

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

In the matter of:

Minshew Brothers Steel Construction, Inc.
12578 Vigilante Road
Lakeside, California 92040

Complaint No. R9-2006-0078
for
Administrative Civil Liability

June 6, 2006

WDID No. 9 37I016517

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Minshew Brothers Steel Construction, Inc., located at 12578 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) may impose civil liability pursuant to Section 13399.3 of the California Water Code (CWC).
2. On May 11, 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) 2003-04 and FY 2004-05 annual monitoring reports.

MAXIMUM LIABILITY

5. 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. 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 2003-04 and 2004-05 annual reports, Minshew Brothers Steel Construction, Inc. is alleged to have violated the

General Permit for 699 days (from July 2, 2003 to July 1, 2004 for the FY 2003-04 report and July 2, 2005 to May 31, 2006 for the FY 2004-05 report). The total maximum liability for this violation is \$6,990,000.

7. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a mandatory 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.
8. Section 13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. 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, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall recover any economic benefit derived from the violation.
9. Minshew Brothers Steel Construction, Inc. submitted its first required annual monitoring report for FY 2001-02 in a timely manner. The report, however, was incomplete with no sampling data submitted. The FY 2002-03 annual report was submitted after two Notices of Violation (NOVs) were issued by the Regional Board. The FY 2003-04 report was not submitted, even after the issuance of a NOV. The Regional Board issued NOVs on August 5, 2005 and September 19, 2005 for failure to submit the FY 2004-05 annual report, but no report was received by the Regional Board.

Failure to provide the annual reports circumvents the regulations, deprives the Regional Board of knowledge of the facilities efforts to control storm water runoff, and removes an effective mechanism to determine which best management practices should be employed at an industrial facility to reduce or prevent pollutants in storm water discharges. Minshew Brothers Steel Construction, Inc. has exhibited a high degree of culpability with regards to these violations by ignoring repeated requests from the Regional Board for the two reports.

PROPOSED LIABILITY

10. After consideration of the factors listed in paragraph 8, above, it is recommended that the Regional Board impose civil liability against Minshew Brothers Steel Construction, Inc. in the amount of two thousand five hundred dollars (\$2,500) for failure to submit the FY 2003-04 annual report and three thousand five hundred dollars (\$3,500) for failure to submit the FY 2004-05 annual report. The total civil liability against Minshew Brothers Steel Construction, Inc. for the violations addressed in this Complaint is six thousand dollars (\$6,000).

Dated this sixth day of June 2006.

A handwritten signature in cursive script, appearing to read "John H. Robertus", is written over a horizontal line.

JOHN H. ROBERTUS
Executive Officer