



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

GAUTENG OPERATIONS

Private Bag X995, PRETORIA, 0001, 285 Bothongo Plaza East Building, Francis Baard Street, PRETORIA Central

BY HAND OR REGISTERED MAIL

The City Manager
City of Johannesburg Metropolitan Municipality
P.O Box 1049
JOHANNESBURG
2000

Attention: Acting City Manager Mr. Bryne Maduka

DIRECTIVE ISSUED TO THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY ISSUED IN TERMS OF SECTION 19(3) AND 20 OF THE NATIONAL WATER ACT, 1998 (ACT NO 36 OF 1998) FOR FAILURE TO TAKE REASONABLE MEASURES TO PREVENT POLLUTION FROM OCCURRING, CONTINUING OR RECURRING FROM OVERFLOWING OF EMERGENCY DAM OF BUSHKOPPIES WASTEWATER TREATMENT WORKS THAT CAUSES RAW SEWAGE WASTEWATER INTO THE HARRINGTONSPRUIT, TRIBUTARY OF THE KLIP RIVER

Reference is made to the site inspection undertaken by the Department of Water and Sanitation (DWS) on 6 June and 14 July 2022 at Goudkoppies Wastewater treatment Works (WWTW) and on 7 June 2022 at Bushkoppies WWTW, for overflowing of raw sewage wastewater from the emergency dam into Harringtonspruit, tributary of the Klip River.

1. BACKGROUND

The Department conducted site inspections for Goudkoppies and Bushkoppies WWTWs on 06 June 2022 and 07 June 2022, respectively. Another site inspection for Goudkoppies was conducted on 14 July 2022, and the following observations were made:

- Goudkoppies WWTW was diverting its inflow to Bushkoppies WWTWs due to cable theft that occurred on 8 May 2022.
- Since Bushkoppies WWTW was receiving wastewater from Goudkoppies WWTW, it was over capacitated. This was evident as the inlet and emergency dam were overflowing into the environment, due to the diverted flow from Goudkoppies.
- It is evident that the pollution has been ongoing for a prolonged time.
- The City of Johannesburg Metropolitan Municipality is not adequately attending to the overflow of wastewater taking place at the Bushkoppies WWTW, which is affecting the water quality of the Klip River and ultimately the Vaal River.
- The Department is inundated by complaints regarding water pollution of Harringtonspruit, which emanates from Goudkoppies WWTW.



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2. DIRECTIVE

Based on the above, the Department is of the view that the City of Johannesburg Metropolitan Municipality is not complying with the provision of Section 19 of the NWA, which deals with the prevention of pollution to water resources.

I, Wisani Justice Maluleke, in my capacity as the Provincial Head of the Department of Water and Sanitation: Gauteng Operations and duly authorised in terms of the powers delegated to me by the Minister of Water and Sanitation, hereby give you Mr. Bryne Maduka in your capacity as the Acting City Manager of Ekurhuleni Metropolitan Municipality and the owner of the sewer infrastructure, hereby give you a notice to issue a directive in terms of Section 19(3) National Water Act, 1998 (Act No 36 of 1998).

The Directive relates to contravention of the following Section(s) 19 and 20 of the NWA, Prevention and remedying the effect of the pollution.

19. (1) *An owner of land, a person in control of land or a person who occupies or uses the land on which;*
- a) any activity or process is or was performed or undertaken; or*
 - b) any other situation exists, which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.*
- (2) *The measures referred to in subsection (1) may include measures to (a) cease, modify or control any act or process causing the pollution;*
- (a) comply with any prescribed waste standard or management practice;*
 - (b) contain or prevent the movement of pollutants;*
 - (c) eliminate any source of the pollution;*
 - (d) remedy the effects of the pollution; and*
 - (e) remedy the effects of any disturbance to the bed and banks of a watercourse.*
- (3) *A catchment management agency may direct any person who fails to take the measures required under subsection (1) to*
- (a) commence taking specific measures before a given date; (b) diligently continue with those measures; and (c) complete them before a given date.*
- (4) *Should a person fail to comply, or comply inadequately with a directive given under subsection (3), the catchment management agency may take the measures it considers necessary to remedy the situation.*
- (5) *Subject to subsection (6), a catchment management agency may recover all costs incurred as a result of it acting under subsection (4) jointly and severally from the following persons:*
- (a) Any person who is or was responsible for, or who directly or indirectly contributed to, the pollution or the potential pollution;*
 - (b) the owner of the land at the time when the pollution or the potential for pollution occurred, or that owner's successor-in-title;*
 - (c) the person in control of the land or any person who has a right to use the land at the time when -*
 - (i) the activity or the process is or was performed or undertaken; or (ii)*
 - the situation came about; or*

- (d) *any person who negligently failed to prevent -*
 - (i) *the activity or the process being performed or undertaken; or* (ii)
 - the situation from coming about.*
- (6) *The catchment management agency may in respect of the recovery of costs under subsection (5), claim from any other person who, in the opinion of the catchment management agency, benefitted from the measures undertaken under subsection (4), to the extent of such benefit.*
- (7) *The costs claimed under subsection (5) must be reasonable and may include, without being limited to, labour, administrative and overhead costs.*
- (8) *If more than one person is liable in terms of subsection (5), the catchment management agency must, at the request of any of those persons, and after giving the others an opportunity to be heard, apportion the liability, but such apportionment does not relieve any of them of their joint and several liability for the full amount of the costs.*

Section 20.(3) The responsible person, any other person involved in the incident or any other person with knowledge of the incident must, as soon as reasonably practicable after obtaining knowledge of the incident, report to -(a) the Department;(b) the South African Police Service or the relevant fire department; or (c) the relevant catchment management agency.(4) A responsible person must -(a) take all reasonable measures to contain and minimise the effects of the incident;(b) undertake clean-up procedures; (c) remedy the effects of the incident.

I have reasonable grounds for believing that you have contravened the above mentioned sections of the NWA. I have reached this opinion as a result of the site inspections conducted on 6 and 7 June 2022. During the site inspection, it was observed that a raw sewage overflowing from Bushkoppies WWTW was flowing into Harringtonspruit. It was also observed that the raw sewage was flowing for a prolonged period. The raw sewage flowing into Harringtonspruit and ultimately into the Klip River will have devastating consequences to the downstream water users and aquatic life.

The Directive directs you to:

1. (a) cease, modify or control any act or process causing the pollution;
 (b) comply with any prescribed waste standard or management practice;
 (c) contain or prevent the movement of effluent;
 (d) eliminate any source of the pollution;
 (e) remedy the effects of the pollution; and
 (f) remedy the effects of any disturbance to the bed and banks of a watercourse.
2. Stop raw sewage overflowing from the Bushkoppies WWTWs with immediate effect.
 - a) **Immediately** take corrective measures to contain and stop the overflows at the aforementioned area thus preventing further pollution of the water resource;
 - b) **Within seven (07) working days** of receipt of this directive, submit the Action Plan to correct the non-compliances occurring on site;
 - c) Appoint a suitably qualified environmental consultant to compile a rehabilitation plan which must entail amongst others; the nature and extent of the impact that the sewage spillage has or may

have on the water resource and measures that will be implemented to remediate or mitigate the impacts with clear timeframes and descriptions of how and when each remedial/mitigation action will be implemented. This plan must be compiled for all affected areas within 30 (thirty) days upon receipt of this directive, which must be submitted to the Department for approval;

- d) Implement all the recommendations contained in the rehabilitation plan and rehabilitate the areas affected by the sewer spillages within 30 (thirty) working days of the Departmental approval of the Rehabilitation Plan; and
- e) Compile a close-out report after completion of rehabilitation work to be submitted to the Department within 14 (fourteen) days of completion of the rehabilitation activities.

I would also like to bring to your attention that failure to present an Action Plan with **seven (07) working days** of receipt of the directive and to stop the illegal discharge will leave the Department with no option but to take further steps in terms of section 151 (1) (d) of the NWA.

Further note that continuing with activities which are in contravention of the NWA and failure to comply with this directive may result in the Department carrying out any works and taking any necessary action to rectify the contravention in terms of section 19(4) of the NWA, and recover all reasonable costs incurred in doing so from you, or it may apply to the relevant court or National Treasury for appropriate relief.

Your attention is also drawn to the fact that polluting water resources constitutes an offence in terms of section 151 (1) of the NWA. Any person who contravenes any provision of subsection (1) of section 151 of the NWA is guilty of an offence and liable, on first conviction, to a fine or imprisonment for period not exceeding five years, or both a fine and such imprisonment and in the case of second conviction or subsequent conviction, to a fine or imprisonment for a period not exceeding ten years or to both a fine and such imprisonment in terms of section 151 (2).

Kindly be advised that in terms of section 148(1) of the Act you may appeal against this directive in terms of section 53(1) to the Water Tribunal within 30 days from the date of this directive. The Registrar of the Water Tribunal is Mr. Robert Mabe and contact details are as follows:

Private Bag x316

Pretoria

0001

(012) 336 7034

In terms of Section 148(2) of the NWA, it must be noted that appeal against directive does not suspend the directive pending the outcome of such a decision from the Water Tribunal.

Should you have any further queries, please contact Mr. Jabulani Siyaya on the address above.

Yours sincerely



MR WISANI JUSTICE MALULEKE

PROVINCIAL HEAD: GAUTENG OPERATIONS

DATE: 25/08/2022.



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

GAUTENG PROVINCIAL OPERATIONS

Private Bag X995, PRETORIA, 0001, 285 Bothongo Plaza East Building, Francis Baard Street, PRETORIA Central

Enquiries: L Moremi

Acknowledgement of Receipt

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Received by: Mr. /Ms. _____

ID Number: _____

On behalf of the company: **City of Johannesburg Metropolitan Municipality**

In my capacity as: _____

On this _____ day of _____ 2022 at _____

Signature: _____