



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

MAR 24 2009

Via Overnight Delivery
In Reply Refer To: CWA-309(a)-09-014

Mr. Fred Anawati
President
Marisco, Ltd.
91-607 Malakole Road
Kapolei, Oahu, Hawaii 96707

Subject: Issuance of Findings of Violation and Order for Compliance for NPDES Permit Violations

Dear Mr. Anawati:

On December 9, 2008, under the authority of the Clean Water Act (CWA), an EPA-authorized inspector and a representative of the Hawaii Department of Health (DOH) conducted a compliance inspection of Marisco Ltd.'s (Marisco's) Lil' Perris drydock and main facilities to determine Marisco's compliance with NPDES Permit No. HI0021786 and the CWA.

The inspection revealed violations at both facilities. Given the number and nature of violations at issue and EPAs prior enforcement actions against Marisco, an Order for Compliance is needed to ensure that Marisco promptly and fully complies with all applicable NPDES permit requirements.

Therefore, enclosed please find our Findings of Violation and an Order for Compliance pursuant to Sections 308(a) and 309(a)(3), (a)(4), and (a)(5)(A) of the CWA, as amended [33 U.S.C. Sections 1318(a), and 1319(a)(3), (a)(4), (a)(5)(A)] for Marisco's violations of NPDES permit conditions and the CWA at its Kapolei drydock and vessel repair operations.

The table below summarizes some of the key activities and due dates included in the Order:

KEY DATES	ADMINISTRATIVE ORDER CWA-309(a)-09-014
IMMEDIATELY	1. Cease all unpermitted discharges. 2. Fully implement and comply with the January BMP Plan and SWPPP 3. Make corrections to certain violations identified in the inspection report.
04/15/09	4. Complete additional corrections to other violations identified in the inspection report. 5. Provide training to all employees, contractors and subcontractors performing work onsite.
04/30/09	6. Submit interim compliance reports 7. Submit revised Main Facility Revised SWPPP
06/01/09	8. Submit certain other information

The enclosed Order and the findings that constitute the basis behind the Order are issued pursuant to Sections 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Clean Water Act ("the Act") as amended [33 U.S.C. Sections 1318(a) and 1319(a)(3), (a)(4) and (a)(5)(A)]. Any violation of the terms of this Order or discharge standards could subject Marisco to a civil action for appropriate relief pursuant to Section 309(b) of the Act [33 U.S.C. Section 1319(b)] and/or penalties under Section 309(d) of the Act [33 U.S.C. Section 1319(d)] of up to \$31,500 per day of violation. In addition, under Section 309(g) of the Act [33 U.S.C. Section 1319(g)], any violation of the discharge standards could also subject Marisco to an administrative penalty action of up to \$16,000 per day of violation not to exceed \$177,500. Sections 309(c)(1), (c)(2) and (c)(4) of the Act [33 U.S.C. Section 1319(c)(1), (c)(2) and (c)(4)] also provide criminal penalties for negligent violations, knowing violations and knowingly making false statements.

The request for information included in this Order is not subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. Sections 3502(4), 3502(11), 3507, 3512, and 3518. Furthermore, it is exempt from OMB review under the Paperwork Reduction Act because it is directed to fewer than ten persons [44 U.S.C. Section 3502(4), 3502(11) and 5 CFR Section 1320.5(a)].

EPA has promulgated regulations to protect the confidentiality of the business information it receives. These regulations are set forth in 40 CFR Part 2, Subpart B and in the Federal Register at 41 F.R. 36902 (September 1, 1976) and 43 F.R. 40000 (September 8, 1978). A claim of business confidentiality may be asserted in the manner specified by 40 CFR Section 2.203(b) for part or all of the information requested. EPA will disclose business information covered by such a claim only as authorized under 40 CFR Part 2, Subpart B. If no claim accompanies the business information at the time EPA receives it, EPA may make it available to the public without further notice. Marisco may not withhold from EPA any information on the grounds that it is confidential.

Mr. Fred Anawati
Marisco, Ltd.

CWA-309(a)-09-014
Page 3 of 3

If you have any questions, please contact Mr. Jeremy Johnstone of my staff at 415-972-3499 or at johnstone.jeremy@epa.gov.

Sincerely,

Alexis Strauss 24 March 2009
Alexis Strauss
Director, Water Division

Enclosure

cc (w/enclosures):
Alec Wong, DOH

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of)	
)	
Marisco, Ltd.)	FINDINGS OF VIOLATION
91-607 Malekole Road)	
Kapolei, Hawaii)	AND
)	
Proceedings under Section 308(a) and 309(a)(3),)	ORDER FOR COMPLAINT
(a)(4) and (a)(5)(A) of the Clean Water Act, as)	
amended, 33 U.S.C. Section 1318(a) and)	Docket No. CWA-309(a)-09-014
1319(a)(3), (a)(4) and (a)(5)(A))	

STATUTORY AUTHORITY

The following Findings of Violation and Order is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Sections 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Clean Water Act [33 U.S.C. Sections 1318(a) and 1319(a)(3), (a)(4) and (a)(5)(A)] (hereinafter the Act). This authority has been delegated by the Administrator and the Regional Administrator of EPA Region 9 to the Director of the Water Division of EPA Region 9.

FINDINGS OF VIOLATION

The Director of the Water Division of EPA Region 9 finds that Marisco, Ltd. ("Marisco"), violated NPDES Permit No. HI0021786 and Sections 301(a) and 308 of the Act [33 U.S.C. Section 1311(a) and 1318]. This Finding is made on the basis of the following facts:

Background

1. Section 301(a) of the Act [33 U.S.C. Section 1311(a)] prohibits the discharge of any pollutant by any person from a point source into waters of the United States except in



- compliance with, *inter alia*, a National Pollutant Discharge Elimination System (NPDES) permit issued in accordance with Section 402(a) of the Act [33 U.S.C. Section 1342].
2. Section 502(5) of the Act [33 U.S.C. Section 1362(5)] defines “person” to mean an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.
 3. Section 502(6) of the Act [33 U.S.C. Section 1362(6)] defines “pollutant” to mean sewage, garbage, sewage sludge, rock, sand, chemical wastes, biological materials, dredged spoil, solid waste, incinerator residue, munitions, radioactive materials, heat, wrecked or discarded equipment, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.
 4. Section 502(12) of the Act [33 U.S.C. Section 1362(12)] defines the term “discharge of pollutants” to mean any addition of any pollutant to navigable waters from any point source.
 5. Section 502(7) of the Act [33 U.S.C. Section 1362(7)] defines the term “navigable waters” to mean the waters of the United States, including the territorial seas.
 6. Section 502(14) of the Act [33 U.S.C. Section 1362(14)] defines “point source” to mean any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel, or other floating craft, from which pollutants are or may be discharged.
 7. Section 402(p) of the Act [33 U.S.C. § 1342(p)] sets out specific requirements for the issuance of NPDES permits for the discharge of storm water. Section 402(p)(2)(B)



- requires permits to be issued for discharges of storm water associated with industrial activities [33 U.S.C. § 1342(p)(2)(B)].
8. On 16 November 1990, EPA promulgated regulations at 40 C.F.R. Part 122.26, implementing Section 308 and the storm water permit provisions of Section 402(p) of the Act [33 U.S.C. § 1342(p)].
 9. 40 C.F.R. §122.26(c) provides that dischargers of storm water associated with industrial activity are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a promulgated storm water general permit. 40 C.F.R. §122.21(a) *Duty to apply* requires that any person who discharges or intends to discharge pollutants must apply for an NPDES permit unless exempt.
 10. 40 C.F.R. §122.26(b)(14) sets out the definition of “storm water discharge associated with industrial activities” and, at 40 C.F.R. §122.26(b)(14)(ii) includes Ship Building and Repair establishments, SIC 3731.
 11. Section 402(b) of the Act [33 U.S.C. Section 1342(b)] authorizes states to administer the NPDES program, with approval of the Administrator of EPA. The State of Hawaii, through its Department of Health (DOH), is a state approved under section 402(b) of the Act to administer the NPDES program, including the issuance of storm water permits.
 12. On October 25, 2002, DOH adopted, among other things, the NPDES General Permit Authorizing Discharges of Storm Water Associated with Industrial Activities, HAR Chapter 11-55 Appendix B (the Hawaii Industrial Activities General Permit). This general permit became effective on November 7, 2002. It expired on October 21, 2007, when the Hawaii Industrial Activities General Permit was subsequently readopted by



DOH with an effective date of October 22, 2007. The current general permit is set to expire on October 21, 2012.

Marisco

13. Marisco is a company registered to do business in the State of Hawaii, and is therefore a person within the meaning of Section 502(5) of the Act [33 U.S.C. Section 1362(5)], and thus subject to the provisions of the Act, [33 U.S.C. Section 1251 et seq.]
14. Marisco is the owner and operator of 1) a ship repair facility located at Pier 3 of Kalaeloa Barbers Point Harbor on the Island of Oahu (the Main Facility) and 2) a drydock and an associated onshore support facility at the north east portion of Kalaeloa Barbers Point Harbor west of and across from Pier 7 (the "Lil' Perris" drydock facility).
15. Marisco discharges stormwater and industrial wastewater from each of these facilities to Kalaeloa Barbers Point Harbor. The stormwater and industrial wastewater discharges contain, among other things, copper, zinc, and suspended solids, **all of which are pollutants as defined at Section 502(6) of the Act [33 U.S.C. Section 1362(6)], and the regulations at 40 C.F.R. §122.2.**
16. The two Marisco facilities are each "point sources" as defined by Section 502(14) of the Act [33 U.S.C. Section 1362(14)], and the regulations at 40 C.F.R. §122.2.
17. The two Marisco facilities are each categorized under Standard Industrial Classification (SIC) 3731, Ship Building and Repairing. As such they are also each engaged in "industrial activities" as defined at 40 C.F.R. §122.26(b)(14)(ii).
18. Kalaeloa Barbers Point Harbor is a "navigable water" as defined at Section 502(7) of the



Act [33 U.S.C. Section 1362(7)], and a “water of the United States” as defined at the regulations at 40 C.F.R. §122.2.

19. DOH has established water quality standards for the waters of Kalaeloa Barbers Point Harbor, Hawaii Administrative Rules (“HAR”) Chapter 11-54. These standards include those established for Copper (Total Recoverable) and Zinc (Total Recoverable), in the amounts of 2.9 micrograms per liter (“ug/l”) and 95 ug/l, respectively. HAR § 11-54-4(b)(3).

Marisco's Lil' Perris Drydock Facility and Onshore Support Area

20. On February 9, 2007 DOH issued NPDES Permit No. HI 0021786 (“Permit”) to Respondent, effective March 11, 2007 and set to expire on March 31, 2009. The Permit authorizes 1) the discharge of harbor water flowing from the Drydock Lil' Perris during a lowering and lifting cycle and 2) storm water runoff from both the drydock and its onshore support area, in compliance with effluent limitations, monitoring requirements, and other conditions and requirements stated in the permit and in the attached DOH “Standard NPDES Permit Conditions,” dated December 30, 2005. The Permit further established, among other things, the following requirements:
 - a. Part A.1.a establishes effluent limitations and monitoring requirements for harbor water flowing off of the drydock during each lowering and lifting cycle through Outfall Serial Nos. 001 and 002. A listing of select effluent limitations and monitoring requirements are attached at Exhibit 1, which is hereby made a part of these Findings of Violation and Order;
 - b. Part A.2.a establishes effluent limitations and monitoring requirements for storm



- water runoff associated with industrial activity through Outfall Serial Nos. 003 and 004;
- c. Part A.4 requires the Discharger to use test methods promulgated in 40 C.F.R. Part 136;
 - d. Parts B.2.a through B.2.i establish pollution prevention measures required to be implemented by the Discharger.
 - e. Part B.4.a requires the Discharger to maintain monthly logs of all dry dock cycling activities;
 - f. Part B.4.b requires the Discharger to maintain daily logs documenting all the sand blasting activities conducted at the Facility and submit a summary of each month's logs with the monthly monitoring reports;
 - g. Part B.4.c of NPDES Permit No. HI0021786 requires the Discharger to maintain on-site rain gage records and submit a summary of the logs with the monthly monitoring reports;
 - h. Part B.5 requires the Discharger to develop and implement a Best Management Practices (BMP) Plan to reduce pollutants discharged from the Facility, and update the BMP Plan as needed;
 - i. Part B.5.a of NPDES Permit No. HI0021786 requires the Discharger to review and update the BMPs Plan as needed when changes are made at the Facility, within 30-days from the date that such changes were made. Further, the Discharger must maintain documentation of all changes made to the plan;



- j. Part C.1.d of NPDES Permit No HI0021786 requires the Discharger to submit monitoring reports (or have them postmarked), no later than the 28th day of the month following the completed reporting period, to the EPA and DOH; and
 - k. Standard Provision 3.c requires the Discharger to periodically calibrate all monitoring and analytical equipment in order to ensure the accuracy of measurements at 6 month intervals or the manufacturer's recommended intervals.
 - l. Standard Provision 14.b requires the Discharger to retain all monitoring information, including all calibration and maintenance records, for a minimum of five (5) years from the date of the sample, measurement or report.
21. Required self-monitoring reports for January through November 2008 were not submitted to DOH until January 29, 2009, in violation of Part C.1.d of the permit.
22. Required self-monitoring reports for January through November 2008 were not submitted to EPA in violation of Part C.1.d of the permit.
23. Required self-monitoring reports submitted to DOH by the respondent pursuant to the permit demonstrate that, at least since March 2007 (the effective date of the permit) Marisco has exceeded its established effluent limitations for both copper and zinc on numerous occasions. A listing of these reported exceedances are attached at Exhibit I, which is hereby included as part of these Findings.
24. On December 9, 2008 an EPA contractor and a DOH inspector together inspected the Lil' Perris drydock facility for compliance with the terms and conditions of NPDES Permit



No. HI0021786. A copy of the report of that inspection (Inspection report) is attached as Exhibit 2 and included herein by reference. Among other things, the inspection report demonstrates:

- a. Marisco violated Part A.2.a and Standard Provision 14.b of the permit in that the Facility representative (the Health, Safety, and EPA Compliance Officer) was unable to provide a recent storm water monitoring report;
- b. Marisco violated Part A.4 and Standard Provision 14.b of the permit in that the Facility representative reported that all effluent samples for the harbor water running off the dry dock are taken using a plastic scoop and a plastic bucket, prior to distributing the effluent into the appropriate sample containers issued by the contract laboratory. 40 C.F.R. Part 136 requires that all samples for oil and grease be taken directly into a glass container. The monitoring method described by the Facility representative for sampling oil and grease does not meet the requirements of 40 C.F.R. Part 136 or therefore, Part A.4 of the permit;
- c. Marisco violated Part B.4.b and Standard Provision 14.b of the permit in that the Facility representative was unable to provide a log documenting sand blasting activities at the Facility;
- d. Marisco violated Part B.4.e and Standard Provision 14.b of the permit in that the Facility representative was unable to provide records of rainfall at the Facility, nor was a rain gage available for observation on the date of the inspection;



- e. Marisco violated Part B.5.a of the permit in that the most recent BMP Plan available for review on the date of the inspection was last revised in October 2002. The BMP Plan did not appear to have been updated during the term of the current permit and did not accurately reflect current Facility site conditions;
- f. Marisco violated Standard Condition 3.c in that the pH buffer (4.0) available on-site to conduct the calibrations of the pH meter had an expiration date of October 2004;
- g. Marisco violated Standard Condition 14.b in that:
 - i. Calibration records for the pH meter used by the Discharger to demonstrate compliance with the effluent limitations contained in the NPDES Permit were not available for review;
 - ii. It was observed in the dry dock cycling log that a cycling event occurred on August 22, 2008. Part.A.1.a requires Marisco to conduct monitoring during each dry dock cycle. Marisco's dock cycling log indicates that monitoring occurred at the time of the cycling, however a copy of the analytical data for this monitoring event was not available for review on the date of the inspection; and
 - iii. a chain-of-custody for a reported June 2, 2008 monitoring event was not available for review on the date of the inspection.
- h. Marisco violated B.2 and B.5.a in that the following conditions observed during



the inspection at the dry dock and shore side of the dry dock, were not in compliance with the proper implementation of BMPs as specified in either Part B of permit and/or the Discharger's BMP Plan (dated October 2002):

- i. Two 55-gallon drums of used oil were observed stored without secondary containment on the shore side staging area beside the dry dock, inconsistent with Part B.2.j of the permit which states, "The Permittee shall maintain land-based operations in a clean and orderly manner and implement measures to prevent pollutants from contacting storm water runoff." Further, this condition is not consistent with land-based operation BMPs of the Discharger's BMP Plan (p. 8), which states that spill pallets will be on-site and used;
- ii. A mixture of oil and condensate was observed dripping directly on the ground from an air compressor on the shore side staging area beside the dry dock, inconsistent with Part B.2.j of the permit;
- iii. Sand blasting grit was observed spilled on the ground, shore side of the dry dock and multiple bags of fresh sand blasting grit were observed stored on-site without cover, inconsistent with Part B.2.j of the permit and with the land-based operation BMPs of the Marisco's BMP Plan, which states that sand blast grit [new or spent] will be covered; and
- iv. The dry dock does not have any structural BMPs, such as berming, to contain potential discharges from washing/cleaning activities, inconsistent



with Marisco's BMP Plan. That Plan states (pp. 4 and 5) that, under low pressure/low volume cleaning and under ultra-high pressure water blasting, a 4" inch berm is on the forward and aft ends of the dry dock to contain any liquids generated on-site. The Facility representative indicated that the a former 4" berm was removed and further stated that temporary berms or containment BMPs are not set up on the dry dock.

25. EPA's NPDES regulations provide, at 40 C.F.R. §122.6(a), that an expiring EPA-issued NPDES permit may be administratively continued pending permit reissuance only if a complete and timely application for renewal of an expiring NPDES permit is made and, through no fault of the permittee, the new permit does not issue before the expiration date. In an NPDES-authorized State, an expiring NPDES permit may be continued if state law allows [40 C.F.R. §122.6(d)]. In Hawaii, State law [Hawaii Administrative Rules Section 11-55-27(a)] specifies that in order to receive such a continuation, an application for renewal of an expiring NPDES permit must be made at least one hundred eighty (180) days prior to the permit's expiration.
26. In order to have made a timely application for renewal of its expiring NPDES permit and to be eligible for a continuation of that permit, Marisco was to have submitted its complete application by October 2, 2008. Marisco submitted the application for renewal of the NPDES late, on January 29, 2009. Therefore, NPDES Permit No. HI0021786 therefore will not be administratively continued pending reissuance.
27. Marisco's permit renewal application included, among other things, a document entitled "Environmental Best Management Practices" for the Lil' Perris Facility, Revised January



2009” (Lil’ Perris Revised BMP Plan).

28. Upon expiration of the permit on March 31, 2009 and until such time that DOH re-issues Marisco a valid NPDES permit authorizing 1) the discharge of harbor water flowing from the Drydock Lil’ Perris during a lowering and lifting cycle and 2) the discharge of storm water runoff from the drydock and adjacent land area, Marisco will be discharging without a valid permit each time it cycles the drydock and with every rain event that produces stormwater discharge into Kalaeloa Barbers Point Harbor.

Marisco’s Main Facility

29. DOH previously issued NPDES Permit No. HI0021199 authorizing certain discharges from Marisco’s Main Facility. This permit was last issued on March 10, 2000, effective on April 10, 2000, and it expired on March 31, 2004. On March 16, 2004 the permit was administratively continued pending permit reissuance. The permit was terminated by DOH on March 31, 2006.
30. On March 24, 2006 Marisco filed for coverage under the Hawaii Industrial Activities General Permit by submitting a complete Notice of Intent. DOH provided Marisco with a Notice of General Permit Coverage (NGPC) on March 31, 2006 and assigned ID No. HIR20C504 to Marisco for its Main Facility.
31. NGPC No. HIR20C504 expired on October 22, 2007. Despite receiving notice from DOH regarding procedures for reapplication, Marisco did not reapply for coverage.
32. The 2002 BMP plan for NPDES HI0021786 does not extend to, include, or apply to Marisco’s Main Facility.
33. Rainfall events in the amount of 0.1 inches or more are able to produce stormwater runoff



from Marisco's Main Facility. Rain data available from the National Weather Service's weather station at Campbell Industrial Park, located in close proximity to Marisco's Main Facility, indicates that it rained in the amount of 0.1 inches or more on at least 31 occasions between October 23, 2007 and December 31, 2008. A table summarizing this data is attached as Exhibit 3. Discharges of stormwater from Marisco's Main Facility since October 23, 2007 were made without authorization under the CWA.

34. On January 29, 2009 Marisco submitted to DOH an application for renewal of NPDES Permit No. HI0021786. Marisco's permit renewal application included, among other things, a "Storm Water Pollution Prevention Plan, Marisco Main Facility, Revised January 2009" (Main Facility Revised SWPPP). Marisco requested that stormwater discharges from the Main facility be permitted under the subject individual NPDES permit rather than, as previously under, the Hawaii Industrial Activities General Permit.
35. The December 9, 2008 compliance inspection by EPA's contract and DOH inspectors included a review of practices and conditions at Marisco's Main Facility. Among other things, the inspectors observed the following conditions which indicate the potential for contaminated, unpermitted discharges:
 - a. Berms around the main yard, a portion of Marisco's Main Facility referred to as "JR's area", and the storage area behind the main yard were observed to have breaches, discharge structures, or areas that lacked containment, resulting in potential storm water discharge locations;



- b. Due to the lack of sufficient berming, and the potential for storm water discharges, several areas were noted that require secondary containment or overhead coverage;
- c. The Discharger had recently concreted portions of the main yard, JR's area, and the storage area behind (northeast of) the metal working building. The inspectors noted that concrete had not been properly contained, including in some cases overflowing into the receiving water;
- d. Two workers were observed mixing cement on the work barge. Wet cement was observed on the ground of the work barge. Runoff from the cement mixing was observed running under the wall and down the side of the work barge into the receiving water;
- e. A sink was observed on the stern of the work barge. The Facility representative stated that the sink was used for washing hands and cleaning fish and that he believed that the sink discharges directly into the harbor below; and
- f. A worker was observed hosing down the northwest work area of the Facility and the associated washwater was observed discharging offsite into receiving waters.

Conclusion

36. Based upon the foregoing, I find that Marisco has violated NPDES No. HI0012786 and Sections 301(a) and 308 of the Act.



ADMINISTRATIVE ORDER

Taking the above Findings into consideration and considering the potential environmental and human health effects of the violations and all good faith efforts to comply, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to Section 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Act, 33 U.S.C. Section 1318(a) and 1319(a)(3), (a)(4) and (a)(5)(A), IT IS HEREBY ORDERED that Marisco comply with the following requirements:

Lil' Perris Drydock and onshore support area

1. EFFECTIVE IMMEDIATELY, Marisco shall henceforth fully implement the Sandblast Grit Tracking Program, Revised January 2009, included as Appendix C to the Lil' Perris Revised BMP Plan.
2. EFFECTIVE IMMEDIATELY, Marisco shall install a rain gauge, record onsite precipitation amounts on a daily basis, and report a summary of the logs with monthly DMRs.
3. EFFECTIVE IMMEDIATELY, Marisco shall henceforth collect all samples to be analyzed for Oil and Grease pursuant to Part A.1.a of the permit directly in clean glass containers, without transfer into any secondary container.
4. EFFECTIVE IMMEDIATELY, Marisco shall henceforth properly calibrate its pH meter immediately prior to each compliance sampling to include analysis for pH, and shall maintain records of all such pH meter calibration events.
5. Commencing on APRIL 1, 2009 Marisco shall fully comply with all terms and conditions of expiring NPDES Permit No. HI0021786 until such time that a reissued permit, or new



- permit, goes into effect. Additionally, Marisco shall also comply with the following:
- a. Except as noted below, immediately and fully comply with the Lil' Perris Revised BMP Plan.
 - b. Prior to working on any vessel install the permanent berm referenced at BMP 2 "Low-Pressure Wash Water".
 - c. Marisco shall promptly make any changes to the Lil' Perris Revised BMP Plan requested by either EPA or DOH, and shall promptly implement any such changes.
6. By APRIL 15, 2009 Marisco shall correct all of the BMP deficiencies described at Major Finding 13 of the inspection report.
 7. By APRIL 15, 2009 Marisco shall repair all berms, curbs and dikes at its onshore support area such that there can be no uncontrolled discharges from this area to Kalaeloa Barbers Point Harbor.
 8. By APRIL 15, 2009 provide training on the Lil' Perris Revised BMP Plan to all employees and contractors, subcontractors performing work at the Lil' Perris Drydock and onshore support area. Provide training to any new employees, contractors, subcontractors prior to their performing any other work activities.
 9. By APRIL 30, 2009, Marisco shall submit a report describing both the activities taken pursuant to and certifying compliance with Items 1-8 immediately above.
 10. Marisco is prohibited from performing pressure washing at greater than 4000 psi unless and until a BMP for this activity is submitted to and approved by DOH.



Main Facility

11. **EFFECTIVE IMMEDIATELY** Marisco shall cease all discharges except for uncontaminated stormwater runoff.
12. Except as noted below, Marisco shall **IMMEDIATELY** and fully comply with the Main Facility Revised SWPPP.
13. **WITHIN 24 HOURS OF RECEIPT OF THIS ORDER** Marisco shall photograph the valving installed to control discharges from the valved openings in the berms at potential outfalls 001 and 002 as described at Section 4 of the Main Facility Revised SWPPP.
14. By **APRIL 15, 2009** Marisco shall submit copies of the photographs taken pursuant to Item 13 immediately above, along with documentation as to date and time that the photographs were taken.
15. By **APRIL 15, 2009** Marisco shall properly clean the deck of the support work barge of rust chips/dust that has a potential to discharge into Kalaeloa Barbers Point Harbor, as noted in the Inspection report, photo 40.
16. By **APRIL 15, 2009** Marisco shall correct all of the deficiencies described at Major Finding 14 of the inspection report.
17. By **APRIL 15, 2009** Marisco shall remove from the Facility, and properly dispose of, all waste paints, waste solvents, waste petroleum products, other liquid wastes, surplus metals and equipment.
18. By **APRIL 15, 2009** Marisco shall develop and implement BMPs for areas of activity on the support work barge that are not wholly under impervious cover.
19. By **APRIL 15, 2009** Marisco shall provide training on the Main Facility Revised SWPPP



to all employees and contractors, subcontractors performing work at the Main Facility. Marisco shall additionally provide training to any new employees, contractors, and subcontractors prior to their performing any work activities.

20. By APRIL 30, 2009, Marisco shall submit a report describing both the activities taken pursuant to and certifying compliance with Items 11-19 immediately above.
21. By APRIL 30, 2009 Marisco shall submit a revised Main Facility Revised SWPPP that:
 - 1) includes a description of pollutant sources, activities, and BMPs for uncovered areas of the work barge; 2) correctly describes all locations of potential stormwater discharge (i.e. outfalls) and correctly identifies each of these on the document's attached "Site Drainage Plan and Outfalls" diagram; and 3) includes a plan for stormwater sampling at each applicable discharge location. Marisco shall promptly make any changes to the Main Facility Revised SWPPP requested by either EPA or DOH, and shall promptly implement any such changes.

Submission of Information

22. By JUNE 1, 2009 Marisco shall provide the following information:
 - a. Copies of any/all Chain of Custody forms completed for and analytical reports received from Marisco's contract laboratory for sampling of harbor water discharge associated with drydock cycling January 1, 2005 through March 31, 2009 under either NPDES Permit No. III0021786 or HI0021199;
 - b. Copies of any/all Chain of Custody forms completed for and analytical reports received from Marisco's contract laboratory for ambient sampling conducted from January 1, 2005 through March 31, 2009 under either NPDES Permit No.



HI0021786 or HI0021199;

- c. Copies of any/all Chain of Custody forms completed for and analytical reports received from Marisco's contract laboratory for stormwater discharge sampling conducted from January 1, 2005 through March 31, 2009 under either NPDES Permit No. HI0021786 or HI0021199;
- d. Copies of any/all BMP plans or equivalent in effect from January 1, 2005 through March 31, 2009 for both the Main Facility and the Lil' Perris Drydock and its onshore support area;
- e. Copies of any/all laboratory reports from sampling of either low-pressure/low-volume cleaning and/or ultra-high pressure water blasting performed at Lil' Perris from January 1, 2005 through March 31, 2009;
- f. Copies of any/all shipping/disposal manifests associated with the off-site shipment and ultimate disposal of either low-pressure/low-volume cleaning and/or ultra-high pressure water blasting performed at Lil' Perris from January 1, 2005 through March 31, 2009;
- g. A record of all dates from January 1, 2005 forward on which Marisco performed either low-pressure/low-volume cleaning and/or ultra-high pressure water blasting performed at Lil' Perris;
- h. Copies of any/all records of trainings under any of the BMP plans or equivalent in effect at the time, provided from January 1, 2005 through March 31, 2009 to Marisco employees, contractors, and/or subcontractors for both the Main Facility and the Lil' Perris Drydock and its onshore support area; and



- i. A listing of all employees of Marisco from January 1, 2005 forward. The submitted listing shall include each employee's full name, dates worked at Marisco, and job title(s) while employed at Marisco.
23. For each Item 1-20 above, provide Marisco's cost of compliance. The submitted cost information shall include for each Item:
 - i. Reference to the applicable Compliance Order Item No.;
 - ii. A description of the compliance action(s) taken;
 - iii. The cost of implementing the compliance action(s), disaggregated by capital costs, non-depreciable one-time expenses, and annually recurring costs (e.g. O&M). For each reported cost indicate if the amount is based upon actual expenditures or are derived from estimates.
23. All reports submitted pursuant to this Order must be signed by a principal executive officer, ranking elected official, or duly authorized representative of Marisco [as specified by 40 CFR § 122.22 (b)(2)] and shall include the following statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
24. All submittals shall be mailed to the following addresses:



U.S. ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, California 94105
Attn: Jeremy Johnstone (WTR-7)

and

HAWAII DEPARTMENT OF HEALTH
Clean Water Branch
P.O. Box 3378
Honolulu, Hawaii 96801-3378
Attn: Mike Tsuji

25. This Order is not and shall not be interpreted to be an NPDES permit under Section 402 of the Act [33 U.S.C. Section 1342], nor shall it in any way relieve Marisco of obligations imposed by the Act, or any other Federal, State or local law.
26. The State of Hawaii has been notified of this action.
27. This Order takes effect upon signature.

Alexis Strauss
Alexis Strauss
Director, Water Division

24 March 2009
Dated