



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

January 6, 2014

Michael Metals, Inc.
PO Box 929100
San Diego, CA 92192
(By Certified Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lisa Liebert
michael.metals@hotmail.com
(By Email Only)

RE: TENTATIVE ORDER NO. R8-2014-0003 PERTAINING TO MANDATORY MINIMUM PENALTY (MMP) ISSUED TO MICHAEL METALS, INC.

Dear Ms. Liebert:

Enclosed is a copy Tentative Order No. R8-2014-0003 pertaining to MMP Complaint No. R8-2013-0058 which was issued to Michael Metals, Inc. on November 7, 2013. A copy of Tentative Order No. R8-2013-0063 was sent to you on December 30, 2013 also pertaining to MMP Complaint No. R8-2013-0058, however, since the Regional Board will be taking action in the 2014 calendar year, the tentative order must be dated in 2014, thus the renumbered Order. No other changes were made between R8-2013-0063 and R8-2014-0003.

The Regional Board will consider whether to affirm, reject, or modify the mandatory minimum penalty was proposed in MMP Complaint No. R8-2013-0058.

If you have any questions about the Order or enclosed documents, please contact Michelle Beckwith at (951) 782-4433 (Michelle.Beckwith@waterboards.ca.gov). All legal questions should be directed to Cris Carrigan at (916) 341-5889 (Cris.Carrigan@waterboards.ca.gov).

Sincerely,

Hope A. Smythe
Division Chief
Regional Board Prosecution Team

Enclosures: Tentative Order No. R8-2014-0003

cc: Executive Officer – Kurt Berchtold (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Council – David Rice
(Regional Board Advisory Team Attorney)
State Water Resources Control Board, Office of Enforcement – Cris Carrigan
(Regional Board Prosecution Team Attorney)

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2014-0003
)	for
Michael Metals, Inc.)	Mandatory Minimum Penalty
1110 East 17th Street)	
Santa Ana, CA 92701)	
)	

The California Regional Water Quality Control Board, Santa Ana Region (hereafter, Regional Board), held a hearing on January 31, 2014 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2013-0058, dated November 7, 2013 and on the recommendation for the imposition of penalties and staff costs pursuant to Water Code Sections 13399.33(c) and 13399.33(d) in the amount of \$1,750. The Regional Board finds as follows:

1. Michael Metals, Inc. (hereinafter Michael Metals), located at 1110 East 17th Street in Santa Ana, is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The facility's WDID Number is 8 30I013727. The General Permit requires submittal of an annual report by July 1 of each year.
5. Michael Metals' 2012-2013 annual report was not received by Board staff by the July 1, 2013 deadline. Therefore a Notice of Non-Compliance (NNC) was issued to Michael Metals, by certified mail, on July 31, 2013. The return receipt showed it was received on August 8, 2013. When Board staff received no response to the first NNC, a second NNC was issued on August 29, 2013. Per the US Postal Service website, the second NNC was unclaimed on October 21, 2013. In both NNCs, Board staff requested submittal of the completed annual report and reminded Michael Metals of the mandatory minimum penalty for late submittal of the annual report. The second NNC requested that the annual report be submitted by September 27, 2013 along with a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time.
6. On August 1, 2013, Board staff received correspondence from Michael Metals' email account stating that the annual report had been submitted via fax on June 30, 2013 and they would send another copy the next day (August 2, 2013). On August 6, 2013, Board staff replied via email stating that the annual report had not been received.
7. On September 24, 2013, Board staff spoke with Michael Leibert, Michael Metals' secondary contact, informing him of the mandatory minimum penalty if the annual report was not submitted by September 27, 2013. To date, the annual report has not been received by the Regional Board office. Michael Metals violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 1, 2013.
8. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable.

9. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a minimum penalty of \$1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code. Section 13399.33(d) of the California Water Code further requires that the Regional Board recover the costs incurred by the Regional Board with regard to those persons.
10. On November 7, 2013, the Division Chief issued Mandatory Minimum Penalty Complaint No. R8-2013-0058, in the amount of \$1,750, to Michael Metals. The penalty amount is based on the Mandatory Minimum Penalty amount and the recovery of staff costs of enforcement.
11. By adopting this Order, the Regional Board incorporates the findings in Mandatory Minimum Penalty Complaint No. R8-2013-0058 and affirms the penalty specified therein.
12. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 *et seq.*) in accordance with Section 15321, Chapter 3, Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13399.33(c) and (d), a penalty, including staff costs, shall be imposed on Michael Metals in the amount of \$1,750, as proposed in Mandatory Minimum Penalty Complaint No. R8-2013-0058 for the violations cited, payable as set forth below.

1. Michael Metals is liable for the assessed amount and shall pay \$1,750 to the Waste Discharge Permits Fund by February 28, 2014.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30-days of the Regional Board's adoption of this Order.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on January 31, 2014.

Date

Kurt V. Berchtold
Executive Officer

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<i>Sent To</i>	Michael Metals, Inc.
<i>Street, Apt. No. or PO Box No.</i>	P.O. Box 929100
<i>City, State, ZIP</i>	San Diego, CA 92192

PS Form 3800, Use reverse for instructions