



**Offices of the
Inspector General**

LETIZIA TAGLIAFIERRO
Inspector General

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August 16, 2021

Basil Seggos, Esq.
Commissioner
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-1010

Re: NYS IG 4129-001-2016

Dear Commissioner Seggos:

On December 29, 2016, the New York State Department of Environmental Conservation (DEC) referred a complaint to the Offices of the New York State Inspector General from New York State Assemblyman [REDACTED], who represents the [REDACTED] District ([REDACTED]) and who alleged an improper relationship may exist between DEC and a regulated sand mining and solid waste entity located in the Town of Southampton, the Sand Land Corporation and Wainscott Sand & Gravel (Sand Land). Specifically, [REDACTED] cited a DEC-approved remediation plan which he described as rudimentary, vague, and site-inappropriate. [REDACTED] also suggested that such approval could indicate an improper relationship between DEC employees and Sand Land. I am writing to advise you of the findings of the Inspector General's investigation of this matter.

As you are aware, Sand Land has operated a sand and gravel mine in Southampton since 1981 under a Mined Land Reclamation Law (MLR) Permit issued by DEC pursuant to Article 23, Title 27 of the Environmental Conservation Law (ECL). Additionally, Sand Land operates a Solid Waste Management Facility on the same site, authorized by a Solid Waste Management Registration under Part 360, Title 7, Article 27 of the ECL, (as implemented by Title 6 of NYCRR, Part 360) that allowed Sand Land to accept concrete, asphalt, brick, soil, rock, and wood.

Since 2014, several issues have arisen regarding Sand Land's continued operation of its mining and waste management facility and its permit has been

modified three times in this period. In 2014, Sand Land's application to modify its permit to expand its mine was denied by DEC. Significantly, in 2016, Sand Land entered into a Consent Order with DEC, which noted violations of Sand Land's MLR Permit and required Sand Land to pay a civil penalty up to \$100,000, delineate the boundaries of its mine with markers, submit a remediation plan for the encroachment and over-excavation activities, and submit a revised Mined Land Use plan.

In February 2019, DEC and Sand Land entered into a second, more comprehensive agreement. This global settlement agreement sought to resolve all administrative proceedings still pending from DEC's denial of Sand Land's 2014 permit application. This agreement requires Sand Land to cease all mining within eight years, complete reclamation in less than ten years, and surrender its solid waste permit, and provides for a new independent third party to oversee mining operations. In March 2019, DEC issued Sand Land a "renewal" permit, allowing it to vertically expand its mine operations.

In addition to its permitting issues, over the last two decades, and during the proceedings between Sand Land and DEC regarding the permits, various activity at the mine triggered numerous lawsuits and complaints filed by neighbors, local officials and environmental groups alleging violations by Sand Land. Several complaints also alleged wrongdoing by DEC inspectors for ignoring violations at Sand Land and for failing to enforce DEC permits, regulations, and the ECL at the mine.

In support of these complaints, neighbors and environmental groups alleged years of inaction by DEC, including the fact that a Region 1 mining inspector, ██████████, failed to issue a single Notice of Violation for 15 years; a violation finally issued in 2015 was not formally resolved; and despite the fact that numerous inspections since 2015 found that mining was being conducted outside the mining boundaries, DEC had not rectified this issue. As a result of continuing complaints from neighboring property owners, inspectors from DEC Region 3 conducted an inspection of the Sand Land mine on May 25, 2016, and documented three violations.

The Inspector General's investigation, which included a review of DEC's actions stemming from the May 25, 2016, inspection, did not find any indication of an improper relationship between Sand Land and DEC inspectors.

██████████, a mine reclamation specialist 2 employed by DEC since 1991, and a member of DEC's Mine Reclamation Unit since 1998, was responsible for inspections at Sand Land. He was also responsible for inspections at 22 other mines in Region 1, conducting approximately six to ten inspections at each mine every year. ██████████ testified to the Inspector General that he rarely found violations at any of the 23 mines, and that when he did, he gave offenders the opportunity to come into compliance before issuing a violation.

The investigation found no evidence that ██████████ relationship with Sand Land's owners was other than professional. Although ██████████ inspections at Sand Land over the 15-year period in question might have been perceived by

some as perfunctory, he documented his inspections and conducted them at regular intervals in accordance with DEC guidelines. Moreover, the manner of his inspections at Sand Land were not inconsistent with the role of DEC's Division of Mineral Resources to foster and encourage mining.

However, in a continuance of the ongoing and protracted litigation surrounding the issues at Sand Land, petitioners including the Town of Southampton, several public interest groups, and three neighboring landowners brought a CPLR Article 78 proceeding seeking, among other things, to annul the February 2019 settlement agreement and DEC's March 2019 issuance of a "renewal" permit. Supreme Court, Albany County determined that DEC's MLR permit was valid. On May 27, 2021, the Appellate Division, Third Department, nullified Sand Land's 2019 permit and effectively prohibited vertical mine expansion at this facility. The State appealed the Appellate Division's ruling to the Court of Appeals.

Although the investigation did not identify any inappropriate relationships between DEC personnel and Sand Land, the remaining regulatory issues are more appropriate for your agency to address. Specifically, DEC should address the validity of Sand Land's existing MLR permit and Solid Waste Facility registration with the appropriate parties as part of the permitting process and ongoing litigation.

Any further inquiries from the complainant regarding this matter will be directed to your attention.

Upon final resolution of the legal proceedings, please advise me of any actions taken by DEC in response to this referral. If you require further information, please contact Deputy Inspector General Jessica E. Silver at 212.635.3150.

Sincerely,

A large black rectangular redaction box covering the signature of the Inspector General.

Letizia Tagliaferro
Inspector General

Cc: Thomas Berkman, Esq.
Deputy Commissioner and General Counsel