



REFERENCE: 14/1/1/E3/9/10/3/L1015/19

ENQUIRIES: Diana Mouton

BY EMAIL

Email: grpedit@mweb.co.za

Group Editors Co (Pty) Ltd
PO Box 806
George
6530

Attention: Mr P J Moolman (Director)

ALLEGED UNLAWFUL VEGETATION CLEARING OF MORE THAN 1 HECTARE ON FARM KLEINBOS RE/57,
FARM 4/55 AND FARM 8/55, MOSSEL BAY (**"THE PROPERTIES"**)

1. The above matter has reference.
2. The Department's Directorate: Environmental Law Enforcement ("this Directorate") hereby acknowledges that you are in the process to apply for rectification through the Section 24G application process for the alleged unlawful activities that transpired on the abovementioned properties.
3. This Directorate wishes to thank you for your co-operation in this regard.
4. Kindly be advised that the investigation conducted by this Directorate has been concluded and the file will be closed.

Kind Regards

Achmad Bassier

Director: Environmental Law Enforcement

Date: 22/06/2021

Waybill Date: 20210211
Account No: GRG254
From: CAPE EAPRAC

Reference: MOS665 24G
Est Due Date: 20210215
To: DEPARTMENT OF
ENVIRONMENTAL
AFFAIRS
DEVELOPMENT

Address: 17
17 PROGRESS
STREET

Address: 1 Leeusig Building
DEA DP

GEORGE
GEORGE
6529

DORP STREET
CAPE TOWN
CAPE TOWN
8001

Contact: CAPE EAPRAC

Contact: MR SHAFEEQ
MALICK

Contact No: 044 8740 365

Contact No: 021 483 8339

Contact Cell No: 0716034132

Contact Cell No: 021 483 8339

Email Address:

Email Address:

Booking Ref No: GRG29018804

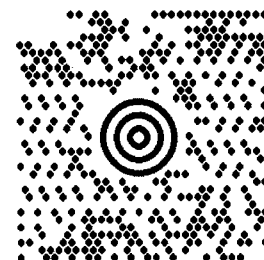
Insurance: N

Special Instructions:

Special Delivery Instructions:



WEB00375466



Service Type:

ECON

Carrier:

Array

Hub:

CPT

Compulsory Delivery Instructions:

DOCUMENTATION FEE | FUEL S/CHARGE | PICK & PACK | SECURITY LEVY |

Parcel Details:

	No. of Parcels	Length	Breadth	Height	Volume (kg)	Mass (kg)
Docs:MOS66 5 24G	1	30	15	1	0.09	0.50
	1				0.09	0.50

Courier Collection

Date:	11/02/21
Time:	16:05
Courier Print Name:	Joseph
Courier Signature:	
Comments:	

Proof of Delivery Details

Receiver Details

Received in Good	
Order & Condition:	
Date:	
Time:	
Receiver Name:	
Recipients	
Signature	
Relationship to	
Receiver:	
Comments:	

International shipments are subject to customs clearances. This may result in transit delays, therefore the estimated delivery date should only be used as a guide.



REFERENCE: 14/2/4/1/D6/28/0001/21

ENQUIRIES: Nabeelah Khan

The Managing Director
Group Editors (Pty)Ltd
PO Box 806
GEORGE
6530

Email: grpedit@mweb.co.za

Attention: PJ Moolman

Dear Sir

TO ADVISE ON THE S24G APPLICATION PROCESS FOR THE UNLAWFUL CLEARING AND MAKING OF NEW AGRICULTURAL LANDS, AND THE BUILDING OF AN IN-STREAM DAM ON FARM KLEINBOS RE/57, FARM 4/55 AND FARM 8/55, MOSSELBAY

The documentation received this Department on the 28 January 2021 is hereby acknowledged.

1. Please be advised that the *Section 24G Fine Regulations, 2017* (hereafter referred to as "the fine regulations") require that **public participation be conducted prior to the submission** of an application, as outlined in Regulation 8 of the fine regulations. A section 24G application form must also include the information as set out in **Annexure A of the fine regulations**.
2. The Department will consider the information herein and advise you accordingly.
3. Kindly quote the abovementioned reference number in any future correspondence in respect of the pre-application/consultation process.

Shafeeq
Mallick

Digitally signed by
Shafeeq Mallick
Date: 2021.02.02
18:11:04 +02'00'

Mr S Mallick
Acting Head of Rectification
Directorate: Environmental Governance

CC: (1) Andrew West (EAP)
(2) Diana Mouton (Dir: Law Enforcement Region 3)

Email: andrewwest@isat.co.za
Email: diana.mouton@westerncape.gov.za



REFERENCE: 14/1/1/E3/9/10/3/L1015/19
ENQUIRIES: D Mouton

BY EMAIL: grpedit@mweb.co.za

Group Editors Co (Pty) Ltd
PO Box 806
George
6530

Attention: Mr P J Moolman (Director)

COMPLIANCE NOTICE

Dear Sir

COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998

1. I refer to the following:
 - 1.1 The Department's Compliance Notice dated 28 October 2019;
 - 1.2 The Minister of Local Government, Environmental Affairs and Development Planning's letter dated 22 June 2020;
 - 1.3 The email representation received from your appointed Environmental Assessment Practitioner (EAP), *Cape_EAPrac*, dated 2 October 2020 informing this Directorate that you are to apply for S24G application process; and

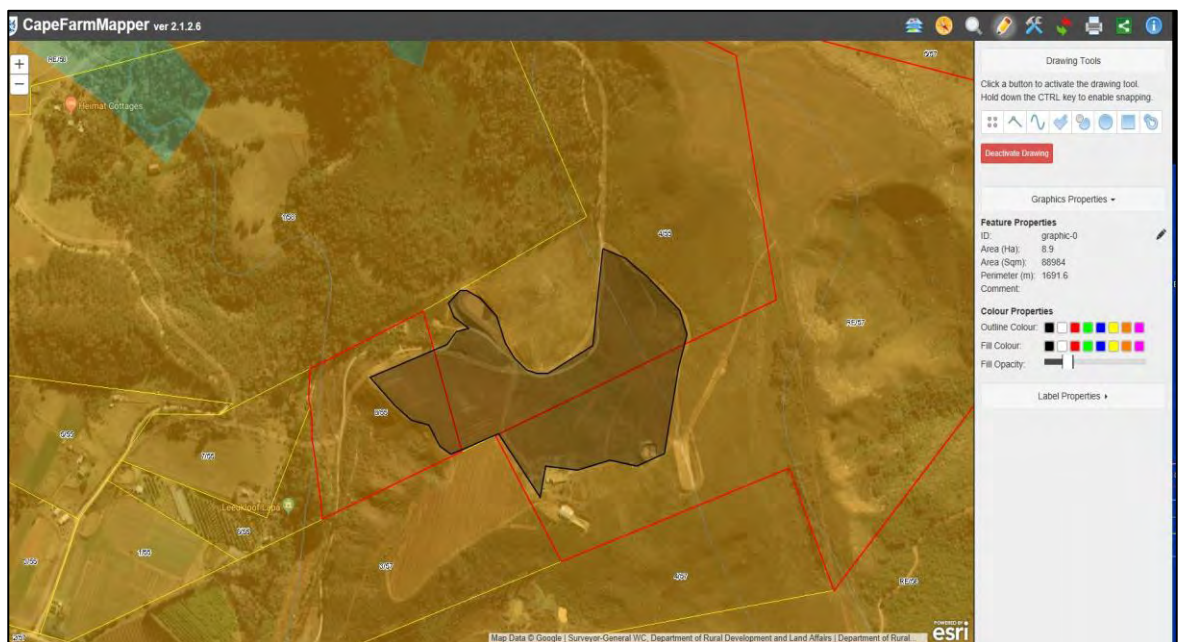
- 1.4 The Section 24G Project Schedule (PS) received from your appointed EAP dated 19 October 2020 has reference.
2. I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mr P J Moolman representing Group Editors Co (Pty) Ltd with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 ("NEMA").
3. This Compliance Notice relates to non-compliance with the provisions of section 24F of the NEMA. No activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 of 2014 may commence without environmental authorisation from the competent authority.

Details of conduct constituting non-compliance

4. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the NEMA, a site inspection was conducted at Farm Kleinbos RE/57, Farm 4/55 and Farm 8/55, Mossel Bay ("the properties") by an Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 15 January 2019 and it was confirmed that you have commenced with the alleged unlawful vegetation clearing of more than 1 hectare without the requisite environmental authorisation.



Aerial map 1: Indication of the areas that have been allegedly unlawfully cleared of vegetation on the properties.



Aerial map 2: Indication of the estimated total size (8.9ha) of the areas that have allegedly unlawfully been cleared on the properties.

5. On considering the evidence before me there are reasonable grounds to believe that you have commenced the following activity without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014

Activity no. 27:

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or*
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.*

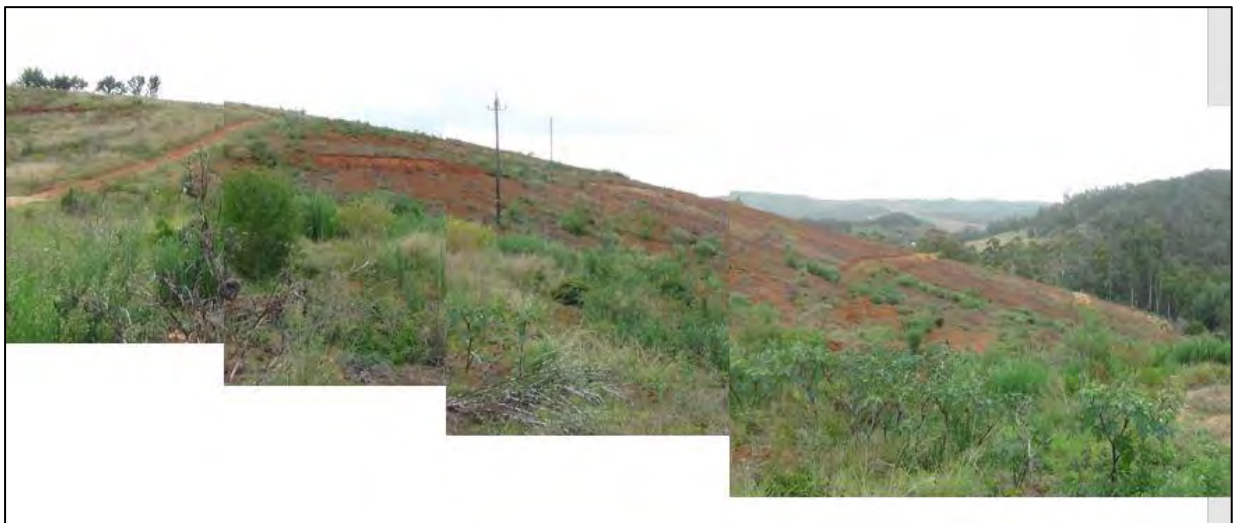


Photo 1: View of the alleged unlawful vegetation clearing, and contours made on an area of all the properties.



Photo 2: Close-up view of the alleged unlawful vegetation clearing, and a contour made on an area of all the properties.



Photo 3: View of an out-stream dam constructed on Farm 4/55 and associated vegetation clearing that contribute to the overall clearing that occurred upon all the properties.



Photo 4: View of the vegetation clearing that occurred on Farm Kleinbos RE/57 that contribute to the overall clearing that occurred upon all the properties.

6. Considering the fact that you have decided to apply for the rectification of the unlawful commencement of a listed activity in terms of section 24G of the NEMA and have submitted a section 24G PS, you are hereby instructed to:
 - 6.1 Immediately cease the above listed activity;
 - 6.2 Adhere to the section 24G PS and specified timeframes as received on 19 October 2020 (attached hereto); and
 - 6.3 Inform the Department of any delays/changes in respect of the section 24G PS on the following details; Ms Zaidah Toefy (Head of Sub-Directorate: Rectification) email: Zaidah.Toefy@westerncape.gov.za and Ms Diana Mouton (Directorate: Environmental Law Enforcement) email: Diana.Mouton@westerncape.gov.za

7. Approval of the section 24G application by the Department does not remedy the unlawful commencement of the above activity, which remain unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA, until such time that environmental authorization is granted.
8. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.

Varying this Compliance Notice

9. If you would like me to vary this Compliance Notice or extend the period to which it relates, you may make representations to me, in writing, to do so.

Failure to comply with this Compliance Notice (section 31N of the NEMA) and related offences in terms of the NEMA

10. In terms of section 49A(1)(a) of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
11. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of such an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.
12. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:

- 12.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or
- 12.2 take any steps necessary to ensure compliance with the provisions of the law, permit or authorisation to which this Compliance Notice relates and recover from you the cost of doing so.

Procedure for lodging an objection to this Compliance Notice (section 31L and 31M of the NEMA)

13. If you wish to lodge an objection to this Compliance Notice, you may do so by making representations, in writing, to the Provincial Minister of Environmental Affairs and Development Planning ("the Minister") within 30 days of receipt of this Compliance Notice.
14. You may also make representations, in writing, to the Minister to suspend the operation of this Compliance Notice pending finalisation of the objection.
15. The objection must be in writing and forwarded to the Appeal Administrator, Mr Marius Venter at the contact details below and must be accompanied by a statement detailing the grounds of the objection and supporting documentation, if any.

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning

Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By email: DEADP.Appeals@westerncape.gov.za

16. Irrespective of any representations you may make to me or to the Minister, you must comply with this Compliance Notice within the time period stated in the Compliance Notice, unless the Minister agrees to suspend the operation of this Compliance Notice.



Achmad Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 20/11/2020

Cc:

- 1) Ms Zaidah Toefy (Directorate: Rectification) Email: Zaidah.Toefy@westerncape.gov.za
- 2) J S Marais (J S Marais Inc. Attorneys) Email: elizma@jsmarais.co.za
- 3) Ms Louise-Mari van Zyl (Cape-EAPrac) Email: louise@cape-eaprac.co.za



REFERENCE NO: 14/3/9/E3/0445/20

Mr PJ Moolman
Group Editors Co (Pty) Ltd
PO Box 806
GEORGE
6530

email: grpedit@mweb.co.za

Dear Mr Moolman

OBJECTION LODGED AGAINST A COMPLIANCE NOTICE ISSUED IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) FOR THE UNLAWFUL CLEARANCE OF MORE THAN 1HA OF VEGETATION ON THE FARM KLEINBOS RE/57, FARM 4/55 AND FARM 8/55, MOSSEL BAY

1. The Objection against the Compliance Notice issued by the Department of Environmental Affairs and Development Planning on 28 October 2019, refer.
2. **EMPOWERING PROVISIONS IN THE APPLICABLE LEGISLATION:**
Section 31M of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") states that:
 - 2.1. "(1) Any person who receives a compliance notice in terms of section 31L may object to the notice by making representations, in writing, to the ... MEC ... within 30 days of receipt of the notice, or within such longer period as the ... MEC may determine.
 - 2.2. "(2) After considering any representations made... and any other relevant information, the ... MEC, as the case may be- (a) may confirm, modify or cancel a notice or any part of a notice; and (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified."
3. After careful consideration of the objection, as well as supporting documentation received, I have decided in terms of Section 31M(2) of the NEMA to **confirm** the above-mentioned Compliance Notice.
 - 3.1. Instruction 8 of the Compliance Notice is varied as follows:

You are hereby instructed to:

 - 8.1 ...
 - 8.2 submit to the Department within 30 (thirty) calendar days of receipt of this decision a rehabilitation plan compiled by a suitably qualified and

experienced independent environmental assessment practitioner, which must include the following:

- 8.2.1 assessment and evaluation of the impact on the environment;
- 8.2.2 identification of proposed remedial and/or mitigation measures.

4. **REASONS FOR THE DECISION:**

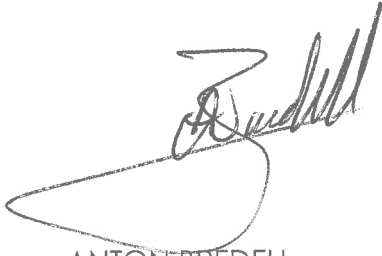
The reasons for my decision are as follow:

- 4.1. It is clear from satellite aerial imagery that the clearance of the said vegetation took place during 2017.
- 4.2. While it is not disputed that the farm was used for agriculture in the form of commercial cultivation as well as grazing, no evidence has been presented to confirm that the portions cleared during 2017 was previously cleared and used for cultivation and grazing.
- 4.3. The Department was notified on 1 November 2018 and 20 November 2018 by the Western Cape Department of Agriculture (Farmer Support and Development), the custodian of agricultural resources, of the alleged unlawful clearing of indigenous vegetation, development of new agricultural lands and the development/ establishing of an in-stream dam on the properties without prior environmental authorisation.
- 4.4. Indigenous vegetation in the applicable *Environmental Impact Assessment ("EIA") Regulations, 2014* is defined as *"vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years."*
- 4.5. While it is acknowledged that the alien vegetation must be managed by landowners, its removal must be done lawfully and in compliance with all relevant legislation. Alien vegetation can be removed without the wholesale disturbance of the topsoil.
- 4.6. The cleared areas are thus argued to be the commencement of a listed activity. Commencement is defined as *"the start of any physical implementation in furtherance of a listed activity or specified activity, including site preparation and any other action on the site or the physical implementation of a plan, policy, programme or process, but does not include any action required for the purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity"*.
- 4.7. It has been clearly indicated that it is the intension of the landowners that the cleared areas form part of the future expansion plans for the area.
- 4.8. It can be inferred that the appellant should be familiar with the legal requirements for agricultural practices.
- 4.9. Section 24F(1) of the NEMA states that: *"[n]otwithstanding any other Act, no person may (a) commence an activity listed or specified in terms of the section 24(2)(a) or (b) unless the competent authority or the Minister responsible for mineral resources, as the case may be, has granted an environmental authorisation for the activity"*.
- 4.10. The abovementioned activities trigger the following listed activities in terms of the EIA Regulations:
 - Activity Number 27 of Listing Notice 1 of 2014 (Government Notice No. R. 983 of 4 December 2014).
- 4.11. Considering the above including that the subject site is considered to have been covered with indigenous vegetation, regardless of the fact that it has been invaded by alien vegetation, vegetation has been cleared on the site without the requisite

EA. Therefore, the EIA Regulations, 2014 listed activity as contained in the Compliance Notice have been commenced with without an EA.

5. I have discharged my decision-making powers when making this decision and I am thus *functus officio* in this regard. My decision is final and your only recourse, should you still be aggrieved by my decision, is to apply to the Western Cape High Court to review my decision.

Yours faithfully,



ANTON BREDELL
**PROVINCIAL MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 22/6/2020

Copied to:

1. Ms D Mouton
2. Mr A Bassier
3. Mr. C Marais

(DEA&DP)
(DEA&DP)
Marais Lamprecht Att.

email: diana.mouton@westerncape.gov.za
email: achmad.bassier@westerncape.gov.za
email: elizma@mllegal.co.za



REFERENCE: 14/1/1/E3/9/10/3/L1015/19

ENQUIRIES: D Mouton

BY EMAIL

Group Editors Co (Pty) Ltd

Email: grpedit@mweb.co.za

PO Box 806

George

6530

Attention: Mr P J Moolman (Director)

COMPLIANCE NOTICE

Dear Sir

COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

1. I refer to the following:
 - 1.1 The Department's Pre-Compliance Notice dated 18 March 2019;
 - 1.2 The representation received from your appointed Attorney, J S Marais Inc, dated 25 March 2019;
 - 1.3 The Directorate: Environmental Law Enforcement (this Directorate) response letter dated 30 May 2019;

- 1.4 The representation received from your appointed Attorney dated 7 June 2019 and 5 July 2019;
 - 1.5 The meeting held with this Directorate, your appointed Attorney and appointed Environmental Assessment Practitioner (EAP), Andrew West Environmental Consultancy dated 5 August 2019;
 - 1.6 The representation received from your appointed Attorney dated 13 September 2019; and
 - 1.7 This Directorate's correspondence dated 23 September 2019, has reference.
2. Having considered your representations, I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mr P J Moolman representing Group Editors Co (Pty) Ltd with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 ("NEMA").
3. This Compliance Notice relates to non-compliance with the provisions of section 24F of the NEMA. No activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 of 2014 may commence without environmental authorisation from the competent authority.

Details of conduct constituting non-compliance

4. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the NEMA, a site inspection was conducted at Farm Kleinbos RE/57, Farm 4/55 and Farm 8/55, Mossel Bay ("the properties") by an Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 15 January 2019 and it was confirmed that you have commenced with the alleged unlawful vegetation clearing of more than 1 hectare without the requisite environmental authorisation.

5. This Directorate have adequately engaged with you through various correspondence and interaction on the interpretation of the relevant legislation and listed activities which are applicable to the activities undertaken on the abovementioned properties.
6. Furthermore, the representation received from your attorney's are inadequate in disproving the contrary that the clearing of the alien vegetation were undertaken lawfully.



Aerial map 1: Indication of the areas that have been allegedly unlawfully cleared of vegetation on the properties.



Aerial map 2: Indication of the estimated total size (8.9ha) of the areas that have allegedly unlawfully been cleared on the properties.

7. On considering the evidence before me there are reasonable grounds to believe that you have commenced the following activity without environmental authorisation:

EIA Regulations Listing 1 of 2014

Activity no. 27:

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) *the undertaking of a linear activity; or*
- (ii) *maintenance purposes undertaken in accordance with a maintenance management plan.*



Photo 1: View of the alleged unlawful vegetation clearing, and contours made on an area of all the properties.



Photo 2: Close-up view of the alleged unlawful vegetation clearing, and a contour made on an area of all the properties.



Photo 3: View of an out-stream dam constructed on Farm 4/55 and associated vegetation clearing that contribute to the overall clearing that occurred upon all the properties.



Photo 4: View of the vegetation clearing that occurred on Farm Kleinbos RE/57 that contribute to the overall clearing that occurred upon all the properties.

8. You are hereby instructed to:

- 8.1 Immediately cease the above listed activity;
- 8.2 submit to the Department within **30 (thirty) calendar days** of receipt of this Compliance Notice a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
 - 8.3 assessment and evaluation of the impact on the environment;
 - identification of proposed remedial and/or mitigation measures

9. Approval of the plan by the Department does not remedy the unlawful commencement of the above activity, which remain unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA.

10. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.

11. If you wish to continue with the listed activity you may apply for environmental authorisation by way of a section 24G application. However, such application does not constitute permission to continue with the listed activity, which remains unlawful unless environmental authorisation is granted.

12. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.

Varying this Compliance Notice

13. If you would like me to vary this Compliance Notice or extend the period to which it relates, you may make representations to me, in writing, to do so.

Failure to comply with this Compliance Notice (section 31N of the NEMA) and related offences in terms of the NEMA

14. In terms of section 49A(1)(a) of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
15. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of such an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.
16. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:
- 16.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or
 - 16.2 take any steps necessary to ensure compliance with the provisions of the law, permit or authorisation to which this Compliance Notice relates and recover from you the cost of doing so.

Procedure for lodging an objection to this Compliance Notice (section 31L and 31M of the NEMA)

17. If you wish to lodge an objection to this Compliance Notice, you may do so by making representations, in writing, to the Provincial Minister of Environmental Affairs and Development Planning ("the Minister") within 30 days of receipt of this Compliance Notice.
18. You may also make representations, in writing, to the Minister to suspend the operation of this Compliance Notice pending finalisation of the objection.
19. The objection must be in writing and forwarded to the Appeal Administrator, Mr Marius Venter at the contact details below and must be accompanied by a statement detailing the grounds of the objection and supporting documentation, if any.

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning

Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By email: DEADP.Appeals@westerncape.gov.za

20. Irrespective of any representations you may make to me or to the Minister, you must comply with this Compliance Notice within the time period stated in the Compliance Notice, unless the Minister agrees to suspend the operation of this Compliance Notice.



Achmad Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 28/10/2019

Cc:

- 1) J S Marais (J S Marais Inc. Attorneys) Email: elizma@jsmarais.co.za
- 2) Andrew West (Andrew West Environmental Consultancy) Email: andrewwest@isat.co.za