

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0540-IWD-E **TCEQ ID:** RN103897476 **CASE NO.:** 33114

RESPONDENT NAME: Marmac LLC dba McDonough Marine Services

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: McDonough Marine Service, 17500 Market Street, approximately 400 feet south of the Monmouth Drive Interchange Exit 786 on Interstate 10, Channelview, Harris County</p> <p>TYPE OF OPERATION: Deck barge leasing and repair facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 1, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. David C. Hanby, Jr., President/COO, McDonough Marine Services, 17500 Market Street, Channelview, Texas 77530 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 6, 2007</p> <p>Date of NOE Relating to this Case: March 28, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with the permitted effluent limitations [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004633000, Effluent Limitations and Monitoring Requirements No.1].</p>	<p>Total Assessed: \$1,600</p> <p>Total Deferred: \$320 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,280</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Marmac LLC has implemented the following corrective measures at the Facility:</p> <p>a. In October 2006, implemented procedural changes including taking samples while the pump is running with a suction hose positioned above the bottom most point in the voids;</p> <p>b. In January 2007, began pre-testing of void and ballast contents before discharging contents, and subsequently began transporting void and ballast contents to permitted waste disposal facility when necessary; and</p> <p>c. On January 31, 2007, came into compliance with permitted effluent limits.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	2-Apr-2007	Screening	3-Apr-2007	EPA Due	
	PCW	3-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Marmac LLC dba McDonough Marine Service
Reg. Ent. Ref. No.	RN103897476
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33114	No. of Violations	1
Docket No.	2007-0540-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Libby Hogue
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **5% Enhancement** **Subtotals 2, 3, & 7**

Notes: A 15% enhancement is recommended for having three months of self-reported effluent violations. A 10% reduction is recommended to recognize two voluntary on-site compliance assessments.

Culpability **0% Enhancement** **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **25% Reduction** **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent came into compliance on January 31, 2007.

0% Enhancement* **Subtotal 6**
 Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **20% Reduction** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY



Screening Date 3-Apr-2007

Docket No. 2007-0540-IWD-E

PCW

Respondent Marmac LLC dba McDonough Marine Service

Policy Revision 2 (September 2002)

Case ID No. 33114

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103897476

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	Yes	-10%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 15% enhancement is recommended for having three months of self-reported effluent violations. A 10% reduction is recommended to recognize two voluntary on-site compliance assessments.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 3-Apr-2007

Docket No. 2007-0540-IWD-E

PCW

Respondent Marmac LLC dba McDonough Marine Service

Policy Revision 2 (September 2002)

Case ID No. 33114

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103897476

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004633000, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations. The Respondent exceeded the permitted daily maximum limit of 60 mg/L for TSS for the months of September 2006 and December 2006. The reported values for these months were 86 mg/L and 111 mg/L respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
single event		

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$1,600

This violation Final Assessed Penalty (adjusted for limits) \$1,600

Economic Benefit Worksheet

Respondent Marmac LLC dba McDonough Marine Service

Case ID No. 33114

Reg. Ent. Reference No. RN103897476

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	30-Sep-2006	31-Jan-2007	0.3	\$17	n/a	\$17

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the date the respondent came into compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$17

Compliance History

Customer/Respondent/Owner-Operator: CN602742405 Marmac LLC Classification: AVERAGE Rating: 0.14
 Regulated Entity: RN103897476 MCDONOUGH MARINE SERVICE Classification: AVERAGE Site Rating: 0.14
 ID Number(s): WASTEWATER PERMIT WQ0004633000
 WASTEWATER EPA ID TX0125920
 WASTEWATER PERMIT TX0125920
 Location: 17500 MARKET ST, APPROXIMATELY 400 FEET Rating Date: September 01 06 Repeat Violatc
 SOUTH ON THE MONMOUTH DR. INTERCHANGE EXIT NO
 786 ON INTERSTATE 10, CHANNELVIEW, HARRIS
 CTY, TX, 77530
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: April 03, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 02, 2002 to April 02, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Libby Hogue Phone: 512-239-1165

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 N/A

B. Any criminal convictions of the state of Texas and the federal government.
 N/A

C. Chronic excessive emissions events.
 N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 10/18/2004 | (368279) |
| 2 | 11/10/2004 | (390855) |
| 3 | 01/13/2005 | (390856) |
| 4 | 02/14/2005 | (428278) |
| 5 | 03/16/2005 | (428279) |
| 6 | 04/14/2005 | (428280) |
| 7 | 05/16/2005 | (428281) |
| 8 | 06/21/2005 | (428282) |
| 9 | 07/14/2005 | (448224) |
| 10 | 08/11/2005 | (448225) |
| 11 | 10/03/2005 | (493869) |
| 12 | 10/11/2005 | (493868) |
| 13 | 11/14/2005 | (493870) |
| 14 | 12/19/2005 | (493871) |
| 15 | 01/13/2006 | (493872) |
| 16 | 02/15/2006 | (451264) |
| 17 | 02/17/2006 | (493866) |
| 18 | 03/16/2006 | (493867) |
| 19 | 04/14/2006 | (507013) |
| 20 | 05/08/2006 | (507014) |

21 06/15/2006 (507015)
 22 08/08/2006 (529180)
 23 09/07/2006 (529181)
 24 10/05/2006 (529182)
 25 10/20/2006 (529179)
 26 11/01/2006 (552193)
 27 12/01/2006 (552194)
 28 01/12/2007 (552195)
 29 02/08/2007 (552192)
 30 03/29/2007 (543144)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	11/30/2005	(493871)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/30/2006	(529182)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2006	(552195)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

12/11/2003
 08/31/2004

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MARMAC LLC DBA MCDONOUGH
MARINE SERVICE
RN103897476

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER
DOCKET NO. 2007-0540-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Marmac LLC dba McDonough Marine Service ("Marmac LLC"), under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Marmac LLC appear before the Commission and together stipulate that:

1. Marmac LLC owns and operates a deck barge leasing and repair facility located at 17500 Market Street, approximately 400 feet south of the Monmouth Drive Interchange Exit 786 on Interstate 10, in Channelview, Harris County, Texas (the "Facility").
2. Marmac LLC has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Marmac LLC agree that the Commission has jurisdiction to enter this Agreed Order, and that Marmac LLC is subject to the Commission's jurisdiction.
4. Marmac LLC received notice of the violations alleged in Section II ("Allegations") on or about April 2, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Marmac LLC of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Six Hundred Dollars (\$1,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Marmac LLC has paid One Thousand Two Hundred Eighty Dollars (\$1,280) of the administrative penalty and Three Hundred Twenty Dollars (\$320) is deferred contingent upon Marmac LLC's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Marmac LLC fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Marmac LLC to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Marmac LLC have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Marmac LLC has implemented the following corrective measures at the Facility:
 - a. In October 2006, implemented procedural changes including taking samples while the pump is running with a suction hose positioned above the bottom most point in the voids;
 - b. In January 2007, began pre-testing of void and ballast contents before discharging contents, and subsequently began transporting void and ballast contents to permitted waste disposal facility when necessary; and
 - c. On January 31, 2007, came into compliance with permitted effluent limits.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Marmac LLC has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Marmac LLC is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004633000, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 6, 2007, as indicated in the table below.

The first part of the report deals with the general situation in the country. It is noted that the economy is still in a state of depression, and that the government has taken various measures to stimulate it. The report also mentions the progress of the war and the impact of the atomic bomb.

The second part of the report discusses the political situation. It is noted that the government has taken various measures to strengthen its position, and that the opposition has been weakened. The report also mentions the progress of the war and the impact of the atomic bomb.

The third part of the report discusses the social situation. It is noted that the government has taken various measures to improve the living conditions of the people, and that the social structure is becoming more stable. The report also mentions the progress of the war and the impact of the atomic bomb.

The fourth part of the report discusses the economic situation. It is noted that the government has taken various measures to stimulate the economy, and that the economy is beginning to show signs of recovery. The report also mentions the progress of the war and the impact of the atomic bomb.

The fifth part of the report discusses the military situation. It is noted that the government has taken various measures to strengthen its military, and that the military is becoming more professional. The report also mentions the progress of the war and the impact of the atomic bomb.

The sixth part of the report discusses the international situation. It is noted that the government has taken various measures to improve its relations with other countries, and that the international situation is becoming more stable. The report also mentions the progress of the war and the impact of the atomic bomb.

Effluent Violation Table Marmac LLC dba McDonough Marine Service TPDES Permit No. WQ0004633000 Docket No. 2007-0540-IWD-E		
Permitted Effluent Limits	Monitoring Period End Date	
	09/30/06	12/31/06
Total Suspended Solids Daily Max. 60 mg/L	86	111

Max. = maximum
mg/L = milligrams per liter

III. DENIALS

Marmac LLC generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Marmac LLC pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Marmac LLC's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Marmac LLC dba McDonough Marine Service, Docket No. 2007-0540-IWD-E" to:

Financial Administration Division, Revenues Section
 Attention: Cashier's Office, MC 214
 Texas Commission on Environmental Quality
 P.O. Box 13088
 Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Marmac LLC. Marmac LLC is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Marmac LLC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Marmac LLC, or three days after the date on which the Commission mails notice of the Order to Marmac LLC, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdin

For the Executive Director

8/23/2007

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

David C. Hanby, Jr.

Signature

APRIL 24, 2007

Date

DAVID C. HANBY, JR.

Name (Printed or typed)
Authorized Representative of
Marmac LLC dba McDonough Marine Service

PRESIDENT + COO

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Very faint, illegible text at the top of the page, possibly a header or introductory paragraph.

Main body of very faint, illegible text, appearing to be several lines of a letter or document.

Very faint handwritten text, possibly a signature or name.

Very faint handwritten text, possibly a signature or name.

Bottom section of very faint, illegible text, possibly a closing or footer.