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

1200 New Jersey Avenue SE.
Washington, DC 20590

MAR 9 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charlie Schroeder
President
Dayton Wire Wheel, Inc.
115 Compark Road
Dayton, OH 45459

NVS-214jry
DP10-002

Dear Mr. Schroeder:

Mr. John R. Folkerth recently petitioned us, on behalf of his client, Mr. Thomas Gisslen, requesting that we conduct "an investigation of defective products manufactured by Dayton Wheel Concepts, Inc" (Dayton). We have already sent a copy of that December 31, 2009, petition to you by e-mail. Apparently, Mr. Gisslen, a former Dayton employee is alleging, among other things, that the company continued to produce the "Superspoke" and Superspoke II motorcycle wheels beginning in 2003. As you know, Dayton recalled certain "Superspoke" and "Superspoke II" motorcycle wheels on February 12, 2003 (recall 03E-011)...a recall prompted by PE02-073 conducted by Bob Young of my staff. The recalled wheels are distinguished by radially laced spokes that screw into the hub. In submitting the recall notification to us, Dayton claimed it would no longer produce and sell such wheels until it was confident that they were safe and durable.

Mr. Folkerth's petition lists a number of Dayton products alleged to be defective thus, in his opinion, increasing the likelihood of product failure. He further contends that Dayton's alleged use of "non-conforming materials" in producing some products "further increases the risk of catastrophic product failure resulting in serious injury."

To assess the claims made by Mr. Gisslen, through his attorney, while considering whether to grant his petition, we request the following information.

Unless otherwise stated in the text, the following definitions apply to this information request:

Subject Products:

1. 2003-06 BA 40 spoke, radially-laced, motorcycle wheel;
2. 19 inch, 40 spoke, radially-laced, motorcycle wheel;
3. 19 inch, 80 spoke, radially-laced, motorcycle wheel;
4. 19 inch, 100 spoke, radially-laced, motorcycle wheel;
5. 21 inch, 40 spoke, radially-laced, motorcycle wheel;
6. 21 inch, 80 spoke, radially-laced, motorcycle wheel;
7. 21 inch, 100 spoke, radially-laced, motorcycle wheel;
8. All motorcycle drive pulleys;
9. All motorcycle brake rotors;
10. All extension spline-mounting lugs;
11. All extension spline-mounting lug nuts; and
12. All automotive wire wheels.

Alleged defect: For Subject Products, nos. 1 through 7: any rim and or hub cracking and/or spoke/nipple thread failure resulting in wheel collapse. For Subject Product nos. 8 and 9: any fracturing of the pulley or rotor. For Subject Product nos. 10 and 11: any failure resulting in clamping force reduction and wheel separation. For Subject Product no.12: any fracturing of the spoke head and/or any stripping of spoke/nipple threads resulting in wheel collapse.

Dayton Wire Wheel, Inc. (Dayton): Dayton Wire Wheel, Inc. including all of its divisions, subsidiaries (whether or not incorporated, including American Wire Wheel) 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 Dayton (including all business units and persons previously referred to), who were involved in any way with any of the following related to the alleged defect:

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, field quality engineers, assembly plant engineers, component suppliers, assembly wholesalers, retailers, or other field locations, including but not limited to people who have the capacity to obtain information from wholesalers or retailers, all officers, employees, agents, contractors, and consultants of Dayton, whether assigned to its principal office or to any of its field locations, and all records or files maintained by the company either in hard copy form or in electronic storage media.

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 Dayton, 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 containing 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 Dayton 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," "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, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Dayton has previously provided a document to ODI, Dayton 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 Dayton's response to each request, identify the source of the information and indicate the last date the information was gathered.

Note, for each item below, provide a separate response for each of the subject products.

1. State, by Subject Product number and name (e.g., 1. 2003-06 BA 40 spoke, radially laced, motorcycle wheel, 8. Motorcycle drive pulley, part no. XXXX, etc.), the number of subject products manufactured by Dayton to date.

2. State the number of each of the following, received by Dayton, or of which Dayton is otherwise aware, which relate to, or may relate to, the alleged defect:

   a. Consumer complaints;
   b. Field reports, including dealer field reports;
   c. Reports involving a crash, 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. Property damage claims; and
   e. Third-party arbitration proceedings where Dayton is or was a party to the arbitration; and
   f. Lawsuits, both pending and closed, in which Dayton is or was a defendant or codefendant.

3. 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 Dayton 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 Dayton to date that relate to, or may relate to, the alleged defect: 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.

5. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect, that Dayton has issued to any entity. This includes, but is not limited to, bulletins, advisories, informational documents, training documents (including those presented at any technician training sessions), or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that Dayton is planning to issue within the next 120 days.

6. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect that have been conducted, are being conducted, are planned, or are being planned by, or for, Dayton. 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.

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.

7. Describe all modifications or changes made by, or on behalf of, Dayton, from the start of production to date, which relate to, or may relate to, the alleged defect. 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. The number of incidents, involving the alleged defect, known to Dayton when the modification or change was incorporated into vehicle production;
   c. A detailed description of the modification or change;
   d. The reason(s) for the modification or change;
   e. The part numbers (service and engineering) of the original component;
   f. The part number (service and engineering) of the modified component;
   g. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
   h. When the modified component was made available as a service component; and
   i. Whether the modified component can be interchanged with earlier production components.

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

8. Regarding Gisslen v. Dayton Wheel Concepts, Inc., et. Al., Montgomery County Common Pleas Court, Case no. 2008 cv 2300, please provide the following, where possible:
   a. The original and any amended complaints;
   b. Any responses filed by Dayton;
   c. The dismissal; and
   d. Transcripts of any Gisslen depositions.

   Please provide the same information for Gisslen v. Dayton Wheel Concepts, Inc., et. Al., Montgomery County Common Pleas Court, Case no. 2009 cv 8163.

9. Please provide a comprehensive response to the petitioner's allegations regarding Dayton's "defective design, material, and manufacturing processes in production of [the subject products]."

This letter is being sent to Dayton pursuant to 49 U.S.C. § 30166, which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports and the production of things. It constitutes a new request for information. Dayton's failure to respond promptly and fully to this letter could subject Dayton to civil

penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) Section 5(a) of the TREAD Act, codified at 49 U.S.C. § 30165(b), provides for civil penalties of up to $6,000 per day, with a maximum of $16,375,000 for a related series of violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. See 49 CFR 578.6 (as amended by 71 Fed. Reg. 28279 (May 16, 2006)). This includes failing to respond to ODI information requests.

If Dayton 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, Dayton does not submit one or more requested documents or items of information in response to this information request, Dayton 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.

Dayton's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by April 16, 2010. **All business confidential information must be submitted directly to the Office of Chief Counsel as described in the following paragraph and should not be sent to this office.** In addition do not submit any business confidential information in the body of the letter submitted to this office. Please refer to DP10-002 in Dayton's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel. If Dayton finds that it is unable to provide all of the information requested within the time allotted, it must request an extension from me at (202) 366-4933 no later than five business days before the response due date. If Dayton 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 Dayton then has available, even if an extension has been granted.

If Dayton 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, Dayton 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 (69 Fed. Reg. 21409 et seq; April 21, 2004), to the Office of Chief Counsel (NCC-113), National Highway Traffic Safety Administration, 1200 New Jersey Ave., S.E., Washington, D.C. 20590. Dayton 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" 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.

Please send email notification to Bob Young (Robert.young@dot.gov) and to ODI_IRresponse@dot.gov when Dayton sends its response to this office and indicate whether there is confidential information as part of its response.

If you have any technical questions concerning this matter, please call Bob Young of my staff, at (202) 366-4806.

Sincerely,

Richard P. Boyd

Richard P. Boyd, Chief
M&HDV Division
Office of Defects Investigation