

**HOPPING GREEN SAMS & SMITH**

*Klan*  
FOR OFFICIAL FILE

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RICHARD S. BRIGHTMAN  
KEVIN U. COVINGTON  
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PROFESSIONAL ASSOCIATION  
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DAN R. STENGLE  
CHERYL G. STUART  
W. STEVE SYKES  
T. KENT WETHERELL, II  
  
OF COUNSEL  
ELIZABETH C. BOWMAN

**FAX COVER SHEET**

February 18, 2000

Please Deliver the Following Pages to:

NAME	CODE	FAX NUMBER	PHONE NUMBER
Doug Kitts, Sea Ray Boats, Inc.	5302	423-971-6434	423-971-6503
Clare Fancy, DEP	5302	850-922-6979	850-921-9503
Kevin Thompson, Sea Ray Boats, Inc.	5302	423-971-6423	423-522-4181

**From:** Angela Morrison

**Message:** Please find enclosed, "Notice of Withdrawal of Request for Extension of Time."

**Client/Matter:** SEARAY-00109

We are transmitting 4 pages (including this cover sheet). If you do not receive all of the pages, please call the FAX DESK at 222-7500 extension 419.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS.

**HOPPING GREEN SAMS & SMITH**  
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 CHERYL G. STUART  
 W. STEVE SYKES

OF COUNSEL  
 ELIZABETH C. BOWMAN

February 18, 2000

*Via Hand Delivery*

Ms. Kathy Carter, Clerk  
 Office of General Counsel  
 Florida Department of Environmental Protection  
 3900 Commonwealth Boulevard, Room 638  
 Tallahassee, FL 32399-3000

Re: Withdrawal of Request for Extension of Time  
 Permit No: 0090093-003-AC; PSD-FL-274; OGC No. 99-1794  
 Sea Ray Boats, Inc. - Cape Canaveral Plant

Dear Kathy:

Please find enclosed a Withdrawal of Request for Extension of Time regarding the above-referenced matter.

Thank you very much for your continued assistance. If you should have any questions or require any additional information, please do not hesitate to contact me at the above telephone number.

Sincerely,

HOPPING GREEN SAMS & SMITH, P.A.



Angela Morrison  
 Attorney for Sea Ray Boats, Inc.

ARM/gg  
 Enclosure

cc: Doug Kitts, Esq. (via fax)  
 Kevin Thompson (via fax)

THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of an  
Application for Permit by:

Sea Ray Boats, Inc.  
100 Sea Ray Drive  
Merritt Island, FL 32953

---

OGC No. 99-1794  
Permit No.: 0090093-003-AC; PSD-FL-274  
Cape Canaveral Plant  
Brevard County, Florida


**NOTICE OF WITHDRAWAL**  
**OF REQUEST FOR EXTENSION OF TIME**

Sea Ray Boats, Inc. (Sea Ray), by and through undersigned counsel, hereby withdraws its Request for Extension of Time to file a petition for formal administrative proceedings in accordance with Chapter 120, Florida Statutes, with regard to the above-styled and numbered matter. Sea Ray has previously requested extensions of time from the Department of Environmental Protection (Department) through and including February 18, 2000, in response to the "Intent to Issue Air Construction Permit" and Proposed Permit (Permit No. 0090093-003-AC, PSD-FL-274) (Permit) for the proposed Cape Canaveral Plant to be located in Brevard County, Florida. The request was filed in order to negotiate certain changes to the Proposed Permit with the Department. Based on discussions among representatives from Sea Ray and the Department, agreement has been reached on the issues involved in the above-referenced Permit. The agreement between Sea Ray and the Department is reflected in the attached documents, which include a Revised Proposed Air Construction Permit, Final Determination, and Revised Best Available Control Technology (BACT) Determination (Exhibits A, B, & C, respectively).

Accordingly, Sea Ray hereby withdraws its Request for Extension of Time, conditioned upon the Department's issuance of the Proposed Permit, Final Determination and BACT Determination in accordance with the Department's agreement with Sea Ray.

Respectfully submitted this 18th day of February, 2000.

HOPPING GREEN SAMS & SMITH, P.A.

  
\_\_\_\_\_  
Angela R. Morrison  
Fla. Bar No. 0855766  
123 South Calhoun Street  
Tallahassee, FL 32301  
(850) 222-7500

Attorney for SEA RAY BOATS, INC.

**CERTIFICATE OF SERVICE**

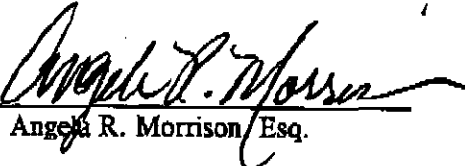
I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by U.S.

Mail on this 18th day of February, 2000:

Clair H. Fancy, P.E., Chief  
Bureau of Air Regulation  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2600

Doug Beason, Esq.  
Office of General Counsel  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2600

Mr. Clarence Rowe  
418 Pennsylvania Avenue  
Rockledge, FL 32955

  
\_\_\_\_\_  
Angela R. Morrison, Esq.

HOPPING GREEN SAMS & SMITH

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS

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POST OFFICE BOX 6526

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WRITER'S DIRECT DIAL No.

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OF COUNSEL  
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RICHARD D. MELSON  
ANGELA R. MORRISON  
SHANNON L. NOVEY  
ERIC T. OLSEN

February 11, 2000

*Via Hand Delivery*

Ms. Kathy Carter, Clerk  
Office of General Counsel  
Florida Department of Environmental Protection  
3900 Commonwealth Boulevard, Room 638  
Tallahassee, FL 32399-3000

Re: Request for Extension of Time  
Permit No: 0090093-003-AC; PSD-FL-274; OGC No. 99-1794  
Sea Ray Boats, Inc. - Cape Canaveral Plant

Dear Kathy:

Please find enclosed a Request for Extension of Time through February 18, 2000, regarding the above-referenced matter.

Thank you very much for your continued assistance. If you should have any questions or require any additional information, please do not hesitate to contact me at the above telephone number.

Sincerely,

HOPPING GREEN SAMS & SMITH, P.A.



Angela Morrison  
Attorney for Sea Ray Boats, Inc.

ARM/gg  
Enclosure

cc: Doug Kitts, Esq. (via fax)  
Kevin Thompson (via fax)  
Clarence Rowe (via mail)

RECEIVED

FEB 15 2000

BUREAU OF AIR REGULATION

THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of an  
Application for Permit by:

OGC No. 99-1794

Sea Ray Boats, Inc.  
100 Sea Ray Drive  
Merritt Island, FL 32953

Permit No.: 0090093-003-AC; PSD-FL-274  
Cape Canaveral Plant  
Brevard County, Florida

---

**REQUEST FOR EXTENSION OF TIME**

By and through undersigned counsel, Sea Ray Boats, Inc. (Sea Ray) hereby requests, pursuant to Florida Administrative Code Rules 62-110.106(4), an extension of time, to and including February 18, 2000, in which to file a Petition for Administrative Proceedings in the above-styled matter. As good cause for granting this request, Sea Ray states the following:

1. On or about October 8, 1999, Sea Ray received from the Department of Environmental Protection (Department) an "Intent to Issue Air Construction Permit" (Permit No. 0090093-003-AC, PSD-FL-274) for the proposed Cape Canaveral Plant to be located in Brevard County, Florida. Along with the Intent to Issue, Sea Ray received a proposed Air Construction permit and "Public Notice of Intent to Issue Air Construction Permit."
2. The proposed permit and associated documents contain several provisions that warrant clarification, correction or revision.
3. Sea Ray has previously requested an extension of time from the Department through and including February 11, 2000.

4. Representatives of Sea Ray have corresponded and intend to continue to correspond with staff of the Department's Bureau of Air Regulation in an effort to resolve all issues.

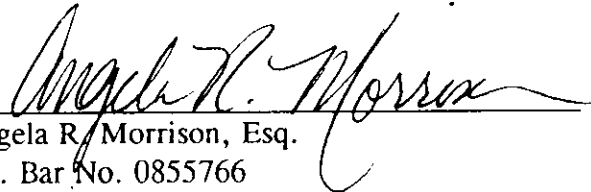
5. This request is filed simply as a protective measure to avoid waiver of Sea Ray's right to challenge certain conditions contained in the proposed permit. Grant of this request will not prejudice either party, but will further their mutual interest and likely avoid the need to file a petition and proceed to a formal administrative hearing.

6. Counsel for Sea Ray has attempted without success to contact Douglas Beason with the Department's Bureau of Air Regulation to discuss this request.

WHEREFORE, Sea Ray respectfully requests that the time for filing of a Petition for Administrative Proceedings in regard to the Department's Intent to Issue Air Construction Permit for Permit No. 0090093-003-AC, PSD-FL-274 be formally extended to and including February 18, 2000. If the Department denies this request, Sea Ray requests the opportunity to file a Petition for Administrative Proceedings within 10 days of such denial.

Respectfully submitted this 11<sup>th</sup> day of ~~January~~ <sup>February</sup>, 2000.

HOPPING GREEN SAMS & SMITH, P.A.

  
\_\_\_\_\_  
Angela R. Morrison, Esq.  
Fla. Bar No. 0855766  
123 South Calhoun Street  
Tallahassee, FL 32301  
(850) 222-7500  
Attorney for SEA RAY BOATS, INC.

**CERTIFICATE OF SERVICE**

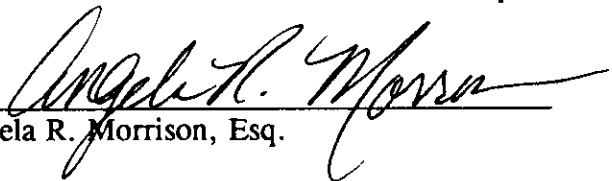
I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by

U.S. Mail on this 11<sup>th</sup> day of ~~January~~ *February*, 2000:

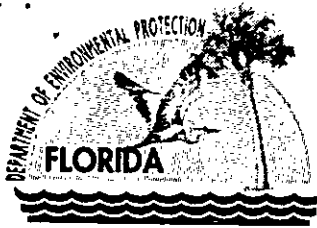
Clair H. Fancy, P.E., Chief  
Bureau of Air Regulation  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2600

Doug Beason, Esq.  
Office of General Counsel  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2600

Mr. Clarence Rowe  
418 Pennsylvania Avenue  
Rockledge, FL 32955

  
\_\_\_\_\_  
Angela R. Morrison, Esq.





Jeb Bush  
Governor

# Department of Environmental Protection

# COPY

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

David B. Struhs  
Secretary

Mr. Gary K. Hunter, Atty  
Hopping Green Sams & Smith  
Post Office Box 6526  
Tallahassee, Florida 32314

OCD-AP-00-09

## RECEIVED

JAN 27 2000

Brevard County - AP  
Sea Ray Boats, OWL-AP-99-459  
Construction without a Permit

BUREAU OF AIR REGULATION

Dear Mr. Hunter:

Thank you for your letter of January 3, 2000 regarding the above. I have reviewed the letter and arguments, and it is my opinion that the penalty, which is minor, is appropriate.

While there may be some misunderstandings, the EPA memorandum dated December 18, 1978 clearly states, "All on-site activities of a permanent nature aimed at completing a PSD source which a permit has yet to be obtained are prohibited under all circumstances. These prohibited activities include installation of building supports and foundations, paving, laying of underground pipe work, construction of permanent storage structures, and activities of similar nature."

Please have your client sign and return the enclosed Consent Order by February 14, 2000. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,

Vivian F. Garfein  
Director of District Management

Date January 25, 2000

VFG/LTK/CS

Cc: Dennis Wilson  
Kenneth Hayman  
Clair Fancy  
Al Linero  
S. Sheplak

"Protect, Conserve and Manage Florida's Environment and Natural Resources"



Jeb Bush  
Governor

# Department of Environmental Protection

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

David B. Struhs  
Secretary

CERTIFIED

P 248 041 841

OCD-AP-00-11

Dennis Wilson, Vice President  
General Manager  
Sea Ray Boats, Inc.  
350 Sea Ray Drive  
Merritt Island, Florida 32953

Proposed Settlement by Short Form Consent Order  
in the Case of Sea Ray Boats, Inc. OGC No. 00-0075

Dear Mr. Wilson:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter OWL-AP-99-459, dated, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$3,200.00 along with \$150.00 to reimburse the Department costs, for a total of \$3,350.00. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystem Management and Restoration Trust Fund (EMRTF)". Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803 within thirty (30) days of your signing this letter.

Your signing this letter constitutes your acceptance of the Department's offer to resolve the matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department which shall be enforceable pursuant to Section 120.69 and 403.121, Florida Statutes.

*"Protect, Conserve and Manage Florida's Environment and Natural Resources"*

*Printed on recycled paper.*

Dennis Wilson  
OCD-AP-00-11  
Page Two

If you do not sign and return this letter to the Department at the district address above by February 14, 2000, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



Vivian F. Garfein  
Director of District Management

Date January 25, 2000

---

I, \_\_\_\_\_, on behalf of \_\_\_\_\_,  
**HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED  
ABOVE.**

For: Sea Ray Boats, Inc.

For the Department:

By: \_\_\_\_\_  
Dennis Wilson, Vice President  
General Manager

\_\_\_\_\_  
Vivian F. Garfein  
Director of District Management

Entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2000 in Orlando,  
Florida.

FILING AND ACKNOWLEDGMENT FILED,  
on this date, pursuant to §120.52, Florida  
Statutes, with the designated Department  
Clerk, receipt of which is hereby acknowledged.

CLERK \_\_\_\_\_

DATE \_\_\_\_\_

VFG/LTK/cs  
Attachments

## NOTICE OF RIGHTS

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.



# Department of Environmental Protection

Jeb Bush  
Governor

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

David B. Struhs  
Secretary

## CERTIFIED LETTER

P 248 041 827

## WARNING LETTER

OWL-AP-99-459

Dennis Wilson, Vice President  
General Manager  
Sea Ray Boats, Inc.  
350 Sea Ray Drive  
Merritt Island, Florida 32953

Brevard County - AP  
Commencement of Construction without a Permit

Dear Mr. Wilson:

The purpose of this letter is to advise you of a possible violation of law for which you may be responsible, and to seek your cooperation in resolving the matter. A Department inspection on December 6, 1999 of your facility located at 100, 200, and 350 Sea Ray Drive, Merritt Island, Brevard County, Florida indicates that violations of Florida Statutes and Rules may exist at the above described facility. The following was observed:

The company has commenced construction of an expansion to the facility without having first received a Department permit for the construction. **All construction on this expansion should be ceased immediately.**

Section 403.161(1)(b), Florida Statutes, provides that it shall be a violation of this chapter, and it shall be prohibited for any person to fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.

Section 403.087(1), Florida Statutes, provides that no stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the Department, unless exempted by Department rules.

Florida Administrative Code Rule 62-4.210 Construction Permits: (1) No person shall construct any installation or facility which will reasonably be expected to be a source of air or water pollution without first applying for and receiving a construction permit from the Department unless exempted by statute or Department rule.

*"Protect, Conserve and Manage Florida's Environment and Natural Resources"*

Dennis Wilson, Vice President  
OWL-AP-99-459  
Page 2

Florida Administrative Code Rule 62-210.200(88) provides: "Construction" - The act of performing on-site fabrication, erection, installation or modification of an emissions unit or facility of a permanent nature, including installation of foundations or building supports; laying of underground pipe work or electrical conduit; and fabrication or installation of permanent storage structures, component parts of an emissions unit or facility, associated support equipment, or utility connections. Land clearing and other site preparation activities are not a part of the construction activities.

The activities described in this letter, and any other activities at your facility that may be contributing to violations of the above described statutes or rules should be ceased. You are requested to contact Caroline Shine at 407-893-3336 or at the above address within fifteen (15) days receipt of this Warning Letter to arrange a meeting to discuss the matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve the matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfein  
Director of District Management

Date December 7, 1999

  
VFG/LTK/cs