



water affairs

Department:
Water Affairs
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE REGIONAL HEAD: North West
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BY HAND AND FAX MAIL

THE CITY MANAGER
EKURHULENI METROPOLITAN MUNICIPALITY
P.O. BOX 1069
GERMISTON
SOUTH AFRICA
1400
FAX: 011 820 4319

Attention: Mr. K Ngema

DIRECTIVE IN TERMS OF SECTION 19 AND 53 (1) OF THE NATIONAL WATER ACT, 1998 (ACT NO 36 OF 1998): EKURHULENI METROPOLITAN MUNICIPALITY

A notice of intention to issue a directive in terms of section 19 of the National Water Act; Act 36 of 1998 (NWA) was issued to the Ekurhuleni Metropolitan Municipality, represented by Mr K Ngema on behalf of the office of the City Manager on 11 October 2012.

In accordance with section 3 of the Promotion of Administrative Justice Act, Act no 3 of 2000 (PAJA), you were offered an opportunity to make representations in writing to me by close of business on Wednesday 31 October 2012, if you believed there were any compelling reasons for me not to exercise my powers in terms of section 19 of the NWA.

You submitted representations to my office as per your letter dated 30 October 2012 as well as an undated action plan compiled by Dumsan Tembe (Chief Area Engineer) and approved by Mr Tebogo Chanda (Director Operation) concerning the pre-directive notice issued on 11 October 2012. On the pre directive notice you were requested to submit amongst others a coasted action plan with time frame to address the pollution from Tembisa areas i.e sewer spillages, solid waste

collection, litter picking, wetland rehabilitation and storm water management plan, the action plan only addresses the management of sewer spillages.

In light of the above and after due considerations of your representations, action plan and the current state of the Kaalspruit, I Chadwick Maiketso Lobakeng in my capacity as the Acting REGIONAL CHIEF DIRECTOR, North West Regional office and duly authorized in terms of the powers delegated to me by the Minister of Water Affairs, hereby direct Ekurhuleni Metropolitan Municipality represented by Mr. K Ngema in his capacity as the Municipal Manager with a directive in terms of Section 19 of the National Water Act, Act No 36 of 1998 (NWA) to address the pollution at Kaalspruit.:

This directive, direct the Ekurhuleni Metropolitan municipality to:

1. Submit a costed action plan with timeframes addressing sewer spillages, solid waste collection, litter picking, wetland rehabilitation and storm water management.
2. Prevent ongoing sewer overflow from manholes by establishing sewer network cleanup, ongoing unblocking of sewer pipelines, do the repairs of the sewer pipeline.
3. Do detailed sewer network capacity assessment and present a report to the Department to address areas where there are capacity constraints within six months of the date of the directive.
4. Submit a detailed list of areas in Tembisa (location and GPS co – ordinates) for the sewer pipeline river crossings requiring emergency work. Detailed designs and crossing methodologies, present ecological status of the affected water resource(s). Monitoring programme and impact mitigation measures.
5. Set up a continuous water quality monitoring programme to monitor the effectiveness of the sewer rehabilitation work, sewer maintenance / clean up and submission of monthly water quality results for affected water courses after the directive has been issued. The monitoring programme must delineate and highlight areas where pollution is coming from other municipal areas e.g. City of Johannesburg areas of responsibility.

I would also like to bring to your attention that contravention of this Directive constitutes an offence in terms of Section 151 of the NWA.

Should Ekurhuleni Metropolitan Municipality fail to comply with this Directive or comply inadequately with it, the Department may take any measures it considers necessary to remedy the situation, including but not limited to:

1. Criminal proceedings against any of the parties in terms of Section 151 of the NWA, and,
2. Taking the measures itself and recovering the costs thereof from CoJ in terms of Section 19(4) of the NWA;
3. Apply to the competent court for appropriate relief;

In the light of the Water Tribunal being Non-operational, the Minister of Water and Environmental Affairs appointed a Mediation/Arbitration panel to deal with appeals made in terms of section 148 of the NWA.

Appeals may be sent to

The Chief Director: Legal Services

Private Bag X313

Pretoria

0001

Waterbron Building

191 Francis Baard Street

Pretoria

0001

Tel: 012 336 7531

Email: singha@dwa.gov.za

Please note that even though The Ekurhuleni Metropolitan Municipality may appeal against this Directive to the Mediation/Arbitration panel in terms of section 148 of the NWA, such an appeal does not suspend the Directive pending the outcome of the Tribunal regarding the Directive.

Non-compliance to the conditions of this Directive should immediately be reported to the Regional Head in writing. Such a report should include measures to be instituted towards correcting non-compliance.

This Directive will remain in force until such time as the Ekurhuleni Metropolitan Municipality has improved the water quality of the Kaalspruit, acceptable measures have been taken to ensure sustainable management of the Kaalspruit.

Representations must be forwarded to the following address or facsimile number for attention Mrs Rudzani Bernice Maphaha, Deputy Director: Compliance Monitoring and Enforcement.

Attention: Ms Rudzani B Maphaha

ACT: CHIEF DIRECTOR: NORTH WEST
Department of Water Affairs
Mtswedding House
1st floor
Dr James Moroka Drive
MMABATHO
2735

OR

ACT:CHIEF DIRECTOR: NORTH WEST
Department of Water Affairs
Private Bag X05
MMABATHO
2735

Should you have any further queries, please contact the relevant official at the above number.

Yours faithfully



ACTING CHIEF DIRECTOR: NORTH WEST REGION

Date: 15/03/2013

DIRECTIVE IN TERMS OF SECTION 19 AND 53 (1) OF THE NATIONAL WATER ACT, 1998(ACT NO 36 OF 1998):EKURHULENI METROPOLITAN MUNICIPALITY

Acknowledgement of Receipt:

Received by Mr/Ms _____

On behalf of the company _____

on this _____ **day of** _____ **2013, at** _____

Signature: _____