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9 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **FOR MARICOPA COUNTY**

11 **STATE OF ARIZONA, ex rel,**
12 **STEPHEN A. OWENS, Director,**
Arizona Department of
Environmental Quality,

13 Plaintiffs,

14 vs.

15 **NORTH AMERICAN SLEEK**
16 **CRAFT, Inc., an Arizona**
Corporation,

17 Defendant.

Civil Action No. _____

COMPLAINT

(Non-classified Civil)

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19 Plaintiff, State of Arizona (“State”) ex rel. Arizona Department of Environmental
20 Quality, Stephen A. Owens, Director of the Arizona Department of Environmental Quality
21 (“ADEQ”) alleges as follows:
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I. Nature of Action

1. This is a civil action brought pursuant to Arizona Revised Statutes (“A.R.S.”) §§ 49-426, 49-462, 49-463, and Arizona Administrative Code (“A.A.C.”), R18-2-326.

The State seeks civil penalties and fees from the Defendant for violations of State rules and regulations. The violations result from the Defendant’s failure to obtain an ADEQ Air Quality Class I permit prior to the construction and operation of a major source of air pollutants, for its failure to comply the National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing (“Subpart VVVV”), and for its failure to pay past due air quality administrative fees and emission fees. The state also seeks injunctive relief requiring Defendant to submit its 2005 annual emissions inventory questionnaire, and to operate in full compliance, until issuance of an air quality permit, with all the requirements of Subpart VVVV of Title 40 Code of Federal Regulations (“CFR”) § 63.5680 et seq.

II. Jurisdiction, Authority and Venue

2. This Court has jurisdiction over this matter, pursuant to A.R.S. §§ 49-426 and 49-463. This Court has personal jurisdiction over the Defendant because at all times alleged it conducted business in Arizona.

3. This State has the authority to bring this civil action under A.R.S. §§ 49-462, 49-463(A).

4. Venue for this civil action is proper in this Court under A.R.S. § 12-401(17).

III. The Parties

5. Stephen A. Owens is the Director of the Arizona Department of Environmental Quality. This action was brought through Mr. Owens on behalf of the State, pursuant to A.R.S.

1 § 49-103(B).

2 6. The Defendant is a person as defined in A.R.S. § 49-421(3). The Defendant is
3 authorized to conduct business in Arizona.
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5 **IV. Regulatory Authority**

6 7. Arizona adopted a coordinated state-wide program “to control present and future
7 sources of emission of air contaminants to the end that air polluting activities of every type shall
8 be regulated in a manner that insures the health, safety and general welfare of all the citizens of
9 the state, protects property values and protects plant and animal life.” A.R.S. § 49-401 (A).
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11 **V. General Allegations**

12 8. Since 2000, Defendant has manufactured custom fiberglass powerboats at its
13 facility located at 1100 North Lake Havasu Avenue and 1101 Gauge St., Lake Havasu City,
14 Arizona.
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16 9. Defendant utilizes open molding resin and gel coat operations to manufacture
17 fiberglass powerboats.
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19 10. Defendant’s open molding resin and gel coat operations result in the emission of
20 styrene, a hazardous air pollutant (“HAP”) as defined in A.R.S. § 49-401.01(16), 40 CFR § 63.2,
21 and as listed in Section 112(b) of the 1990 Amendments to the Clean Air Act.

22 11. Since 2000, Defendant operated its facility as a major source of a HAP without a
23 Class I major source air quality permit.
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25 12. Defendant failed to submit an initial notification to the U.S. Environmental
26 Protection Agency on or before December 20, 2001, as an existing major source subject to

1 Subpart VVVV – National Emission Standards for Hazardous Air Pollutants For Boat
2 Manufacturers, in accordance with 40 CFR §§ 63.9(b) and 63.5764(a) and (b), Table 7 To
3 Subpart VVVV of Part 63 – Applicability and Timing of Notifications (“Table 7”) as adopted by
4 A.A.C. R18-2-1101(A) and (B).
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6 13. Defendant failed to maintain records beginning on August 23, 2003, of the total
7 amounts used per month and the weighted-average organic HAP contents of: production resin,
8 pigmented gel coat, clear gel coat, tooling resin, and tooling gel coat. Such records are required
9 to be maintained in accordance with 40 CFR §§ 63.10(b)(1) and 63.5767(c)(1) as adopted by
10 A.A.C. R18-2-1101(A) and (B).
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12 14. Defendant failed to submit a notification of compliance status for open molding
13 operations on or before September 22, 2005, in accordance with 40 CFR §§ 63.9(h) and
14 63.5761(a), Table 7 and as adopted by A.A.C. R18-2-1101(A) and (B).
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16 15. Defendant failed to pay its annual 2000 through 2001 emissions fees and permit
17 fees, failed to pay its annual 2001 through 2006 administrative fees, and failed to pay its annual
18 2002 through 2005 emissions-based fees pursuant to A.R.S. § 49-426(E)(1) and A.A.C. R18-2-
19 326.
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21 16. Defendant failed to submit, by March 1, 2006, its first complete compliance report
22 covering the period of August 23, 2004 through December 31, 2005 pursuant to 40 CFR §§
23 63.10 (d)(1) and 63.5764(a) and (b)(1) and (2).
24

25 17. Defendant failed to submit to ADEQ its completed annual air emission inventory
26 questionnaires for calendar years 2000 through 2005, by March 31 following the end of each
calendar year pursuant to A.A.C. R18-2-327.

18. On January 18, 2005, ADEQ issued a Notice of Violation to Defendant.

Count I

19. The State realleges and incorporates by reference paragraphs 1 through 18 stated above.

20. Since 2000, Defendant operated the facility as a major source of a HAP without a Class I major source air permit in violation of A.A.C. R18-2-302(A).

Count II

21. The State realleges and incorporates by reference paragraphs 1 through 20 stated above.

22. On or before December 20, 2001, Defendant failed to submit, to the U.S. Environmental Protection Agency, an initial notification as an existing major source subject to Subpart VVVV, 40 CFR §§ 63.9(b) and 63.5764(a) and (b), Table 7 as adopted by A.A.C. R18-2-1101(A) and (B).

Count III

23. The State realleges and incorporates by reference paragraphs 1 through 22 stated above.

24. Defendant failed to maintain records beginning on August 23, 2003, of the total amounts used per month and the weighted-average organic HAP contents of: production resin, pigmented gel coat, clear gel coat, tooling resin, and tooling gel coat. Subpart VVVV, 40 CFR §§ 63.10(b)(1) and 63.5767(c)(1) as adopted by A.A.C. R18-2-1101(A) and (B).

1 **Count IV**

2 25. The State realleges and incorporates by reference paragraphs 1 through 24 stated
3 above.
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5 26. Defendant failed to submit to ADEQ a notification of compliance status for open
6 molding operations on or before September 22, 2005. Subpart VVVV, 40 CFR §§ 63.9(h) and
7 63.5761(a), Table 7, as adopted by A.A.C. R18-2-1101(A) and (B).
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9 **Count V**

10 27. The State realleges and incorporates by reference paragraphs 1 through 26 stated
11 above.
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13 28. Defendant is an owner and operator of a source that is required to have an air
14 quality permit. As an owner or operator requiring an air quality permit, Defendant is required to
15 pay regulatory fees.

16 29. Defendant, in violation of A.A.C. R18-2-326 failed to pay its annual 2000
17 through 2001 emissions fees and permit fees, failed to pay its annual 2001 through 2006
18 administrative fees, and failed to pay its annual 2002 through 2005 emissions-based fees.
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20 **Count VI**

21 30. The State realleges and incorporates by reference paragraphs 1 through 29 stated
22 above.
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24 31. Defendant failed to submit, by March 1, 2006, its first annual compliance report
25 covering the period of August 23, 2004 through December 31, 2005, pursuant to 40 CFR §§
26 63.10 (d)(1) and 63.5764(a) and (b)(1) and (2).

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Count VII

32. The State realleges and incorporates by reference paragraphs 1 through 31 stated above.

33. Defendant failed to submit to ADEQ its completed annual air emission inventory questionnaires for calendar years 2000 through 2005, by March 31 following the end of each calendar year pursuant to A.A.C. R18-2-327.

WHEREFORE the State's complaint prays for judgment as follows:

1. To assess a civil penalty against the Defendant in an amount not to exceed \$10,000 per day per violation pursuant to A.R.S. § 49-463;
2. Injunctive Relief as deemed appropriate by this Court pursuant to A.R.S. § 49-462.
3. To award a judgment against the Defendant in the amount of \$60,070.00 pursuant to A.R.S. §§ 49-426, 49-113, and A.A.C. R18-2-326.
4. Award the State its taxable costs; and
5. Grant such other relief as the Court deems just and proper.

DATED this ____ day of _____, 2006.

TERRY GODDARD
Attorney General

Barbara U. Pashkowski
Assistant Attorney General
Attorney for Plaintiffs

VERIFICATION

STATE OF ARIZONA)
County of Maricopa) ss.

I, Nancy Wrona, being first duly sworn upon her oath, deposes and says:

1. I am the Director of the Arizona Department of Environmental Quality, Air Quality Division, and have been delegated the authority to verify Complaints by the Director of the Department.

2. I have read the foregoing Complaint, know the contents thereof, and that on my own knowledge and belief, the matters alleged herein are true, except for those matters alleged on information and belief, and as to those matters, I believe the Complaint to be true.

Nancy Wrona, Director
Air Quality Division
Arizona Department of Environmental
Quality

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2006.

Notary Public

My Commission Expires:

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