

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

**ERRATA SHEET
ITEM NO. 8**

TENTATIVE
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

Replace Finding number 2 with the following:

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).

Replace Finding number 3 with the following:

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).

Insert the following new finding as finding number 5:

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.

Insert the following new finding as finding number 6:

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.

Insert the following new finding as finding number 7:

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).

Renumber the remaining findings as finding numbers 8, 9, and 10.