, including dealer field reports;**
c. **Reports involving a crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer**

alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;

d. Reports involving a fire, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;

e. Property damage claims; and

f. Third-party arbitration proceedings where DCC is or was a party to the arbitration; and

g. Lawsuits, both pending and closed, in which DCC is or was a defendant or codefendant.

For subparts "a" through "e" state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items "c" through "g," provide a summary description of the alleged problem and causal and contributing factors and DCC's assessment of the problem, with a summary of the significant underlying facts and evidence. For items "f" and "g," identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

A2 The following summarizes the non-privileged reports received by DCC that relate to, or may relate to, the alleged condition in the subject vehicles. DCC has conducted a reasonable search of records kept in the ordinary course of business for such information.

There are a total of 8 customer complaints (7 unique VIN's) for the subject vehicle and 20 customer complaints (17 unique VIN's) for the peer vehicle, with alleged fuel tank puncture or damage from road debris.

CS Customer Complaints

Criteria	'04 MY	'05 MY	'06 MY	Total	Unique VINs
Alleged Puncture / Damage from Road Debris	2	2	4	8	7
Fuel Tank Damage Cause / Extent Unknown	0	0	0	0	0
Total Complaint Count	2	2	4	8	7

LX Customer Complaints

Criteria	'04 MY	'05 MY	'06 MY	Total	Unique VINs
Alleged Puncture / Damage from Road Debris	NA	7	13	20	17
Fuel Tank Damage Cause / Extent Unknown	NA	0	0	0	0
Total Complaint Count	NA	7	13	20	17

b. There are a total of 13 field reports for the subject vehicle, CS Pacifica (all unique VINs) and 72 field reports for the peer vehicle LX (all unique VINs) that allege fuel tank puncture or damage from road debris in the subject vehicle.

CS Field Reports

Criteria	'04 MY	'05 MY	'06 MY	Total	Unique VINs
Alleged Puncture / Damage from Road Debris	6	4	2	12	12
Fuel Tank Damage Cause / Extent Unknown	1	0	0	1	1

LX Field Reports

Criteria	'04 MY	'05 MY	'06 MY	Total	Unique VINs
Alleged Puncture / Damage from Road Debris	NA	36	36	72	72
Fuel Tank Damage Cause / Extent Unknown	NA	0	0	0	0

c. There are no reports involving crash, injury or fatalities for the subject or peer vehicles that are responsive to this inquiry.

d. There are no reports involving fires for the subject or peer vehicles that are responsive to this inquiry.

e. There are no claims involving property damage for the subject or peer vehicles that are responsive to this inquiry.

f. There are no third party arbitration proceedings, where DCC is or was a party to the arbitration, responsive to this inquiry.

g. There are no lawsuits, either pending or closed, against DCC, or notices received by DCC that are responsive to this inquiry.

3. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:

a. DCC's file number or other identifier used;
b. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
c. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;
d. Vehicle's VIN;
e. Vehicle's make, model and model year;
f. Vehicle's mileage at time of incident;
g. Incident date;
h. Report or claim date;
i. Whether a crash is alleged;
j. Whether a fire is alleged;
k. Whether property damage is alleged;
l. Number of alleged injuries, if any; and
m. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2000, or a compatible format, entitled "REQUEST NUMBER TWO DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table which provides further details regarding this submission.

A3 The detailed summary of all requested information in response to Request No. 2 is provided in Enclosure 3 titled "Request Number 2 Data."

4. Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method DCC used for organizing the documents.

A4 Copies of all documents within the scope of Request No. 2 are provided in Enclosure 4, titled "CAIR & Field Reports".

The data within Enclosure 4 is organized in the following manner: the CAIR & Field Reports folder contains sub-folders for CAIR complaints (customer complaint) and Field Reports. These are further subdivided into subject and peer vehicles.

5. State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by DCC to date that relate to, or may relate to, the alleged defect in the subject vehicles and peer vehicles: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance

with a procedure specified in a technical service bulletin or customer satisfaction campaign.

Separately, for each such claim, state the following information:

a. DCC's claim number;
b. Vehicle owner or fleet name (and fleet contact person) and telephone number;
c. Vehicle owner or fleet mailing address;
d. Vehicle Model;
e. Vehicle Model Year;
f. VIN;
g. Repair date;
h. Vehicle mileage at time of repair;
i. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
j. Labor operation number;
k. Problem code;
l. Replacement part number(s) and description(s);
m. Concern stated by customer; and
n. Cause, correction and comments, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2000, or a compatible format, entitled "WARRANTY DATA." See Enclosure 1, Data Collection Disc, for a pre-formatted table which provides further details regarding this submission.

A5 The following are charts illustrating the warranty claims for the subject and peer vehicles. The charts also illustrate DCC's assessment of the claims, whether 1) related to alleged condition, 2) not related to alleged condition and 3) insufficient information to determine if related to alleged condition. The total claim count does not include non-related claims. Insufficient information includes those claims without a narrative or determined not related to the alleged condition.

CS Subject Vehicle Warranty

Model Year	Claims that may relate to the alleged condition	Non-Related Claims / Tanks Replaced	Insufficient Information	Total Claims
2004 - 2006	0	51/2	174	176

LX Peer Vehicle Warranty

Model Year	Claims that may relate to the alleged condition	Non-Related Claims / Tanks Replaced	Insufficient Information	Total Claims
2005 - 2006	1	180/3	285	304

6. Describe in detail the search criteria used by DCC to identify the claims identified in response to Request No. 5, including the labor operations, problem codes, part numbers and any other pertinent parameters used. Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject vehicles and peer vehicles.

A6 The search criteria used to identify claims related to the alleged defect in the subject and peer vehicles include:

- LOP – 146001, with all problem codes
- Subject part numbers (2004-2006 CS) included 05101802AA & 05101802AB
- Peer part numbers (2005-2006 LX) included 05135172AA, 05135172AB and 05135172AC

7. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles and peer vehicles that DCC has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that DCC is planning to issue within the next 120 days.

A7 There have been no service, warranty, and/or other documents that relate to, or may relate to the alleged condition in the subject or peer vehicles that DCC has issued to any dealers, regional or zone offices, field offices, fleet purchasers or other entities. DCC has no plans to issue any such documents in the next 120 days.

8. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations including, but not limited to, pre-production testing (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles and peer vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, DCC. For each such action, provide the following information:

a. Action title or identifier;
b. The actual or planned start date;
c. The actual or expected end date;
d. Brief summary of the subject and objective of the action;
e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
f. A brief summary of the findings and/or conclusions resulting from the action.
g. For individual tanks inspected or analyzed, provide the VIN # of the vehicle the tank was removed from, any comments or documents from dealer or field personnel

relating to the tank, any photographs, diagrams or drawings of the tank and any documents and conclusions generated by the review.

For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

A8

Subject - CS:

Title	Start Date	End Date	Objective of the Action	Lead Responsible	Summary
Annual Validation Drop Testing - 2006	3/9/2006	3/9/2006	Tank filled w/ethylene glycol & chilled to -40F and dropped. No leaks as result of drop.	Inergy Automotive	Pass, no leaks.
Tank Shield	3/2/2006	10/6/2006	Investigate feasibility of supplemental tank shield	DCC	Shield did not retain position after 1100 mi

Peer - LX:

Title	Start Date	End Date	Objective of the Action	Lead Responsible	Summary
Annual Validation Drop Testing - 2005	11/15/2004	2/19/2005	Tank filled w/ethylene glycol & chilled to -40F and dropped. No leaks as result of drop.	Inergy Automotive	Pass, no leaks.
Annual Validation Drop Testing - 2006	3/1/2006	11/30/2006	Tank filled w/ethylene glycol & chilled to -40F and dropped. No leaks as result of drop.	Inergy Automotive	Pass, no leaks.
Aero Report	11/28/2005	11/28/2005	Determine the aero affect of a revised shield for police applications.	DCC	Concept design is slightly better than current.

A8g. There have been eleven subject fuel tanks and twenty three peer vehicle fuel tanks inspected or analyzed pursuant to question 8g consistent with DCC/supplier communications. Of the eleven subject and twenty three peer fuel tanks, nine subject and nine peer were deemed to be related to the alleged condition. Inspection information for subject and peer fuel tanks is provided in Enclosure 8 titled "Testing - Confidential" to the NHTSA Office of the Chief Counsel, under separate cover with a request for confidential treatment.

9. **Describe all modifications or changes made by, or on behalf of, DCC in the design, material composition, manufacture, quality control, supply, or installation of the subject component, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles and peer vehicles. For each such modification or change, provide the following information:**
   a. **The date or approximate date on which the modification or change was incorporated into vehicle production;**
   b. **A detailed description of the modification or change;**
   c. **The reason(s) for the modification or change;**
   d. **The part numbers (service and engineering) of the original component;**
   e. **The part number (service and engineering) of the modified component;**

f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
g. When the modified component was made available as a service component; and
h. Whether the modified component can be interchanged with earlier production components.

Also, provide the above information for any modification or change that DCC is aware of which may be incorporated into vehicle production within the next 120 days.

A9 There have been no subject vehicle changes and (2) peer vehicle Change Notifications (CN's). A detailed summary of all applicable modifications or changes is provided in Enclosure 9 titled "Change History - Confidential" to the NHTSA Office of the Chief Counsel, under separate cover with a request for confidential treatment.

10. Regarding the feasibility study of supplemental tank shielding begun on March 2, 2006, provide all documents relating to, generated by or incorporated into the study; the reason the study was begun; any testing done as part of, or relating to, the study; any drawings, photographs and statistics related to the examination of damaged tanks; results and conclusions generated by the study.

A10 The fuel tank shield study which began March 2, 2006 was initiated to determine the packaging feasibility of a supplemental plastic shield. Photographs of this concept were provided in response to PE06-009. A vacuum formed polypropylene prototype shield sample was installed on 7/19/06 to vehicle #L7CSY9150 and subjected to 1,755 vehicle endurance test miles at the DCC Arizona Proving Grounds. Post mileage evaluation determined the shield did not retain its design position. Testing determined the shield concept to fuel tank strap interface was not sufficient to constrain the shield. Post mileage test photographs are provided in Enclosure 10 titled "Feasibility Studies - Confidential" to the NHTSA Office of the Chief Counsel, under separate cover with a request for confidential treatment.

Additionally, DCC initiated Drop Tower testing on April 25, 2006 to qualify materials for underbody shielding. In the testing performed, a 5/8 inch diameter bolt shank mounted to a 47 pound mass was dropped perpendicular onto shield material stacked atop fuel tank HDPE material on a foam backed frame. Drop tower height was increased until the tool penetrated the shielded material without penetration of the HDPE material. The maximum velocities were recorded and the kinetic energies absorbed were compared. Results of this testing are summarized in Enclosure 10 titled "Feasibility Studies - Confidential" to the NHTSA Office of the Chief Counsel, under separate cover with a request for confidential treatment.

11. State the number of each of the following that DCC has sold that may be used in the subject vehicles and peer vehicles by component name, part number (both service and engineering/production), model and model year of the vehicle in which it is used and month/year of sale *(including the cut-off date for sales, if applicable)*:

a. **Subject component; and**
b. ~~**Any kits that have been released, or developed, by DCC for use in service repairs to the subject component/assembly.**~~ Per NHTSA correspondence this question was included in error.

For each component part number, provide the supplier's name, address, and appropriate point of contact (name, title, and telephone number). Also identify by make, model and model year, any other vehicles of which DCC is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

A11 The following chart illustrates the fuel tank service and production sales volume information related to the subject and peer vehicles. The Mopar service part number includes the fuel tank and heat shield. The production part number includes the fuel tank assembly. The total service part sales volume is provided in the chart below, and the detailed monthly history of the service part sales volume is provided in Enclosure 09, titled "Monthly Service Part Sales Volume".

Subject and Peer Fuel Tank Total Sales

Model	Model Year	Component Name	Mopar Service Part Number	Mopar Service Sales	Production Part Number
CS	2004-2006	Fuel Tank	05101802AB	463	04880201AG
LX	2004-2006	Fuel Tank	V6 05135173AA	2	04581400AK
			05135173AB	538	05290710AE
			05135173AC	410	04581476AK
			V8 05135172AA	4	04578263AC
			05135172AB	338	
			05135172AC	344	

The following chart illustrates the fuel tank supplier information for the subject and peer vehicles.

Subject and Peer Supplier Information

Model	Model Year	Part Number	Supplier Name Address / Contact	Supplier Contact Phone Number
CS	2004 - 2006	04809617AD (shell only) 04880201AG (tank assembly)	Inergy Automotive 2710 Bellingham Troy, MI 48083	Scott Dawson 248-743-5842
LX	2004 - 2006	04581400AK (Gas / 19 gal) 05290710AE (Gas 19 gal / SRT8) 04581476AK (Gas 18 gal) 04578263AC (Diesel / 19 gal)	Inergy Automotive 2710 Bellingham Troy, MI 48083	Stefan Salonen 248-743-5860

12. As stated by DCC in response to Question 10 of the IR for PE06-009, the part restriction program began on the subject vehicles in January 2003 and stopped June 2005, and that part restriction forces the dealer service parts processor to call the STAR Center for approval prior to placing an order for a replacement fuel tank for any reason. According to the information provided in response to Question 9 of the IR

for PE06-009, DCC sold 270 fuel tanks during the period of the part restriction; however ODI was only provided with 133 field reports from the part restriction program:

a. Explain the discrepancy between the number of fuel tanks sold and the number of field reports provided;
b. Why was field report # 7069805618 not included with DCC's submission to ODI (copy provided with Enclosure 2, Supplemental Information Disc)?

A12 a. The fuel tank sales include non warranty retail customers. Examples include: regional part depots, dealer stock, personal cash sales, vehicles outside of warranty and secondary repair businesses. These represent conditions beyond the scope of the STAR Center part restriction program.
b. The search criteria to identify potential suspect vehicles related to the alleged condition used an extended word form ("punctured" vs. "puncture") resulting in an electronic retrieval omission. DCC resubmitted the search criteria to include all word forms and retrieved only one additional field report, VIN 2C8GF68454R[redacted], which matches field report # 7069805618.

13. For both the subject vehicles and peer vehicles provide the following:
a. The ground clearance measurement from the lowest part of the tank to level ground;
b. The dimensions for the portion of the tank that is exposed below the floor pan;
c. Provide drawings, plan and profile, to scale, showing which components of the vehicle are lower than the lowest location of the fuel tank. If part of a component is lower than the tank and a part is higher, highlight the section of the component that is lower (e.g., if the forward portion of the sub-frame member is lower and the rear section higher, indicate the portion that is lower);
d. Provide a drawing of the portion of the fuel tank exposed below the floor pan and indicate how much of the tank area is unprotected by vehicle components blocking or deflecting an object thrown up from the front tires on a straight line, from the point of contact with the tire to the road, towards any portion the fuel tank (i.e., for the approximate 35 degree angle sweep from the center of the tire straight back to the inside edge of the fuel tank, how much of the fuel tank nose is protected from a rock propelled backwards from the front tire on that side) ;
e. The effect of footwell protection from road debris striking the fuel tank as described on page 9, point #3 of Plastic Fuel Tank SOP Results as detailed in the Fuel Tank SOP Design document provided to ODI in response to Question 8 of PE05-050.

A13a-d
The response to questions 13 a through d are contained within computer generated drawings. These drawings are being submitted to the NHTSA Office of the Chief Counsel, under separate cover with a request for confidential treatment.

A 13e

The effect of footwell protection outlined on page 9, point #3 of Plastic Fuel Tank Design SOP provided in question 8 of PE05-050 is the footwell or underbody cross member may obstruct the path of stones or road debris from contacting the fuel tank.

14. Provide photographs and any other documents relating to the analysis and assessment of the fuel tank damage on any fuel tanks inspected by DCC, including the tank removed from VIN # 2C8GM68454R[redacted] (VOQ 10152259) as discussed with and agreed upon with DCC on March 10, 2006 (copy of VOQ provided with Enclosure 2, Supplemental Information Disc).

A14 The narrative documented in VOQ 10152259 for vehicle 4R[redacted] is not consistent with the fuel tank damage. Picture "4R[redacted] tank pic_2.JPG" documents the tank impact area. The repetitive chatter marks in the fuel tank exterior HDPE surface strongly suggest a slow moving progressive contact followed by a blunt force impact typical of a parking block reinforcement stake or jack/hoist damage. Additionally, there is another large perforation of the thermal shield in the tunnel area which did not damage the tank and does not appear to be related to the other tank puncture. This second area of contact remains inconclusive.

Copies of all documents within the scope of Request No.14 are provided in Enclosure 14, titled "Fuel Tank Inspection-VIN 4R[redacted]".

15. Provide copies of all documents and communications exchanged between DCC and fuel tank suppliers regarding fuel tank punctures or damage on the subject and peer vehicles.

A15 Copies of all documents within the scope of Request No. 15 are provided in Enclosure 15, titled "Supplier Communications - Confidential" to the NHTSA Office of the Chief Counsel, under separate cover with a request for confidential treatment.

16. Provide complete warranty history for the 129 VINS listed in Excel file (provided with Enclosure 2, Supplemental Information Disc) using format detailed in Question 5.

A16 Copies of all documents within the scope of Request No. 16 are provided in Enclosure 16, titled "129 VIN Warranty History - Confidential" to the NHTSA Office of the Chief Counsel, under separate cover with a request for confidential treatment.

17. Furnish DCC's assessment of the alleged defect in the subject vehicle, including:

a. The causal or contributory factor(s);
b. The failure mechanism(s);
c. The failure mode(s);

d. The risk to motor vehicle safety that it poses; and
e. **The reports included with this inquiry.**

A17

The subject vehicle meets or exceeds all requirements outlined in FMVSS 301. Compliance to 50 MPH rear impact prompted many vehicle manufacturers to modify their vehicle structure. In addition to energy management, the revised regulation prompted manufacturers to package fuel cells between frame rails and forward of the rear axle to comply with 50 MPH rear impact. To meet individual vehicle functional objectives, most manufacturers chose either a saddle or suitcase style fuel tank geometry. Both styles are common industry configurations. Pursuant to PE06-009, DCC noted several examples of production fuel cells without supplemental shielding. DCC also demonstrated it is common to package a HDPE plastic fuel tank mid ship without supplemental shielding.

Resistance to puncture is a function of tank wall strength and construction. The tank construction of the subject vehicle is industry standard multi-layer HDPE. This material is similar to that utilized on many competitive production vehicles outlined in response to PE06-009.

According to the NHTSA, DCC's level of input was higher than other manufacturers who responded to the PE05-050 peer inquiry. DCC submitted a greater number of field reports because it maintained a part restriction program that created inputs for dealer fuel tank replacements, not typically submitted or tracked by the manufacturer. In fact, DCC has no subject input and only one peer input that may relate to fuel tank puncture from road debris since PE06-009.

For the foregoing reasons, DCC does not believe there is a condition in the subject component that poses a risk to motor vehicle safety and requests that the NHTSA close this investigation.

DAIMLERCHRYSLER

DaimlerChrysler Corporation
Stephan J. Speth
Director
Vehicle Compliance & Safety Affairs

March 12, 2007

Mr. Anthony M. Cooke
Chief Counsel
National Highway Traffic Safety Administration
400 Seventh Street, S.W. Rm. 5219
Washington, DC 20590

Re: Request for Confidential Treatment of Documents Provided in EA06-010

Dear Mr. Cooke:

DaimlerChrysler Corporation ("DCC") is submitting some information on CD ROM discs and some engineering drawings to the NHTSA Office of Defects Investigation in connection with the above-referenced Information Request ("IR"). Based on a careful review of the submission, DCC has determined that the files in Confidential Enclosures 8, 9, 10 & 15 and the engineering drawings consist of confidential information that should be accorded confidential treatment under this agency's regulations at 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4).[1] Therefore, DCC is submitting these CD's and the engineering drawings, together with this request for confidential treatment to the Office of Chief Counsel.

As required by Part 512, DCC is submitting certificates executed by responsible DCC and Inergy Automotive Systems, LLC ("Inergy") personnel. The information required by Part 512 is set forth below.

A. Description of the Information (49 C.F.R. § 512.8(a))

The information for which confidential treatment is being sought included in Enclosure 8 – Testing - Confidential is five photos, Aero Shield 2005-747-001-5.pdf, CS Drop Testing.pdf, LX Aero Shield Testing.pdf and LX Drop Testing.pdf. (Bates page #DCC-EA06-010-000001-000010) Enclosure 9 – Change History - Confidential contains LX Change Summary.pdf. (Bates page #DCC-EA06-010-000011) Enclosure 10 – Feasibility Study – Confidentiality contains 5 photos, CS APG Testing Proto Shield_1-5.pdf and Drop Tower Testing.pdf. (Bates page #DCC-EA06-010-000012-000019)

[1] DCC has taken steps to assure that the CD's are free of any errors or defects that would prevent NHTSA from opening each file on the disc. If, however, the agency is unable to open any of the files, DCC respectfully requests that the agency inform DCC of the issue, so that DCC may take steps to supply NHTSA's Office of Chief Counsel with a disc that is fully functional.

A Company of the DaimlerChrysler Group

DaimlerChrysler Corporation
800 Chrysler Drive CIMS 482-00-91
Auburn Hills MI USA 48326-2757

Enclosure 15 – Supplier Communications – Confidential contains three sub folders – Cost/Financial Information with 5 emails or attachments. (Bates page #DCC-EA06-010-000020-000037) Design Information with 9 emails or attachments. (Bates page #DCC-EA06-010-000038-000053) Problem Solving with 3 emails or attachments. (Bates page #DCC-EA06-010-000054-000074)

Included in this submission, but on paper only, are engineering drawings of the subject and peer vehicles. (Bates page #DCC-EA06-010-000075-000075-000080)

The table attached to this letter will more fully describe the documents.

B. Confidentiality Standard (49 C.F.R. § 512.8(b))

This submission is subject to the substantial competitive harm standard set forth in 49 C.F.R. § 512.15(b) for information that a submitter is required to provide to the agency.

C. Justification for Confidential Treatment (49 C.F.R. § 512.8(c))

This agency's regulations and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), protect the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed. *See, e.g. 49 C.F.R. § 512.15(b); Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). FOIA Exemption 4 was enacted to prevent disclosures that would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter's] product." *Public Citizen Health Research Grp. v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999). "Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval costs for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA's principal aim of promoting openness in government." *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981). Substantial competitive harm also may result from disclosures that would reveal a firm's "operational strengths and weaknesses" to competitors. *See Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976). The information at issue here should be protected under these standards.[2]

Competitors could determine the type of testing and analysis that DCC does in evaluating products as well as product design information if this information is disclosed. These documents reveal valuable information about processes for remedying problems and evaluating and improving products and components. The disclosure of such information

[2] As noted above, DCC is providing a table that identifies the confidential information on the enclosed discs, and specifies the location of the information (by enclosure number and, where applicable, by folder and sub-folder as well as the Bates page numbers). The table also briefly states the basis for the confidentiality claims.

would enable competitors to refine their own product evaluation, remediation, and improvement procedures without incurring the costs normally required for independent development of such procedures, and would provide information about DCC's operational strengths.

The change history summary reveals information about designs and design and manufacturing processes, reasons for changes in a product, as well as DCC lead-time and operational capacity information. The information could enable DCC's competitors to improve their own designs and manufacturing processes, and compete more effectively against DCC which would cause substantial competitive harm to DCC.

There is also a great deal of developmental and design testing information in this submission. NHTSA has recognized that developmental testing information should be protected under Exemption 4 because it reveals the scope, nature, and results of a submitter's proprietary and developmental testing, as well as the submitter's design and performance standards, design philosophies, and the reasons for various design choices. Such information could enable a competitor to develop and upgrade its own testing protocols, improve its design decisions, and gain insights into DCC's and Inergy's operational capacities.

In addition, some of the documents provide information about the performance and operational capacities of suppliers. The disclosure of such information could relieve competitors of the costs and burdens of independently identifying and assessing suppliers, thereby enabling them to bring products competitive with DCC's products to market more quickly and at less cost. *See SMS Data Prods. Grp., Inc. v. United States Dept. of Air Force,* Civ. A No. 88-0481-LFO, 1989 WL 201031, at *4 (D.D.C. May 11, 1989) (submitter of information had spent years developing a network of subcontractors, and release of the information would give competitors the information "without needing to expend the same time and resources").

The emails and attachments that contain cost and financial information would cause substantial competitive harm if disclosed because competitors could determine what DCC pays for or is willing to pay for certain components. This information would give competitors an unfair advantage over DCC because they could use the information to improve their cost structures and compete more effectively against DCC.

The emails and attachments that contain design information would also cause substantial competitive harm if disclosed and should be protected under Exemption 4 because they reveal a submitter's design and reasons for various design choices. Such information could enable a competitor to develop and upgrade their design decisions and gain insights into DCC's operational capacities.

The problem solving capabilities of DCC would be revealed if the emails and attachments within the Problem Solving sub-folder are disclosed. These documents reveal valuable information about processes for remedying problems and evaluating and improving products and components. The disclosure of such information would enable

competitors to refine their own product evaluation, remediation, and improvement procedures without incurring the costs normally required for independent development of such procedures, and would provide information about DCC's operational strengths.

The engineering drawings contain the detailed design specifics for two DCC vehicles. Release of these drawings would cause DCC substantial competitive harm because competitors could use this design information to improve their designs without spending the resources that DCC did in developing these vehicle designs. Without spending the same resources these competitors could bring to market their products much quicker and at less cost. Exemption 4 protects this type of disclosure.

D. Class Determination (49 C.F.R. § 512.8(d))

The information for which confidential treatment is sought does not fit within a class determination.

E. Duration for Which Confidential Treatment is Sought (49 C.F.R. § 512.8(e))

Because DCC anticipates that the information will be competitively sensitive indefinitely, DCC requests that the information be accorded confidential treatment permanently.

F. Contact Information (49 C.F.R. § 512.8(f))

Please direct all inquiries and responses to the undersigned at:

800 Chrysler Drive, CIMS 482-00-91
Auburn Hills, MI 48326
248-512-4188
SS6@dcx.com

***

If you receive a request for disclosure of the information for which confidential treatment is being sought before you have completed your review of our request, DCC respectfully requests notification of the request(s) and an opportunity to provide further justification for the confidential treatment of this information, if warranted.

Sincerely,

for Steve J. Speth
Stephan J. Speth

cc: Kathleen DeMeter

Attachment and Enclosures

ATTACHMENT TO REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN DOCUMENTS SUBMITTED IN CONNECTION WITH EA06-010 WITHIN ENCLOSURES 8, 9, 10, & 15 CONFIDENTIAL AND ENGINEERING DRAWINGS

QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENITALITY JUSTIFICATION
8 DCC	8 – Testing - Confidential	Aero Shield 2005-747-001-5.pdf	Photos of testing of concept designs for fuel tank shields	DCC-EA06-010-000001-000005	Competitors could determine the type of testing, product evaluation, remediation, and improvement procedures without the cost of independent development and then compete more effectively with DCC.
8 Inergy	8 – Testing - Confidential	CS Drop Testing.pdf	Test results	DCC-EA06-010-000006	Competitors could determine the type of testing, product evaluation, remediation, and improvement procedures without the cost of independent development and then compete more effectively with DCC.
8 DCC	8 – Testing - Confidential	LX Aero Shield Testing.pdf	Developmental test results	DCC-EA06-010-000007	Competitors could determine the type of testing, product evaluation, remediation, and improvement procedures without the cost of independent development and then compete more effectively with DCC.
8 Inergy	8 – Testing - Confidential	LX Drop Testing.pdf	Test results	DCC-EA06-010-000008-000010	Competitors could determine the type of testing, product evaluation, remediation, and improvement procedures without the cost of independent

QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENITALITY JUSTIFICATION
					development and then compete more effectively with DCC.
9 DCC	9 – Change History - Confidential	LX Change Summary.pdf	Design change information	DCC-EA06-010-000011	Competitors could improve their own designs and manufacturing processes and compete more effectively against DCC.
10 DCC	10 – Feasibility Study - Confidential	CS APG Testing Proto Shield_1-5.pdf	Developmental testing	DCC-EA06-010-000012-000016	Competitors could determine the type of testing, product evaluation, remediation, and improvement procedures without the cost of independent development and then compete more effectively with DCC.
10 DCC	10 – Feasibility Study - Confidential	Drop Tower Testing.pdf	Developmental testing	DCC-EA06-010-000017-000019	Competitors could determine the type of testing, product evaluation, remediation, and improvement procedures without the cost of independent development and then compete more effectively with DCC.
15 DCC	15 – Supplier Communications - Confidential	Cost/Financial Information – 5 emails or attachments	Cost and financial information	DCC-EA06-010-000020-000037	Competitors could determine the costs of possible future designs and the costs associated with our supplier and improve their own cost structures and compete more effectively against DCC.
15 DCC	15 – Supplier Communications – Confidential	Design Information – 9 emails or attachments	Design information	DCC-EA06-010-000038-	Competitors could determine the designs that DCC uses or may be considering using

QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENITALITY JUSTIFICATION
				000053	and could improve their designs to compete more effectively against DCC.
15 DCC	15 – Supplier Communications – Confidential	Problem Solving – 3 emails or attachments	Problem solving capabilities	DCC-EA06-010-000054-000074	Competitors could determine the way DCC and Inergy go about trying to solve issues and then improve their own problem solving capabilities to compete more effectively against DCC.
13 DCC	Engineering drawings – (on paper – not on CD)	CATIA Plots for CS and LX	Engineering design drawings of the CS and LX vehicles	DCC-EA06-010-000075-000080	Competitors could determine the design specifics of the CS and LX vehicles and improve their designs to compete more effectively against DCC.

Certificate in Support of Request for Confidentiality

I, Stephan J. Speth pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

(1) I am DaimlerChrysler Corporation's Director, Vehicle Certification, Compliance and Safety Affairs and I am authorized by DaimlerChrysler Corporation to execute documents on its behalf;

(2) I certify that the information contained in the attached documents is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4);

(3) I hereby request that the information contained in the indicated documents be protected on a permanent basis;

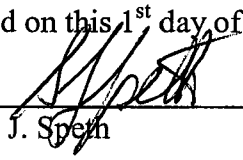
(4) This certification is based on the information provided by the responsible DaimlerChrysler Corporation personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside DaimlerChrysler Corporation;

(5) Based upon that information, to the best of my knowledge, information and belief, the information for which DaimlerChrysler Corporation has claimed confidential treatment has never been released or become available outside DaimlerChrysler Corporation, except to certain contractors of DaimlerChrysler Corporation with the understanding that such information must be maintained in strict confidence;

(6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside DaimlerChrysler Corporation because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and

(7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 1st day of March, 2007



Stephan J. Speth

Certificate in Support of Request for Confidentiality

I, Byron Freshwater pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

(1) I am **Inergy Automotive's NAO Warranty Manager** and I am authorized by **Inergy** to execute documents on its behalf;

(2) I certify that the information contained in the attached documents is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4);

(3) I hereby request that the information contained in the indicated documents be protected on a permanent basis;

(4) This certification is based on the information provided by the responsible Inergy personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside **Inergy**;

(5) Based upon that information, to the best of my knowledge, information and belief, the information for which Inergy has claimed confidential treatment has never been released or become available outside **Inergy**, except to DaimlerChrysler and certain contractors of **Inergy** and/or DaimlerChrysler with the understanding that such information must be maintained in strict confidence;

(6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside **Inergy** because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and

(7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 8 day of March, 2007

3/8/07

Byron Freshwater, Inergy NAO Warranty Manager