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HEARINGS CLERK
EPA REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

SKAGIT RIVER STEEL AND RECYCLING
BURLINGTON, WASHINGTON

Respondent.

DOCKET NO. CWA-10-2019-0099

CONSENT AGREEMENT

Proceedings Under Section 309(g) of the Clean
Water Act, 33 U.S.C. § 1319(g)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g).

1.2. Pursuant to CWA Section 309(g)(1)(A), 33 U.S.C. § 1319(g)(1)(A), the EPA is authorized to assess a civil penalty against any person that has violated CWA Section 301, 33 U.S.C. § 1311, and/or any permit condition or limitation in a permit issued under CWA Section 402, 33 U.S.C. § 1342.

1.3. CWA Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed \$21,933 per day for each day during which the violation continues, up to a maximum penalty of \$274,159. See also 84 Fed. Reg. 2056 (February 6, 2019) (2019 Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to CWA Section 309(g)(1)(A) and (g)(2)(B), 33 U.S.C. § 1319(g)(1)(A) and (g)(2)(B), and in accordance with Section 22.18 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Skagit Steel and Recycling, Inc. (Respondent) agrees to issuance of, the Final Order attached to this Consent Agreement.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), execution of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 309(g), 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (Complainant).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Framework

3.1. As provided in CWA Section 101(a), 33 U.S.C. § 1251(a), the objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

3.2. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person from any point source into waters of the United States except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

3.3. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

3.4. CWA Section 502(7), 33 U.S.C. §1362(7) defines “navigable waters” to include “waters of the United States, including the territorial seas.” In turn, “waters of the United States” has been defined to include, *inter alia*, all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; tributaries to such waters; and wetlands adjacent to the foregoing waters. 40 C.F.R. § 122.2 (2014).

3.5. The CWA defines a “pollutant” to include, *inter alia*, wrecked or discarded equipment, rock, sand, cellar dirt, biological materials, dredged spoil, and solid waste discharged into water. CWA § 502(6), 33 U.S.C. § 1362(6).

3.6. The CWA defines “point source” to include, *inter alia*, “any pipe, ditch, channel, tunnel, conduit, well, [or] discrete fissure . . . from which pollutants are or may be discharged.” CWA § 502(14), 33 U.S.C. § 1362(14).

3.7. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), specifies that an NPDES permit is required for any stormwater discharge “associated with industrial activity.”

3.8. EPA’s regulations define “stormwater discharge associated with industrial activity” to include the discharge from any conveyance that is used for collecting and conveying stormwater that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. Industrial stormwater is a type of pollutant. 40 C.F.R. § 122.26(b)(14).

3.9. The state of Washington, through the Washington Department of Ecology, is authorized pursuant to CWA Section 402(b), 33 U.S.C. § 1342(b), to administer the NPDES permitting program for stormwater discharges associated with industrial activity

3.10. The Washington Department of Ecology issued the Industrial Stormwater General Permit for discharges of stormwater associated with industrial activity on December 3, 2014 and the permit became effective on January 2, 2015 (hereinafter "ISGP").

3.11. The ISGP authorizes facilities conducting industrial activities to discharge stormwater to a surface water body or to a storm sewer system that drains to a surface water body.

3.12. The ISGP requires private entities that operate recycling facilities to apply for coverage under the ISGP if the facility discharges to a surface water body, or to a storm sewer system that discharges to a surface water body.

3.13. Recycling facilities that are involved in the recycling of materials, including but not limited to, metal scrap yards, battery reclaimers, salvage yards, auto recyclers, and automobile junkyards are given the Standard Industrial Classification group 5015 and 5093 and require permit coverage under the ISGP.

General Allegations

3.14. Respondent is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) because it is a corporation licensed to do business in the state of Washington.

3.15. At all times relevant to this action, Respondent owned and operated the Skagit River Steel and Recycling facility (hereinafter "Facility") located at 1265 South Anacortes

Street, Burlington, WA, 98223. The Facility falls under the Standard Industrial Classification group 5015 and/or 5093.

3.16. The Facility discharges stormwater into the City of Burlington's small municipal separate storm sewer system, known as MS4. The Facility's stormwater discharges contain "pollutants" within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

3.17. City of Burlington MS4 is routed to a constructed pond that overflows and enters ditches that route stormwater to the Gages Slough. Gages Slough empties into the Skagit River, a "navigable water" as defined under Section 502(7) of the Act, 33 U.S.C. § 1362(7), and thus is a water of the United States.

3.18. By discharging industrial stormwater from the Facility into waters of the United States, Respondent engaged in the "discharge of pollutants" from point sources within the meaning of CWA Sections 301(a) and 502(12), 33 U.S.C. §§ 1311(a) and 1362(12).

3.19. At all times relevant to this action, Respondent was authorized to discharge stormwater containing pollutants from the Facility under the ISGP with permit number WAR002085.

3.20. On April 22 and 28, 2015, an authorized representative of EPA conducted a compliance inspection of the Facility in an effort to determine its compliance with the ISGP and the CWA. Based on the inspection and EPA's review of the Respondent's documents, discharge monitoring reports (DMRs), monthly inspection reports, training records, and corrective action reports, Respondent violated CWA Section 301, 33 U.S.C. § 1311, and the conditions and/or limitations of the ISGP.

Violations

Count 1: Failure to Develop a Stormwater Pollution Prevention Plan

3.21. Section S3.A.1 of the ISGP requires all permittees to develop a Stormwater Pollution Prevention Plan (hereinafter "SWPPP") SWPPP that specifies the Best Management Practices to, *inter alia*, prevent stormwater pollution and to ensure that discharges do not cause violations of the Washington State's Water Quality Standards. Additionally, the SWPPP must contain a site map, a detailed assessment of the facility, a Spill Prevention and Emergency Cleanup Plan, and a Sampling Plan.

3.22. At the time of the facility inspection, Respondent failed to have a complete SWPPP in violation of ISGP Condition S3.A.1.

Count 2: Failure to Conduct Quarterly Sampling

3.23. Section S4.B.2 of the ISGP requires that permittees designate sampling locations at the points where it discharges stormwater associated with the industrial activity off-site.

3.24. Section S4.B.1.a of the ISGP requires that permittees conduct quarterly sampling of the discharge from each designated location at least once per quarter.

3.25. Section S4.B.e of the ISGP clarifies that permittees are not required to sample during quarters in which there is no discharge. However, even in quarters in which there was no discharge, permittees must still submit a Discharge Monitoring Report.

3.26. Respondent has four designated sampling locations.

3.27. Respondent failed to take the required samples, document that there was no discharge, or otherwise explain why no monitoring occurred, with respect to each discharge point in all quarters in the years 2015 to 2016, and quarters 1, 2, and 3 in 2017, in violation of ISGP Condition S4.B.1.a.

Count 3: Failure to Perform Monthly Visual Assessments

3.28. Sections S7.A.1 and S7.A.2 requires that once each month, the permittee must have qualified personnel conduct and document visual inspection of the site.

3.29. Section S7.C requires the Permittee to record the results of each inspection in an inspection report or checklist and keep the records on-site, as part of the SWPPP, for the Department of Ecology to review. The inspection reports must include, *inter alia*, an assessment of whether the site is in compliance with the SWPPP and the ISGP, pursuant to Section S7.C.1.

3.30. Respondent failed to retain documentation of visual assessments from January, February, March, April, June and August of 2015, in violation of ISGP Condition S7.A.1.

Count 4: Failure to Meet Holding Times of pH

3.31. Section S4.C of the ISGP requires permittees to ensure that analytical methods used to meet the sampling requirement conform to the latest revision of the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 C.F.R. Part 136. Pursuant to 40 C.F.R. Part 136, there is a 15-minute maximum holding time that sample may be held before pH analysis.

3.32. Respondent failed to test any samples within 15 minutes of collection during all quarters of 2015, 2016, 2017 and thus violated Condition S4.C. of the ISGP.

Count 5: Unpermitted Discharging of Process Wastewater

3.33. Section S3.B.4.b.i.7 of the ISGP mandates that permittees not allow process wastewater comingle with stormwater or enter storm drains. The ISGP makes clear that water from washing vehicles or equipment, steam cleaning and/or pressure washing is considered process wastewater. Id.

3.34. At the time of the inspection, Facility representatives indicated that an area around a catch basin that discharged into the storm drain was the designated washing for facility equipment and industrial vehicles.

3.35. At the time of the inspection, Facility representatives indicated that pressure washing occurs in the designated area approximately once a month, the most recent pressure washing of an industrial vehicle occurring on April 27, 2015, in violation of Condition S3.B.4.b.i.7 of the ISGP.

Count 6: Failure to Perform Corrective Actions

3.36. Section S8 of the ISGP requires permittees to take corrective actions upon the exceedance of applicable benchmark values in the ISGP. Corrective Actions are designated as Level One, Level Two, or Level Three, depending upon the type or frequency of the exceedance of a benchmark value.

3.37. Section S8.B requires a Level One Corrective Action when a permittee's discharge sample result exceeds any applicable benchmark value listed in the ISGP Tables 2, 3, or 7 for any quarter. Parameters for copper, zinc, and turbidity are found in ISGP table 2.

3.38. Section S8.B. requires a Level One Corrective action to include an inspection to investigate the cause of the exceedance in the sample, review the SWPPP to ensure that it fully complies with the ISGP, and make appropriate revisions to the SWPPP with the goal of achieving applicable benchmark values in the future.

3.39. Section S8.C requires a Level Two Corrective Action when a permittee's discharge sample results exceed an applicable benchmark value in ISGP Table 2, 3, or 7 for any two quarters during a calendar year.

3.40. Section S8.C requires a Level Two Corrective Actions to investigate, make appropriate revisions to the SWPPP to include additional Structural Source Control Best Management Practices with the goal of achieving the applicable benchmark values in future discharges.

3.41. Section S8.D requires a Level Three Corrective Action when a permittee's discharge sample results exceed an applicable benchmark value in ISGP Table 2, 3, or 7 for any three quarters during a calendar year.

3.42. Section S8.D requires a Level Three Corrective Action to include, *inter alia*, a qualified industrial stormwater professional to review the revised SWPPP, sign the SWPPP Certification Form, and certify that it is reasonably expected to meet the ISGP benchmarks upon implementation.

3.43. Based on analytical results of samples collected from 2015, Respondent's discharges exceeded benchmark values in ISGP Table 2 for zinc, copper, and turbidity during three quarters of 2015. A Level Three Corrective Action was required but was not completed, in Violation of S.8.D.

3.44. Based on analytical results of samples collected in the fourth quarter of 2016, discharges exceeded benchmark values in ISGP Table 2 for zinc, copper, and turbidity. In 2017, analytical results of samples collected in the second quarter of 2017 exceeded benchmark values in ISGP Table 2 for zinc and copper; samples collected in the fourth quarter exceeded benchmark values in ISGP Table 2 for turbidity. Each of these exceedances required a Level One Corrective Action, but none was completed, in Violation of S.8.B

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 309(g)(3), 33 U.S.C. § 1319(g)(3), the EPA has taken into account “the nature, circumstances, extent, and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violations, and such other matters as justice may require.” After considering all of these factors as they apply to this case, EPA has determined that an appropriate penalty to settle this action is \$22,375.

4.4. Respondent consents to the assessment of the civil penalty set forth in Paragraph 4.3 and agrees to pay the total civil penalty within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent must note on the check the title and docket number of this action.

In the Matter of: Skagit River Steel and Recycling, Inc.
Docket Number: CWA-10-2019-0099
Consent Agreement
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U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, 11-C07
Seattle, Washington 98101
(206) 553-1037

4.6. Respondent must serve photocopies of the check, or proof of other payment method described in Paragraph 4.5, on the Regional Hearing Clerk and EPA Region 10

Compliance Officer at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
young.teresa@epa.gov

Robert Grandinetti
U.S. Environmental Protection Agency
Region 10, Mail Stop 20-C04
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
Grandinetti.robert@epa.gov

4.7. If Respondent fails to pay the penalty assessed by this Consent Agreement in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondent to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

a. Interest. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

b. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondent shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such

nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. Respondent agrees to implement a Supplemental Environmental Project ("SEP") consisting of installation and operation of an onsite stormwater collection, treatment, and infiltration system ("Stormwater Management System") in accordance with all provisions described in the Consent Agreement and Attachment A.

4.10. Respondent's deadline to perform the SEP shall be excused or extended if such performance is prevented or delayed solely by events which constitute a Force Majeure event. A Force Majeure event is defined as any event arising from causes beyond the reasonable control of Respondent, including its employees, agents, consultants, and contractors, which could not be overcome by due diligence and which delays or prevents performance of a SEP within the specified time period. A Force Majeure event does not include, inter alia, increased cost of performance, changed economic circumstances, changed labor relationship, normal precipitation or climate events, changed circumstances arising out of the sale, lease, or other transfer or conveyance of title of ownership or possession of a site, or failure to obtain federal, state, or local permits.

4.11. Respondent also certifies to the truth, accuracy, and completeness of all cost information provided to EPA in connection with EPA's approval of the SEP, and that Respondent in good faith estimates that the cost to implement the SEP, exclusive of internal labor costs, is \$1,685,722.

4.12. Respondent also certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation, nor is Respondent required to perform or develop the SEP by another agreement, under a grant, or as injunctive relief in any other case. Respondent further certifies: that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP; that the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Agreement; and that Respondent will not receive any reimbursement for any portion of the SEP from any other person or entity. For federal income tax purposes, Respondent agrees that it will neither capitalize in inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

4.13. Respondent hereby certifies that it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 4.9.

4.14. Respondent shall submit a SEP Completion Report to EPA within 90 days after expiration of the three-year operating period of the Stormwater Management System. The SEP Completion Report shall contain: (i) a detailed description of the SEP as implemented; (ii) a description of any operating problems and the solutions thereto; (iii) itemized costs; (iv) certification that the SEP has been fully implemented pursuant to the provision of this CAFO; (v)

and a description of the environmental and public health benefits resulting from implementation of the SEP.

4.15. Unless otherwise instructed in writing by EPA, Respondent shall submit all notices and reports related to the SEP as required by this Consent Agreement by electronic mail to address: Grandinetti.robert@epa.gov.

4.16. Respondent agrees that EPA may inspect the Facility at any time in order to confirm that the SEP is being undertaken in conformity with this Consent Agreement. Respondent agrees that EPA may inspect Respondent's records at any reasonable time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

4.17. Respondent shall maintain legible copies of documentation of the underlying data for documentation or reports submitted to EPA pursuant to this Consent Agreement until the SEP Completion Report is accepted pursuant to Paragraph 4.18, and Respondent shall provide the documentation of any such underlying data to EPA within 15 days of a written request for such information. In all documents or reports including, without limitation, the SEP Completion Report submitted to EPA pursuant to this Consent Agreements, Respondent shall, by a corporate officer, sign and certify under penalty of law that the information contained in such a document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

4.18. Following receipt of the SEP Completion Report described in Paragraph 4.14, EPA will do one of the following: (i) accept the Report; (ii) reject the Report, notify Respondent,

in writing, of deficiencies in the Report, and provide, Respondent an additional 30 days in which to correct any deficiencies; or (iii) reject the Report and seek stipulated penalties in accordance with Paragraph 4.20.

4.19. If Respondent fails to satisfactorily complete the SEP as contemplated by this Consent Agreement and this failure was not caused solely by events which constitute a Force Majeure as defined by Paragraph 4.10, then stipulated penalties shall be due and payable by Respondent to EPA upon demand in accordance with Paragraphs 4.20-21. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Agreement. The determination of whether there has been a Force Majeure event, or the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP is reserved to the sole discretion of EPA.

4.20. If Respondent fails to satisfactorily complete the SEP required by this Consent Agreement, Respondent shall pay stipulated penalties, upon written demand from EPA, in the following amounts:

4.20.1 If Respondent fails to install the Stormwater Management System by the date specified in Attachment A, then for each day the installation is late the Respondent shall pay the following per day penalties:

Period of Noncompliance	Penalty Per Day
1-29 days late	\$50
30-59 days late	\$100
60-89 days late	\$200
Greater than or equal to 90 days late	\$400

4.20.2 If Respondent fails to file timely reports, operate the Stormwater Management System according to the performance standards or the operations and maintenance plan specified in Attachment A or for the duration specified in Attachment A, unless such failure is excused for events that constitute a Force Majeure, then for each day Respondent fails to file reports, meet the performance standards or fails to follow the operation and maintenance plan as describe in Attachment A, Respondent shall pay the following per day penalties:

Period of Noncompliance	Penalty Per Day
1-29 days	\$25
30-59 days	\$50
60-89 days	\$100
Greater than or equal to 90 days	\$200

4.20.3 If the Stormwater Management System fails to meet the performance standard specified in Attachment A, but Complainant determines that Respondent: (i) made good faith and timely efforts to meet the performance standards and Maintenance and Operating Procedures; and (ii) Respondent certifies, with supporting documentation, that Respondent expended at least 90 percent of the amount of money stated in paragraph 4.11 on the Stormwater Management System, Respondent shall not be liable for any stipulated penalties under paragraph 4.19.2 related to the operation of the system.

4.21. Respondent shall pay stipulated penalties within 15 days of receipt of a written demand by EPA for such penalties. Payment shall be in accordance with Paragraphs 4.20.

Interest and late charges shall be paid as stated in Paragraphs 4.7 and 4.8. Total stipulated penalties shall not exceed \$88,000 in the aggregate, exclusive of interest and late charges.

4.22. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP from the date of the execution of the Consent Agreement shall include the following language:

“This project was undertaken in connection with the settlement of an administrative enforcement action taken by the U.S. Environmental Protection Agency under the Clean Water Act.”

4.23. This Consent Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of the equipment or technology installed by Respondent in connection with the SEP undertaken pursuant to this Consent Agreement.

4.24. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.25. Except as described in Subparagraph 4.7 and its subparagraphs, each party shall bear its own costs in bringing or defending this action.

4.26. Respondent expressly waives any right to contest the allegations and waives any right to appeal this Consent Agreement and the Final Order.

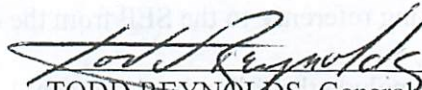
4.27. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.28. The above provisions are STIPULATED AND AGREED upon by Respondent and Complainant.

DATED:

Aug 5, 2019


FOR RESPONDENT:


TODD REYNOLDS, General Manager
Skagit River Steel and Recycling, Inc.

DATED:

8/13/2019

FOR COMPLAINANT:


EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance
Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

SKAGIT RIVER STEEL AND RECYCLING
BURLINGTON, WASHINGTON

Respondent.

DOCKET NO. CWA-10-2019-0099

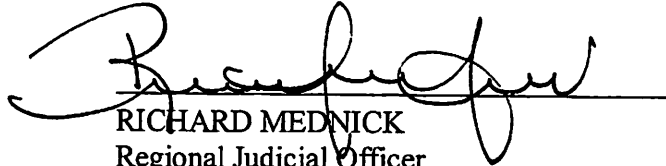
FINAL ORDER

Proceedings Under Section 309(g) of the Clean
Water Act, 33 U.S.C. § 1319(g)

1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of the U.S. Environmental Protection Agency (EPA) Region 10, who has in turn delegated this authority to the Regional Judicial Officer in EPA Region 10.
2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.
3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act (CWA) for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. The Consent Agreement and this Final Order resolves only those causes of action alleged in Part III of the Consent Agreement. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

4. This Final Order shall become effective upon filing.

SO ORDERED this 13th day of August, 2019.



RICHARD MEDNICK
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Skagit River Steel and Recycling DOCKET NO.:CWA-10-2019-0099** was served on the addressees in the following manner on the date specified below:

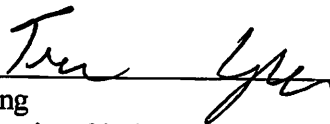
The undersigned certifies that a true and correct copy of the document was delivered to:

Bradley Roberts
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Todd Reynolds, General Manager
Skagit River Steel and Recycling, Inc
1265 S Anacortes Street
Burlington, WA 98233

DATED this 14 day of August, 2019.



Teresa Young
Regional Hearing Clerk
EPA Region 10

ATTACHMENT A: SUPPLEMENTAL ENVIRONMENTAL PROJECT ("SEP")

IN THE MATTER OF: Skagit River Steel and Recycling
Burlington, Washington
EPA DOCKET NO: CWA-10-2019-0099
Consent Agreement and Final Order

In accordance with Paragraph 4.9 of the above captioned Consent Agreement and Final Order ("CAFO"), Skagit River Steel and Recycling ("Respondent") shall implement a supplemental environmental project consisting of an installation of an onsite stormwater collection, treatment, and infiltration system ("Stormwater Management System") at its facility located at 1265 South Anacortes Street in Burlington, Washington ("Facility"). The installation, maintenance, and operation of the Stormwater Management System shall collectively be referred to as the "Project."

I. Installation

By September 1, 2020, Respondent shall design and install the Stormwater Management System in accordance with the 2012 Stormwater Management Manual for Western Washington, as Amended in December 2014 ("2014 SWMMWW"). The Stormwater Management System shall consist of the following components:

- a. Two biofiltration swales and one new infiltration pond on the western and northern boundaries of the Facility to convey, treat, and infiltrate stormwater in accordance with geotechnical engineering recommendations based on the infiltration rates of the Facility.
- b. Installation of oil-water separators prior to inlets into the biofiltration swales and the infiltration pond to capture and remove oil, grease, grit and sediment.
- c. Modification of individual drainage areas that will eliminate the use of existing outfalls. All existing outfalls or discharge points will be permanently closed or removed.

II. Standards of Performance

The Stormwater Management System must be designed and operated to assure compliance with Ground Water Quality Standards, provide water quality treatment, and eliminate discharges with respect to industrial stormwater from the Facility as follows:

- a. The Stormwater Management System must assure compliance with Washington State Department of Ecology's Ground Water Quality Standards, Washington State Administrative Code Chapter 173-200, and must not include any underground injection wells, as defined in Washington State Administrative Code Chapter 173-218, 40 C.F.R. § 144.3.

- b. The water quality treatment function of the Stormwater Management System shall meet or exceed the enhanced treatment requirements as specified in the 2014 SWMMWW, Volume V-3.4, Enhanced Treatment Menu.
- c. The flow control function of the Stormwater Management System shall be designed to eliminate discharges for all design storm event return periods up to and including the 100-year/24-hour storm, as modeled using and the currently applicable and required software model, Western Washington Hydrology Model (WWHM2012 Version 4.2.14). Compliance shall be confirmed in the Analysis Results section of the software output report.

III. Operation and Maintenance

Respondent shall develop an Operation and Maintenance Plan for the Stormwater Management System ("O&M Plan") to be approved by the local jurisdiction. During the period of operation, the Stormwater Management System must be operated and maintained in accordance with the O&M Plan and must assure compliance with the Performance Standards in Paragraph II.

If Respondent receives indication the Stormwater Management Plan does not meet the performance standards specified above, Respondent shall make modifications to the Operation and Maintenance Plan or Stormwater Management System to achieve the performance standards and perform follow-up testing to ensure compliance with the performance standards.

IV. Duration

Respondent shall operate the Stormwater Management System in accordance with the CAFO for three years after completion of the installation. This requirement shall be excused only for events that constitute a Force Majeure as the term is defined in paragraph 4.10 of the CAFO.

V. Reporting

After the Stormwater Management System is installed and during the period of operation, Respondent must provide written notification to the EPA if there are any discharges to the City of Burlington Municipal Storm Sewer, or any other surface water body, within 48 hours of discovery of the discharge. Written notification must be made via electronic mail to Grandinetti.robert@epa.gov.

Respondent shall provide quarterly reports to the EPA during design, construction, and operation of the Stormwater Management System. Reports must be made via electronic mail to Grandinetti.robert@epa.gov. Quarterly reports must include a summary of maintenance and inspection activities and copies of any maintenance logs completed during the reporting period. During the design and construction of Stormwater Management System, reports must include any changes to the projected completion date, any material changes in the design, and any significant (greater than 15%) reduction in the cost of the project. During the operation of the Stormwater Management System, reports must include any changes to or deviations from the

O&M Plan, any deficiencies in the Stormwater Management System and steps taken to remedy them. Respondent shall submit a SEP Completion Report to EPA within 90 days after expiration of the three-year operating period of the Stormwater Management System specified in Paragraph IV. Quarterly and Final reports must be submitted according to the following table:

Quarter	Deadline for Reporting
Quarter 1 January 1-March 31	April 30
Quarter 2 April 1- June 30	July 31
Quarter 3 July 1 – September 30	October 31
Quarter 4 October 1- December 31	January 31