WASHINGTON STATE DEPT OF
NATURAL RESOURCES

WASHINGTON GEOLOGICAL SURVEY
1111 WASHINGTON ST SE
MAIL STOP 47007
OLYMPIA, WA 98504-7007

February 13, 2020

MORGAN SMITH
CITY MANAGER
CITY OF BAINBRIDGE ISLAND
280 MADISON AVE. N.
BAINBRIDGE ISLAND, WA 98110

ENFORCEMENT REQUEST LETTER RESPONSE, DNR PERMIT# 70-013120

Dear Ms. Smith:

Thank you for your letter dated February 6, 2020 regarding DNR Permit #70-013120. In your letter you state that the City of Bainbridge Island (COBI) is seeking action from the Department of Natural Resources (DNR) on four issues. DNR is continuing to work with the Permit Holder, Liden Land Development and Excavation to address outstanding issues at the site. We offer the following responses to your requests:

1. *Issue a revised SEPA determination that addresses current activities and conditions on the site. Supporting documentation should include, at a minimum, a revised or amended SEPA checklist describing adverse environmental impacts that may result from the larger site activity area and any updated reports as needed to mitigate such impacts. Additionally, there needs to be clarity regarding the SEPA determination as to any SEPA conditions that refer to "recommendations" as opposed to requirements to make clear what specifically is required of the applicant.*
   In the regulatory context, SEPA review and determinations are initiated and issued during the permit review process as part of a permitting action. The current Surface Mine Reclamation Permit was based on the existing SEPA MDNS and was issued on January 30, 2009 without appeal. The thirty-day appeal period has long since passed. Since there is a current, valid Reclamation Permit for this project, and no new permitting action needed or requested, there does not currently appear to be a cause for further SEPA review. Nonetheless, DNR takes the city's and neighbors' concerns seriously and is determined to work through surface mining issues as appropriate.
2. *Require the applicant to submit a Clean Soils Report to document the source of imported fill materials. It is the City's understanding that DNR has requested such a report, and the applicant has offered to supplement the report with onsite soil testing in accordance with DNR specifications.*

The inspection report issued on January 28, 2020 (attached) made a request of the applicant to submit a clean soils acceptance plan, and to cease import operations until DNR has accepted said plan in writing. The permit holder has contracted with a third party consulting firm to conduct soil sampling. Soil analysis results will be provided to COBI, DNR and the concerned neighbors.

3. *Formally determine whether a violation on the site has occurred related to the depth of mining activities relative to the limits established in the DNR permit.*
   The latest inspection report issued, January 28, 2020, provides a measurement of excavation depth. During the inspection, the bottom of the recent excavation was determined to be at elevation 148' MSL, which is eight-feet above the permitted low elevation of 140' MSL.
4. *Formally determine if any other potential violations of DNR's permit conditions have been violated on the site based on information provided by the City, concerned neighbors, or otherwise.*
   DNR has been and continues to work with concerned neighbors and the City to address any outstanding issues associated with the DNR reclamation permit. Many of the identified issues are currently being addressed by the permit holder. One potential violation of DNR permit condition #5 (requirement to mark the permit boundary with permanent markers) was identified in the inspection report and the applicant is currently addressing it. No other violations of DNR permit conditions are occurring.

We hope these responses adequately address the City's immediate concerns. DNR is committed to continuing to work with the permit holder, COBI and concerned neighbors to address any outstanding issues associated with this reclamation permit.

If you have any questions please feel free to contact me by calling 360-902-1433.

Sincerely,

Rian Skov
Surface Mine Reclamation Program
Washington Geological Survey

Enclosures (January, 2020 Inspection Report)

c: File #70-013120

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January 28, 2020

LIDEN LAND DEV & EXCAV
12968 0LD MILITARY RD NE
POULSBO, WA 98370-7985

RE: INSPECTION REPORT FOR SURFACE MINE RECLAMATION PERMIT #70-013120 (BUCKLIN HILL LYNNWOOD CENTER TRIANGLE)

Dear Permit Holder:

A review of your permit file and inspection on 1/6/2020 has been completed for the Department of Natural Resources (DNR) Surface Mine Reclamation Permit located in Kitsap County, Washington.

Enclosed is the Inspection Report (Form SM-7A) for your Department of Natural Resources Surface Mine Reclamation Permit. Please review the report carefully to determine if any corrective actions are in order.

The performance security will periodically be adjusted up or down in order to reflect additional development or completed reclamation.

If you have any questions please feel free to contact me by calling 360-902-1433.

Sincerely,

Rian Skov
Surface Mine Reclamation Program
Washington Geological Survey

Enclosures (SM-7A, Inspection map, clean soil example)

c: File #70-013120

WASHINGTON STATE DEPARTMENT OF
NATURAL RESOURCES

SURFACE MINE RECLAMATION INSPECTION REPORT (Form SM-7A)

Reclamation Permit No. 70-013120

Permit Holder: LIDEN LAND DEV & EXCAV
Mine name: BUCKLIN HILL LYNNWOOD CENTER TRIANGLE
County: Kitsap
Latitude/Longitude: 47.6207, -122.5483

Report Date:	1/28/2020
Inspection Date:	1/6/2020
Acres Permitted:	4.2
Acres Disturbed:	3.3
Acres Reclaimed:	1.2
Depth Permitted: (ft)	50
Depth Mined: (ft)	22

Performance Security:

Current reclamation security: $19,500.00
Total reclamation security required: $19,500.00

Annual Fee:

Fees Owed: **$0.00**

Inspection Checklist:

Compliant with permit?	Yes	Boundaries/setbacks marked?	Yes	Mining within boundaries?	Yes
Signs of slope instability?	No	Segments need reclamation?	Yes	Topsoil conserved?	Yes

Subsequent Use:

Undeveloped

Inspection Observations and Reclamation Status:

Site was in operation at time of inspection with imported soil being backfilled into the excavation on east side of the permit area. Imported soil appeared to be free of deleterious material, construction debris or excessive organics and did not have visual or olfactory indicators of contamination. A Clean Soils Plan is needed to document acceptability of import material (see attached example). Until a clean soils plan is accepted by DNR please cease import of backfill material. Construction fencing has been installed along the eastern border to clearly delineate permit boundary, on permit map Sheet 1 of 2 this area is shown as having silt fencing installed and maintained for the project. Please install silt fencing as shown on reclamation plan map Sheet 1 of 2 and periodically check the condition of fencing to ensure effectiveness. The area of disturbance outside of the permit boundary identified in the 2016 inspection and NOC appears stable and well protected from erosion. Permit marker posts were observed in the NE and SE corners of the permit near the active mining area, boundary markers were not observed on the western side of the permit where scotch broom has grown and possibly obscured boundary markers. Please ensure boundary markers are clearly visible per condition #5 of Exhibit A of your approved reclamation permit.
No slope stability issues were observed during the inspection. Mining in the eastern side of the permit area has reached depth of approximately 22 feet, given the elevation of the site in the area of excavation (170' MSL) the recent excavation appears to have reached approximately elevation 148' MSL, which is 8-feet above the permitted maximum extent of excavation. Site stormwater appears to be infiltrating on site.

If you have questions about any of the items detailed in this inspection report, please call SMR representative Rian Skov at 360-902-1433.

WASHINGTON STATE DEPARTMENT OF
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Aerial Photography Report

1.22 Reclaimed Acres **4.2 Permit Map Acres** **3.33 Disturbed Acres**

Permit # 70-013120

Liden Land Dev & Excav
Bucklin Hill-
Lynnwood Center Triangle

Inspected 1/6/2020
by R. Skov

2017 Orthophoto 1-ft

Legend

- mine_sites_master
- permit boundary
- proposed
- field disturbed area
- reclaimed area

0 45 90 180 270 360 Feet

N

Clean Soil Acceptance Policy

All [redacted] Inc. reclamation operations are regulated by State and County requirements. The DNR and Washington Administrative Code requires that all backfill material accepted for reclamation purposes must meet the criteria for inert waste as detailed in WAC 173-350-410 Inert Waste Landfills and WAC 173-350-990 Criteria for Inert Waste.

[redacted] Inc. is permitted to accept "clean soil" for disposal at its North [redacted] Mine site. In order to avoid confusion about what can be accepted and try to protect [redacted] Inc. and our customers from expensive cleanup or litigation in the future, we have developed a clean soil pre-screening policy.

The North [redacted] Mine is permitted by DNR to accept the following material for reclamation purposes:

- Natural soil material
- Clay
- Silt
- Sand
- Gravel
- Rock

Clean soil is earthen material that does not contain the following:

- The soil ***cannot*** contain radioactive waste, extremely hazardous waste, by-products (all of which terms are specifically defined and regulated by federal, state, and local environmental regulations).

- The soil ***cannot*** contain any tires, garbage, rubbish, wood waste or other organic matter.

- The soil ***cannot*** be from any cleanup action whether regulated by environmental laws or not ("problem wastes").

Soil meeting all of these characteristics is "Clean Soil".

If you think your material qualifies as clean soil, you will be required to complete the following steps before [redacted] Inc. can accept your material:

1. Complete and submit a questionnaire describing the soil, the project and any other relevant information. [redacted] Inc. may require soil sampling to confirm the absence of contamination. All soil sampling and testing will be at your expense.
2. Sign a Clean Soil Contract.

All jobs bid prior to completing these steps are done so with the understanding that the "bid price" and acceptance of clean soil is conditioned upon the approval of the material and execution of the "[redacted] Inc. Clean Soil Contract."

[redacted] Inc. reserves the right to reject any material delivered to the North [redacted] Mine. The ability to reject material is clearly stated in the acceptance information provided to contractors. The material may be rejected outright based on lack of information, observations made, or testing performed. All costs associated with rejected loads shall be paid by the contractor. If contamination is suspected with a load that has been dumped, [redacted] Inc. may either direct the transporter to remove the material or require sampling and laboratory testing. If laboratory testing indicates that the material is unacceptable, the contractor shall be directed to return to the facility and retrieve the material.

Exhibit 1 to Contract for Acceptance for Clean Soils
Clean Soils Questionnaire and Certification Form

1. General Information

Owner of Soil: _____

Name: _____

Address: _____

_____

Contact: _____ Phone: _____ Fax: _____

Transporter of Soil: _____

Name: _____

Address: _____

_____

Contact: _____ Phone: _____ Fax: _____

Billing Address (if different than owner):

Name: _____

Address: _____

_____

Contact: _____ Phone: _____ Fax: _____

2. Site Information

Attach a map of the immediate vicinity with the site and location of soil to be removed clearly identified. (A hand drawn site diagram will satisfy this request).

Site Address (Street/Nearest Cross Street, City): _____

_____

Project Site:

Residential	☐	Roadway	☐
Wooded, Non-Residential	☐	Other	☐

Business currently conducted on the site and to the extent possible all information about former businesses on the site (please consult owner/operator of the site to complete this question):

_____

_____

_____

Identify all hazardous substances and petroleum products produced, stored or used at the site (please consult current owner/operator of the site to complete this question):

_____

_____

_____

Describe the surrounding areas completely as possible, especially identifying all businesses, industrial activity, chemical or petroleum storage and all general uses of the property. The more detailed the description, the better able it is to move to the next step of approval:

_____

_____

_____

3. Soil Information

Fully explain the reason the soils is being excavated (for example, describe the project and why the soil will not be used as part of the project:

_____

_____

Estimate the volume of clean soil to be disposed (yards/tons): _____

Has there been any geotechnical work performed on the clean soil or soil in the immediate vicinity? If so, please provide a copy of the report.

_____

_____

Have any soil or groundwater samples been taken on the clean soil or soil or groundwater in the immediate vicinity? If so, please provide a copy of the sample results and report (consult current owner/operator of the site to complete this question).

_____

_____

Is there any other solid material in the soil (construction waste, asphalt, concrete, wood waste, garbage, rubbish, ashes, tires, plastic, rubber)? Describe:

_____

_____

4. Certification

Your company certifies, represents and warrants that the information is complete and accurate to the best of its knowledge.

_____ _____

Signature and Title of Company's Authorized Agent Date

Return the completed questionnaire and signed certification to [redacted] Inc.
P.O. Box [redacted], Spokane, WA 99219 Phone: (509) [redacted]