

**DIVISION OF LANDS AND WATERWAYS  
RESOURCE PROTECTION & ASSISTANCE BUREAU**  
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**STATE BOARD OF LAND COMMISSIONERS**  
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February 15, 2019

Frank Linscott  
256 Timberline Drive  
Sagle, Idaho 83860

Re: Non-compliance for Reclamation Plan S02097

Dear Mr. Linscott,

The Idaho Department of Lands (IDL) has not received a reply from our letter dated December 30, 2016 requesting a traditional reclamation bond in the amount of \$248,900. As a result your operation continues to be in violation of the Idaho Surface Mining Act (Title 47, Chapter 15, Idaho Code), and the Rules Governing Administration of the Reclamation Fund (IDAPA 20.03.03). Following this letter is a timeline of events related to your reclamation plan. This timeline helps to illustrate the current situation and how it came to be.

The specific violations alleged by IDL are as follows:

1. Idaho Code § 47-1506(a) requires operators to submit a reclamation plan covering the areas to be mined prior to starting surface mining operations. The plan was approved in 1998 with 100 acres permitted. Approximately 12 acres of the current disturbance are outside of the approved mining area.
2. Idaho Code § 47-1506(a)(1)(vi) requires operators to designate the area that will be affected during the first year of operation. The plan was approved in 1998 with only 30 acres reportedly disturbed, but the 1998 air photos show over 67 acres of disturbance.
3. Idaho Code § 47-1512(b) requires bonding to be submitted prior to affecting additional lands. This has not happened once over the 20 year life of this mine.
4. Idaho Code § 47-1512(b) and 47-1512(e) requires an operator to provide adequate bonding as requested by IDL.
5. Idaho Code § 47-1513(g) requires "Any person who willfully and knowingly falsify any records, plans, specifications or other data required by the board or willfully fails, neglects, or refuses to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) or imprisonment not to exceed one (1) year or both."
6. IDAPA 20.03.03.017.01 and .018 limit each mine and mine operator to 40 disturbed acres for participation in the Bond Assurance Fund.

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In order to remedy these violations, you must submit a \$248,900 reclamation bond and a reclamation plan amendment to cover all mined areas by March 30, 2019 . In addition, IDL requests a civil penalty settlement of \$10,000 under Idaho Code § 47-1513(f). The actual penalties under Idaho Code § 47-1513(f) could be \$500 to \$2,500 per day of violation when an operator violates the Idaho Surface Mining Act or fails to perform duties imposed by the act. The total for just the last two years could be at least \$365,000. Also, additional penalties under Idaho Code § 47-1513(g) could reach \$110,000. Lastly, Idaho Code § 47-1513(d) allows IDL to pursue injunctive relief when an operator conducts mining operations without an approved plan or the required bond.

If the bond and proposed \$10,000 settlement are not received by March 30, 2019, then IDL may file a formal complaint as described in Idaho Code § 47-1513(a). Through this complaint, IDL may pursue injunctive relief to cease all operations at the mine under Idaho Code § 47-1513(d), civil penalties under Idaho Code § 47-1513(f) of up to \$1,825,000, and additional penalties under Idaho Code § 47-1513(g) of \$110,000.

Please contact me at 208-334-0261 if you have any questions or would like to discuss.

Sincerely,



Eric Wilson  
Resource Protection and Assistance Bureau Chief

Enc.\1 Timeline of Operations Under S02097

cc: Justin Eshelman, Pend Oreille Supervisory Area  
Interstate Concrete and Asphalt Company

Sent Certified Mail – Return Receipt Requested – 7016 1370 0000 2330 0005

Frank Linscott  
Reclamation Plan S02097  
Timeline

Plan was approved in 1998 for 100 acres, with 30 acres reported by the operator as disturbed at that time. Aerial imagery dated 8/10/1998 indicates that up to 67.6 acres were disturbed at that time.

In 2003 bonding was switched to the Bond Assurance Fund (BAF). The prorated bill was paid at the 30 acre level. No acknowledgement form was received back from the operator.

2004 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

In 2004, aerial imagery suggests up to 87.4 acres were disturbed.

2005 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2006 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2007 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2008 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2009 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2010 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2011 BAF bill was paid at the 30 acre level (\$450). The acknowledgement form from the operator was not updated with changes.

2012 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2013 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

2014 BAF bill was paid at the 30 acre level (\$450). The acknowledgement form from the operator was not updated with changes.

In 2014, aerial imagery suggests up to 99.56 acres were disturbed.

2015 BAF bill was paid at the 30 acre level (\$450). The acknowledgement form from the operator was not updated with changes.

2016 BAF bill was paid at the 30 acre level (\$450). No acknowledgement form was received back from the operator.

In 2016, IDL sent the operator a letter and notified him that the size of the disturbed area required a change in bonding. A traditional reclamation bond of \$248,900.00 was requested. No bond was ever received.

2017 BAF bill was paid at the 30 acre level (\$450). January 9, 2018 BAF acknowledgement form from the operator increased disturbed acres from 30 to 32 acres.

Frank Linscott  
Reclamation Plan S02097  
**Timeline**

2018 BAF bill was paid at the 30 acre level (\$450). The acknowledgement form from the operator increased disturbed acres from 32 to 40 acres.

**Summary**

This operation has had over 67 acres of disturbance since 1998. The operator, however, has only reported 30 to 40 acres of disturbance over the last 20 years. The original application listed 100 acres for this plan in NW1/4NW1/4, W1/2NE1/4NW1/4, W1/2SW1/4NW1/4, NE1/4SW1/4NW1/4, and NW1/4SE1/4NW1/4 Section 10. The site currently impacts parts of all these areas and expands into all of the SE1/4SW1/4NW1/4 and part of the SW1/4SE1/4NW1/4 Section 10.

This site is not eligible for participation in the BAF, and must provide a traditional reclamation bond (surety, letter of credit, certificate of deposit, cash).