Orion Marine Group Inc
Form 10-Q
November 07, 2008

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark One)
[√] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2008
OR

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from ________ to_________

Commission file number:
333-145588

ORION MARINE GROUP, INC.
(Exact name of registrant as specified in its charter)

DELAWARE	26-0097459
(State or other jurisdiction of Incorporation or organization)	(I.R.S. Employer Identification Number)

12550 Fuqua
Houston, Texas 77034
(Address of principal executive offices)
(Zip Code)
(713) 852-6500
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days
Yes [√] No [ ]

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer (as described in Rule 12b-2 of the Exchange Act). (Check one)
Large accelerated filer [ ] Accelerated filer [ ] Non-accelerated filer [√] Smaller reporting company [ ]

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes[ ] No [√]

As of November 1, 2008, 21,553,678 shares of the Registrant's common stock, $0.01 par value, were outstanding.

ORION MARINE GROUP, INC.
Quarterly Report on Form 10-Q for the period ended September 30, 2008
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Part I – Financial Information

Orion Marine Group, Inc. and Subsidiaries
Condensed Consolidated Balance Sheets
(Unaudited)
(In Thousands, Except Share and Per Share Information)

	September 30, 2008	December 31, 2007
Assets		
Current assets:		
Cash and cash equivalents	$ 18,985	$ 12,584
Accounts receivable:		
Trade, net of allowance of $50 and $500, respectively	39,025	30,832
Retainage	6,083	7,620
Other	510	899
Inventory	654	646
Deferred tax asset	944	551
Costs and estimated earnings in excess of billings on uncompleted contracts	5,976	7,676
Prepaid expenses and other	8,225	739
Total current assets	80,402	61,547
Property and equipment, net	85,312	68,746
Goodwill	12,096	2,481
Intangible assets, net of amortization	4,761	653
Other assets	90	107
Total assets	$ 182,661	$ 133,534
Liabilities and Stockholders' Equity		
Current liabilities:		
Current portion of long-term debt	$ 3,500	$ --
Accounts payable:		
Trade	10,315	11,139
Retainage	511	678
Accrued liabilities	10,434	7,546
Taxes payable	--	2,324
Billings in excess of costs and estimated earnings on uncompleted contracts	13,578	7,408
Total current liabilities	38,338	29,095
Long-term debt, less current portion	31,500	--
Other long-term liabilities	494	--
Deferred income taxes	12,134	13,928
Deferred revenue	385	427
Total liabilities	82,851	43,450
Commitments and contingencies		
Stockholders' equity:		
Common stock—$0.01 par value, 50,000,000 shares authorized, 21,565,324 shares issued ; 21,553,678 outstanding	216	216
Treasury stock, $0.01 par value, 11,646 and 0 shares	--	--
Additional paid-in capital	55,051	54,336
Retained earnings	44,543	35,532

Total stockholders’ equity		99,810		90,084
Total liabilities and stockholders’ equity	$	182,661	$	133,534

See notes to unaudited condensed consolidated financial statements

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Orion Marine Group, Inc. and Subsidiaries
Condensed Consolidated Statements of Income
(Unaudited)
(In Thousands, Except Share and Per Share Information)

	Three months ended September 30, 2008	Three months ended September 30, 2007	Nine months ended September 30, 2008	Nine months ended September 30, 2007
Contract revenues	$ 62,897	$ 59,999	$ 182,558	$ 149,771
Costs of contract revenues	50,297	45,668	150,056	114,850
Gross profit	12,600	14,331	32,502	34,921
Selling, general and administrative expenses	7,357	5,274	18,879	16,622
Income from operations	5,243	9,057	13,623	18,299
Interest (income) expense				
Interest income	(107)	(214)	(375)	(774)
Interest expense	365	71	855	910
Interest (income) expense, net	258	(143)	480	136
Income before income taxes	4,985	9,200	13,143	18,163
Income tax expense	1,221	3,437	4,132	6,834
Net income	$ 3,764	$ 5,763	$ 9,011	$ 11,329
Net income	$ 3,764	$ 5,763	$ 9,011	$ 11,329
Preferred dividends	--	--	--	777
Earnings available to common stockholders	$ 3,764	$ 5,763	$ 9,011	$ 10,552
Basic earnings per share	$ 0.18	$ 0.27	$ 0.42	$ 0.57
Diluted earnings per share	$ 0.17	$ 0.26	$ 0.41	$ 0.55
Shares used to compute earnings per share:				
Basic	21,487,542	21,447,492	21,478,238	18,631,171
Diluted	21,840,825	21,851,107	21,844,619	19,271,091

See notes to unaudited condensed consolidated financial statements

Orion Marine Group, Inc. and Subsidiaries
Consolidated Statement of Stockholders' Equity
(Unaudited)
(In Thousands, Except Share Information)

	Common Stock		Treasury Stock		Additional Paid-In	Retained	
	Shares	Amount	Shares	Amount	Capital	Earnings	Total
Balance, January 1, 2008	21,565,324	$ 216	--	$ --	$ 54,336	$ 35,532	$ 90,084
Stock-based compensation					766		766
Purchase of restricted shares into treasury	(11,646)	--	11,646	--			
Expenses from the sale of common stock					(51)		(51)
Net income	--	--	--	--	--	9,011	9,011
Balance September 30, 2008	21,553,678	$ 216	11,646	$ --	$ 55,051	$ 44,543	$ 99,810

See notes to unaudited condensed consolidated financial statements

Orion Marine Group, Inc. and Subsidiaries
Condensed Consolidated Statements of Cash Flows
(Unaudited)
(In Thousands)

	Nine Months Ended September 30, 2008	2007
Cash flows from operating activities:		
Net income	$ 9,011	$ 11,329
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	13,862	9,342
Deferred financing cost amortization	184	150
Non-cash interest expense	22	65
Bad debt expense	50	--
Deferred income taxes	(2,187)	(814)
Stock-based compensation	766	668
Gain on sale of property and equipment	(1,040)	(333)
Change in operating assets and liabilities:		
Accounts receivable	(5,701)	(7,679)
Inventory	(8)	(46)
Prepaid expenses and other	(3,282)	(486)
Costs and estimated earnings in excess of billings on uncompleted contracts	2,930	(3,511)
Accounts payable	(991)	68
Accrued liabilities	3,357	(952)
Income tax payable	(6,540)	1,679
Billings in excess of costs and estimated earnings on uncompleted contracts	5,988	(3,111)
Deferred revenue	(42)	(41)
Net cash provided by operating activities	16,379	6,328
Cash flows from investing activities:		
Acquisition of assets of Subaqueous Services, Inc.	(36,713)	--
Proceeds from sale of property and equipment	3,581	1,885
Purchase of property and equipment	(11,715)	(7,939)
Net cash used in investing activities	(44,847)	(6,054)
Cash flows from financing activities:		
Payments on long-term debt	--	(23,357)
Borrowing on credit facility	35,000	—
Purchase of treasury stock	--	—
Exercise of stock options	--	48
Payment of accumulated preferred dividends and liquidation of preferred stock	--	(40,431)
(Expenses) proceeds from the sale of common stockstock	(51)	261,074
Redemption of common stock	--	(201,555)
Increase in loan costs	(80)	(194)
Net cash provided by (used in) financing activities	34,869	(4,415)
Net change in cash and cash equivalents	6,401	(4,141)
Cash and cash equivalents at beginning of period	12,584	18,561

Cash and cash equivalents at end of period	$	18,985	$	14,420
Supplemental disclosures of cash flow information: cash paid during the period for:				
Interest	$	492	$	926
Taxes	$	12,405	$	7,804

See notes to unaudited condensed consolidated financial statements

Orion Marine Group, Inc. and Subsidiaries

Notes to Condensed Consolidated Financial Statements
Three and Nine Months Ended September 30, 2008
(Unaudited)
(Tabular Amounts in thousands, Except for Share and per Share Amounts)

1. Description of Business and Basis of Presentation

Description of Business

Orion Marine Group, Inc., and its wholly-owned subsidiaries (hereafter collectively referred to as "Orion" or the "Company") provide a broad range of marine construction services on, over and under the water along the Gulf Coast, the Atlantic Seaboard and the Caribbean Basin. Heavy civil marine projects include marine transportation facilities, bridges and causeways, marine pipelines, mechanical and hydraulic dredging, and specialty projects. The Company is headquartered in Houston, Texas.

Basis of Presentation

The accompanying condensed consolidated financial statements and financial information included herein have been prepared pursuant to the interim period reporting requirements of Form 10-Q. Consequently, certain information and note disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States have been condensed or omitted. Readers of this report should also read our consolidated financial statements and the notes thereto included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2007 ("2007 Form 10-K") as well as Item 7 – Management's Discussion and Analysis of Financial Condition and Results of Operations also included in our 2007 Form 10-K.

In the opinion of management, the accompanying unaudited condensed consolidated financial statements contain all adjustments considered necessary for a fair and comparable statement of the Company's financial position, results of operations and cash flows for the periods presented. Such adjustments are of a normal recurring nature. Interim results of operations for the three and nine months ended September 30, 2008, are not necessarily indicative of the results that may be expected for the year ending December 31, 2008.

Reclassifications

Certain items on the prior period balance sheet related to intangible assets have been reclassified to conform to current year presentation.

2. Summary of Significant Accounting Principles

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Management's estimates, judgments and assumptions are continually evaluated based on available information and experience; however, actual amounts could differ from those estimates. The Company's significant accounting policies are more fully described in Note 2 of the Notes to Consolidated Financial Statements in the 2007 Form 10-K.

On an ongoing basis, the Company evaluates the significant accounting policies used to prepare its condensed consolidated financial statements, including, but not limited to, those related to:

- Revenue recognition
- Accounts receivable
- Income taxes
- Self-insurance and
- Stock based compensation

Revenue Recognition

The Company records revenue on construction contracts for financial statement purposes on the percentage-of-completion method, measured by the percentage of contract costs incurred to date to total estimated costs for each contract. The Company follows the guidance of American Institute of Certified Public Accountants (AICPA) Statement of Position (SOP) 81-1, Accounting for Performance of Construction—Type and Certain Production—Type Contracts, for its accounting policy relating to the use of the percentage-of-completion method, estimated costs and claim recognition for construction contracts. Changes in job performance, job conditions and estimated profitability, including those arising from final contract settlements, may result in revisions to costs and revenues and are recognized in the period in which the revisions are determined. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are determined.

The current asset "costs and estimated earnings in excess of billings on uncompleted contracts" represents revenues recognized in excess of amounts billed, which management believes will be billed and collected within one year of the completion of the contract. The liability "billings in excess of costs and estimated earnings on uncompleted contracts" represents billings in excess of revenues recognized.

Risk Concentrations

Financial instruments that potentially subject the Company to concentrations of credit risk principally consist of cash and cash equivalents and accounts receivable.

The Company's primary customers are governmental agencies in the United States. The Company depends on its ability to continue to obtain federal, state and local governmental contracts, and indirectly, on the amount of funding available to these agencies for new and current governmental projects. Therefore, the Company's operations can be influenced by the level and timing of government funding.

At September 30, 2008 and December 31, 2007, no single customer accounted for more than 10% of total receivables. In the three months ended September 30, 2008 and 2007, one customer in each period generated revenue in excess of 10% of total revenues, representing 10.8% and 10.6% of contract revenues, respectively. In the nine months ended September 30, 2008 no customer generated revenues in excess of 10% of total revenues. In the nine months ended September 30, 2007, two customers generated revenues in excess of 10% of total revenues, representing 14.4% and 12.1% of revenues in each respective period.

Accounts Receivable

Accounts receivable are stated at the historical carrying value, less write-offs and allowances for doubtful accounts. The Company writes off uncollectible accounts receivable against the allowance for doubtful accounts if it is determined that the amounts will not be collected or if a settlement is reached for an amount that is less than the carrying value. In the second quarter of 2008, the Company recovered a receivable it had previously partially reserved as a doubtful account. As of September 30, 2008 and December 31, 2007, the Company had an allowance for doubtful accounts of $50,000 and $500,000, respectively.

Balances billed to customers but not paid pursuant to retainage provisions in construction contracts generally become payable upon contract completion and acceptance by the owner. Retention at September 30, 2008 totaled $6.1 million, of which $2.1 million is expected to be collected beyond 2008. Retention at December 31, 2007 totaled $7.6 million.

Income Taxes

The Company records income taxes based upon Statement of Financial Accounting Standards (“SFAS”) No. 109, Accounting for Income Taxes, which requires the recognition of income tax expense for the amount of taxes payable or refundable for the current period and for deferred tax liabilities and assets for the future tax consequences of events that have been recognized in an entity’s financial statements or tax returns.   The Company accounts for any uncertain tax positions in accordance with the provisions of Financial Accounting Standards Board (“FASB”) Interpretation No. 48, Accounting for Uncertainty in Income Taxes (FIN 48).

Self-Insurance

The Company maintains insurance coverage for its business and operations. Insurance related to property, equipment, automobile, general liability, and a portion of workers' compensation is provided through traditional policies, subject to a deductible. A portion of the Company's workers' compensation exposure is covered through a mutual association, which is subject to supplemental calls.

Separately, the Company's employee health care is provided through a trust, administered by a third party. The Company funds the trust based on current claims. The administrator has purchased appropriate stop-loss coverage. Losses on these policies up to the deductible amounts are accrued based upon known claims incurred and an estimate of claims incurred but not reported. The accruals are derived from actuarial studies, known facts, historical trends and industry averages utilizing the assistance of an actuary to determine the best estimate of the ultimate expected loss.

Stock-Based Compensation

The Company recognizes compensation expense for equity awards based on the provisions of SFAS No. 123(R), Share-Based Payment. Compensation expense is recognized based on the fair value of these awards at the date of grant. The computed fair value of these awards is recognized as a non-cash cost over the period the employee provides services, which is typically the vesting period of the award.

Compensation is recognized only for share-based payments expected to vest. The Company estimates forfeitures at the date of grant based on historical experience and future expectations.

Recently Issued Accounting Pronouncements

SFAS 157. As of January 1, 2008, the Company adopted SFAS 157, "Fair Value Measurements," SFAS 157 emphasizes that fair value is a market-based measurement, not an entity-specific measurement. It clarifies the extent to which fair value is used to measure recognized assets and liabilities, the inputs used to develop the measurements, and the effect of certain measurements on earnings for the period. We have determined that the adoption of SFAS 157 did not have a material impact on our consolidated financial position, results of operations or cash flows and do not believe any of the Company's assets or liabilities are subject to the quarterly recurring measurement provisions of SFAS 157. The disclosure requirements for assets and liabilities assessed on a non-recurring basis have been deferred by FASB Staff Position ("FSP") 157-2 "Effective Date of FASB Statement No. 157" until fiscal years beginning after November 15, 2008

SFAS 157-3. In October 2008, the FASB issued FSP 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset is Not Active". FSP 157-3 clarifies the application of SFAS 157 as it relates to the valuation of financial assets in a market that is not active for those financial assets. The FSP is effective immediately and includes those periods for which financial statements have not been issued. The Company does not have any financial assets that are valued using inactive markets, and as a result, the Company is not impacted by the issuance of FSP 157-3.

SFAS 141R. In December 2007, the FASB issued SFAS 141(revised 2007), "Business Combinations," to increase the relevance, representational faithfulness, and comparability of the information a reporting entity provides in its financial reports about a business combination and its effects. SFAS 141R replaces SFAS 141, "Business Combinations" but, retains the fundamental requirements of SFAS 141 that the acquisition method of accounting be used and an acquirer be identified for all business combinations. SFAS 141R expands the definition of a business and of a business combination and establishes how the acquirer is to: (1) recognize and measure in its financial statements the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree; (2) recognize and measure the goodwill acquired in the business combination or a gain from a bargain purchase; and (3) determine what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination. SFAS 141R is applicable to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008, and is to be applied prospectively. Early adoption is prohibited. SFAS 141R will impact the Company if we elect to enter into a business combination subsequent to December 31, 2008.

FSP 142-3. In April 2008, the FASB issued FASB Staff Position 142-3, “Determination of the Useful Life of Intangible Assets”. FSP 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS 142 “Goodwill and Other Intangible Assets”. FSP 142-3 is effective for financial statements issued for fiscal years beginning on or after December 15, 2008. We are currently evaluating the impact of FSP 142-3 on our consolidated financial statements.

In June 2008, the Financial Accounting Standard Board (FASB) issued FSP EITF 03-6-1, Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities (FSP EITF 03-6-1). FSP EITF 03-6-1 clarified that all outstanding unvested share-based payment awards that contain rights to nonforfeitable dividends participate in undistributed earnings with common shareholders. Awards of this nature are considered participating securities and the two-class method of computing basic and diluted earnings per share must be applied. FSP EITF 03-6-1 is effective for fiscal years beginning after December 15, 2008. The Company is currently assessing the impact of FSP EITF 03-6-1 and anticipates any impact to basic earnings per share will be immaterial.

3. Acquisition of the Assets of Subaqueous Services, Inc.

On February 29, 2008, Subaqueous Services, LLC (“SSLLC”), a newly-formed, wholly-owned subsidiary of the Company concurrently entered into an agreement to purchase and closed the purchase of substantially all of the assets (with the exception of working capital) and related business (principally consisting of project contracts) of Orlando, Florida-based Subaqueous Services, Inc., a Florida corporation (“SSI”) for $35 million in cash.

In addition, SSLLC (i) paid SSI approximately $1.7 million for net under-billings and retained funds held under certain project contracts and for transition support services to be provided by SSI through September, 2008; and (ii) entered a three-year Consulting Agreement with the sole shareholder of SSI, terminable on thirty (30) days prior written notice by the parties thereto, for $150,000 per year payable monthly. On July 31, 2008, SSLLC and the Company provided the sole shareholder of SSI a notice of termination of the Consulting Agreement.

The Company funded the acquisition using its acquisition line of $25 million and a draw on its accordion facility of $10 million, and cash on hand for the other payments referenced above. SSLLC operates the acquired assets under the name “Subaqueous Services, LLC,” and SSLLC is based in Jacksonville, Florida. In that regard, SSLLC entered a lease agreement with Hill Street, LLC effective February 29, 2008, for premises and facilities constituting those formerly occupied and used by SSI for its Jacksonville operations.

SSI was a specialty dredging services provider that focused on shallow water dredging projects in Florida and along the Atlantic Seaboard utilizing both mechanical and hydraulic cutter suction pipeline dredging, with a wide variety of customers both in the public and private sectors. The assets acquired consist primarily of marine construction equipment, including several dredges. The Company also purchased construction contracts in progress and the right to the name “Subaqueous Services” and derivatives thereof. In addition, SSLLC hired certain senior managers of SSI and substantially all of SSI’s field personnel.

Prior to this acquisition, no relationship outside the ordinary course of business existed between SSI and the Company or SSI and SSLLC.

The Company accounted for the purchase of the assets of SSI as a business combination. The following represents the Company’s allocation of the purchase price to the assets acquired:

Property and equipment	$	18,500
Intangible assets		6,900
Goodwill		9,600

$	35,000

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The Company's condensed consolidated financial statements at September 30, 2008 include results of SSLLC for the period since the acquisition. Pro-forma information is presented below as if the asset purchase had occurred on January 1 of each reporting period:

	Three months ended September 30,		Nine months ended September 30,	
	2008(Actual)	2007	2008	2007
Revenue	$ 62,897	$ 72,262	$ 185,336	$ 186,560
Income before taxes	$ 4,985	$ 9,212	$ 12,369	$ 18,470
Net income	$ 3,764	$ 5,764	$ 8,533	$ 11,479
Earnings per share:				
Basic	$ 0.18			