

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**ORDER NO. R9-2007-0089**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
FOR  
MANDATORY MINIMUM PENALTIES  
AGAINST  
TERRA VAC  
BODY BEAUTIFUL CAR WASH  
2945 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA  
GROUNDWATER REMEDIATION PROJECT  
FOR  
VIOLATIONS OF ORDER NO. 2000-90, NPDES NO. CAG919001**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), having held a public hearing on October 10, 2007, to hear evidence and comments on the allegations contained in Complaint No. R9-2007-0019, dated January 25, 2007, and deliberating on the evidence presented at the public hearing and in the record, after determining the allegations contained in the Complaint to be true, and on the recommendation for administrative assessment of Civil Liability for Mandatory Minimum Penalties in the amount of \$12,000 finds as follows:

1. Terra Vac discharged treated groundwater to San Diego Bay in accordance with waste discharge requirements contained in Order No. 2000-90, NPDES Permit No. CAG919001.
2. Order No. 2000-90 established effluent limitations for instantaneous maximum concentrations of total suspended solids at 50.0 mg/L. Terra Vac reported one violation of the total suspended solids instantaneous maximum effluent limitation on January 25, 2006 that is subject to Mandatory Minimum Penalties pursuant to Water Code Section 13385(h) and (i).
3. Order No. 2000-90 established effluent limitations for 30-day average concentrations of total suspended solids at 30.0 mg/L. Terra Vac reported two violations of the total suspended solids 30-day average effluent limitation on January 25 and February 22, 2006 which are subject to Mandatory Minimum Penalties pursuant to Water Code Section 13385(h) and (i).
4. Order No. 2000-90 established effluent limitations for 30-day average concentrations of tributyltin at 0.005 ug/L. Terra Vac reported a violation of the

30-day average tributyltin effluent limitation on August 24, 2006 which is subject to Mandatory Minimum Penalties pursuant to Water Code Section 13385(h) and (i).

5. Terra Vac reported three violations of the total suspended solids effluent limitations that occurred on October 25 and November 22, 2005. Prior to January 2006, violations of effluent limitations for discharges that occurred while regulated by NPDES permits that do not contain specific information about the point of discharge, such as this Regional Board's general extraction discharge permit, were not subject to Mandatory Minimum Penalties. Therefore, Mandatory Minimum Penalties do not apply to the three violations of effluent limitations for total suspended solids that occurred prior to January 2006.
6. Order No. 2000-90 established effluent limitations for 6-month median concentrations of nickel at 8.2 ug/L. Terra Vac reported four violations of the 30-day average nickel effluent limitation occurring on June 29, August 24, October 26, and November 16, 2006. Subsequently, Terra Vac submitted documentation demonstrating these four violations were the result of an improper laboratory method and therefore not representative of the discharge. Therefore, Mandatory Minimum Penalties do not apply to the four violations of the 6-month median effluent limitation identified in the Complaint.
7. Based on financial documentation submitted by Terra Vac, the Discharger has sufficient assets to be able to pay a penalty of \$12,000 without causing a long term financial hardship. Moreover, 'ability to pay' is not one of the affirmative defenses allowed for under the Mandatory Minimum Penalty provisions contained in Water Code section 13385 (h) and (i).
8. Consideration of the factors prescribed in California Water Code section 13385(e) based upon information available to the Regional Board supports an assessment of civil liability pursuant to California Water Code sections 13385(h) in the amount of twelve thousand dollars (\$12,000).
9. The Regional Board incurred costs of \$4,000 to prosecute the enforcement action. The costs include investigation, preparation of enforcement documents, communicating with the Discharger and preparation of materials for public review and hearing.
10. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with Section 1552, Chapter 33, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED** that pursuant to section 13385 of the California Water Code, civil liability is imposed on the Terra Vac in the amount of twelve thousand dollars (\$12,000).

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on October 10, 2007.

  
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JOHN H. ROBERTUS  
Executive Officer