

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

In the matter of:

Minshew Brothers Steel Construction, Inc.
Lakeside, California 92065

**Complaint No. R9-2009-0058
for
Administrative Civil Liability**

WDID No. 9 37I016517

July 2, 2009

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Minshew Brothers Steel Construction Inc., located at 1278 Vigilante Road, Lakeside, California, is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) must impose civil liability pursuant to Section 13399.33 of the California Water Code (CWC).
2. On May 14, 2001, Minshew Brothers Steel Construction Inc., submitted a Notice of Intent for coverage under Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit).
3. Order No. 97-03-DWQ requires the submittal of an annual monitoring report by July 1 of each year. Enrolled facilities are required to sample storm water runoff during two storm events per year.

ALLEGATIONS

4. Minshew Brothers Steel Construction Inc. violated Monitoring and Reporting Requirement Section B.14 of Order No. 97-03-DWQ by failing to submit the Fiscal Year (FY) 2006-07 and 2007-08 annual monitoring reports.
5. In accordance with CWC section 13399.31, the Regional Board issued Notices of Violations on August 20, 2007 and September 28, 2007 for failure to submit the FY 2006-07 annual report and on September 8, 2008 and October 14, 2008 for failure to submit the FY 2007-08 annual report. To date, neither report has been received by the Regional Board.

MAXIMUM LIABILITY

5. CWC section 13385(a)(2) provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act

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- shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day of violation.
6. Based on non-submittal of the FY 2006-07 and 2007-08 annual reports, Minshew Brothers Steel Construction Inc., is alleged to have violated the Order No. 97-03-DWQ for 729 days (from July 2, 2007 to June 30, 2009). The total maximum liability for this violation is \$7,290,000.
 7. CWC section 13399.33(c) **requires** that the Regional Board impose a mandatory minimum penalty of not less than \$1,000 **and** recover Regional Board staff costs associated with this enforcement action for any person who fails to submit an annual report in accordance with CWC section 13399.31.
 8. CWC section 13399.33(a)(2) specifies factors that the Regional Board shall consider in establishing the amount of discretionary liability above the mandatory minimum. These factors include: nature, circumstance, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings resulting from the violation, and other matters that justice may require.
 9. The Regional Board's consideration of the factors listed in paragraph 8 above is contained in the attached, *Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. R9-2009-0058 Minshew Brothers Steel Construction, Inc.*

PROPOSED LIABILITY

9. After consideration of the factors listed in paragraphs 7 and 8, above, it is recommended that the Regional Board impose civil liability against Minshew Brothers Steel Construction Inc., in the amount of sixty two thousand seven hundred dollars (\$62,700), which includes staff costs of \$3,500 to date, for failure to submit the FY 2006-07 and 2007-08 annual reports.

Dated this 2nd day of July, 2009.



MICHAEL P. McCANN
Assistant Executive Officer