

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42813
Marine Quest-Hidden Cove, L.P.
RN102094950
Docket No. 2013-1964-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

Municipal Waste Discharge

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

20400 Hackberry Creek Park Road, approximately 1.75 miles south of Farm-to-Market Road 720 and approximately 3.0 miles west of Farm-to-Market Road 423, Frisco, Denton County

Type of Operation:

wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$17,850 (2012-2478-MWD-E; on payment plan with Financial Administration as of February 2014)
Past-Due Fees:	\$1,709.60 (Acct. No. 23004480)
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: June 6, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$13,175

Total Paid to General Revenue: \$400

Total Due to General Revenue: \$12,775

Payment Plan: 35 payments of \$365 each

Compliance History Classifications:

Person/CN – Satisfactory

Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: August 22, 2013

Date(s) of NOV(s): See Compliance History - 5 related NOVs

Date(s) of NOE(s): September 26, 2013

Violation Information

1. Failed to submit a revised DMR for the monitoring period ending August 31, 2010, that includes the data for the pH monthly minimum and monthly maximum [30 TEX. ADMIN. CODE § 305.125(1) and (17); Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013785001, Monitoring and Reporting Requirements No. 1; and TCEQ Agreed Order Docket No. 2011-1955-MWD-E, Ordering Provision No. 2.a.].
2. Failed to comply with permitted effluent limits [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); TPDES Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2; and TCEQ Agreed Order Docket No. 2011-1955-MWD-E, Ordering Provision No. 2.c].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Submit the revised DMR for the monitoring period ending August 31, 2010, to include data for pH monthly minimum and monthly maximum; and
 - b. Update the Facility’s operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished and that all effluent samples are collected and analyzed at the minimum required frequencies.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 90 days, submit written certification to demonstrate compliance with the permitted effluent limitations 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 limitations.

Litigation Information

Date Petition(s) Filed: January 9, 2014
Date Answer(s) Filed: N/A
Settlement Date: April 22, 2014

Contact Information

TCEQ Attorneys: David A. Terry, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, (817) 588-5886

TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent Contact: Dwight Bosworth, Director, Marine Quest-Hidden Cove, L.P., 1125 South Ball Street, Ste. 104, Grapevine, Texas 76051

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Oct-2013	Screening	11-Oct-2013	EPA Due	
	PCW	21-Oct-2013				

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.	42813	No. of Violations	3
Docket No.	2013-1964-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

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

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 11-Oct-2013

Docket No. 2013-1964-MWD-E

PCW

Respondent Marine Quest-Hidden Cove, L.P.

Policy Revision 3 (September 2011)

Case ID No. 42813

PCW Revision August 3, 2011

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	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	1	25%
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 11-Oct-2013 **Docket No.** 2013-1964-MWD-E **PCW**
Respondent Marine Quest-Hidden Cove, L.P. *Policy Revision 3 (September 2011)*
Case ID No. 42813 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN102094950
Media [Statute] Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 1
Rule Cite(s) Agreed Order Docket No. 2011-1955-MWD-E, Ordering Provision No. 2.c, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)(1)
Violation Description Failed to comply with permitted effluent limits in August 2012, September 2012, February 2013, and May 2013, as documented in a record review conducted on August 22, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	5.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes A simplified model was utilized to evaluate five-day biochemical oxygen demand to determine whether the discharged amounts exceeded levels protective of human health or the environment. Chlorine residual was also considered. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3 120 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended for the quarters containing the months of August 2012, September 2012, February 2013, and May 2013.

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 \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$977 Violation Final Penalty Total \$6,375

This violation Final Assessed Penalty (adjusted for limits) \$6,375

Economic Benefit Worksheet

Respondent Marine Quest-Hidden Cove, L.P.
Case ID No. 42813
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
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	17-Aug-2012	31-Jul-2014	1.95	\$977	n/a	\$977

Notes for DELAYED costs

The estimated cost to determine the cause of non-compliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date required is the effective date of the 2011-1955-MWD-E Agreed Order and final date is the projected date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$977

Screening Date 11-Oct-2013
Respondent Marine Quest-Hidden Cove, L.P.
Case ID No. 42813
Reg. Ent. Reference No. RN102094950
Media [Statute] Water Quality
Enf. Coordinator Cheryl Thompson

Docket No. 2013-1964-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s)

Agreed Order Docket No. 2011-1955-MWD-E, Ordering Provision No. 2.c, TPDES Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to comply with permitted effluent limits in March 2013, as documented in a record review conducted on August 22, 2013.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One monthly event is recommended for the month of March 2013.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Marine Quest-Hidden Cove, L.P.
Case ID No. 42813
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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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation No. 1.

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 \$0

TOTAL \$0

Screening Date 11-Oct-2013

Docket No. 2013-1964-MWD-E

PCW

Respondent Marine Quest-Hidden Cove, L.P.

Policy Revision 3 (September 2011)

Case ID No. 42813

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102094950

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s)

Agreed Order Docket No. 2011-1955-MWD-E, Ordering Provision No. 2.a, 30 Tex. Admin Code § 305.125(1) and (17), and TPDES Permit No. WQ0013785001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit a revised Discharge Monitoring Report ("DMR") for the monitoring period ending August 31, 2010, which includes the data for the pH monthly minimum and monthly maximum.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

420 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$425

This violation Final Assessed Penalty (adjusted for limits) \$425

Economic Benefit Worksheet

Respondent Marine Quest-Hidden Cove, L.P.
Case ID No. 42813
Reg. 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
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	17-Aug-2012	31-May-2014	1.79	\$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 effective date of the 2011-1955-MWD-E Agreed Order and final date is the projected date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PENDING Compliance History Report for CN602874075, RN102094950, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN602874075, Marine Quest - Hidden Cove, L.P. **Classification:** SATISFACTORY **Rating:** 14.75

Regulated Entity: RN102094950, HIDDEN COVE PARK WWTP **Classification:** SATISFACTORY **Rating:** 14.75

Complexity Points: 8 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 20400 Hackberry Creek Park Rd, approximately 1.75 miles south of Farm-to-Market Road 720 and approximately 3.0 miles west of Farm-to-Market Road 423 in Frisco, TX 75034-9314, Denton County

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): **WASTEWATER PERMIT** WQ0013785001 **WASTEWATER EPA ID** TX0093696

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: October 23, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 23, 2008 to October 23, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Cheryl Thompson

Phone: (817) 588-5886

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date:** 08/17/2012 **ADMINORDER 2011-1955-MWD-E (1660 Order-Agreed Order With Denial)**
 - Classification:** Moderate
 - Citation:** 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
 - Rqmt Prov:** Effluent Lim & Mon Req Nos. 1 and 2 PERMIT
 - Description:** Failure to comply with permitted effluent limitations, as documented in a record review conducted on August 31, 2011.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
 - Rqmt Prov:** Sludge Provisions PERMIT
 - Description:** Failure 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.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
 - Rqmt Prov:** Monitoring & Reporting Requirements No.1 PERMIT
 - Description:** Failure to submit results at the intervals specified in the permit, as documented during a record review conducted on August 31, 2011. Specifically, 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.
- 2 Effective Date:** 10/02/2013 **ADMINORDER 2012-2478-MWD-E (Findings Order-Default)**
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.7(d)
 - Rqmt Prov:** Monitoring & Reporting Requirements No.1 PERMIT
 - Description:** Failure to submit effluent monitoring results at the intervals specified in the permit substantially interfering with the ability to determine compliance status as documented by a TCEQ record review.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 6, 2008	(715659)	Item 12	November 5, 2009	(815760)	Item 23	February 18, 2011	(910413)
Item 2	December 7, 2008	(731361)	Item 13	December 9, 2009	(815761)	Item 24	March 21, 2011	(917651)
Item 3	January 11, 2009	(731362)	Item 14	December 28, 2009	(815757)	Item 25	April 18, 2011	(928924)
Item 4	February 08, 2009	(754692)	Item 15	January 6, 2010	(815762)	Item 26	July 15, 2011	(946759)
Item 5	March 6, 2009	(754693)	Item 16	February 5, 2010	(815755)	Item 27	November 14, 2011	(978820)
Item 6	April 13, 2009	(754694)	Item 17	March 4, 2010	(834728)	Item 28	December 15, 2011	(985655)
Item 7	May 8, 2009	(771911)	Item 18	April 8, 2010	(834729)	Item 29	September 24, 2012	(1048292)
Item 8	June 8, 2009	(771912)	Item 19	June 14, 2010	(847441)	Item 30	July 23, 2013	(1111667)
Item 9	July 14, 2009	(815756)	Item 20	August 7, 2010	(868349)	Item 31	July 25, 2013	(1118566)
Item 10	September 9, 2009	(815758)	Item 21	November 18, 2010	(889241)	Item 32	September 5, 2013	(1126358)
Item 11	October 8, 2009	(815759)	Item 22	December 17, 2010	(897626)	Item 33	September 10, 2013	(1126352)
						Item 34	September 27, 2013	(1130908)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 01/28/2013 (1054058) CN602874075**

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to annually check the RPZ backflow prevention device.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0013785-001 PERMIT
Description: Failure to comply with the effluent permit limits for BOD, TSS, and TRC.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to accurately calculate concentration and loading effluent results for BOD during the month of August 2012.
- 2 Date: 02/28/2013 (1097068) 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: 03/31/2013 (1108040) 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: 05/31/2013 (1111669) 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: 06/28/2013 (1109574) 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
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
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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

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. 2013-1964-MWD-E

At its _____ agenda meeting, 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 presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment facility located at 20400 Hackberry Creek Park Road, approximately 1.75 miles south of Farm-to-Market Road 720 and approximately 3.0 miles west of Farm-to-Market Road 423 in Frisco, 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 § 26.001(5).
2. During a record review conducted on August 22, 2013, a TCEQ Central Office Staff documented that Respondent:
 - a. Failed to submit a revised Discharge Monitoring Report ("DMR") for the monitoring period ending August 31, 2010, that includes the data for the pH monthly minimum and monthly maximum.

b. Failed to comply with permitted effluent limits, as illustrated in the following table:

<i>Month/Year</i>	BOD5 Daily Average Concentration (10 mg/L)	BOD5 Single Grab (35 mg/L)	BOD5 Daily Average Loading (1.3 lbs/day)	Chlorine Residual Mo. Min. (1 mg/L)	Chlorine Residual Mo. Max. (4 mg/L)	<i>E. Coli</i> Single Grab (394 CFU/100 ml)
August 2012	14.2	c	1.42	c	c	c
September 2012	c	c	c	0.5	c	c
February 2013	19	77	c	c	c	c
March 2013	c	c	c	c	c	>2400
May 2013	c	c	c	c	4.7	c

c =compliant
mg/L = milligrams per liter
E. coli = *Escherichia coli*
ml = milliliters
mo. min. = monthly minimum
BOD5 = biochemical oxygen demand, 5-day
CFU = colony forming units per 100 milliliters
lbs/day = pounds per day
mo. max. = monthly maximum

3. Respondent received notice of the violations on or about October 1, 2013.

CONCLUSIONS OF LAW

- As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
- As evidenced by Finding of Fact No. 2.a., Respondent failed to submit a revised DMR for the monitoring period ending August 31, 2010, that includes the data for the pH monthly minimum and monthly maximum, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17); TPDES Permit No. WQ0013785001, Monitoring and Reporting Requirements No. 1; and TCEQ Agreed Order Docket No. 2011-1955-MWD-E, Ordering Provision No. 2.a.
- As evidenced by Finding of Fact No. 2.b., Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013785001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2; and TCEQ Agreed Order Docket No. 2011-1955-MWD-E, Ordering Provision No. 2.c.
- Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ’s jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- An administrative penalty in the amount of thirteen thousand one hundred seventy-five dollars (\$13,175.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid four hundred dollars (\$400.00) of the administrative penalty. The remaining amount of twelve thousand seven hundred seventy-five dollars (\$12,775.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred sixty-five dollars (\$365.00) 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.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Marine Quest-Hidden Cove, L.P., Docket No. 2013-1964-MWD-E" to:

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:
 - i. Submit the revised DMR for the monitoring period ending August 31, 2010, to include data for pH monthly minimum and monthly maximum, in accordance with the requirements of TPDES Permit No. WQ0013785001, to:

Compliance Monitoring Team (MC 224)
Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished and that all effluent samples are collected and analyzed at the minimum required frequencies, in accordance with TPDES Permit No. WQ0013785001.
 - 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 in accordance with Ordering Provision No. 2.d., below, to demonstrate compliance with the permitted effluent limitations 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 limitations.

- 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:

Jeff Tate, 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 TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.

8. 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 in this Agreed Order.
9. 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.
10. 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.
11. 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 notice of this Agreed Order to Respondent, 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

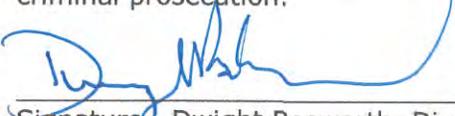
August 1, 2014
Date

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.



Signature: Dwight Bosworth, Director
Marine Quest-Hidden Cove, L.P.

4/22/14
Date