



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 31, 2022

J.E. McAmis, Inc.
ATTN: Scott Vandergrift
621 Country Drive
Chico, CA 95928

RE: Water Quality Certification Order No. **21097** for Corps Reference No. **201700431**, J.E. McAmis Site Improvements, Cowlitz County, Washington

Dear Scott Vandergrift:

On April 23, 2021, J.E. McAmis Inc., submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the J.E. McAmis Site Improvements, Cowlitz County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents 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.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Jennifer Riedmayer at (360) 995-3252. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Perry Lund".

Perry Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

J.E. McAmis, Inc.

March 31, 2022

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e-cc: Danette Guy, Corps of Engineers
Ryan Crotty, Maul Foster and Alongi Inc.
Amy Jensen, EPA
George Fornes, WDFW
Joyce Mercuri, Ecology, SWRO TCP
Laura Inouye, Ecology, HQ SEA
Lori Kingsbury, Ecology, SWRO SEA
Lori White, Ecology, CRO SEA
ECY RE FEDPERMITS

IN THE MATTER OF GRANTING A) WQC ORDER No. 21097
WATER QUALITY) Corps Reference No. 201700431
CERTIFICATION TO) J.E. McAmis Site Improvements, Columbia
J.E. McAmis, Inc.) River, located in Cowlitz County, Washington.
pursuant to 33 U.S.C. 1341 (FWPCA)
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

J.E. McAmis Inc.
Attn: Scott Vandegrift
621 Country Drive
Chico, CA 95928

On April 23, 2021, J.E. McAmis Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act to the Department of Ecology (Ecology) for the J.E. McAmis Site Improvements, Cowlitz County, Washington. On June 29, 2021, Ecology issued a public notice for the project.

The project proposes to establish a concentrated water dependent marine industrial facility located along the shoreline of the Old Mouth of the Columbia River (OMCR) at River Mile 68. The project will replace the existing failing sheet pile and timber bulkhead with a new bulkhead. Approximately 16,000 cubic yards of clean fill will be placed behind the bulkhead wall to meet grade. Grading will occur around the bulkhead area and upland on the existing roads by installing new gravel for access to complete improvements to the existing office building, workshop and storage areas. Additional in water work include constructing eight mooring dolphins for temporary barge staging for use during operations.

The project calls for mitigation located along a finger dike that separates the OMCR from the Cowlitz River. The mitigation work will create additional aquatic and nearshore habitat to offset the proposed bulkhead and mooring dolphins. The proposed mitigation area is improving riverine habitat and an isolated pond that is part of the tidal fringe wetland. The mitigation plan will connect the pond to the OMCR, which will eliminate the potential for fish stranding during high water events and increase overall ecological functioned the area.

The project site is located at 100 Tennant Way, Longview, Columbia River, Cowlitz County, Washington, Section 10 and 11, Township 7 N., Range 2 W., within Water Resource Inventory Area (WRIA) 25 Grays-Elokoman.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this WQC request 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;
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;
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;
4. Conformance with Washington’s prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080; and,
5. The project proponent of the project authorized is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

With this Water Quality Certification (WQC) Order, Ecology is granting with conditions, J.E. McAmis Inc., request for a Section 401 Water Quality Certification for the J.E. McAmis Site Improvements, Columbia River, located in Cowlitz County. Ecology has determined that the proposed discharge(s) will comply with all applicable state water quality requirements, provided the project is conducted in accordance with the Section 401 Water Quality Certification request that Ecology received on April 23, 2021, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

Table 1. Supporting Documents

Date Received	Document Type	Title & Date	Author
4/23/2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (4/23/2021)	Ryan Crotty
4/23/2021	Drawings	Drawings (4/23/2021)	Ryan Crotty
4/23/2021	State Environmental Policy Act	SEPA Determination of Nonsignificance (11/7/2017)	Cowlitz County
4/23/2021	Biological Evaluation	Biological Evaluation (2/25/2021)	Maul, Foster & Alongi, Inc.
4/23/2021	Wetland Delineation	Preliminary Wetland Delineation for the J.E. McAmis Cowlitz River Mitigation Project	Stillwater Sciences
4/23/2021	Mitigation Plan	Mitigation Plan (4/22/2021) & Revised Technical Memorandum	Maul, Foster & Alongi, Inc. and

		(3/16/2022)	Stillwater Sciences
4/23/2021	Water Quality Monitoring Plan, Spills Prevention and Control Plan	Water Quality Monitoring Plan (4/1/2021)	Maul, Foster & Alongi, Inc.
12/20/2021	HPA	Hydraulic Project Approval (3/31/2021)	George Fornes, WDFW
12/20/2021	Shoreline Permit	Cowlitz County Shoreline Permit (12/20/2021)	Cowlitz County

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize J.E. McAmis Site Improvement 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 Section 401 Water Quality Certification absolves the J.E. McAmis Inc., from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

The following conditions will be incorporated into the Corps permit and strictly adhered to by the J.E. McAmis Inc.

A. General Conditions

1. In this WQC Order, the term “Project Proponent” shall mean the J.E. McAmis Inc., and its agents, assignees, and contractors.
2. All submittals required by this WQC Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Permit Manager, via e-mail to fednotification@ecy.wa.gov and cc to Jennifer.Riedmayer@ecy.wa.gov. The submittals shall be identified with WQC Order 21097 and include the Project Proponent’s name, Corps permit number, project name, project contact, and the contact phone number.
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on April 23, 2021, and the supporting documentation identified in Table 1.
4. The Project Proponent shall keep copies of this WQC 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.

5. The Project Proponent 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 WQC Order are being met.
6. 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.
7. 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.
8. The Project Proponent 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 WQC Order and all permits, approvals, and documents referenced in this WQC Order. The Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
9. This WQC 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 WQC Order.
10. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards.
11. The Project Proponent shall provide Ecology documentation for review and approval before undertaking any major changes to the proposed project that could significantly and adversely affect water quality, other than those project changes required by this WQC Order.
12. The Project Proponent shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
13. Nothing in this WQC Order waives Ecology's discretionary authority to issue additional Orders if Ecology determines that further actions are necessary to implement the water quality laws of the state.
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 WQC 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. Ecology does not notify the new Applicant that a new WQC Order is required to complete the transfer.

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 Jennifer.Riedmayer@ecy.wa.gov. Notifications shall be identified with WQC Order 21097 Corps reference 201700431, and include the Project Proponent name, project name, project location, project contact, and the contact phone number.
 - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions of this WQC Order.
 - 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.
 - d. Within seven (7) days of completing in-water work activities. (NOTE: If multiple years say "of each in-water work window" or for dredging "each dredging cycle".)
2. In addition to the phone or e-mail notification required under B.1.a. above, the Project Proponent 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.
3. If the project construction is not completed within 13 months of issuance of this WQC Order, the Project Proponent 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 WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) individual permit for this project and will remain valid for the duration of the associated permit for the project.
2. The following in-water work windows apply to the project unless otherwise approved by Ecology:
 - a. All activities within the wetted perimeter of the Columbia River may be conducted between March 31, 2021 to April 2, 2024.
3. 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 before the change is implemented. Proposed changes shall be implemented only with written approval from Ecology.

D. Water Quality Monitoring & Criteria

1. This WQC Order does not authorize the Project Proponent to exceed applicable water quality standards beyond the limits established in WAC 173-201A.
2. This WQC Order does not authorize the Project Proponent to exceed applicable turbidity standards beyond the limits established in WAC 173-201A 200(1)(e)(i).
3. For in-water activities within fresh waters (including wetlands) turbidity shall not exceed 5 NTU over background when the background is 50 NTU or less; or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU:
 - a. Temporary area of mixing for turbidity established within the state water quality standards for fresh waters (WAC 173-201A-200) is as follows:
 - i. For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.
 - ii. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.
 - iii. For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.
 - iv. For projects working within or along lakes, ponds, wetlands, or other non-flowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.
4. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Project Proponent 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.
5. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity, shall be considered an exceedance of the standard.
6. The Project Proponent shall conduct water quality monitoring as described in the approved *Water Quality Monitoring Plan* as identified in Table 1 (hereafter referred to as the WQMP)
7. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.
8. Ecology may require the Project Proponent to provide mitigation and/or additional monitoring if the monitoring results indicate that the water quality standards have not been met.

E. Construction

General Conditions

1. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting maintenance and shall be maintained throughout the duration of the activity.
2. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.
4. The Project Proponent shall obtain and comply with the conditions of the Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
5. Within the project limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction fencing (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking. Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.
 - a. If the project will be constructed in stages² a detailed description and drawings of the stages shall be sent to Ecology for review at least 20 days prior to placing HVF.
 - b. Condition 5.a. shall apply to each stage.
 - c. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
 - d. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
6. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
7. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

¹ Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

² A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

8. 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.
9. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

Equipment & Maintenance

10. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands, unless otherwise requested and authorized by Ecology.
11. 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.
12. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
13. 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.
14. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Project Proponent shall set up a designated area for washing down equipment.
15. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension of sediment.
16. 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.
17. Barges shall not be allowed to ground-out during in-water construction.
18. Barges shall be swept, as necessary, and kept free of material that could be blown into water.
19. No return water is allowed to discharge from the barge(s) into waters of the state.

Bank Stabilization

20. Placement of rip-rap shall be conducted in compliance with water quality standards for turbidity.

Dolphin Removal or Removal of Creosote Piles

21. Pile removal, handling, and disposal shall follow the EPA Region 10 Best Management Practices for Piling Removal and Placement in Washington State, dated February 18, 2016.

22. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
23. 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 over waters of the state.
24. If pile removal fails, the pile stub must be cut at least 2 ft. below mudline, and the location (latitude and longitude) of all cut piling shall be reported to Ecology within 2 months of removal of all piles.
25. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the in-water work area and upland storage area, if used, to capture wood debris, oil, and other materials from being released into waters of the state.
26. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
27. If a barge is used to remove piles, the work surface on the barge deck shall include containment for piles and any liquid or sediment removed during pulling of the piling.
28. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
29. Water left in the containment on the barge shall not be discharged into waters of the state.

G. Mitigation Conditions

1. The Project Proponent shall provide mitigation as described in the *Mitigation Plan, J.E. McAmis Inc., Site Improvements Project Dated April 22, 2021 and Technical memorandum dated March 16, 2022* (hereafter called the "Mitigation Plan") as identified in Table 1 or as required by this Order or revised and approved by Ecology.
2. The Project Proponent shall submit any proposed changes to the Mitigation Plan in writing to Ecology for review and approval before implementing the changes.

H. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for this project.
2. The Project Proponent shall have adequate and appropriate spill response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.

3. 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.
4. Work causing distressed or dying fish and 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 Project Proponent shall notify Ecology's Federal Permit Manager per condition A2 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 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 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 WQC Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this WQC 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 all of the following within 30 days of the date of receipt of this WQC Order:

- File your appeal and a copy of this WQC 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 WQC 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.

Filing an appeal with the PCHB

Mailing Address:

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Street Address:

Pollution Control Hearings Board
1111 Israel RD SW
STE 301
Tumwater, WA 98501

Serving a copy of the appeal on Ecology:

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

CONTACT INFORMATION

Please direct all questions about this WQC Order to:

Jennifer Riedmayer
Department of Ecology
(360) 995-3252
Jennifer.Riedmayer@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 31st day of March, 2022, at the Department of Ecology, Olympia, Washington.

A handwritten signature in blue ink, consisting of several overlapping loops and lines, positioned above a horizontal line.

Perry Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Attachment A

**Statement of Understanding
Water Quality Certification Conditions**

J.E. McAmis Site Improvement

Water Quality Certification WQC Order # 21097

As the Project Proponent for J.E. McAmis Site Improvement project, I have read and understand the conditions of Washington State Department of Ecology WQC Order # 21097, and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

Signature _____ Date _____

Title _____ Phone _____

Company _____