



REFERENCE: 14/1/1/E1/13/8/3/0426/17

ENQUIRIES: Fundiswa Zingitwa-Lwana

BY EMAIL:

sds2online@gmail.com

Mr Amando De Obreu

16 Dolla Bella Drive

Sunset Beach

MILNERTON

7441

COMPLIANCE NOTICE

Dear Sir

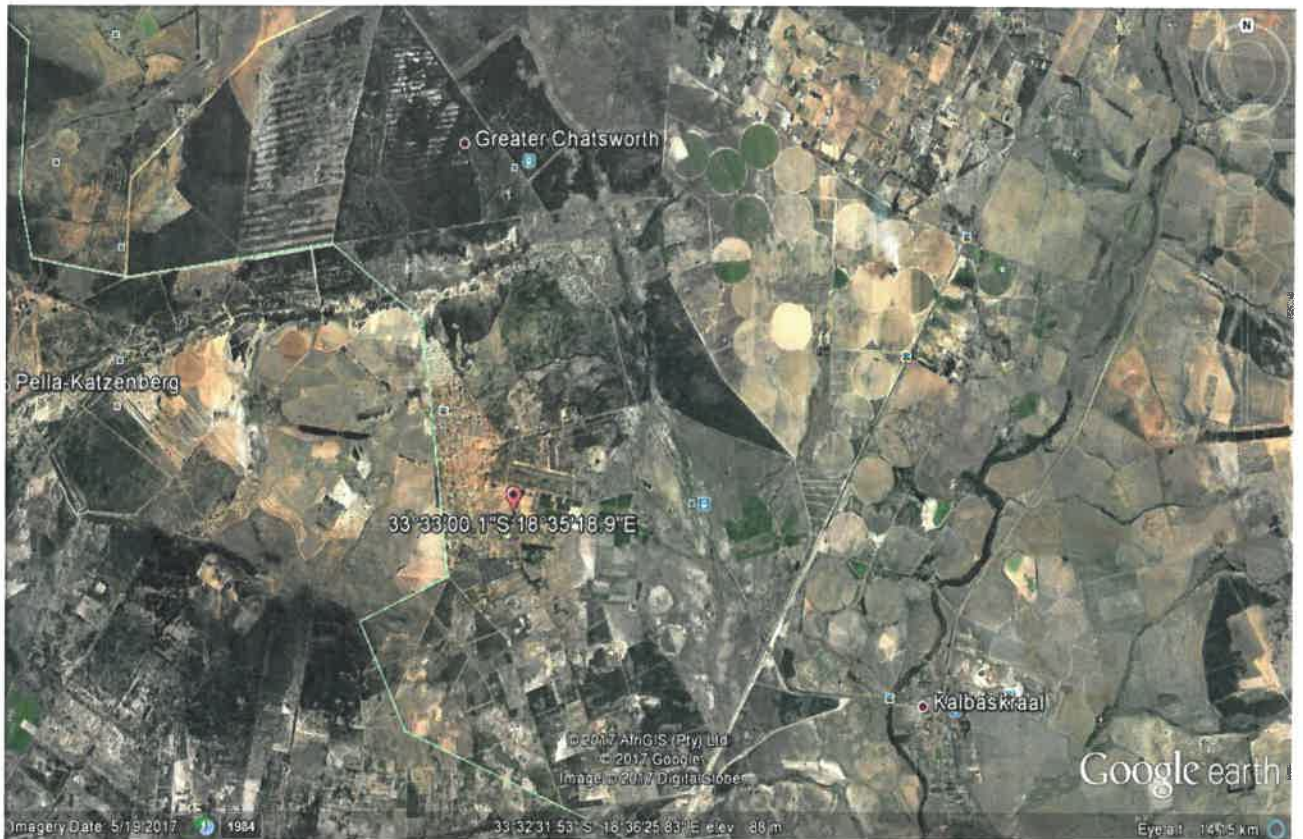
**COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL
ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998**

1. The Department's Pre-Compliance Notice dated 30 October 2017 has reference.

2. I, Dr Eshaam Palmer, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Amando De Obreu 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 Groene Farm Portion 42 of Farm 821, Malmesbury by an Environmental Management Inspector from the Department's Directorate: Environmental Law Enforcement on 08 August 2017 and 8 February 2018 respectively and it was confirmed that you have commenced with:
 - 4.1 the construction of facilities or infrastructure, including associated structures or infrastructure, for eight square metres per pig and more than 250 pigs per facility per year excluding piglets that are not yet weaned;
 - 4.2 the development and related operation of facilities or infrastructure for the concentration of animals in densities that exceed more than 250 pigs per facility excluding piglets that are not yet weaned; and
 - 4.3 the expansion and related operation of facilities for the concentration of animals in densities that will exceed 250 additional pigs, excluding piglets that are not yet weaned without environmental authorisation.



Aerial map: Location of alleged illegal activity.

5. On considering the evidence before me there are reasonable grounds to believe that at the time you initially commenced the activity, it was listed in terms of Listing Notice 1 of 2006. The following listed activity was commenced without environmental authorisation:

EIA Regulation Listing Notice 1 of 2006:

Activity No. 1:

The construction of facilities or infrastructure, including associated structures or infrastructure, for –

- (h) the concentration of animals for the purpose of commercial production in densities that exceed -*
- (i) 20 square metres per head of cattle and more than 500 head of cattle per facility per year;*

- (ii) *eight square meters per sheep and more than 1 000 sheep per facility per year;*
 - (iii) *eight square metres per pig and more than 250 pigs per facility per year excluding piglets that are not yet weaned;***
 - (iv) *30 square metres per crocodile at any level of production, excluding crocodiles younger than 6 months;*
 - (v) *three square metres per head of poultry and more than 250 poultry per facility at any time, excluding chicks younger than 20 days;*
 - (vi) *three square metre per rabbit at and more than 250 rabbits per facility at any time; or*
 - (vii) *100 square metres per ostrich and more than 50 ostriches per facility per year or 2500 square metres per breeding pair.*
6. The Department wishes to further advise that on 4 December 2014, the Minister of Environmental Affairs promulgated the 2014 EIA Regulations. These NEMA EIA Regulations came into effect on 8 December 2014 and was amended on 7 April 2017. Accordingly, activities which commenced prior to 7 April 2017 and which are similarly listed in the 2014 Regulations require prior environmental authorisation. The abovementioned activity (Activity 1 of Listing Notice 1 of the 2006 EIA Regulations) was therefore amended as follows:

EIA Regulation Listing Notice 1 of 2014 (as amended):

Activity No.4:

The development and related operation of facilities or infrastructure for the concentration of animals in densities that exceed—

- (i) *20 square metres per large stock unit and more than 500 units per facility;*
- (ii) *8 square meters per small stock unit and;*

- a. *more than 1 000 units per facility excluding pigs where (b) applies; or*
- b. **more than 250 pigs per facility excluding piglets that are not yet weaned;**
- (iii) *30 square metres per crocodile and more than 20 crocodiles per facility;*
- (iv) *3 square metres per rabbit and more than 500 rabbits per facility; or*
- (v) *250 square metres per ostrich or emu and more than 50 ostriches or emus per facility.*



Photo 1: A view of the fully grown pigs at the new shed.



Photo 2: The average number of weaned piglets in a single pen within the old shed.

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 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 on the environment;
and
 - 6.2.2 identification of proposed remedial and/or mitigation measures.

7. Approval of the 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 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

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: 25/6/2018

CC: (1) Nicole Garcia D: PCM Email: Nicole.Garcia@westerncape.gov.za
(2) Charles J Malherbe WCDM Email: cjmalherbe@wcdm.co.za
(3) Mongikazi Kanzi Swartland Municipality Email: KanziM@swartland.org.za
