



REFERENCE: 14/1/1/E3/10/5/3/L911/17

ENQUIRIES: H.van Schalkwyk

BY EMAIL: info@cangoretreat.co.za

Ms E.Dryer
Farm 28 Portion 49
De Kombuys
Oudtshoorn
6625

COMPLIANCE NOTICE

Dear Madam

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

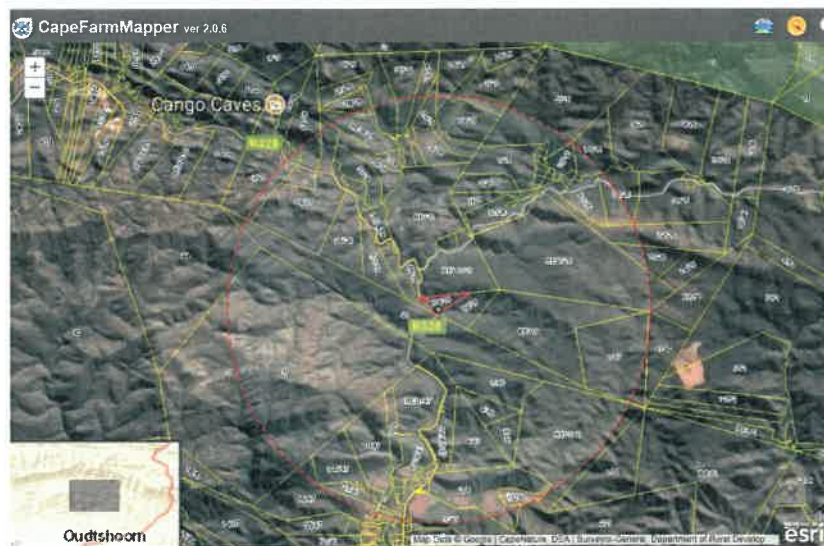
1. The Department's Pre-Compliance Notice dated 13 November 2017 and your representations dated, 19 January 2018, has reference.
2. Having considered your representations, I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Ms Dryer

representing Ou Tol Congo Retreat 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 3 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 Portion 49 of farm De Kombuis no. 29, Oudtshoorn by an Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 18 October 2017 and it was confirmed that you have commenced with a development of a tourism facility and construction within 32m of a watercourse without the requisite environmental authorisation.



Aerial map: Location of alleged illegal activity.

5. On considering the evidence before me there are reasonable grounds to believe that you have commenced the following activities without environmental authorisation:

EIA Assessment Regulation Notice 1 of 2014:

Activity no.12

The development of -

- (i) *Canals exceeding 100 square meters in size;*
- (ii) *Channels exceeding 100 square meters in size*
- (iii) *Bridges exceeding 100 square meters in size*
- (iv) *Dams, where the dam, including infrastructure and water surface area, exceeds 100 square meters in size*
- (v) *Weirs, where the weir, including infrastructure and water surface area, exceeds 100 square meters in size;*
- (vi) *Bulk storm water outlet structures exceeding 100 square meters in size*
- (vii) *Marinas exceeding 100 square meters in size;*
- (viii) *Jetties exceeding 100 square meters in size;*
- (ix) *Slipways exceeding 100 square meters in size;*
- (x) **Buildings exceeding 100 square meters in size;**
- (xi) *Boardwalks exceeding 100 square meters in size;*
- (xii) **Infrastructures with a physical footprint of 100 square meters or more;**

The development of-

- (i) *Dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square meters; or*

(ii) **Infrastructure or structures with a physical footprint of 100 square meters or more;**

Where such development-

- (a) Within a watercourse
- (b) In front of a development setback; or
- (c) **If no development setbacks exist, within 32 meters of a watercourse, measured from the edge of a watercourse;**



Photo 1: Development of a wooden structure within 32m of a watercourse.



Photo 2: Accommodation facilities erected for tourists

6. You are hereby instructed to:

- 6.1 Immediately cease the above listed activities;
- 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:
 - 6.3 assessment and evaluation of the impact on the environment; and
 - 6.4 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 activities, 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.



Achmad Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 13/02/2019