



Final Report

To: Steve Shiver, County Manager

Received by Date

Mr. John Renfrow, Director
Dept. of Environmental Resources Mgt.

Received by Date

From: Christopher Mazzella, Inspector General

Date: January 28, 2002

Re: DERM inspection of construction and demolition waste facility located at
14265 NW 97th Avenue, Hialeah Gardens, Florida.

I. INTRODUCTION and SUMMARY

The Office of the Inspector General (OIG) received information that an inspector with the Miami-Dade County Department of Environmental Resources Management (DERM) was not enforcing violations at a privately operated landfill/lakefill site that collected construction and demolition waste located at 14265 NW 97th Avenue, Hialeah Gardens, Florida.

The ensuing investigation revealed that DERM Inspector William Stevens ignored serious violations at the site, which is leased and operated by the company Envirocon, Inc. Mr. Steven's consistent failure to enforce the environmental regulations allowed a buildup of waste material to grow until the amount of money held in escrow, as insurance to clean the site, if necessary, upon the site's closure, was insufficient. The investigation also revealed that Envirocon's operators might have improperly accepted and stored unprocessed waste material in a manner unsafe for the environment. Mr. Stevens admitted that for several months he recognized these violations, but said he did not cite Envirocon in more than a year's worth of monthly inspection reports.

Independent of the OIG's review of this matter, it came to our attention that various other state and local environmental agencies were also actively reviewing the circumstances surrounding Envirocon's operation of the site.

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II. BACKGROUND

Envirocon Inc., is a private company with a registered address at 11315 NW 62nd Terrace, Miami, FL. It was first incorporated in the State of Florida in 1997. Volker Meldner is listed as the company's President and Registered Agent. Scott Sandstrom is Envirocon's permitting consultant, and also functions as its DERM liaison and on-site manager.

The property site in question, 14265 NW 97th Avenue, Hialeah Gardens, FL, is actually owned by a company called Security Estates, which itself is owned and managed by Joe Capeletti. The property is a seven-and-a-half-acre parcel of land. Security Estates maintains Florida Department of Environmental Protection (FDEP) permit number 142011-002-20, to construct and operate a 500 cubic yards per day Solid Waste Management Facility for the recycling and disposal of construction debris. Security Estates also maintains DERM permit number SW-01092 for a lakefill operation on the site, allowing operators to fill in a body of water on the property with clean debris such as concrete and fill, and DERM permit number SW-1109 for a landfill operation to accept construction and demolition debris. DERM inspection reports indicate landfill operations were inactive prior to Envirocon leasing the property. (Exhibit 1)

On January 13, 1998, Envirocon, as part of SC Associates, a Florida Joint Venture, signed a "Lease With Option To Purchase" agreement with Security Estates. (Exhibit 2) The lease stipulates that Envirocon/SC Associates would pay \$12,000 per month to Security Estates, and an additional \$8,000 per month would be paid into an escrow account until \$171,764 had accumulated. The escrowed money would be used to repay Security Estates for a surety bond Security Estates purchased on September 11, 1999. The bond is required by the State, as insurance to clean the site if it closed prematurely. (Exhibit 3)

Envirocon began operations at the site in April 1999 under the operating authority of the aforementioned Security Estates' FDEP and DERM permits. On November 27, 2000, Security Estates received, in final form, a permit modification for the recycling and disposal of construction and demolition debris and mechanical grinding of clean wood and vegetation. The permit was never transferred from Security Estates to Envirocon. DERM officials acknowledge that the permit holder (Security Estates) can allow another entity (Envirocon) to operate under the permit's authority.¹ However, the permit holder is ultimately responsible for ensuring that the permit's conditions are followed.

Envirocon's clients are primarily construction/demolition companies. Envirocon charges \$6.00 per cubic yard of debris deposited on site. That debris is then separated into 1) recyclable materials such as metals and wood that will be taken off site, 2) lakefill and landfill materials suitable to remain on site, i.e., clean fill and rock, and 3) waste that is unacceptable at the site,

¹ Please see DERM's response, attached as Appendix 4, citing Florida Administrative Code, Rule 62-701.320, which "requires that the permittee transfer the permit if a new or different person takes ownership or control of the facility. Security Estates never requested a permit transfer and thereby maintained control of their operating permit."

such as plastics, tires, and hazardous materials. The unsuitable waste must be transported to a properly approved landfill and Envirocon is responsible for paying the additional transportation and tipping fee costs for its disposal.

DERM is the county agency charged with managing and protecting the county's environmental resources. Within DERM is a Waste Regulation Section, which permits landfill operations within Miami-Dade County on authority delegated to it by FDEP. William Stevens has been a Pollution Control Inspector I with DERM since January 22, 1985. The job of the inspector is to visit sites and make sure they are in compliance with the appropriate county or state permits and regulations, and to report the findings to DERM and FDEP. Mr. Stevens has a Bachelor's of Science degree from Florida International University in Environmental Studies as well as advanced training, including the completion of a course in "health and safety training for hazardous waste site investigation" on August 28, 2000. His annual employee performance evaluations reflect, on average, satisfactory work, except for one supervisor's concerns about Mr. Steven's performance, which resulted in informal counseling. (Exhibit 4)

III. INVESTIGATION

In August of 2001, the OIG received information from an anonymous source that DERM was not properly monitoring Envirocon's operations at the site in question. An OIG Special Agent (S/A) contacted the property owner, Mr. Capeletti, who stated that he believed the County was not enforcing obvious violations at the site. Mr. Capeletti said he was concerned because the lease with Envirocon expired in March of 2001, and the surety bond, as required, was insufficient to clean up the site should Envirocon decide to vacate the premises.

Mr. Capeletti noted to the OIG that he believed Envirocon was in violation of several of the "Specific Conditions" of FDEP permit number 142011-002-SO/DERM permit SW-1109 (exhibit 5), including:

- Sec. 4: Requiring all incoming waste to be dumped onto a concrete pad before sorting to prevent potentially hazardous materials from leaching into the ground.
- Sec. 5: Requiring all unseparated and unprocessed solid waste to be stored on a concrete pad.
- Sec. 6: Requiring the sorting of incoming solid waste be completed by the end of each working day, except for clean, untreated wood.
- Sec. 7: Requiring all wood and yard trash be processed into wood chips within 90 days of receipt, and wood that wasn't processed be removed within 90 days.
- Sec. 16: Requiring the amount of solid waste stored on site not to exceed the approved closure cost estimates, i.e. the bond.

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On August 13, 2001, Mr. Capeletti took an OIG S/A on a tour of the site. Upon arrival, a truck was observed dumping solid waste on the ground off the designated concrete pad. Substantial piles of wood could be observed turning gray and decomposing in the sun. (Exhibit 6) Additionally, the piles of unsorted waste did not appear to be set back 200 feet from the lake, as required. A visual inspection could not corroborate Mr. Capeletti's assertion that the material on site exceeded the bond closure amount. However, subsequent investigation by FDEP engineers verified that the material stored on site was in excess of the amount allowed to remain at the site. Mr. Capeletti said he did not understand why Mr. Stevens, the DERM inspector responsible for monthly on-site inspections, was not citing Envirocon for these violations.

In 1999, prior to Envirocon's operation of a landfill/lakefill operation, there was no debris landside. The OIG reviewed aerial photographs of the site maintained by the county's Public Works Department. A photograph taken on February 14, 1999, just prior to Envirocon's operation of the waste treatment facility in April 1999, indicates that the lake took up the majority of the site. (Exhibit 7) What land is exposed is clear of any waste and debris piles. By January 15, 2001, another aerial photograph indicates that the lake is filled in except for a portion in the eastern edge of the site, and that segregated piles of waste dominate the surface area. (Exhibit 8)

The OIG then reviewed DERM's monthly inspection reports on the Envirocon site. From the start of the operation, Mr. Stevens has been the only DERM inspector assigned to monitor and inspect Envirocon's site. Mr. Stevens was charged with visiting the site on a monthly basis then completing a one-page "Solid Waste Program Inspection Report." The report has ten categories listed on it, including "on-site storage" and "processing." Next to each category the inspector indicates whether that condition is "satisfactory" or "not satisfactory." On the lower left-hand of the form the inspector is asked to indicate the site's "Overall Status," and the inspector writes "compliance" or "non-compliance." There is room for commentary if the inspector deems it necessary. The inspector's name is printed on the report although a signature is not required. Measurements of the various stockpiled waste and photographs are not required.² This page is reviewed and initialed by a supervisor.

From March 30, 1999, through April 30, 2001, every category relevant to the site's inspection was marked as "satisfactory," and the site was given "compliance" status. In the May 31, 2001, landfill inspection report Mr. Stevens marked "see comment" on the "On-Site Disposal" category, the comment references the fact that screened material stockpiled on site "is approximately 10,000 cubic yards." (Exhibit 9) This amount was in violation of the permit's closure cost estimates, although Mr. Stevens did not indicate that. Mr. Stevens marked "satisfactory" in every other inspection category. He gave the site "compliance" status. This

² Please see DERM's response, attached as Appendix 4, which states, in part, that: "Inspectors are required to take photographs *as they deem necessary* and measure onsite stockpiles *that appear greater* than what is operationally allowed." (Emphasis added). Even though DERM seems to have a criteria, it is a very subjective, and therefore photos are not taken in all cases.

error was caught upon review by Mr. Steven's supervisor, Nahum Fernandez. Mr. Fernandez handwrote on the report that the stored material "exceeds ... closure cost estimates." In light of the omission, Mr. Steven's in the following month's inspection report marked "unsatisfactory" in the "Outgoing Storage" category, and noted under "Comments" that "[t]he stockpiled screened soil exceeded the financial assurance closure cost estimate." (Exhibit 10) The June landfill inspection report, however, did not mention the piles of wood and unsorted materials, which by that time also exceeded closure cost estimates. While Mr. Stevens gave the site a "non-compliance" status, he did not cite Envirocon with a notice of violation. For the next month's inspection, the OIG could not locate the July 27, 2001, landfill inspection report in DERM's files. However, the July 27, 2001, lakefill report was present in the files, indicating that the inspector did visit the site. Likewise, the December 2000³ inspection reports were not in the file. DERM officials could not explain the absence of the reports.

Currently, FDEP and DERM engineers estimate that the material stored on site is ten times more than what the permit allows.

On August 17, 2001, Envirocon ceased operations temporarily as a result of a dispute over money with the lessor. Mr. Capeletti asserted that Envirocon was not paying the necessary installments into the closure cost escrow fund and Mr. Capeletti intended on pursuing a court injunction to shut down the site until the money could be paid. A third party meanwhile entered into negotiations to buy the site. The third party requested that Envirocon voluntarily stop its operations as a way to resolve the civil dispute. Envirocon complied with the request.

On August 29, 2001, an OIG S/A accompanied Mr. Stevens for his final inspection of the site. Mr. Alejandro Vergara, a recently promoted Inspector II transferred to the Waste Regulation Section only ten days prior on August 20, 2001, accompanied Mr. Stevens and the OIG S/A on this site visit. Mr. Vergara explained that due to internal personnel shifts he would be taking over some of Mr. Stevens' inspection sites. Mr. Vergara wrote the report for the August 29 inspection and found Envirocon in violation of sections 5, 7, and 16 of the FDEP permit and DERM permit SW-1109. Sec. 5 requires all unprocessed waste be stored on a concrete pad; Sec. 7 requires all wood and yard trash be processed into wood chips within 90 days, or removed within 90 days; and Sec. 16 requires that the solid waste stored on site not exceed the closure cost estimates. (See relevant portions of exhibit 5). These were three of the permit conditions Mr. Capeletti had told the OIG he believed Envirocon had been violating. Mr. Vergara posted a notice of violation at the site ordering that the operation to cease and desist. (Exhibit 11) As a result of the notice of violation and the pending negotiations regarding the potential court injunction and sale of the property, Envirocon suspended its operations at the site.

On October 2, 2001, the FDEP obtained consent from Mr. Capeletti and Envirocon president Volker Meldner to search the Envirocon site. The FDEP was acting on information that it received that waste had been illegally buried at the site. Excavating equipment was

³ This is a correction from the OIG's Draft Report, which originally stated "December 2001."

brought to the site. The excavation revealed what appeared to be unsorted waste buried under approximately three to four feet of topsoil throughout the site. Apparently, Envirocon may have been burying the waste to avoid paying for the transportation and disposal costs for waste material that could not remain on the site and as such would have to be disposed of elsewhere.

SCOTT SANDSTROM INTERVIEW

On October 2, 2001, a representative of the Miami-Dade Police Department (MDPD) and an OIG S/A interviewed Scott Sandstrom, the consultant who coordinated the permitting process, and, according to DERM paperwork, is the on-site contact for Envirocon. Mr. Sandstrom said that he first met Mr. Stevens on the Envirocon site at the end of 1999. He said that Mr. Stevens was diligent about his monthly inspections of the site. He added that Mr. Stevens knew the site was not in compliance with the permit, and would inquire about what the operators planned to do to bring the site into compliance. Mr. Sandstrom said that he promised Mr. Stevens that Envirocon would haul material away to meet the permit's requirements.

NAHUM FERNANDEZ INTERVIEW

Since roughly March of 1999 Nahum Fernandez, an Engineer II in DERM's Waste Regulation Section, has been Mr. Stevens' supervisor. On November 7, 2001, an OIG S/A interviewed Mr. Fernandez at DERM headquarters, 33 SW 2nd Avenue, Miami. Mr. Fernandez explained that, among other duties, he was responsible for supervising two inspectors. He said that Mr. Stevens' reports on the Envirocon site indicated the company was in compliance and thus there was no reason to question the reports. Mr. Fernandez said that he typically goes into the field to inspect a site only when it is not in compliance and DERM is about to issue an enforcement action.

As the result of an FDEP delegation of authority memorandum in January of 1999, DERM inspectors were given authority to enforce certain sites previously monitored by FDEP. Mr. Fernandez said that DERM inspectors had to become familiar with new regulations, such as the closure-cost bond requirement. Inspectors, including Mr. Stevens, were informally briefed on these new responsibilities. Mr. Fernandez said that Mr. Stevens failed to note the accumulation of debris at the Envirocon site as it pertained to the closure-cost requirement. Mr. Fernandez said that Mr. Stevens did not fully understand the new requirements under the FDEP memorandum. Mr. Fernandez said inspectors are not required to measure the debris piles with any frequency. Measuring the piles would have indicated to supervisors reading the reports that debris at the Envirocon site was in excess of the permitted amount.

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WILLIAM STEVENS INTERVIEW

On October 3, 2001, the OIG and MDPD contacted DERM officials and asked them to have Mr. Stevens come to the Envirocon site. Upon his arrival, Mr. Stevens toured the site with the OIG, MDPD and DERM officials. He viewed the buried material that had been excavated, as well as the stockpiled waste and wood debris. Then the OIG and MDPD requested to talk with Mr. Stevens. During the interview, Mr. Stevens explained that he had been a DERM inspector for 16 years. The OIG and MDPD asked general questions about the mechanics of inspecting the Envirocon site. Mr. Stevens explained that he had been inspecting the site for about a year. He said that he visited the site on a monthly basis and toured the landfill and lakefill areas. He said he visually inspected the tipping area to make sure unsorted material was dumped and stored on a concrete pad. Mr. Stevens was then asked to explain why the evidence indicated that the material was not stored on the concrete pad. Mr. Stevens replied that he did not have an answer. Mr. Stevens was asked if he disagreed with the August 29, 2001, inspection report written by Mr. Vergara, which found several violations at the Envirocon site. Mr. Stevens said he did not disagree with the report. Mr. Stevens was then asked to account for the discrepancy between a year's worth of his reports, which found the site in compliance, and Mr. Vergara's report, which found the site in non-compliance. Mr. Stevens said he did not have an answer to that.

Mr. Stevens was asked how many other sites he inspected. He replied that he inspected about 20. Mr. Stevens acknowledged that he inspected A&B Rolloff/B&B Recycling, located at NW 98th Avenue and NW 170th Street, a solid waste transfer facility just down the road from Envirocon. Mr. Stevens acknowledged that he has found A&B/B&B in non-compliance status on several occasions for various violations. Mr. Stevens was asked why then he did not also cite Envirocon, if he recognized violations there as well? Mr. Stevens replied, "Maybe I was lazy and derelict in my duty. Maybe I was under stress."⁴ Mr. Stevens was asked if that meant his monthly inspection reports were false. Mr. Stevens replied that he did not know what to say. Mr. Stevens was read his Miranda Rights, at which point Mr. Stevens requested to have a lawyer present and the interview concluded.

As a result of the series of events in connection with inspection of the Envirocon site, DERM supervisors administratively charged Mr. Stevens with violating the county's Personnel Rules, Chapter VIII, alleging that he was incompetent or inefficient in the performance of his duty, and failed to obey lawful instruction of his supervisor. A Disciplinary Action Report issued on November 15, 2001, stated that Mr. Stevens failed to report the existence of significant violations at the Envirocon/Security Estates site. (Exhibit 12) On November 21, 2001, Jose Gonzalez, Chief of DERM's Pollution Control Division, recommended to DERM

⁴ Please refer to Appendix 2, a response filed on behalf of Mr. Stevens, which states in part: "During the period of time that Mr. Stevens did not enforce the violations, he was suffering from a mental illness, the result of which was his *inability to enforce the violations at this particular site*. Mr. Stevens properly did his job at all other sites but because of his illness was *unable to enforce the law at this site*." (Emphasis added).

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Director John Renfrow that Mr. Stevens be dismissed. (Exhibit 13) DERM officials gave Mr. Stevens the opportunity to resign, which he accepted effective December 5, 2001. (Exhibit 14) At the request of the OIG, Mr. Steven's accumulated sick and leave hours due him are being held, DI status, pending the resolution of this matter.

IV. CONCLUSION

Mr. Stevens, by his own admission, failed to enforce obvious violations at the Envirocon/Security Estates site. His inaction allowed roughly ten times the permitted amount of material to accumulate. Mr. Stevens' failure to perform his job duties put the environment he is charged with protecting at risk, due to inappropriate storage of unsorted material, and created a financial burden for whoever is charged with remediating the site.

In light of the intended disciplinary action seeking Mr. Stevens' termination of employment, and circumstances of his resignation, it is fairly apparent that Mr. Stevens did not leave county service in good standing. As such, the OIG feels that it would be appropriate for the County to seek forfeiture of Mr. Stevens' accumulated sick leave hours based on the OIG's review of the matter and his personnel record to date.⁵ A determination, based on further review from the appropriate agencies, regarding the status of his escrowed accumulated annual leave payout may be forthcoming.

⁵ Please see Appendix 2, which refutes the basis to hold Mr. Stevens' accrued annual and sick leave. The OIG cites Section 02.08.01 of the County's Leave Manual regarding payment of accrued sick leave, which states: "Employees with Full-time Service and who retire or resign in good standing are eligible to receive payment for accrued Sick Leave at the time of separation." The OIG, by copy of this report to the County Attorney's Office, defers to its legal analysis of the County's administrative procedures.

V. RECOMMENDATIONS

The OIG suggests that the following action be taken:⁶

- DERM officials should review Mr. Stevens' work product and visit the other sites he was responsible for monitoring to make sure his monthly inspection reports accurately reflect the operations at those sites.
- DERM should list Mr. Stevens on the "Do Not Rehire" list.
- DERM officials should review procedure to make sure supervisors have adequate time to review inspector's reports and to communicate effectively with inspectors. (Mr. Fernandez was only a part-time supervisor).
- DERM should develop a program, which requires DERM supervisors to **randomly** make on site visits to ensure that inspectors are properly reporting their findings.
- DERM should more formally brief and train inspectors and engineers on their additional responsibilities following the delegation of authority from FDEP to DERM in 1999. DERM should also require that each inspector or engineer, so trained, signs a form acknowledging their knowledge and awareness of all applicable rules and regulations.

Cc: Robert A. Ginsburg, County Attorney

Ms. Katherine Fernandez Rundle, State Attorney
Eleventh Judicial Circuit, Miami-Dade County

Clerk of the Board (copy filed).

⁶ Please see DERM's response attached as Appendix 2, which addresses these recommendations. According to DERM, some of these recommendations have already been enacted, however, compliance with those procedures seems to be the underlying issue.

APPENDIX

1. Advance notification letter addressed to Mr. William Stevens – former employee for DERM.
2. Mr. Stevens' response.
3. Advance notification letter addressed to Mr. John W. Renfrow, Director of DERM.
4. DERM's response.