



**REFERENCE:** 14/1/1/E2/2/2/3/0318/17

**ENQUIRIES:** Najah Ben Jeddou

Wietz Botes Family Trust

Apiesklip Farm

PO Box 999

Worcester

6850

**BY EMAIL**

Email: [botes.tobie@gmail.com](mailto:botes.tobie@gmail.com)

Email: [wietzb@breede.co.za](mailto:wietzb@breede.co.za)

Attention: Mr Wietz Botes

## DIRECTIVE

Dear Sir

### DIRECTIVE IN TERMS OF SECTION 28(4) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

1. The Department's Pre-Directive dated 18 March 2019 and your Rehabilitation Plan for the removal of sandbags and other material from a watercourse on Portion 19 of farm 187 Brandwacht, Worcester dated 4 April 2019, has reference.
2. Having considered your representation and the above Rehabilitation Plan and Method statement I, Achmad Bassier, in my capacity as Director: Environmental Law Enforcement, hereby issue Mr Wietz Botes with a Directive in terms of section 28(4) of the NEMA, in order to implement the measures within the Rehabilitation

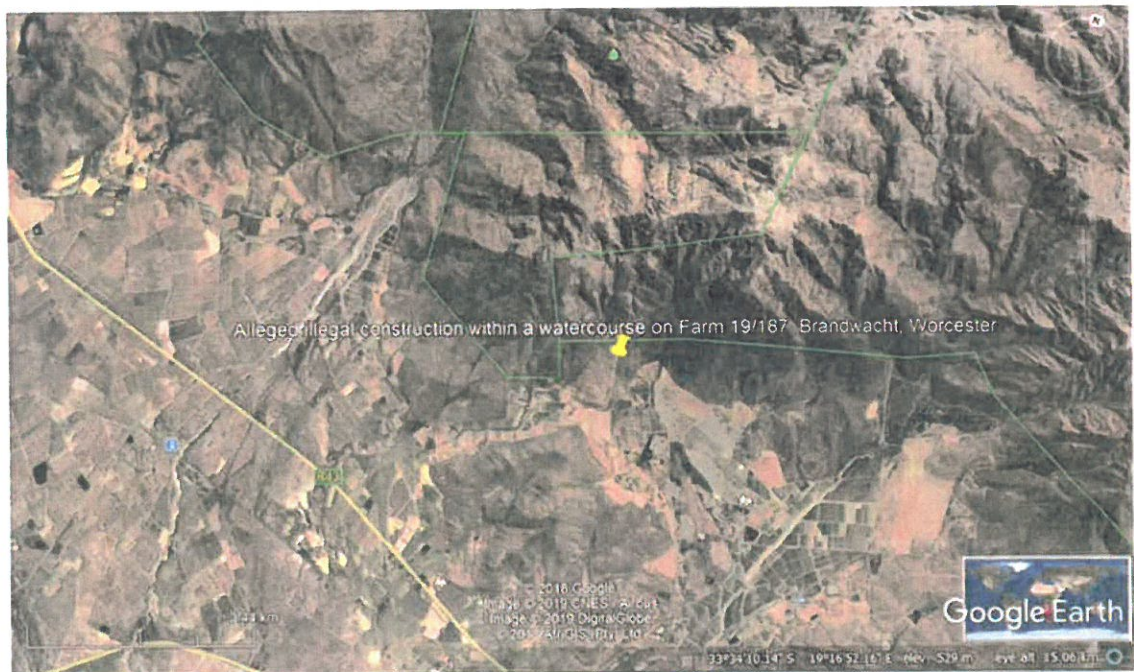
Plan and to minimise the pollution and/or degradation of the environment and the watercourse on portion 19 of farm 187 Brandwacht.

3. This Directive relates to non-compliance with section 28(1) of the NEMA.

#### **Details of conduct constituting non-compliance**

4. During an investigation into allegations of degradation of the environment a site inspection was conducted at Portion 19 of Farm 187 Brandwacht by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on at 30 January 2019 and it was confirmed that you have placed sandbags and other material within a watercourse on the above-mentioned property which is causing or may have caused significant pollution and/or degradation of the environment.

33°34'41.03"S, 19°22'54.40"E



Aerial map: Location of alleged illegal activity.



Photo 1: An overview of sand bags placed behind the sluice and material and rock laced in front of the sluice within the river bed.

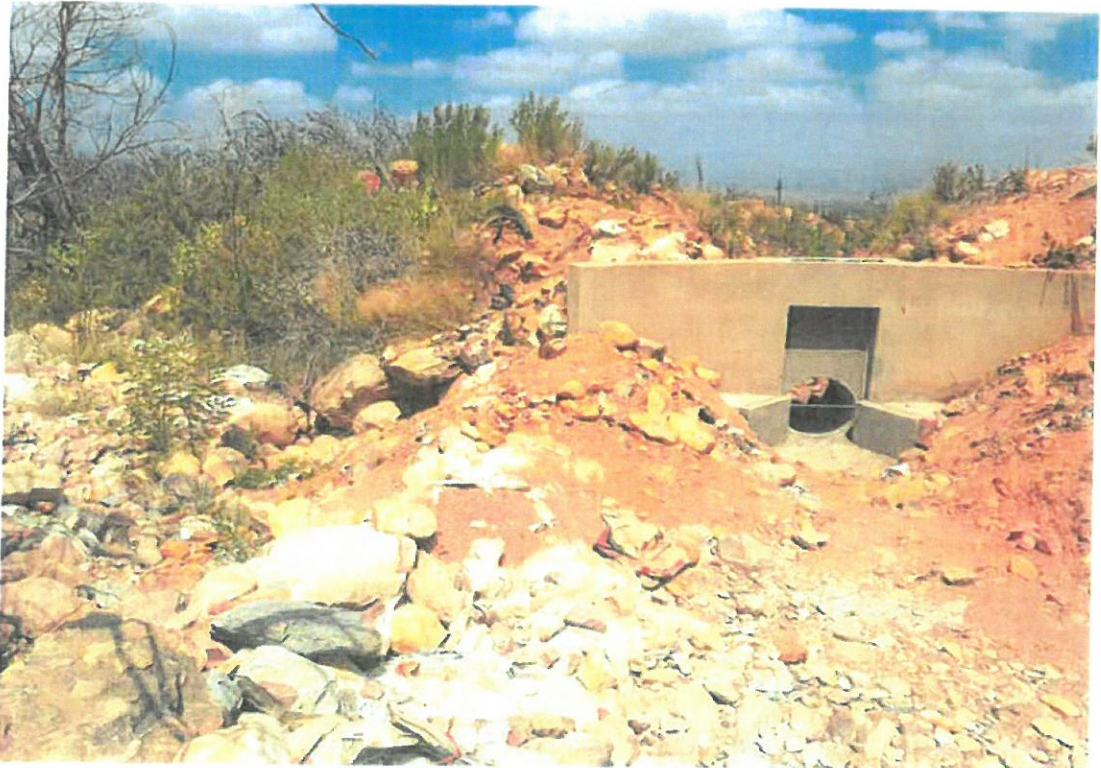


Photo 2: Front view of the sluice depicting material placed within the river bed.



Photo 3: View of sandbags placed behind the sluice on the river bank.

5. Section 28(1) of the NEMA provides that every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.
6. The provisions contained in section 28(5) of the NEMA were considered when determining the measures and timeframes included in this Directive.

**7. You are hereby directed to:**

- 7.1 commence with the implement of the rehabilitation measures as outlined in the approved Rehabilitation Plan dated 4 April 2019 within **14 (fourteen) calendar days** from receipt of this Directive.
- 7.2 remove the sandbags and other material from the riverbed in accordance with an approved Method Statement.

- 7.3 ensure that the placing or removal of coarse rock material from the watercourse for the prevention of erosion and stability of the riverbed and the existing weir does not exceeds 10m<sup>3</sup> in volume in order to prevent the commencement of a listed activity in term of the NEMA Environmental Impact Assessment Regulations 2014, Listing Notice 1 Activity 19.
  - 7.4 Ensure that the works within the river are completed prior to the onset of potentially heavy winter rainfall.
  - 7.5 Ensure that no machinery is used during the rehabilitation work within the river.
  - 7.6 No hard-engineered devices or structures must be placed in the river for stabilisation purposes without environmental authorisation.
  - 7.7 The above rehabilitation process must be completed **by 17 May 2019**.
  - 7.8 Notify this Department once the rehabilitation work has been completed and submit an audit report **within 30 (thirty) calendar days** from the date of completion of the rehabilitation, in order for the Directorate to conduct a compliance inspection.
8. If the above, you will be obliged to take the necessary remedial / mitigation measures at your own cost.

#### **Offences and penalties, including failure to comply with this Directive**

9. In terms of section 49A(1)(e) of the NEMA it is an offence to unlawfully and intentionally or negligently commit any act or omission which causes significant pollution and/or degradation of the environment or is likely to cause significant pollution and/or degradation of the environment.

10. According to section 49A(1)(f) of the NEMA it is an offence to unlawfully and intentionally or negligently commit any act or omission detrimentally affects or is likely to detrimentally affect the environment.

11. A person convicted of the above offences 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.

12. Furthermore, in terms of section 49A(1)(g) of the NEMA failure to comply with a Directive is an offence. A person convicted of failing to comply with a Directive 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.

13. Furthermore, in terms of section 28(7) of the NEMA, if you fail to comply or inadequately comply with this Directive, the Provincial Head of Department may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.

14. In terms of section 28(8) of the NEMA, the Provincial Head of Department may recover costs for reasonable remedial measures undertaken to remedy the situation from, amongst others, you.

### **Appeal against this Directive**

15. You may appeal against the decision to issue this Directive to the Minister of Local Government, Environmental Affairs and Development Planning ("the Minister") within **30 (thirty) calendar days** from the date of receipt of this Directive.

16. The appeal must be in writing on the form obtainable from the Appeal Administrator, Mr Jaap de Villiers, at the contact details below and must be

accompanied by a statement detailing the grounds for the appeal 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: 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](mailto:Jaap.DeVilliers@westerncape.gov.za)

17. For purposes of electronic database management, you are requested to submit an electronic copy (Microsoft Word format) of the appeal form and any supporting documents.

18. The appeal form as well as assistance regarding the appeal procedure is obtainable from the Appeals Administrator.



**Mr Achmad Bassier**

**Director: Environmental Law Enforcement**

**Date: 18/04/2019**

Cc: (1) Elkerine Rossouw (BGCMA) Email: [erossouw@bgcma.co.za](mailto:erossouw@bgcma.co.za)  
(2) Ntombizanele Feni (BGCMA) Email: [NFeni@bgcma.co.za](mailto:NFeni@bgcma.co.za)  
(3) Marizanne McGregor Email: [marizannemcgregor@gmail.com](mailto:marizannemcgregor@gmail.com)

