



**REFERENCE:** 14/1/1/E3/8/5/3/L1401/24

**ENQUIRIES:** D Mouton

CJ Engelbrecht Familie Trust

**BY EMAIL:** [sanmare\\_engelbrecht@live.co.za](mailto:sanmare_engelbrecht@live.co.za)

Farm No. 91

/ [sanmare@farmsync.co.za](mailto:sanmare@farmsync.co.za)

Riversdale

Attention: Mrs Sanmaré Engelbrecht

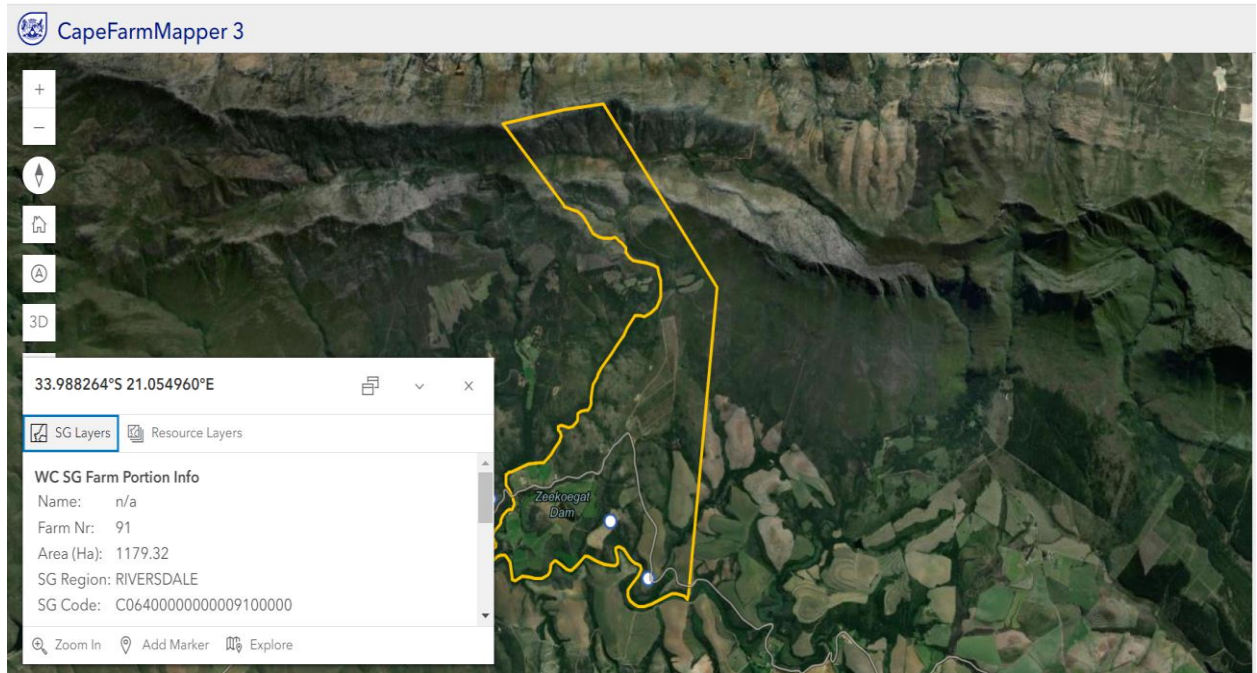
## PRE-COMPLIANCE NOTICE

Dear Sir

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

1. During a joint intergovernmental operation into allegations of the commencement of listed activities in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA") a joint site inspection was conducted at Farm No. 91 ("the property"), by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement, a representative of Department of Agriculture and representatives of Hessequa Municipality and CapeNature on 17 September 2024, and it was confirmed that you have commenced with the alleged unlawful clearing of indigenous vegetation of more than 1 hectare with the expansion of agricultural lands (at

GPS: 33°58'53.90"S 21°2'53.64"E (Site 1) & 33°59'22.61"S 21°3'11.65"E (Site 2))  
without the requisite environmental authorisation from the Department.

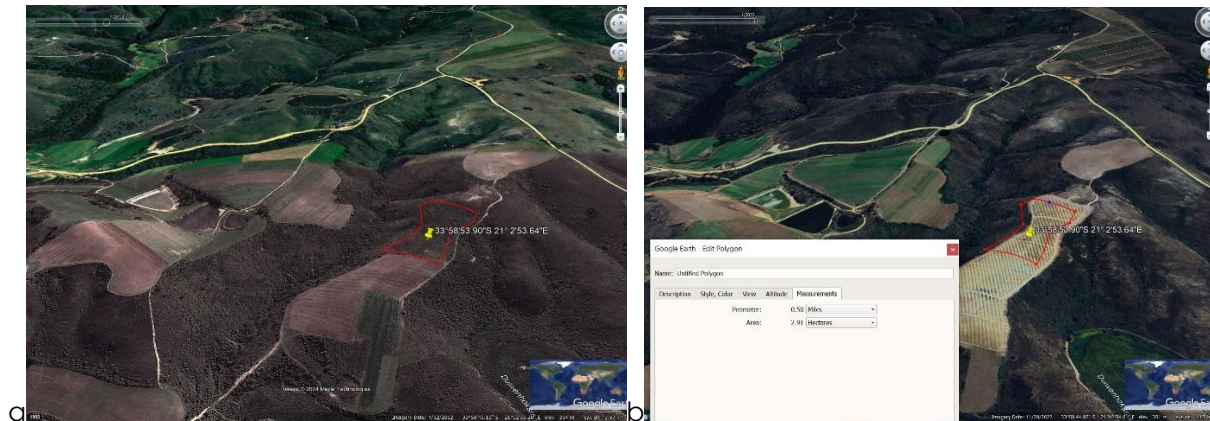


Aerial map 1: View of the property and of the alleged unlawful vegetation clearing expansion that occurred on the property.



Aerial map 2: CapeFarmMapper indication of Endangered Ecosystem of Garden Route Shale Fynbos that have been impacted on the areas (as indicated) with the expansion of agricultural lands on the property.





Aerial map 3: (a) Google Earth image dated 2012 where no expansion of the agricultural land can be noted (Site 1) and (b) Google Earth image dated 2022 where expansion of agricultural land and clearing of an Endangered Ecosystem can be noted of approximately 2.91 ha on the property (Site 1).



Aerial map 4: (a) Google Earth image dated 2016 where no expansion of the agricultural land can be noted (Site 2) and (b) Google Earth image dated 2024 where expansion and clearing of an Endangered Ecosystem can be noted of approximately 4.8 ha on the property (Site 2).

2. In terms of section 24F of the NEMA, no activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 and 3 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 activity without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014:

Activity No. 27:

***The clearance of an area of 1 hectare 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.

EIA Regulations Listing Notice 3 of 2014:

Activity No. 12:

***The clearance of an area of 300 square metres or more of indigenous vegetation*** except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

***i. Western Cape***

- i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;***
- ii. Within critical biodiversity areas identified in bioregional plans;*
- iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever*

*distance is the greater, excluding where such removal will occur behind the development setback line on even in urban areas;*

- iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or*
- v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.*



Photo 1: View of Site 1 where the alleged unlawful clearance of Endangered Ecosystem occurred with the expansion of agricultural lands of approximately 2.91 ha on the property.





Photo 2: View of Site 2 where the alleged unlawful clearance of Endangered Ecosystem occurred with the expansion of agricultural lands of approximately 4.8 ha on the property.

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 with the continuation of the 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

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 **7 (seven) 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 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;
  - 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.



**Johan Oelofse**

**Acting Director: Environmental Law Enforcement**

**Grade 1 Environmental Management Inspector**

**Date: 2025/01/15**

CC

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| 1.) | Shagon Carelse (Hessequa Municipality) | Email: <a href="mailto:shagon@hessequa.gov.za">shagon@hessequa.gov.za</a>                           |
| 2.) | Michael Hanson (CapeNature)            | Email: <a href="mailto:mhanson@capenature.co.za">mhanson@capenature.co.za</a>                       |
| 3.) | Dawie de Villiers (DoA)                | Email: <a href="mailto:Dawie.DeVilliers@westerncape.gov.za">Dawie.DeVilliers@westerncape.gov.za</a> |