



**REFERENCE:** 14/1/1/E1/1/3/3/0418/17

**ENQUIRIES:** Fundiswa Zingitwa-Lwana

**BY EMAIL**

[liezel@edwheim.co.za](mailto:liezel@edwheim.co.za)

E & E BUHR TRUST  
Sandringham Service Road  
KRAAIFONTEIN  
7570

## **DIRECTIVE**

Dear Mr Buhr

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

1. The Department's Pre-Directive dated 26 September 2017 has reference.
2. Having considered the evidence before me, I, Dr Eshaam Palmer, in my capacity as Director: Environmental Law Enforcement, hereby issue Mr EWH Buhr of E & E Buhr Trust with a Directive in terms of section 28(4) of the NEMA, as you are causing and have caused significant pollution and/or 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 pollution and/or degradation of the environment, a site inspection of Dassenberg Farm Erf CA 15-0, Atlantis was conducted by an Environmental Management Inspector from this Directorate on 10 July 2017 and 17 May 2018 respectively and it was confirmed that you are causing and have caused significant pollution and or degradation of the environment by clearing indigenous vegetation which included construction activities (i.e. digging canals, moving soil etc.) within a watercourse.



Aerial map: Location of alleged illegal activity.



Photo 1-2: Clearing of indigenous vegetation and construction activities



Photo 3-4: Moving of soil and sand from a watercourse

5. 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.
6. The provisions contained in section 28(5) of the NEMA were considered when determining the measures and timeframes included in this Directive.

**7. You are hereby directed to:**

- 7.1 immediately cease the activities described in paragraph 4 above, which are causing and have caused the above pollution and/or degradation;
- 7.2 submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Directive, a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
  - 7.2.1 assessment and evaluation of the impact of the pollution and/or degradation on the environment; and
  - 7.2.2 identification of proposed remedial and/or mitigation measures.
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.

## Offences and penalties, including failure to comply with this Directive

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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

15. 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.

16. 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](mailto:Jaap.DeVilliers@westerncape.gov.za)

17. 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.

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



**Dr E Palmer**

**Director: Environmental Law Enforcement**

**Date:** 28 / 6 / 2018

Cc: (1) Mr Kyle October      CoCT      Email: [Kyle.October@capetown.gov.za](mailto:Kyle.October@capetown.gov.za)  
(2) Mr Daniel van Jaarsveld      CoCT      Email: [Daniel.vanjaarsveld@capetown.gov.za](mailto:Daniel.vanjaarsveld@capetown.gov.za)

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