

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0496-MWD-E **TCEQ ID:** RN102094950 **CASE NO.:** 33069

RESPONDENT NAME: Marine Quest-Hidden Cove, L.P.

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: Hidden Cove Park WWTP, located approximately 1.75 miles south of Farm-to Market Road 720 and approximately 3.0 miles west of Farm-to-Market Road 423, The Colony, Denton County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 September 3, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, R-04, (817) 588-5886; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Dwight Bosworth, Registered Agent, Marine Quest-Hidden Cove, L.P., 6060 S. Stemmons Fwy., Lake Dallas, Texas 75065; Mr. Marcel Bosworth, Vice President, Marine Quest-Hidden Cove, L.P., 305 S. Kimball Ave., Southlake, Texas 76092 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 16, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for Biochemical Oxygen Demand 5-day and Total Suspended Solids [TPDES Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX WATER CODE § 26.121(a)].</p> <p>2) Failure to submit monitoring results at the intervals specified in the permit as documented by TCEQ. Specifically, the Respondent failed to submit the sludge report for the monitoring period ending July 31, 2006 [30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0013785001 Sludge Provisions].</p>	<p>Total Assessed: \$8,100</p> <p>Total Deferred: \$1,620 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$180 (the remaining \$6,300 to be paid in 35 monthly payments of \$180 each)</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the delinquent Sludge Reports for the monitoring period ending July 31, 2006, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013785001.</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements No. 1 and Ordering Provision 2.a. in the Agreed Order.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	19-Mar-2007	Screening	22-Mar-2007	EPA Due	
	PCW	28-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Marine Quest-Hidden Cove, L.P.		
Reg. Ent. Ref. No.	RN102094950		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33069	No. of Violations	2	
Docket No.	2007-0496-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Cheryl Thompson	
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	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	62% Enhancement	Subtotals 2, 3, & 7	\$3,100
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Notes: The respondent self-reported 12 months of effluent violations and received one NOV for non-same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$89	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$2,250	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,100
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$8,100

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,100
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DEFERRAL	20% Reduction	Adjustment	-\$1,620
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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		\$6,480
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Screening Date 22-Mar-2007

Docket No. 2007-0496-MWD-E

PCW

Respondent Marine Quest-Hidden Cove, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102094950

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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)	12	60%
	Other written NOVs	1	2%
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 judgments 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%
Please Enter Yes or No			
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	No	0%
	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) 62%

>> 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

The respondent self-reported 12 months of effluent violations and received one NOV for non-same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 22-Mar-2007

Docket No. 2007-0496-MWD-E

PCW

Respondent Marine Quest-Hidden Cove, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102094950

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) TPDES Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements 1, 30 Tex. Admin. Code § 305.125(1) and Tex Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits for Biochemical Oxygen Demand 5-day and Total Suspended Solids. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Using a simplified model, it was determined that 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 the environment as the result of the excursions.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 122 Number of violation days

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four quarterly events are recommended based on the months the permitted limits were exceeded.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$74

Violation Final Penalty Total \$6,480

This violation Final Assessed Penalty (adjusted for limits) \$6,480

Economic Benefit Worksheet

Respondent Marine Quest-Hidden Cove, L.P.
Case ID No. 33069
Reg. Ent. Reference No. RN102094950
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
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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)	\$2,000	6-Mar-2007	30-Nov-2007	0.7	\$74	n/a	\$74

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date required is the month the first non-compliant excursion was documented. Final date is the expected date of 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

\$2,000

TOTAL

\$74

Screening Date 22-Mar-2007

Docket No. 2007-0496-MWD-E

PCW

Respondent Marine Quest-Hidden Cove, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102094950

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), TPDES Permit No. WQ0013785001 Sludge Provisions

Violation Description

Failed to submit monitoring results at the intervals specified in the permit as documented by TCEQ. Specifically, the Respondent failed to submit the sludge report for the monitoring period ending July 31, 2006 .

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,620

This violation Final Assessed Penalty (adjusted for limits) \$1,620

Economic Benefit Worksheet

Respondent Marine Quest-Hidden Cove, L.P.
Case ID No. 33069
Reg. Ent. Reference No. RN102094950
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$250	1-Sep-2006	30-Nov-2007	1.2	\$16	n/a	\$16

Notes for DELAYED costs

Estimated cost to submit missing report. Date required is the date the sludge report was due and the final date is the projected date of 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

\$250

TOTAL

\$16

Compliance History

Customer/Respondent/Owner-Operator:	CN602874075	Marine Quest - Hidden Cove, L.P.	Classification: AVERAGE	Rating: 0.62
Regulated Entity:	RN102094950	HIDDEN COVE PARK WWTP	Classification: AVERAGE	Site Rating: 0.62
ID Number(s):	WASTEWATER	PERMIT	WQ0013785001	
	WASTEWATER	PERMIT	TPDES0093696	
	WASTEWATER	PERMIT	TX0093696	
	WASTEWATER	PERMIT	WQ0013785001	
	WASTEWATER	PERMIT	TPDES0093696	
Location:	located approximately 1.75 miles south of Farm-to-Market Road 720 and approximately 3.0 miles west of Farm-to-Market Road 423 in Denton County, Texas		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	March 22, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 22, 2002 to March 22, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Cheryl Thompson	Phone:	(817)588-5886	

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? | Yes |
| 3. If Yes, who is the current owner? | Marine Quest - Hidden Cove, L.P. |
| 4. If Yes, who was/were the prior owner(s)? | City of the Colony |
| 5. When did the change(s) in ownership occur? | 7/20/2005 |

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	03/25/2002	(215418)
2	04/22/2002	(215420)
3	05/22/2002	(215421)
4	06/20/2002	(215423)
5	07/22/2002	(215425)
6	08/26/2002	(215427)
7	09/23/2002	(215429)
8	10/18/2002	(215431)
9	11/18/2002	(215433)
10	12/17/2002	(215435)
11	01/21/2003	(215437)
12	02/19/2003	(215417)
13	03/17/2003	(215419)
14	04/28/2003	(319497)
15	05/14/2003	(319498)
16	07/22/2003	(319500)
17	08/26/2003	(319501)
18	08/29/2003	(319502)
19	10/21/2003	(319504)
20	11/18/2003	(319505)
21	01/20/2004	(319507)
22	02/18/2004	(319495)
23	03/12/2004	(263419)
24	03/19/2004	(319496)
25	04/20/2004	(362398)
26	04/29/2004	(319499)
27	04/29/2004	(319503)
28	04/29/2004	(319506)
29	05/19/2004	(362399)
30	06/21/2004	(362400)
31	07/20/2004	(362401)
32	09/07/2004	(291651)

33 09/20/2004 (362402)
 34 10/20/2004 (362403)
 35 11/18/2004 (387701)
 36 12/20/2004 (425390)
 37 01/13/2005 (387702)
 38 02/16/2005 (387699)
 39 03/18/2005 (387700)
 40 04/19/2005 (425387)
 41 05/17/2005 (425388)
 42 06/13/2005 (425389)
 43 07/19/2005 (445963)
 44 08/19/2005 (445964)
 45 09/13/2005 (445965)
 46 10/18/2005 (478009)
 47 11/16/2005 (478010)
 48 12/15/2005 (478011)
 49 01/13/2006 (478012)
 50 02/17/2006 (478006)
 51 03/24/2006 (478008)
 52 06/16/2006 (504398)
 53 06/16/2006 (504399)
 54 06/21/2006 (504400)
 55 07/20/2006 (526721)
 56 08/21/2006 (526722)
 57 09/22/2006 (526723)
 58 03/16/2007 (543068)

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

Date	07/31/2002	(215427)		
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	11/30/2002	(215435)		
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	12/31/2002	(215437)		
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	04/30/2003	(319498)		
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	12/31/2003	(319507)		
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	03/15/2004	(263419)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to comply with all permit conditions			
Date	11/30/2004	(425390)		
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	03/31/2005	(425387)		
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	04/30/2005	(425388)		
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	09/30/2005	(478009)		
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	01/31/2006	(478006)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			

Description: TWC Chapter 26 26.121(a)[G]
Failure to meet the limit for one or more permit parameter
Date 05/31/2006 (504400)
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 06/30/2006 (526721)
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.

N/A

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
MARINE QUEST-HIDDEN COVE, L.P.
RN102094950**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0496-MWD-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 Marine Quest-Hidden Cove, L.P. ("Marine Quest") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Marine Quest appear before the Commission and together stipulate that:

1. Marine Quest owns and operates a wastewater treatment plant located approximately 1.75 miles south of Farm-to-Market Road 720 and approximately 3.0 miles west of Farm-to-Market Road 423 in The Colony, Denton County, Texas (the "Plant").
2. Marine Quest has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Marine Quest agree that the Commission has jurisdiction to enter this Agreed Order, and that Marine Quest is subject to the Commission's jurisdiction.
4. Marine Quest received notice of the violations alleged in Section II ("Allegations") on or about March 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Marine Quest of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand One Hundred Dollars (\$8,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Marine Quest has paid One Hundred Eighty Dollars (\$180) of the administrative penalty and One Thousand Six Hundred Twenty Dollars (\$1,620) is deferred contingent upon Marine Quest's timely and satisfactory compliance with all the terms of this Agreed Order. If Marine Quest fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Marine Quest to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Three Hundred Dollars (\$6,300) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Eighty Dollars (\$180) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Marine Quest fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Marine Quest to meet the payment schedule of this Agreed Order constitutes the failure by Marine Quest to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Marine Quest have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Marine Quest has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 Plant, Marine Quest is alleged to have:

1. Failed to comply with permit effluent limits for Biochemical Oxygen Demand 5-day and Total Suspended Solids, in violation of TPDES Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 6, 2007 as indicated in the table below:

	<i>EFFLUENT PARAMETER</i>	
	<i>Permit Limit</i>	
	Biochemical Oxygen Demand 5-Day (BOD 5-day)	Total Suspended Solids (TSS)
<i>Month/Year</i>	Daily Average 10 mg/L	Daily Average 15 mg/L
Sep-05	15.54	c
Jan-06	14.89	c
May-06	c	15.4
Jun-06	c	25.3

2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0013785001 Sludge Provisions, as documented during a record review conducted on March 6, 2007. Specifically, Marine Quest failed to submit the sludge reports for the monitoring period ending July 31, 2006.

III. DENIALS

Marine Quest generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Marine Quest pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Marine Quest'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: Marine Quest-Hidden Cove, L.P., Docket No. 2007-0496-MWD-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. It is further ordered that Marine Quest shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit the delinquent Sludge Reports for the monitoring period ending July 31, 2006, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013785001. These reports shall be submitted to:

Compliance Monitoring Team (MC 224)

Compliance Monitoring Team (MC 224)
Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements No. 1 and Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, and or other records to demonstrate compliance, notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that this document and all attachments compliance 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, 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.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager Water Section
Dallas-Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Marine Quest. Marine Quest is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Marine Quest fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Marine Quest's failure to comply is not a violation of this Agreed Order. Marine Quest shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Marine Quest shall notify the Executive Director within seven days after Marine Quest becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The document also notes that records should be maintained in a secure and accessible manner, and that they should be reviewed regularly to ensure their accuracy and completeness.

The second part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The document also notes that records should be maintained in a secure and accessible manner, and that they should be reviewed regularly to ensure their accuracy and completeness.

The third part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The document also notes that records should be maintained in a secure and accessible manner, and that they should be reviewed regularly to ensure their accuracy and completeness.

The fourth part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The document also notes that records should be maintained in a secure and accessible manner, and that they should be reviewed regularly to ensure their accuracy and completeness.

The fifth part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The document also notes that records should be maintained in a secure and accessible manner, and that they should be reviewed regularly to ensure their accuracy and completeness.

The sixth part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The document also notes that records should be maintained in a secure and accessible manner, and that they should be reviewed regularly to ensure their accuracy and completeness.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Marine Quest shall be made in writing to the Executive Director. Extensions are not effective until Marine Quest receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Marine Quest 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Marine Quest, or three days after the date on which the Commission mails notice of the Order to Marine Quest, 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



For the Executive Director

8/27/07
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.



Signature

6/20/07
Date

Marcel Bosworth
Name (Printed or typed)
Authorized Representative of
Marine Quest-Hidden Cove, L.P.

V.P.
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.

