



agriculture, rural development,
land & environmental affairs
MPUMALANGA PROVINCE
REPUBLIC OF SOUTH AFRICA



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Litiko Letekulima, Kutfufukiswa
Kwetindzawo Tasemakhaya, Temhlaba
Netesimondzawo

Departement van Landbou,
Landelike Ontwikkeling,
Grond en Ongewing Sake

umNyango weZelimo
UkuThuthukiswa kweNdawo zemaKhaya,
iNarha neeNdaba zeBhoduluko

Ref: 17/2/S24G-06/2019/20
ENQ: Z NGOBENI
079 365 9296

Mr Phaskani Msiska
Kruger Cultural Village (Pty) Ltd t/a @ The Village
P O Box 2601
STEILTES
1213

Tel: 083 082 0366
Email: phaskani@enginner.com

Attention: Mr Phaskani Msiska

ADMINISTRATIVE FINE ISSUED IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998, AS AMENDED (HEREINAFTER REFERRED TO AS NEMA), FOR UNDERTAKING THE LISTED ACTIVITIES WITHOUT AN ENVIRONMENTAL AUTHORISATION: ASSOCIATED WITH THE DEVELOPMENT OF A LODGE ON FARM 295 CORK KU, MKHUHLU, BUSHBUCKRIDGE LOAL MUNICIPALITY.

The above matter has reference.

1. A fine has been determined in terms of **Section 24G (4) of NEMA** subsequent to the submission of the application by Mr Phaskani Msiska in terms of Section 24G (1) for the consequences of commencement and continuation with the listed activities without an environmental authorisation on the abovementioned property.

2. Section 24F (1) of NEMA stipulates that:

"Notwithstanding any other Act, no person may:

(a) Commence an activity listed or specified in terms of section 24(2) (a) or (b) unless the competent authority has granted an environmental authorisation for the activity; or

(b) Commence and continue an activity listed in terms of section 24(2) (d) unless it is done in terms of an applicable norms or standard."

3. Section 24G (2A) of NEMA stipulates that;

"A person contemplated in subsection (1) must pay an administrative fine, which may not exceed R10 million which must be determined by the competent authority, before the Minister or MEC concerned may act in terms of subsection 2(1) (a) or (b)."

4. The activities referred to are listed in **GNR 327**; of the **EIA Regulations** promulgated in terms of section 24 (5) and 44 of NEMA as Amended effective from 07 April 2017.

Activity 27 "the clearance of an area of more than 1 hectare or more, but less than 20 hectares of indigenous vegetation, where such clearance is required for undertaking of a linear activity or maintenance purposes in accordance with a maintenance management plan"

GNR 325 Activity 6 (gg) "the development of resorts, lodges, hotels outside urban areas within 10 kilometres from National Parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve where such area comprise indigenous vegetation"

5. Therefore, Mr Phaskani Msiska is directed to pay an administrative fine amount of **R65 000.00 (Sixty Five Thousand Rand only)**, as the administrative fine in terms of Section 24G (4).

6. REASONS FOR THE DECISION

6.1 **Section 24G (4)** is mandatory.

6.2 Section 24G (4) provides that the applicant **must pay an administrative fine which may not exceed R5 million** which must be determined by the competent authority before the Minister or MEC may reach the decision either to issue an environmental authorisation or refuse.

6.3 **There is no exemption from paying the administrative fine** in terms of the section 24G.

6.4 The fact that the activity causes minimal pollution was considered in the determination of the quantum of the fine, pollution can be further minimised by the implementation of the conditions attached to the Environmental Management Programme.

6.5 The **Fine Calculator Index** approved by the Minister of Environmental Affairs has been used to calculate the quantum of the fine.

6.6 All the relevant information pertaining to this application has been taken into consideration when determining the quantum of this fine.

6.7 All the factors stipulated under **Regulation 4 (1) to (4) GNR 698 of July 2017**; the regulations relating to the procedure to be followed and the criteria to be considered when determining the fine have been taken into consideration.

7. The Applicant must, within 14 days of receipt of the determination of the fine ensure that all interested and affected parties, registered in terms of regulation 8 are notified and provided access to the fine and the reasons thereto.
8. Please note that in the event that the fine is not paid within the stipulated timeframe mentioned hereunder on paragraph 11 (including any extension thereof), the application shall lapse.

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9. Take note that in terms section **49A and 49B (offences and penalties)** of NEMA, failure to comply with a directive contemplated in subsection (2) (a) of NEMA or contravention or failure to comply with a condition contemplated in subsection (2) (b) of NEMA, renders a person guilty of an offence and liable on conviction to a penalty of a fine not exceeding **R10 million** or to imprisonment for a period not exceeding ten years, or to both such fine and imprisonment.
10. **Take note further that the payment of the above stipulated fine amount does not imply that the illegal activity and / or activities have been or will be authorised.** A decision will be communicated to the Applicant in accordance with the provisions of section 24G (2) of NEMA, after the MEC has considered the rectification application submitted together with a report contemplated in section 24G(1)(a) and (b) of NEMA.
11. The payment must be made within **30 days** after receipt of this directive into the following departmental account.

BANK : **Standard Bank**
ACCOUNT NAME : **Department of Agriculture, Rural Development Land and Environmental Affairs**
ACCOUNT NUMBER : **030302285**
BRANCH NO : **052852**
BRANCH NAME : **NELSPRUIT**



Mr LS MONARENG
ACTING HEAD OF DEPARTMENT: AGRICULTURE, RURAL DEVELOPMENT, LAND & ENVIRONMENTAL AFFAIRS

DATE 2019-10-06

