

**RECTIFICATION FOR THE UNLAWFUL CONSTRUCTION OF INFRASTRUCTURE
FOR THE EXPANSION OF A VINEYARD ON PORTION 13 OF ORANGE FALLS
FARM NO 16, AUGRABIES FALLS WAY, AUGRABIES, NORTHERN CAPE**

Our Ref:



an agency of the
Department of Arts and Culture

T: +27 21 462 4502 | F: +27 21 462 4509 | E: info@sahra.org.za
South African Heritage Resources Agency | 111 Harrington Street | Cape Town
P.O. Box 4637 | Cape Town | 8001
www.sahra.org.za

Enquiries: Natasha Higgitt
Tel: 021 462 4502
Email: nhiggitt@sahra.org.za

Date: Friday November 10, 2017
Page No: 1

CaseID: 11307

Final Comment

In terms of Section 38(8) of the National Heritage Resources Act (Act 25 of 1999)

Attention: Enviroafrica CC

PO Box 5367
Heilderberg
7135

Project Description & Location: The unlawful construction of infrastructure for the expansion of a vineyard on Portion 13 of Orange Falls Farm no 16, Augrabies Falls Way has commenced. The soil in which the grapes are planted gets ripped in order to create favorable conditions, no soil gets removed by this action. The 10ha area that is developed is done on previously grazed fields. The activity commenced in different time frames: 5ha were developed in 2010; 2.5ha were developed in 2012 and 2.5ha were developed in 2016. During this development there were no new roads constructed. The warehouse in which the grapes gets processed and packed was built in 2001. The site is approximately 9km north-west of Augrabies. The site co-ordinates are 28°39'30.16"S, 20°20'28.81"E.

EnviroAfrica CC was appointed by The Lair Trust to conduct an Environmental Impact Assessment (EIA) process in support of a Section 24G application for the rectification of the unlawful construction of infrastructure for the expansion of a vineyard on portion 14 of Orange Falls Farm No 16, Augrabies Falls Way, Augrabies, Northern Cape Province. A draft EIA has been submitted in terms of the National Environmental Management Act, 1998 (NEMA) and the Environmental Impact Assessment (EIA) Regulations 2014. A total of 10 ha was developed which was previously used for grazing.

The Agency for Cultural Resource Management was appointed to conduct the heritage studies as part of the EIA.

Kaplan, J. 2017. Archaeological Screening Assessment, construction of illegal vineyards on portion 12 of Orange Falls Farm No 16, Augrabies, Northern Cape Province: Section 24G Rectification Process.

No archaeological remains were encountered during the site inspection of the constructed vineyards. It was noted that several banded ironstone Middle Stone Age (MSA) tools immediately south of the developed area. No recommendations were provided.

In an Interim Comment issued on 30/08/2017, SAHRA stated that the submitted report is not accepted. A



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Heritage Impact Assessment (HIA) must be conducted for the development which will assess the potential heritage resources that may have been present within the development area, and what may still be uncovered during the operation of the vineyards. The HIA must assess all heritage as defined in section 3 of the National Heritage Resources Act, Act 25 of 1999 (NHRA) and comply with section 38(3) of the NHRA.

Kaplan, J. September 2017. Archaeological Screening Assessment, construction of illegal vineyards on portion 12 of Orange Falls Farm No 16, Augrabies, Northern Cape Province: Section 24G Rectification Process.

The following statements were provided:

- The affected portion of land is entirely transformed and degraded (refer to Figure 1).
- The 'illegal' vineyard has been operational since 2010.
- The affected landholdings were already grazed prior to development of the vineyards.
- No archaeological remains were found during a screening assessment of the affected site.

It was noted that several banded ironstone Middle Stone Age (MSA) tools immediately south of the developed area as part of a separate Basic Assessment Process for new vineyards. A desktop palaeontological study is being commissioned as part of that process.

In a Final Comment issued on the 20/10/2017, SAHRA stated the following:

The SAHRA Archaeology, Palaeontology and Meteorites (APM) Unit does not accept the submitted reports and letter as provided by the heritage specialist. SAHRA APM had requested that an HIA that complies with section 38(3) to be conducted that assesses all heritage resources as per the NHRA. While no archaeological resources may have been disturbed during the illegal construction of the vineyards, other types of heritage resources may have been i.e. surface fossils, graves, structures, intangible heritage etc.

SAHRA therefore advises the Department of Environment and Nature Conservation (DENC) to not approve the Section 24G Environmental Authorisation for the Rectification for the unlawful construction of infrastructure for the expansion of a vineyard on Portion 13 of Orange Falls Farm No 16, Augrabies Falls Way, Augrabies, Northern Cape as section 38(3) of the NHRA has not been complied with.

This comment must be sent directly to DENC, and proof of the delivery to DENC must be provided to SAHRA.

A response to the Final Comment dated 01/11/2017 was uploaded to the SAHRIS application on the 06/11/2017. In this response, the heritage practitioner requested that SAHRA reconsider the request that an

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Page No: 3

HIA be conducted due to the disturbed nature of the landscape and that no heritage is believed to have been present.

Final Comment

In respect of the above, SAHRA wishes to advise that as part of an Environmental Authorisation (EA) Application process in terms of the National Environmental Management Act, Act 107 of 1998 (NEMA) as amended and the NEMA Environmental Impact Assessment (EIA) 2014 Regulations, the aforementioned Final Comment is not a final decision. It will be incumbent on the Department of Environment and Nature Conservation (DENC) to make a decision with regards to the EA.

Should the DENC reject the application based on SAHRA's comments in terms of section 38(8) of the National Heritage Resources Act, Act 25 of 1999 (NHRA), then there will be an opportunity to appeal their (DENC's) decision as per the appeal procedure described in Chapter 2 of the National Appeal Regulations, 2014. Kindly note that, should the DENC choose to grant the EA despite SAHRA's comments, SAHRA has the same right to appeal such decision in terms of the National Appeal Regulations, 2014. Therefore, SAHRA shall wait for the final decision by DENC in this regard.

Should the applicant wish to appeal SAHRA's Final Comment as issued on 20/10/2017 despite the fact that a final "decision" will be made by DENC, you are hereby referred to the procedure set out in section 49 of the NHRA read with the appeal procedure as described in Chapter VI of the NHRA Regulations (No. R 323 7 April 2000).

Should you have any further queries, please contact the designated official using the case number quoted above in the case header.

Yours faithfully

Natasha Higgitt
Heritage Officer
South African Heritage Resources Agency

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Page No: 4

Phillip Hine
Acting Manager: Archaeology, Palaeontology and Meteorites Unit
South African Heritage Resources Agency

ADMIN:

Direct URL to case: <http://www.sahra.org.za/node/405438>
(DENC, Ref:)

Terms & Conditions:

1. This approval does not exonerate the applicant from obtaining local authority approval or any other necessary approval for proposed work.
2. If any heritage resources, including graves or human remains, are encountered they must be reported to SAHRA immediately.
3. SAHRA reserves the right to request additional information as required.