



REFERENCE: 14/1/1/E2/1/2/3/0302/17

ENQUIRIES: Fahd Said

BY EMAIL

Email: pro@robab.co.za

Trustee

Reben Trust

P O Box 895

ROBERTSON

6740

DIRECTIVE

Dear Mr H De Bod

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

1. I, Dr Eshaam Palmer, in my capacity as an Environmental Management Inspector Grade 1, hereby issue Mr H De Bod, in your capacity as a trustee of the Reben Trust with a Directive in terms of section 28(4) of the of the National

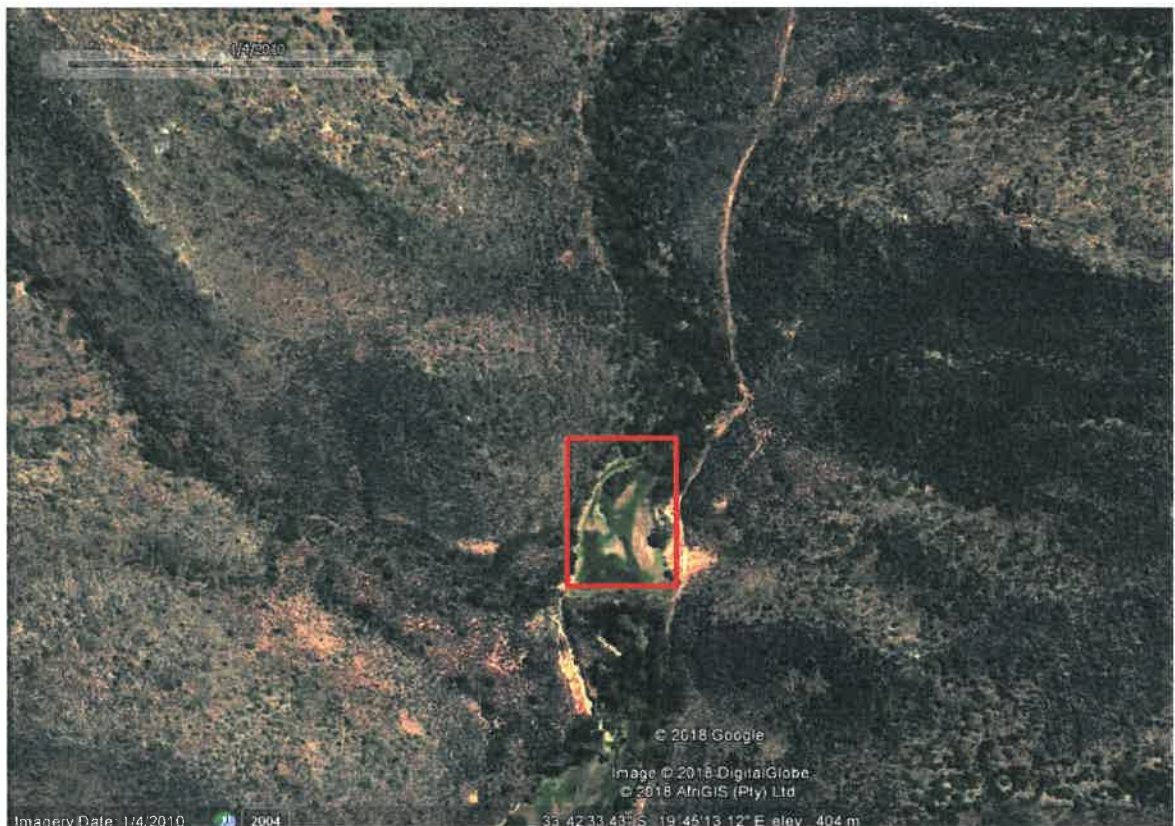
Environmental Management Act, 1998 ("NEMA), as you have caused significant degradation of the environment.

2. This Directive relates to non-compliance with section 28(1) of the NEMA.

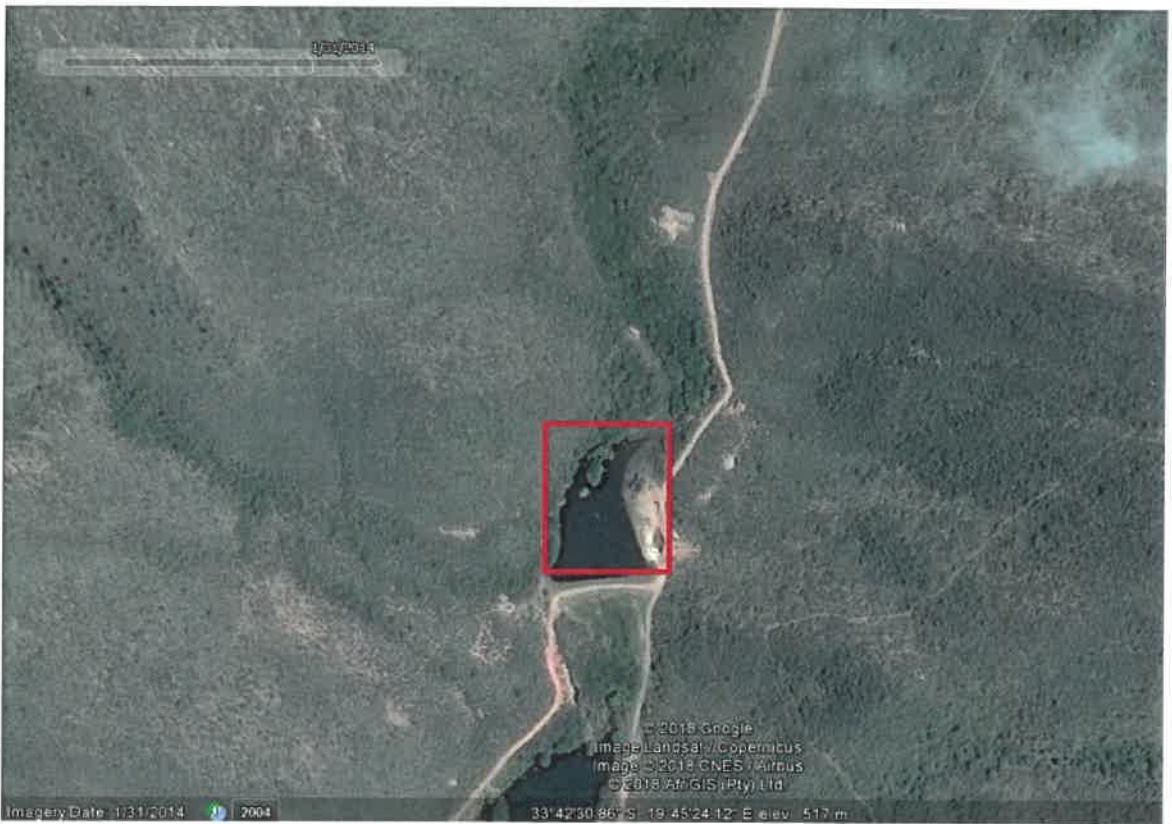
Details of conduct constituting non-compliance

3. During an investigation into allegations of degradation of the environment a site inspection was conducted at portion 6 of Farm Middelburg No. 10, Robertson by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 27 November 2017 and it was confirmed that you have caused significant degradation to the environment by the alleged illegal clearing of indigenous vegetation, excavation activities within a watercourse and expansion of a dam.

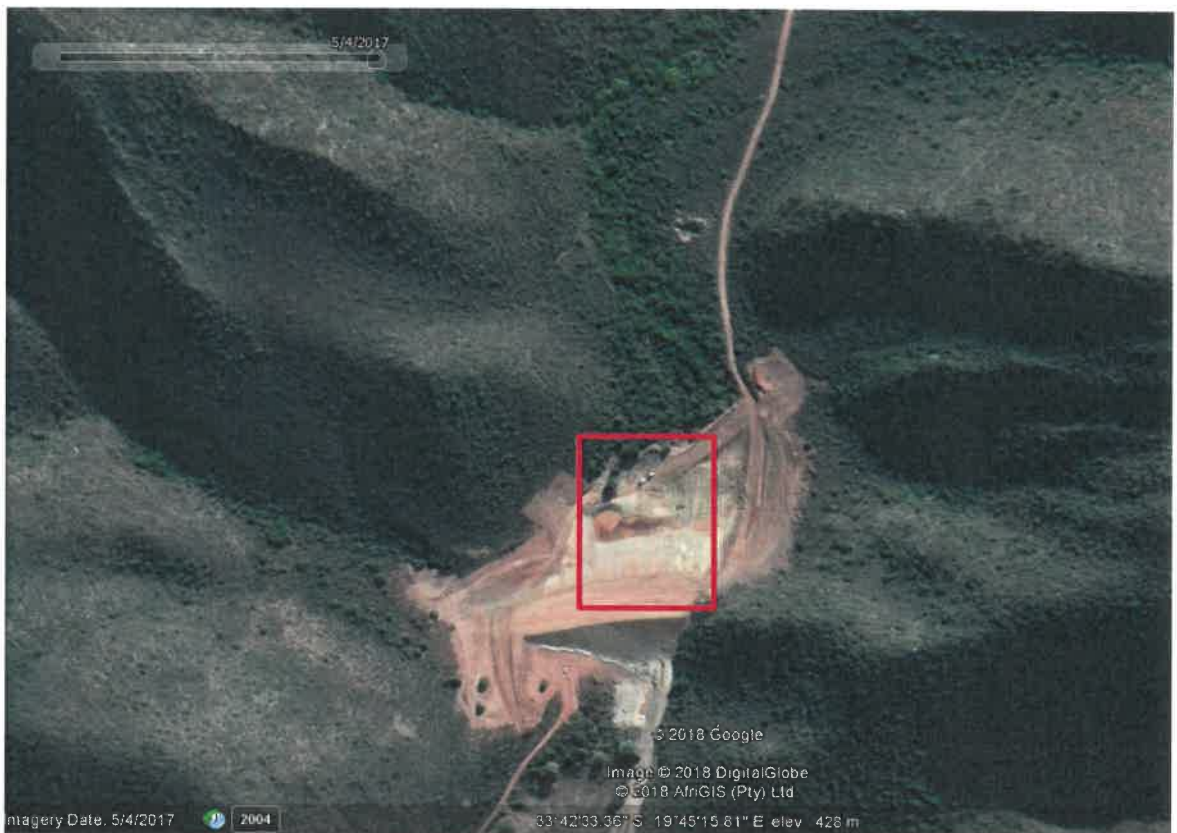
33° 42'31, 40" S 19° 45' 08, 13" E



Aerial map 1: Location of alleged illegal activities demarcated in red (image dated 2010).



Aerial map 2: Location of alleged illegal activities demarcated in red (image dated 2014).



Aerial map 3: Location of alleged illegal activities demarcated in red (image dated 2017).



Photo 1: A view from inside the expanded dam.



Photo 2: Alternative view from the expanded dam.



Photo 3: A zoomed out view from the expanded dam.

4. 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.
5. The provisions contained in section 28(5) of the NEMA were considered when determining the measures and timeframes included in this Directive.
6. **You are hereby instructed to:**
 - 6.1 Immediately cease the activities described in paragraph 3 above, which have caused the above degradation;

- 6.2 submit to the Department within **30 (thirty) calendar days** of receipt of this Compliance Notice a report 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. If the above report 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

8. 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.
9. 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.
10. 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.
11. 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.
12. If a person fails to comply or inadequately complies with this Directive, the Provincial Head of the Department in terms of section 28(7) of the NEMA may

take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.

13. 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

14. 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.

15. 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: 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. 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.
17. The appeal form as well as assistance regarding the appeal procedure is obtainable from the Appeals Administrator.
18. A Pre-Directive has not been issued prior to this Directive due to the current water crisis being experienced by the Western Cape Province. We also have reason to believe that giving such notice will cause a delay resulting in significant and irreversible degradation of the environment.



Dr E Palmer

Director: Environmental Law Enforcement

Date: 4/5/2018

Cc:

Mr D Matthews (Directorate: DM) Email: D'Mitri.Matthews@westerncape.gov.za

Mr S Thanduxolo (DWS) Email: StimelaT@dws.gov.za
