



REFERENCE: G14/1/1/E3/9/2/3/L820/16/VOL1

ENQUIRIES: D Mouton

BY EMAIL

Mr JF Steenkamp
Nostranikwa (Pty) Ltd & Nikwaflora (Pty) Ltd
Executive Director
PO Box 756
Grootbrak River
6525

Email: production@nikwaflora.co.za

COMPLIANCE NOTICE

Dear Sir

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

1. The Department's Compliance Notice dated 30 August 2018, representation received on your behalf from your appointed attorney, Terry Winstanley Inc., dated 22 February 2019 and the section 24G application Project Schedule (PS) received on 02 May 2019 (attached hereto as an annexure), has reference.

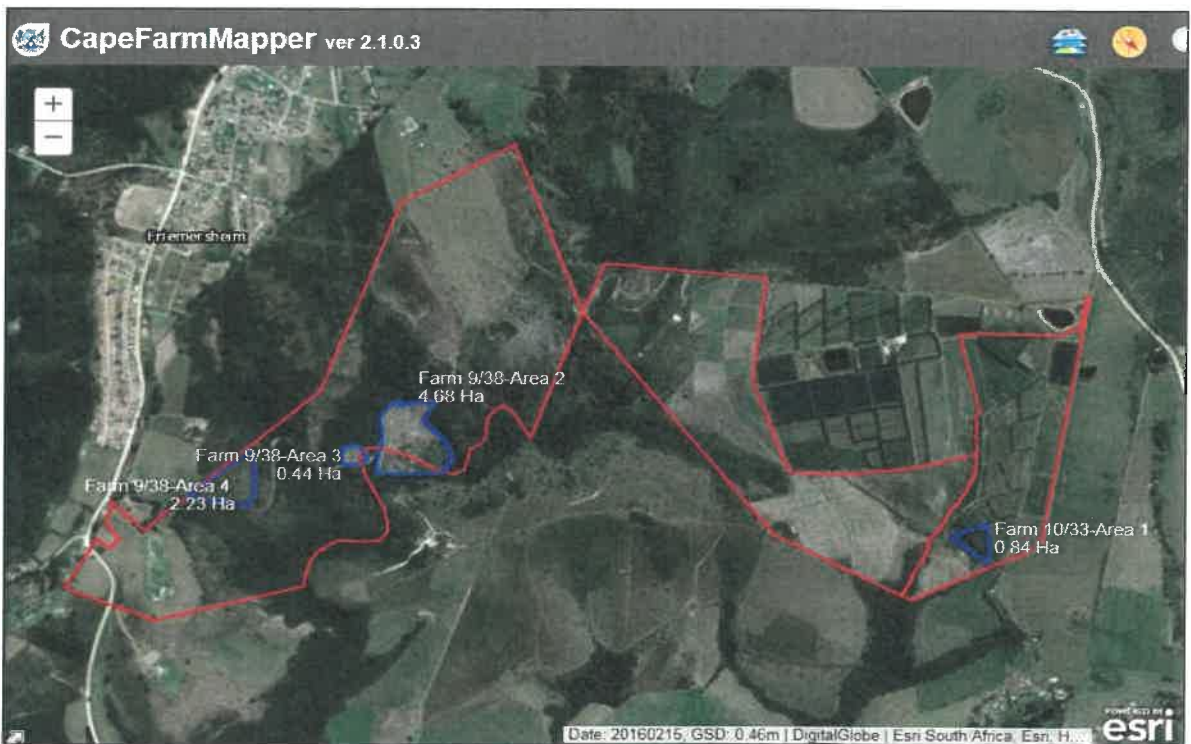
2. I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mr Steenkamp representing Nostranikwa (Pty) Ltd and Nikwaflora (Pty) Ltd with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 ("NEMA").
3. This Compliance 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 the properties by an Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 10 May 2016 and it was confirmed that you have commenced with the clearing of indigenous vegetation portions on said farms, added together mounted to more than a hectare without environmental authorisation.



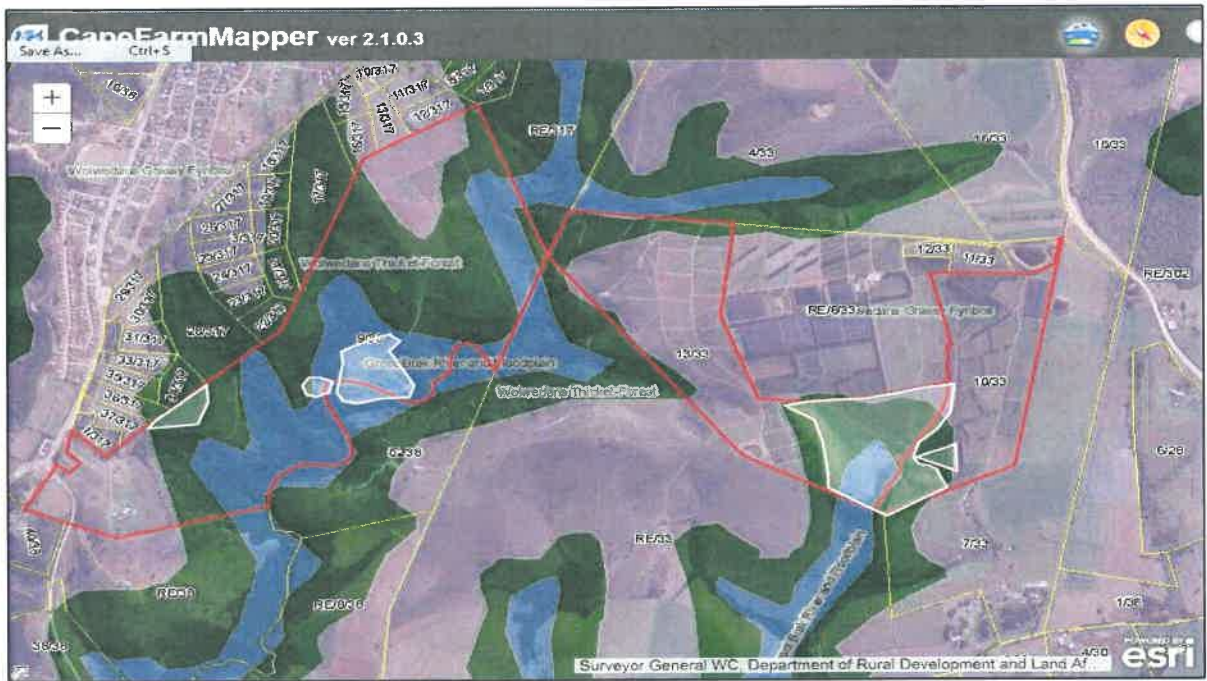
Aerial map 1: Location of farms 13/33, 9/38 and 10/33, Fremersheim, Grootbrak River ("the properties") and the areas (indicated as white polygons) where illegal vegetation clearing have taken place. Source: CapeFarmMapper 2010



Aerial map 2: Indication of specific portions on farms 9/38 and 10/33, Fremersheim, Grootbrak River that have been cleared of indigenous vegetation that amounts to approximately 8ha. Source: CapeFarmMapper 2016.

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 4th Floor, York Park Building, York Street, George, 6530
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Diana.Mouton@westerncape.gov.za
 Private Bag X6509, George, 6530
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Aerial map 3: Indication of vegetation classification on the portions that have been unlawfully cleared on the properties.

5. On considering the evidence before me there are reasonable grounds to believe that you have commenced the following activities 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*
maintenance purposes undertaken in accordance with a maintenance management plan.

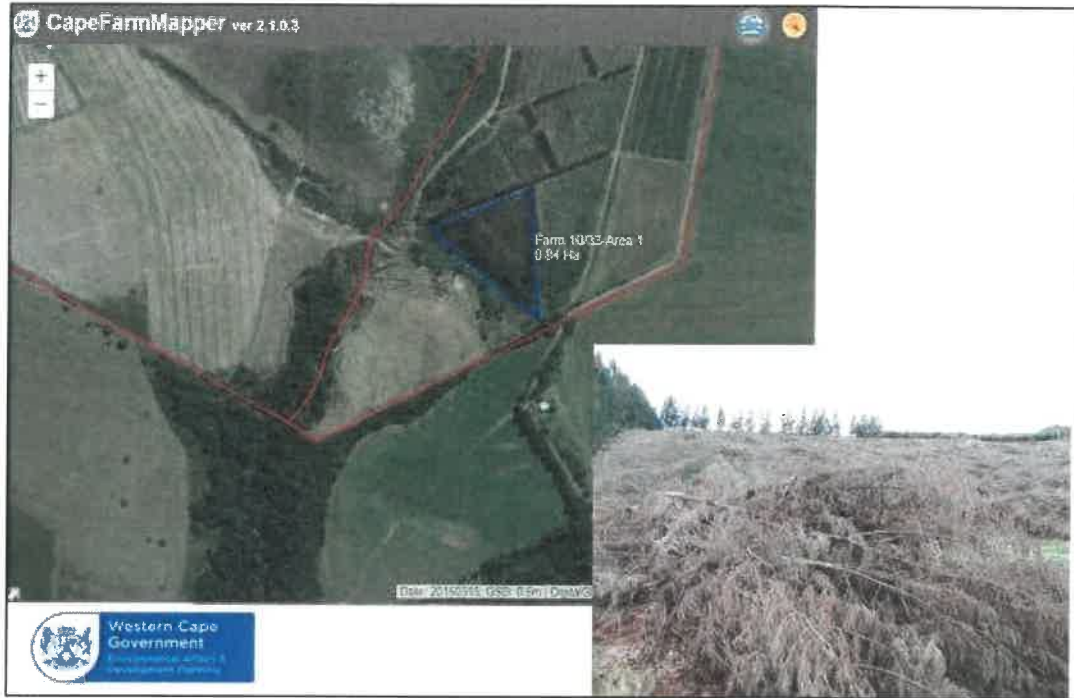


Photo 1: Close-up aerial view of Area 1 on Farm 10/33 with the view of the actual vegetation clearing that was conducted with a bulldozer on the mentioned area.



Photo 2: Another view of Area 1 on Farm 10/33 of the vegetation clearing that occurred.

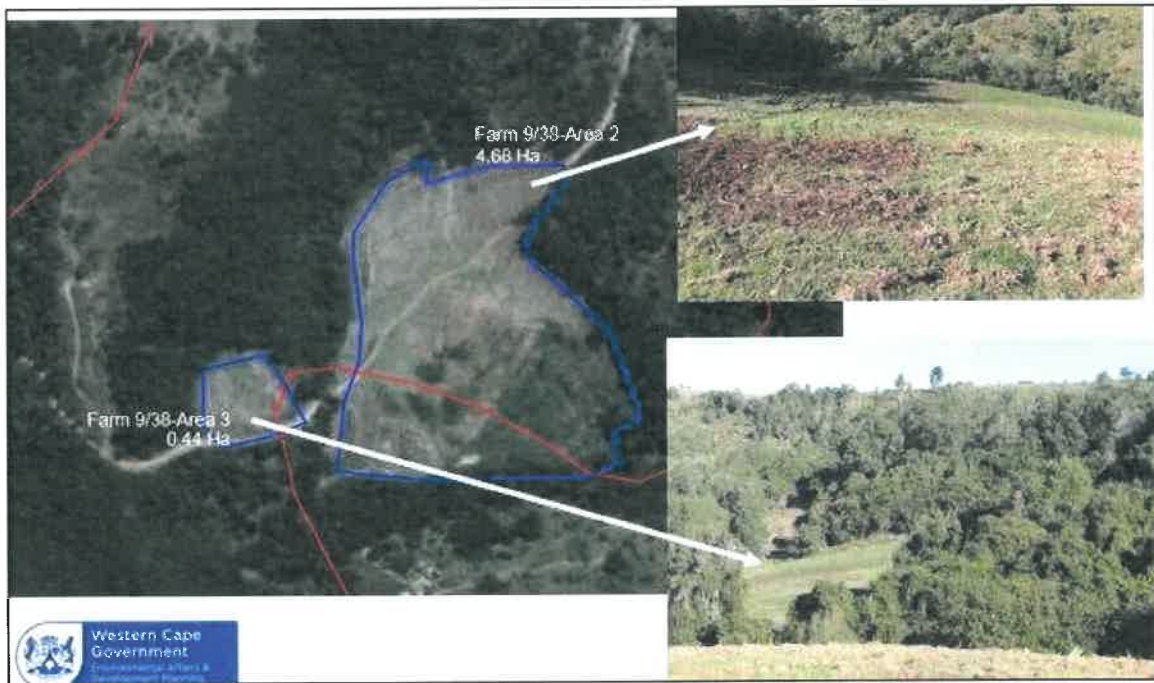


Photo 3: Close-up aerial view of Area 2 and Area 3 on Farm 9/38 with the views of the actual vegetation clearing that was conducted with a bulldozer on the mentioned areas.



Photo 4: Close-up view of Area 2 on Farm 9/38 where clearing of vegetation occurred and the topsoil has been stabilised with grass.

6. In light of fact that you have decided to apply for the regularisation of the unlawful commencement of a listed activity in terms of section 24G of the NEMA, as stipulated in the above correspondence dated 22 February 2019 and have submitted a section 24G PS, you are hereby instructed to:
 - 6.1 Immediately cease the above listed activities;
 - 6.2 Adhere to the section 24G PS and specified timeframes dated 02 May 2019 (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 PS by the Department does not remedy the unlawful commencement of the above activities which remain unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA, until such time that environmental authorisation 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 Jaap de Villiers 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 Jaap de Villiers (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By email: Jaap.DeVilliers@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: 17/05/2019

Cc:

- 1.) Ms C Avierinos (HilLand Environmental) Email: cathy@hilland.co.za
 - 2.) Ms T Winstanley (Winstanley Inc.) Email: terry@winstanleyinc.com
 - 3.) Ms Ziadah Toefy (SD: Rectification – DEA&DP) Email: Zaidah.Toefy@westerncape.gov.za
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