



REFERENCE: 14/1/1/E1/7/2/4/0429/17

ENQUIRIES: Najah Ben Jeddou

VIA EMAIL

Mr R. Maseko

Email: RMaseko@metrorail.co.za

Metrorail Western Cape

P O Box 5446

CAPE TOWN

8000

COMPLIANCE NOTICE

Dear Mr Maseko

COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 IN RESPECT OF A CONTRAVENTION OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008

1. The Department's Pre-Compliance Notice dated 15 September 2017 issued to Mr Deon Ellis on 15 September 2017, which was also re-issued to yourself on 11 November 2017 and 1 June 2018, has reference.

2. I, Dr Eshaam Palmer, in my capacity as Director: Environmental Law Enforcement, hereby issue Mr Raymond Maseko representing South African Railway Agency "PRASA" 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 section 19 and 20 of the National Environmental Management: Waste Act, 2008 ("NEM: WA"). No activity listed in the Waste Management Activities of Government Notice 921 of 29 November 2013 may commence without a Waste Management Licence ("WML") from the competent authority.

Details of conduct constituting non-compliance

4. During an investigation into allegations of the commencement of a listed activity in terms of the National Environmental Management: Waste Act, 2008 ("NEM: WA"), a site inspection was conducted at Erf 241 65 situated between Maitland Railway Station and Tiger Brands Ltd (Jungle Oats Factory) at No. 1 Product Street Maitland, Cape Town by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement and officials from the City of Cape Town on 2 August 2017, 8 February and 11 June 2018 and it was confirmed that you have commenced with the storage and disposal of hazardous waste (i.e. asbestos) on the above mentioned property without the requisite Waste Management Licence ("WML).

33°55'31.06"S and 18°29'1



5. On considering the evidence before me there are reasonable grounds to believe that you have commenced the following activity, listed in terms of the Waste Management Activities of 2013 without a WML:

Government Notice 921

Category B

Activity no. 7:

The disposal of any quantity of hazardous waste to land.



Photo 1: View of the collapsed asbestos roof of PRASA's old building.



Photo 2: Asbestos left unattended.



Photo 3: Asbestos left unattended



Photo 4: Asbestos left unattended



Photo 5: closer view of asbestos left unattended.

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 a waste impact report and a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
 - 6.2.1 assessment and evaluation of the impact of the pollution and/or degradation; and
 - 6.2.2 identification of proposed remedial and/or mitigation measures.

7. Approval of the above report and/or plan by the Department does not remedy the unlawful commencement of the above activity, which remains unlawful in terms of section 67(1)(a) of the NEM: WA.
8. If the above report is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.

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 67(1) (a) of the NEM: WA it is an offence to commence a listed activity without a WML. A person convicted of such an offence is liable to a fine not exceeding R10 million or 10 years' imprisonment or 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.



Dr E Palmer

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 29/6/2018

CC: (1) Donne Prinsloo (DEA)

Email: DPrinsloo@environment.gov.za

(2) Mr Linda Ndlela (City of Cape Town)

Email: Linda.Ndlela@capetown.gov.za

(3) Ms. Chandre Fredericks (Metrorail)

Email: cfredericks@prasa.com

(4) Henry Masimla (Metrorail)

Email: HMasimla@metrorail.co.za

(5) Deon Ellis (Metrorail)

Email: DELLIS@metrorail.co.za

