



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

JAN 3 2008

1200 New Jersey Avenue SE
Washington, DC 20590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas C. Baloga, General Manager
Safety Engineering and Intelligent Transportation Systems
BMW of North America, LLC.
1 BMW Plaza
Montvale, NJ 07675

NVS-213dlr
EA07-012

Dear Mr. Baloga:

The Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) is conducting an Engineering Analysis (EA07-012) of alleged failures of the joint connecting the front differential and the front driveshaft that result in a loss of power to the drive wheels. The failures are allegedly causing a loss of motive power and subsequent vehicle immobilization. The purpose of this letter is to request peer vehicle data from BMW of North America, LLC (BMW) to assist us in our investigation of the alleged defect in model year (MY) 2003 through 2005 Land Rover Range Rover Vehicles

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject Peer Vehicles:** all four-wheel or all-wheel drive MY 2003-2005 BMW X5 vehicles manufactured for sale or lease in the United States.
- **Subject components:** all front axle differentials and front driveshafts manufactured for use as original equipment or service parts on the subject peer vehicles.
- **BMW:** BMW of North America, LLC. all of its past and present officers and employees, whether assigned to its principal offices or any of its field or other locations, including all of its divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of (including all business units and persons previously referred to), who are or, in or after January 1, 1996, were involved in any way with any of the following related to the subject condition in the subject vehicles:
 - a. Design, engineering, analysis, modification or production (e.g. quality control);
 - b. Testing, assessment or evaluation;



- c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
 - d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited to people who have the capacity to obtain information from dealers.
- **Subject condition:** Failure of the front axle differential and/or front driveshaft, resulting in a loss of propulsion and subsequent immobilization of the vehicle.
 - **Document:** "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by BMW, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document, which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by BMW or not. If a document is not in the English language, provide both the original document and an English translation of the document.
 - **Other Terms:** To the extent that they are used in these information requests, the terms "claim," "consumer complaint," "dealer field report," "field report," "fire," "fleet," "good

will," "make," "manufacturer", "model," "model year," "notice," "property damage," "property damage claim," "rollover," "type," "warranty," "warranty adjustment," and "warranty claim," whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

In order for my staff to evaluate the alleged defect, please provide numbered responses to the following information requests. Insofar as BMW has previously provided a document to ODI, BMW may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After BMW's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of subject peer vehicles BMW has manufactured for sale or lease in the United States. Separately, for each subject peer vehicle manufactured to date by BMW, 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).

Provide this information in Microsoft Access 2003, or a compatible format, entitled "EA07-012 BMW PRODUCTION DATA."

2. State the number of each of the following, received by BMW, or of which BMW is otherwise aware, which relate to, or may relate to, the subject condition in the subject 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 BMW is or was a party to the arbitration; and
- g. Lawsuits, both pending and closed, in which BMW is or was a defendant or codefendant.

For subparts "a" through "d" 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 BMW'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.

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. BMW'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 2003, or a compatible format, entitled "EA07-012 BMW REQUEST NUMBER TWO DATA."

Produce copies of all documents related to each of items "c" through "e" within the scope of Request No. 2. Organize the documents separately by category (i.e., crash/injury/fatality reports, property damage claims, etc.) and describe the method BMW used for organizing the documents.

4. State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by BMW to date that relate to, or may relate to, the subject condition in the subject 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. BMW claim number;
- b. Vehicle owner or fleet name (and fleet contact person) and telephone number;
- c. VIN;
- d. Repair date;
- e. Vehicle mileage at time of repair;
- f. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
- g. Labor operation number;
- h. Problem code;
- i. Replacement part number(s) and description(s);
- j. Concern stated by customer; and
- k. Comment, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2003, or a compatible format, entitled "EA07-012 BMW WARRANTY DATA."

Describe in detail the search criteria used by BMW 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 in Microsoft Access 2003, or a compatible format. State, by make and model year, the terms of the new vehicle warranty coverage offered by BMW on the subject vehicles (i.e., the number of months and mileage for which coverage is provided and the vehicle systems that are covered).

Produce copies of all service, warranty, and other documents that relate to, or, the subject condition in the subject peer vehicles, that BMW 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 BMW is planning to issue within the next 120 days.

5. Describe all modifications or changes made by, or on behalf of, BMW in the design, material composition, manufacture, quality control, supply, or installation of the subject components, from the start of production to date, which relate to, or may relate to, the subject condition in the subject 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 number (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.
6. Provide the following information:
- a. Briefly describe how the four-wheel (or all-wheel) drive system(s) functions in the subject vehicles including the major components and their locations on the vehicle(s). If more than one system is available (e.g., part-time four-wheel drive, full-time four-wheel drive or all-wheel drive) briefly describe each system and the differences in functionality.
 - b. Copies of all engineering standards, design guides, or similar documents that relate in any way to the alignment of the front driveshaft to the front differential.
 - c. Copies of all assembly plant process instructions detailing the assembly process connecting the front driveshaft with the front differential.
 - d. Copies of all engineering standards, design guides or similar documents that relate to the use of a "universal joint" or "flex coupling" design in the front driveshaft.
 - e. Copies of exemplary engineering drawings individually showing the front driveshaft and the front differential as separate parts, as assembled together, and as located within the vehicle.
 - f. State whether a spline failure (or joint failure) at the interface of the front driveshaft and the front differential in the subject peer vehicles can result in total vehicle immobilization (i.e., no power to the front and rear wheels).

If BMW cannot respond to any specific request or subpart(s) thereof, please state the reason why it is unable to do so. If on the basis of attorney-client, attorney work product, or other privilege, BMW does not submit one or more requested documents or items of information in response to this information request, BMW must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, the name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

BMW's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by February 25, 2008. Please refer to EA07-012 in BMW's response to this letter. If BMW finds that it is unable to provide all of the information requested within the time allotted, BMW must request an extension from me at (202) 366-5207 no later than five business days before the response due date. If BMW is unable to provide all of the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information BMW then has available, even if an extension has been granted.

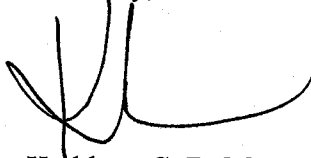
If BMW claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, BMW must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 CFR Part 512, as amended (68 Fed. Reg. 44209 et seq; July 28, 2003), to the Office of Chief Counsel (NCC-113), National Highway Traffic Safety

Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590. BMW is required to **submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted.** Please remember that the word "CONFIDENTIAL BUSINESS INFORMATION" must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 5 U.S.C. § 512.6. If you submit a request for confidentiality for all or part of your response to this IR that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the new requirements in NHTSA's Confidential Business Information Rule regarding submissions in electronic formats (49 CFR 512.6(c)). See Federal Register, volume 72, page 59434 (October 19, 2007).

Please send email notification to Derek Rinehardt (drinehardt@dot.gov) and to ODI_IRresponse@dot.gov when BMW sends its response to this office and indicate whether there is confidential information as part of BMW response.

If you have any technical questions concerning this matter, please call Mr. Derek Rinehardt of my staff at (202) 366-3642.

Sincerely,



Kathleen C. DeMeter, Director
Office of Defects Investigation
Enforcement

Enclosure: One CD ROM titled Data Collection Disc containing three files.