

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42813  
Marine Quest - Hidden Cove, L.P.  
RN102094950  
Docket No. 2011-1955-MWD-E

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Approximately 1.75 miles south of Farm-to-Market Road 720 and approximately three miles west of Farm-to-Market Road 423, Denton County

**Type of Operation:**

wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** June 22, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$8,484

**Total Paid to General Revenue:** \$2,009

**Total Due to General Revenue:** \$6,475

Payment Plan: 35 payments of \$185 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – Average

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Marine Quest - Hidden Cove, L.P.**

RN102094950

Docket No. 2011-1955-MWD-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** August 31, 2011  
**Date(s) of NOV(s):** See Compliance History – 18 related NOVs  
**Date(s) of NOE(s):** October 1, 2011

**Violation Information**

1. Failed to comply with permitted effluent limitations [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013785001, Sludge Provisions].
3. Failed to submit results at the intervals specified in the permit [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013785001, Monitoring and Reporting Requirements No. 1].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

On October 18, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010.

**Technical Requirements:**

1. Within 30 days, submit a revised DMR for the monitoring period ending August 31, 2010, which includes the data for pH monthly minimum and monthly maximum.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 90 days, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0013785001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limits.

**Litigation Information**

**Date Petition(s) Filed:** March 16, 2012

**Settlement Date:** May 16, 2012

**Contact Information**

**TCEQ Attorneys:** Rudy Calderon, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Scott Humphrey, Public Interest Counsel, (512) 239-6363

**TCEQ SEP Coordinator:** N/A

**TCEQ Enforcement Coordinator:** Jennifer Graves, Enforcement Division, (956) 430-6023

**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, (817)588-5800

**Respondent:** Marcel Bosworth, President, Marine Quest - Hidden Cove, L.P., 1910 East State Highway 114, Southlake, Texas 76092

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-Oct-2011	<b>Screening</b>	20-Oct-2011	<b>EPA Due</b>	
	<b>PCW</b>	31-Jan-2012				

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

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	42813	<b>No. of Violations</b>	3			
<b>Docket No.</b>	2011-1955-MWD-E	<b>Order Type</b>	1660			
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No			
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jennifer Graves			
		<b>EC's Team</b>	Enforcement Team 1			
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,200
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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.

<b>Compliance History</b>	110.0%	Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$4,620
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Notes: Enhancement for 15 months of self-reported effluent violations, three NOV's with same/similar violations, and one order with denial of liability.

<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$923
Approx. Cost of Compliance	\$10,075

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,820
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-3.8%	<b>Adjustment</b>	-\$336
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent double enhancement for self-reported violations.

<b>Final Penalty Amount</b>	\$8,484
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,484
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$8,484
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**Screening Date** 20-Oct-2011

**Docket No.** 2011-1955-MWD-E

**PCW**

**Respondent** Marine Quest - Hidden Cove, L.P.

*Policy Revision 2 (September 2002)*

**Case ID No.** 42813

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN102094950

**Media [Statute]** Water Quality

**Enf. Coordinator** Jennifer Graves

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	18	90%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	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)** 110%

**>> 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**

Enhancement for 15 months of self-reported effluent violations, three NOVs with same/similar violations, and one order with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 110%

Screening Date 20-Oct-2011

Docket No. 2011-1955-MWD-E

PCW

Respondent Marine Quest - Hidden Cove, L.P.

Policy Revision 2 (September 2002)

Case ID No. 42813

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102094950

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on August 31, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate five-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and chlorine residual were also evaluated. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 152 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$918

Violation Final Penalty Total \$8,080

This violation Final Assessed Penalty (adjusted for limits) \$8,080

## Economic Benefit Worksheet

**Respondent** Marine Quest - Hidden Cove, L.P.  
**Case ID No.** 42813  
**Req. 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
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Sep-2010	31-Jul-2012	1.84	\$918	n/a	\$918

Notes for DELAYED costs

Estimated cost to evaluate the Facility to determine the cause of the effluent violations and complete corrective actions. Date required is the first month of noncompliance and final date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$918

Screening Date 20-Oct-2011

Docket No. 2011-1955-MWD-E

PCW

Respondent Marine Quest - Hidden Cove, L.P.

Policy Revision 2 (September 2002)

Case ID No. 42813

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102094950

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0013785001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010, as documented in a record review conducted on August 31, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%
More than 70% of the rule requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 414 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$202

This violation Final Assessed Penalty (adjusted for limits) \$202

## Economic Benefit Worksheet

**Respondent** Marine Quest - Hidden Cove, L.P.  
**Case ID No.** 42813  
**Req. 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
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	1-Sep-2010	18-Oct-2011	1.13	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the annual sludge report for the monitoring period ending July 31, 2010. Date required is the date the annual sludge report was due and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

**TOTAL**

\$3

Screening Date 20-Oct-2011

Docket No. 2011-1955-MWD-E

PCW

Respondent Marine Quest - Hidden Cove, L.P.

Policy Revision 2 (September 2002)

Case ID No. 42813

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102094950

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0013785001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit results at the intervals specified in the permit, as documented during a record review conducted on August 31, 2011. Specifically, the Respondent failed to include the data for pH monthly minimum and monthly maximum on the Discharge Monitoring Report ("DMR") for the monitoring period ending August 31, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 395 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$202

This violation Final Assessed Penalty (adjusted for limits) \$202

## Economic Benefit Worksheet

**Respondent** Marine Quest - Hidden Cove, L.P.  
**Case ID No.** 42813  
**Req. Ent. Reference No.** RN102094950  
**Media** Water Quality  
**Violation No.** 3

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$25	20-Sep-2010	3-May-2012	1.62	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a revised DMR to the TCEQ. Date required is the date the DMR data was due. Final date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

**TOTAL**

\$2

# Compliance History

Customer/Respondent/Owner-Operator: CN602874075 Marine Quest - Hidden Cove, L.P. Classification: AVERAGE Rating: 2.21  
 Regulated Entity: RN102094950 HIDDEN COVE PARK WWTP Classification: AVERAGE Site Rating: 2.21  
 ID Number(s): WASTEWATER PERMIT WQ0013785001  
 WASTEWATER EPA ID TX0093696  
 Location: Approximately 1.75 miles south of Farm-to-Market Road 720 and approximately 3.0 miles west of Farm-to-Market Road 423, Denton County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: October 05, 2011

Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: October 05, 2006 to October 05, 2011  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
 Name: Marty Hott Phone: (512) 239-2587

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

**Effective Date: 11/19/2007 ADMINORDER 2007-0496-MWD-E**

Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: EFFLUENT LIMITS PERMIT  
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Rqmt Prov: Self-reporting Requirements PERMIT  
 Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- 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	03/16/2007	(543068)	24	06/09/2008	(694284)	47	04/08/2010	(834729)
2	08/21/2007	(571474)	25	07/04/2008	(694285)	48	05/06/2010	(834730)
3	02/11/2008	(617503)	26	09/26/2008	(703934)	49	06/14/2010	(847441)
4	02/16/2007	(626392)	27	08/06/2008	(715656)	50	07/12/2010	(861862)
5	03/20/2007	(626393)	28	09/08/2008	(715657)	51	08/07/2010	(868349)
6	04/20/2007	(626394)	29	10/08/2008	(715658)	52	11/18/2010	(889241)
7	06/15/2007	(626395)	30	11/06/2008	(715659)	53	02/24/2011	(891517)
8	07/20/2007	(626396)	31	12/07/2008	(731361)	54	01/07/2010	(897625)
9	08/22/2007	(626397)	32	01/11/2009	(731362)	55	12/17/2010	(897626)
10	10/17/2006	(626398)	33	02/08/2009	(754692)	56	02/18/2011	(910413)
11	11/20/2006	(626399)	34	03/06/2009	(754693)	57	04/26/2011	(913592)
12	12/14/2006	(626400)	35	04/13/2009	(754694)	58	03/21/2011	(917651)
13	01/22/2007	(626401)	36	05/08/2009	(771911)	59	04/18/2011	(928924)
14	05/04/2008	(640620)	37	06/08/2009	(771912)	60	05/23/2011	(928925)
15	03/05/2008	(675900)	38	02/05/2010	(815755)	61	05/23/2011	(939353)
16	03/05/2008	(675901)	39	07/14/2009	(815756)	62	07/05/2011	(940847)
17	04/06/2008	(675902)	40	12/28/2009	(815757)	63	06/17/2011	(946758)
18	02/07/2008	(675903)	41	09/09/2009	(815758)	64	07/15/2011	(946759)
19	02/07/2008	(675904)	42	10/08/2009	(815759)	65	07/15/2011	(946760)
20	02/07/2008	(675905)	43	11/05/2009	(815760)	66	09/30/2011	(951813)
21	03/05/2008	(675906)	44	12/09/2009	(815761)	67	07/20/2011	(954020)
22	03/05/2008	(675907)	45	01/06/2010	(815762)			
23	05/08/2008	(694283)	46	03/04/2010	(834728)			

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

1. **Date: 11/30/2006 (626400) CN602874075**  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

2. **Date:** 12/31/2006 (626401) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
3. **Date:** 01/31/2007 (626392) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
4. **Date:** 02/28/2007 (626393) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
5. **Date:** 03/31/2007 (626394) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
6. **Date:** 04/30/2007 (897625) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
7. **Date:** 08/21/2007 (571474) CN602874075  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0013785-001 PERMIT  
 Description: Failure to comply with effluent permit limitations.
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 WQ0013785-001 PERMIT  
 Description: Failure to make the necessary records available for review.
8. **Date:** 03/31/2008 (675902) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
9. **Date:** 04/30/2010 (834730) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
10. **Date:** 06/30/2010 (861862) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
11. **Date:** 09/30/2010 (928925) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
12. **Date:** 12/31/2010 (946760) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

13. **Date:** 02/24/2011 (891517) CN602874075  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0013785-001 PERMIT  
 Description: Failure to comply with TSS and BOD5 effluent permit limits.
14. **Date:** 04/30/2011 (939353) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
15. **Date:** 05/31/2011 (946758) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
16. **Date:** 06/30/2011 (954020) CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
17. **Date:** 07/05/2011 (940847) CN602874075  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
18. **Date:** 07/31/2011 CN602874075  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARINE QUEST –  
HIDDEN COVE, L.P.;  
RN102094950**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2011-1955-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Marine Quest - Hidden Cove, L.P. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a wastewater treatment facility located approximately 1.75 miles south of Farm-to-Market Road 720 and approximately three miles west of Farm-to-Market Road 423 in Denton County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(50).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of eight thousand four hundred eighty-four dollars (\$8,484.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two thousand nine dollars (\$2,009.00) of the administrative penalty. The remaining amount of six thousand four hundred seventy-five dollars (\$6,475.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred eighty-five dollars (\$185.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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,

Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director recognizes that on October 18, 2011, the Respondent submitted the annual sludge report for the monitoring period ending July 31, 2010.
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 Respondent has not complied with one or more of the terms or conditions contained 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**

1. During a record review conducted on August 31, 2011, a TCEQ Central Office investigator documented that Respondent:
  - a. Failed to comply with permitted effluent limitations as shown in the table below, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2:



Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Respondent shall submit a revised DMR for the monitoring period ending August 31, 2010, which includes the data for pH monthly minimum and monthly maximum to:

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

- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Ordering Provision No. 2.d., below, to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0013785001, in accordance with Ordering Provision No. 2.d., below, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limits.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

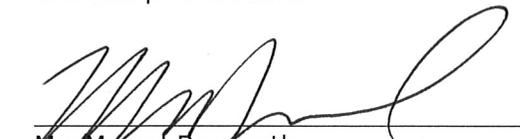
  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Marine Quest - Hidden Cove, L.P., 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 in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Mr. Marcel Bosworth  
President  
Marine Quest - Hidden Cove, L.P.

  
\_\_\_\_\_  
Date