



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

ENQUIRIES: Fundiswa Zingitwa-Lwana

BY EMAIL:

Mr Amando De Obreu

sds2online@gmail.com

16 Dolla Bella Drive

Sunset Beach

MILNERTON

7441

DIRECTIVE

Dear Sir

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

1. The Department's Pre-Directive dated 30 October 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 Amando De Obreu with a Directive in terms of section 28(4) of the NEMA, as you are causing and have caused significant pollution or degradation of the environment.

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

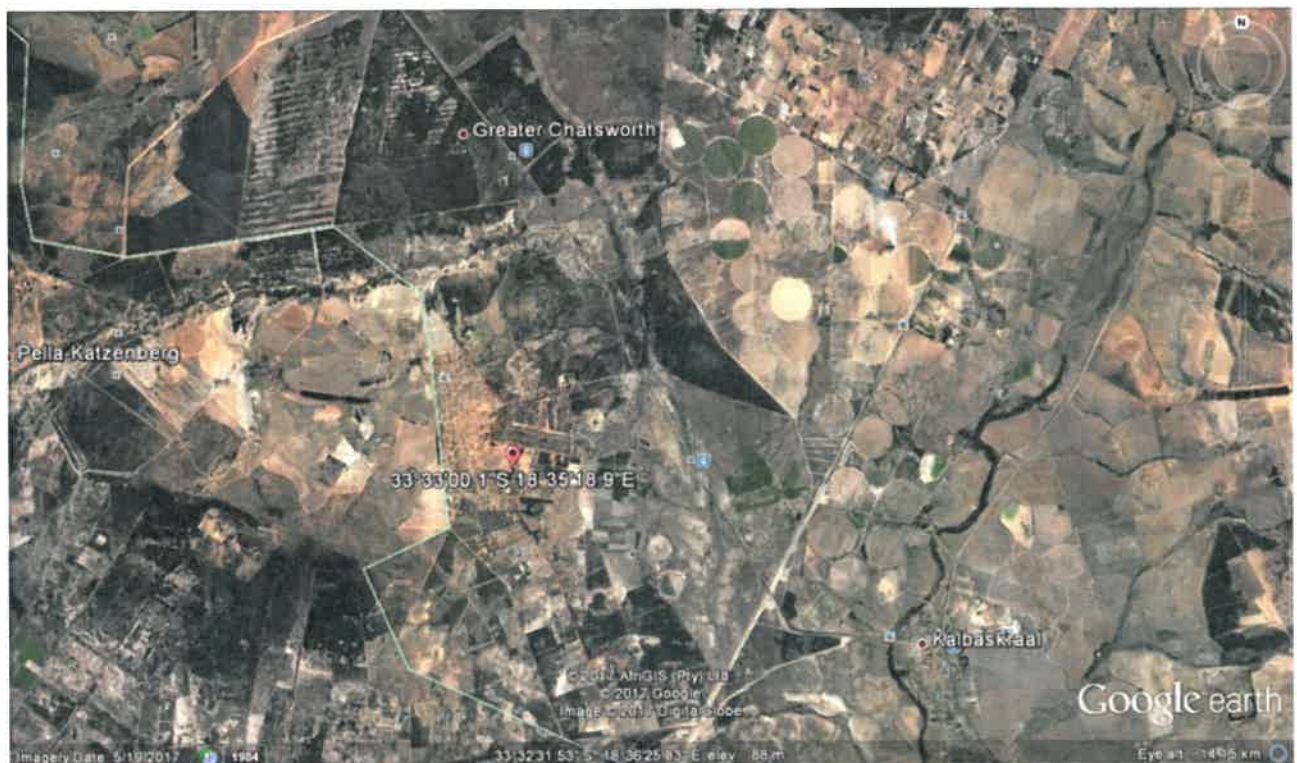
Details of conduct constituting non-compliance

4. During an investigation into allegations of pollution and/or degradation of the environment, a site inspection of Groene Farm Portion 42 of Farm 821, Malmesbury was conducted by an Environmental Management Inspector from this Directorate on 08 August 2017 and 8 February 2018 respectively and it was confirmed that you have:

4.1 Failed to effectively line effluent ponds;

4.2 Failed to take precautionary measures prior to discharging effluent to the ponds; and

4.3 Failed to prevent the leakage of wastewater into the ground from the new shed.



Aerial map: Location of alleged illegal activity.



Photo 1: Effluent and sludge seeping through the walls of the new shed.



Photo 2: The cement holding tank located behind the new shed showing seepage into the soil.



Photo 3: Unlined effluent pond

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 or minimise the activities described in paragraph 4 above, which are causing and have caused the above pollution and degradation;

- 7.2 contain or prevent the movement of pollutants or the cause of the degradation;
- 7.3 eliminate any source of the pollution or degradation;
- 7.4 provide measures to prevent overflows from the ponds;
- 7.5 provide the total sum of effluent produced from the piggery and provide sufficient holding capacity which includes storm water inputs;
- 7.6 plan for periodically cleanout of sludge from the ponds to ensure that the capacity of the ponds is not compromised;
- 7.7 provide results of effluent quality tests so as to determine whether relevant standards are being met – whether for discharge or possible irrigation;
- 7.8 source appropriate technology in order to treat the effluent water to acceptable standards prior to disposal (as per the requirements of the Department of Water and Sanitation);
- 7.9 conduct scheduled inspections of the infrastructure through a weekly checklist (concrete dam, canals, pipes and ponds) to check for leaks and damage. Any leaks/damage found to infrastructure must be repaired immediately;
- 7.10 conduct the application of sludge to land in accordance with the (previously) Department of Water Affairs & Forestry, Guideline for the Utilization and Disposal of Wastewater Sludge, Volume 2, WRC Report No. TT 262/06;
- 7.11 remedy the effects of the pollution or degradation;
- 7.12 submit to the Department for approval, within **30 (thirty) calendar days** of receipt of this Directive, a waste impact report and a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
 - 7.12.1 assessment and evaluation of the impact of the pollution and/or degradation; and
 - 7.12.2 identification of proposed remedial and/or mitigation measures;

8. If the above report and 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

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: 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
