



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 15, 2020

Seattle Iron & Metal Corp
Attn: Alan Sidell
601 S Myrtle ST
Seattle WA 98108-3424

RE: Water Quality Certification Order No. 18105 for Corps Public Notice No. NWS-2017-1059, Seattle Iron & Metals South Dock Repair in King County, Washington

Dear Alan Sidell,

On April 18, 2019, Seattle Iron & Metals, Corp submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Seattle Iron & Metals South Dock Repair in King County, Washington.

The proposed project entails repairing portions of decking and repairing or replacing piles on an existing dock located on the lower Duwamish river. Metal debris that is located in front of the dock will be removed using an underwater magnet and divers for any material that is not picked up by the magnet.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA) and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Penny Kelley at 360-407-7298 or email penny.kelley@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

E-CC: Bethany Nickison, Corps of Engineers
Kerry Lyste, Stillaguamish Tribe
Pat Stevenson, Stillaguamish Tribe
Alison O'Sullivan, Suquamish Tribe
Erika Hoffman, EPA
Laura Arbor, WDFW
Tessa Gardner Brown, Floyd Snider
ECY RE FEDPERMITS
Loree' Randall – HQ, SEA

IN THE MATTER OF GRANTING A)	ORDER # 18105
WATER QUALITY)	Corps Reference No. NWS-2017-1059
CERTIFICATION TO)	Repair portions of decking and repair/replace
Seattle Iron & Metals Corp.)	piles on an existing dock located on the lower
in accordance with 33 U.S.C. 1341)	Duwamish river in King County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	

Seattle Iron & Metals Corp
Attn: Alan Sidell
601 S Myrtle ST
Seattle WA 98108-3424

On April 18, 2019, the Department of Ecology (Ecology) received Seattle Iron & Metal Corp request for a Section 401 Water Quality Certification (WQC) for Seattle Iron & Metals, South Dock Repair. Ecology issued a joint public notice for the project on March 17, 2020.

The project entails repair and replacement of both decking and substructure of the existing dock, referred to as the South Dock. The work will be conducted in two phases with Phase 1 consisting of overwater work only and Phase 2 consisting of in-water and overwater work.

During Phase 1, the sections in the southern portion of the deck will be replaced. The steel plates and asphalt will be removed to expose timber. Sections of deteriorating timber will be cut out and replaced with marine grade wood. The timber decking will then be paved with asphalt a minimum of 3 inches thick with intent to meet the landside elevation at approximately +17 feet mean lower low water (MLLW). The surface will be sloped to direct stormwater runoff landward to existing catch basins.

Phase 2 work entails replacing sections of decking in the northern portion and repairing substructure along the full length of the dock. Prior to starting work, ~ 60 linear feet of bulkhead may be excavated and material stored temporarily onsite to relieve loading on the bulkhead. The entire deck in this section will be removed, exposing piling. Once uncovered, approximately 33 load bearing piles will be replaced, nine piles will be repaired, and 46 existing timber fender piles will be removed and replaced with 30 new steel piles. Two steel piles at the north end of the dock will be installed to provide supplemental fendering and mooring for material barges. After repairing and replacing piles, a new deck will be installed using marine grade wood, asphalt and steel plates. The surface will be sloped to direct stormwater runoff landward to existing catch basins.

There is debris on the river bottom comprised of both metal and nonmetal materials in front of and underneath the existing dock. Some of the debris lies on the surface and some may be partially buried. Additional work proposed for this project involves a one time removal of the metal debris using underwater magnet. Non-metal debris or metal debris that cannot be removed with the magnet will be removed using divers to locate and attach material to equipment where it can be lifted out.

The project is located 601 S Myrtle Street in Seattle, King County WA.
Section 29, T29, R4
WRIA 9 – Duwamish Green

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize Seattle Iron & Metals Corp to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification absolves Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term “Applicant” shall mean the Seattle Iron & Metals Corps and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to HQ Office, Attn: Federal Permit Manager, P.O. Box 47600 or via e-mail to fednotification@ecy.wa.gov and cc to

penny.kelley@ecy.wa.gov. The submittals shall be identified with Order 18105 and include the Applicant name, project name, project contact, and the contact phone number.

3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on April 18, 2019.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.
6. The Applicant shall send (per A.2.) a copy of the final Corps Section 404 permit to Ecology's Federal Permit Manager within two weeks of receiving it.
7. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
11. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.

12. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
13. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.
14. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
 - b. A copy of this Order is provided to the new owner or operator; and
 - c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.
15. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

B. Notification Requirements

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to penny.kelley@ecy.wa.gov. Notifications shall be identified with Order No.18105 and include the Applicants name, project name, project location, project contact and the contact's phone number.
 - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any of this Orders conditions.
 1. In addition to the phone or e-mail notification, the Applicant shall submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
 - b. At least ten (10) days prior to all pre-construction meetings
 - c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
 - d. At least seven (7) days within project completion.
2. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.

C. Timing

1. This Order shall remain in effect for a period of five (5) years from the date of issuance of this certification. Continuing this project beyond the five-year term of this Order will require the Applicant to obtain review and written approval by Ecology to extend the project for an additional five (5) years. The total term of this Order shall not exceed a total of ten (10) years.

In-Water Work Window Timing

1. In water work below the ordinary high water line must occur between August 1 and December 31st and January 1st through February 15th of any year.
2. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review.

D. Water Quality Monitoring & Criteria

1. The Duwamish River is categorized as Salmon Rearing and Migration Only and the criteria of the categorization apply as described in WAC 173-201A-210 (1), except as specifically modified by this Order.
2. The Applicant shall revise the Draft South Dock Repair Project Water Quality Monitoring and Protection Plan, dated February 2020, and submit a final plan to the Federal Permit Manager for review and approval at least 20 days prior to beginning work for each activity below the ordinary high water line (OHWL), in-water and over-water.
Work is not authorized to begin until approval is received.
3. The Applicant must provide, in writing, any changes or additions to the WQMP and obtain approval from Ecology's Federal Permit Manager prior to implementation of the changes or additions.
4. Monitoring results shall be submitted weekly to the Ecology Federal Permit Manager, per condition A.2.
5. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.
6. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
7. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of

the water quality problem and take immediate action to stop, contain, and correct the problem and prevent further water quality turbidity exceedances.

E. Construction

General Conditions

1. All stockpiles and staging areas shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
2. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
3. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
4. All equipment being used below the ordinary high water mark shall utilize bio-degradable hydraulic fluid.

Equipment & Maintenance

5. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Permit Manager before placing the staging area in the setback area.
6. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.
7. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
8. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
9. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.

10. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.
11. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
12. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area with curing concrete shall be routed to upland areas to be treated and disposed of appropriately with no possible entry to state waters.
13. All saw cut water and debris generated from saw cutting activities that occur above water shall be contained and disposed of appropriately with no possible entry to waters of the state.
14. Any fuels stored in the upland staging area shall have secondary containment.

Removal of Creosote Piles & Debris

15. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
16. The pile shall not be shaken, hosed off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.
17. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials from being released into marine waters.
18. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
19. If a barge is used to remove piles and debris, the work surface on the barge deck shall include containment for piles, debris, and any liquid or sediment removed during pulling of the piling or removing debris with an underwater magnet or by other methods.
20. Sediments spilled on work surfaces shall be contained and disposed of with the piles and debris at an approved upland disposal site.
21. Barges shall not be allowed to ground-out during in-water construction.
22. Barges shall be swept, as necessary, and kept free of material that could be blown into water.
23. No return water is allowed to discharge from the barges into waters of the state.

F. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
3. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
4. Work causing distressed or dying fish, discharges of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges occur, the Applicant shall notify the Ecology Federal Permit Manager per condition B.1. and immediately take the following actions:
 - a. Cease operations at the location of the non-compliance.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - d. Immediately notify Ecology's Regional Spill Response Office at 1-800-258-5990 and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
 - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
5. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Department of Ecology, Headquarters
Attn: Penny Kelley
PO Box 47600
Olympia, WA 98504-7600
360-407-7298
Penny.kelley@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>

- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

SIGNATURE

Dated this 15 day of April 2020 at the Department of Ecology, Olympia, Washington



Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Attachment A
Statement of Understanding
Water Quality Certification Conditions

Seattle Iron & Metals South Dock Repair
Seattle Iron & Metals, Corp
Water Quality Certification Order No. **18105**
and
Corps Reference No. **NWS-2017-1059**

I, _____, state that I will be involved as an agent or contractor for Seattle Iron & Metals, Corp in the site preparation and/or construction of the Seattle Iron & Metals South Dock Repair located at the Seattle Iron & Metals facility on the Lower Duwamish Waterway in King County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 18105 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company