

CONSERVATION INTELLIGENCE: LANDSCAPE EAST

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website www.capenature.co.za
enquiries Megan Simons
telephone +27 87 087 3060 **fax** +27 44 802 5313
email msimons@capenature.co.za
reference LE14/2/6/1/5/3/_157RE_Compliance_Prince Albert
date 25 August 2020

Department of Environmental Affairs and Development Planning,
Directorate: Environmental Compliance and Enforcement,
Sub Directorate: Environmental Law enforcement (Region 3, George),
3rd Floor Rentzburg Hof,
42 Courtenay Street,
Bodorp,
George,
6529

Attention: Ms Diana Mouton (Diana.Mouton@westerncape.gov.za)

**CONSULTATION REGARDING COMPLIANCE NOTICE IN TERMS OF THE
UNLAWFUL CLEARANCE OF VEGETATION ON FARM ANGELIERS BOSCH
(FERNKLOOF) REMAINDER OF FARM 157, PRINCE ALBERT, PRINCE ALBERT
LOCAL MUNICIPALITY, WESTERN CAPE.**

DEA&DP reference #: Unknown

CapeNature would like to thank you for the opportunity to provide input into the alleged unlawful vegetation clearing on the Remainder of Farm Angeliers Bosch (Fernkloof) no. 157, Prince Albert. CapeNature would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the activity.

The areas impacted on the farm are classified as Critical Biodiversity Areas (CBA 1: Terrestrial, CBA 1: Aquatic and CBA 2: River) and fragments as Ecological Support Areas (ESA 2: River) according to the Western Cape Biodiversity Spatial Plan (WCBSP 2017)¹. The watercourse affected is a perennial river (i.e. Cordiers River) passing through the property. This is a Freshwater Ecosystem Priority Areas (FEPA) river corridor and as a result plays an important role in allowing plant and animal

¹ Pool-Stanvliet, R., Duffell-Canham, A., Pence, G. & Smart, R. 2017. The Western Cape Biodiversity Spatial Plan Handbook. Stellenbosch: CapeNature.
The Western Cape Nature Conservation Board trading as **CapeNature**

species movement within the landscape. These FEPAs rivers are important in achieving biodiversity targets for riverine ecosystems².

As per the National Environmental Management Act (Act 107 of 1998) a watercourse is defined as:

"watercourse" means-

- (a) a river or spring;*
- (b) a natural channel or depression in which water flows regularly or intermittently;*
- (c) a wetland, lake or dam into which, or from which, water flows; and*
- (d) 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)."*

The vegetation units present at the site are classified as Swartberg Shale Renosterveld and Prince Albert Succulent Karoo and both are listed as Least Concerned in the draft ecosystem threat listings for the updated National Biodiversity Assessment (2018)³.

Following a review of the compliance notice, CapeNature would like to make the following comments:

1. A site inspection was done on 11 August 2020 with an Administrative Investigator from the Department of Environmental Affairs and Development Planning (DEA&DP);
2. It is evident that the landowner has cleared indigenous vegetation of approximately over 9 ha in extent, and also expanded within a watercourse (i.e. Cordiers River);
3. In addition, the landowner further removed indigenous riparian vegetation within the watercourse;
4. Due to the removal of vegetation, it is evident that the topsoil was disturbed and this could result in soil erosion;
5. CapeNature recommends that the soil, which has been disturbed, be rehabilitated to prevent any soil erosion, if it will not be used for planting of crops and seeds⁴.
6. These unlawful activities were conducted without Environmental Authorization;

² Nel, J.L., Murray, K.M., Maherry, A.M., Petersen, C.P., Roux, D.J., Driver, A., Hill, L., Van Deventer, H., Funke, N., Swartz, E.R., Smith-Adao, L.B., Mbona, N., Downsborough, L. & Nienaber, S. (2011). Technical Report for the National Freshwater Ecosystem Priority Areas project. WRC Report No. K5/1801

³ Skowno, A. L., Poole, C. J., Raimondo, D. C., Sink, K. J., Van Deventer, H., Van Niekerk, L., Harris, L. R., Smith-Adao, L. B., Tolley, K. A., Zengeya, T. A., Foden, W. B., Midgley, G. F. and Driver, A. 2019. National Biodiversity Assessment 2018: The status of South Africa's ecosystems and biodiversity. Synthesis Report. Pretoria, South Africa. 214 pp.

⁴ De Villiers, C., Holmes, P., Rebelo, T., Helme, N., Brown, D.E., Clark B., Milton, S., Dean, W.R., Brownlie, S., Snaddon, K., Day, L., Ollis, D., Job, N., Dorse, C., Wood, J., Harrison, J., Palmer, G., Cadman, M., Maree, K., Manuel, J., Holness, S., Ralston, S & Driver A. (2016). Fynbos Forum ecosystem guidelines for environmental assessment in the Western Cape. In Fynbos Forum, c/o Botanical Society of South Africa: Conservation Unit, Kirstenbosch, Cape Town
[The Western Cape Nature Conservation Board trading as CapeNature](#)

Board Members: Prof Denver Hendricks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Loubser, Mr Mervyn Burton, Dr Colin Johnson, Prof Aubrey Redlinghuis, Mr Paul Slack

7. CapeNature would like to remind the landowner that altering the beds, banks, watercourse and characteristics of a watercourse may not be done without a license (including in-stream dams, berms and retention walls);
8. Sensitive vegetation was unlawfully cleared and the main objective of these areas are to be in a natural or near-natural state. Some habitat loss is acceptable, provided the underlying biodiversity objectives and ecological functioning are not compromised;
9. In terms of the vegetation, minimal disturbances is allowed within succulent karoo vegetation types as these plant communities recover very slowly after a disturbance. Therefore, alterations, and further impacts, to the river should be avoided and suitable rehabilitation of these habitats prioritised;
10. Inappropriate land uses to renosterveld habitats is one of the main pressures threatening this vegetation. Due to the poor conservation protection on renosterveld vegetation types, it is important to treat all renosterveld plant communities as threatened;
11. In terms of the NEMA Environmental Impact Assessment Regulations, the following listed activities were triggered:

Listing Notice 1, Activity 19:

The infilling or depositing of any material of more than [5] 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than [5] 10 cubic metres from [—(i)] a watercourse;

Listing notice 1, Activity 27:

The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation.

CapeNature does not support any activity that results in a negative impact on the environment and its ecological function. Areas, which have been disturbed, needs to be rehabilitated and only low-impact, biodiversity sensitive land uses are suitable in line with the Land Use Advice (LUA) Handbook (Pool-Stanvliet *et al.* 2017)⁵.

As sensitive vegetation was removed, an Environmental Impact Assessment, which includes input from a botanist, and wetland ecologist, should have been undertaken prior to the commencement of such activities. However, since the activity has already occurred, rehabilitation of these disturbed areas should be prioritised or a Section 24 G report, in terms of NEMA, should be compiled with suitable specialist studies.

⁵ Pool-Stanvliet, R., Duffell-Canham, A., Pence, G. & Smart, R. 2017. The Western Cape Biodiversity Spatial Plan Handbook. Stellenbosch: CapeNature.

The Western Cape Nature Conservation Board trading as **CapeNature**

Board Members: Prof Denver Hendricks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Loubser, Mr Mervyn Burton, Dr Colin Johnson, Prof Aubrey Redlinghuis, Mr Paul Slack

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Megan Simons', with a stylized, flowing script.

Megan Simons
For: Manager (Landscape Conservation Intelligence)



REFERENCE: 14/1/1/E3/2/9/3/L1131/20

ENQUIRIES: D Mouton

BY EMAIL

Mr Jurie Klue

Email: avondrust@pawireless.co.za

PO Box 1

Klaarstroom

6932

Attention: Mr J. Klue

PRE-DIRECTIVE

Dear Sir

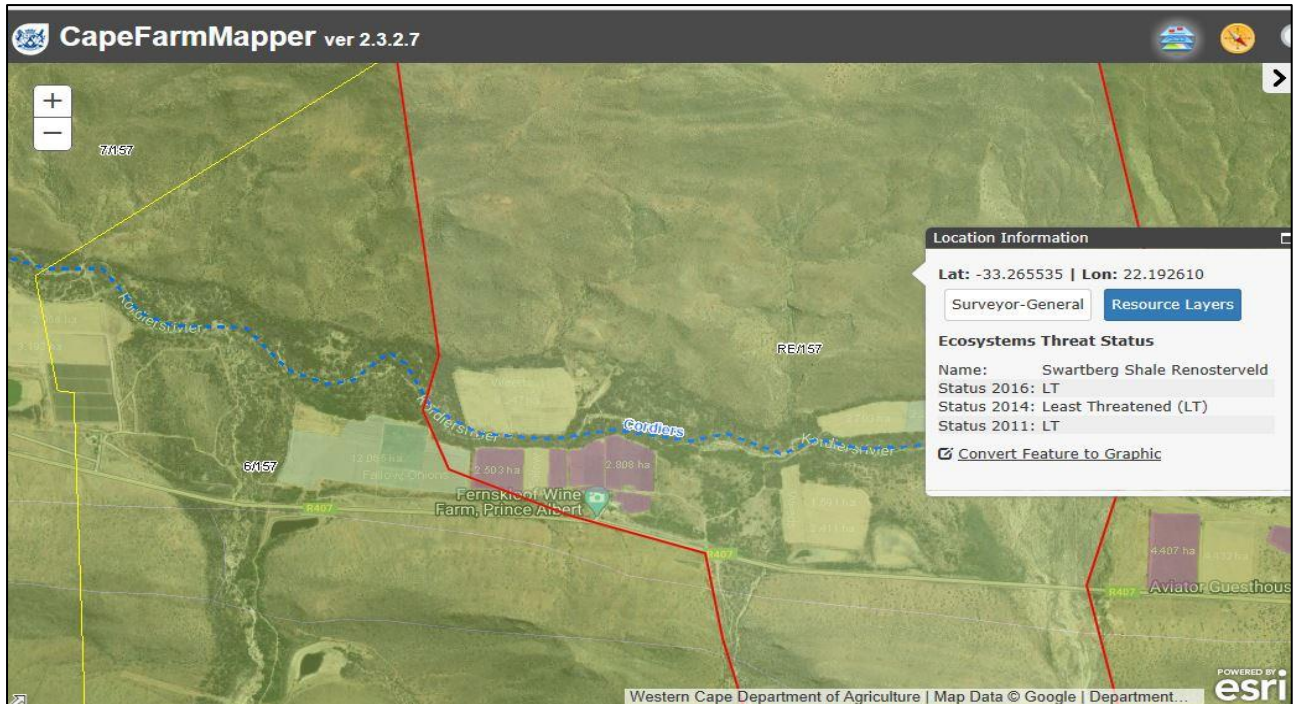
**INTENTION TO ISSUE A DIRECTIVE IN TERMS OF SECTION 28(4)
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998**

1. During an investigation into allegations of pollution and/or degradation of the environment a site inspection was conducted at Farm Angeliers Bosch (Fernkloof) RE/157, Prince Albert (the property) by an Environmental Management Inspector from the Department's Directorate: Environmental Law Enforcement on 11 August 2020, and it was confirmed that you have caused degradation of the environment by undertaking the following activities on the abovementioned property:

- 1.1 Approximately 10 ha of indigenous vegetation clearing (Swartberg Shale Renosterveld, Least Threatened) on the property;
- 1.2 Alleged alterations to the riverine system (Cordiers River) where large-scale vegetation clearing conducted by mechanical machinery of riverine thicket and channel widening, altering, shaping, infilling, excavations, etc.
- 1.3 Removal of all vegetation within a watercourse and its banks up to existing agricultural lands, causing soil erosion to the riverine banks and system downstream; and
- 1.4 Alleged expansion of agricultural fields.



Aerial map 1: Location of alleged illegal activities that occurred on Farm Angeliers Bosch RE/157, Prince Albert.



Aerial map 2: View of the Ecosystem Status classified as Least Threatened, Swartberg Shale Renosterveld, existing agricultural fields and view of the Cordiers River on the property.



Aerial map 3: View of the property and indication of the areas that have allegedly unlawfully cleared of indigenous vegetation. Estimated clearing of more than 10 ha within

2. Section 28(1) of the National Environmental Management Act, 1998 ("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.
3. On considering the evidence before me there are reasonable grounds to believe that you are causing significant pollution or degradation of the environment and that you have not taken reasonable measures to prevent such pollution and/or degradation from continuing.

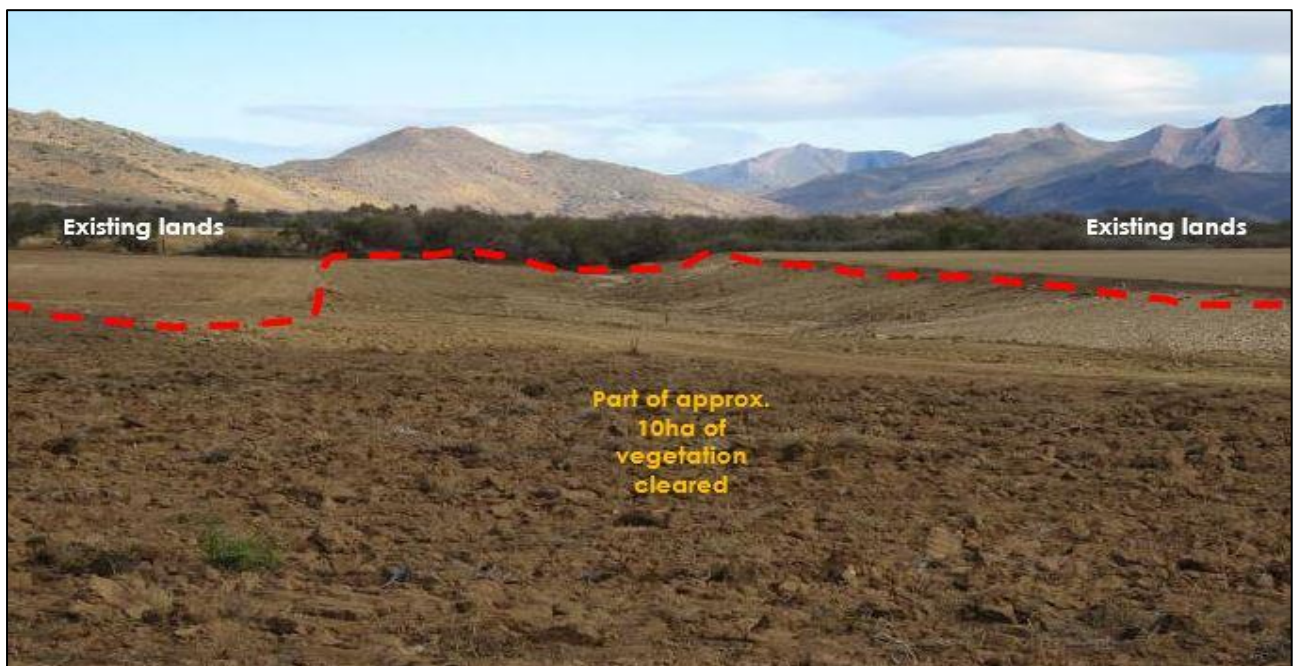


Photo 1: View of the Cordiers River traversing through existing lands and surrounding areas that have allegedly unlawfully been cleared of indigenous vegetation and shaping of the natural river channel that occurred on the property.



Photo 2: View of river thicket that have allegedly unlawfully been removed on the property.



Photo 3: View of the Cordiers River on the property that have allegedly unlawfully been cleared of all vegetation and where material have been shaped, altered, excavated, etc. with machinery.



Photo 4: View of another area on the property where alleged unlawful vegetation clearing occurred with machinery.

4. In terms of section 49A(1)(e) or (f) of the NEMA it is an offence to unlawfully and intentionally or negligently commit any act or omission which causes significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment.
5. As such, you are hereby given notice of the Department's intention to issue you with a Directive in terms of section 28(4) of the NEMA, which will direct you to:
 - 5.1 investigate, assess and evaluate the impact on the environment;
 - 5.2 inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution and/or degradation of the environment;
 - 5.3 cease, modify or control any act, activity or process causing the pollution or degradation;

- 5.4 contain or prevent the movement of pollutants or the cause of the degradation;
 - 5.5 eliminate any source of the pollution or degradation;
 - 5.6 remedy the effects of the pollution or degradation;
 - 5.7 Adhere to the requirement of CapeNature in the correspondence dated 25 August 2020, attached hereto as an annexure.
6. In terms of section section 49A(1)(g) of the NEMA failure to comply with a Directive is an offence.
 7. 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.
 8. You are afforded a period of **3 (three) calendar days** from the date of receipt of this Pre-Directive to make written representations to the Department as to why a Directive should not be issued.
 9. Should you inform the Department, in respect of paragraph 8 above that you intend to remedy the pollution and/or degradation, **you must cease the activity causing the pollution and/or degradation, adhere to the requirements outlined in paragraph 5 above**, and submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Directive, a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
 - 9.1 assessment and evaluation of the impact on the environment; and
 - 9.2 identification of proposed remedial and/or mitigation measures.

10. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.



Achmad Bassier

Director: Environmental Law Enforcement

Date: 30/09/2020

Cc:

Megan Simons (CapeNature) Email: msimons@capenature.co.za



REFERENCE: 14/1/1/E3/2/9/3/L1131/20

ENQUIRIES: D Mouton

BY EMAIL: avondrust@pawireless.co.za

Mr Jurie Klue

PO Box 1

Klaarstroom

6932

Attention: Mr J. Klue

PRE-COMPLIANCE NOTICE

Dear Sir

INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

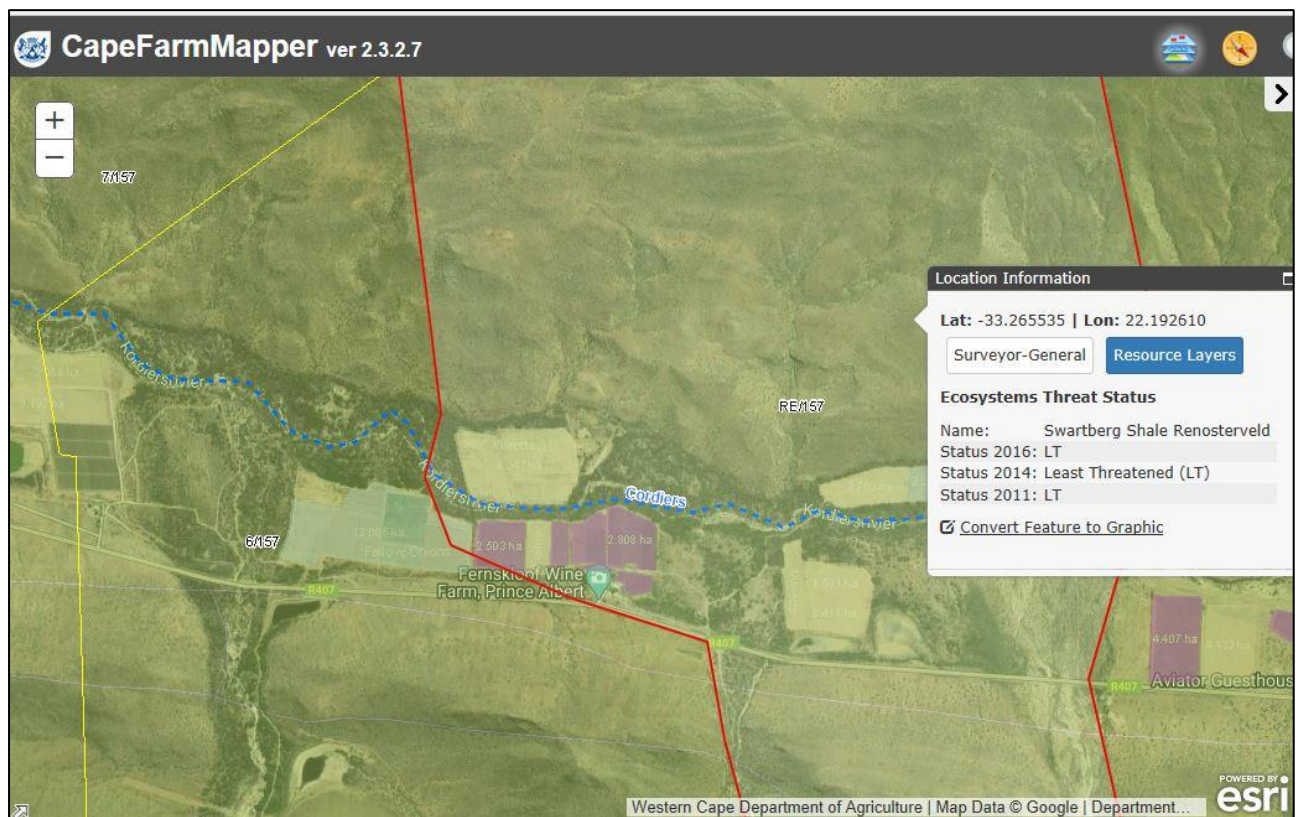
1. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA") a site inspection was conducted at Farm Angeliens Bosch (Fernkloof) RE/157, Prince Albert (the property) by an Environmental Management Inspector from the Department's Directorate:

Environmental Law Enforcement on 11 August 2020 which confirmed that you have commenced with the following without environmental authorisation:

- 1.1 Approximately 10 ha of indigenous vegetation clearing (Swartberg Shale Renosterveld, Least Threatened) on the property;
- 1.2 Alleged alterations to the riverine system (Cordiers River) where large-scale vegetation clearing conducted by mechanical machinery of riverine thicket and channel widening, altering, shaping, infilling, excavations, etc.
- 1.3 Removal of all vegetation within a watercourse and its banks up to existing agricultural lands, causing soil erosion to the riverine banks and system downstream; and
- 1.4 Alleged expansion of agricultural fields.



Aerial map 1: Location of alleged illegal activities that occurred on Farm Angeliers Bosch RE/157, Prince Albert.



Aerial map 2: View of the Ecosystem Status classified as Least Threatened, Swartberg Shale Renosterveld, existing agricultural fields and view of the Cordiers River on the property.



Aerial map 3: View of the property and indication of the areas that have allegedly unlawfully cleared of indigenous vegetation. Estimated clearing of more than 10 ha within sensitive environment.

Directorate: Environmental Law Enforcement
3rd Floor, Rentzburghof, Courtney Street, George, 6530
tel: +27 044 8058625 fax: +27 044 8746431

Diana.Mouton@westerncape.gov.za
Private Bag X6509, George, 6530
www.westerncape.gov.za/deadp

2. In terms of section 24F of the NEMA, no activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 of 2014 may commence without environmental authorisation from the competent authority.
3. On considering the evidence before me, there are reasonable grounds to believe that you have commenced the following listed activities without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014:

Activity no. 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;*
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or*
- (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.*

Activity no.27:

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or***
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.***

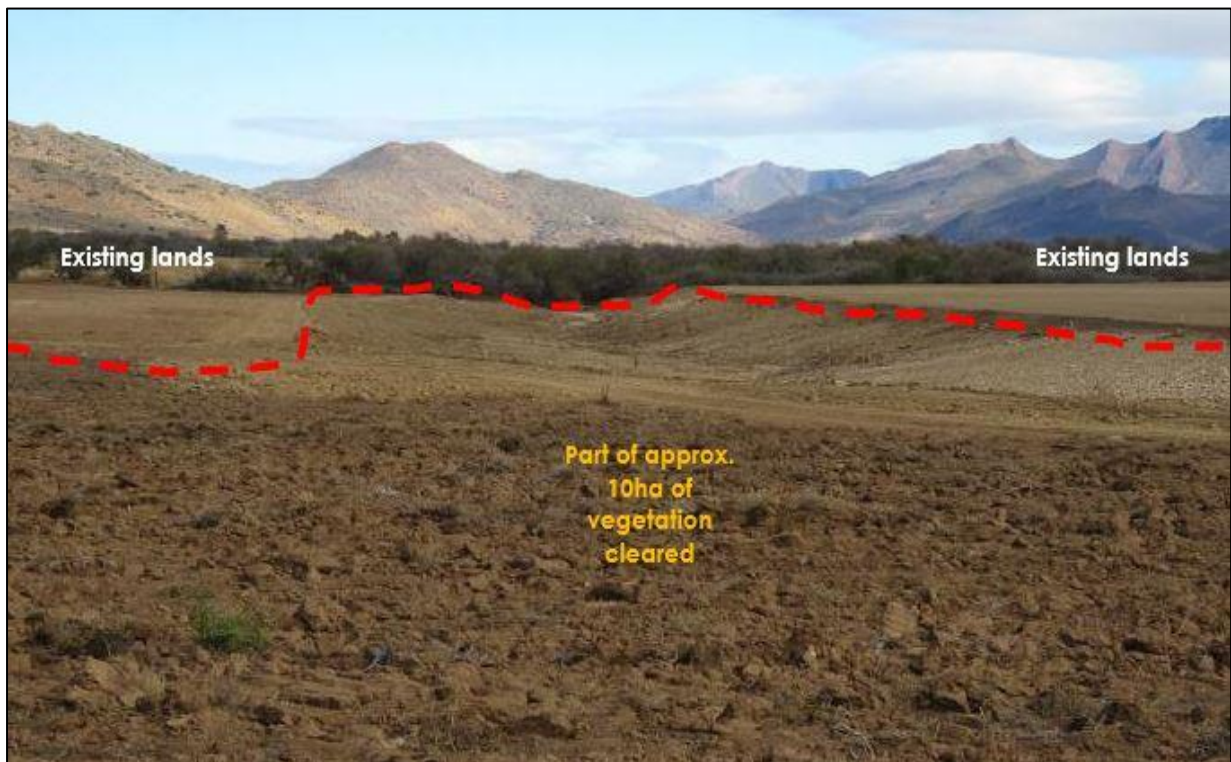


Photo 1: View of the Cordiers River traversing through existing lands and surrounding areas that have allegedly unlawfully been cleared of indigenous vegetation and shaping of the natural river channel that occurred on the property.



Photo 2: View of river thicket that have allegedly unlawfully been removed on the property.



Photo 3: View of the Cordiers River on the property that have allegedly unlawfully been cleared of all vegetation and where material have been shaped, altered, excavated, etc. with machinery.



Photo 4: View of another area on the property where alleged unlawful vegetation clearing occurred with machinery.

4. In terms of section 49A of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence 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.
5. As such, you are hereby given notice of the Department's intention to issue you with a Compliance Notice in terms of section 31L of the NEMA, which will instruct you to:
 - 5.1 immediately cease the above listed activities;
 - 5.2 investigate, assess and evaluate the impact that the listed activity has / has had on the environment;
 - 5.3 rehabilitate the entire site to its original condition;
 - 5.4 carry out any other measure necessary to rectify the effects of the unlawful activity; and

- 5.5 Adhere to the requirement of CapeNature in the correspondence dated 25 August 2020, attached hereto as an annexure.
6. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of failing to comply with a Compliance Notice is liable to a maximum fine of R5 million or 5 years imprisonment or both such fine and such imprisonment.
7. You are afforded a period of **3 (three) calendar days** from the date of receipt of this Pre-Compliance Notice to make written representations to the Department as to why a Compliance Notice should not be issued.
8. If you inform the Department, in respect of paragraph 7 above that you intend to rectify the non-compliance, **you must cease the above listed activities, adhere to the requirements outlined in paragraph 5 above**, and submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Compliance Notice, a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
- 8.1 assessment and evaluation of the impact on the environment; and
- 8.2 identification of proposed remedial and/or mitigation measures.
9. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.
10. Approval of the above report by the Department does not remedy the unlawful commencement of the above activity, which remains unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA.
11. If you wish to continue with the listed activity you may apply for environmental authorisation by way of a section 24G ("s24G") application. However, such

application does not constitute permission to continue with the listed activity, which remains unlawful unless environmental authorisation is granted.

12. Should you choose to apply in terms of s24G on the NEMA, you must submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Compliance Notice, a project schedule compiled by a suitably qualified and experience independent environmental assessment practitioner. The project schedule must clearly stipulate the time frames in terms of the s24G process and by when a s24G application will be submitted to the Sub-Directorate: Rectification.

13. Notwithstanding the section 24G application, the Department may issue a Compliance Notice and/or commence criminal proceedings should circumstances so require.



Achmad Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 30/09/2020

Cc:

Megan Simons (CapeNature) Email: msimons@capenature.co.za



REFERENCE: 14/1/1/E3/2/9/3/L1131/20

ENQUIRIES: D Mouton

BY EMAIL: andre@stadlers.co.za

Stadler & Swart Consult (Pty) Ltd

P O Box 46

George

6530

Attention: Mr Swart

Dear Sir

ALLEGED UNLAWFUL CLEARANCE OF VEGETATION ON FARM ANGELIERS BOSCH (FERNKLOOF) RE/157, PRINCE ALBERT ("THE PROPERTY")

1. The Directorate: Environmental Law Enforcement ("this Directorate") Pre-Compliance Notice and Pre-Directive dated 30 September 2020 and your representation received on behalf of your client, Mr Jurie Klue, dated 1 October 2020 have reference.

2. This Directorate hereby acknowledges the request for an extension of the timeframe to submit representations on your client's behalf, and hereby grants you a period of **30 (thirty) calendar days** from the date of receipt of this letter to furnish such representations.
3. Your cooperation in this regard is appreciated.



Achmad Bassier

Director: Environmental Law Enforcement

Date: 30/10/2020

Cc

Mr Jurie Klue (property owner) Email: avondrust@pawireless.co.za



REFERENCE: 14/1/1/E3/2/9/3/L1131/20

ENQUIRIES: D Mouton

BY EMAIL: avondrust@pawireless.co.za

Mr Jurie Klue

PO Box 1

Klaarstroom

6932

For Attention: Mr J Klue

COMPLIANCE NOTICE

Dear Sir

COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998

1. The Department's Pre-Compliance Notice and Pre-Directive dated 30 September and the representation received from your appointed Environmental Assessment Practitioner (EAP), Sharples Environmental

Services, dated 8 December 2020 with the Section 24G application Project Schedule (PS) has reference.

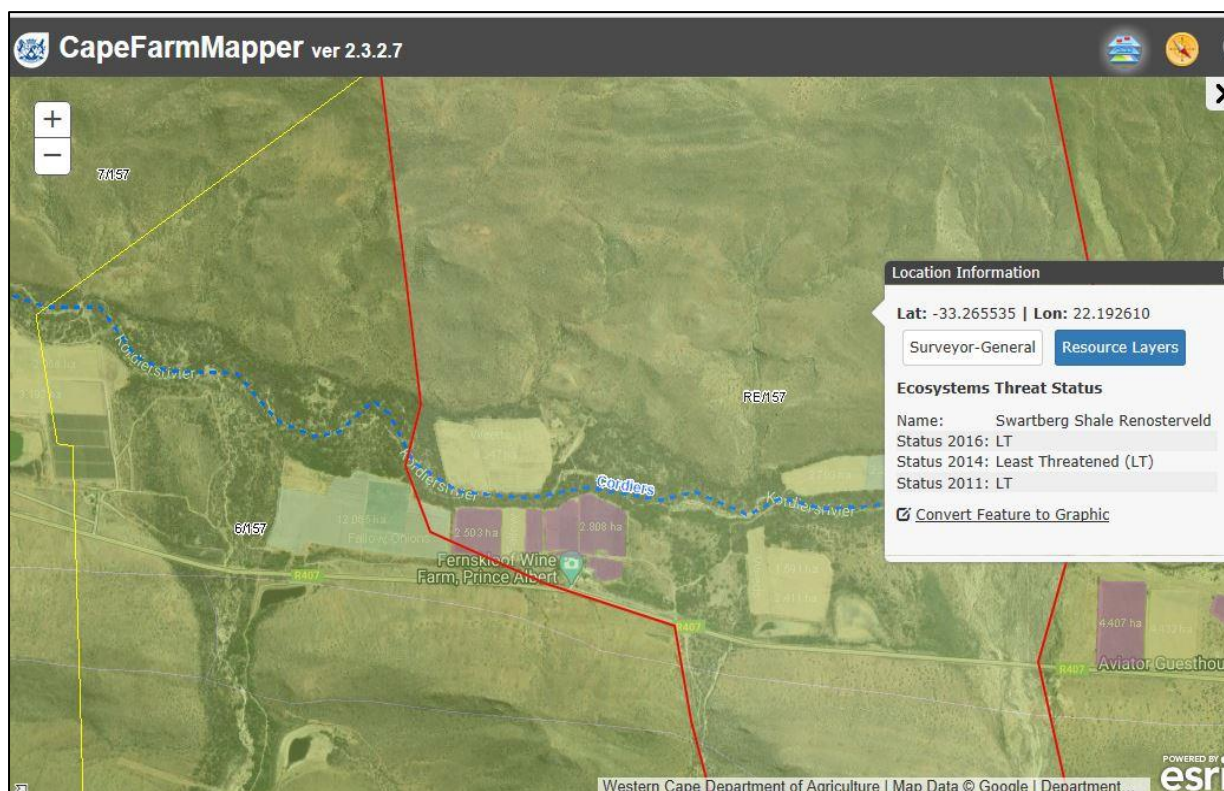
2. I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mr Jurie Klue with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 ("NEMA").
3. This Compliance Notice relates to non-compliance with the provisions of section 24F of the NEMA. No activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 of 2014 may commence without environmental authorisation from the competent authority.

Details of conduct constituting non-compliance

4. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the NEMA a site inspection was conducted at Farm Angeliers Bosch (Fernkloof) RE/157, Prince Albert (the property) by an Environmental Management Inspector from the Department's Directorate: Environmental Law Enforcement on 11 August 2020 which confirmed that you have commenced with the following without environmental authorisation:
 - 4.1 Approximately 10 ha of indigenous vegetation clearing (Swartberg Shale Renosterveld, Least Threatened) on the property;
 - 4.2 Alleged alterations to the riverine system (Cordiers River) where large-scale vegetation clearing conducted by mechanical machinery of riverine thicket and channel widening, altering, shaping, infilling, excavations, etc.
 - 4.3 Removal of all vegetation within a watercourse and its banks up to existing agricultural lands, causing soil erosion to the riverine banks and system downstream; and
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Aerial map 2: View of the Ecosystem Status classified as Least Threatened, Swartberg Shale Renosterveld, existing agricultural fields and view of the Cordiers River on the property.



Aerial map 3: View of the property and indication of the areas that have allegedly unlawfully cleared of indigenous vegetation. Estimated clearing of more than 10 ha within sensitive environment.

5. In terms of section 24F of the NEMA, no activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 of 2014 may commence without environmental authorisation from the competent authority.
6. On considering the evidence before me, there are reasonable grounds to believe that you have commenced the following listed activities without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014:

Activity no. 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;*
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or*
- (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.*

Activity no.27:

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or*
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.*

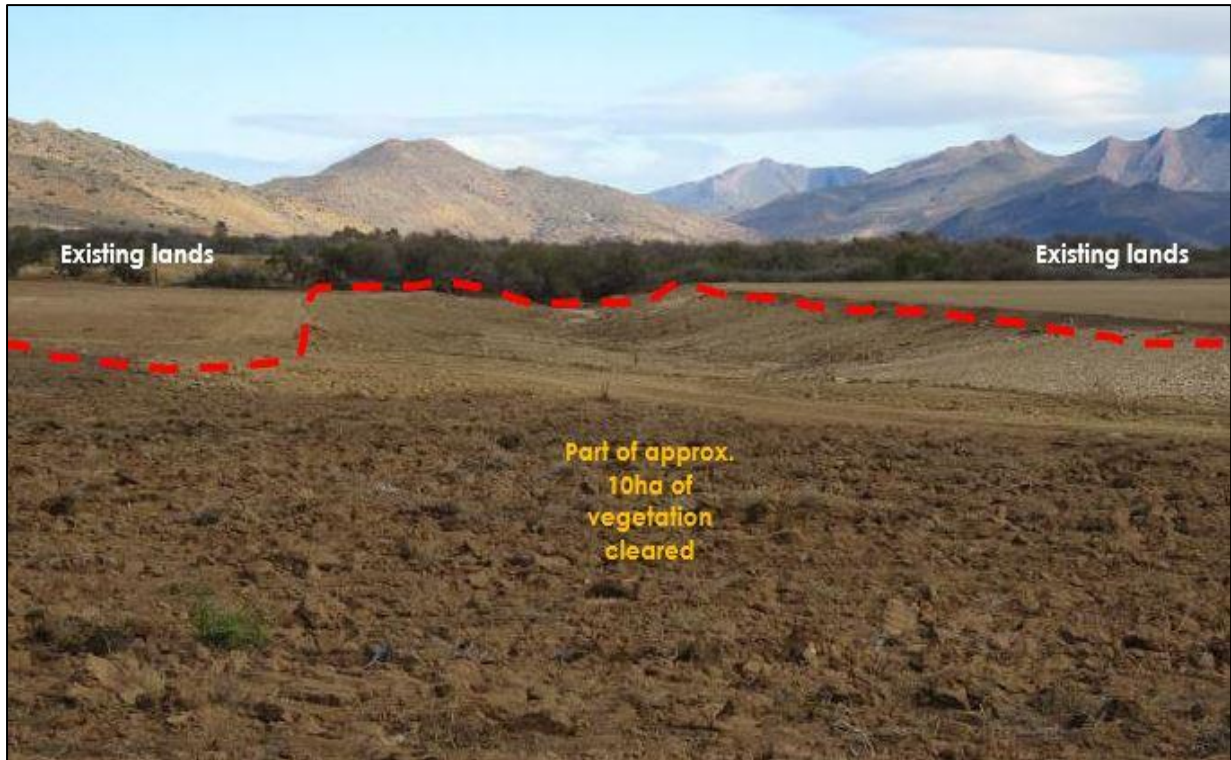


Photo 1: View of the Cordiers River traversing through existing lands and surrounding areas that have allegedly unlawfully been cleared of indigenous vegetation and shaping of the natural river channel that occurred on the property.



Photo 2: View of river thicket that have allegedly unlawfully been removed on the property.



Photo 3: View of the Cordiers River on the property that have allegedly unlawfully been cleared of all vegetation and where material have been shaped, altered, excavated, etc. with machinery.



Photo 4: View of another area on the property where alleged unlawful vegetation clearing occurred with machinery.

7. Considering the fact that you have decided to apply for the rectification of the unlawful commencement of a listed activity in terms of section 24G of the NEMA and have submitted a section 24G PS, you are hereby instructed to:

7.1 Immediately cease the above listed activities;

7.2 Adhere to the section 24G PS and specified timeframes as received on **8 December 2020** (attached hereto); and

7.3 Inform the Department of any delays/changes in respect of the section 24G PS on the following details; Ms Zaidah Toefy (Head of Sub-Directorate: Rectification) email: Zaidah.Toefy@westerncape.gov.za **and** Ms Diana Mouton (Directorate: Environmental Law Enforcement) email: Diana.Moutoni@westerncape.gov.za

8. Approval of the section 24G application by the Department does not remedy the unlawful commencement of the above activities, which remain unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA, until such time that environmental authorization is granted.

9. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.

Varying this Compliance Notice

10. If you would like me to vary this Compliance Notice or extend the period to which it relates, you may make representations to me, in writing, to do so.

Failure to comply with this Compliance Notice (section 31N of the NEMA) and related offences in terms of the NEMA

11. In terms of section 49A(1)(a) of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence 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, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of such an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.
13. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:
 - 13.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or
 - 13.2 take any steps necessary to ensure compliance with the provisions of the law, permit or authorisation to which this Compliance Notice relates and recover from you the cost of doing so.

Procedure for lodging an objection to this Compliance Notice (section 31L and 31M of the NEMA)

14. If you wish to lodge an objection to this Compliance Notice, you may do so by making representations, in writing, to the Provincial Minister of

Environmental Affairs and Development Planning ("the Minister") within 30 days of receipt of this Compliance Notice.

15. You may also make representations, in writing, to the Minister to suspend the operation of this Compliance Notice pending finalisation of the objection.

16. The objection must be in writing and forwarded to the Appeal Administrator, Mr Marius Venter at the contact details below and must be accompanied by a statement detailing the grounds of the objection 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 Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By email: DEADP.Appeals@westerncape.gov.za

17. Irrespective of any representations you may make to me or to the Minister, you must comply with this Compliance Notice within the time period stated in the Compliance Notice, unless the Minister agrees to suspend the operation of this Compliance Notice.



Achmad Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 28/01/2021

Cc:

Ms Zaidah Toefy (Directorate: Rectification)

Email: Zaidah.Toefy@westerncape.gov.za

Mr John Sharples (Sharples Environmental Services)

Email: john@sescs.net