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Young, Robert (NHTSA)

From: Thomas Gisslen [gisslt@mindspring.com] **Sent:** Tue 6/28/2011 2:56 AM
To: Young, Robert (NHTSA); ODI_IRresponse (NHTSA)
Cc: gisslt@mindspring.com
Subject: DP10002 Dayton Wheel Concepts and violating 49 U.S.C. § 30166 Failure to respond 2 of 2
Attachments: 110628-NHTSA-DP10002.pdf(6MB)

Mr. Robert Young

Office of Defects Investigation

USDOT

NHTSA

1200 New Jersey Avenue SE

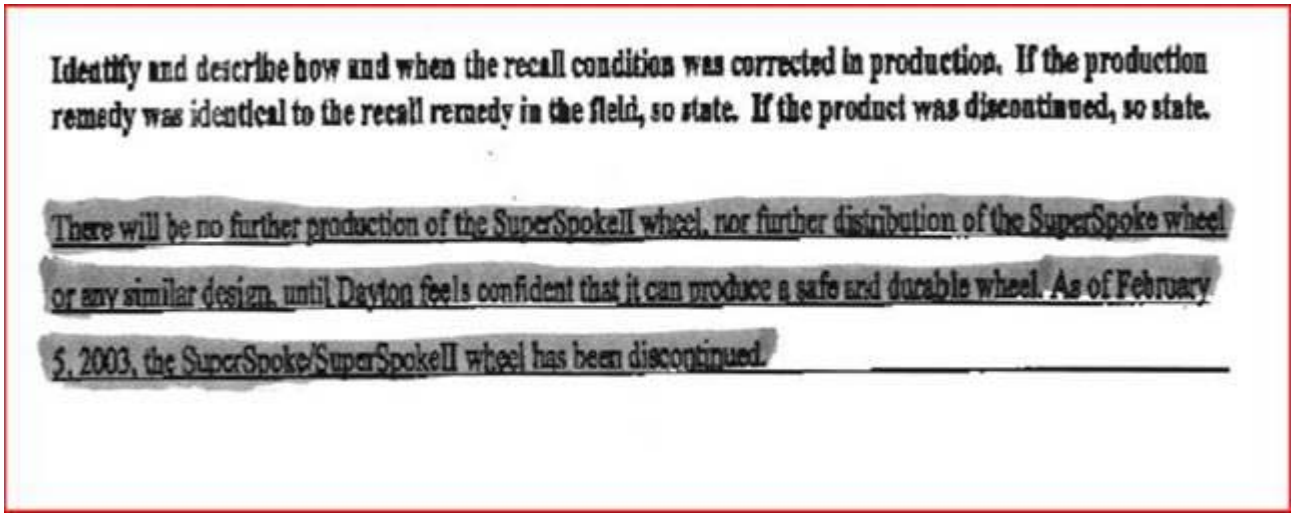
Washington, DC 20590

Dear Mr. Young,

I am submitting this email to you as part 2 of 2 to the previous email sent June 24, 2011. This supplemental email demonstrates only a few of the inconsistencies, false and misleading statements, regarding the automotive and motorcycle wheels and specifically the **"BA"** wheel, in its response, ***"1-INOT-DP10002-40203P.pdf"***, submitted by Dayton Wheel Concepts, ["Dayton Wheel"], to NHTSA's information request, ***"2-INIM-DP10002-39367.pdf"***.

On the February 12, 2003 NHTSA Assigned Recall No. 03E-011 response, Charles Schroeder, President of Dayton Wheel Concepts, submitted the following statements;

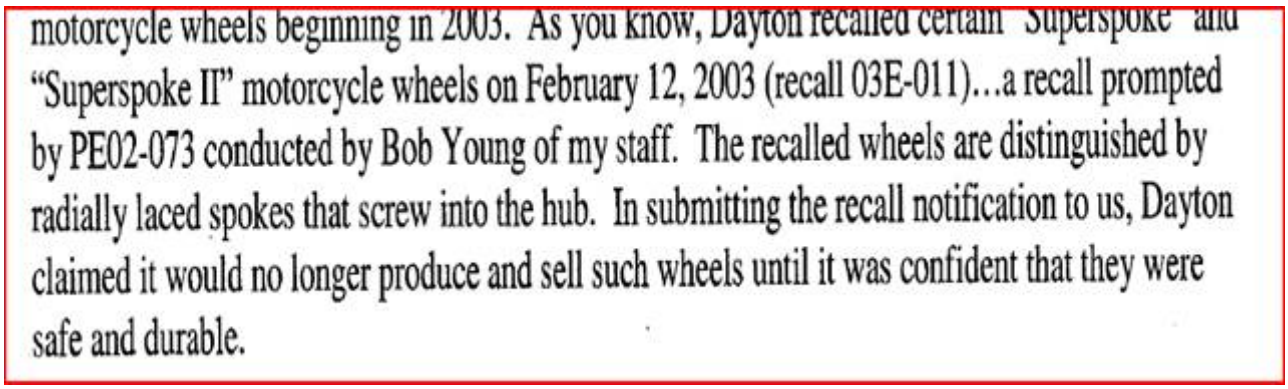
> *"There will be no further production of the SuperSpokeII wheel, nor further distribution of the SuperSpoke wheel or any similar design until Dayton feels confident that it can produce a safe and durable wheel."* On Page 9 of 10 of the attached "***3-Appendix A NHTSA Part 573 Report-Ir.pdf"***, Mr. Schroeder, provided the written statement in identifying the remedy regarding the recall of the Dayton Wheel's defective "SuperSpoke" ["SS"] and "SuperSpokeII" ["SSII"] 40 spoke radial lace motorcycle wheels. It is also worth noting that Dayton Wheel indicated that the SS & SSII wheels were discontinued on February 5, 2003.



Identify and describe how and when the recall condition was corrected in production. If the production remedy was identical to the recall remedy in the field, so state. If the product was discontinued, so state.

There will be no further production of the SuperSpokeII wheel, nor further distribution of the SuperSpoke wheel or any similar design, until Dayton feels confident that it can produce a safe and durable wheel. As of February 5, 2003, the SuperSpoke/SuperSpokeII wheel has been discontinued.

On March 9, 2010 NHTSA reiterated Dayton Wheel's, February 27, 2003, declared remedy in its information request to Dayton Wheel as seen on page 1 of 7 on the attached **"*2-INIM-DP10002-39367.pdf*"**, stating, "***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.***"



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.

The 2003 recall and discontinuance of the Dayton Wheel SS and SSII wheels prevented Dayton Wheel from further capitalizing on a niche motorcycle wheel market distinguished by the forty (40); 3/8" diameter spokes configured in a radial lace wheel design. Due to the 2003 recall of the Dayton Wheel SSs & SII wheels, it sought a replacement wheel entry into the niche market. Dayton Wheel initiated development of a replacement wheel consisting of forty (40) large diameter spokes in a radially lace configuration. Dayton Wheel names the new replacement wheel style the "**BA Wheel**" ["BA"]. The "BA" name was derived from the 'Big Ass' spokes (≅ 3/8" diameter) incorporated into radially laced configuration. Note that the "BA" wheel is of similar design to the SS & SSII wheels and aesthetically, virtually identical to the recalled SS & SSII. Worth noting is Dayton Wheel incorporates a failed 2002 Hulcher/American Wire Wheel prototype configuration as the seed for the design of its "BA" wheel. See attached "***4-070205-1402-BA-Synop-WIP.PDF***". The use of the Hulcher/American Wire Wheel prototype as the foundation in the development of the "BA" wheel should draw attention to additional misrepresentations and or omissions which Dayton Wheel has submitted to NHTSA in particular its January 17, 2003 "Submission of Confidential Business Information Pursuant to 49 CFR Part 512". See attached "***5-030117-INLO-PE02073-15365P Letter from DWC to NHTSA.PDF***", page 2 of 6, paragraph 2. Note that Dayton Wheel states that the company, American Wire Wheel Inc. ["AWWInc"], it acquired did not keep any formal blueprints of their components. The fact that Dayton Wheel developed the "BA" wheel concept based on drawings and blueprints Dayton Wheel acquired from AWWInc is disconcerting. The fact that the "BA" wheel was based on AWWInc's failed prototype design is as alarming as the Dayton Wheel's false statement denying the obtaining of drawings and or blueprints in its acquisition of AWWInc.

Ten months after the January 2003, NHTSA mandated the recall of the SS & SSII, Dayton Wheel conducts its first Alternating Torsion ["AT"] test of a motorcycle wheel. Note, that on page 4 of 6, paragraph 2 of "***5-030117-INLO-PE02073-15365P Letter from DWC to NHTSA.PDF***", Dayton Wheel states having tested the subject wheel for compliance with **ISO** and **DIN** standards. In fact when Dayton Wheel submitted the January 17, 2003 response to NHTSA, it had conducted only one Alternating Torsion test on a 40 spoke motorcycle wheel and that test was not documented to have been conducted to any specific known testing standard. In fact JASO is the only test standard specification which Dayton Wheel documented regarding any of the thirteen (13) AT tests of its motorcycle wheels from December 4, 2002 until February 22, 2006. Also there is no reference to the utilization any ISO or DIN specifications to which any of the 13 AT test adhered. Not until August 13, 2003, does Dayton Wheel subject the first wheel listed as a "BA" wheel to an AT test. The tested wheel is identified as "MC1635HRL40BA". The record for this test does not cite any known test specification standard such as JASO, SAE or TUV or the ISO or DIN specifications as Dayton Wheel stated to NHTSA in January of 2003.

During the three years between 12/4/2002 and 2/9/2006 **Dayton Wheel conducted a total of thirteen (13) "Alternating Torsion" tests in validating the entire Dayton Wheel motorcycle wheel product line consisting of at least 7 structurally significant different models.** (See attached "***6-110624-AWW-DWC-MC-product line.pdf***" & "***7-060605-1200-DWC-Alt-Tor-Test-Log.pdf***" and its Dayton Wheel Purchase Order verification document, "***8-070613-1009-DWC-PO-ERP-STL.PDF***") Of those 13 AT tests, five (5) wheel tested were indicated as not having failed. Of those five wheels, one (1) was a Harley Davidson factory wheel. The remaining four (4) wheels indicated as not having failed the AT tests consist of:

1. On December 5, 2002, the aforementioned wheel, "MC01635040SS LE-REAR", tested of unknown configuration and tested to an unspecified AT test standard.

2. An eighty (80) spoke 16X3.5 HR Rear wheel, "MC0163580 16X3.5 Rear", tested on 12/14/2002 of unknown lace configuration and tested to the JASO T-203-85 AT test standard.

3. A one hundred (100) spoke, radial lace 18X3.5 wheel, "MC1835HR2100R 100 Spoke Radial", tested on 6/23/2003 tested to the JASO T-203-85 AT test standard.

4. A forty (40) spoke, radial lace 16X3.5 wheel, "MC1635HRL40BAT", tested on 11/23/2003 tested to an unspecified AT test standard.

Of the aforementioned wheels indicated as having successfully sustained AT testing, only one, "MC1635HRL40BAT", is specifically identified as a "BA" wheel. Of considerable concern, is that this wheel is stated as having been assembled with a pre-tensioning of the spokes with an applied 300 in-lbs. of torque to the threaded nipples which is considerably more than;

1. the 200 in-lbs of torque applied to the "500 Nip" nipples (Nipples used in conjunction with "344" spokes used in "BA" wheel configurations) as is specified in the Dayton Wheel motorcycle wheel assembly standard "***9-MCTrueData-RevD.pdf***".

2. the 106-120 in-lbs. of torque applied to nipples in conjunction with stainless steel spokes and the 139-153 in-lbs. of torque applied to nipples in conjunction with the carbon steel spokes both of which exceed the torque limit inducing loads into the spoke and hub which would cause yielding plastic deformation as stated in the January 25, 2006 RHAMM Technologies Inc. Finite Element Analysis ["FEA"] Report. See "***10-Appendix D RHAMM BA FEA.pdf***".

Succinctly, the only "BA" type wheel indicated as not having failed an Alternating Torsion test is stated to have been of a configuration; not-conforming to Dayton Wheel's own "BA" nipple torque production specifications and; to be of a configuration in which the stated spoke loads are beyond the yield point of the spoke and hub according to the RHAMM FEA. It is difficult to comprehend how the "BA" wheel, being validated with such limited and unsuccessful Alternating Torsion testing could ever be interpreted as justification for the submitted statement, "**Furthermore, Dayton Wheel Concepts believes that their [Dayton Wheel] exclusive use of this test data to examine the feasibility of the new wheel design [BA] will create a new offering that is fully compliant with the most rigorous testing standards for durability.**" (See "***5-030117-INLO-PE02073-15365P Letter from DWC to NHTSA.PDF***", page 4 of 6, paragraph 2)

On November 18, 2005 Dayton Wheel discovered that a newly assembled "BA" wheel sustained cracking on the hub flanges seen as curves between the spoke holes on the hub, (see "***11-Appendix C Wheel hub crack photo.pdf***"). More alarming is that the

cracking had apparently occurred due to the spoke pre-tensioning loads introduced during the assembly process. Incidentally, the cracking in that very location of the hub flange was predicted as early as October 2005 based on simple structural assessment (NON-FEA) of the 3D cad model, (see "***12-051021-1749-BA-design-flaw-3Dmdl.pdf***"). The initial warning of potential hub cracking in October 2005 and the November discovery of assembly induced cracking prompted the contracting of RHAMM Technologies Inc. to perform a FEA on a computer model of a "BA" motorcycle wheel in lieu of an actual destructive AT test.

On page 7 of 14 of the FEA, "***10-Appendix D RHAMM BA FEA.pdf***", RHAMM concluded the non-feasibility of the "BA" wheel, based on its analysis. It is difficult to comprehend how Dayton Wheel came to the contradictory conclusion of feeling sufficiently confident that the "BA" wheel was meeting the proclaimed standard of "safe and durable," "to produce and sell" especially since the no "BA" production wheel had ever passed a torsion test. The "BA" wheel was of a similar design to the SS & SSII wheel with regard to lace, spoke diameter and the number of spokes utilized. The vaguely decreed and disregarded standard and remedy declaration, submitted by Dayton Wheel, promising safe and durable wheels, should not be limited to only "such" ["SS & SSII"] wheels. It is hoped that NHTSA would demand/require that all transportation equipment, especially when intended for use on public roads and highways, is safe and durable.

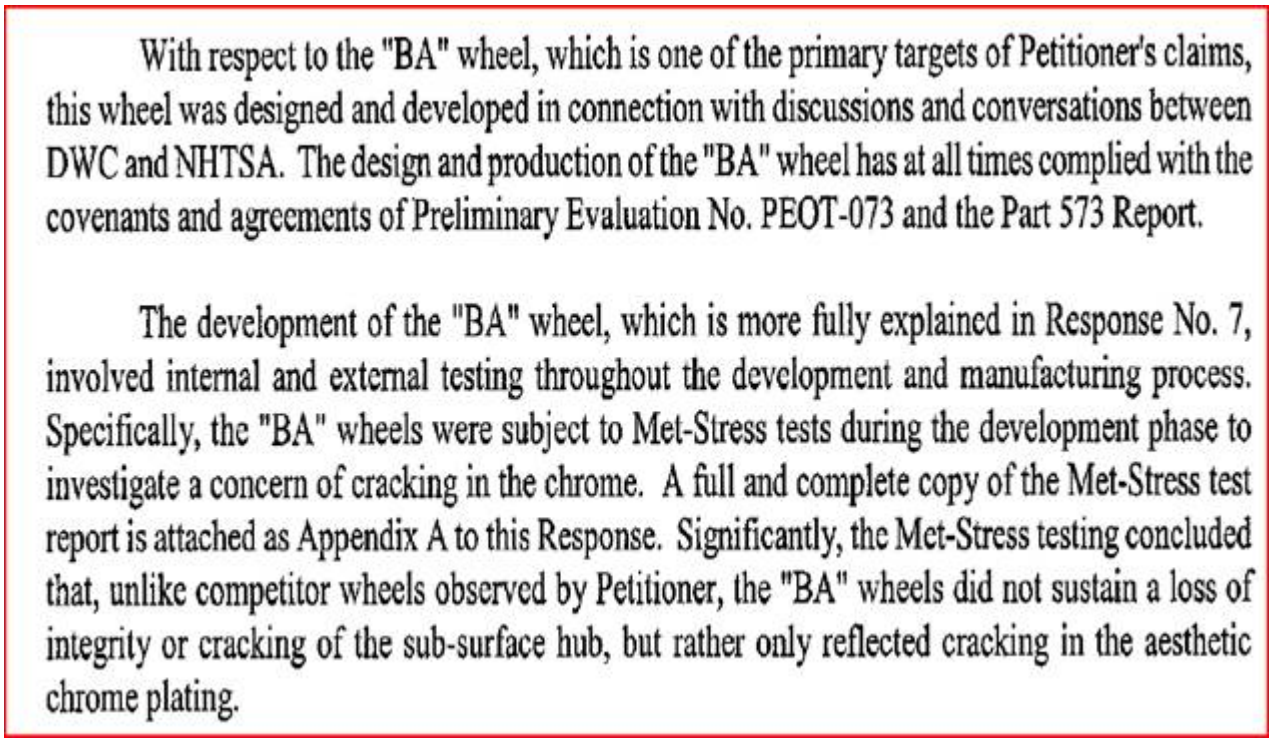
If the recommended torque is required to insure proper stability of the hub, the current design with the current stainless steel spoke is not feasible. Since the yield of the assembly has been exceeded, any additional load applied to the wheel that increases tension will permanently deform the spoke. After a cycle of loading the wheel the spokes will eventually bse their preload.

The drawing specified material performed much better than the stainless steel spoke allowing a 500 lb increase in tensile load or an increase in 33 in-lb of torque. However the performance was still not even close to the current production level of torque.

Incidentally, Dayton Wheel Concepts reply to the 2010 NHTSA Defect Petition Investigation request "***1-INOT-DP10002-40203P.pdf***" on page 64 of 72 states a contradictory interpretation to the RHAMM Report conclusion. It is difficult to comprehend how the statements in the RHAMM FEA report such as, "**not feasible**", "**permanently deform**" and "**performance was still not even close to the current production level of torque**" could possibly be interpreted as, "***confirmed the integrity and design of the wheel***". Dayton Wheel submitted that statement in response to NHTSA's information request, **"*2-INIM-DP10002-39367.pdf*"** specifically inquiry Item nine (9) on page 63 of 72.

However, without cause or reason. Petitioner was not satisfied with the Met-Stress testing results and insisted that additional testing take place. As a result, additional testing was done, to the specific parameters approved by Petitioner, by Rhamm (*see* Appendix B). As with the Met-Stress tests, the testing connected by Rhamm confirmed the integrity and design of the wheel.

This is not the only incidence of the perversion of facts in submitted statements by Dayton Wheel Concepts. It was surprising to see that Dayton Wheel submitted testimony that **the "BA" wheel was designed and developed in connection with NHTSA.** I was not aware that NHTSA had the resources available to become involved in the research and development of new products in the private and corporate sector. During my employment at Dayton Wheel, I was never presented with any evidence of any corroboration with NHTSA which could be construed as an indication of NHTSA's assistance in the design and development of the "BA" wheel. "What is truly surprising is that the production "BA" wheel is the style that proved to be of defective design and had not ever passed an alternating torsion test. It is also the style of wheel which was not able to sustain prescribed test loads even though the official STL test Lab report falsely stated otherwise. This is a separate issue though certainly equally if not even more dangerous and concerning. Also, should there be any merit to the Dayton Wheel claim that NHTSA was involved in the design and development of the "BA" wheel, could this be construed as NHTSA having accepted a share of any liabilities associated with the "BA" wheel? Again, I was never made aware of any such collaboration between NHTSA and Dayton Wheel in the development of the "BA" wheel. Also note that Dayton Wheel un-officially discontinued production of the "BA" wheel in 2006 possibly due to the overwhelming evidence and unreported incidents of failures, some even before the wheel left the plant.



With respect to the "BA" wheel, which is one of the primary targets of Petitioner's claims, this wheel was designed and developed in connection with discussions and conversations between DWC and NHTSA. The design and production of the "BA" wheel has at all times complied with the covenants and agreements of Preliminary Evaluation No. PEOT-073 and the Part 573 Report.

The development of the "BA" wheel, which is more fully explained in Response No. 7, involved internal and external testing throughout the development and manufacturing process. Specifically, the "BA" wheels were subject to Met-Stress tests during the development phase to investigate a concern of cracking in the chrome. A full and complete copy of the Met-Stress test report is attached as Appendix A to this Response. Significantly, the Met-Stress testing concluded that, unlike competitor wheels observed by Petitioner, the "BA" wheels did not sustain a loss of integrity or cracking of the sub-surface hub, but rather only reflected cracking in the aesthetic chrome plating.

Also worth noting is that Met-Stress was a part-time one man laboratory which only tested material properties. It did not test wheels as it appears Dayton Wheel Concepts would have NHTSA believe.

NHTSA stated in its March 9, 2010 request for information that failure to respond promptly and fully to the letter could subject Dayton Wheel to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief as well as other remedies and sanctions. Perhaps the information submitted here may be useful in determining the extent of Dayton wheel's less than full and candid disclosure, as well as the credibility and integrity of the information it submitted. In fact on May 24, 2006, Dayton Wheel's own legal counsel warned of the potential civil and criminal charges possible for knowing and not reporting the defective products.

If you find that I have missed something or that I have misstated or misrepresented any of the information submitted to you and NHTSA, please let me know.

I hope I can count on your communicating to me your position on these matters. It would be very troubling if NHTSA were to close this investigation before it, at the very least, checked and verified the data which it has obtained. It would be devastating if any injuries and or deaths were to occur due to these products which have been manufactured and sold for use on public roads and highways and which NHTSA had reportedly investigated through the documentation it had received from the petitioner. In this case, NHTSA has the data to at least determine whether to investigate Dayton Wheel and these suspected Dayton Wheel products with the promise of keeping the roads and highways safe for the general public. The items of false, misleading and evidence of non-full-disclosure submitted to NHTSA by Dayton Wheel and identified in this email should at the very least raise the concern of Dayton Wheel's compliance with 49 U.S.C. § 30166 and the enforcement of Chapter 301 of Title 49.

If the 2002 victims of the SuperSpoke wheel's catastrophic failure had been informed of American Wire Wheel's product defects, I am certain they would have at least been able to make an informed decision as whether or not to entrust their lives in the dangerous wheel in which they had a reasonable expectation of safety and integrity. I hope in this case that NHTSA will consider the factual materials regarding Dayton Wheel, its products and Dayton Wheel's disregard to issues regarding the safety of their customers and actually assess the petitioner's materials against the responses Dayton Wheel submitted which appear to be less than candid, false, misleading and as pointed out in this email, completely contradictory to the facts. I believe that all Americans would expect nothing less from NHTSA and that their beliefs are well founded.

Thank you,

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