



REFERENCE: 14/1/1/E3/9/10/3/L904/17

ENQUIRIES: D Mouton

BY EMAIL

Mr Clifford Harris

Email: conrise@icon.co.za

Clifford Harris Family Trust

Kleinbrak River

6503

DIRECTIVE

Dear Sir

DIRECTIVE IN TERMS OF SECTION 28(4) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998

1. The Department's Pre-Directive dated 30 January 2018, the Rehabilitation Plan dated 31 May 2018 and the Department's letter dated 11 July 2018 have reference.
2. Having considered the evidence before me, I, Achmad Bassier, in my capacity as Director: Environmental Law Enforcement, hereby issue Mr Clifford Harris (representative of the Clifford Harris Family Trust) with a

Directive in terms of section 28(4) of the NEMA, as you are causing significant degradation of the environment.

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 the degradation of the environment a site inspection was conducted at farm Klipheuvel 31 portion 143, Kleinbrak River by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement and yourself on 4 December 2017 and it was confirmed that you have appointed a contractor to commenced with the clearing of invasive and alien vegetation with a machine alongside the Kleinbrak riverbank on your property.



Aerial map: Location of where the alleged degradation occurred.

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4th Floor, York Park Building, York Street, George, 6530
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Photo 1: Burning of alien vegetation heaps on an endangered ecosystem (Groot Brak Dune Strandveld) potentially impacting negatively on the biodiversity of the area.



Photo 2: Close-up view of wattle seedlings germinating after the burning of alien vegetation stockpiles on the property.



Photo 3: View of an alien invasive plant (Rooikrans) on the river bank not eradicated.

5. During a follow-up site inspection with your appointed Environmental Impact Assessment Practitioner (EAP) on 24 January 2019 it was observed that the alien species infestation areas on site, especially the areas where alien species were burned in heaps were kept under control with the rehabilitation plan methods induced according to the approved Rehabilitation Plan.



Photo 4: General view of the property where alien vegetation clearing was previously burned in heaps.

6. However, this Directorate had not received any of the Audit Reports as was specified to be submitted within this Directorate's response letter dated 11 July 2018.
7. 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.
8. The provisions contained in section 28(5) of the NEMA were considered when determining the measures and timeframes included in this Directive.

9. You are hereby directed to:

9.1 Submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Directive, an audit report compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:

9.1.1 Reference to the Rehabilitation Plan's recommendations with reference to point 6 (page 16) and point 7 (page 17) of said Plan;

9.1.2 Include a site map indicating where what rehabilitation actions been implemented;

9.1.3 Provide enough photographic evidence to highlight the success rate of the implementation of the Rehabilitation Plan to date; and

9.1.4 Include any recommendations for the future management of the site.

10. If the above report is approved by the Department, 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

11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. 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

17. 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.

18. 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

19. 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.

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



Achmad Bassier

Director: Environmental Law Enforcement

Date: 25/04/2019

Cc: Cape-EAPrac Mrs Sian Holder sian@cape-eaprac.co.za

