



REFERENCE: 14/1/1/E3/7/3/3/L952/18
ENQUIRIES: H Van Schalkwyk

BY EMAIL: warren@brightberries.co.za

Mr W Bright
P O Box 3117
Knysna
6570

COMPLIANCE NOTICE

Dear Sir

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

1. The Department's Pre-Compliance Notice issued on 09 May 2018 and a meeting held with your attorney, Mr Johann Marais on 23 May 2018, has reference.

2. Having considered your representations and all the evidence in this matter, I, Dr Eshaam Palmer, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mr Warren Bright representing Bright Berries Development 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 as amended in March 2017 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 Elandskraal 39/203 by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 25 April 2018 and it was confirmed that you have commenced with the clearing of indigenous vegetation of an area of more than one hectare without the requisite environmental authorisation.



Aerial map: Location of alleged illegal activity.



Photo 1: Image of vegetation in 2006



Photo 2: Image of total hectares cleared in 2017

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 as amended in March 2017

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.*

6. You are hereby instructed to:

6.1 Immediately cease the above listed activity;

- 6.2 submit to the Department within **30 (thirty) calendar days** of receipt of this Compliance Notice an impact report and/or a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
- 6.3 assessment and evaluation of the impact on the environment;
identification of proposed remedial and/or mitigation measures.
7. Approval of the report and/or 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.
8. If the above report and/ or plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.
9. 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.
10. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.

Varying this Compliance Notice

11. 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

4th floor, York Park Building, York Street, George, 6530
Tel: +27 44 808 8637 Fax: +27 44 874 6431
www.westerncape.gov.za/eada

Private Bag 16509, George, 6530
Email: Harriet.vanSchalkwyk@westerncape.gov.za
Complaints: Law.Enforcement@westerncape.gov.za

12. 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.
13. 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.
14. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:
 - 14.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or
 - 14.2 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)

15. 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.

16. You may also make representations, in writing, to the Minister to suspend the operation of this Compliance Notice pending finalisation of the objection.

17. 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

18. 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.



Dr E Palmer

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 27/6/2018

