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Peter Munns
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18 September 2008

Dear Mr Munns

PERMIT APPLICATION: *DOROTHEA*

Your correspondence of 14 September 2008 refers.

I would like to take this opportunity to answer some of the queries that you have raised regarding the response of the Permit Committee to your application for an excavation permit for the wreck of the *Dorothea*.

Before addressing your specific queries it is perhaps prudent to outline some aspects of the framework of the National Heritage resources Act (Act 29 of 1999) that guides the decisions of the Permit Committee and the South African Heritage Resources Agency (SAHRA).

SAHRA's role is to manage South Africa's national estate for the benefit of all South Africans. In order to do this, SAHRA must ensure that activities directed at heritage resources should be conducted responsibly and that by disturbing those resources, those activities do not result in the loss of important cultural information. In the case of archaeological sites, a category into which all shipwrecks older than 60 years fall, SAHRA protects information by ensuring that archaeological intervention is applied to these sites.

In terms of Section 35.(2) all archaeological objects are the property of the State and as such, it is the responsibility of the heritage authority under whose jurisdiction any archaeological object might fall to ensure that these objects are suitably conserved. The heritage authority may also establish the conditions for conservation.

In terms of Section 35.(4):

No person may:

- a. destroy, damage excavate, alter deface or otherwise disturb any wreck site;
- b. destroy, damage, excavate or remove from its original position, collect or own any wreck object or artefact;
- c. trade in, sell for private gain, export or attempt to export from the Republic any category of wreck object or artefact;
- d. bring onto or use at a wreck site any excavation equipment or any equipment which assists in the detection or recovery of metals or wreck objects or artefacts, except under the authority of a permit issued by the South African Heritage Resources Agency."

The legislation protects wrecks defined as being "... any vessel or aircraft or any part thereof, which was wrecked in South Africa whether on land, in the internal waters, the territorial waters or in the marine cultural zone of the republic, as defined respectively in sections 3, 4 and 6 of the Maritime Zones Act (Act No 15 of 1994), and any cargo, debris or artefacts found or associated therewith, which is older than 60 years or which the SAHRA considers to be worthy of conservation..."

Any "part" of a wreck as mentioned above includes: flotsam, jetsam, lagan and derelict. It also includes any portion of the cargo, stores or equipment of a ship and any portion of the personal property on board such ship when it was lost, abandoned, stranded or in distress and belonged to any person who was aboard that ship at that time.

Finally, the issuing of permits and the conditions that may be set are contained within Section 48 of the National Heritage Resources Act and in the Regulations R.548 attached to the Act.

With this in mind, the Permit Committee has assessed your application and felt that further information was required. In response to your specific queries regarding these decisions, the following clarification is provided:

1. The Committee raised concerns regarding the unknown condition of the site. These concerns arose from the application that you submitted in which you stated that you believed that the vessel had been broken up. In the quotation that was provided by Subtech, it was stated that they have anecdotal evidence that ship structure is exposed at times and can be seen on days when favourable conditions exist. The discrepancy was noted in your application and was not an assumption made by the Committee. Because management decisions regarding an archaeological site must be guided by the condition of the site, the distribution of objects related to the site and the ramifications of this for archaeological excavation strategy, it is essential that the Committee is

provided with information in this regard. The Committee has not visited the site and must rely on the applicant's description. This was not a criticism, but a request for clarity.

2. An archaeological excavation strategy is a minimum requirement for issuing and excavation permit. It is not possible for the Committee to determine the merits of a project if it has no information regarding the manner in which the project is to be undertaken. Although Subtech offered alternatives for physical removal of sand, etc. from the site, there is no indication of how the site will be mapped, how artifacts will be recorded or any other information regarding archaeological methodology. As stated above, wrecks that are older than 60 years no longer fall exclusively under the laws governing salvage, but under the National Heritage Resources Act as well.

It is the responsibility of the permit applicant to enlist the assistance of an archaeologist to undertake this work and to bear the financial costs of this. Again, the request for an excavation strategy is not a criticism of the archaeologist or her track record, it is a legislative requirement.

3. The Committee raised concerns regarding the suitability of the Local History Museum's capacity to undertake the conservation of artifacts recovered from the wreck site. As with point 2 above, conservation strategy is a necessary accompaniment for issuing an excavation permit. Again, no conservation strategy was provided in your application and it is therefore not possible for the committee to accurately assess the Museum's suitability. The Committee is not inferring that the Museum in question is incapable of carrying out the required conservation, but rather that it requires further information from the institution before an informed assessment can be made.
4. The Committee raised concerns regarding the experience of the archaeologist. This is not an indictment on the abilities of the archaeologist, but a simple fact. She has not undertaken an excavation of this nature. Again, in the absence of an archaeological excavation strategy, it is not possible to assess the merits of the project and the involvement of the archaeologist. It was also noted that the archaeologist is not a member of the Association of Southern African Professional Archaeologists (ASAP), the professional archaeological body in South Africa and may not practice the archaeological standards specified in their code of practice.
5. On a technical level, two points were highlighted. Firstly, no co-ordinates were provided on your application form. This is a requirement and no permit can be issued without them. Co-ordinates are necessary so that any permit is specific to a site. Secondly, the information regarding the wreck lying within a protected area was provided for your information and in an effort to ensure that you were aware of necessary requirements for you to be compliant with other legislation.

Your correspondence also contained some general comments and queries which should be addressed.

1. You questioned the Committee's assumptions regarding the ship's cargo and the legend of the "Kruger Millions". The legend of the connection between the *Dorothea* and Kruger is well known and is the reason that most individuals interested in salvage have targeted this wreck. Since you have not provided the Committee with your research into the history of the ship or your research questions and reasons for requesting an excavation permit, an incorrect assumption was made regarding your application.
2. You have criticized the Committee for not offering assistance either financially or by way of advice. It is not the function of SAHRA to undertake excavation projects and not the responsibility of SAHRA to provide funding for private projects. Should you require assistance from SAHRA in terms of advice, you may request such advice. The Committee cannot determine your specific needs and any information that can be provided can only be guided by your stated requests.
3. You insist that the SAHRA has made unreasonable requests in order for you to be granted an excavation permit. These include the following:
 - A license from the South African Revenue Service: Customs and Excise. This is a requirement of the Customs and Excise Act (Act 91 of 1964), not an arbitrary requirement of SAHRA or the Permit Committee.
 - Aims and methodology for excavation without specific guidelines. The aims and methodology will be contained in the excavation strategy, a document that should be produced by the archaeologist working on the project. As stated in the guidelines that accompany the National Heritage Resources Act, this document should outline specific research questions that will be answered by excavating the site (i.e. the archaeological reasons for excavation). As stated above, the methodology should be guided by archaeological best practice.
 - That you employ the services of an archaeologist on the project. The excavation of an historical wreck site goes beyond merely salvaging a portion of the contents of the wreck. A great deal of archaeological information is contained on a wreck site and in the artifacts that may not have commercial value. It is SAHRA's duty to ensure that this information is recovered. It is for this reason that SAHRA requires an archaeologist guides the excavation process and ensures that data is gathered to recognized archaeological standards.
4. You have asked why SAHRA does not cover the costs of the archaeologist or contribute financially to the project. The project is not commissioned by SAHRA, nor has SAHRA insisted that salvage be undertaken. It is a private venture, undertaken willfully. Legislation requires that certain criteria be fulfilled and it is for this reason that the Committee requires that an archaeologist be employed by the applicant.

Finally, the excavation permits issued by SAHRA are not merely formalities. The National Heritage Resources Act legislates specific requirements in its attempt to safeguard South Africa's cultural heritage for all and to ensure that this cultural legacy can be enjoyed by future generations.

I trust that the above clarifies the position of the Permit Committee and answers the queries that you brought to it.

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'JS', with a long horizontal stroke extending to the right.

Jonathan Sharfman

Manager: SAHRA Underwater Cultural Heritage Unit

For CHIEF EXECUTIVE OFFICER: South African Heritage Resources Agency