



Comments and Response Report

Rectification of Two Unlawful dams on Portion 42 and Portion 34 of Farm 46 Buffelsrivier, George, Western Cape

APPROACH

The public participation process for the Project was undertaken with due reference to Section 39 of the EIA Regulations, 2014 (as amended). Specifically, this comprised the following activities:

- A 30-day Pre-application public participation process was undertaken on 06/03/2023 and ended 06/04/2023.
- A notification was published in the local newspaper, the Oudtshoorn Courant, and two site signs were placed at the entrances to the properties (Annexure 1).
- Stakeholders and Interested and Affected Parties were notified via email (Annexure 2). Emails sent to private individuals have been excluded from annexure 2 due to the POPI Act.
- A stakeholder and Interested and Affected Parties (I&AP) database was prepared for the project (Annexure 3).
- The preparation of an Issues Trail, listing the comments received throughout the public participation process to date (Annexure 4).
- A letter was sent to DEA&DP Environmental Law Enforcement on 18/07/2022 in response to the pre-directives issued, and the appointment of the EAP (Annexure 5).
- Evidence of comments received have been included in Annexure 6.
- Evidence of notifications sent to I&APs have been included in Annexure 7. Emails sent to private individuals have been excluded from annexure 6 due to the POPI Act.

Annexure 1: Newspaper advertisement

Oudtshoorn Courant 9

DS N1-ongeluk

SONIA WAHL

'n Noodlottige motorongeluk, wat in die oggendure van Vrydag 24 Februarie, op die N1 tussen Beaufort-Wes en Lees Gamka plaasgevind het, het die lewens van vyf geëis.

Volgens Rebecca Campbell, woordvoerder van die nuttaangestelde minister van mobiliteit, Ricardo Mackenzie, het die motor op die grondpad langs 'n treinspoor in 'n trek se wa vaagry. Die trek was glo beeng om uit 'n rusplek weg te trek toe die botting plaasgevind het.

Volgens verkeersbeamptes wat op die toeval was, was daar ses insittendes in die voertuig gewes. Vyf van die insittendes, wat twee kinders van 10 en 11 jaar oud insluit, is op die toeval dood verklaar.

Mackenzie het gesê dat hy hartseer is oor die verskriklike ongeluk. "Ek doen 'n beroep op almal wat ons padnetwerk gebruik om 'n rol in padveiligheid vir alle padgebruikers te speel. Motoriste moet te alle tye waaksam wees, by die spoedgrens hou en elke 200 km of 2 uur 'n blaaskans neem," het hy gesê.



Die voertuig wat onder die trek se wa ingery het en die lewens van vyf persone geëis het. Foto: EWN

FOR MORE INFORMATION, CONTACT OCSM@S@LIBERTY@CS.CO.ZA

CAREER OPPORTUNITIES

Garden Route District Municipality in the Western Cape, is fully committed to Employment Equity. Applications are invited for the following vacancies in the Community Services Department and the Planning and Economic Development Department.

OFFICE ASSISTANT (REVERSIBLE) (74)
Salary: R 115 334, 99 – R 145 489, 85 per annum
Notice no. 09/2023

CHIEF MUNICIPAL HEALTH XIS (KANNALAND) (T14)
Salary: R 454 092,36 – R 589 431,96 per annum
Notice no. 09/2023

CLERK/CASHER (DE HOEK) (T7)
Salary: R 180 079,32 – R 239 752,32 per annum
Notice no. 14/2023

The detailed advertisement will be available on the Garden Route District Municipality's website at www.gardenroute.gov.za or (<http://http://www.gardenroute.gov.za/vacancies>)
Enquiries: Ms Amanda Booysse, Tel. 044 - 803 1389/1385/1413
Closing date: Friday, 17 March 2023 before 13:30

Note:
Candidates must be willing to be subjected to a criminal record check.
Candidates with disabilities are encouraged to apply.

ECO-ROUTE ENVIRONMENTAL CONSULTANCY

NEMA Section 24G EIA Process
Notification of a Public Participation Process for:
Rectification of Two Unlawful dams on Portion 42 and Portion 34 of Farm 46 Buffelsrivier, George, Western Cape

Notice is hereby provided in terms of the National Environmental Management Act (NEMA) (Act 107 of 1998) as amended, and the Environmental Impact Assessment Regulations 2014 as amended, of a 30-day Public Participation Process to be undertaken from 06/03/2023 to 06/04/2023. The applicant has commenced with listed activities in terms of NEMA (Act 107 of 1998) EIA Regulations 2014 as amended without the necessary environmental authorisation and is now applying for ex post facto approval to the competent authority, the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP).

Activity: Unlawful commencement of the enlargement of a dam on portion 42 of Farm 46 Buffelsrivier and the construction of a new dam on portion 34 of Farm 46 Buffelsrivier, George Municipality, Western Cape.
Commencement Date: 10/14/2017

Activities unlawfully commenced with on or after 08 December 2014. EIA regulations promulgated in terms of NEMA, Act 107 of 1998 as amended:

Government Notice No. R327: (Listing Notice 1 of 2014 as amended)	Activity 12 (j)(a) Activity 13 Activity 19 Activity 27 Activity 48(i)(a) Activity 66
Government Notice No. R325: (Listing Notice 2 of 2014 as amended)	Activity 16
Government Notice No. R324: (Listing Notice 3 of 2014 as amended)	Activity 12(i)(i) Activity 14 (i)(a) Western Cape (i)(d)(f)(g)

Notice is hereby given that a Water Use License Application (WULA) in terms of the National Water Act (NWA), 1998 (Act No. 36 of 1998), as amended and the Regulations regarding Procedural Requirements for the Water Use License Applications and Appeals, 2017, will be lodged with the Department of Water and Sanitation (DWS). A 60-day review and commenting period is applicable for the WULA, from 06/03/2023 to 12/05/2023. The following water uses are triggered:

Section 21 (a)	Storing of water.
Section 21 (c)	Impeding of water.
Section 21 (f)	Altering and changing characteristics of water resources.

The pre-application section 24G EIA Report can be accessed via www.ecoroute.co.za on the above-mentioned dates or obtained by contacting the Environmental Assessment Practitioner (details below). Please provide written comments along with your name, contact details and an indication of any direct business, financial, personal, or other interest which you may have in the development.

Environmental Assessment Practitioner: Janet Ebersohn EAPASA Registration No: 2015/1286

PO Box 1252
Sedgefield
6573

Cell: 082 55 77 122
Email: janet@ecoroute.co.za

Information can also be accessed via our website: www.ecoroute.co.za

Figure 1: Advert placed in the Oudtshoorn Courant on 06 March 2022.



Figure 2: Two site signs were erected at the entrance to the properties.

Annexure 2: Notification to Stakeholders and I&AP's of the Pre-Application BAR

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Commencement Date: 2014/2017

Activities unlawfully commenced with on or after 08 December 2014: EIA regulations promulgated in terms of NEMA, Act 107 of 1998 as amended:

Government Notice No. R327: (Listing Notice 1 of 2014 as amended)	Activity 12 (i)(a) Activity 13 Activity 19 Activity 27 Activity 48(ii)(a) Activity 66
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Section 21 (b)	Storing of water.
Section 21 (c)	impeding of water.
Section 21 (i)	Altering and changing characteristics of water resource.

The pre-application section 24G EIA Report can be accessed via www.ecoroute.co.za on the above-mentioned dates or obtained by contacting the Environmental Assessment Practitioner (details below). Please provide written comments along with your name, contact details and an indication of any direct business, financial, personal, or other interest which you may have in the development.

Environmental Assessment Practitioner: Janet Ebersohn EAPASA Registration No: 2019/1286

PO Box 1252
Sedgefield
6573

Cell: 082 55 77 122
Email: janet@ecoroute.co.za

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Eco Route

ENVIRONMENTAL CONSULTANCY

REGISTRATION NO. 1998/031976/23

DR. COLLEEN EBERSOHN

PhD Univ. Pretoria

Cell: 072 222 6013

e-mail: ebersohn@cyberperk.co.za

MS. JANET EBERSOHN

Bsc. Hons. Environmental Management

Cell: 082 557 7122

e-mail: janet@ecoroute.co.za

Annexure 3: Interested and Affected Parties Database

STATE DEPARTMENTS

Name	Contact Person	Contact Details	Email
Dept of Environmental Affairs & Development Planning (DEA & DP)	Danie Swanepoel	Private Bag x6509, George, 6530 044 805 8602 (T) 044 805 8650 (F)	Danie.Swanepoel@westerncape.gov.za
Department of Health	Nathan Jacobs	Private Bag x6592, George, 6530 044-803 2727 (T) 044-873 5929 (F)	Nathan.Jacobs@westerncape.gov.za
Heritage Western Cape	Noluvo Toto Stephanie Barnardt	Private Bag x9067, Cape Town, 8000 021-483 9729 (T) 021-483 9845 (F)	Noluvo.Toto@westerncape.gov.za Stephanie.barnardt@westerncape.gov.za
Provincial Roads Dept	Azni November Dirk Prinsloo	Private Bag x617, Oudtshoorn, 6620 044 272 6071 (T) 044 272 7243 (F)	Azni.November@westerncape.gov.za Dirk.Prinsloo@westerncape.gov.za

Department of Water & Sanitation	John Roberts	Private Bag x16, Sanlamhof, 7532 021 941 6179 (T) 021 941 6082 (F)	RobertsJ@dwa.gov.za
Dept of Agriculture Land Use Management	Cor van der Walt	Private Bag x1, Elsenburg, 7601 021 808 5099 (T) 021 808 5092 (F)	corvdw@elsenburg.com
Coastal Management Unit, DEA&DP	Joy Ruiters	Private Bag x9086, Cape Town, 8000 021 483 4737 (T) 021 483 8326 (F)	Joy.ruiters@westerncape.gov.za
DAFF: Forestry Management	Melanie Koen	Private Bag x12, Knysna, 6570 044 302 6902 (T) 044 382 5461 (F)	MKoen@dffe.gov.za

ORGANS OF STATE

Name	Contact Person	Contact Details	Email
Breede-Gouritz Catchment Management Agency	Andiswa Sam R Mphahlele Mkhanyiseni Zimu Junias Makgakga	PO Box 1205, George, 6530 023 346 8000 (T) 023 347 2012 (F)	asam@bgcma.co.za rmphahlele@bgcma.co.za mzimu@bgcma.co.za jmakgakga@bgcma.co.za
Cape Nature Land Use Advice	Colin Fordham	Private Bag x6546, George, 6530 044 802 5328 (T) 044 802 5313 (F)	msimons@capenature.co.za

SANRAL	Nicole Abrahams	Private Bag x19, Bellville, 7530 021 957 4602 (T)	AbrahamsN@nra.co.za
Southern Cape Fire Protection Agency	Dirk Smit	Private Bag x12, Knysna, 6570 044 302 6912 (T) 086 616 1682 (F)	managerfpa@gmail.com
SANPARKS	Maretha Alant	PO Box 3542, Knysna, 6570 044 302 5600 (T) 044 382 4539 (F)	Maretha.alant@sanparks.org
South African Civil Aviation Authority	Lizell Stroh	011 545 1232 (T)	Strohl@caa.co.za

MUNICIPALITIES

Name	Contact Person	Contact Details	Email
George Municipality	Town Planning Section Clinton Petersen	P.O. Box 19, George, 6530 044-8019477 (T) 08605299923 (F)	cpetersen@george.gov.za
George Municipality	Environmental Control Officer Priscilla Burgoyne	P.O. Box 19, George, 6530 (044) 801 9156 (T)	pburgoyne@george.gov.za
Garden Route District Municipality	Mr. Lusanda Menze	P.O. Box 12, George, 6530 044-8031300 (T) 0865556303 (F)	info@gardenroute.gov.za
Garden Route District Municipality	Dr. Nina Viljoen	P.O. Box 12, George, 6530 044-8031300 (T) 0865556303 (F)	nina@gardenroute.gov.za

PUBLIC

Annexure 4: Issues and Response Register

COMMENTS	RESPONSE
COMMENTS RECEIVED IN RESPONSE TO NEMA SECTION 24G PRE-APPLICATION DATED 11 JULY 2022	
STATE DEPARTMENTS	
Breede-Olifants Catchment Management Agency (BOCMA) – 03/04/2023	
<p>NEMA SECTION 24G COMMENTS: RECTIFICATION OF TWO UNLAWFUL DAMS ON PORTION 42 AND PORTION 34 OF FARM 46 BUFFELS RIVIER, GEORGE, WESTERN CAPE.</p> <p>The Breede-Gouritz Catchment Management Agency (BGCMA) has received the submission of the above-mentioned report on 06 March 2023 and the comments are as follows:</p> <ol style="list-style-type: none"> 1. The BGCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for identifying unlawful water uses to water users and to ascertain compliance with the National Water Act (NWA), (Act 36 of 1998). 2. Please note that BGCMA has acknowledged the remarks made in specialist report titled, Aquatic Specialist Assessment for a Section 24G and Water Use License Application for an Enlarged dam on farm Buffels Rivier 42/46 and 34/46, George, which rated the construction phase of dam enlargement including the dam excavation and vegetation removal as moderate negative impacts and concluded that the network of affected watercourse was already impacted through impoundment of two dams which resulted in a decrease of present ecological state of the system by one level due to loss of riparian and aquatic habitat. 3. During a joint investigation conducted by the officials of the BGCMA, Department of Water and Sanitation (DWS) and Department of Environmental Affairs and Development Planning (DEA&DP) on 09 November 2021 at farm Buffels Rivier 46/34&42 George, it was confirmed that Farm Buffels Rivier have contravened activities defined as water uses in terms of Section 21(b)- storing water, section 21(c)-impeding or diverting the flow of water in a watercourse, and section 21(i)-altering the bed, banks, course, or characteristics of watercourse 	<p>The comments from BGCMA are noted and the enforcement process has been accepted. The Applicant is in the process of rectifying transgressions and has appointed HDL Consulting to carry out the process.</p> <p>In reference to the Government Notice GN 1075 dated 25 May 1984 that constitutes the control and management of water uses in the Olifants Rivier (Oudtshoorn) GWCA, it allows for the storage of 50 000m³ on each property. Both these dams fall within this allowance however it should still go through a licensing process.</p> <p>The licensing process WU26542 & WU26462 has been initiated in terms of NWA,1998 and the outcome is awaiting.</p>

of the NWA without a water use authorisation. A notice of intention to issue a directive in terms of section 53(1) of the NWA dated 15 December 2021 was issued. This office acknowledges that a representation letter dated 11 May 2022 was received and was responded to with a response letter dated 30 June 2022. On 28 September 2022 BGCMA officials conducted a follow-up site inspection to monitor compliance with the issued notice. Therefore, it was observed that both dams at portions 34&42 of farm Buffels Rivier 46 were operated to their full capacity and there was no form of authorisation that was provided to the BGCMA officials during the site inspection.

4. Following sequence of events unpacked above on paragraph 3, the BGCMA will issue a directive in terms of section 53(1) of the NWA. We are hereby bringing it to your attention that the owner of farm Buffels Rivier 46/34&42, George failed to comply with the conditions of intention to issue a directive dated 15 December 2021. Furthermore, failure to comply with directive constitutes an offence in terms of section 151 (1) (d) of the NWA and this will leave BGCMA with no option but to continue with criminal enforcement on this case.
5. The BGCMA cannot stop the enforcement process instituted against the unlawful water use activities taking place at farm Buffels Rivier 46/34&42, George because a water use licence application process has been initiated. The water use licence application process does not serve as a remedy to rectify unlawful water use activities. Any contravention of a provision of chapter 4 is rectified through the provisions of section 53 of the NWA. Having initiated with the Water use licence application process does not exempt the water user from complying with the prescripts of the National Water Act, (Act no 36 of 1998) of which you are subject and obliged to comply.
6. Your attention is drawn to Section 22 (1) of the National Water Act, which states: 22. (1) A person may only use water (a) without a licence if that water use is permissible under Schedule 1; (i) if that water use is permissible as a continuation of an existing lawful use; or (ii) if that water use is permissible in terms of a general authorisation issued under section 39; (b) if the water use is authorised by a licence under this Act; or (c) if the responsible authority has dispensed with a licence requirement under subsection (3)

<p>7. The BGCMA will continue with the enforcement process on this matter and see through that the instructions in the directive are complied with, however we do not stand in a position to dispute this application since this is a voluntary process and there is a competent authority that will decide on this case.</p> <p>8. It is recommended that the BGCMA stands on this matter in terms of enforcement and must be considered during the assessment of this application.</p> <p>9. The BGCMA reserves the right to revise initial comments and request further information based on any additional information received.</p>	
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CapeNature (Megan Simons) – 17/04/2023

<p>THE 24G RECTIFICATION OF UNLAWFUL COMMENCEMENT OF THE ENLARGEMENT OF A DAM ON PORTION 42 OF FARM 46 BUFFELSRIVIER AND THE CONSTRUCTION OF A NEW DAM ON PORTION 34 OF FARM 46 BUFFELSRIVIER, GEORGE LOCAL MUNICIPALITY, WESTERN CAPE.</p> <p>CapeNature would like to thank you for the opportunity to review the above report. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.</p> <p>According to the Western Cape Biodiversity Spatial Plan (Pool-Stanvliet et.al. 2017)¹ the new dam and enlarged dam were constructed within Critical Biodiversity Areas (CBA 1: Terrestrial, Aquatic, River, Wetland). The freshwater features include the Kammanassie River that flows through the site and non-perennial drainage lines. The Kammanassie river is mapped as a National Freshwater Ecosystem Priority Areas (NFEPA) and is not protected (NWM5).</p> <p>According to Vlok and de Villiers (2007) fine scale vegetation map describes the area as Olifants River & Floodplain and Leeublad Sandolien-Renosterveld. The National Biodiversity Assessment (Skowno et al. 2018)⁴ mapped the vegetation Eastern Little Karoo (enlarged dam) which is Endangered (NEM:BA, 2022)⁵ and Uniondale Shale renosterveld (new dam) which is Least Concerned (SANBI 2022).</p> <p>Following a review of the S24 G and Aquatic report, CapeNature wishes to make the following comments:</p>	<p>1. Table 4.7 in the LUA Handbook defines intensive agricultural practice (Irrigated Crop Cultivation and Dryland Crop Cultivation) as follows:</p> <div data-bbox="1093 662 2085 1374" style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">2. Agriculture</p> <p>This category includes all forms of agriculture as described below.</p> <p>2. a) Intensive agriculture, including:</p> <ul style="list-style-type: none"> • All areas of High Potential and Unique Agricultural Land, together with areas of lower agricultural potential where particular agricultural practices may themselves contribute to the character of the environment, the agricultural working landscape or the local economy. • Forestry or Timber Plantations (timber production) Includes: all timber plantations, mainly Pinus, Eucalyptus and Acacia plant species; Assumes the following conditions/controls: monoculture of alien timber species with heavy impact on hydrology and soil erosion and introduction and spread of a variety of the most aggressive alien invasive plants. • Irrigated Crop Cultivation Includes: all irrigated crops (vegetables) and irrigated tree crops (orchards and vineyards); Assumes the following conditions/controls: intensive production activity with high nutrient and agro-chemical inputs and often two crops per year (but even just ploughing, with no chemicals etc., results in irreversible loss of natural habitat). • Dryland Crop Cultivation Includes: all tillage cultivation of non-irrigated crops, mostly single-season annuals, but including perennial and orchard-type tree crops if cultivated with an indigenous grass layer; Assumes the following conditions/controls: crop production methods that conserve water and protect against soil erosion, limited and responsible use of fertilisers, pesticides and other agrochemicals and genetically modified organisms. • Space extensive agricultural enterprises (e.g. intensive feed-lots, poultry battery houses) Includes: all intensive animal production systems, that are dependent primarily on imported foodstuffs and confinement; includes dairy farming and all areas in production support for dairy, including pastures, fodder and grain crops, much of which is usually irrigated; Assumes the following conditions/controls: To be located in close proximity to regional routes (including rail) to facilitate product and requisite movement and supply. </div>
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1. The actives were developed mainly within natural CBA. Critical Biodiversity Areas are defined as: "Areas in a natural condition that are required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure." CBA objectives are: "Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land uses are appropriate." As stipulated in the Land Use Advice (LUA) Handbook (Pool-Stanvliet et al. 2017), it should be noted that it is the landowner's responsibility to ensure their property is suitably maintained at a level consistent with LUA guidelines. Please refer to Table 4.7 in the LUA Handbook in terms of what is defined as intensive agricultural practice.
2. The new dam was developed within an EN vegetation ecosystem and Terrestrial CBA. Thus, has a botanical/ terrestrial assessment been conducted to determine whether the surrounding area, including the new dam footprint, had/has any important habitat/ SCC that could have been impacted by the development?
3. CapeNature wants to stipulate that only local indigenous plant species must be used for rehabilitation. Arid habitats could take years to rehabilitate, even from temporary disturbances therefore possible erosion points need to be monitored and rehabilitated when needed. CapeNature does not consider any habitat as rehabilitated until a comparable level of ecosystem functionality has been proven. Suitable monitoring of rehabilitation success is also recommended. A monitoring programme should be put in place to determine if the protection measures are achieving their objectives and to determine if the protection measures are causing erosion. Post construction monitoring of the impacts should be observed for more than one year.
4. The landowner should have considered or investigated other methods to protect the existing water resources, for example reducing evaporation through covering dams or using numerous different irrigation techniques to reduce water loss, considering the impact this construction had on the loss of natural vegetation and CBA.
5. Habitat transformation, degradation and fragmentation occur primarily through changes in land use which either result in the outright loss of natural ecosystems, or pressures which impact negatively on habitat condition. Irrespective whether the vegetation was infested

The properties are in a farming area with a mix of irrigated and dryland crop cultivation. These areas have been farmed for years and can be considered as an area of high agriculture potential given the proximity to the Buffels Rivier. The farming practices contribute to local economy and forms part of the agricultural working landscape. The farm owners have installed effective irrigation systems and have endeavoured to conserve water where financially possible.

2. The new dam was developed in a vegetation type of least concern, Uniondale Shale Renosterveld (FRs 16), and an Ecosystem Threat Status of Vulnerable. The vegetation cover is dominated by renosterbos. The vegetation type disturbed is not classified as Endangered or Critically Endangered ecosystem listed in terms of section 52 of the NEMBA.

The amount of vegetation disturbed was less than 1 hectare, and although more than 300m² of vegetation was disturbed, it should be taken into consideration that the area where the dam was developed was on an existing road and storage area for farm equipment, see figure below.



with aliens or LC, the loss of natural CBA remains unacceptable. Thus, the remaining natural/ untransformed areas must not be disturbed by any further activities.

6. CapeNature would like to remind the landowner that in terms of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983) ("CARA"), landowners must prevent the spread of alien invasive plants on the property. The level of alien infestation is therefore not seen as reducing the sensitivity of a site, nor is the subsequent removal of alien vegetation from a property regarded as a mitigation measure due to this is being a legal requirement. Infestation by alien plants does not necessarily mean that an area is not important for biodiversity as some vegetation types are particularly prone to invasive alien infestation but may recover when cleared of alien vegetation.
7. In addition to CARA, in terms of the Alien and Invasive Species Regulations, NEM: BA, 2014, specific alien plant species are either prohibited or listed as requiring a permit; aside from restricted activities concerning, inter alia, their spread, and should be removed.
8. All alien vegetation present at the property should be removed as they are a propagule source for further spread of invasive alien plants. The existing alien infestation is a risk to surrounding properties and impacting on water availability. CapeNature recommend that an alien clearing programme be compiled to eradicate and monitor the spread of invasive alien plants.

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

The Screening Tool Report identified Terrestrial Biodiversity as HIGH due to CBA1 and ESA2. The road has been excluded from the CBA1, see below.



The Screening Tool Report identified Plant Species sensitivity as MEDIUM, with several plant species identified as possibly occurring on site. Due to the small size of the area disturbed, the impact of the existing road and farming activities, and the vegetation type being of least concern, this sensitivity should be LOW and should not warrant an assessment. The figure below shows the vegetation surrounding the site of the dam.



It is the EAPs professional opinion (Candidate SACNASP Registered Scientist in Environmental Science) (see Appendix M), that the impacts on terrestrial biodiversity and plant species should be considered LOW taking the above factors into consideration, and that further specialist assessments in this regard are not required.

3. A Rehabilitation and Monitoring plan is addressed in Section 12 of the Draft EMPr.
4. **Response from Applicant:** We have moved from flood irrigation to drip and micro irrigation a few years ago as this is the most effective way to irrigate when trying to save water. We also mulch our grounds to prevent evaporation.

We do everything we can to reduce water loss, that is why the dams are of such great importance to us, to store our allocated water for the dry summer months as we live in a winter rainfall area as well as a water scarce area.

Regarding covering the dams I am sure I don't have to explain to anyone in what kind of economic environment our country is and how badly it is affecting agriculture. And this is not just from yesterday, it's been a few years of one wave after the other. As everyone knows it has been many rocky years with drought, ports either striking or not functioning properly, Covid, an unstable Rand and now just adding Eskom on top of everything. It is just not financially possible for us, perhaps the department of agriculture could try and assist farmers by

	<p>making these materials more cost effective so that it is actually an option. There are no dams in the Western Cape that are covered.</p> <p>I don't see farmers as selfish. Farmers or at least the ones I know, love the earth, love the ground they walk on, know how important it is to feed the ground and look after the earth with understanding the how dependent we are from the weather, sun and water. We do everything we can to preserve it, including the natural vegetation.</p> <ol style="list-style-type: none"> 5. No further activities will be undertaken in CBA without prior approval. 6. An Invasive Alien Plant Control Plan will be included in the EMPr. 7. An Invasive Alien Plant Control Plan will be included in the EMPr. 8. An Invasive Alien Plant Control Plan will be included in the EMPr.
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DEA&DP: Rectification (Ziyaad Allie) – 08/09/2023

<p>INFORMATION REQUIREMENTS OF THE POTENTIAL SECTION 24G APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF LISTED ACTIVITIES: UNLAWFUL CONSTRUCTION AND EXPANSION OF AN INSTREAM DAM AND CLEARING OF INDIGENOUS VEGETATION ON FARM BUFFELS RIVIER 42/46 AND 34/46, GEORGE</p> <ol style="list-style-type: none"> 1. The abovementioned submission received by this Department, has reference. 2. Please be advised that the <i>Section 24G Fine Regulations (GN. No. 698 of 20 July 2017)</i> (hereafter referred to as "the fine regulations") were published on 20 July 2017. The fine regulations require that public participation be conducted prior to the submission of an application and that an application must include the representations as set out in Annexure A of the fine regulations. 3. Please be advised that submission of a section 24G application shall in no way derogate from an investigation of any transgression in terms of the <i>National Environmental Management Act, 1998 (Act 107 OF 1998)</i> ("NEMA") nor from the National Prosecuting Authority's legal authority to institute criminal proceedings. 	<p>Point 5: All listed activities in terms of their commencement date are included in Section 1.1. of the Application.</p> <p>Point 7: Explanations are included in Section 1.1. of the Application.</p> <p>Point 8: Section 24(4)(a) of the NEMA has been complied with.</p> <p>Point 9: The Application has been completed by an Environmental Assessment Practitioner and has been informed by an environmental impact assessment and specialist studies.</p> <p>Point 10: The specific guidelines have been considered.</p> <p>Point 11: The Screening Tool reports are attached to the application as Appendix O.</p> <p>Point 12: The Freshwater Specialists, Confluent Environmental, were appointed to compile an Aquatic Impact Assessment, attached as Appendix H.</p> <p>Point 13: A 30-day PPP was undertaken on 06/03/2023 and ended 06/04/2023. A notification was published in the local newspaper, the Oudtshoorn Courant, and two site signs were placed at the entrances to the properties. Evidence of the notification and details of the actions followed for PPP can be found in this Comments and Response Report (Appendix G).</p>
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Listed activities that are being applied for:

4. A section 24G application is only relevant to listed activities that have commenced without the pre-requisite environmental authorisation. Only those activities applied for will be considered for environmental authorisation.

5. The applicant is thus required to ensure that all the applicable listed activities are included in the application to be submitted. In this regard, the timeframe of commencement of the listed activity/ies and the relevant Environmental Impact Assessment legislative period/regime is of particular importance.

Please also ensure that the similarly listed activities in terms of the current *Environmental Impact Assessment Regulations, 2014* (as amended) are applied for should the listed activities not have commenced within this period.

7. The appointed Environmental Assessment Practitioner is required to provide a detailed explanation as to why the unlawfully commenced activity is still similarly listed in terms of the NEMA.

Minimum requirements for every application for environmental authorisation:

8. You are reminded that section 24G is an application for environmental authorisation and thus an applicant must comply with the requirements of the NEMA in relation to the submission of an application for environmental authorisation and any other relevant information (section 24(1A)(e) of the NEMA). Section 24(4)(a) of the NEMA specifies the "procedures for the investigation, assessment and communication of the potential consequences or impacts of the activities on the environment" that every application for environmental authorisation must comply with.

9. Taking the above into consideration, together with the information requirements of Annexure A, Section C, Part 1 of the fine regulations related to the environmental impacts and representations to be

Point 13: A list of Organs of State to be consulted with their contact details can be found in Annexure 3 of this report.

Point 14: All evidence pertaining to the Water Use Licence Applications can be found in Appendix F of the Application.

completed by an Environmental Assessment Practitioner ("EAP"); and to be submitted together with the section 24G application; you are hereby advised that the application be informed by an environmental impact assessment.

10. When conducting such environmental impact assessment, the applicant/EAP must take into account the applicable guidelines developed by the Department, which may be downloaded from the Department's website (see above). In particular, the following are applicable:

10.1. Guideline for Environmental Management Plans (June 2005);

10.2. Guideline on Public Participation

10.3. Guideline on Alternatives

10.4. Guideline on Need and Desirability

10.5. Departmental guideline series for involving specialist assessments, 2005

10.6. Information Document for the Development of a Maintenance Management Plan for a Watercourse, July 2017

11. You are required to submit a Screening Report from the National Web based Environmental Screening Tool. The Screening Tool also provides site specific EIA process and review information, for example, the Screening Tool may identify if an industrial development zone, minimum information requirement, Environmental Management Framework or bio-regional plan applies to a specific area. The Screening Tool identifies related exclusions and/ or specific requirements including specialist studies applicable to the site and/or development, based on the national sector classification and the environmental sensitivity of the site.

12. Having considered the information contained in the consultation form, this Department hereby advises that a freshwater specialist be considered for appointment to assess the impacts of the unlawful activities on the receiving environment. The specialist report must be submitted to support your section 24G application.

Participation Process:

13. Preliminary Advertisement

13.1. Kindly note the requirements of Regulation 8 and Annexure A, Section D of the fine regulations which stipulate that when submitting an application form, the applicant must attach proof that the application has been advertised in at least one local newspaper in circulation in the area in which the activity was commenced, and on the applicant's website, if any.

13.2. Please note further that the advertisement must state that the applicant commenced a listed/ specified/ waste management activity(ies) without the necessary environmental authorisation and/or waste management licence and is now applying for *ex post facto* approval. The advertisement **must** include (a) the date, (b) the location, (c) the applicable legislative provision contravened, (d) and the listed activity(ies) commenced with without the required authorisation.

13.3. Interested and affected parties (I&APs) must be provided with the details of where they can register as an I&AP and submit their comment. Please be advised that at least 20 days must be provided in which to do so. Proof of compliance with Regulation 8 of the fine regulations must be submitted together with your application.

13.4. Should you decide to compile a draft section 24G Application and of your own accord make it available for comment, it is recommended that the draft section 24G Application report be made available simultaneously with the Preliminary Advertisement requirement.

14. Section 24O consultation with organs of state/State departments

14.1. However, kindly note that any public participation undertaken **prior to submission of the section 24G Application** report, does not exempt from compliance with section 24O of the NEMA which obligates the competent authority when considering an application; to consult with every State department that administers a law relating to a matter affecting the environment.

14.2. You are required to submit a list of organs of state to be consulted in terms of section 24O together with the complete and signed application. The list of organs of state must include their contact details with fax/email and the relevant contact person.

14.3. Copies of the section 24G application may be made available for comment to the relevant organs of state upon simultaneous submission of the application to the Department. **Note:** this does not qualify as the Regulation 8 public participation requirement which is required to be conducted prior to submission of an application.

14.4. Upon receipt of the complete and signed application, the Department will issue section 24O letters to the relevant organs of state for comment as per the EAPs specified timeframe for comment.

15. It is noted that your activity/development may require a water use licence. Please provide proof of submission of the application to the relevant authority together with your section 24G application form.

16. Two printed copies as well as an electronic copy of the final Application must be submitted to the Department.

17. You are reminded that it is an offence in terms of section 49A of the NEMA to commence with a listed activity unless the competent authority has granted environmental authorisation for the undertaking of the activity, and it is an offence to fail to comply with a directive issued in terms of NEMA. A person convicted of an offence is liable to a fine not exceeding **R10 million** or **imprisonment for a period not exceeding 10 years**, or to both such fine and imprisonment.

18. Kindly quote the abovementioned reference number in any future correspondence in respect of this consultation form.

DIRECTIVE RECEIVED IN RESPONSE TO UNLAWFUL WATER USE

Breede-Olifants Catchment Management Agency (BOCMA) – 29/05/2023

DIRECTIVE IN TERMS OF SECTION 53(1) OF THE NATIONAL WATER ACT; ACT NO 36 OF 1998 (NWA); FOR ENLARGING AND STORING WATER IN AN INSTREAM DAM, STORING WATER IN AN OFF-STREAM DAM AND DISCARDING ROCKS INTO THE DRAINAGE LINE WITHOUT AUTHORISATION AT FARM BUFFELS RIVIER 46/34&42, GEORGE.

1. The notice of intention to issue a directive dated 15 December 2021 issued by Breede-Olifants Catchment Management Agency (BOCMA) to Farm Buffels Rivier 46/34&42, George followed by your representation dated 11 May 2022 compiled by E. Janse van Rensburg on behalf of JVR Boerdery and a response letter issued by BOCMA dated 30 June 2022 has reference.

2. Having considered all of the above, I have reasonable grounds for believing that you have contravened activities defined as water uses in terms of Section 21(b)- storage of water; Section 21(c)- impeding or diverting the flow of water in a watercourse; and Section 21(i)- altering the bed, banks, course or characteristics of a watercourse of the NWA without a water use authorisation and failed to comply with water use registration regulations published on Gazette No. 20606 of 12 November 1999.

The BOCMA has reached this conclusion as a result of the following:

3. During a joint site investigation conducted by the BOCMA officials in collaboration with the Department of Water and Sanitation (DWS) and the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP) officials on 09 November 2021 and a follow-up site inspection conducted by BOCMA officials on 28 September 2022 at Farm Buffels Rivier 46/34&42, George, it was confirmed that you have contravened activities defined as water uses in terms of Section 21(b), (c)&(i) of the NWA without a water use authorisation for enlarging and storing water in a stream dam, storing water in an off-stream dam and discarded rocks removed from nearby agricultural fields into the drainage line downstream of the enlarged dam as stipulated in paragraph 2 above.

4. During the site investigation there was no authorisation that was presented to BOCMA officials

5. Considering the above, I, Jan Van Staden in my capacity as Chief Executive Officer (Acting) of Breede-Olifants Catchment Management Agency (BOCMA) and duly authorised in terms of powers delegated to me by the Minister of Water and Sanitation, hereby give you, Mr Janse van Rensburg in your capacity as a farm owner a written directive requiring you to:

5.1 Immediately cease storing water in the dam referred in paragraph 3 above and keep the dam empty and all inlet fully closed to ensure that no water may be stored in the dam at portion 34 of Farm Buffels River 46, George and provide proof that the discarded stones has been removed and no water is stored in the dam within **14 (fourteen) working days** upon receipt of this directive.

5.2 Immediately remove the discarded rocks within the drainage line on downstream of the enlarged dam at portion 42 of Farm Buffels River 46, George and provide proof that the discarded rocks have been removed within **14 (fourteen) working days** upon receipt of this directive.

5.3 Immediately cease storing unauthorised volumes of water into enlarged instream dam referred in paragraph 3 above and store only the volume confirmed as Existing Lawful Use (ELU) at portion 42 of Farm Buffels River 46, George.

5.4 Appoint an Engineer who is registered with Engineering Council of South Africa (ECSA) to investigate and prepare a methodology to reduce water to ELU allocation

Response from JVR Boerdery with input from HDL Consulting and Eco Route (23/07/2023):

In terms of directive, you requested the following:

Point 5.1: cease storing of water in off-channel storage dam situated on Portion 34 of Farm Buffels Rivier 46, George and removal of rocks dumped in water courses.

ACTION:

- 1.1 Please find attached WUL to provide authorisation for the storing of water in Kop Dam.
- 1.2 We are not aware of any rocks at the Kop dam that you refer to. But in any case there is currently a Section 24G application in process for the unlawful dams. No further activities may be undertaken with regards to the dams until the process has been finalised or further instruction received from the DEA&DP Rectification Directorate. This includes the removal of rock from Kop Dam.

Point 5.2: Removal of discarded rocks on Portion 42 of farm Buffels River 46, George.

ACTION:

- 1.3 There is currently a Section 24G application in process for the unlawful dams. No further activities may be undertaken with regards to the dams until the process has been finalised or further instruction received from the DEA&DP Rectification Directorate. This includes the removal of rock from Groot Dam or drainage line.
- 1.4 The removal or moving of rock of more than 10 cubic metres from a watercourse may constitute a listed activity in terms of the NEMA Environmental Impact Assessment Regulations 2014. Specifically, Listed Activity 19 of Listing Notice 1.

Point 5.3: Cease storing of water in Groot Dam located on Portion 42 of farm Buffels River 46, George and/or only store water that can be regarded as ELU.

and compile report to BOCMA for approval within **30 (thirty)** working days upon receipt of this directive.

5.5 Appoint a suitably qualified person who is registered with South African Council for Natural Scientific Professions (SACNASP) to compile and submit a Rehabilitation Plan for the affected regulated area for approval by the BOCMA within **30 (thirty) working days**.

5.6 Rehabilitate the impacted area once the rehabilitation plan has been approved by the BOCMA within **60 working days**.

5.7 Submit an action plan within **5 (five) working days** upon receipt of this directive, which must include a detailed time schedule on how you will implement the requirements as directed on 5.1, 5.2, 5.3, 5.4 and 5.5.

6. In relation to the above directive, please take due cognisance of the following:

6.1. Failure to comply with this directive is a criminal offence in terms of Section 151 (1) of the NWA. Section 151(2) of NWA provides that a person who contravenes any provision of Section 151(1) of the NWA is guilty of an offence and liable on first conviction to a fine or to imprisonment for a period not exceeding 5 (five) years or to both such fine and such imprisonment and, in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding ten years or to both a fine and such imprisonment.

6.2. In terms of section 53(2) the BOCMA may carry out any works and take necessary action to rectify the aforesaid contravention and recover all reasonable cost incurred in doing so from you; or it may apply to the relevant court for appropriate relief.

6.3. Should you wish to appeal this directive or any aspects of this directive, kindly be advised that you may appeal to water tribunal in terms of section 148(1) of NWA within 30 working days upon receipt of this directive. Take note that in terms of section 148(2) of NWA an appeal to a directive does not suspend the directive pending such appeal outcome from water tribunal.

Water Tribunal Contact Details

Private Bag X316
Pretoria
0001

7. In terms of Section 53(2) the BOCMA may carry out any works and take necessary actions to rectify the aforesaid contraventions and recover all reasonable cost incurred in doing so from you; or it may apply to the relevant court for appropriate relief.

8. We wish to make it clear that the instructions contained in this letter are made in the interest of responsible water resource management, and with a view to a co-operative resolution of the issue.

THIS LETTER SHALL NOT BE CONSTRUED AS CONFERRING EXEMPTION FROM COMPLIANCE WITH THE FOLLOWING:

9. The provisions and regulations of the National Environmental Management Act, 1998 (Act No. 107 of 1998) regarding control over activities which may have a detrimental effect on the environment.

10. Should you have any further queries, please contact the relevant official whose name appears under enquiries.

ACTION:

1.5 The release of water from the Groot Dam is in process, however as you are aware the good rainfall has resulted in a constant in-flow of water.

Point 5.4: Appoint an Engineer to advise on the methodology that can be used to reduced storage capacity.

ACTION:

1.6 We are in process to determine if the dam can be regarded as a Dam with a Safety Risk and has appointed a surveyor in this regard. As a result of the rain, the survey is not yet completed, and we are therefore unsure if it will be necessary to appoint an Engineer to advise on the reduction of the storage capacity.

1.7 As you are aware- if the dam is a Dam with a Safety Risk, an APP need to be appointed. If the dam does not fall within a category of a dam with a safety risk, we will determine the way forward to reduce the capacity of the Groot Dam.

1.8 In the interim we would like to inform you of the WUL application submitted. Even though the capacity of the Groot Dam was 10 000m³, it must be noted that in terms of Section 59(1) of Water Act 54 of 1956 the catchment areas of the Stompdrift/Kamanassie were proclaimed as the Olifants Rivier (Oudtshoorn) GWCA in terms of GN 428 dated 23 December 1960 and in terms of GN 1075 dated 25 May 1984 restrictions were imposed to ensure effective control of the water use. This proclamation allows for the storage of 50 000m³ on each property that falls within the Stomdrift/Kamanassie GWCA.

Point 5.4: Appoint SACNASP Freshwater Specialist to investigate impacts in terms of regulated areas.

ACTION:

1.9 Please find attached Aquatic Specialist Report prepared by Confluent Environmental, Freshwater Consultants.

Point 5.5: Appoint a SACNASP registered specialist to compile and submit a rehabilitation plan.

ACTION:

1.10 The appointment of a suitably registered specialist to compile a rehabilitation plan cannot be implemented until the ongoing Section 24G application has been finalised and mitigations determined.

Point 5.6. Implement Rehabilitation Plan as approved by BOCMA.

ACTION:

1.11 There is currently a Section 24G application in process for the unlawful dams. No further activities may be undertaken with regards to the dams until the process has been finalised or further instruction received from the DEA&DP Rectification Department. This includes activities to undertake rehabilitation.

Point 5.7: Submit an Action Plan to address the above actions.

ACTION:

No	Action	Proposed date of submission to BOCMA
1	Cease storing of water in Kop Dam	WUL issued dated
2	Removal of rock on Portion 34 of farm Buffels River 46, George	Pending the outcome of the S24G Application process.
3	Reduce storing capacity of Groot Dam	Awaiting outcome and guidance on capacity regarded as ELU
4	Appoint surveyor to determine capacity of Groot Dam to determine if Groot Dam can be regarded as dam with safety risk	Awaiting availability of surveyor and sunny whether conditions. BOCMA will be updated regularly.
5	Appoint a suitably qualified SACNASP registered aquatic/freshwater specialist to assess the impacts of in-stream water use activities.	Completed
6	Approval and implementation of Rehabilitation Plan	Pending the outcome of the S24G Application process.

We hope that above actions will fulfil the actions called for in terms of the directive. All the proposed actions will be implemented as suggested and BOCMA will be updated accordingly.

To perform the best option and to reduce any further impacts on the water resource, it is proposed to allow us an opportunity to study the different options to rectify the alleged transgression. Our willingness and compliance in terms of the authorisation process (both in terms of NEMA and NWA) should be acknowledged. The Section 24G Application has already been lodged with DEA&DP (Rectification Directorate) and provides extensive assessments on the impacts of the dams with specialist input. We have been instructed to cease all activities as per the Pre-Compliance Notice received by DEA&DP (Environmental Law Enforcement Directorate), which also states that proceeding with the listed activity remains illegal unless environmental authorization is granted. A vast amount of money has already been spent in the rectification process to ensure compliance with legislation.



Eco Route

ENVIRONMENTAL CONSULTANCY

REGISTRATION NO. 1998/031976/23

DR. COLLEEN EBERSOHN

PhD Univ. Pretoria

Cell: 072 222 6013

e-mail: ebersohn@cyberperk.co.za

MS. JANET EBERSOHN

Bsc. Hons. Environmental Management

Cell: 082 557 7122

e-mail: janet@ecoroute.co.za

Annexure 5: Correspondence with State Departments

	Ecosense Consulting Environmentalists										
	<p><i>Based in Cape Town and Knysna</i></p> <table border="0"> <tr> <td>58 The Glades</td> <td>21 Fraser Street</td> </tr> <tr> <td>Wedderwill</td> <td>Hunters Home</td> </tr> <tr> <td>Sir Lowry's Pass</td> <td>Knysna</td> </tr> <tr> <td>7133</td> <td>6750</td> </tr> <tr> <td>South Africa</td> <td>South Africa</td> </tr> </table> <p>Cell: 072 432 4646 Tel: 044 384 0849 Email: michelle@ecosense.co.za Web: www.ecosense.co.za Web: www.bluepebble.biz</p>			58 The Glades	21 Fraser Street	Wedderwill	Hunters Home	Sir Lowry's Pass	Knysna	7133	6750
58 The Glades	21 Fraser Street										
Wedderwill	Hunters Home										
Sir Lowry's Pass	Knysna										
7133	6750										
South Africa	South Africa										
	Eco Route ENVIRONMENTAL CONSULTANCY REGISTRATION NO. 1998/031976/23	DR. COLLEEN EBERSOHN PHD Univ. Pretoria Cell: 072 222 6013	MS. JANET EBERSOHN Bsc. Hons. Environmental Management Cell: 082 557 7122								

Ecosense & Bluepebble in association with Eco Route

DEA&DP
Attention: D Mouton
DEA&DP Reference Number: 14/1/1/E3/5/10/3/L1212/22
14/07/2022

Farm Buffelsrivier 42/46 and 34/46, Oudtshoorn

A Pre-Directive was issued on 08/06/2022 in terms of section 31L of the National Environmental Management Act, 1998, regarding the apparent non-authorized construction on Farm Buffelsrivier 42/46 and 34/46 of:

- Two existing in stream dams into a single dam unit.
- A new "balancing" off stream dam.

Elese Janse van Rensburg of JVR BOERDERY has given notice to DEA&DP that they intend to apply for a NEMA S24G rectification application process. Eco Route in affiliation with Ecosense and Blue Pebble, has been appointed as the independent consulting Environmental Assessment Practitioners to undertake this process.

It must be noted that all activities on site have ceased. As per point 11 of the Pre-Directive Notice it has been agreed that Mr. Elrese Janse van Rensburg will continue with a S24G process in order to obtain Environmental Authorisation to proceed with listed activities.

A project schedule will be submitted to DEA&DP once the site investigation has been completed, that will clearly stipulate the time frames in terms of the S24G process and when the S24G application will be submitted to the Sub-Directorate: Rectification.

The Candidate EAP appointed for the S24G process will be Joclyn Marshall her contact details below:
Email: joclyn@ecoroute.co.za
Cell: 072 126 6393

The registered EAP to review the S24G is Janet Ebersohn EAPASA Registration Number: 2019/1286 contact details below:
Email: janet@ecoroute.co.za
Cell: 082 55 77 122

Please may we ask that you send Eco Route the English version of the pre-directives received.

Eco Route CC Members: Dr. C. Ebersohn; J. Ebersohn: CC Reg: 1998/031976/23
Ecosense & Bluepebble CC: Members: M. B. Sasman, M.I. Sasman, K. Myburgh
ECOSENSE CC Reg. 1998/022840/23 ; BLUEPEBBLE CC Reg. 2009/189352/23

Page 1 of 2

I trust the above is in order and should you require any further information please do not hesitate to contact me.

Kind Regards



Janet Ebersohn
Bsc.Hons Environmental Management.
EAPASA: 2019/1286

Eco Route CC Members: Dr. C. Ebersohn; J. Ebersohn: CC Reg; 1998/031976/23
Ecosense & Bluepebble CC: Members: M. B. Sasman, M.I. Sasman, K. Myburgh
ECOSENSE CC Reg. 1998/022840/23 ; BLUEPEBBLE CC Reg. 2009/189352/23 Page 2 of 2

REFERENCE: 14/1/1/E3/5/10/3/L1212/22
ENQUIRIES: D Mouton

BY EMAIL: otterswem@hilbert.co.za

Mr J van Rensburg
Farm Buffels River 42/46 and 34/46
George
6530

Attention: Mr van Rensburg

1. The above matter has reference.
2. The Department's Directorate: Environmental Law Enforcement ("this Directorate") hereby acknowledges that you are in the process to apply for rectification through the Section 24G application process for the above alleged unlawful activities that transpired on the property.
3. Kindly be advised that the investigation conducted by this Directorate has been concluded and the file will be closed.
4. We wish to thank you for your co-operation in this regard.



Achmad Bassier
Director: Environmental Law Enforcement
Grade 1 Environmental Management Inspector
Date: 08/12/2022

CC:

Mr N Kearns (DEA&DP-Criminal Investigations)
Ms N Ndubmini (BGCMA)
Ms J Marshall (Eco Route Environmental)
Ms J Ebersohn (Eco Route Environmental)
Ms Zaidah Toefy (DEA&DP-Rectification Unit)

Email: Nicholas.Kearns@westerncape.gov.za
Email: Nolutando.Ndubmini@westerncape.gov.za
Email: joclyn@ecoroute.co.za
Email: jane1@ecoroute.co.za
Email: Zaidah.Toefy@westerncape.gov.za



Annexure 6: Evidence of Comments Received



BREED-GOURITZ
CATCHMENT MANAGEMENT AGENCY

Corner Mountain Mill & East Lake Roads, Worcester, 6850 | Private Bag X3055 Worcester 6850

Enquiries: K Makgakga

Tel: 023 346 8000

Fax: 023 347 2012

E-mail: jmakgakga@bgcma.co.za

Reference: 4/10/3/J34C/BUFFELS RIVIER 46/42&34, GEORGE

Eco Route

P.O. Box 1252

Sedgefield

6573

Email: janet@ecoroute.co.za

Attention: Janet Ebersohn

NEMA SECTION 24G COMMENTS: RECTIFICATION OF TWO UNLAWFUL DAMS ON PORTION 42 AND PORTION 34 OF FARM 46 BUFFELS RIVIER, GEORGE, WESTERN CAPE.

The Breede-Gouritz Catchment Management Agency (BGCMA) has received the submission of the above-mentioned report on 06 March 2023 and the comments are as follows:

1. The BGCMA through the Compliance Monitoring and Enforcement (CME) unit is responsible for identifying unlawful water uses to water users and to ascertain compliance with the National Water Act (NWA), (Act 36 of 1998).
2. Please note that BGCMA has acknowledged the remarks made in specialist report titled, *Aquatic Specialist Assessment for a Section 24G and Water Use License Application for an Enlarged dam on farm Buffels Rivier 42/46 and 34/46, George*, which rated the construction phase of dam enlargement including the dam excavation and vegetation removal as moderate negative impacts and concluded that the network of affected watercourse was already impacted through impoundment of two dams which resulted in a decrease of present ecological state of the system by one level due to loss of riparian and aquatic habitat.

www.bgcma.co.za

3. During a joint investigation conducted by the officials of the BGCMA, Department of Water and Sanitation (DWS) and Department of Environmental Affairs and Development Planning (DEA&DP) on 09 November 2021 at farm Buffels Rivier 46/34&42 George, it was confirmed that Farm Buffels Rivier have contravened activities defined as water uses in terms of Section 21(b)-storing water, section 21(c)-impeding or diverting the flow of water in a watercourse, and section 21(i)-altering the bed, banks, course, or characteristics of watercourse of the NWA without a water use authorisation. A notice of intention to issue a directive in terms of section 53(1) of the NWA dated 15 December 2021 was issued. This office acknowledges that a representation letter dated 11 May 2022 was received and was responded to with a response letter dated 30 June 2022. On 28 September 2022 BGCMA officials conducted a follow-up site inspection to monitor compliance with the issued notice. Therefore, it was observed that both dams at portions 34&42 of farm Buffels Rivier 46 were operated to their full capacity and there was no form of authorisation that was provided to the BGCMA officials during the site inspection.
4. Following sequence of events unpacked above on paragraph 3, the BGCMA will issue a directive in terms of section 53(1) of the NWA. We are hereby bringing it to your attention that the owner of farm Buffels Rivier 46/34&42, George failed to comply with the conditions of intention to issue a directive dated 15 December 2021. Furthermore, failure to comply with directive constitutes an offence in terms of section 151 (1) (d) of the NWA and this will leave BGCMA with no option but to continue with criminal enforcement on this case.
5. The BGCMA cannot stop the enforcement process instituted against the unlawful water use activities taking place at farm Buffels Rivier 46/34&42, George because a water use licence application process has been initiated. The water use licence application process does not serve as a remedy to rectify unlawful water use activities. Any contravention of a provision of chapter 4 is rectified through the provisions of section 53 of the NWA. Having initiated with the Water use licence application process does not exempt the water user from complying with the prescripts of the National Water Act, (Act no 36 of 1998) of which you are subject and obliged to comply.
6. Your attention is drawn to Section 22 (1) of the National Water Act, which states:
 22. (1) A person may only use water
 - (a) without a licence if that water use is permissible under Schedule 1;
 - (i) if that water use is permissible as a continuation of an existing lawful use; or

<https://breedegouritzcma.co.za/>

- (ii) *if that water use is permissible in terms of a general authorisation issued under section 39;*
- (b) *if the water use is authorised by a licence under this Act; or*
- (c) *if the responsible authority has dispensed with a licence requirement under subsection (3)*

7. The BGCMA will continue with the enforcement process on this matter and see through that the instructions in the directive are complied with, however we do not stand in a position to dispute this application since this is a voluntary process and there is a competent authority that will decide on this case.
8. It is recommended that the BGCMA stands on this matter in terms of enforcement and must be considered during the assessment of this application.
9. The BGCMA reserves the right to revise initial comments and request further information based on any additional information received.

Yours faithfully



P.P

MR. JAN VAN STADEN

CHIEF EXECUTIVE OFFICER (ACTING)

DATE: 03/04/2023



<https://breedegouritzcma.co.za/>

postal Private Bag X6546, George, 6530
physical 4th Floor, York Park Building, York Street, George
6530
website www.capenature.co.za
enquiries Megan Simons
telephone +27 87 087 3060 **fax** +27 44 802 5313
email msimons@capenature.co.za
reference LE14/2/6/1/6/2/46-34&42_Dam
Development_Uniondale
date 17 April 2023

Eco Route Environmental Consultancy,
P.O. Box 1252,
Sedgefield,
6573

Attention: Ms Janet Ebersohn
By email: janet@ecoroute.co.za

Dear Ms Janet Ebersohn

**THE 24G RECTIFICATION OF UNLAWFUL COMMENCEMENT OF THE ENLARGEMENT
OF A DAM ON PORTION 42 OF FARM 46 BUFFELSRIVIER AND THE CONSTRUCTION
OF A NEW DAM ON PORTION 34 OF FARM 46 BUFFELSRIVIER, GEORGE LOCAL
MUNICIPALITY, WESTERN CAPE.**

DEA&DP reference: 14/1/1/E3/5/10/3/L1212/22

CapeNature would like to thank you for the opportunity to review the above report. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.

According to the Western Cape Biodiversity Spatial Plan (Pool-Stanvliet *et al.* 2017)¹ the new dam and enlarged dam were constructed within Critical Biodiversity Areas (CBA 1: Terrestrial, Aquatic, River, Wetland). The freshwater features include the Kammanassie River that flows through the site and non-perennial drainage lines. The Kammanassie river is mapped as a National Freshwater Ecosystem Priority Areas (NFEPA)² and is not protected (NWM5)³.

According to Vlok and de Villiers (2007) fine scale vegetation map describes the area as Olifants River & Floodplain and Leeublad Sandolien-Renosterveld. The National Biodiversity Assessment (Skowno *et al.* 2018)⁴ mapped the vegetation Eastern Little Karoo (enlarged

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

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 Van Deventer, H., van Niekerk, L., Adams, J., Dinala, M.K./ Gangat, R., Lamberth, S.J., Lötter, M., MacKay, F., Nel, J.L., Ramjukadh, C.J., Skowno, A., Weerts, S. 2019. National Wetland Map 5-An Improved Spatial Extent and representation of inland aquatic and estuarine ecosystems in South Africa.

⁴ 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.

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

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

dam) which is **Endangered** (NEM:BA, 2022)⁵ and Uniondale Shale renosterveld (new dam) which is Least Concerned (SANBI 2022)⁶.

Following a review of the S24 G and Aquatic report, CapeNature wishes to make the following comments:

1. The actives were developed mainly within natural CBA. Critical Biodiversity Areas are defined as: "Areas in a natural condition that are required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure." CBA objectives are: " *Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land uses are appropriate.*" As stipulated in the Land Use Advice (LUA) Handbook (Pool-Stanvliet *et al.* 2017), it should be noted that it is the landowner's responsibility to ensure their property is suitably maintained at a level consistent with LUA guidelines. Please refer to Table 4.7 in the LUA Handbook in terms of what is defined as intensive agricultural practice.
2. The new dam was developed within an **EN** vegetation ecosystem and Terrestrial CBA. Thus, has a botanical/ terrestrial assessment been conducted to determine whether the surrounding area, including the new dam footprint, had/has any important habitat/ SCC that could have been impacted by the development?
3. CapeNature wants to stipulate that only local indigenous plant species must be used for rehabilitation. Arid habitats could take years to rehabilitate, even from temporary disturbances therefore possible erosion points need to be monitored and rehabilitated when needed. CapeNature does not consider any habitat as rehabilitated until a comparable level of ecosystem functionality has been proven. Suitable monitoring of rehabilitation success is also recommended. A monitoring programme should be put in place to determine if the protection measures are achieving their objectives and to determine if the protection measures are causing erosion. Post construction monitoring of the impacts should be observed for more than one year.
4. The landowner should have considered or investigated other methods to protect the existing water resources, for example reducing evaporation through covering dams or using numerous different irrigation techniques to reduce water loss, considering the impact this construction had on the loss of natural vegetation and CBA.
5. Habitat transformation, degradation and fragmentation occur primarily through changes in land use which either result in the outright loss of natural ecosystems, or pressures which impact negatively on habitat condition. Irrespective whether the vegetation was infested with aliens or LC, the loss of natural CBA remains unacceptable. Thus, the remaining natural/ untransformed areas must not be disturbed by any further activities.
6. CapeNature would like to remind the landowner that in terms of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983) ("CARA"), landowners must prevent the spread of alien invasive plants on the property. **The level of alien infestation is therefore not seen as reducing the sensitivity** of a site, nor is the subsequent removal of alien vegetation from a property regarded as a mitigation measure due to this is being a legal requirement. Infestation by alien plants does not necessarily mean that an area is not important for biodiversity as some vegetation types are particularly prone to invasive alien infestation but may recover when cleared of alien vegetation.

⁵ National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004). The Revised National List of Ecosystems that are Threatened and in need of protection. 2022. Government Gazette No. 47526

⁶ Government of South Africa (2022) South African Red List of Terrestrial Ecosystems: assessment details and ecosystem descriptions. Technical Report #7664, SANBI Pretoria, South Africa.

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

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7. In addition to CARA, in terms of the Alien and Invasive Species Regulations, NEM: BA, 2014, specific alien plant species are either prohibited or listed as requiring a permit; aside from restricted activities concerning, *inter alia*, their spread, and should be removed.
8. All alien vegetation present at the property should be removed as they are a propagule source for further spread of invasive alien plants. The existing alien infestation is a risk to surrounding properties and impacting on water availability. CapeNature recommend that an alien clearing programme be compiled to eradicate and monitor the spread of invasive alien plants.

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

Yours sincerely,



Megan Simons
For: Manager (Landscape Conservation Intelligence)

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

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



BREED-OLIFANTS
C A T C H M E N T M A N A G E M E N T A G E N C Y

Corner Mountain Mill & East Lake Roads, Worcester, 6850 | Private Bag X3055 Worcester 6850

Enquiries: Mr. Kgadi Makgakga Tel: 023 346 8000 Fax: 023 347 2020 E-mail: jmakgakga@bgcma.co.za

Ref: 4/9/2/J34C/FARM BUFFELS RIVIER 46/29,34&42, GEORGE

JVR Boerdery
P O Box 125
Uniondale
6460

BY EMAIL AND HAND
Email: otterswem@hilbert.co.za

For Attention: Mr. Janse van Rensburg

Dear Sir

DIRECTIVE IN TERMS OF SECTION 53(1) OF THE NATIONAL WATER ACT; ACT NO 36 OF 1998 (NWA): FOR ENLARGING AND STORING WATER IN AN INSTREAM DAM, STORING WATER IN AN OFF-STREAM DAM AND DISCARDING ROCKS INTO THE DRAINAGE LINE WITHOUT AUTHORISATION AT FARM BUFFELS RIVIER 46/34&42, GEORGE.

1. The notice of intention to issue a directive dated 15 December 2021 issued by Breede-Olifants Catchment Management Agency (BOCMA) to Farm Buffels Rivier 46/34&42, George followed by your representation dated 11 May 2022 compiled by E. Janse van Rensburg on behalf of JVR Boerdery and a response letter issued by BOCMA dated 30 June 2022 has reference.
2. Having considered all of the above, I have reasonable grounds for believing that you have contravened activities defined as water uses in terms of Section 21(b)- storage of water; Section 21(c)- impeding or diverting the flow of water in a watercourse; and Section 21(i)- altering the bed, banks, course or characteristics of a watercourse of the NWA without a water use authorisation and failed to comply with water use registration regulations published on Gazette No. 20606 of 12 November 1999.

DIRECTIVE IN TERMS OF SECTION 53(1) OF THE NATIONAL WATER ACT; ACT NO 36 OF 1998 (NWA): FOR ENLARGING AND STORING WATER IN AN INSTREAM DAM, STORING WATER IN AN OFF-STREAM DAM AND DISCARDING ROCKS INTO THE DRAINAGE LINE WITHOUT AUTHORISATION AT FARM BUFFELS RIVIER 46/34&42, GEORGE.

The BOCMA has reached this conclusion as a result of the following:

3. During a joint site investigation conducted by the BOCMA officials in collaboration with the Department of Water and Sanitation (DWS) and the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP) officials on 09 November 2021 and a follow-up site inspection conducted by BOCMA officials on 28 September 2022 at Farm Buffels Rivier 46/34&42, George, it was confirmed that you have contravened activities defined as water uses in terms of Section 21(b), (c)&(i) of the NWA without a water use authorisation for enlarging and storing water in a stream dam, storing water in an off-stream dam and discarded rocks removed from nearby agricultural fields into the drainage line downstream of the enlarged dam as stipulated in paragraph 2 above.
4. During the site investigation there was no authorisation that was presented to BOCMA officials
5. Considering the above, I, Jan Van Staden in my capacity as Chief Executive Officer (Acting) of Breede-Olifants Catchment Management Agency (BOCMA) and duly authorised in terms of powers delegated to me by the Minister of Water and Sanitation, hereby give you, Mr Janse van Rensburg in your capacity as a farm owner a written directive requiring you to:
 - 5.1 Immediately cease storing water in the dam referred in paragraph 3 above and keep the dam empty and all inlet fully closed to ensure that no water may be stored in the dam at portion 34 of Farm Buffels River 46, George and provide proof that the discarded stones has been removed and no water is stored in the dam within **14 (fourteen) working days** upon receipt of this directive.
 - 5.2 Immediately remove the discarded rocks within the drainage line on downstream of the enlarged dam at portion 42 of Farm Buffels River 46, George and provide proof that the discarded rocks have been removed within **14 (fourteen) working days** upon receipt of this directive.
 - 5.3 Immediately cease storing unauthorised volumes of water into enlarged instream dam referred in paragraph 3 above and store only the volume confirmed as Existing Lawful Use (ELU) at portion 42 of Farm Buffels River 46, George.
 - 5.4 Appoint an Engineer who is registered with Engineering Council of South Africa (ECSA) to investigate and prepare a methodology to reduce water to ELU allocation

DIRECTIVE IN TERMS OF SECTION 53(1) OF THE NATIONAL WATER ACT; ACT NO 36 OF 1998 (NWA): FOR ENLARGING AND STORING WATER IN AN INSTREAM DAM, STORING WATER IN AN OFF-STREAM DAM AND DISCARDING ROCKS INTO THE DRAINAGE LINE WITHOUT AUTHORISATION AT FARM BUFFELS RIVIER 46/34&42, GEORGE.

and compile report to BOCMA for approval within **30 (thirty)** working days upon receipt of this directive.

- 5.5 Appoint a suitably qualified person who is registered with South African Council for Natural Scientific Professions (SACNASP) to compile and submit a Rehabilitation Plan for the affected regulated area for approval by the BOCMA within **30 (thirty) working days**.
- 5.6 Rehabilitate the impacted area once the rehabilitation plan has been approved by the BOCMA within **60 working days**.
- 5.7 Submit an action plan within **5 (five) working days** upon receipt of this directive, which must include a detailed time schedule on how you will implement the requirements as directed on 5.1, 5.2, 5.3,5.4 and 5.5.

6. In relation to the above directive, please take due cognisance of the following:

- 6.1. Failure to comply with this directive is a criminal offence in terms of Section 151 (1) of the NWA. Section 151(2) of NWA provides that a person who contravenes any provision of Section 151(1) of the NWA is guilty of an offence and liable on first conviction to a fine or to imprisonment for a period not exceeding 5 (five) years or to both such fine and such imprisonment and , in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding ten years or to both a fine and such imprisonment.
- 6.2. In terms of section 53(2) the BOCMA may carry out any works and take necessary action to rectify the aforesaid contravention and recover all reasonable cost incurred in doing so from you; or it may apply to the relevant court for appropriate relief.
- 6.3. Should you wish to appeal this directive or any aspects of this directive, kindly be advised that you may appeal to water tribunal in terms of section 148(1) of NWA within 30 working days upon receipt of this directive. Take note that in terms of section 148(2) of NWA an appeal to a directive does not suspend the directive pending such appeal outcome from water tribunal.

Water Tribunal Contact Details

Private Bag X316
Pretoria
0001

DIRECTIVE IN TERMS OF SECTION 53(1) OF THE NATIONAL WATER ACT; ACT NO 36 OF 1998 (NWA): FOR ENLARGING AND STORING WATER IN AN INSTREAM DAM, STORING WATER IN AN OFF-STREAM DAM AND DISCARDING ROCKS INTO THE DRAINAGE LINE WITHOUT AUTHORISATION AT FARM BUFFELS RIVIER 46/34&42, GEORGE.

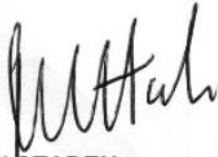
(012) 336 7034

7. In terms of Section 53(2) the BOCMA may carry out any works and take necessary actions to rectify the aforesaid contraventions and recover all reasonable cost incurred in doing so from you; or it may apply to the relevant court for appropriate relief.
8. We wish to make it clear that the instructions contained in this letter are made in the interest of responsible water resource management, and with a view to a co-operative resolution of the issue.

THIS LETTER SHALL NOT BE CONSTRUED AS CONFERRING EXEMPTION FROM COMPLIANCE WITH THE FOLLOWING:

9. The provisions and regulations of the National Environmental Management Act, 1998 (Act No. 107 of 1998) regarding control over activities which may have a detrimental effect on the environment.
10. Should you have any further queries, please contact the relevant official whose name appears under enquiries.

Yours faithfully



MR. JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)

DATE: 29/05/2023

24G Consultation: 14/2/4/1/D2/19/0014/23

Pre-Application – Information Requirements letter

The Owner
Farm Buffelsrivier 42/46 and 34/46
GEORGE
6530

Email: otterswem@hilbert.co.za

Attention: J van Rensburg

INFORMATION REQUIREMENTS OF THE POTENTIAL SECTION 24G APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF LISTED ACTIVITIES: UNLAWFUL CONSTRUCTION AND EXPANSION OF AN INSTREAM DAM AND CLEARING OF INDIGENOUS VEGETATION ON FARM BUFFELS RIVIER 42/46 AND 34/46, GEORGE

1. The abovementioned submission received by this Department, has reference.
2. Please be advised that the *Section 24G Fine Regulations (GN. No. 698 of 20 July 2017)* (hereafter referred to as "the fine regulations") were published on 20 July 2017. The fine regulations require that public participation be conducted prior to the submission of an application and that an application must include the representations as set out in Annexure A of the fine regulations.
3. Please be advised that submission of a section 24G application shall in no way derogate from an investigation of any transgression in terms of the *National Environmental Management Act, 1998 (Act 107 OF 1998)* ("NEMA") nor from the National Prosecuting Authority's legal authority to institute criminal proceedings.

Listed activities that are being applied for:

4. A section 24G application is only relevant to listed activities that have commenced without the pre-requisite environmental authorisation. Only those activities applied for will be considered for environmental authorisation.
5. The applicant is thus required to ensure that all the applicable listed activities are included in the application to be submitted. In this regard, the timeframe of commencement of the listed activity/ies and the relevant Environmental Impact Assessment legislative period/regime is of particular importance.

6. Please also ensure that the similarly listed activities in terms of the current *Environmental Impact Assessment Regulations, 2014* (as amended) are applied for should the listed activities not have commenced within this period.
7. The appointed Environmental Assessment Practitioner is required to provide a detailed explanation as to why the unlawfully commenced activity is still similarly listed in terms of the NEMA.

Minimum requirements for every application for environmental authorisation:

8. You are reminded that section 24G is an application for environmental authorisation and thus an applicant must comply with the requirements of the NEMA in relation to the submission of an application for environmental authorisation and any other relevant information (section 24(1A)(e) of the NEMA). Section 24(4)(a) of the NEMA specifies the "procedures for the investigation, assessment and communication of the potential consequences or impacts of the activities on the environment" that every application for environmental authorisation must comply with.
9. Taking the above into consideration, together with the information requirements of Annexure A, Section C, Part 1 of the fine regulations related to the environmental impacts and representations to be completed by an Environmental Assessment Practitioner ("EAP"); and to be submitted together with the section 24G application; you are hereby advised that the application be informed by an environmental impact assessment.
10. When conducting such environmental impact assessment, the applicant/EAP must take into account the applicable guidelines developed by the Department, which may be downloaded from the Department's website (see above). In particular, the following are applicable:
 - 10.1. Guideline for Environmental Management Plans (June 2005);
 - 10.2. Guideline on Public Participation
 - 10.3. Guideline on Alternatives
 - 10.4. Guideline on Need and Desirability
 - 10.5. Departmental guideline series for involving specialist assessments, 2005
 - 10.6. Information Document for the Development of a Maintenance Management Plan for a Watercourse, July 2017
11. You are required to submit a Screening Report from the National Web based Environmental Screening Tool. The Screening Tool also provides site specific EIA process and review information, for example, the Screening Tool may identify if an industrial development zone, minimum information requirement, Environmental Management Framework or bio-regional plan applies to a specific area. The Screening Tool identifies related exclusions and/ or specific requirements including specialist studies applicable to the site and/or development, based on the national sector classification and the environmental sensitivity of the site.
12. Having considered the information contained in the consultation form, this Department hereby advises that a freshwater specialist be considered for appointment to assess the impacts of the unlawful activities on the receiving environment. The specialist report must be submitted to support your section 24G application.

Public Participation Process:

13. Preliminary Advertisement

- 13.1. Kindly note the requirements of Regulation 8 and Annexure A, Section D of the fine regulations which stipulate that when submitting an application form, the applicant must attach proof that the application has been advertised in at least one local newspaper in circulation in the area in which the activity was commenced, and on the applicant's website, if any.
- 13.2. Please note further that the advertisement must state that the applicant commenced a listed/ specified/ waste management activity(ies) without the necessary environmental authorisation and/or waste management licence and is now applying for *ex post facto* approval. The advertisement **must** include (a) the date, (b) the location, (c) the applicable legislative provision contravened, (d) and the listed activity(ies) commenced with without the required authorisation.
- 13.3. Interested and affected parties (I&APs) must be provided with the details of where they can register as an I&AP and submit their comment. Please be advised that at least 20 days must be provided in which to do so. Proof of compliance with Regulation 8 of the fine regulations must be submitted together with your application.
- 13.4. Should you decide to compile a draft section 24G Application and of your own accord make it available for comment, it is recommended that the draft section 24G Application report be made available simultaneously with the Preliminary Advertisement requirement.

14. Section 24O consultation with organs of state/State departments

- 14.1. However, kindly note that any public participation undertaken **prior to submission of the section 24G Application** report, does not exempt from compliance with section 24O of the NEMA which obligates the competent authority when considering an application; to consult with every State department that administers a law relating to a matter affecting the environment.
 - 14.2. You are required to submit a list of organs of state to be consulted in terms of section 24O together with the complete and signed application. The list of organs of state must be include their contact details with fax/email and the relevant contact person.
 - 14.3. Copies of the section 24G application may be made available for comment to the relevant organs of state upon simultaneous submission of the application to the Department.
Note: this does not qualify as the Regulation 8 public participation requirement which is required to be conducted prior to submission of an application.
 - 14.4. Upon receipt of the complete and signed application, the Department will issue section 24O letters to the relevant organs of state for comment as per the EAPs specified timeframe for comment.
15. It is noted that your activity/development may require a water use licence. Please provide proof of submission of the application to the relevant authority together with your section 24G application form.
16. Two printed copies as well as an electronic copy of the final Application must be submitted to the Department.

17. You are reminded that it is an offence in terms of section 49A of the NEMA to commence with a listed activity unless the competent authority has granted environmental authorisation for the undertaking of the activity, and it is an offence to fail to comply with a directive issued in terms of NEMA. A person convicted of an offence is liable to a fine not exceeding **R10 million** or **imprisonment for a period not exceeding 10 years**, or to both such fine and imprisonment.
18. Kindly quote the abovementioned reference number in any future correspondence in respect of this consultation form.

Zaidah Toefy Digitally signed by Zaidah Toefy
Date: 2023.09.08 10:20:34 +02'00'

Mrs Z Toefy
Head of Rectification
Directorate: Environmental Governance

CC: (1) Diana Mouton (DEA&DP: Environmental Law Enforcement: Region 3)

Email: diana.mouton@westerncape.gov.za



www.westerncape.gov.za
Department of Environmental Affairs and Development Planning

Annexure 7: Evidence of notifications sent to I&APs

PUBLIC PARTICIPATION: RECTIFICATION OF TWO UNLAWFUL DAMS ON PORTION 42 AND PORTION 34 OF FARM 46 BUFFELSRIVIER, GEORGE, WESTERN CAPE

 **From** <admin@ecoroute.co.za>
To Danie Swanepoel <Danie.Swanepoel@westerncape.gov.za>, Nathan Jacobs <Nathan.Jacobs@westerncape.gov.za>, Noluvo Toto <Noluvo.Toto@westerncape.gov.za>, Stephanie Barnardt <Stephanie.barnardt@westerncape.gov.za>, Azni November <Azni.November@westerncape.gov.za>, Dirk Prinsloo <Dirk.Prinsloo@westerncape.gov.za>, RobertsJ <RobertsJ@dwa.gov.za>, Corvdw <corvdw@elsenburg.com>, Joy Ruiters <Joy.ruiters@westerncape.gov.za>, MKoen <MKoen@dffe.gov.za>
Cc Janet <janet@ecoroute.co.za>, Joclyn <joclyn@ecoroute.co.za>
Date 2023-03-06 10:07

Good day

You have been identified as an Interested and/or Affected Party with regards to the following:

NEMA Section 24G EIA Process Notification of a Public Participation Process for:

Rectification of Two Unlawful dams on Portion 42 and Portion 34 of Farm 46 Buffelsrivier, George, Western Cape

Notice is hereby provided in terms of the National Environmental Management Act (NEMA) (Act 107 of 1998) as amended, and the Environmental Impact Assessment Regulations 2014 as amended, of a 30-day Public Participation Process to be undertaken from **06/03/2023 to 06/04/2023**. The applicant has commenced with listed activities in terms of NEMA (Act 107 of 1998) EIA Regulations 2014 as amended without the necessary environmental authorisation and is now applying for ex post facto approval to the competent authority, the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP).

Activity: Unlawful commencement of the enlargement of a dam on portion 42 of Farm 46 Buffelsrivier and the construction of a new dam on portion 34 of Farm 46 Buffelsrivier, George Municipality, Western Cape.

Commencement Date: 2014/2017

Activities unlawfully commenced with on or after 08 December 2014: EIA regulations promulgated in terms of NEMA, Act 107 of 1998 as amended:

Government Notice No. R327: (Listing Notice 1 of 2014 as amended)	Activity 12 (i)(a) Activity 13 Activity 19 Activity 27 Activity 48(ii)(a) Activity 66
Government Notice No. R325: (Listing Notice 2 of 2014 as amended)	Activity 16
Government Notice No. R324: (Listing Notice 3 of 2014 as amended)	Activity 12(i)(ii) Activity 14 (i)(a) Western Cape (i) (dd)(ff)

Notice is hereby given that a **Water Use License Application (WULA)** in terms of the National Water Act (NWA), 1998 (Act No. 36 of 1998, as amended) and the Regulations regarding Procedural Requirements for the Water Use License Applications and Appeals, 2017, will be lodged with the Department of Water and Sanitation (DWS). A 60-day review and commenting period is applicable for the WULA, from **06/03/2023 to 12/05/2023**. The following water uses are triggered:

section 21 (b)	Storing of water.
Section 21 (c)	Impeding of water.
Section 21 (i)	Altering and changing characteristics of water resource.

The pre-application section 24G EIA Report can be accessed via www.ecoroute.co.za on the above-mentioned dates or obtained by contacting the Environmental Assessment Practitioner (details below). Please provide written comments along with your name, contact details and an indication of any direct business, financial, personal, or other interest which you may have in the development.

Environmental Assessment Practitioner: Janet Ebersohn EAPASA Registration No: 2019/1286

PO Box 1252

Cell: 082 55 77 122


Sedgefield

Email: janet@ecoroute.co.za

6573

Information can also be accessed via our website: www.ecoroute.co.za.

PUBLIC PARTICIPATION: RECTIFICATION OF TWO UNLAWFUL DAMS ON PORTION 42 AND PORTION 34 OF FARM 46 BUFFELSRIVIER, GEORGE, WESTERN CAPE

 **From** <admin@ecoroute.co.za>
To Asam <asam@bgcma.co.za>, Rmphahlele <rmphahlele@bgcma.co.za>, <mzimu@bgcma.co.za>, <jmakgakga@bgcma.co.za>, Msimons <msimons@capenature.co.za>, AbrahamsN <AbrahamsN@nra.co.za>, Managerfpa <managerfpa@gmail.com>, Maretha Alant <maretha.alant@sanparks.org>, Strohl <Strohl@caa.co.za>, Cpetersen <cpetersen@george.gov.za>, [3 more...](#)
Cc Janet <janet@ecoroute.co.za>, Joclyn <joclyn@ecoroute.co.za>
Date 2023-03-06 10:18

Good day

You have been identified as an Interested and/or Affected Party with regards to the following:

NEMA Section 24G EIA Process Notification of a Public Participation Process for:

Rectification of Two Unlawful dams on Portion 42 and Portion 34 of Farm 46 Buffelsrivier, George, Western Cape

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Commencement Date: 2014/2017

Activities unlawfully commenced with on or after 08 December 2014: EIA regulations promulgated in terms of NEMA, Act 107 of 1998 as amended:

Government Notice No. R327: (Listing Notice 1 of 2014 as amended)	Activity 12 (i)(a) Activity 13 Activity 19 Activity 27 Activity 48(ii)(a) Activity 66
Government Notice No. R325: (Listing Notice 2 of 2014 as amended)	Activity 16
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Environmental Assessment Practitioner: Janet Ebersohn EAPASA Registration No: 2019/1286

PO Box 1252

Cell: 082 55 77 122

Sedgefield

Email: janet@ecoroute.co.za

6573

Information can also be accessed via our website: www.ecoroute.co.za.