

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1172-WQ-E **TCEQ ID:** RN101612489 **CASE NO.:** 34208  
**RESPONDENT NAME:** Byron Cory

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1111 Horizon Boulevard, El Paso, El Paso County</p> <p><b>TYPE OF OPERATION:</b> Commercial truck washing</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> Complaints were received on May 21 and May 25, 2007, alleging odor from the ponds. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> Complainants were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Byron Cory, Owner, P.O. Box 640604, El Paso, Texas 79904  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> May 21 and May 25, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> June 4 and July 16, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 11, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation and a record review.</p> <p><b>WATER</b></p> <p>1) Failed to obtain a multi-sector general permit ("MSGP") prior to allowing a commercial truck washing facility operation. Specifically, during an investigation conducted on June 4, 2007, it was observed that the Respondent was allowing a truck washing facility operation on his property without a MSGP [30 TEX. ADMIN. CODE § 305.42(a)].</p> <p>2) Failed to pay consolidated water quality fees for TCEQ Financial Administrative Account No. 0104392 for fiscal years 1993 through 1997 and 1999 through 2002, and failed to pay water quality assessment fees for TCEQ Financial Administrative Account No. 0608578 for fiscal years 1993 through 1997 and 1999 through 2002 and all associated late fees for both accounts [30 TEX. ADMIN. CODE § 26.0135(h) and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$2,040</p> <p><b>Total Deferred:</b> \$408  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$232 (remaining \$1,400 due in 8 monthly payments of \$175 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit payment for all outstanding fees, including any associated penalties and interest;</p> <p>ii. Submit an administratively complete MSGP application; and</p> <p>iii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.i., as outlined in the Ordering Provision d.;</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance, as outlined in the Ordering Provision d., that a MSGP has been obtained or cease the discharge of wastewater until such authorization is obtained; and</p> <p>d. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0003372000



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

**TCEQ**

DATES	Assigned	9-Jul-2007	Screening	18-Jul-2007	EPA Due	
	PCW	18-Jul-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Byron Cory		
Reg. Ent. Ref. No.	RN101612489		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34208	No. of Violations	2	
Docket No.	2007-1172-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Libby Hogue	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## 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** 2% Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability** No

Notes

**Good Faith Effort to Comply** 0% Reduction **Subtotal 5**

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

Notes

Total EB Amounts	\$127	0% Enhancement*	<b>Subtotal 6</b> <input type="text" value="\$0"/>
Approx. Cost of Compliance	\$800	*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. (Enter number only; e.g. -30 for -30%.)

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** 20% Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 18-Jul-2007

Docket No. 2007-1172-WQ-E

PCW

Respondent Byron Cory

Policy Revision 2 (September 2002)

Case ID No. 34208

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101612489

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

### 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)	0	0%
	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 judgements 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%
<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) 2%

>> 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

A 2% enhancement is recommended for having one NOV for non-similar violations within the past five years.

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

Screening Date 18-Jul-2007

Docket No. 2007-1172-WQ-E

PCW

Respondent Byron Cory

Policy Revision 2 (September 2002)

Case ID No. 34208

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101612489

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 305.42(a)

Violation Description

Failed to obtain a multi-sector general permit ("MSGP") prior to allowing a commercial truck washing facility operation. Specifically, during an investigation conducted on June 4, 2007, it was observed that the respondent was allowing a truck washing facility operation on his property without a MSGP.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended, calculated from the June 4, 2007 investigation date to the July 18, 2007 screening date.

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** Byron Cory  
**Case ID No.** 34208  
**Reg. Ent. Reference No.** RN101612489  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$800	1-Aug-2005	30-Sep-2008	3.2	\$127	n/a	\$127
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to obtain a MSGP permit. The date required is the date the permit was required. The final date is the date in which the Respondent is anticipated to come into 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

\$800

TOTAL

\$127

Screening Date 18-Jul-2007

Docket No. 2007-1172-WQ-E

PCW

Respondent Byron Cory

Policy Revision 2 (September 2002)

Case ID No. 34208

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101612489

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 26.0135(h) and Tex. Water Code § 5.702

Violation Description

Failed to pay consolidated water quality fees for TCEQ Financial Administrative Account No. 0104392 for fiscal years 1993 through 1997 and 1999 through 2002, and failed to pay water quality assessment fees for TCEQ Financial Administrative Account No. 0608578 for fiscal years 1993 through 1997 and 1999 through 2002 and all associated late fees for both accounts.

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	
					0%

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events [ ] Number of violation days [ ]

mark only one with an x	daily	[ ]
	monthly	[ ]
	quarterly	[ ]
	semiannual	[ ]
	annual	[ ]
	single event	[ ]

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

# Economic Benefit Worksheet

**Respondent** Byron Cory  
**Case ID No.** 34208  
**Reg. Ent. Reference No.** RN101612489  
**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
<small>No commas or \$</small>							

**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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

**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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN600862361 CORY, BYRON Classification: AVERAGE Rating: 3.00  
Regulated Entity: RN101612489 BYRON CORY Classification: AVERAGE Site Rating: 3.00  
ID Number(s):  
Location: 1111 HORIZON BLVD, EL PASO, TX, 79927 Rating Date: September 01 06 Repeat Violator: NO  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: July 16, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 16, 2002 to July 16, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Libby Hogue Phone: 512-239-1165

## 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? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### 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.)

N/A

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

Date: 10/11/2005 (432011)

Self Report? NO

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent an unauthorized industrial wastewater discharge.

- 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  
BYRON CORY  
RN101612489

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY  
§

**AGREED ORDER**  
**DOCKET NO. 2007-1172-WQ-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 Byron Cory ("Mr. Cory") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Cory appear before the Commission and together stipulate that:

1. Mr. Cory owns land where a commercial truck washing facility operates at 1111 Horizon Boulevard in El Paso, El Paso County, Texas (the "Facility").
2. Mr. Cory has allowed the discharge of other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Mr. Cory agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Cory is subject to the Commission's jurisdiction.
4. Mr. Cory received notice of the violations alleged in Section II ("Allegations") on or about July 16, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Cory of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Forty Dollars (\$2,040) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Cory



has paid Two Hundred Thirty-Two Dollars (\$232) of the administrative penalty and Four Hundred Eight Dollars (\$408) is deferred contingent upon Mr. Cory's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Cory fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Cory to pay all or part of the deferred penalty.

The remaining amount of One Thousand Four Hundred Dollars (\$1,400) of the administrative penalty shall be payable in eight monthly payments of One Hundred Seventy-Five Dollars (\$175) 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 Mr. Cory 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 Mr. Cory to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Cory 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 Mr. Cory 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 Mr. Cory 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 of the property, Mr. Cory is alleged to have:

1. Failed to obtain a multi-sector general permit ("MSGP") prior to allowing a commercial truck washing facility operation, in violation of 30 TEX. ADMIN. CODE § 305.42(a). Specifically, during an investigation conducted on June 4, 2007, it was observed that Mr. Cory was allowing a truck washing facility operation on his property without a MSGP.



2. Failed to pay consolidated water quality fees for TCEQ Financial Administrative Account No. 0104392 for fiscal years 1993 through 1997 and 1999 through 2002, and failed to pay water quality assessment fees for TCEQ Financial Administrative Account No. 0608578 for fiscal years 1993 through 1997 and 1999 through 2002 and all associated late fees for both accounts, in violation of 30 TEX. ADMIN. CODE § 26.0135(h) and TEX. WATER CODE § 5.702, as documented during an investigation conducted on July 16, 2007.

### III. DENIALS

Mr. Cory generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Cory pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Cory'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: Byron Cory, Docket No. 2007-1172-WQ-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 Mr. Cory shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order,
    - i. Mr. Cory shall submit payment for all outstanding fees, including any associated penalties and interest with the notation, "Mr. Byron Cory", Financial Administration Account Nos. 0104392 and 0608578", 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

- ii. Submit an administratively complete MSGP application, in accordance with 30 TEX. ADMIN. CODE ch. 305 to:



Water Quality Applications Team, Permits Administrative Review  
Section  
Registration, Review and Reporting Division, MC 161  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- iii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.i., as outlined in the Ordering Provision 2.d.;
- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance, as outlined in the Ordering Provision 2.d., that a MSGP has been obtained or cease the discharge of wastewater until such authorization is obtained; and
- d. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and 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."

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:

Water Section, Manager  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 East Franklin Avenue, Suite 560  
El Paso, Texas 79901-1206

- 3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Cory. Mr. Cory is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.



4. If Mr. Cory 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, Mr. Cory's failure to comply is not a violation of this Agreed Order. Mr. Cory shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Cory shall notify the Executive Director within seven days after Mr. Cory becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Mr. Cory shall be made in writing to the Executive Director. Extensions are not effective until Mr. Cory 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 Mr. Cory 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 Mr. Cory, or three days after the date on which the Commission mails notice of the Order to Mr. Cory, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



Byron Corp

DOCKET NO. 2007-1172-WQ-E

Page 6

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Handwritten Signature]*

For the Executive Director

Date

2/25/2008

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 herein. 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.

*[Handwritten Signature]*

Signature

Nov 30 07

Date

*BYRON CORP*

Name (Printed or typed)

Authorized Representative of

Byron Corp

*[Handwritten Title]*

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 I of this Agreed Order.

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Main body of faint, illegible text, appearing to be several lines of a document or letter.

Bottom section of faint, illegible text, possibly a signature block or concluding remarks.