

State of California  
Regional Water Quality Control Board  
San Diego Region

ENFORCEMENT SUMMARY REPORT  
December 16, 2009

ITEM: 11

SUBJECT: Administrative Civil Liability Against Minshew Brothers Steel Construction, Inc. The Regional Board will consider adoption of a tentative Order that would accept an offer to settle administrative civil liability proposed in Complaint No. R9-2009-0058 for failure to submit the FY 2006-07 and FY 2007-08 annual storm water monitoring reports required by State Water Board 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. (Tentative Order No. R9-2009-0148) (Rebecca Stewart)

PURPOSE: The Regional Board will consider whether to accept or reject Minshew Brothers Steel Construction, Inc.'s offer to settle the claims alleged in Complaint No. R9-2009-0058 with payment of \$20,000 to the Waste Discharge Permit Fund.

PUBLIC NOTICE: On November 16, 2009, a notice regarding the settlement offer was published on the Regional Board's web site.

DISCUSSION: The State Water Resources Control Board (State Water Board) statewide general industrial storm water permit requires the submittal of an annual report to document status of compliance and results of water quality monitoring. The annual reports are due by July 1 of each year. Minshew Brothers Steel Construction, Inc. (Minshew Brothers), located at 1278 Vigilante Road in Lakeside, failed to submit the Fiscal Year 2006-07 and 2007-08 annual reports.

In accordance with California Water Code (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. The Fiscal Year 2007-08 annual report was finally submitted on July 2, 2009, one year late.

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.

On July 2, 2009, the Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R9-2009-0058 to Minshew Brothers for failing to submit the Fiscal Year 2006-07 and 2007-08 annual storm water monitoring reports. The proposed civil liability of \$62,700 was based on both reports being one year late and the fact that the Regional Board had previously assessed \$6,000 in civil liability against Minshew Brothers for failure to submit two previous annual reports.

On November 16, 2009, Minshew Brothers presented the Regional Board's Prosecution Team with a proposed settlement of the claims alleged in the Complaint. Along with a pledge of future compliance, Minshew Brothers Steel Construction, Inc. has offered to pay \$20,000 to the Waste Discharge Permit Fund.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2009-0148 with Settlement Agreement
- (3) Complaint No. R9-2009-0058 with Technical Analysis

RECOMMENDATION: The adoption of tentative ACL Order No. R9-2009-0148 is recommended.