

Proof of First Compliance Notice letter received 16/01/2018



V4_2016/10

Directorate: Environmental Law Enforcement

REFERENCE: 14/1/1/E2/5/2/3/0268/16

ENQUIRIES: Nicholas Kearns

BY EMAIL

Muller Terblanche & Beyers Attorneys
P O Box 7
WORCESTER
6849

Email: hendrik@mtb.co.za

Attention: Mr H F Verwoerd

Dear Sir

ALLEGED ILLEGAL CONSTRUCTION OF A ROAD AND A BRIDGE IN A WATERCOURSE WITHOUT ENVIRONMENTAL AUTHORISATION ON FARM BLOUBLANK PLAAS NO. 1, TULBAGH

1. The above matter, the Department's Pre-Compliance Notice and Pre-Directive issued on 27 October 2016 and the subsequent response and assessment report dated 16 March 2017, has reference.
2. The findings of your assessment report have been noted, however the following should be noted:
 - 2.1. The assessment performed by your Environmental Assessment Practitioner ("EAP"), BolandEnviro was executed as a desktop study and no site inspection was undertaken.

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Tel: +27 21 483 0761 Fax: +27 21 483 2797
www.westerncape.gov.za/eadp

Private Bag X9086, Cape Town, 8000
Email: Nicholas.Kearns@westerncape.gov.za
Complaints: law.enforcement@westerncape.gov.za

2.2. The National Environmental Management Act ("NEMA"), defines a watercourse as the following

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, pan, lake or dam into which, or from which, water flows; and any collection of water which the Minister may, by notice in the Gazette, declare to be a watercourse as defined in the National Water Act, 1998 (Act No. 36 of 1998); and a reference to a watercourse includes, where relevant, its bed and banks (our underlining).

2.3. In terms of the work conducted on the site to date, the dimensions included in the fresh water report pertaining to the construction of the bridge, construction of the brick walls and the infill material deposited on the banks of the watercourse exceed the threshold of 5 cubic meters which existed at the time as well as the current threshold of 10 cubic meters.

2.4. Therefore, given the above the Department reiterates that the activities commenced with remain listed in terms of the EIA Regulations, Listing Notice 1 of 2014, without the requisite environmental authorisation:

Listing Notice 1 of 2014:

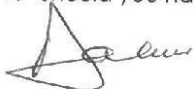
Activity 19:

The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

- (a) will occur behind a development setback;
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;

3. You are hereby reminded of this Department's intention to issue you with a Compliance Notice in terms of section 31L and a Directive in terms section 28 (4) of the NEMA, which will direct you to:
 - 5.1 investigate, assess and evaluate the impact that the listed activity has on the environment;
 - 5.2 rehabilitate the site to its original condition; and
 - 5.3 carry out any other measure necessary to rectify the effects of the unlawful activity.
4. You may submit a rehabilitation plan to this Directorate for the rehabilitation of the site to its original condition.
5. Kindly be advised that you will have **14 (fourteen) calendar days** from date of this letter to submit the above mentioned plan.
6. Alternatively, as noted by your EAP you may submit an application to the Department, in terms of section 24G of the NEMA, on the prescribed form, to continue a listed activity. Such application however, does not prevent the Department from issuing of a Compliance Notice and or Directive should circumstances so require.
7. Should you have any further queries, please do not hesitate to contact this office.



Dr E Palmer

Director: Environmental Law Enforcement

Date: 16/1/2018

Cc: Mr C Orffer
Nik Wulschleger (BolandEnviro)
Mr D Daniels

email: dol@bloubank.co.za
email: comment@bolandenviro.co.za
email: danielsd@dws.co.za

Proof of additional Correspondence and received from DEA&DP and Reply sent

From: Nik Wullschleger - BolandEnviro <nik@BolandEnviro.co.za>

Sent: Thursday, June 06, 2019 6:33 PM

To: 'Najah Ben Jeddou' <Najah.BenJeddou@westerncape.gov.za>; dol@bloubank.co.za

Cc: 'Nithzaam Albertyn' <Nithzaam.Albertyn@westerncape.gov.za>; 'Nicholas Kearns' <Nicholas.Kearns@westerncape.gov.za>

Subject: RE: 14/1/1/E2/5/2/3/0268/16: Alleged illegal construction of a road and bridge in a watercourse on Bloubank Plaas No. 1, Tulbagh

Department of Environmental Affairs and Development Planning
Dorp Street
Cape Town

Dear Mrs Jeddou

Your email below and my call to Mr Kearns today has reference.

The EAP responsible for this application left our employment at the start of 2019 and we have not been able to find a replacement. In the time since his leaving we have also decided to downsize our business and we no longer facilitate applications for environmental authorisation in terms of section 24Gof NEMA.

In terms of the process related to this application – we published a pre-application notice in the local newspaper on the 9th November 2018 (see attached) and received only one registration as an interested and affected party (see attached) before registration closed on 30th November 2018.

We have requested Mr Orffer to appoint another EAP, and have recommended Mrs Marizanne McGregor (who used to also work for us and is also based in Worcester) alternatively we recommend Doug Jeffrey Environmental Consultants or another EPA. We have provided contact details for a number of EAPs.

We apologise for the lack of communication from our side.

Yours faithfully,
Nik Wullschleger

From: Najah Ben Jeddou [<mailto:Najah.BenJeddou@westerncape.gov.za>]

Sent: 06 June 2019 02:59 PM

To: dol@bloubank.co.za

Cc: Nithzaam Albertyn <Nithzaam.Albertyn@westerncape.gov.za>; Nicholas Kearns <Nicholas.Kearns@westerncape.gov.za>; nik@BolandEnviro.co.za

Subject: RE: 14/1/1/E2/5/2/3/0268/16: Alleged illegal construction of a road and bridge in a watercourse on Bloubank Plaas No. 1, Tulbagh

Good day Mr C Orffer

We refer to the above matter and the letter attached.

Please be advised that the construction of the bridge and the associated infilling within the watercourse remains unlawful and triggered a listed activity in terms of the NEMA EIA Regulation 2014 (as amended).

Up to date, no application in terms of S24G has been submitted to this Department for the rectification of the unlawful construction of the bridge as indicated previously by your EAP.

Please be advised that, you are offered a period of 15 (fifteen) calendar days (until 20 June 2019) from receipt of this correspondence to submit the application in terms of s 24G of the NEMA.

Should the application in terms of 24G is not submitted, final Compliance Notice and a Directive will issued.

Should you not comply with the final notices, the matter will be referred to Criminal investigation Unit.

Regards

Najah Ben Jeddou

Administrative Investigator

Sub-Directorate: Environmental Law Enforcement (Region 2)(Overberg & Cape Winelands)

Directorate: Environmental Law Enforcement

Chief Directorate: Environmental Governance, Policy, Coordination and Planning

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