



REFERENCE: 14/1/1/E2/4/8/1/0212/15

ENQUIRIES: Mogammad Arshad Holliday

BY EMAIL

The Municipal Manager

Email: municipal.manager@stellenbosch.gov.za

Stellenbosch Municipality

Tel: 021 808 8025

P.O. Box 17

STELLENBOSCH

7599

DIRECTIVE

Attention: Ms Geraldine Mettler

Dear Madam

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

1. The Department's Pre-Compliance Notice and Directive dated 07 July 2017 and your Rehabilitation Report dated 12 June 2018, has reference.
2. Having considered your representations and all the evidence in this matter, I, Dr Eshaam Palmer, in my capacity as Director: Environmental Law Enforcement,

hereby issue Ms Geraldine Mettler in her capacity as Municipal Manager of the Stellenbosch Municipality with a Directive in terms of section 28(4) of the National Environmental Management Act, 107 of 1998 ("NEMA"), which approves the rehabilitation report.

3. This Directive relates to non-compliance with section 28(1) of the NEMA and to implement the approved rehabilitation report for the commencement of a listed activity in terms of the NEMA for the clearing of sludge from the Veldwachters River within the confines of the Stellenbosch Wastewater Treatment Works ("WWTW").

Details of conduct constituting non-compliance

4. During an investigation into allegations of pollution and/or degradation of the environment, a site inspection of the Stellenbosch WWTW on Farm No. 183 and the Remainder of Farm No. 279, Stellenbosch, was conducted by Environmental Management Inspectors from this Directorate on 23 December 2016 and it was confirmed that the inlet works experiences significant capacity constraints while the upgrade works is still underway and that you have discharged sludge and effluent from the WWTW which is causing pollution to the Veldwachters and Eerste Rivers. Furthermore, water quality samples which were taken at five sites on the 13th and 14th March 2017, by officials from the Department's Directorate: Pollution and Chemical Management confirming that the final effluent and sludge discharged does not comply with the water quality standards.



Aerial map: Location of the rehabilitation works to remove sludge within the Veldwachers River which flows through the Stellenbosch WWTW. The four phases indicated with a different colour.



Photo 1: The inlet works experienced significant capacity constraints and effluent overflowed into bypass channels.



Photo 2: Treated effluent being discharged into the Veldwachters River.



Photo 3: The sludge present in the Veldwachters River at exit of WWTW property.

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 implement the remediation measures as outlined in the approved rehabilitation report dated 12 June 2018 within **14 (fourteen) calendar days** from the date of receipt of this notice.
- 7.2 The proposed phased approach to work within the river must be monitored by a suitably qualified and independent Environmental Control Officer (“ECO”) to supervise all rehabilitation work undertaken and monitor compliance with the Method Statement during and post completion of the rehabilitation. It is important to ensure that only sections of the river are cleared, as per the phasing plan, and not the entire extent all at one time.
- 7.3 Ensure works within the river are completed prior to the onset of potentially heavy winter rainfall. Although it is noted that the works should be undertaken within the dry season, the proposed works are deemed necessary in the immediate future and thus warranted despite it being early winter.
- 7.4 The sludge and vegetation removed from the river must be appropriately treated and disposed of. It is imperative that this material must not prove a source of further pollution upon removal from the river. It is recommended that the sludge is treated on the WWTW site.
- 7.5 The removal of sludge must be done in a mechanical manner (so as to minimise risk to worker). However, caution must be taken to prevent altering the direction of flow of the river, or to widen or deepen channels that would increase the velocity of flow that could result in downstream damage (i.e. excavate to a depth not more than 1 metre to remove sludge).

- 7.6 All alien plants and trees must be removed from the lower lying river banks and from areas where it could be swept away by high flows coming down the Veldwachters River.
- 7.7 Clearing should be done in a manner that would allow the recovery of indigenous riparian vegetation from the seed bank embedded in the topsoil. This entails, as far as possible, not removing the valuable topsoil layer. Should natural recovery not occur within a reasonable period, consideration must be given to reintroducing indigenous riparian plants from elsewhere in the river. The Department of Agriculture can be contacted for assistance in this regard.
- 7.8 Care must be taken with the use of herbicides and the Working for Water Programme must be consulted with regards to the selection of the appropriate herbicides for the cutting of larger alien trees.
- 7.9 No hard engineered devices must be placed in the river or on the river banks for stabilisation purposes without the proper environmental authorisation (groyne and gabion systems).
- 7.10 Quarterly water quality monitoring (bacteriological and COD) must be undertaken at points where the rehabilitation work is being done. Once satisfactory limits are achieved, annual monitoring would be adequate.
- 7.11 Affected portions of the river banks must be reshaped and rehabilitated with locally occurring indigenous vegetation.
- 7.12 A follow-up inspection must be conducted by the ECO **within 7 days** of completion of the rehabilitation work.
- 7.13 Notify this Department once the rehabilitation commences on site as well as when the rehabilitation work (removal of sludge, reeds and grasses from

the Veldwachters River) has been completed and submit a status quo audit report **within 30 (thirty) calendar days** from the date of completion of the rehabilitation, which must be completed **within 2 (two) months** in order for the Directorate to conduct a compliance inspection in 2018.

- 7.1. Submit a final audit report by **31 December 2018**, which assesses the effectiveness of the remediation measures implemented.

8. In light of the above, 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

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: 29/6/2018

CC Ms Karin Neethling (Withers Environmental Consulting)	Email: karin@withersenviro.co.za
Mr Russell Mehl (D: P & CM)	Email: Russel.Mehl@westerncape.gov.za
Ms Catherine Bill (D: P & CM)	Email: Catherine.Bill@westerncape.gov.za
Ms Wilna Kloppers (D: P & CM)	Email: Wilna.Kloppers@westerncape.gov.za
Mr Dries van Taak (Stellenbosch Municipality)	Email: Dries.VanTaak@stellenbosch.gov.za
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Ms Arabel McClelland (D: Development Management)	Email: Arabel.McClelland@westerncape.gov.za
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Mr Pieter Van Zyl (HOD)	Email: Pieter.vanZyl@westerncape.gov.za
