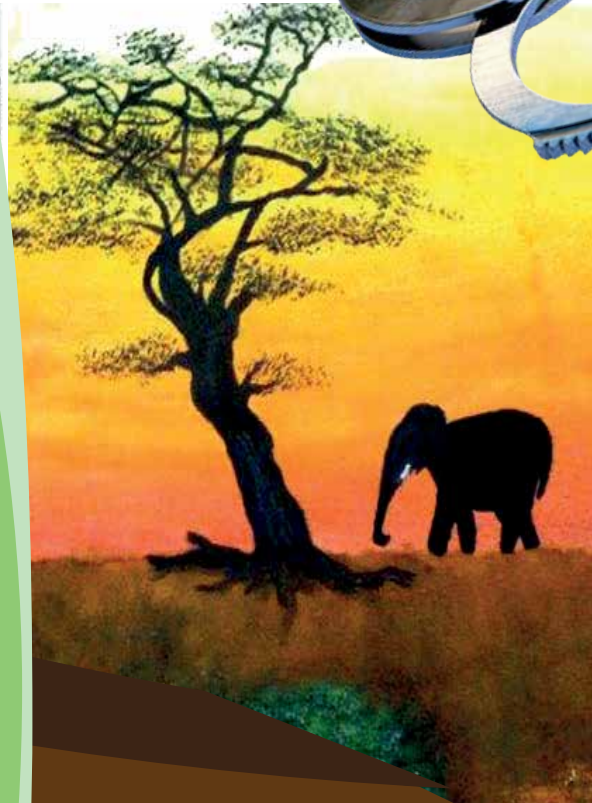


# National Environmental Compliance and Enforcement Report 2015/16




**environmental affairs**

Department:  
Environmental Affairs  
**REPUBLIC OF SOUTH AFRICA**







National Environmental Compliance and Enforcement Report 2015/16

2016

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

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## FOREWORD

12 year old Severn Suzuki, speaking for the Environmental Children's Organization at a Plenary Session of the Earth Summit, Rio Centro, Brazil 1992, said:

*"In my life, I have dreamt of seeing the great herds of wild animals, jungles and rain-forests, full of birds and butterflies, but now I wonder if they will even exist for my children to see. Did you have to worry of these things when you were my age? All this is happening before our eyes and yet we act as if we have all the time we want and all the solutions. I'm only a child, and I don't have all the solutions. I want you to realize, neither do you. You don't know how to fix the holes in our ozone layer. You don't know how to bring the salmon back up a dead stream. You don't know how to bring back an animal now extinct. And you can't bring back the forest that once grew where there is now a desert. If you don't know how to fix it, please stop breaking it."*

The theory of intergenerational equity states that all generations have an equal place in relation to the natural system, and that there is no basis for preferring past, present or future generations in relation to the system. This notion has deep roots in international law. As members of the present generation, we are both trustees, responsible for the robustness and integrity of our planet, and beneficiaries, with the right to use and benefit from it for ourselves. Every generation should use the natural system to improve the human condition.

But when one generation severely degrades the environment, it violates its intergenerational obligations to care for the natural system. Intergenerational equity may appear to conflict with the goal of achieving intragenerational equity, meaning equity among those who are living today. There is a need urgently to devote current resources to helping all people meet their basic human needs for food, potable water, and shelter.

Through the inclusion of sections 24 and 28 into our Constitution, we promised to provide the most vulnerable members of our society, our children, with an environment that is not harmful to their health and well-being; and to basic nutrition, shelter, basic health care services and social services. In this respect, I note with concern, the recently published 2nd South Africa Environment Outlook Report (2016), which finds that the biophysical environment in South Africa is generally in a state of decline. The report further notes that health impact studies reflect that exposure to air pollution results in numerous health problems in our general population, with the effects more pronounced in the elderly, the young; and those in the low income bracket. This vulnerability is exacerbated by poor land use planning that has resulted in the location of heavy industrial developments in close proximity to high density residential areas. Given the current state of the environment, I am deeply concerned that we, the State, have a long and steep road to travel in order to fulfil our Constitutional imperative to adhere to the principle of intergenerational equity, to take the reasonable legislative

and other measures necessary to achieve the progressive realisation these rights, and, most critically, to fulfil the promise that we have made to our children. Future generations would want to inherit the Earth in as good a condition as did their ancestors and with at least comparable access to its resources. This requires that each generation leaves the planet in no worse a condition than it received it, and to provide succeeding generations with equitable access to its resources and benefits.

Last year, the release of the 2014/15 National Environmental Compliance and Enforcement Report marked ten years since an amendment to the National Environmental Management Act, Act 107 of 1998 (NEMA) created the Environmental Management Inspectorate in law. In commemoration of this significant milestone and as a celebration of the great strides made by the Inspectorate towards achieving compliance with environmental legislation in the past decade, the report included photographs of the inaugural round of designations of environmental management inspectors.

This year, we have included in the report, the artwork of the winners of the children's art competition titled, *"The Future in Our Hands: Helping the Green Scorpions protect Our Planet"*. Firstly, I would like to thank all Grade 1 – 7 learners that participated in this competition for their wonderful contributions – you are all winners! Secondly, I would like to call on all EMIs to let these artworks be a source of inspiration for you to step up your levels of effort and commitment in the execution of your compliance and enforcement duties. Your work breathes life into the principles of intergenerational equity and sections 24 and 28 of our Constitution; and ensures that they do not represent empty, broken promises - not only to ourselves, but also to our children. In the famous words of our dearly departed Madiba:

*"There can be no keener revelation of a society's soul than the way in which it treats its children."*

With these wise words, I am pleased to present the ninth National Environmental Compliance and Enforcement Report for 2015/16.



**ISHAAM ABADER**

**DEPUTY DIRECTOR-GENERAL: LEGAL AUTHORISATIONS, COMPLIANCE AND ENFORCEMENT, DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

## ACRONYMS

### Key:

<b>AIS</b>	Alien and invasive species
<b>DG</b>	Director-General
<b>EMI</b>	Environmental Management Inspector
<b>GEF</b>	Global Environmental Facility
<b>NECER</b>	National Environmental Compliance and Enforcement Report
<b>TOPS</b>	Threatened or Protected Species

### General

### Key:

<b>DEA</b>	National Department of Environmental Affairs
<b>DMR</b>	Department of Mineral Resources
<b>DWS</b>	Department of Water and Sanitation
<b>Eastern Cape DEDET</b>	Eastern Cape Department of Economic Development, Environment and Tourism
<b>Eastern Cape Parks</b>	Eastern Cape Parks and Tourism Agency
<b>Ezemvelo</b>	Ezemvelo KwaZulu-Natal Wildlife
<b>Free State DESTEA</b>	Free State Department of Economic Small Business Development, Tourism and Environmental Affairs
<b>Gauteng DARD</b>	Gauteng Department of Agriculture and Rural Development
<b>Isimangaliso</b>	Isimangaliso Wetland Park Authority
<b>KwaZulu-Natal DEDTEA</b>	KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs
<b>Limpopo DEDET</b>	Limpopo Department of Development, Environment and Tourism
<b>Mpumalanga DARDLEA</b>	Mpumalanga Department of Agriculture Rural Development, Land & Environmental Affairs
<b>Mpumalanga Parks</b>	Mpumalanga Tourism and Parks Agency
<b>Northern Cape DENC</b>	Department of Environment and Nature Conservation, Northern Cape
<b>North West DREAD</b>	North West Department of Rural, Environment and Agricultural Development
<b>NPA</b>	National Prosecuting Authority
<b>North West Parks</b>	North West Park and Tourism Board
<b>SANParks</b>	South African National Parks
<b>SAPS</b>	South African Police Service
<b>Western Cape DEADP</b>	Department of Environmental Affairs and Development Planning, Western Cape

### Institutions

<b>Key:</b>	<b>National Legislation</b>
<b>APPA</b>	Atmospheric Pollution Prevention Act 45 of 1965
<b>ECA</b>	Environment Conservation Act 73 of 1989
<b>MLRA</b>	Marine Living Resources Act 18 of 1998
<b>NEMA</b>	National Environmental Management Act 107 of 1998
<b>NEM:AQA</b>	National Environmental Management: Air Quality Act 39 of 2004
<b>NEM:BA</b>	National Environmental Management: Biodiversity Act 10 of 2004
<b>NEM:PAA</b>	National Environmental Management: Protected Areas Act 57 of 2003
<b>NEM:WA</b>	National Environmental Management: Waste Act, No. 59, 2008
<b>NWA</b>	National Environmental Management: National Water Act 36 of 1998
<b>SEMA</b>	Specific Environmental Management Act as defined in NEMA

### GLOSSARY OF TERMS:

“**Admission of guilt fines (J534)**” means fines paid for less serious environmental offences in terms of Section 56 of the Criminal Procedure Act, 1977. For the purposes of this report, admission of guilt fines are reported separately from convictions otherwise imposed by a court.

“**Arrests by EMIs**” indicates the number of individuals arrested/summoned to court by EMIs for the purposes of criminal prosecution.

“**Civil court applications**” means civil proceedings instituted in the High Court (e.g. interdict, declaratory order) by regulatory authorities, usually in circumstances where notices or directives are ignored, and / or actual or imminent significant harm is being caused to the environment.

“**Convictions**” reflects the number of convictions imposed by a court, whether pursuant to a trial or a guilty plea. This excludes convictions by way of the payment of admission of guilt fines.

“**Criminal dockets**” means the number of criminal dockets registered with the South African Police Service (with allocated CAS numbers).

“**Enforcement action required**” means that the environmental authority has decided that the nature of the non-compliance identified through an inspection warrants the initiation of an enforcement action (criminal, civil or administrative).

“**Environmental crime**” is the violation of a common law or legislative obligation related to the environment which carries a criminal sanction.

“**Follow-up**” means inspections that are conducted subsequent to an initial inspection. These types of inspections are typically more focused on the progress that has been made in respect of non-compliant areas identified in the initial inspection.

“**Green, Blue and Brown**” refers to the compliance and enforcement activities taking place in the biodiversity and protected areas (green), integrated coastal management (blue) and pollution, waste and EIA (brown) sub-sectors respectively.

“**Initial inspection**” means that it is the first time that the particular facility/person has been the subject of a compliance inspection by EMIs. These types of initial, baseline inspections may cover a broad range of environmental aspects (for example, air, water, waste) as is the case with the sector-based strategic compliance inspections described in 8 below.

**“No. of non-compliances”** means the total number of non-compliances related to environmental legislation, regulations, authorisations, licences and/ or permits including conditions thereto identified by EMIs when conducting inspections.

**“Non-compliance”** refers to any breach of an environmental legislative obligation or permit/licence/authorisation condition, irrespective of whether or not such a breach constitutes a criminal offence.

**“Notices/directives issued”** means administrative enforcement tools, such as compliance notices and directives that are issued in response to suspected non-compliance with environmental legislation. These tools instruct the offender to take corrective action (e.g. ceasing an activity, undertaking rehabilitation, submitting information). Failure to comply with such compliance notice / directive is a criminal offence.

**“Proactive inspections”** means inspections that are initiated by an EMI without being triggered by a specific complaint, but rather as part of the institution's broader compliance strategy. These inspections assess compliance with legislative provisions as well as permit conditions.

**“Reactive inspections”** means inspections that are initiated in reaction to a specific report or complaint. In these circumstances, an EMI is required to conduct a site visit to verify the facts alleged in the complaint, and to assess the level of non-compliance.

**“Reported incidents”** means all incidents of suspected non-compliance with environmental obligations reported by institutions for the purposes of the NECER, irrespective of whether or not compliance and enforcement responses have been taken.

**“Section 105A agreement”** means a plea and sentence agreement entered into between an accused and the state in terms of which the accused admits guilt and the conditions of the conviction and sentence are set out and confirmed by the court.

**“S24G administrative fines”** fines paid by applicants who wish to obtain an ex-post facto environmental authorisation after having unlawfully commenced with a listed or specified activity in terms of S24F(1) of NEMA or after having unlawfully commenced, undertaken or conducted a waste management activity without a waste management licence in contravention of section 20(b)

of NEM:WA.

**“Unlawful commencement of listed activity”** means activities which may have a detrimental effect on the environment and require an environmental authorisation prior to commencement. It is a criminal offence to commence or undertake these activities without first obtaining such an authorisation.

**“Warning letters”** are written documents that afford an opportunity to an offender to comply without initiation of formal administrative, civil or criminal enforcement proceedings.

Note: for the purposes of the statistics represented in this report, “-“ means that no statistics are available for this information field, whereas “0” means zero.

## 1. INTRODUCTION

The 2015/16 financial year marks the 9th year in which DEA has collaborated with its provincial counterparts and statutory bodies to develop the National Environmental Compliance and Enforcement Report (NECER); a joint publication that aims to provide an overview of environmental compliance and enforcement activities undertaken by the various environmental authorities over the period of a financial year. What is different about this year's edition is that DEA has also collaborated with the Department of Water and Sanitation (DWS) to include some key statistics from DWS in respect of compliance and enforcement activities related to freshwater resources which form part of the broader environment.

The NECER is aimed at a broad spectrum of stakeholders, including a range of private, public and community-based institutions. In this respect, the report seeks to fulfil some of the information requirements of regulators, the regulated, the general public and other interested organisations. The report is designed to meet this objective, by providing:

- the general public with an overview of the measures being taken by the environmental compliance and enforcement sector to give effect to section 24 of the Constitution;
- the community-based/non-governmental organisations with information related to specific compliance and enforcement activities being taken in respect of a certain sectors or facilities;
- the national, provincial and local environmental authorities with an overall perspective of their compliance and enforcement performance, both in relation to previous financial years, as well as in relation to their counterparts; and
- a deterrent effect to would-be offenders who realise there are dire consequences for those who choose to flout environmental laws.

The NECER is divided into 14 chapters. It commences with a summary of the key findings of the report, followed by a section outlining the capacity and profile of the Environmental Management Inspectorate. An overall perspective of the national compliance and enforcement statistics is followed by a more detailed breakdown per institution/province. The subsequent legal chapters include recent court cases related to the environment; as well as the legislative developments that come into effect in the past financial year.

We then turn to operational activities related to industrial and biodiversity sectors; as well as joint stakeholder operations. The nature and scope of environmental complaints and incidents received through the national hotline is followed by a chapter detailing the capacity-building efforts for EMLs, magistrates, prosecutors and other law enforcement authorities. We end the report off with chapters on stakeholder engagement and look ahead to plans for the 2016/17 financial year.

It should be noted that the NECER is not without constraints. Constraints that should be noted include the fact that the NECER focuses on the activities of "environmental" authorities, as well as the DWS but does not reflect the compliance and enforcement work being undertaken by other "related" sectors; such as agriculture, forestry and fisheries, mineral regulation, labour and health. In addition, the statistics reflected in this report emanate directly from the input received from the respective environmental authorities – no independent auditing or verification of this input is conducted by DEA or any other third party. In this respect, the report should be regarded as indicative (but not conclusive) of the general nature, scope and volume of activities undertaken by environmental and water affairs' compliance and enforcement authorities in this reporting period.

Despite these constraints, it is hoped that the NECER 2015/16 will continue to provide a valuable information resource to its readers as it strives to highlight the critical work currently being undertaken by the environmental compliance and enforcement sector.



## 2. KEY FINDINGS

### 2.1 The Environmental Management Inspectorate

- In total, there are **2647** EMI's designated across the country, comprising **2411** national and provincial EMI's and **236** municipal EMI's.
- There has been slight **5.1%** increase in the total number of EMI's on the national register from **2294** in 2014/15 to **2411** (national and provincial authorities) in 2015/16.
- Of the total **2411** EMI's on the national register (national and provincial authorities), **1639** (67%) are Grade 5 EMI's (field rangers employed at national and provincial parks authorities).
- There has been a general increase in the number of Grade 5 EMI field rangers from **1252** in 2013/14 to **1300** in 2014/15 and **1639** in 2015/16.
- SANParks (**802**), Ezemvelo (**605**), Limpopo DEDET (**269**) Eastern Cape Parks (**158**), North West Parks (**90**) have the most EMI's (majority are Grade 5 field rangers) followed by DEA (**83**), Western Cape DEADP (**77**), and Gauteng DARD (**51**), while Mpumalanga DARDLEA (**11**), Isimangaliso (**4**) and SANBI (**4**) have the least.
- EMI's at the local authority level have increased over the past three financial years from **42** in 2013/14 to **185** in 2014/15 and **236** in 2015/16.
- **SANBI**, which was previously not featured in the EMI register, have **4** EMI's.

### 2.2 Overall National Compliance and Enforcement Statistics

#### Enforcement:

- There has been a **0.8%** increase in the number of criminal dockets registered from **1250** in 2014/15 compared to the **1261** in 2015/16.
- The total number of admission of guilt fines (J534s) issued has continued to decrease from **1687** in 2013/14 to **1390** for 2014/15 and **1145** to 2015/16. This shows a decrease of **17.6%** between 2014/15 and 2015/16.
- The total value of admission of guilt fines paid has increased from **R 418 181** in 2014/15 to **R 564 850**, showing an increase of **35%** in 2015/16.
- The number of criminal dockets handed to the NPA has increased by **14%** from **257** in 2014/15 to **293** in 2015/16.
- The total number of arrests by EMI's has generally decreased from **1371** in 2013/14 to **1259** in 2014/15 and **939** in 2015/16.
- The total number of acquittals has decreased from **6** in 2014/15 to **5** in 2015/16, which shows a decrease of **16.67%**.
- Convictions reported have decreased by **20%** from **65** reported in 2014/15 to **52** in 2015/16.
- There has been a decrease in the number of plea and sentence agreements concluded from **15** in 2014/15 to **13** reported in 2015/16.
- The total number of warning letters issued has decreased from **364** in 2014/15 to **309** in 2015/16 which equates to a decrease of **15.1%**.
- The total number of administrative notices issued has increased by **25.65%** from **729** in 2014/15 to **916** in 2015/16.
- The number of civil court applications has generally decreased from **2** in 2013/14 to **1** in 2014/15 to **0** in 2015/16.
- There has been a general decrease of total value of section 24G administrative fines paid from **R 16 127 751** in 2013/14 to **R14 005 423.00** in 2014/15 and **R 8 019 250** in 2015/16.

#### Compliance Monitoring:

- There were a total of **3687** facilities inspected in 2015/16, which reflects a **27.6%** increase from the **2889** facilities inspected in 2013/14.
- Of the total number of facilities inspected **55.1%** (**2033**) were against brown legislative requirements, while **32.4%** (**1196**) were in the green subsector and **12.5%** (**458**) were inspected against blue issues.
- There has been a significant increase of **98.7%** in the total number of proactive inspections conducted which brings the total from **1247** in 2014/15 to **2474** in 2015/16.
- The total number of reactive inspections conducted in 2015/16 amounted to **1224**, which reflects a **178%** increase from the **440** conducted in 2014/15.
- The total number of non-compliances detected during inspections has increased from **2177** in 2014/15 to **2735** in 2015/16, representing a significant **25.6%** increase. Of the total number of non-compliances detected (**1678** were brown, **924** blue and **133** green) required follow-on enforcement action.
- A total of **2341** inspection reports were finalised 2015/16 compared to the **1610** inspection reports finalised in the 2014/15 financial year.
- Of the **3698** inspections conducted some facilities had follow-up inspections conducted, the greater portion (1064) were environmental authorisations and permits based inspections followed routine inspections contributed 966, complaints triggered were **830** and the other **716** were triggered by number of various triggers.





### 2.3 Statistics per Institution/Province

- Ezemvelo recorded the highest number of criminal dockets registered at **363**, followed closely by SANParks with **289**. The third highest was Limpopo DEDET with **259** dockets registered while DWS recorded **5**, KwaZulu-Natal DEDTEA and Northern Cape DENC each recorded 1 criminal docket.
- Limpopo DEDET recorded the highest number of arrests at **249**, followed by Ezemvelo with **246** arrests.
- Ezemvelo issued the highest total value of admission of guilt fines (J534s), amounting to **R 473 200** from the **215** fines issued, followed by SANParks with a value of **R 258 650** from **314** fines issued.
- With a total of **255**, DEA recorded the highest number of administrative enforcement notices comprising of **24** pre-compliance notices, **8** final compliance notices, **219** pre-directives and **4** directives. Limpopo DEDET reported the lowest number of administrative enforcement notices with **2** pre-directives, **24** pre-compliance notices and **1** final compliance notice. SANParks, CapeNature, Free State DEDTEA, Northern Cape DENC, Ezemvelo, Eastern Cape Parks and Mpumalanga Parks reported no administrative enforcement.
- Limpopo DEDET issued **145** warning letters, the highest of the EMI Institutions. They were followed by Eastern Cape DEDEA who issued **49** warning letters.
- Western Cape DEADP recorded the highest value of fines paid pursuant to section 24G in the sum of **R 3 520 000**, followed by closely by Gauteng DARD which recorded **R 1 809 750**, while the DEA recorded **R 1 695 000**. North West DREAD recorded **R472 000**, KwaZulu-Natal DEDTEA recorded **R 197 500** and Eastern Cape DEDEA recorded a total amount of **R 70 000.00**.
- KwaZulu-Natal DEDTEA recorded the highest number of facilities inspected at **946** of which **940** were in respect of brown issues, **3** in respect of green and **3** blue issues. This was followed by North West DREAD with **579** (312 brown, 267 green issues) and DWS with **451** in respect of blue issues only.
- DEA recorded the highest number of non-compliances detected at **1043** during the execution of compliance inspections, followed by DWS which detected **917** and KwaZulu-Natal DEDTEA which detected **522** non-compliances. Gauteng DARD reported **67** non-compliances, followed by Limpopo DEDET with **53**. Other EMI institutions recorded less than **50** which were not significant.

### 2.4 Industrial Compliance and Enforcement

One of the features of the 2015/2016 NECER relative to industrial compliance and enforcement initiatives is the introduction of operational activities and targeted enforcement initiatives within a sector that has traditionally been regulated through comprehensive compliance audits. The shift in thinking was brought about by the introduction of the National Environmental Compliance and Enforcement Strategy in 2014 which recommended a range of compliance and enforcement activities and measures to more effectively undertake our work. Given that baseline assessments have already been completed for various facilities within the high risk sectors, there was a decision to shift towards targeting only substantive environmental concerns that were pointed out within the ambit of the baseline audits and which are yet to be resolved by these facilities, for more detail please see section 8 of this report.

A worrying trend, however, is that major environmental polluters, such as Evraz Highveld Steel, have entered into Business Rescue Proceedings. Not only does this result in significant socio-economic ramifications (which must be taken into account when decisions are made within the enforcement processes), but also results in uncertainty as to how the serious risks to the environment will be addressed as the "environment" needs to compete for funds with other creditors. The questions that are raised in this section of the report as to whether stringent enforcement action results in the implementation of compelling environmental sustainable initiatives largely remain unanswered. The

Inspectorate acknowledges that further work needs to be done to better understand the impact of its work, particularly in relation to these large sectors.

### 2.5 National Complaints and Incidents

- In 2015/16, the total number of complaints and section 30 incidents reported through the various reporting channels was **819**, which indicates a slight increase of **2.6% (21)** from **798** in 2014/15.
- The reported number of incidents in terms of section 30 of NEMA has increased slightly from **236** in 2014/15 to **239** in 2015/16, while the number of complaints reported increased by **3.2%** from **562** in 2014/15 to **580** in 2015/16.
- The highest number of section 30 NEMA incidents reported came from the power generator sectors which amounted to **43% (103)** followed by rail transport attributing **25% (60)** of the total 239 reported incidents.
- There has been a fluctuation in the reporting of certain types of incidents, with a significant decrease in reports of illegal development from **68** in 2014/15 to **10** in 2015/16, and a significant increase in reports of spillages from **19** in 2014/15 to **130** in 2015/16.
- There has been an increase in the number of complaints and incidents from all modes of reporting handled by DEA with **131** in 2014/15 to **266** in 2015/16, while complaints which were referred to DMR, DWS, provincial departments and local authorities have decreased slightly.



2.6 Annual Compliance and Enforcement Highlights			
CATEGORY	RESULT	INSTITUTION	LEGISLATION
Most inspections conducted	Green issues = 3 Brown issues= 940 Blue issues= 3  • Total= <b>946 facilities</b>	KwaZulu-Natal DEDTEA	Multiple
Highest sentence of direct imprisonment without the option of a fine	• Trust Mangwisa Mukeke, (Bellville CAS 678/10/2016) was convicted on 13 November 2015 in the Khayelitsha Regional Court. He was sentenced to <b>3 years direct imprisonment.</b>	CapeNature	Section 42(1) of Nature Conservation Ordinance 19 of 1974
Highest sentence for a pollution and waste case	The State v Heidinge Waste Removal CC. The accused was found guilty and sentenced to a fine of <b>R 1 000 000</b> suspended for 5 years. <b>A further R 100 000</b> to be paid to the DEA.	DEA	Section 26(1) of NEMWA
Highest number of section 24G fines issued	<b>49</b> were and paid with a total sum of <b>R 3 520 000</b> being collected.	Western Cape DEADP	NEMA section 24G
The highest number of administrative enforcement notices issued	<b>255</b> administrative enforcement notices were issued, most related to restricted activities involving listed invasive species.	DEA	NEM:BA Section 71(1)
Highest number of admission of guilt fines issued	<b>373</b> were issued in the sum of <b>R 166 600</b>	Limpopo DEDET	Limpopo Environmental Management Act 7 of 2003

### 3. ENVIRONMENTAL MANAGEMENT INSPECTORS

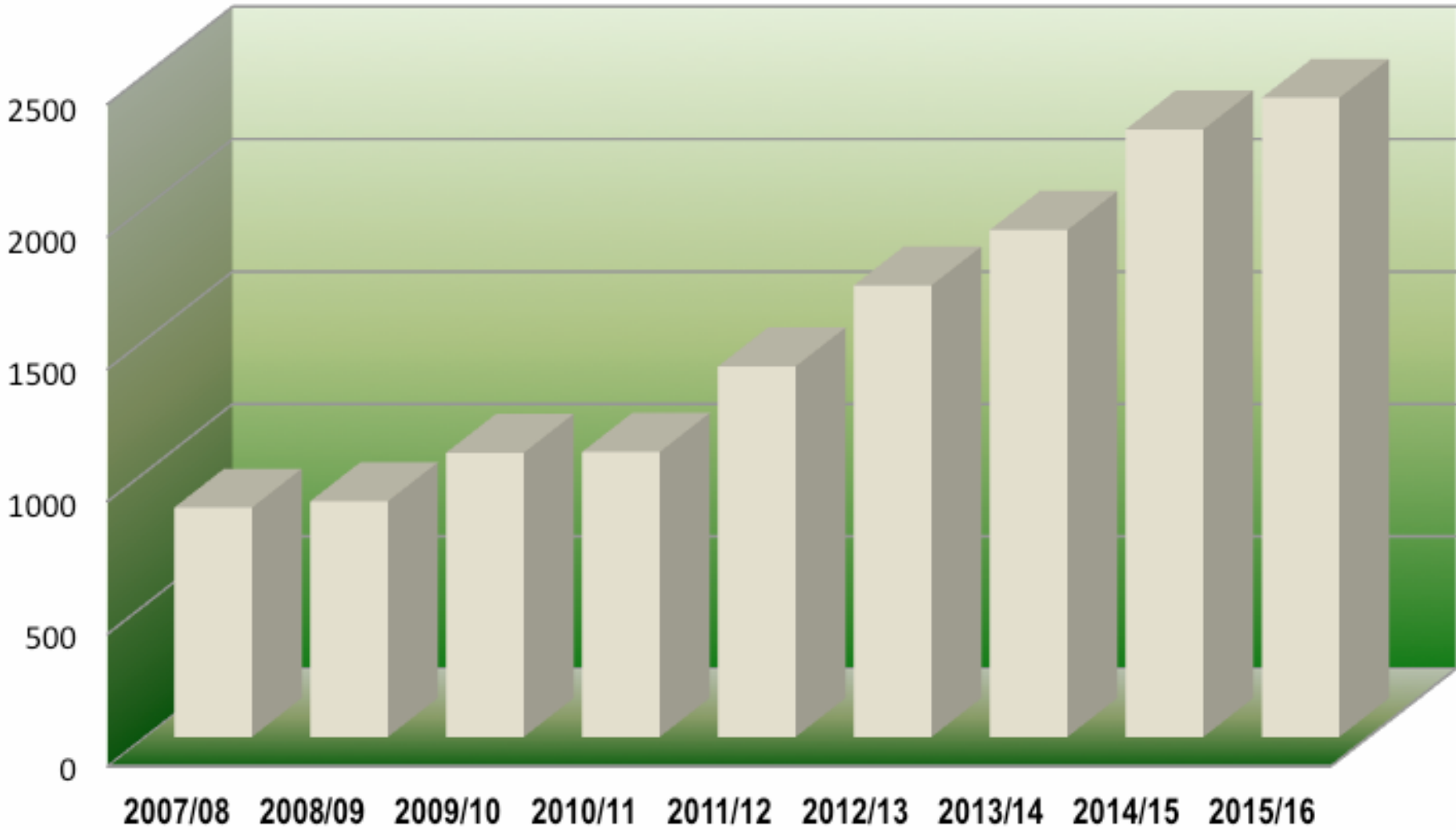
EMIs represent the environmental compliance and enforcement capacity in respect of NEMA and the SEMAs. There are, of course, officials appointed in terms of provincial legislation and local authority by-laws who also carry out environmental compliance and enforcement functions in terms of that legislation. In many instances, officials may carry both the EMI designation in terms of national environmental legislation; as well as a separate provincial or municipal designation in respect of ordinances or by-laws.

As at 31 March 2016, the national EMI Register (kept by DEA in terms of Regulation 6(2) of the Regulations relating to Qualification Criteria, Training and Identification of, and Forms to be used by Environmental Management Inspectors (GN R494 in GG 28869 of 02 June 2006)) reflected a total of 2411 EMIs. The distribution (or annual increase) of EMIs is reflected in the table below.



3.1 The distribution of EMIs since 2007

# Overall EMIs increase since 2007-2016



### 3.2 Environmental Management Inspectors per Institution

Institution Name	2013-14FY	2014-15FY	2015-16FY
<b>National Authorities</b>			
DEA	65	63	83
iSimangaliso	5	2	4
SANParks	686	681	802
SANBI	-	-	4
<b>Provincial Environmental Authorities</b>			
Eastern Cape DEDEA	48	52	50
Free State DESTEA	30	42	41
Gauteng DARD	64	49	49
KwaZulu-Natal DEDTEA	38	32	34
Limpopo DEDET	237	255	269
Mpumalanga DARDLEA	13	14	11
Northern Cape DENC	19	25	30
North West DREAD	32	45	46
Western Cape DEADP	66	72	77
<b>Provincial Parks Authorities</b>			
CapeNature	21	19	39
Eastern Cape Parks	107	107	158
Ezemvelo	474	543	605
Mpumalanga Parks	10	19	19
North West Parks	-	89	90
<b>Grand Total</b>	<b>1917</b>	<b>2109</b>	<b>2411</b>

#### 3.2.1 Local Authority Environmental Management Inspectors

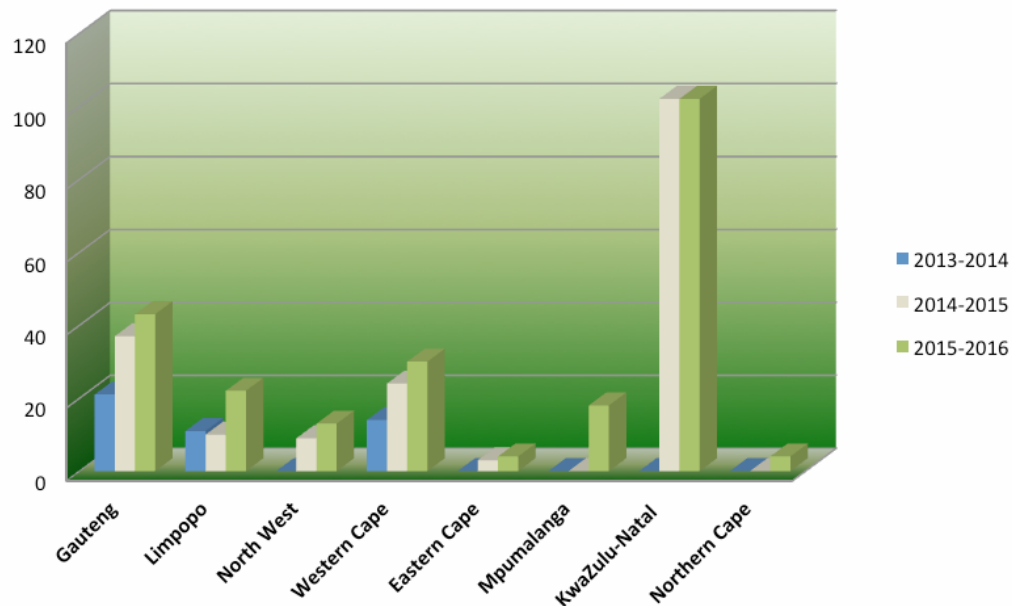
The 2012/13 financial year marked the commencement of the roll out of local authority EMIs. The addition of this sphere of government to the capacity of the Inspectorate is aimed at capacitating local authorities, mandated to enforce certain environmental issues (in terms of Schedules 4 and 5 of the Constitution) with the legislative tools to do so. The 2015/16 financial year saw the local authority EMI capacity increase from 185 in 2014/15 to 236 in 2015/16, with 18 EMIs designated in Mpumalanga and 4 in the Northern Cape, which previously didn't have local authority EMIs. While KwaZulu-Natal have designated the most local authority EMIs, Limpopo saw their capacity more than double from 10 EMIs in 2014/15 to 22 EMIs in 2015/16.





**Table Number of local authority EMIs designated**

Province	2013-14FY	2014-15FY	2015-16FY
Gauteng	21	37	43
Limpopo	11	10	22
North West	-	9	13
Western Cape	14	24	30
Eastern Cape	-	3	4
Mpumalanga	-	-	18
KwaZulu-Natal	-	102	102
Northern Cape	-	-	4
Totals	46	185	236

**Local Authority designated EMIs per province****Graph 1: Graphical representation for EMIs designated in different provinces over a three year period**

### 3.2.1 Grades 1- 4 Environmental Management Inspectors

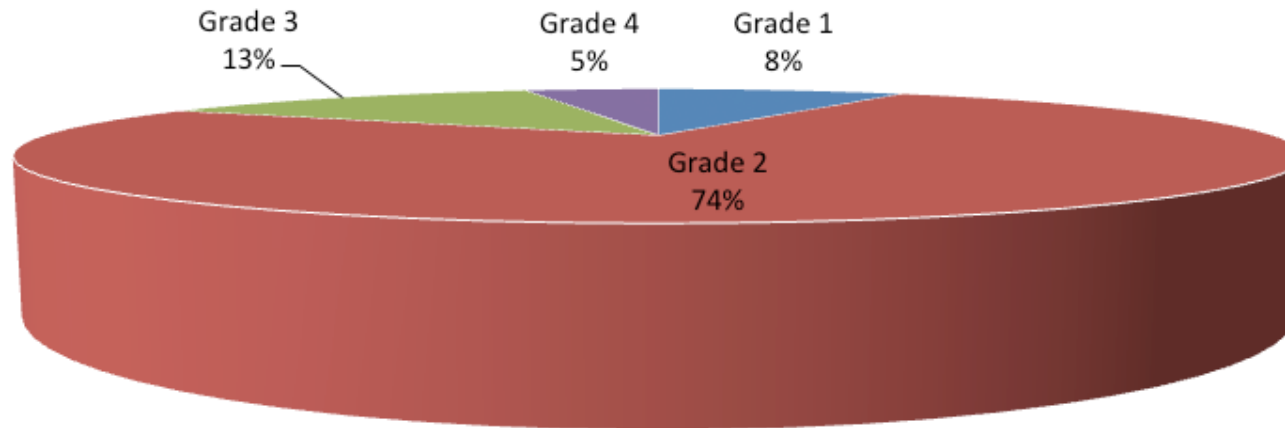
EMIs are categorised according to various grades which reflect the compliance and enforcement powers bestowed on them in terms of Chapter 7 of NEMA. The grading system is intended to align the function of the EMI with the appropriate legislative powers. Grades 1, 2, 3 and 4 EMIs are located within all EMI Institutions and undertake compliance monitoring, administrative and criminal enforcement activities in the brown, green and blue sub-sectors.

EMI Institution	Grades	1	2	3	4	Totals
Cape Nature		-	38	1	-	39
DEA		7	43	21	12	83
iSimangaliso		1	3	-	-	4
SANParks		1	151	-	1	153
Gauteng DARD		3	23	25	-	51
Limpopo DEDET		6	40	9	2	57
Northern Cape DENC		-	15	-	10	25
Eastern Cape DEDET		3	32	14	1	50
Eastern Cape Parks		-	15	1	-	16
Free State DESTEA		2	29	10	-	41
Ezemvelo		19	32	-	-	51
Mpumalanga DARDLEA		2	4	5	-	11
North West Parks		-	8	-	-	8
SANBI		-	2	-	-	2
Mpumalanga Parks		2	17	-	-	19
North West DREAD		3	43	-	-	46
Western Cape DEADP		5	38	25	8	76
Kwazulu-Natal DEDTEA		9	25	-	-	34
<b>Totals</b>		<b>63</b>	<b>558</b>	<b>111</b>	<b>34</b>	<b>766</b>





## Grades 1-4 EMIs distributions



**Pie Chart 1: Overall percentage distribution on EMIs Grades 1-4**

### 3.2.2 Grade 5 Environmental Management Inspectors

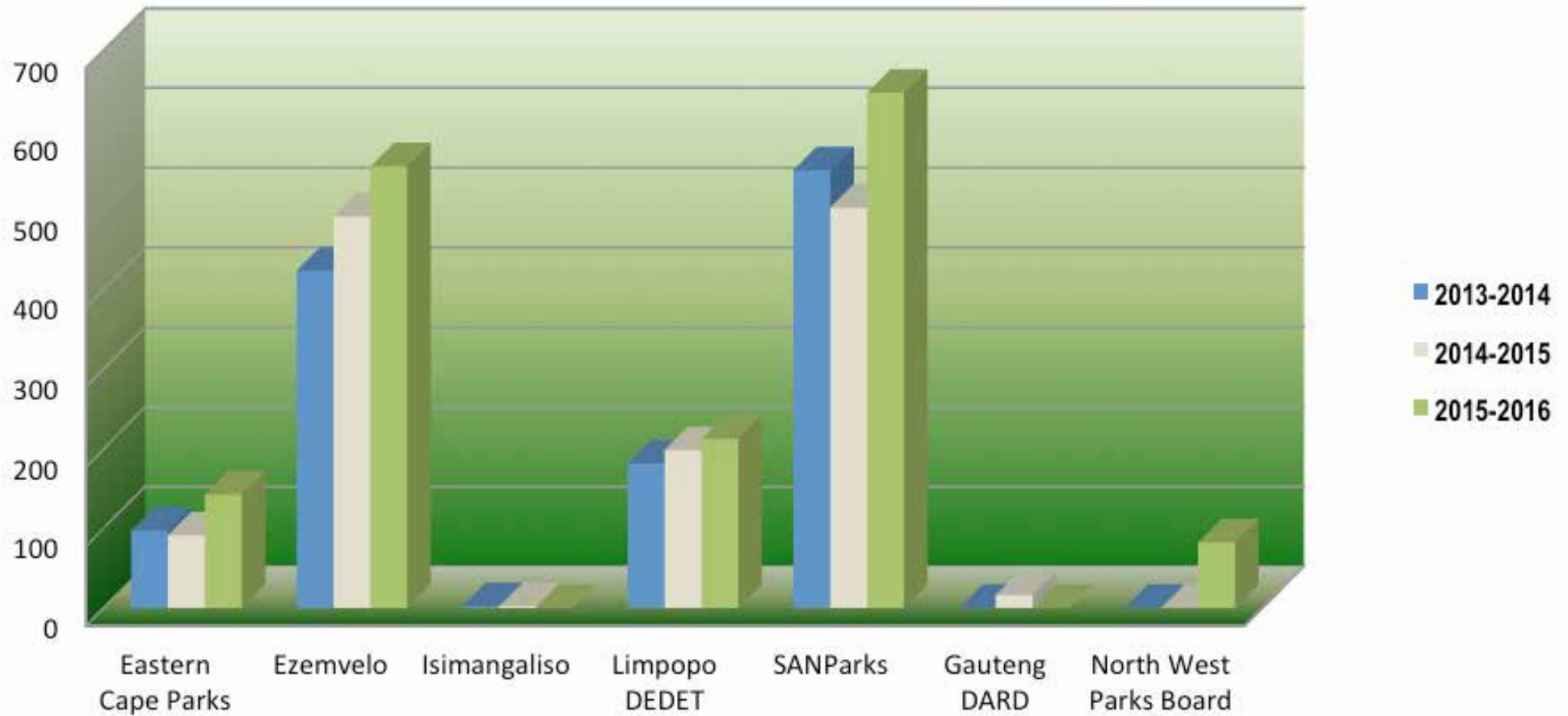
Grade 5 EMIs are appointed as “field rangers” to execute compliance and enforcement duties within various national and provincial protected areas. Accordingly, they are predominantly spread across those EMI institutions with a significant management responsibility in respect of protected areas. Grade 5 EMIs play a critical role in monitoring activities within these protected areas by conducting routine patrols and other compliance and enforcement activities.

There has been a general increase in the number of Grade 5 designated EMIs since 2012/13. In 2015/16 a 26% (339) in Grade 5 EMIs was recorded. This increase can be attributed to the continued roll-out of the Grade 5 EMI training programme in Ezemvelo, Limpopo DEDET, Eastern Cape Parks and SANParks.

INSTITUTION	2013-14	2014-15	2015-16
Eastern Cape Parks	97	91	142
Ezemvelo	423	491	554
Isimangaliso	2	2	0
Limpopo DEDET	181	198	212
SANParks	549	502	646
Gauteng DARD	0	16	0
North West Parks Board	-	-	82
<b>TOTAL</b>	<b>1252</b>	<b>1300</b>	<b>1636</b>



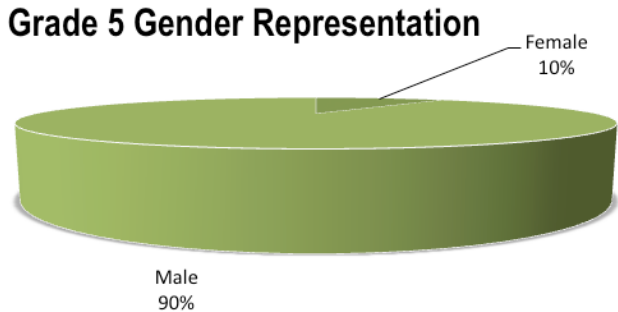
## Grade 5 Environmental Management Inspectors



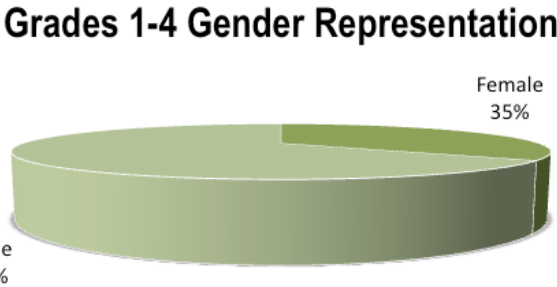
Graph 2: Number of Grade 5 EMIs (field rangers) per institution



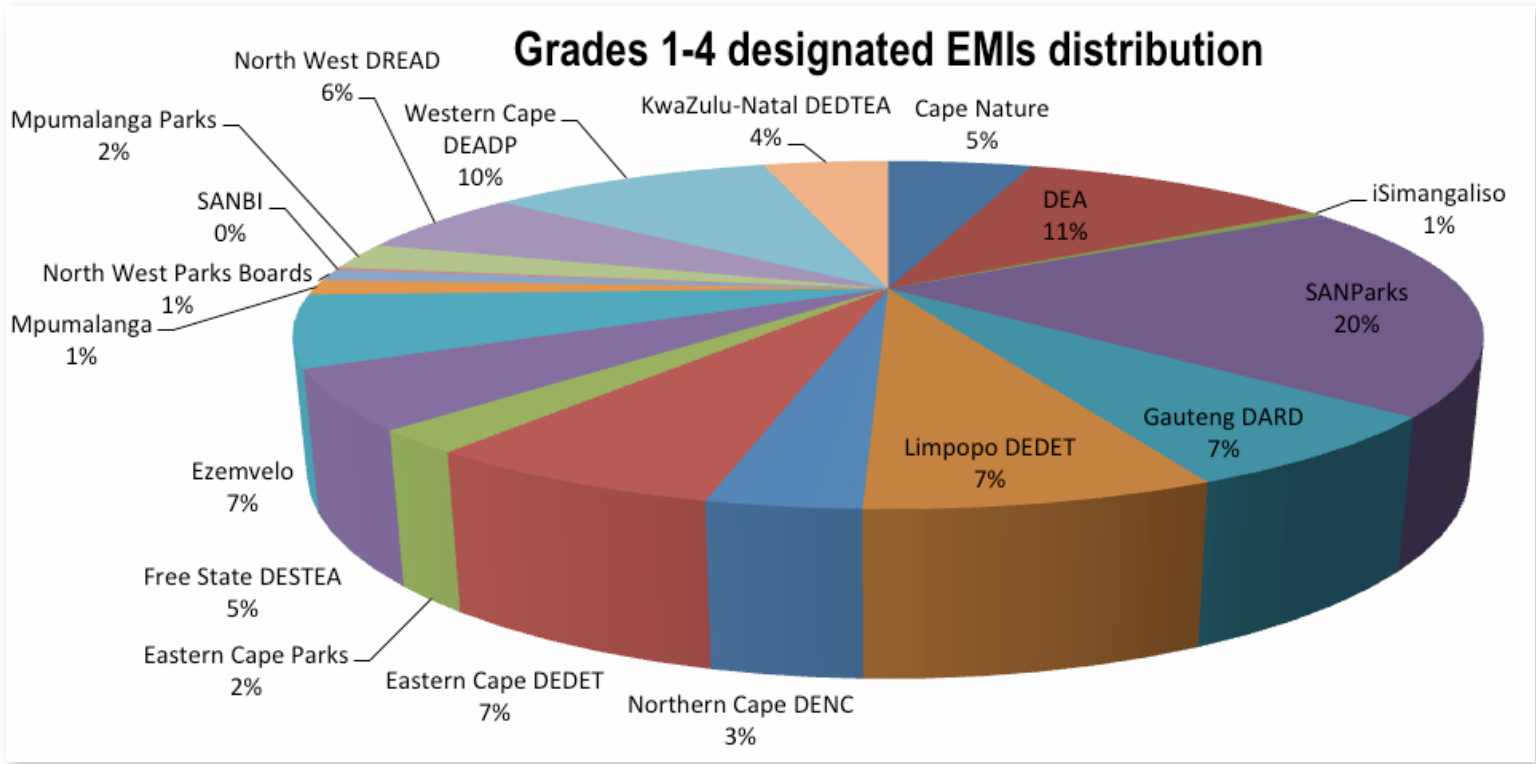
3.2.3 Environmental Management Inspectors: Gender and grades pie charts per institution



Pie chart 2: Grade 5 Gender representation



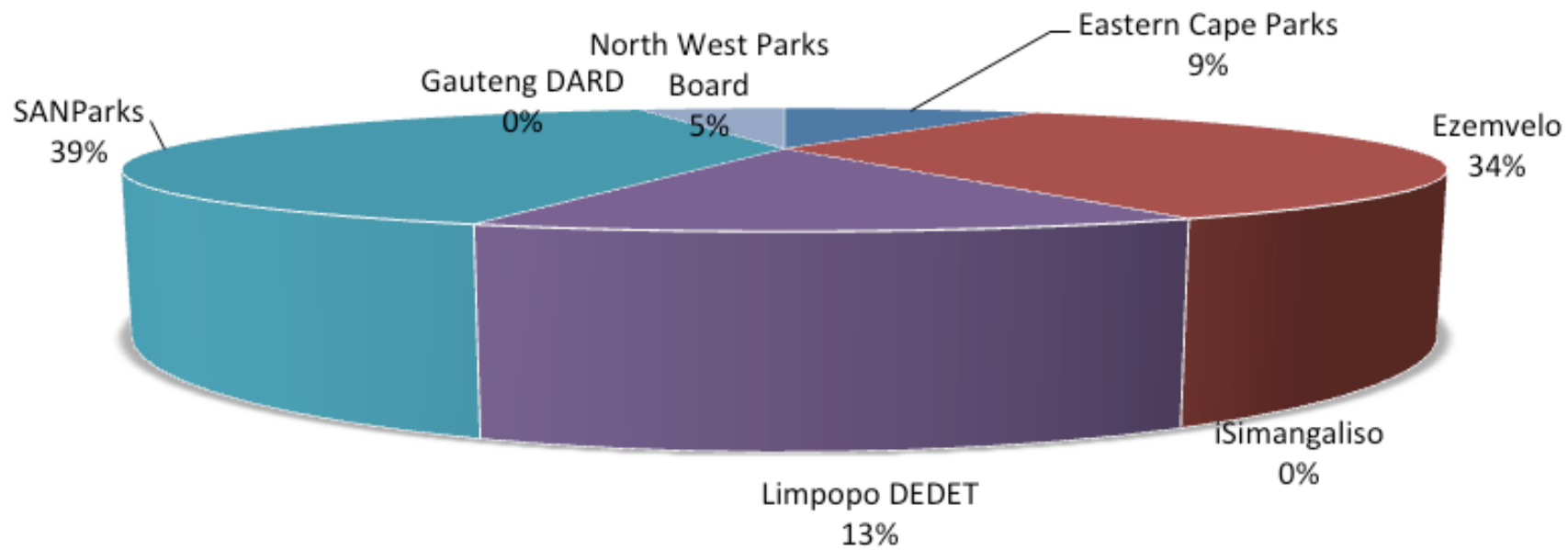
Pie chart 3: Grade 1 - 4 Gender representations



Pie chart 4: Distribution of Grade 1-4 EMI's per EMI institutions



# Grade 5 EMI distribution



Pie chart 5: Distribution of Grade 5 EMIs across EMI institutions



Keti Maabane



Baitheri Mogaramedi



Unknown





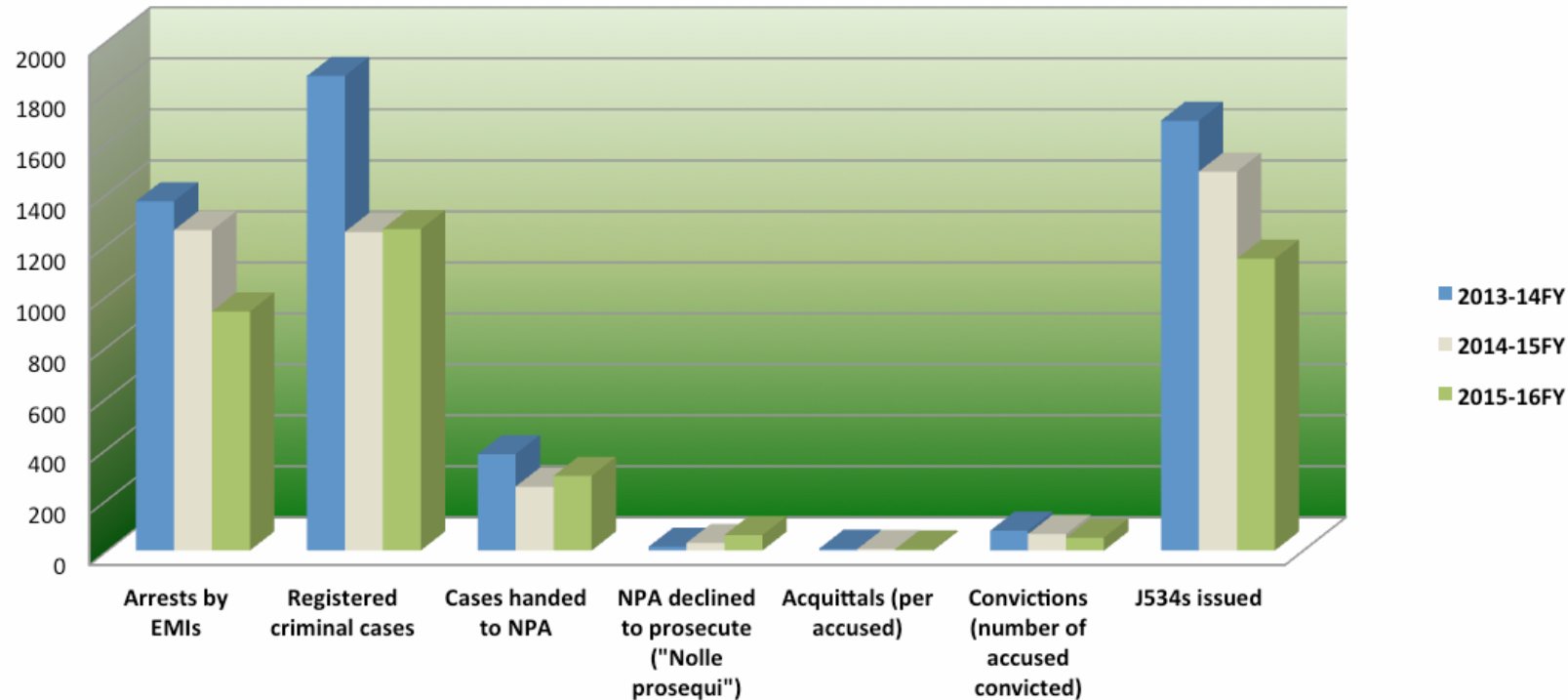
## 4. OVERALL NATIONAL COMPLIANCE AND ENFORCEMENT STATISTICS

### 4.1 Enforcement

	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>			
Arrests by EMIs	1371	1259	939
Criminal dockets registered	1861	2019	1186
Cases handed to NPA	378	257	293
NPA declined to prosecute (nolle prosequi)	15	24	61
Section 105A agreements (plea bargains)	11	15	13
Acquittals	5	6	5
Convictions (excl. J534s)	78	65	52
J534 (Admission of Guilt Fines): Total number issued	1687	1390	1145
J534: Total number paid	854	686	695
J534: Total value of fines paid	R 498 230	R 418 181	R 564 850
<b>Administrative Enforcement and Civil Actions</b>			
Warning letters issued	228	364	309
Pre-directives issued	95	111	290
Pre-compliances notices issued	400	436	422
Directives issued	60	57	146
Final compliance notices issued	154	125	58
Civil court applications launched	2	1	0
S24G administrative fines: Total value paid	R 12 517 026	R 14 005 423	R 8 019 250
S24G: Total number of fines paid	73	100	91



## Criminal Enforcement Statistics



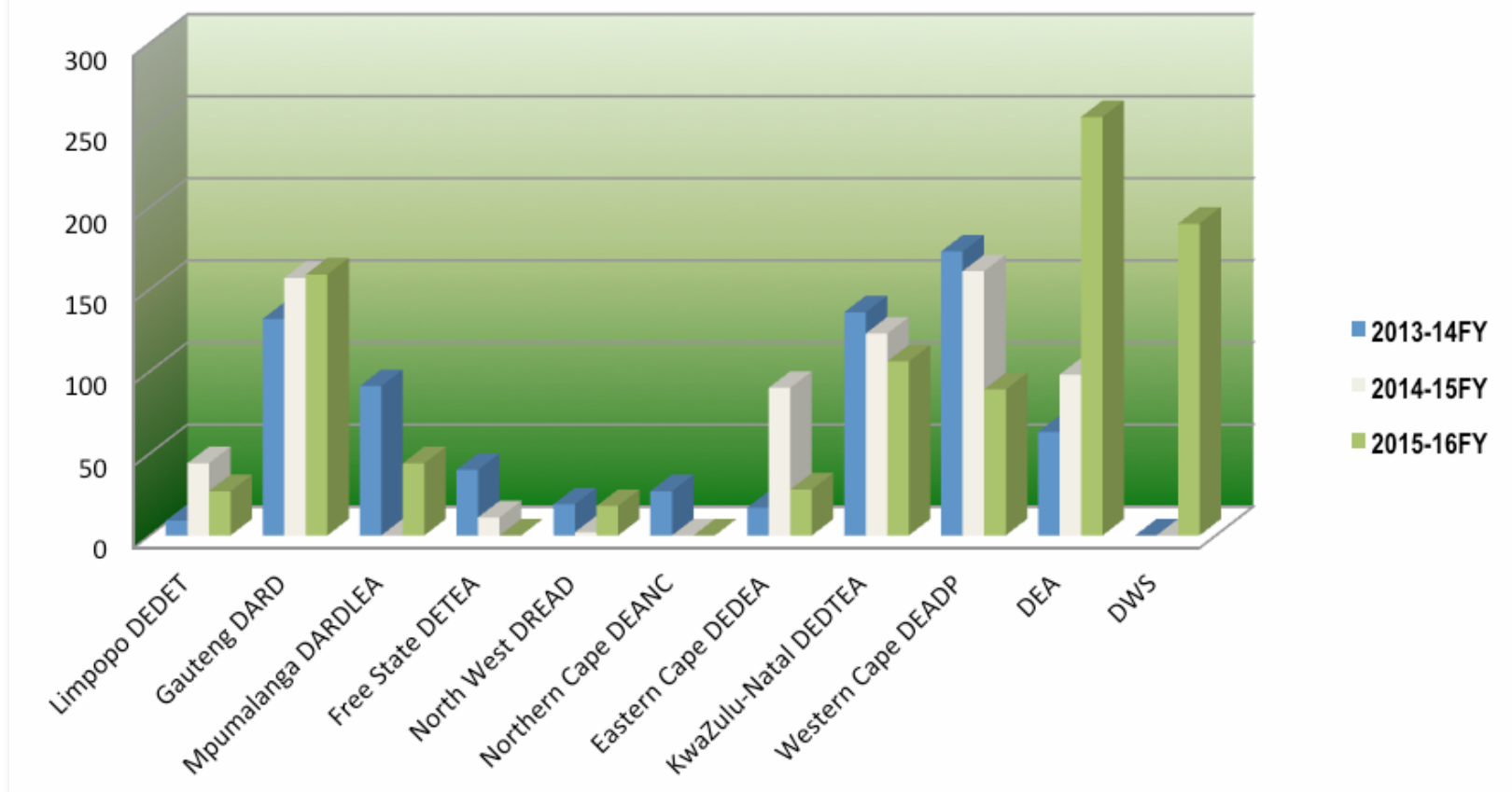
**Graph 2: Overall Criminal Enforcement Statistics from 2013-14FY to 2015-16FY.**

The following three graphs compare the use of administrative and criminal enforcement mechanisms by each of the EMI Institutions. The comparison for the 2015/16 financial year reveals that the use of administrative enforcement (i.e. directives and notices) remains the preferred tool for the authorities that deal with brown issues, with the DEA, Western Cape DEADP, Gauteng DARD and KwaZulu-Natal DEDTEA showing the highest numbers issued for this reporting period. Although the number of criminal convictions continues to be dominated by the green subsector, with Limpopo DEDET recording the most convictions, a significant number of convictions have been secured in respect of brown offences (see for example DEA, Free State DEDTEA and Gauteng DARD).





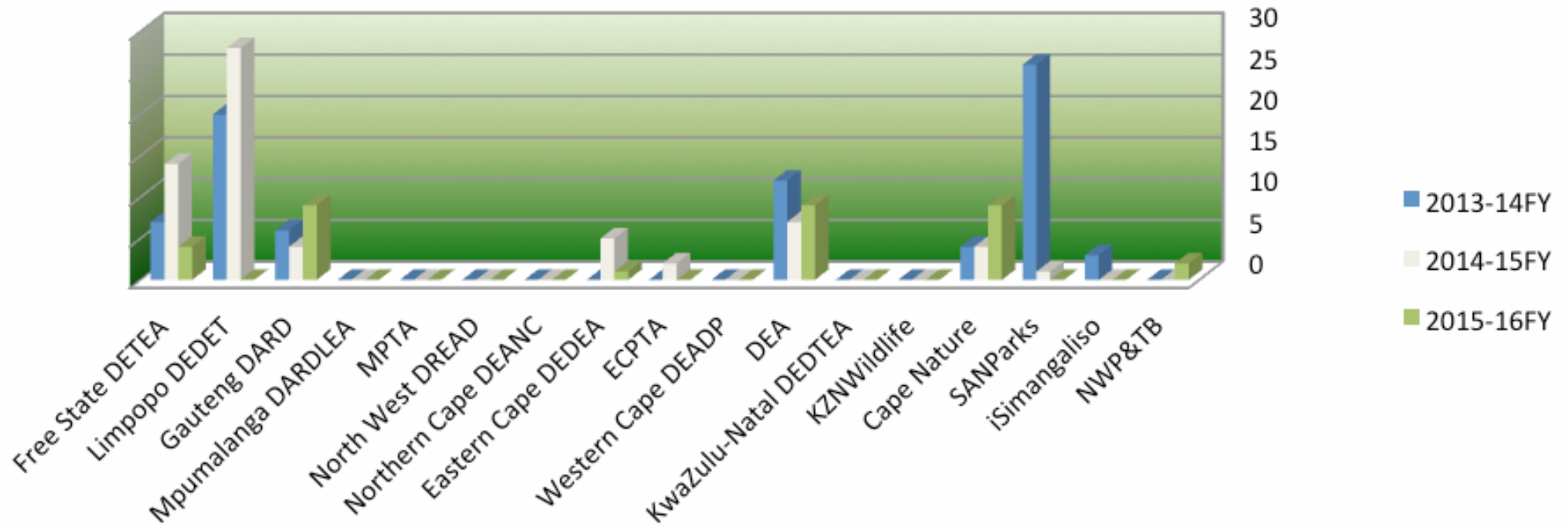
## Administrative Enforcement



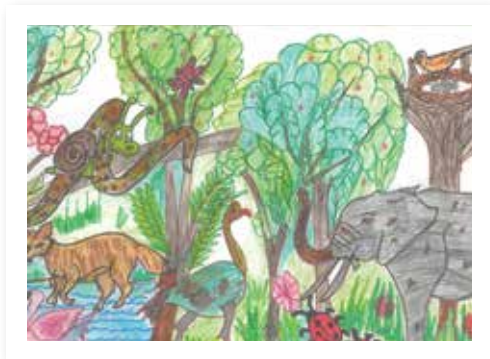
Graph 4: Comparative number of administrative enforcement notices issued per institution



# Convictions per EMI institution



Graph 5: Comparative number of convictions obtained per institution



Unknown



Tasmiya Abdool



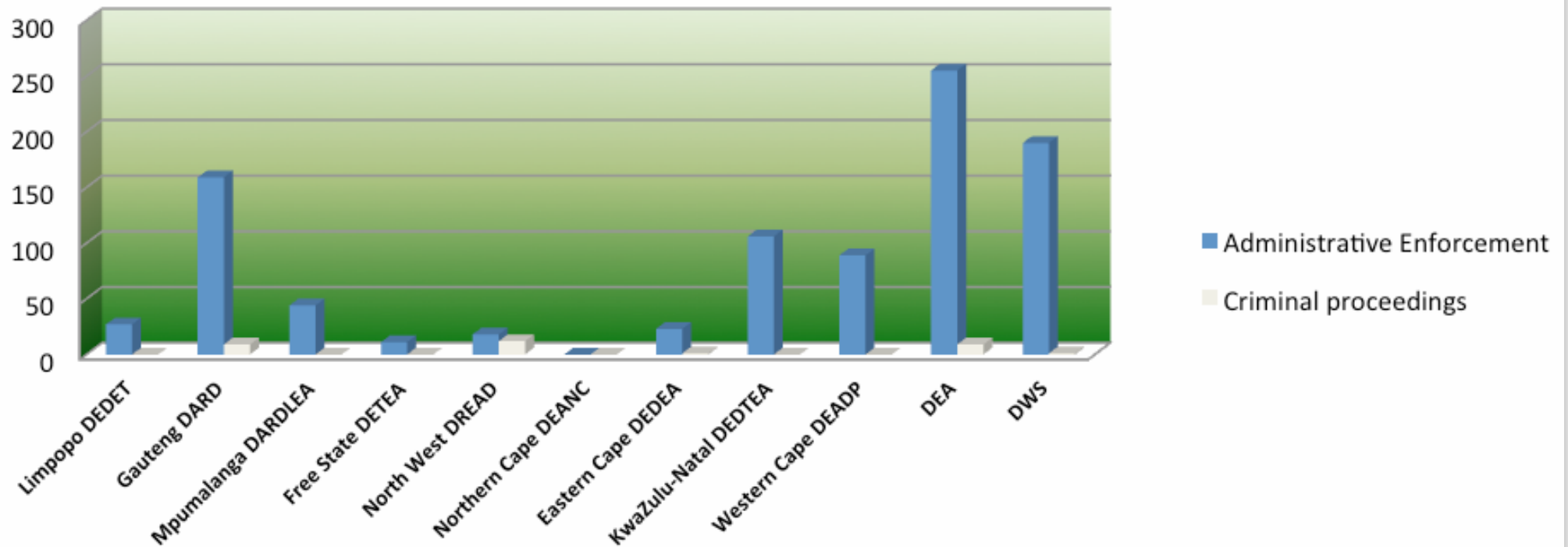
Tasneem Hassim



Shaun Sekwakwa



## Admin versus Criminal Enforcement proceedings



Graph 6: Criminal versus administrative enforcement action

### 4.1.1 Most prevalent crimes reported

The 2015/16 financial year continued to display a similar pattern in relation to the most prevalent types of environmental crimes being detected by the various EMI Institutions. For the brown sub-sector, the unlawful commencement of environmental impact assessment listed activities continues to be the most common non-compliance, while in the green sub-sector, illegal hunting and illegal entry continues to be the predominant environmental crime.



Province	Institution	Prevalent crimes	Number of incidents reported
National Institutions (excl. iSimangaliso)	DEA	Waste related cases (NEM:WA)	212
	SANParks	Illegal hunting of rhino in a national park (NEM: PAA)	231
Eastern Cape	Eastern Cape DEDEA	Unlawful commencement of listed activities (NEMA) and Decree no. 9 of 1992, section 39	76
	Eastern Cape Parks	Illegal hunting inside protected area (NEM:PAA and MLRA)	2
Free State	Free State DESTEA	Illegal hunting of wild animals and import (Ordinance 8 of 1969)	17
Gauteng	Gauteng DARD	Unlawful commencement of listed activities (NEMA)	201
Kwa-Zulu Natal	Ezemvelo	Illegal entry / Illegal hunting Prohibited activity (Ordinance 15 of 1974)	978
	Kwa-Zulu Natal	Unlawful commencement of listed activities (NEMA)	158
Limpopo	Limpopo DEDET	Picking indigenous plants without a permit (LEMA)	409
Mpumalanga	Mpumalanga DARDLEA	Illegal commencement of listed activities (NEMA)	40
	Mpumalanga Parks	Illegal rhino hunting (Mpumalanga Nature Conservation Act 10 of 1998 section 5)	59
Northern Cape	Northern Cape DENC	Illegal hunting without a permit (NC Nature Conservation Act 9 of 2009)	36
North West	North West DREAD	Unlawful commencement of listed activities (NEMA)	20
	North West	Illegal hunting of rhino (NEM:BA section 57)	31
Western Cape	CapeNature	Not having permit available for inspection (MLRA section 13(3))	28
	Western Cape DEADP	Unlawful commencement of listed activities (NEMA)	267

#### 4.1.2 National Environmental Legislation contravened

The table below displays the national pieces of environmental legislation contravened and correlates to the most prevalent types of environmental crime. The National Environmental Management Act (unlawful commencement of listed activities) and the National Environmental Management: Protected Areas Act, and in particular illegal entry and undertaking restricted activities without a permit (mainly in respect of poaching), appear as the top two pieces of national environmental legislation contravened.





National Legislation	Legislation	Ezemvelo	Gauteng DARD	Free State DESTEA	North West	Limpopo DEDET	Northern Cape DENC	DEA	Western Cape DEADP	Eastern Cape Parks	Eastern Cape DEDET	Mpumalanga DARDLEA	KwaZulu-Natal DEDTEA	Cape Nature	SANParks	Mpumalanga Parks	DWS	North West Parks	TOTAL	
	NEMA (including EIA Regulations)	25	201	-	20	38	-	113	267	-	76	40	124	-	61	-	-	-	-	965
	NEM:BA including TOPS & CITES Regulations	378	11	12	-	-	-	73	-	-	26	-	-	-	-	-	-	-	31	531
	NEM:PAA	84	-	-	-	-	-	1	-	2	-	-	-	-	750	-	-	-	-	837
	APPA	-	-	-	-	3	-	-	-	-	-	-	-	-	-	-	-	-	-	3
	NEM:AQA	-	2	-	4	-	-	54	-	-	-	-	-	-	-	-	-	-	-	60
	NEM:WA	-	21	-	1	6	-	212	5	-	19	1	4	-	-	-	-	-	-	269
	ECA	-	47	-	-	-	-	7	-	-	-	-	-	-	-	-	-	-	-	54
	MLRA	247	-	-	-	-	-	4	-	2	-	-	-	-	65	291	-	-	-	581
	ICMA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
NWA	-	-	-	-	-	-	5	-	-	-	-	-	-	-	-	-	128	-	133	
Sub-Total	734	282	12	25	47	1	469	272	4	121	41	128	65	1102	0	128	31	3462		

#### 4.2 Compliance Monitoring / Inspection Activities of EMI Institutions

Conducting compliance monitoring inspections to ascertain whether or not the regulated community is complying with the relevant legislative provisions, as well as with authorisations, licences and permits issued in terms of this legislation, plays a critical role in ensuring continued compliance. Without effective compliance monitoring, non-compliance may go undetected and thus the necessary enforcement action in the case of non-compliance would, in many cases, not be pursued.

The following table highlights blue, green and brown compliance inspections conducted during the 2015/16 financial year. It is important to note that any single facility may require a number of environmental authorisations, licences or permits. Put differently, one facility does not indicate one authorisation. Compliance with each and every authorisation, licence and permit held by a facility, including with each condition thereof, must be ascertained. It is critical that this initial or baseline inspection is then followed up with further inspections so that any improvement or deterioration in the level of environmental compliance by that facility may be assessed.



Institution	Complaint	Enquiry	Permit	Routine Inspection	Unspecified	Planned Inspection	Section 30 Incident	Notices	Follow Up	Priority List	Compliance Audit	Grand Total
Cape Nature	-	-	423	-	-	-	-	-	-	-	-	423
DEA	-	-	42	-	-	35	-	-	5	-	-	82
Gauteng DARD	2	-	255	-	-	3	23	-	-	-	-	283
KwaZulu- Natal DEDTEA	147	5	20	776	-	-	-	-	-	-	-	948
Limpopo DEDET	127	-	108	28	17	86	-	1	7	-	-	374
Northern Cape DEANC	-	-	103	-	-	-	-	-	-	-	-	103
North West DREAD	265	-	82	158	4	68	4	-	-	-	-	581
DWS	1	-	12	-	1	2	-	-	-	417	30	463
Western Cape DEADP	258	-	-	-	-	-	-	1	-	-	-	259
Mpumalanga DARDLEA	30	-	19	4	4	3	-	-	-	-	-	60
<b>Grand Total</b>	<b>830</b>	<b>5</b>	<b>1064</b>	<b>966</b>	<b>26</b>	<b>197</b>	<b>27</b>	<b>2</b>	<b>12</b>	<b>417</b>	<b>30</b>	<b>3576</b>

#### 4.2.1 Brown Inspections

Institution	Brown					
	Facilities Inspected	Inspection report finalised	Pro-active	Reactive	Number of non-compliances	Matters require enforcement actions
DEA	82	79	82	-	1043	45
Gauteng DARD	260	236	253	7	67	40
KwaZulu- Natal DEDTEA	940	867	802	132	522	326
Limpopo DEDET	122	23	116	6	0	30
North West DREAD	312	248	269	43	13	8
Western Cape DEADP	259	-	-	259	0	-
Mpumalanga DARDLEA	58	41	26	32	33	12
<b>Grand Total</b>	<b>2033</b>	<b>1494</b>	<b>1548</b>	<b>479</b>	<b>1678</b>	<b>461</b>





## 4.2.2 Green Inspections

Institution	Facilities Inspected	Inspection report finalised	Green		Number of non-compliances	Matters require enforcement actions
			Pro-active	Reactive		
Cape Nature	423	-	-	423	0	0
KwaZulu- Natal EDTEA	3	3	2	1	1	0
Limpopo DEDET	251	116	110	141	53	29
Northern Cape DEANC	103	103	103		13	15
North West DREAD	267	247	149	118	30	18
<b>Grand Total</b>	<b>1196</b>	<b>469</b>	<b>511</b>	<b>685</b>	<b>133</b>	<b>73</b>

## 4.2.3 Blue Inspections (Marine and Freshwater)

Institution	Facilities Inspected	Inspection Report finalised	Blue		Number of non-compliances	Matters require enforcement actions
			Pro-active	Reactive		
DEA (Marine)	4	4	9	-	6	2
KwaZulu- Natal EDTEA (Marine)	3	3	2	1	1	-
DWS (Freshwater)	451	371	404	59	917	177
<b>Grand Total</b>	<b>458</b>	<b>378</b>	<b>415</b>	<b>60</b>	<b>924</b>	<b>179</b>



Helen Thosago



Lerato Mahlo



Luke Jean Le Roux



## 5. STATISTICS PER NATIONAL INSTITUTION/PROVINCE

### 5.1 National Institutions

#### 5.1.1 Department of Environmental Affairs and Department of Water and Sanitation



#### environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA



#### water & sanitation

Department:  
Water and Sanitation  
REPUBLIC OF SOUTH AFRICA

	LEGAL AUTHORISATIONS, COMPLIANCE AND ENFORCEMENT			DEPARTMENT OF WATER AND SANITATION
	2013-14FY	2014-15FY	2015-16FY	2015-16FY
<b>Criminal Enforcement</b>				
Arrests by EMIs	27	0	5	0
Criminal dockets registered	54	36	41	5
Cases handed to NPA	52	35	45	3
NPA declined to prosecute (nolle prosequi)	3	8	18	0
Section 105A agreements (plea bargains)	4	4	6	1
Acquittals	2	0	0	0
Convictions	12	7	9	0
J534s issued	0	2	0	0
J534s paid	0	R 10 000.00	0	0
<b>Administrative Enforcement and Civil Actions</b>				
Warning letters written	14	1	60	0
Pre-directives issued	11	11	24	142
Pre-compliance notices issued	40	74	219	1
Final directives issued	3	3	4	47
Final compliance notices issued	9	10	8	0
Civil court applications launched	1	0	0	0
S24G administrative fines paid (total value / number)	R 5 931 000	R 4 194 000	R 1 695 000	0
	6	4	5	0



## 5.1.2 SANParks and Isimangaliso Wetland Authority



	SOUTH AFRICAN NATIONAL PARKS			ISIMANGALISO WETLAND PARK AUTHORITY <sup>1</sup>		
	2013-14FY	2014-15FY	2015-16FY	2013-14FY	2014-15FY	2015-16FY
Arrests by EMI	129	258	178	12	-	-
Criminal dockets registered	532	708	289	15	-	-
Cases handed to NPA	69	84	147	18	-	-
NPA declined to prosecute (nolle prosequi)	0	1	-	0	-	-
Section 105A agreements (plea bargains)	0	0	-	0	-	-
Acquittals	0	1	-	0	-	-
Convictions	26	1	-	3	-	-
J534s issued	549	340	314	0	-	-
J534s paid (number)	49	51	109	0	-	-
J534s paid (value)	R 67 250	R 18 650	R 27 200	0	-	-
<b>Administrative Enforcement and Civil Actions</b>						
Warning letters written	-	-	-	0	-	-
Pre-directives issued	-	-	-	0	-	-
Pre-compliance notices issued	-	-	-	0	-	-
Final directives issued	-	-	-	0	-	-
Final compliance notices issued	-	-	-	0	-	-
Civil court applications launched	-	-	-	2	-	-
S24G administrative fines paid (total value / number)	-	-	-	0	-	-

<sup>1</sup> No statistics were submitted for 2014-15FY and 2015-16FY, hence no information is available on the reported indicators.



## 5.2 Provincial Institutions and Parks

## 5.2.1 Western Cape



	DEPARTMENT OF ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING			CAPENATURE		
	2013-14FY	2014-15FY	2015-16FY	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>						
Arrests by EMIs	0	0	0	5	24	54
Criminal dockets registered	6	6	6	5	25	30
Cases handed to NPA	6	6	6	0	4	10
NPA declined to prosecute (nolli prosequi)	2	0	1	1	0	9
Section 105A agreements (plea bargains)	0	0	0	0	2	3
Acquittals	0	0	0	0	0	0
Convictions	0	0	0	4	4	15
J534s issued	0	0	0	54	63	95
J534s paid (number)	0	0	0	22	26	59
J534s paid (value)	0	0	0	R 14 950	R 11 300	R 58 600
<b>Administrative Enforcement and Civil Actions</b>						
Warning letters written	19	15	1	-	0	0
Pre directives issued	29	51	29	-	0	0
Pre-compliance issued	113	84	45	-	0	0
Final directives issued	10	20	9	-	0	0
Final compliance notices issued	21	10	6	-	0	0
Civil court applications launched	0	0	0	-	0	0
S24G administrative fines paid (total value / number)	R 3 495 975	R4 515 125	R 3 520 000	-	0	0
	3	62	49			



## 5.2.2 KwaZulu-Natal



DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM & ENVIRONMENTAL AFFAIRS				EZEMVELO KZN WILDLIFE		
	2013-14FY	2014-15FY	2015-16FY	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>						
Arrests by EMIs	0	0	0	538	373	246
Criminal dockets registered	0	0	1	531	486	363
Cases handed to NPA	0	0	0	-	-	-
NPA declined to prosecute (nolli prosequi)	0	0	0	-	-	-
Section 105A agreements (plea bargains)	0	0	0	-	-	-
Acquittals	0	0	0	-	-	-
Convictions	0	0	0	-	-	-
J534s issued	0	0	0	395	306	215
J534s paid (number)	1	0	0	235	177	134
J534 paid (value)	R0	R 0	R 0	R 245 500	R 211 850	R 242 950
<b>Administrative Enforcement and Civil Actions</b>						
Warning letters written	15	136	1	-	-	-
Pre-directives issued	1	10	59	-	-	-
Pre-compliance notices issued	104	77	8	-	-	-
Final directive issued	0	9	35	-	-	-
Final compliance notices issued	31	27	4	-	-	-
Civil court applications launched	0	0		-	-	-
S24G administrative fine paid (total value /number)	R 349 000	R 1 207 700	R 197 500	-	-	-
	8	9	2		-	-





## 5.2.3 Gauteng



GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>			
Arrests by EMIs	8	2	3
Criminal dockets registered	57	23	20
Cases handed to NPA	12	5	13
NPA declined to prosecute (nolle prosequi)	5	7	6
Section 105A agreements (plea bargains)	4	3	3
Acquittals	0	0	2
Convictions	6	4	9
J534s issued	40	30	39
J534s paid (number)	18	25	36
J534s paid (value)	R 11 350	R 11 050	R 26 700
<b>Administrative Enforcement and Civil Actions</b>			
Warning letters written	2	0	1
Pre-directives issued	7	31	23
Pre-compliance notices issued	74	81	73
Directives issued	16	15	35
Final compliance notices issued	35	30	28
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R 3 109 026	R 1 666 965	R 1 809 750
	34	20	23





## 5.2.4 Limpopo



	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>			
Arrests by EMIs	514	432	249
Criminal dockets registered	435	512	259
Cases handed to NPA	161	49	9
NPA declined to prosecute (nolle prosequi)	0	0	0
Section 105A agreements (plea bargains)	0	1	0
Acquittals	0	4	0
Convictions	20	28	0
J534s issued	564	601	373
J534s paid (number)	503	377	304
J534s paid (value)	R 128 230	R 129 780	R 156 550
<b>Administrative Enforcement and Civil Actions</b>			
Warning letters written	80	138	145
Pre-directives issued	7	0	2
Pre-compliance notices issued	2	26	24
Directives issued	0	1	0
Final compliance notices issued	0	17	1
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R 0	R 0	R 0
	0	0	0



## 5.2.5 Eastern Cape



	DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL AFFAIRS			EASTERN CAPE PARKS & TOURISM AGENCY		
	2013-14FY	2014-15FY	2015-16FY	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>						
Arrests by EMIs	48	65	42	43	6	10
Criminal dockets registered	50	41	42	32	12	9
Cases handed to NPA	22	24	22	4	2	0
NPA declined to prosecute (nolle prosequi)	2	3	5	0	2	0
Section 105A agreements (plea bargains)	0	0	0	1	0	0
Acquittals	1	0	0	0	0	0
Convictions	0	5	1	0	2	0
J534s issued	35	13	48	1	7	1
J534s paid (number)	5	1	4	0	5	1
J534s paid (value)	R 7 350	R 2 500	R 5 250	R 0	R 1 500	R 300
<b>Administrative Enforcement and Civil Actions</b>						
Warning letters written	38	51	49	0	0	0
Pre-directives issued	1	0	2	0	0	0
Pre-compliances issued	16	0	23	0	0	0
Final directives issued	0	23	0	0	0	0
Final compliance notices issued	2	0	3	0	0	0
Civil court applications launched	0	1	0	0	0	0
S24G administrative fines paid (total value / number)	R 756 000 7	R 1 896 758 8	R 70 000 1	0	0	0



## 5.2.6 Free State



DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>			
Arrests by EMIs	19	50	27
Criminal dockets	21	37	24
Cases handed to NPA	19	36	16
NPA declined to prosecute (nolle prosequi)	1	2	1
Section 105A agreements (plea bargains)	2	4	0
Acquittals	0	1	2
Convictions	7	14	4
J534s issued	7	14	4
J534s paid (number)	7	11	4
J534s paid (value)	R 5 500	R 7 800	R 5 200
<b>Administrative Enforcement and Civil Actions</b>			
Warning letters written	7	0	0
Pre-directives issued	20	0	0
Pre-compliance notices issued	2	7	0
Directives issued	2	3	0
Final compliance notices issued	16	1	0
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R 114 750	R 0	0
	4	0	0



## 5.2.7 Mpumalanga



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

	MPUMALANGA DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT, LAND & ENVIRONMENTAL AFFAIRS			MPUMALANGA TOURISM AND PARKS AGENCY		
	2013-14FY	2014-15FY	2015-16FY	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>						
Arrests by EMIs	0	2	0	15	13	30
Criminal dockets registered	1	1	6	75	75	59
Cases handed to NPA	1	2	2	8	6	1
NPA declined to prosecute (nolle prosequi)	0	0	0	1	0	0
Section 105A agreements (plea bargains)	0	0	0	0	0	0
Acquittals	0	0	1	0	0	0
Convictions	0	0	0	0	0	0
J534s issued	0	0	0	0	0	0
J534s paid (number)	0	0	0	0	0	0
J534s paid (value)	0	0	0	R 0	R 0	R 0
<b>Administrative Enforcement and Civil Actions</b>						
Warning letters written	52	23	26	0	0	0
Pre-directives issued	10	6	7	0	0	0
Pre-compliances issued	29	20	17	0	0	0
Final directives issued	27	6	14	0	0	0
Final compliance notices issued	25	11	6	0	0	0
Civil court applications launched	0	0	0	0	0	0
S24G administrative fines paid (total value / number)	R 2 272 000	R 1 050 000	R 255 000	0	0	0
	17	2	4			



## 5.2.8 Northern Cape



DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>			
Arrests by EMIs	5	22	1
Criminal dockets	20	19	1
Cases handed to NPA	5	1	1
NPA declined to prosecute (nolle prosequi)	0	1	0
Section 105A agreements (plea bargains)	0	0	0
Acquittals	0	0	0
Convictions	0	0	0
J534s issued	25	2	14
J534s paid (number)	0	0	2
J534s paid (value)	R 0	R 0	R 4 000
<b>Administrative Enforcement and Civil Actions</b>			
Warning letters written	0	0	22
Pre-directives issued	6	0	0
Pre-compliance notices issued	10	0	0
Directives issued	0	0	0
Final compliance notices issued	11	0	0
Civil court applications launched	0	0	0
S24G administrative fines paid (total amount and number)	R 0	R 0	0
	0	0	0





## 5.2.9 North West



	NORTH WEST DEPARTMENT OF RURAL, ENVIRONMENT AND AGRICULTURE DEVELOPMENT			NORTH WEST PARKS AND TOURISM BOARD		
	2013-14FY	2014-15FY	2015-16FY	2013-14FY	2014-15FY	2015-16FY
<b>Criminal Enforcement</b>						
Arrests by EMIs	2	0	90	2	12	4
Criminal dockets	0	21	75	28	17	31
Cases handed to NPA	0	0	16	2	3	2
NPA declined to prosecute (nolle prosequi)	0	0	4	0	0	0
Section 105A agreements (plea bargains)	0	0	0	0	1	0
Acquittals	0	0	0	2	0	0
Convictions	0	0	12	0	0	2
J534s issued	16	11	41	0	1	1
J534s paid (number)	14	11	41	0	0	1
J534s paid (value)	R 18 100	R 13 750	R 36 600	0	0	R 1 500
<b>Administrative Enforcement and Civil Actions</b>						
Warning letters written	1	0	4	-	-	-
Pre-directives issued	3	0	2	-	-	-
Pre-compliance notices issued	10	0	12	-	-	-
Directives issued	2	0	2	-	-	-
Final compliance notices issued	4	2	2	-	-	-
Civil court applications launched	0	0	0	-	-	-
S24G administrative fines paid (total value / number)	R 100 000 1	R 0 0	R 472 000 7	- -	- -	- -



# "The Future in Our Hands: Helping the Green Scorpions protect Our Planet" Art Competition

1



2



4



5



3









11



12



13



14



### Artists Names:

(in no particular order)

1. Anemi Dames
2. Blessed Phasha
3. Thapelo Mashego
4. Marli Vermeulen
5. Jethro Marais
6. Andrea Dames
7. Katlego Mokgere
8. Kgaugelo Tlou
9. Nathan Bezulchenhout
10. Reshaad Hutton
11. Shane Matthys
12. Thapelo Rasimpi
13. Uknown
14. Twane Malan



## 6. ENVIRONMENTAL JURISPRUDENCE

<b>Parties</b>	JOHAN KRUGER & JOHN HUME V THE MINISTER OF ENVIRONMENTAL AFFAIRS & OTHERS – Case No 5722/2012
<b>Category</b>	Civil: The Review and Setting Aside of the Moratorium on the Domestic Trade in Rhino Horn and the Amendment to the Threatened or Protected Species Regulations
<b>Court</b>	High Court of South Africa, Gauteng Division – Pretoria
<b>Facts</b>	<p>In terms of section 57(2) read with section 99 and 100 of the National Environmental Management: Biodiversity Act 10 of 2004 (NEM:BA) and on 28 January 2008, the then Minister of Water and Environmental Affairs (the Minister) amended the Threatened or Protected Species (TOPS) Regulations to exclude lions, as an endangered species.</p> <p>About a year later on 13 February 2009 and acting under the same authority, the Minister published the Moratorium on the Trade of Individual Rhino Horns and any Derivatives or Products of the Horns (the Moratorium), which prohibited domestic trade in rhino horn from date of publication.</p> <p>Aggrieved by the publication of the Moratorium and amendment to the TOPS Regulations, rhinobreeders and owners of large stockpiles of rhino horn Johan Kruger (Kruger) and John Hume(Hume) (collectively, the applicants) brought an application in the High Court wherein they asked the Court to review and set aside these publications.</p> <p>The Minister as well as the Wildlife Ranching South Arica (WRSA) and the Private Rhino Horn Owners Association were cited as Respondents</p>

<b>Parties</b>	JOHAN KRUGER & JOHN HUME V THE MINISTER OF ENVIRONMENTAL AFFAIRS & OTHERS – Case No 5722/2012
<b>Category</b>	Civil: The Review and Setting Aside of the Moratorium on the Domestic Trade in Rhino Horn and the Amendment to the Threatened or Protected Species Regulations
<b>Court</b>	High Court of South Africa, Gauteng Division – Pretoria
<b>Judgment</b>	<p>Personal Consultation with Rhino Breeders</p> <p>The applicants argued that it was necessary for the Minister personally to have consulted Hume on the proposed Moratorium, given that he was largest rhino breeder at the time and that he lawfully owned some 4000kg of rhino horn. This, according to the applicants, is because the Moratorium constitutes administrative action as defined in the Promotion of Administrative Justice Act 3 of 2000 (PAJA) because, so the argument went, the decision materially and adversely affected Hume's right to property and his right to choose his trade in that property (i.e. rhino horn). The applicants contended that on this basis the Minister should have provided Hume, personally, with an opportunity to make representations on the proposed Moratorium as well as adequate notice of his right to review or appeal the decision.</p> <p>The Minister argued that section 3(5) of PAJA read with section 100 of NEMBA empowered the Minister to follow a different but fair procedure. The Court agreed with the Minister and held that it was unnecessary to give personal notice either to Hume or Kruger.</p> <p>Substantial or Sufficient Consultation with the Public</p>





<b>Parties</b>	JOHAN KRUGER & JOHN HUME V THE MINISTER OF ENVIRONMENTAL AFFAIRS & OTHERS – Case No 5722/2012
<b>Category</b>	Civil: The Review and Setting Aside of the Moratorium on the Domestic Trade in Rhino Horn and the Amendment to the Threatened or Protected Species Regulations
<b>Court</b>	High Court of South Africa, Gauteng Division – Pretoria
	<p>Hume contended that the Minister failed to follow proper procedure when she published the Moratorium because she did not publish notice of the proposed Moratorium in a national newspaper calling for public comment as was required by sections 99 and 100 of NEM:BA.</p> <p>In her response, the Minister argued that although notice was not published in a national newspaper, there was nevertheless substantial compliance with sections 99 and 100 of NEM:BA. This is because, so the Minister contended, a comprehensive consultation and public participation process was conducted as follows:</p> <p>(a) the proposed Moratorium was discussed in Working Group 4 and MinTech's forums, where various governmental institutions and the MEC's expressed their unanimous support for the prohibition;</p> <p>(b) the proposed Moratorium was tabled in the National Council of Provinces during the Minister's budget speech in Parliament which was screened on national television;</p> <p>(c) the proposed Moratorium was discussed with the Wildlife Forum (established to facilitate consultation between the Department and the wildlife industry) and the WRSA (established to be the national representative of the Wildlife ranching industry in South Africa, which both Hume and Kruger are members of) informing them that the Moratorium was under consideration and inviting their comments in respect thereof. Based on this, it was argued that consultation through the Wildlife Forum and the WRSA was a reasonable and appropriate method to reach their respective members (including Hume and Kruger);</p> <p>(d) information about the proposed Moratorium was published in various newspapers and internet articles, as well as newsletters;</p>

<b>Parties</b>	JOHAN KRUGER & JOHN HUME V THE MINISTER OF ENVIRONMENTAL AFFAIRS & OTHERS – Case No 5722/2012
<b>Category</b>	Civil: The Review and Setting Aside of the Moratorium on the Domestic Trade in Rhino Horn and the Amendment to the Threatened or Protected Species Regulations
<b>Court</b>	High Court of South Africa, Gauteng Division – Pretoria
	<p>(e) the proposed Moratorium was published for public comment in the Government Gazette, where comments from WRSA, amongst others, were received; and</p> <p>(f) the Department held a meeting with Wildlife Forum, informing them that the Moratorium had not yet been published for implementation and undertook to keep them informed of the process.</p> <p>The Court disagreed with the Minister's argument and held that despite the abovementioned consultation, the Minister was nevertheless required, in terms of NEMBA, to give notice of the proposed Moratorium in the Gazette and in at least one newspaper distributed nationally. After considering relevant case law, it held that the Minister's failure to comply with the jurisdictional facts (publishing the notice of the proposed Moratorium in a national newspaper for comment) resulted in the invalidity of the Moratorium.</p> <p>The Court held further that section 100(2)(b) of NEMBA required that the notice contained sufficient information to enable the public to submit meaningful representations or objections. In this case, it was held that the notice failed to comply with this requirement because it did not contain any background nor reasons for the exercise of the power.</p> <p>Accordingly, the Court held that the Minister failed to comply with the legislated procedure and that there was insufficient public consultation. The Moratorium was set aside.</p> <p>Review and Setting aside the Moratorium - PAJA Grounds</p> <p>Although the Court's decision that Moratorium should be reviewed and set aside was based on the Minister's failure to follow the legislated procedure, it nevertheless considered Hume's submission that the Moratorium should be reviewed and set aside under the PAJA grounds of irrationality, unreasonableness; unlawfulness and ultra vires as well as unconstitutionality. The Court's comments in this regard are not considered final and binding but are obiter statements.</p> <p>At the outset the Court pointed out that it was necessary to distinguish between legislative and administrative decisions. Legislative decisions involve the drafting of laws and the taking of policy decisions by the Executive, whereas administrative decisions are those taken when the legislative and policy provisions are exercised by various authorities. The Judiciary is not empowered to review such legislative or policy decisions under PAJA as it is only empowered to review the exercise of such legislation in ensuring that authority is exercised within the confines of the law.</p>



<b>Parties</b>	JOHAN KRUGER & JOHN HUME V THE MINISTER OF ENVIRONMENTAL AFFAIRS & OTHERS – Case No 5722/2012
<b>Category</b>	Civil: The Review and Setting Aside of the Moratorium on the Domestic Trade in Rhino Horn and the Amendment to the Threatened or Protected Species Regulations
<b>Court</b>	High Court of South Africa, Gauteng Division – Pretoria
	<p><b>(a) Irrationality</b></p> <p>The applicants argued that the Moratorium was irrational because it could not, and indeed failed to, solve the rhino poaching problem. The Minister disagreed. She contended that the applicants sought to impose their personal view on what is a matter for the Department (i.e. to determine the most appropriate policy regime). The court agreed with the Minister and held that if more ways than one are present to deal with a problem through legislation, any preference that court may have immaterial. The Court said that it would only interfere with the Executive's power of drafting legislation in circumstances where the policy regime is irrational.</p> <p><b>(b) Unreasonableness</b></p> <p>The applicants argued that the Moratorium is unreasonable as it's incapable of achieving the rhino conservation objective. The Minister argued that this ground of review cannot be used to try convince the Court that allowing the domestic trade in rhino horn would have been a better conservation measure than the Moratorium. The Court said that the test is not whether the Moratorium achieved its objectives, but rather whether it was reasonable in the circumstances. In this case, the Court held that the Minister had acted reasonably as the reason for the Moratorium was to curb the rising export of rhino horn due to the increase in poaching as well as to ensure that South Africa abides by the CITES convention which bans the international trade in rhino horn.</p> <p><b>(c) Lawfulness and Ultra Vires</b></p> <p>The applicants argued that the Moratorium was unlawful. The Minister acted in terms of the section 57(2)(a) of NEMBA which provides that the Minister may prohibit any activity which may negatively impact on the survival of a TOPS listed species which should be seen in the view of the environmental obligations found in section 24 of the Constitution. The Moratorium seeks to protect rhino which is listed TOPS Species. Accordingly the Minister acted within her power and lawfully.</p>

<b>Parties</b>	JOHAN KRUGER & JOHN HUME V THE MINISTER OF ENVIRONMENTAL AFFAIRS & OTHERS – Case No 5722/2012
<b>Category</b>	Civil: The Review and Setting Aside of the Moratorium on the Domestic Trade in Rhino Horn and the Amendment to the Threatened or Protected Species Regulations
<b>Court</b>	High Court of South Africa, Gauteng Division – Pretoria
	<p><b>(d) Unconstitutionality</b></p> <p>It was also argued that the Moratorium infringed on the applicants' rights to property and trade in terms section 25 and 22 of the Constitution, respectively. The Court took note that the environmental right must be balanced and weighed against the right to property and the right to choose ones' trade freely. In applying the limitation test (i.e. testing whether or not the applicants' rights had been justifiably limited) the Court noted that the right to trade must be lawful, and that the limitation on that right must be necessary bearing in mind the South African government's obligations in terms of CITES. While the Court noted that there may be an argument here, it said that it was unnecessary to express a final view due to the fact that the Moratorium had been set aside on a procedural irregularity.</p> <p>Amendments to the TOPS Regulations</p> <p>Kruger challenged the TOPS Regulations based on certain technicalities. He argued that they were not properly enacted into law because, amongst others, the Government Notice number was not reflected in the TOPS Regulations Government Notice. Counsel for Kruger however abandoned this argument as the attack could not stand the test of scrutiny.</p> <p>The court considered the amendment brought by Government Notice Regulation 69 to the TOPS Regulations which removed lions as one of the listed large predators. The court agreed with the Minister that there wasn't sufficient time for the Minister to deal with this submission as it was brought at the 11th hour and further Kruger had no legal standing to argue this submission as he is not in the business of dealing with lions. All of Kruger's arguments were found to be in the abstract since he suffered no deprivations. Thus it was found that there was no merit in his argument.</p>



**Picture: John Hume by Lowvelder: picture taken from <http://citizen.co.za/784776/no-judgment-in-rhino-horn-case/>**



<b>Parties</b>	MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS V KLOOF CONSERVANCY Case No 106/2015
<b>Category</b>	Civil: The Ministerial power to: 1. ensure that all organs of State comply with their duties to prepare AIS species monitoring, control and eradication plans; and 2. appoint and mandate sufficient numbers of EMIs in relation to AIS species in the province of KwaZulu-Natal
<b>Court</b>	The Supreme Court of Appeal of South Africa
<b>Facts</b>	The National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA) commenced on 1 September 2004 (Effective Date). Chapter 5 of NEMBA deals with species and organisms that pose or may pose threats to biodiversity; alien and invasive species (AIS). In terms of section 70(1)(a) of NEMBA, the Minister of the then Department of Water and Environmental Affairs (the Minister), was required within 24 months of the Effective Date to publish by notice in the Gazette, a national list of AIS. Activities in respect of these AIS would then be restricted.

During 2013, the Minister published draft regulations and lists for public comment. However, these were never brought into effect. Aggrieved by the fact that the Minister had failed to publish regulations and lists within the prescribed time frame, Kloof Conservancy (Kloof), approached the KwaZulu-Natal Local Division, Durban (High Court). It sought an order in the following terms:

- 1) to review and set aside the interim AIS lists and regulations that had been published in July 2013;
- 2) a declaration that the Minister's failure to publish a national AIS list by 31st August 2006 was unlawful and unconstitutional;
- 3) an order that the Minister publish on or before 30th June 2014, by notice in the Gazette, a national list of AIS species referred to in NEMBA;
- 4) an order directing the Minister, to do all such things and take all such steps as are necessary, and as are within her authority under the law to ensure that all organs of State in every sphere of Government comply with their duty to prepare AIS species monitoring, control and eradication plans for land under their control as part of their monitoring, control and eradication environmental plans (AIS Plans) in accordance with NEMBA within a period of six months from the date of the order; and
- 5) an order directing the Minister to, by 30th June 2014, appoint and mandate sufficient numbers of Environmental Management Inspectors (EMIs) to undertake compliance and enforcement in respect of the regulations within the province of KwaZulu-Natal (KZN) so as to ensure compliance with the Government's duties in relation to AIS under section 24 of the Constitution and chapter 5 of NEMBA.

Before the matter was heard and on 12 February 2014, the Minister published draft AIS Regulations and Lists for public comment. These drafts were placed before the High Court. The application was heard on 25 April 2014. On 1 August 2014, after judgment had been reserved in the matter, but before it was handed down, the Minister published the AIS Regulations and Lists (the 2014 AIS Lists). The AIS Regulations provide that the Minister must, within one year, of the effective date of the regulations develop guidelines for the development of AIS Plans for listed invasive species.

The High Court when delivering its judgment noted that the 2014 AIS Lists and Regulations 'impact dramatically upon the relief sought in that the nub of the relief sought has apparently been rendered moot', because in publishing the 2014 AIS Lists and AIS Regulations, the Minister had discharged her duty in terms of NEMBA. In addition those publications repealed the previous AIS Lists and Regulations published in 2013, which were the subject-matter of the review in the High Court.

Notwithstanding the above, the High Court proceeded to issue the court order as requested by Kloof.



	<p>Aggrieved by the judgment of the High Court, the Minister appealed the decision in the Supreme Court of Appeal (SCA) and in particular the relief granted in paragraphs 4 and 5 mentioned hereinabove.</p>
<b>Judgment</b>	<p>1. The Minister must ensure that all organs of State in every sphere of Government comply with their duties to prepare AIS plans.</p> <p>Powers and Responsibilities of the Minister under the System of Co-operative Governance</p> <p>The SCA held that the High Court appeared to misunderstand the powers and responsibilities of a national Minister under our constitutional system of co-operative governance.</p> <p>The order of the High Court required the Minister to have a plan, which must, on an on-going basis, ensure that organs of state comply. Where non-compliance is discovered, the Minister is obliged to do "all such things and take all such steps as are necessary" to ensure that they do indeed comply. However, it was not clear what precisely this entailed. For example, in the case of a municipality, the SCA questioned whether such steps would include:</p> <p>(a) persuading the municipality to comply (it being unclear whether the Minister has the power to compel it to do so);</p> <p>(b) persuading the province to try and persuade the municipality to do so;</p> <p>(c) persuading the provincial government to intervene under section 139 of the Constitution;</p> <p>(d) declaring an inter-governmental dispute under the Intergovernmental Relations Framework Act 13 of 2005; and perhaps as a last resort</p> <p>(e) instituting litigation against the municipality to compel it to comply with its obligations.</p> <p>The SCA highlighted that none of the above fall within duties of a national Minister under the Constitutional system of a co-operative government. The SCA stated that each sphere of government is vested with autonomous powers and responsibilities, and must exercise them within the parameters of its defined space. Only in exceptional circumstances, may the national sphere of government intervene in a provincial sphere and intervention in a local sphere is only justified where the provincial sphere has failed to intervene. National government is not intended to function as a supervisor and enforcer of other spheres of government.</p>

The SCA recognised the predicament caused by the High Court's order that if the Minister does not take these steps, there lies a risk of being held in contempt of court. However in taking such steps, the Minister would be overstepping her mandate. Moreover, the SCA noted that it appeared impossible for the Minister to know with any measure of confidence what the obligations by the order of court are, as the order offered no guidance to the Minister as to when she is required to step in. Thus, so the SCA said, it is difficult for the Minister to know with any measure of confidence precisely what steps are required to comply with the order of the High Court.

In the light of the above, the SCA found that the order of the High Court was in conflict with the principle of co-operative governance and it was set aside in this regard (i.e. paragraph 4).

### **AIS Regulations Time Frames**

In respect of the AIS plans, the SCA held that the order of the High Court created an unjustified disharmony with the statutory scheme under NEMBA by requiring AIS Plans to be prepared within a period of six months from the date of the order. The AIS Regulations (which had by the time of the order been published) prescribe that the Minister must develop guidelines for the development of AIS plans, within one year from the coming into effect of the 2014 AIS Regulations. Further the 2014 AIS Regulations provide that management authorities and organs of State in all spheres of government must, in turn, prepare AIS plans and submit them to the Minister and to the South African National Biodiversity Institute within one year of the publication of the guidelines.

As a consequence of its failure to consider the substantive and procedural obligations created by the AIS Regulations, and in particular the timeframes stipulated therein, the High Court had created two contradictory and parallel time frames for the discharge of the same obligations under the same statute. The SCA found that the High Court erred in imposing a time limit which was different from, and more stringent, to that imposed by the AIS Regulations.

2. The appointment by the Minister of sufficient number of EMLs mandated to monitor and enforce compliance with the AIS Regulations within the province of KZN.

The SCA highlighted that sections 31B, 31BA and 31C of the National Environmental Management Act 107 of 1998 (NEMA) govern the designation of EMLs by the Minister, the Minister responsible for the Department of Water Affairs (DWA) (as it then was) and the MECs responsible for environmental affairs within each of the provinces. Section 31D of NEMA deals with mandate.

The SCA found that the High Court's order destroyed the distribution of responsibilities found in sections 31B; 31BA and 31C read with 31D of NEMA, by removing the powers or functions from the MECs and Minister responsible for water affairs and placing them exclusively in the hands of the Minister. This was found to be in violation of the principle of co-operative governance.





The SCA noted that the High Court made no mention of the number of EMLs currently qualified or about to qualify for designation in KZN; and that there was no finding on whether or not the current and projected numbers of EMLs were sufficient. The SCA held that in the absence of such a finding, it could hardly have been open to the High Court to grant the order it did.

Furthermore there was no evidence before the High Court that showed definable criteria in terms of what constituted "a sufficient number of EMLs". The order was thus found to be vague.

The SCA further held that the allocation of public resources is a matter that falls within the competence of the executive and that courts must be cautious when formulating an order that impacts on public resources. Moreover the SCA was of the view that the inherent complexities of AIS make their impact difficult to quantify, the number of EMLs that should be appointed, which is essentially a matter of policy and thus best left to the executive and not the judiciary (i.e. the courts).

Based on the arguments set out above, the appeal succeeded and the above-mentioned paragraphs (4 and 5) of the court order were set aside.

**Picture 2: Supreme Court of Appeal of South Africa: picture taken from <http://www.judiciary.org.za/supreme-court-of-appeal.html>**



<b>Parties</b>	NORMAN NALEDZANI MAPHARI V THE STATE Case No R92/2015
<b>Category</b>	Proving mens rea beyond reasonable doubt through a reasonable inference from the proven facts
<b>Court</b>	High Court of South Africa, Eastern Cape Division - Grahamstown
<b>Facts</b>	Norman Maphari (the appellant), and his three co-accused were convicted in the Kirkwood Regional Court (Trial Court) for theft of 28 cycads as well as the unlawful picking; buying; transporting or possessing of endangered flora (i.e. 28 cycads) without a permit required in terms of the Cape Ordinance on Nature and Environmental Conservation, 19 of 1974 (Ordinance). The appellant was sentenced to seven (7) years imprisonment, three (3) years of which were conditionally suspended. He appealed against his conviction and sentence.



Aiden Gersh





### Trial Court

In the trial court, the appellant pleaded not guilty and denied that he possessed the necessary mens rea. Put differently, he told the court that he did not have the intention to commit both the offences for which he was charged. This is because, so his explanation went, he did not steal the cycads but was simply hired by accused 2 to transport them from the Eastern Cape to Gauteng for which the agreed transport fee was R10 000. He explained further that he was unaware that cycads were an endangered species and that it was unlawful to possess or transport them without a permit.

During the trial, the common cause facts were as follows:

- At 19:20 on 4 June 2014 police officers came across a bakkie owned and being driven by the appellant. The three co-accused were passengers.
- 28 cycads were found.
- These cycads had been removed from the complainant's farm.

The Trial Court rejected the appellant's version as not being reasonably possibly true. The Trial Court found that it was improbable that the appellant did not know that he was transporting a valuable consignment since the agreed transportation fee was R10, 000. Through oral evidence, the Trial Court also found that the accused had given two different explanations to his employees for his presence at the crime scene. Accordingly, the Trial Court held that the only reasonable inference to be drawn from the facts was that the appellant and his co-accused had formed common purpose illegally to

harvest cycads and to sell them in Gauteng for a profit.

Maphari appealed his conviction and sentence in the Eastern Cape High Court.

### Judgment

The basis of the appeal was that the state did not prove beyond reasonable doubt that he had the necessary mens rea to steal the cycads and to contravene the Ordinance.

The Appeal Court considered the oral evidence which had been given in the Trial Court where two of the appellant's employees, Moni and Jackson, had testified.

Moni testified that he saw Norman's bakkie earlier that morning parked by a hole in the fence at the crime scene, with its bonnet open and hazards on. The appellant had told Moni that the vehicle was parked there because it was overheating. Jackson, testified that the appellant had told him that the bakkie had run out of diesel and asked where the nearest town was. After pointing him to the town of Kirkwood, Norman returned to the crime scene within 20 minutes with a container full of diesel with the explanation that he got it from a truck driver.

The Appeal Court held that it was clear from this evidence that the accused gave fictitious reasons for his presence at the scene of the crime and agreed with the Trial Court that the accused's explanation was contrived and improbable. It also agreed with State's submission that the only reason for these fictitious explanations was to avoid suspicion and to prevent detection while the theft was in progress. It was further noted that upon his arrest, the appellant denied having knowledge of the cycads and blamed his co-accused.

The appellant's version regarding the terms of the agreement to transport the cycads with his co-accused, as well as the circumstances which led to his presence at the crime scene of the theft, raised suspicion. Although, the Appeal Court agreed with the defence's argument that such a suspicion was insufficient to justify a finding that the appellant's version was not reasonably possibly true, it held that the State proved beyond reasonable doubt that the appellant's conduct at the material times was fundamentally incompatible with the claims of his innocence and the lack of knowledge of the true nature of the transaction.

The Appeal Court agreed that the only reasonable inference that could be drawn from the facts was that the appellant was indeed aware of the illegality of the removal and subsequent possession of the cycads. Thus the State had proved beyond reasonable doubt that the appellant possessed the necessary mens rea to commit the offences and that he and his co-accused had acted with common purpose.

In respect of the sentence, the Appeal Court was of the opinion that the Trial Court had not misdirected itself and that the sentence was not shockingly disproportionate.



Picture: High Court of South Africa, Eastern Cape Division – Grahamstown: picture taken from <http://www.cloeteandco.co.za/admin-login>



<b>Parties</b>	UMHLABA PLANT HIRE CC V THE DPP, WESTERN CAPE & OTHERS Case No: 10152/2015
<b>Category</b>	The circumstances that warrant a lesser amount of security for the release of seized vehicles, vessels or aircraft in terms of section 34F of NEMA
<b>Court</b>	High Court of South Africa, Western Cape Division – Cape town
<b>Facts</b>	During 2014, GL Conradie Plant Hire (Pty) Ltd (GL Conradie) contracted by the owners of a farm called Hazendal Wine Estate (the Farm) situated in Stellenbosch, commenced levelling and terracing certain sections of the Farm for agricultural purposes. In executing this contracted work, GL Conradie hired a bulldozer from Umhlaba Plant Hire CC (the Applicant).

The Director of Environmental Compliance and Enforcement, Western Cape Government (Second Respondent) acting in terms of a warrant, seized the bulldozer which was on reasonable grounds believed to be concerned with, or intended to be used in, the suspected commission of offences in terms of the National Environmental Management Act 107 of 1998 (NEMA), more specifically commencing a listed activity without authorisation.

In response, the Applicant applied to the Cape Town High Court (Court) for the release of the bulldozer in accordance with section 34F(1) of NEMA. The Second Respondent was not opposed to the release of the bulldozer as long as the Applicant provided security in accordance with section 34F of NEMA which reads as follows:

“34F. Security for release of vehicles, vessels or aircraft.—

(1) If a vehicle, vessel or aircraft is seized in terms of this Act and is kept for the purposes of criminal proceedings, the owner or agent of the owner may at any time apply to a court for the release of the vehicle, vessel or aircraft.

(2) A court may order the release of the vehicle, vessel or aircraft on the provision of security determined by the court.

(3) The amount of the security must at least be equal to the sum of—

- (a) the market value of the vehicle, vessel or aircraft;
- (b) the maximum fine that a court may impose for the alleged offence; and

(c) costs and expenses incurred or reasonably foreseen to be incurred by the State in connection with prosecuting the offence and recoverable in terms of this Act.

(4) If the court is satisfied that there are circumstances which warrant a lesser amount of security, it may order the release of the vehicle, vessel or aircraft subject to the provision of security for such lesser amount.”

[underlining supplied]

The Applicant contended that section 34F(4) of NEMA found application and that circumstances existed which warranted a deviation from the formula for security set out in section 34F(3) of NEMA.

In trying to determine an appropriate sum to be paid as security, it was noted that if the bulldozer was not seized, its market value would have been in the range of R750 000 and R1, 2 million. However, after its seizure, the condition of the bulldozer deteriorated as it was neither used nor serviced. Accordingly, its market value decreased to approximately R250 000. The Applicant accordingly offered the decreased market value of R250 000 as security for the release of the bulldozer. This was rejected by the Second Respondent.



	<p>In the opposing affidavit, the Second Respondent asserted that the formula contained in section 34F(3) applied and that based on this formula an amount of R40 750 000 was required. This amount was based on the following calculation: R 750 000 (minimum market value) + R10 000 000 × 4 (maximum statutory fines in respect of the four alleged offences).</p> <p>Counsel for the Applicant disagreed with the proposed amount and contended that, in the circumstances of this matter, the bulldozer should be released without payment of security on the condition that the Applicant insured and maintained the bulldozer and in addition undertook not to alienate it until the Director of Public Prosecutions, Western Cape (First Respondent) or the Second Respondent confirmed in writing that the criminal matter had been finalised.</p>
<b>Judgment</b>	<p>The Court noted that pollution and degradation of the environment is a serious offence and that substantial sentences may be imposed for offences contained in NEMA. The Court noted further that the stringent provision, section 34F(3), is understandable in view of the mischief that the legislature seeks to address. However it may, in some circumstances lead to grossly unfair results. Thus section 34F(4) exists to enable the Court to deviate from the provisions of section 34F(3) where the facts require such deviation (i.e. in appropriate circumstances).</p> <p>During argument, the Second Respondent conceded that the circumstances did in fact warrant a deviation from section 34F(3) and a revised amount of R1.2 million was proposed. Counsel for the Second Respondent argued further that in the application of section 34F(4), the formula in section 34F(3) should still be applied and that reference to "a lesser amount" simply enables a Court to reduce the amount of security, but not to say that no security is required at all if the seized item is to be released.</p> <p>The Court disagreed. It was of the view that the legislature did not have the intention to restrain the Court's discretion as this may lead to absurd results in cases where it transpired that seized goods had in fact been seized by mistake. However, it noted that in exercising its discretion a court should be mindful of the mischief the legislature sought to address.</p> <p>In considering the amount of security, the Court considered the following circumstances:</p> <p>The importance of the protection of the environment and the role of NEMA</p> <p>The Court noted that the pollution or degradation of the environment is a serious offence with far-reaching consequences. Accordingly, the attachment and forfeiture of goods used in the commission such offences is integral to NEMA.</p> <p>The nature of the alleged offences</p> <p>In his expert statement submitted to the Court in terms of 212(4) of the Criminal Procedure Act 51 of 1977, a water specialist stated, inter alia, that significant environmental degradation had occurred on the Farm and that the sand mining, road construction and dumping of builder's rubble had altered the environment.</p>

	<p>The list of offences produced by the Second Respondent included:</p> <ol style="list-style-type: none"> <li>1) An unlawful act/omission which causes or is likely to cause significant pollution or degradation of the environment in contravention of section 28 read with 49A(1)(e) of NEMA;</li> <li>2) The construction of a culvert pipe underneath a road within a watercourse without authorisation in contravention of section 24F(1) of NEMA read with Government Notice Regulation 544 of 28 June 2010;</li> <li>3) The construction of a road wider than 4 meters over a wetland in contravention of Government Notice Regulation 544 of 28 June 2010 ; and</li> <li>4) Mining activities within a wetland in contravention of Government Notice Regulation 544 of 28 June 2010.</li> </ol> <p>The involvement of the bulldozer</p> <p>The Court stated that the water specialist did not deal with bulldozer and that it must be accepted that GL Conradie and the bulldozer were not involved in the road construction and dumping of the builder's rubble, as the rubble, the road and culvert pipe were already there when GL Conradie was contracted by the owners of the Farm to remove the rubble and commence the work.</p> <p>GL Conradie made written representations to the First Respondent, responding to the alleged offences as follows:</p> <ol style="list-style-type: none"> <li>1) First Offence – the Farm is zoned for agricultural purposes which by its very nature implies an unavoidable disturbance of the environment. There is no evidence that any alleged degradation was not minimised or that GL Conradie did not intend thereafter to rectify any degradation that may have resulted since a rehabilitation plan was submitted to and accepted by the Western Cape Department of Environmental Affairs and Development Planning. Furthermore, GL Conradie did not dispose of any rubble on the site.</li> <li>2) Second and Third Offence – The road and culvert pipe were not constructed by GL Conradie.</li> <li>3) Fourth Offence – No activities took place within a wetland as the Department's directive refers to "earthmoving activities in close proximity to a watercourse".</li> </ol> <p>The First Respondent had not informed GL Conradie of any decision regarding the representations made. The Second Respondent did not deal with the abovementioned representations in his answering affidavit and contended that the strength of the criminal offences would best be determined by the criminal court and after all evidence has been presented. The Court disagreed with this contention. It took the view that for purposes of this application, it was relevant to consider the extent of the bulldozer's involvement in the alleged offences. Thus, the Second Respondent should at least have provided some evidence or rebuttal if he disagreed with GL Conradie's representations.</p>
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Furthermore, although the Second Respondent told the Court that the state advocate had indicated that the First Respondent would be proceeding with criminal prosecution, the Second Respondent failed to state who the accused will be. It might be the owners of the Farm and it might also be GL Conradie.

The interests of the owner of the bulldozer

The Applicant rented the bulldozer to clients at a rate of R750 per hour before its seizure. As a result of its seizure, and based on the bulldozer's rental history, the Applicant suffered a loss of income in excess of R90 000 per month. Furthermore, the market value of the bulldozer would continue to deteriorate while it remained under seizure because it would not be used or serviced.

The Court held the view that because the member of the Applicant is also a director of GL Conradie, the Applicant was probably aware of the nature of the work done at the Farm. However, it had been shown that GL Conradie and the bulldozer were not involved in the activities that gave rise to most of the alleged offences.

#### **The effect if the bulldozer was not released**

The Court held that if not released, GL Conradie would be deprived of the bulldozer which is needed for the rehabilitation of the Farm in terms of the rehabilitation plan submitted to the Department. Thus, in these circumstances it would not be in the interest of the environment if the release of the bulldozer was not ordered or if a high amount of security was ordered.

#### **Proportionality**

The Court was of the view that it would be just to make an order that is proportionate to the involvement of the bulldozer in the commission of the alleged offences.

Based on the consideration of the abovementioned circumstances, the Court ordered that the bulldozer be released to the Applicant immediately upon payment of security in an amount of R 250 000.

**Picture : High Court of South Africa, Western Cape Division – Cape town: picture taken from <http://www.visioninja.com/commercial/h40C18AA2#h40c18aa2>**



## **7. LEGISLATIVE DEVELOPMENTS**

### **7.1 National Environmental Management Act 107 of 1998**

#### **7.1.1 Amendment Bills**

- National Environmental Management Laws Amendment Bill GN 986 of 13 October 2015
- Extension of the Public Comment Period for the National Environmental Management Laws Amendment Bill GN 1172 of 23 November 2015

#### **7.1.2 Regulations**

- Waste Act: Admission of Guilt Fine Regulations GNR 635 of 24 July 2015.
- Regulations Pertaining to the Financial Provision for Prospecting, Exploration, Mining or Production Operations GNR 1147 of 20 November 2015

#### **7.1.3 Notices**

- Environment Impact Assessment Guideline for Renewable Energy Project GN 989 of 16 October 2015



#### 7.1.4 Draft Regulations and Notices

- Regulations relating to the procedure to be followed and criteria to be considered when determining an appropriate fine in terms of section 24G GN 39024 of 24 July 2015
- Amendments to Environmental Impact Assessment Regulations, 2014 and Listing Notices 1, 2 and 3 of 2014 GN 1030 of 30 October 2015

### 7.2 National Environmental Management: Biodiversity Act 10 of 2004

#### 7.2.1 Regulations

- Bioprospecting, Access and Benefit-Sharing Amendments Regulations GN 447 of 19 May 2015

#### 7.2.2 Notices

- Non-detriment Findings GN 897 of 10 September 2015
- Biodiversity Management Plan for the African Lion (*Panthera Leo*) GN 1190 of 2 December 2015
- The Biodiversity Management Plan for White Rhinoceros (*Ceratotherium Simum*) GN 1191 of 2 December 2015
- Draft Amendment of the Norms and Standards for the Marking of Rhinoceros and Rhinoceros Horn, and for the Hunting of Rhinoceros for Trophy Hunting Purposes GN 5 of 12 January 2016
- Bioprospecting Permit Application GN 20 of 25 January 2016

#### 7.2.3 Draft Regulations and Notices

- Draft Amendments to the Alien and Invasive Species Lists GN 493 of 29 May 2015
- The Draft Biodiversity Management Plan For 11 Critically Endangered (Cr) And 4 Endangered (En) Encephalartos Species GN 503 of 5 June 2015
- Intention to Declare an Extension to the Harold Porter National Botanical Garden GN 1148 of 20 November 2015
- Draft Biodiversity Management Plan for Hartebeesspruit Ecosystem GN 427 of 15 April 2016

### 7.3 National Environmental Management: Air Quality Act 39 of 2004

#### 7.3.1 Regulations

- Regulations for the Procedure and Criteria to be followed in the Determination of an Administrative Fine in terms of Section 22A of the Act GN 332 of 18 March 2016

#### 7.3.2 Notices

- Waterberg Bojanala Priority Area Air Quality Management Plan GN 1207 of 09 December 2015
- Regulations prescribing the Atmospheric Emission Licence Processing Fee GN 250 of 11 March 2016
- Air Quality Offsets Guideline GN 333 of 18 March 2016

#### 7.3.3 Draft Regulations and Notices

- National Greenhouse Gas Emission Reporting Regulations GN 411 of 11 May 2015
- Declaration of a small scale-char and small-scale charcoal plants as controlled emitters and establishment of emission standards GN 602 of 18 September 2015
- National Pollution Prevention Plans Regulations GN 5 of 8 January 2016
- Declaration of Greenhouse Gases as Priority Air Pollutants GN 6 of 8 January 2016

### 7.4 National Environmental Management: Waste Act 59 of 2008

#### 7.4.1 Regulations

- Regulations regarding the Planning and Management of Residue Stockpiles and Residue Deposits, GNR 632 of 24 July 2015

#### 7.4.2 Draft Regulations and Notices

- Notice of Intention to Require the Paper and Packaging Industry, Electrical and Electronic Industry and Lighting Industry to Prepare and Submit to the Minister Industry Waste Management Plans for Approval GN 736 of 24 July 2015





## 7.5 National Environmental Management: Integrated Coastal Management Act 24 of 2008

### 7.5.1 Draft Regulations and Notice

- Draft Appeal Regulations GN 450 of 22 May 2015
- Draft Durban Bay and Orange River Mouth Estuarine Management Plans GN 1034 of 30 October 2015

## 7.6 National Environmental Management: Protected Areas Act 57 of 2003

### 7.6.1 Regulations

- Regulations for the Management of the Dwesa-Cwebe Marine Protected Area GN 1074 of 6 November 2015

### 7.6.2 Notices

- Declaration of Land to be of West Coast National Park in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 475 of 29 May 2015
- Declaration of land to be part of Marakele National Park in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 476 of 29 May 2015
- Declaration of Land to be part of Mountain Zebra National Park GN 477 of 29 May 2015
- Declaration of Land to be part of Tankwa Karoo National Park in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 478 of 29 May 2015
- Declaration of Land to be part of Richtersveld National Park in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 479 of 29 May 2015
- Declaration of Land to be part of Table Mountain National Park in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 480 of 29 May 2015
- Declaration of Land to be part of Namaqua National Park in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 481 of 29 May 2015

- Notice Declaring the Dwesa Cwebe Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 1073 of 6 November 2015
- Amendment of Schedule 2 to the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 2 of 25 February 2016
- Intention to declare certain land situated in the Registration Division, Limpopo Province as part of Leopard Cave Safaris Private Nature Reserve GN 3 of 26 February 2016
- Intention to declare certain land situated in the Eastern Cape Province part of the Addo Elephant National Park GN 2 of 26 February 2016
- Norms and Standards for the Management of Protected Areas in South Africa GN 382 of 31 March 2016
- Declaration of Land as the Mountain Zebra-Camdeboo Protected Environment Proc. No 14 of 1 April 2016
- Mountain Zebra Camdeboo Protected Environment Regulations Proc. No 15 of 1 April 2016
- Biodiversity Management Plan for the Clanwilliam Sandfish, Labeo Seeberi GN 406 1 April 2016
- Draft Biodiversity Management Plan for Hartebeesspruit Ecosystem GN 427 15 of April 2016

### 7.7.1 Draft Regulations and Notices

- Draft Notice declaring the Tsitsikamma National Park Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GN 1145 of 19 November 2015
- Draft Regulations for the Management of the Tsitsikamma National Park Marine Protected Area GNR. 1146 of 19 November 2015
- Draft Notice Declaring the Benguela Bank Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 93 of 3 February 2016
- Draft Notice Declaring the Isimangaliso Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 94 of 3 February 2016
- Draft Notice Declaring the Agulhas Front Marine Protected Area under



- Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 95 of 3 February 2016
- Draft Notice Declaring the Browns Bank Complex Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 Of 2003) GNR 98 of 3 February 2016
  - Draft Regulations for the Management of the Namaqua Fossil Forest Marine Protected Area GNR 99 of 3 February 2016
  - Draft Regulations for the Management of the Protea Banks Marine Protected Area GNR 100 of 3 February 2016
  - Draft Regulations for the Management of the Port Elizabeth Corals Marine Protected Area GNR. 101 of 3 February 2016
  - Draft Regulations for the Management of the Agulhas Bank Complex Marine Protected Area GNR 102 of 3 February 2016
  - Draft Regulations for the Management of the Uthukela Banks Marine Protected Area GNR 103 of 3 February 2016
  - Draft Regulations for the Management of the Orange Shelf Edge Marine Protected Area GNR 104 of 3 February 2016
  - Draft Regulations for the Management of the Benguela Bank Marine Protected Area GNR 105 of 3 February 2016
  - Draft Notice Declaring the Agulhas Bank Complex Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 Of 2003) GNR 106 of 3 February 2016
  - Draft Notice Declaring the Aliwal Shoal Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 Of 2003) GNR 107 of 3 February 2016
  - Draft Notice Declaring the Uthukela Banks Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 108 of 3 FEBRUARY 2016
  - Notice Declaring the Amathole Offshore Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 109 of 3 FEBRUARY 2016
  - Draft Regulations for the Management of the Aliwal Shoal Marine Protected Area GNR 110 of 3 February 2016
  - Draft Regulations for the Management of the Agulhas Muds Marine Protected Area GNR 111 of 3 February 2016
  - Draft Notice Declaring the Agulhas Muds Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 112 of 3 FEBRUARY 2016
  - Draft Regulations for the Management of the Amathole Offshore Marine Protected Area GNR 113 of 03 February 2016
  - Draft Regulations for the Management of the Addo Elephant Marine Protected Area GNR 114 of 03 February 2016
  - Draft Notice Declaring the Browns Bank Corals Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 115 of 3 February 2016
  - Draft Notice Declaring the Addo Elephant Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 Of 2003) GNR 116 of 3 February 2016
  - Draft Regulations for the Management of the Browns Bank Corals Marine Protected Area GNR 117 of 3 February 2016
  - Draft Regulations for the Management of the iSimangaliso Marine Protected Area GNR 118 of 3 February 2016
  - Draft Regulations for the Management of the Robben Island Marine Protected Area GNR 119 of 3 February 2016
  - Draft Notice Declaring the Southwest Indian Seamount Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 120 of 3 February 2016
  - Draft Regulations for the Management of the Southwest Indian Seamount Marine Protected Area GNR 121 of 3 February 2016
  - Draft Notice Declaring the Robben Island Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 Of 2003) GNR 122 of 3 February 2016
  - Draft Regulations for the Management of the Southeast Atlantic Seamount Marine Protected Area GNR 123 of 3 February 2016
  - Draft Notice Declaring the Southeast Atlantic Seamount Marine Protected Area under Section 22A of the National Environmental Management:



Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 124 of 3 February 2016

- Draft Regulations for the Management of the Namaqua National Park Marine Protected Area GNR 125 of 3 February 2016
- Draft Notice Declaring the Namaqua Fossil Forest Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 126 03 February 2016
- Draft Notice Declaring the Namaqua National Park Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 127 of 3 February 2016
- Draft Notice Declaring the Protea Banks Marine Protected Area Under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 128 of 3 February 2016
- Draft Notice Declaring the Orange Shelf Edge Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 129 of 3 February 2016
- Draft Regulations for the Management of the Benguela Muds Marine Protected Area GNR 130 of 3 February 2016
- Draft Regulations for the Management of the Browns Bank Complex Marine Protected Area GNR 131 of 3 February 2016
- Draft Notice Declaring the Benguela Muds Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 132 3 of February 2016
- Draft Regulations for the Management of the Agulhas Front Marine Protected Area GNR 133 of 3 February 2016
- Draft Regulations for the Management of the Cape Canyon Marine Protected Area GNR 134 of 3 February 2016
- Draft Notice Declaring the Cape Canyon Marine Protected Area under Section 22A of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) GNR 135 of 3 February 2016
- Draft Regulations for the Management of the Childs Bank Marine Protected Area GNR 186 of 17 February 2016

## 7.8 World Heritage Convention Act 49 of 1999

### 7.8.1 Notices

- Format and Procedure for the Nomination of World Heritage Sites in the Republic of South Africa GN 1033 of 30 October 2015

### 7.9 Draft Bills

Draft Marine Spatial Planning Bill GN 347 of 24 March 2016

## 8. INDUSTRIAL COMPLIANCE AND ENFORCEMENT

### 8.1 Pro-active Compliance Inspections

Proactive compliance monitoring and enforcement work continues in relation to the following priority sectors as well as in relation to other strategic projects regulated through the issuing of authorisations in terms of environmental legislation:

Ferro-Alloy, Steel and Iron Sector

Refineries Sector

Power Generation Health Care Risk Waste Treatment / Disposal

Cement Sector

Paper and Pulp Sector

Waste Tyres

A summary of the monitoring and enforcement, as it crosses over from one reporting period to the next is set out in the table below and indicated through cross references. Although it is not possible to include all the facilities in a report of this nature, the table provides an indication of some of the work undertaken to bring these sectors into compliance with environmental legislation.



## NECER 2015-2016: DETAILED INFORMATION TABLE RELATING TO STRATEGIC INSPECTIONS AND ENFORCEMENT ACTION TAKEN

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE	
AEL	Atmospheric emission licence
EA	Environmental authorisation issued in terms of section 24 of NEMA read with the relevant Environmental Impact Assessment Regulations
D:SAE	DEA's Directorate: Environmental Impact and Pollution
DEA	National Department of Environmental Affairs
RoD	Record of Decision in respect of a decision issued in terms of activities listed under ECA
WML	Waste Management Licence
WUL	Water Use License
Section 31H Notice	A notice used to obtain further documentation/information from a facility
PCN	A notice of intention to issue a compliance notice in terms of section 31L of NEMA (also known as a pre-compliance notice)
PM	Particulate Matter
Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
<b>AcelorMittal Vereeniging, Gauteng Province</b>	The Director of Public Prosecutions decided not to prosecute the facility for the waste related contraventions. A decision was taken that no further criminal investigations would be undertaken at present given that no new evidence is available..
<b>Hernic Ferrochrome, North West</b>	<p>DEA issued Hernic Ferrochrome with a PCN and section 28 pre-directive on 27 July 2015. The facility responded and contended that the issues identified in the PCN fall within the One Environmental System which is regulated by the Department of Mineral Resources ("DMR"). This case was transferred to the DMR for a decision to be made on the appropriate enforcement action to take. This case will be closed from the registers of the DEA.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;</p> <p>Page 28 of NECER 2009-2010;</p> <p>Page 44 of NECER 2010-2011;</p> <p>Page 44 of NECER 2013-2014; and</p> <p>Page 44 of NECER 2014-2015</p>





<p><b>Arcelor-Mittal Newcastle Works, Kwa Zulu Natal</b></p>	<p>The DEA was not satisfied with the representations received in response to the combined PCN and pre-directive that was issued during July 2015 and afforded ArcelorMittal Newcastle an opportunity to make further written representations. After receiving these representations, the DEA then decided to amend the original PCN in order to address the non-compliances occurring on the premises of ArcelorMittal Newcastle.</p> <p>The amended combined PCN and pre-directive was issued on 6 August 2015. The facility submitted representations on 21 September 2015 but failed to satisfy the DEA in relation to the legal requirement for operators utilising the Blast Oxygen Furnace Slag to be in possession of a waste management licence. Accordingly a final combined compliance notice and directive was issued on 07 December 2015. ArcelorMittal Newcastle applied for a suspension of certain instructions contained in the compliance notice and submitted an objection. Both the suspension and the objection was dismissed by the Director General and Minister respectively.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;  Page 25 of NECER 2008-2009;  Pages 45 – 46 of NECER 2010-2011;  Page 43 of NECER 2011-2012;  Page 43 of NECER 2012-2013;  Page 44 of NECER 2013-2014;and  Page 44 of NECER 2014-2015.</p>
<p><b>BHP Billiton Metalloys Meyerton, Gauteng (Now known as South 32)</b></p>	<p>A follow-up inspection was conducted at South 32 on 3 and 4 August 2015. Non-compliances with conditions of the AEL, WMLs and WUL were observed. These ranged from administrative non-compliances, emissions exceeding AEL limits, lack of abatement equipment availability during the required operating times, lack of monitoring of certain water quality variables, failure to hold monitoring committee meetings as required, etc. Contraventions of section 67 of NEM:WA, section 28 of NEMA and section 19 of NWA were evident, including: excessive dust on site, damaged liners at the sludge dams, unlined disposal sites and groundwater contamination.</p> <p>South 32 has, however, drafted an Action Plan on how it will address historical unlined disposal sites.</p> <p>DEA issued South 32 with a PCN on 04 March 2016. Representations from South 32 have been received and are in the process of being reviewed.</p> <p>A criminal case was enrolled but a trial date is still to be determined.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;  Page 27 of NECER 2009-2010;  Pages 43 - 44 of NECER 2010-2011;  Page 42 of NECER 2011-2012;  Page 42 of NECER 2012-2013;  Pages 44 - 45 of NECER 2013-2014; and  Page 44 of NECER 2014-2015.</p>





<p><b>Old Vanchem Vanadium waste site in Witbank ("CWDF") CWDF to be rehabilitated by Highveld Steel, as agreed in the sale agreement between Highveld Steel and Vanchem Vanadium</b></p>	<p>A follow-up inspection was conducted on 2 and 3 June 2015. Shortly before the inspection, and on 13 April 2015, Evraz Highveld Steel and Vanadium Limited ("EHSV") resolved to commence business rescue proceedings. The facility was placed under business rescue and messrs Piers Marsden and Daniel Terblanche of Matuson and Associates were appointed as the joint Business Rescue Practitioners ("the BRPs").</p> <p>As EHSV is responsible for the Old Vanchem Vanadium Calcine Waste Dump Facility, which is one of the significant issues of concern being addressed by means of enforcement action against EHSV, further information on the status of this matter is contained below under the "EHSV, Mpumalanga" discussion.</p> <p>The DEA is continually evaluating its options in order to find a suitable and sustainable solution at the site, including its associated impacts.</p> <p>The investigation in relation to the criminal case is complete and the case docket was referred to the Director of Public Prosecutions for a decision on whether or not to prosecute.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;</p> <p>Page 26 of NECER 2009-2010;</p> <p>Page 40 of NECER 2011-2012;</p> <p>Page 40 of NECER 2012-2013;</p> <p>Page 45 of NECER 2013-2014; and</p> <p>Page 45 of NECER 2014-2015.</p>
<p><b>Vanchem Vanadium Products (Pty) Ltd</b></p>	<p>A notice in terms of section 31H of NEMA was issued to the facility by the DEA on 13 May 2015 requiring a response in relation to its current compliance status.</p> <p>Upon reviewing the response the DEA concluded that the facility remains in contravention of various pieces of environmental legislation, and issued the facility with a PCN dated 18 March 2016. Subsequent to the issuance of said PCN representatives from the facility met with senior officials from the DEA to discuss the contents of the PCN and to discuss the current challenges experienced by the facility. During this meeting the DEA was informed that the facility had been placed under Business Rescue during November 2015 and it had ceased operations in January 2016.</p> <p>Notwithstanding the above, the facility requested the Department to grant an extension of thirty (30) days for the submission of its representations to the PCN. The extension has been granted and the Department is currently awaiting the facility's response.</p> <p>The emergence of this Business Rescue process is linked to that of EHSV. The discussion in the paragraph below will highlight the current challenges in effectively dealing with the pollution that emanates from facilities which are subject to this process.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;</p> <p>Page 27 of NECER 2009-2010; and</p> <p>Page 45 of NECER 2014-2015.</p>



**Evraz Highveld Steel & Vanadium ("EHSV"), Mpumalanga**

The facility was prioritised per the Compliance Inspection Schedule for the 2015/16 financial year in order to address the gross non-compliances as a matter of urgency. A follow-up inspection was conducted on 2 and 3 June 2015 where non-compliances against the AEL and WUL were identified. These included, amongst others, excessive exceedances of the particulate matter emission limit as well as surface and groundwater exceeding the WUL limits.

Further non-compliances included:

- air quality monitoring results for the last quarter of 2014 and first quarter of 2015 were not available;
- the Annual Report was not compiled and submitted to the Licensing Authority as required by the AEL;
- the BOF Slag Disposal Facility was still operational although the reclamation of waste from the BOF Slag Disposal Facility had not been authorised or licensed, despite recommendations to do so in the Integrated Waste and Water Management Plan (IWWMP);
- a company called Harsco was reclaiming the steel from the disposal facility for re-use in the process;
- all the disposal sites remain unlined and do not conform to the requirements of the Norms and Standards for Disposal of Waste to Landfill, nor the 1998 Minimum Requirements for Waste Disposal by Landfill and therefore pose a serious contamination risk to soil and groundwater;
- significant non-compliances with the issued WUL were established. These included failure to conduct the required audits;
- all dams and channels used for the storage and conveying of waste water, as well as process water, were unlined and therefore posing a contamination risk to soil, surface and groundwater; and
- no licences had been obtained for the Plate Mill Dam, Phenol Dam, Sewage Treatment Plant and Earth Dams as required in terms of Section 21 of the NWA.

On 13 April 2015 the facility resolved to commence business rescue proceedings. The facility has since been placed under business rescue and business rescue practitioners have been appointed, namely messrs Piers Marsden and Daniel Terblanche of Matuson and Associates (the "BRPs").

The Compliance Inspection Report for the 2015 inspection was issued to the facility on 27 July 2015. Attached to the report was a letter from the DEA which informed the facility that the representations in response to the report would inform the DEA's decision on whether or not to instruct the facility to:

- i) Cease all/certain operation activities on site;
- ii) Rehabilitate all/certain contaminated areas on the site;
- iii) Implement adequate mitigation measures on the site to prevent serious or significant harm to the environment and human health.

Prior to the issuance of the inspection report, the DEA was however informed that EHSV had ceased all operations on site.



The DEA received a request for extension to submit representations to the Compliance Inspection Report on or before 18 September 2015 and extension approval was granted on 19 August 2015. On 11 September 2015 the DEA received correspondence dated 11 September 2015 from legal representatives for EHSV, which included a memorandum setting out its proposal to resolve the environmental issues and concerns raised by the Department going forward. According to the proposal, it sought to obtain a productive and mutually beneficial outcome for EHSV, its creditors, a new investor, the DEA and the wider public. On 18 September 2015, the DEA received EHSV's representations in response to the findings of the inspection report. EHSV put forward various options in respect of addressing the issues and concerns raised by DEA, as well as non-compliances listed in the report. This included the proposed implementation of short, medium and long-term measures, as well as information on how other issues have already been addressed. The most challenging task for EHSV was, and remains, finding an investor to take over the financial responsibility including arising from the non-compliances, issues and concerns at the site. A Business Rescue Plan in this regard was also submitted. The BRPs appointed various specialists with expertise in the management of waste, water and atmospheric impacts to investigate and report upon the measures and associated costs required to improve environmental management at the facility, to address the concerns raised by the DEA and to bring the operations into compliance with various statutory requirements and ultimately ensure the facility could operate legally.

On 18 February 2016, the EHSV representatives met with officials from the DEA, DARDLEA, the Industrial Development Corporation ("IDC") and the Nkangala District Municipality ("NDM") and EHSV presented a proposal to recommence the operational activities at a specific limited area of the facility, in order to attract investment and loan funding, which would create a business model which would, hopefully with time, generate sufficient revenue to resolve outstanding environmental concerns. After extensive deliberation, considering and reviewing all the information, the DEA granted EHSV approval to proceed with the operations at the Structural Mill, subject to clear and strict conditions.

As most findings of non-compliance related to air quality were identified at the Iron and Steel Plants, these significant impacts on the environment are not being experienced currently due to the shut down of these facilities by the BRPs.

The criminal case docket in relation to the investigation that had commenced in previous reporting periods was submitted to the DPP's office for a decision in relation to the prosecution.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

Page 13 of NECER 2007-2008

Pages 26 - 27 of NECER 2008-2009;

Page 42 of NECER 2010-2011;

Page 39 of NECER 2011-2012;

Pages 39 – 39 of NECER 2013-2014;

Page 45 of NECER 2013-2014; and

Page 45 of NECER 2014-2015.



<p><b>Xstrata Wonderkop, North West</b></p> <p><b>Now known as Glencore – Wonderkop Smelter</b></p>	<p>On 1 March 2016 representatives from the Glencore-Wonderkop Smelter met with officials from the DEA to discuss the contents of the NECER 2014/15. Subsequent to this meeting and upon further investigation, the DEA identified that the NECER 2014/15 contained information regarding a criminal case against the facility.</p> <p>The DEA subsequently clarified this information with the facility, and wishes to state, that the NECER 2014/15 erroneously referred to a criminal case against the Glencore-Wonderkop Smelter, instead of the criminal case against Glencore Royal Bafokeng.</p> <p>Notwithstanding the above, the DEA has also issued the facility with a letter, dated 14 March 2016, in which further information was requested to assist the DEA to determine the facility's current level of compliance. On 31 March 2016 the facility provided the DEA with a response. The DEA is currently in a process of reviewing this response and will thereafter take a decision on the way forward.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;</p> <p>Page 26 of NECER 2008-2009;</p> <p>Page 28 of NECER 2009-2010;</p> <p>Page 43 of NECER 2010-2011;</p> <p>Page 41 of NECER 2011-2012;</p> <p>Page 41 of NECER 2012-2013;</p> <p>Page 46 of NECER 2013-2014; and</p> <p>Page 46 of NECER 2014-2015.</p>
<p><b>Exxaro Base Metals: Zincor, Gauteng</b></p> <p><b>Now known as EBM Projects</b></p>	<p>On 1 April 2015 the DEA issued a second Section 31H Notice to the facility. After reviewing the relevant documentation provided by the facility to the DEA, the DEA issued a combined PCN and Section 28 NEMA pre-directive to the facility on 07 December 2015.</p> <p>The facility was also issued with an urgent Remediation Order by the DEA's Directorate: Land Remediation. Measures are currently being undertaken in line with the Remediation Order that was issued.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 46 of NECER 2011-2012;</p> <p>Pages 46 – 47 of NECER 2012-2013;</p> <p>Page 47 of NECER 2013-2014; and</p> <p>Page 46 of NECER 2014-2015.</p>



<p><b>Transalloys (Pty) Ltd, Mpumalanga</b></p>	<p>A Section 31H Notice was issued to the facility on 28 May 2015. This notice required the facility to provide the DEA with further information to determine its current compliance status. On 29 June 2015, the facility provided the DEA with a response.</p> <p>Upon reviewing the response, the DEA concluded that the facility remains in contravention with various pieces of environmental legislation. Accordingly, DEA issued the facility with a PCN dated 18 March 2016. The DEA is currently awaiting the facility's representations and will decide on the appropriate enforcement action to take after having reviewed the representations.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 47 of NECER 2013-2014; and</p> <p>Page 46 of NECER 2014-2015.</p>
<p><b>Samancor Ferrometals, Mpumalanga</b></p>	<p>An initial inspection was conducted at the facility on 26 and 27 June 2012. The findings included the following:</p> <ul style="list-style-type: none"> <li>• non-compliances with APPA permit and particulate matter excessively exceeded the stipulated limit;</li> <li>• free-board on dirty water containment systems was not maintained. This increases chances of overflow;</li> <li>• failure to separate clean and dirty water in some areas of the site;</li> <li>• unlined historical disposal site contaminated groundwater;</li> <li>• the required geohydrological survey to assess the extent of pollution plume on site was not conducted;</li> <li>• several unlined and unauthorised waste disposal areas; and</li> <li>• excessive dust emissions.</li> </ul> <p>The Compliance Inspection Report in respect of the above-mentioned inspection was issued to the facility and representations were submitted to the DEA. Given the nature of the non-compliances detected a decision was initially taken to pursue this matter through a criminal investigation process (See page 47 of the NECER 2014/2015). Considering the extensive delay in relation to the finalisation of this investigation, which was brought about by a high turnaround of officials during this period, a decision was taken to re-evaluate the contents of the representations together with a follow-up investigation in 2016/2017 in order to determine whether or not these non-compliances are continuing. This exercise will assist the DEA in determining the appropriate corrective action that is needed as well as to obtain further information which is necessary to finalise the criminal investigation. This case has been prioritised for the 2016/2017 financial year.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 25 of NECER 2009-2010;</p> <p>Page 41 of NECER 2010-2011;</p> <p>Page 38 of NECER 2011-2012;</p> <p>Page 38 of NECER 2012-2013</p> <p>Page 48 of NECER 2013-2014; and</p>
<p><b>Samancor Ferrochrome Middleburg</b></p>	<p>A criminal case was registered as per Middleburg Cas 10/04/2011. The investigation has been finalised and the case docket was forwarded to the Director of Public Prosecution for a decision. The DPP has decided to prosecute and a summons will be issued to the accused to appear in Middleburg Regional Court.</p>
<p><b>Glencore Lion Smelter Operations, Limpopo</b></p>	<p>After having conducted a site visit on 4 and 5 November 2014, the DEA issued an inspection report to the facility in May 2015. Representations from the facility was received and reviewed and a decision is being considered in respect of appropriate enforcement action, if required.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found on page 48 of NECER 2014/15.</p>





<p><b>Polokwane Smelters, Limpopo</b></p>	<p>The follow-up Compliance Inspection Report has been finalised and a decision is being considered in relation to appropriate enforcement action.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 47 of NECER 2013-2014; and</p> <p>Page 48 of NECER 2014-2015.</p>
<p><b>Columbus Stainless Steel (Pty) Ltd</b></p>	<p>The DEA issued the facility with a Section 31H Notice on 30 June 2015. On 31 July 2015, the facility responded. This response has been reviewed and details on the appropriate action will follow in the 2016/2017 edition of NECER.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 49 of NECER 2010-2011;</p> <p>Page 45 of NECER 2011-2012; and</p> <p>Page 46 of NECER 2012-2013.</p>
<p><b>REFINERIES</b></p>	
<p><b>Sasol Secunda Refinery, Mpumalanga</b></p>	<p>The inspection report for the 2015 inspection was issued to the facility by DEA on 25 August 2015. The findings were as follows:</p> <ul style="list-style-type: none"> <li>• Non-compliance with conditions of the AEL including PM exceedances at the Boilers and West Sludge Incinerator,</li> <li>• emission monitoring and sampling not in line with the approved methods,</li> <li>• consultation meetings not held with interested and affected parties as required; and</li> <li>• storage of hazardous waste in a manner which contravenes the general duty of care in respect of waste management and storage.</li> </ul> <p>It should be noted that the inspection was conducted before the Minimum Emission Standards came into effect in April 2015. Therefore a request to obtain the recent emission monitoring reports will be sent to the facility. A decision in relation to the appropriate enforcement action will follow in the 2016/2017 edition of NECER.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;</p> <p>Page 27 of NECER 2008-2009;</p> <p>Page 25 of NECER 2009-2010;</p> <p>Page 40 of NECER 2010-2011;</p> <p>Page 36 of NECER 2011-2012;</p> <p>Page 37 of NECER 2012-2013;</p> <p>Page 48 of NECER 2013-2014; and</p> <p>Page 49 of NECER 2014-2015.</p>



<b>PetroSA Refinery, Western Cape</b>	<p>A follow-up inspection was conducted at the site on 28 and 29 April 2015 in order to assess whether all undertakings previously made were being implemented/completed/in progress. This matter is still under review in relation to whether further enforcement action is required.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 13 of NECER 2007-2008;</p> <p>Page 28 of NECER 2009-2010;</p> <p>Page 39 of NECER 2010-2011;</p> <p>Page 35 of NECER 2011-2012; and</p> <p>Page 36 of NECER 2012-2013.</p>
<b>POWER GENERATION</b>	
<b>Eskom Tutuka</b>	<p>A joint compliance inspection was conducted at the facility on 17 and 18 November 2015. Enforcement action will be initiated in the form of a PCN.</p>
<b>H : H LANDFILLS</b>	
<b>Goswell Landfill Site, KwaZulu Natal</b>	<p>On 29 April 2015 the facility provided the DEA with its representations to the PCN and / or pre-directive dated 27 February 2015. Upon reviewing the representations and holding further internal consultations, it was agreed that an inspection would be conducted to verify the contents thereof.</p> <p>On 14 August 2015 the said inspection was conducted by EMLs from the DEA, as well as the KZN Environmental Department. During the inspection it was identified that the facility is steadily working towards improving its compliance status. The DEA is currently monitoring the facility's progress in this regard and will ensure the continuity of these measures formally.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 50 of NECER 2013-2014; and</p> <p>Page 49 of NECER 2014-2015.</p>



<p><b>EnviroServ Holfontein Landfill Site, Gauteng</b></p>	<p>Upon reviewing the facility's representations to the request made on 14 May 2015, the DEA decided to conduct a follow-up inspection to obtain samples from the quarries situated in close proximity to the facility. This took place on 12 August 2015. The results of the samples have been analysed and the DEA is in the process of reviewing these results as well as other documentation.</p> <p>During July, August and October 2015, the DEA received complaints regarding the activities taking place on site. In response to these complaints, and on 13 October 2015, an additional site inspection was conducted. The relevant complainants have since received feedback regarding the findings of the inspection.</p> <p>Notwithstanding the above, on 5 August 2015 and upon request from the facility, a meeting was held between representatives of the facility, as well as officials from the DEA. The purpose of the meeting was to discuss issues of concern at the Holfontein Disposal Site, as well as to consider appropriate measures to prevent further harm. The meeting resulted in the issuance of a letter dated 18 September, by the DEA's Branch: Chemicals and Waste Management, which contained certain conditions that the facility was instructed to adhere to.</p> <p>On 29 February 2016, the DEA issued the facility with a Section 31H NEMA Notice requesting information to confirm the facility's compliance with the conditions of the letter. On 14 March 2016 the facility provided the DEA with this information which is currently being reviewed by the DEA.</p> <p>Despite the facilities compliance status in relation to the administrative notices that were issued, steady progress is being made in relation to the criminal investigation and it is anticipated that the investigation will be finalised in 2016/2017. Further details in relation to the decision by the Director of Public Prosecutions will be communicated in the 2016/ 2017 edition of NECER.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 24 of NECER 2009-2010; and Page 49 of NECER 2014-2105.</p>
<b>PULP &amp; PAPER</b>	
<p><b>Sappi Saiccor (Pty) Ltd</b></p>	<p>An inspection was conducted on 2 and 3 September 2014. Several non-compliances were identified and an inspection report detailing the findings of the inspection has been finalised. In addition, an enforcement strategy was drafted and the DEA is in the process of taking a decision on the way forward in relation to administrative enforcement.</p> <p>A criminal investigation was initiated and a search warrant executed at the site. The investigation is nearly complete and the docket will be referred to Director of Public Prosecutions within the 2016/2017 financial year</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found on page 49 of the 2014-2015 NECER.</p>
<b>CEMENT</b>	
<p><b>Calsiment, Mpumalanga</b></p>	<p>The criminal investigation was finalised and the case docket was forwarded to the Director of Public Prosecution for a decision. The DPP decided to prosecute the two directors in their personal capacities and declined to prosecute the company as it is under a business rescue process and is not operational.</p> <p>The two directors will appear in the Middleburg Regional Court. The case has been postponed to 22 August 2016 due to a request for further formal particulars.</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 50 of NECER 2013-2014; and Page 50 of NECER 2014-2015.</p>



<b>PPC Dwaalboom</b>	<p>A follow-up inspection was conducted on 01 September 2015 whereafter a PCN was issued detailing alleged non compliances that were observed during the inspection. Details concerning the non-compliances will be disclosed should the DEA follow through with final administrative enforcement action after having reviewed the representations</p> <p>Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:</p> <p>Page 28 of NECER 2008-2009; and</p> <p>Page 27 of NECER 2009-2010.</p>
<b>Afrisam Vanderbijlpark, Gauteng Province</b>	<p>On 7 July 2015 a compliance inspection was conducted by EMIs from DEA, GDARD as well as the Emfuleni Local Municipality. During the inspection officials identified numerous non-compliances with environmental legislation. A comprehensive inspection report detailing all the non-compliances and issues of concern identified during the inspection was compiled and issued to the facility for representations.</p> <p>A Section 31H Notice, dated 29 February 2016, was also issued to the facility which required the facility to provide the DEA with further information to determine its current compliance status. On 14 March 2016 the facility provided the DEA with its response which is currently being reviewed.</p>

## 8.2 THE POWER OF THE ADMINISTRATIVE ENFORCEMENT NOTICE

A number of administrative notices were issued during the 2015/16 financial year; but the question always remains: How have these notices changed the state of the environment? To answer this question a system has been developed to monitor responses to instructions that are contained in these notices, and to see what effect they have on the behaviour of the transgressor. The initial results were reported in the 2014/15 NECER. However, and in order to illustrate the real time changes, three facilities that were subject to administrative notices during the reporting period have been selected to demonstrate the impact of administrative enforcement action.

### 8.2.1 Site no. 1: Health care risk waste treatment facility, Johannesburg.

The headline "Body parts rot at Jozi medical depot" Noseweek Issue #189, 1st July 2015<sup>2</sup>. "Solid Waste Technologies SA, the country's largest medical waste disposal enterprise with dozens of hospital contracts, including with the Netcare group, boasts on its website: 'The best medical waste treatment and service delivery company in Africa, providing exceptional standards in environmental and integrated waste management services. We strive to conduct all activities within the confines of environmental laws.' Yet nothing could be further from the truth. The SWTSA plant at City Deep in Johannesburg was shut down for a week last November for a list of serious environmental transgressions, not least the leakage of dangerous medical waste near stormwater flow paths; containers full of medical waste left uncovered in open areas; and hazardous waste not being correctly treated to ensure all bacteria and other pathogens are killed." The same story was copied on other medical websites<sup>3</sup>.

At the site, anatomical waste was decomposing in broken freezers. Scores of pallets containing sharps were standing outside. Treatment so inefficient that it could demonstrate no better than a 50% reduction of the industry-standard bacteria *Bacillus atrophaeus* 9372 (... for the microbiologists, a reduction of 6log10).

<sup>2</sup> <http://www.noseweek.co.za/article/3469/Body-parts-rot-at-Jozi-medical-depot>

<sup>3</sup> <https://doctorsportal.mediclinic.co.za/News.aspx>





Picture: photos taken at the initial site inspection.



The same operator was also found in non-compliance at their Bloemfontein depot. The headlines featured “Bio-hazardous waste piles up in warehouse of horrors<sup>4</sup>”. “Inside the warehouse... one finds bio-hazardous waste packed to the rafters. Soiled adult diapers, expired medication, used syringes and intravenous tubes... buckets brimming with waste, including human tissue... all clearly in an advanced state of decomposition, judging by the stench and the flies buzzing around.”

In response to the situation, administrative notices were issued to the operator to ensure that the waste was removed from these facilities as well as instructing the operator to ensure that the technology employed comes into compliance with the requirements of our environmental laws.

As a result of the notices the entire plant was refurbished which resulted in the following:

- Staff were trained and motivated;
- Effective operational systems were introduced;
- Thermocouples were appropriately aligned and calibrated, including accounting for emissivity values; and
- The facility now demonstrates a 100% kill of pathogens, twenty times over (namely,  $6\log_{10}$ ).

<sup>4</sup> <https://www.enca.com/south-africa/bio-hazardous-waste-piles-warehouse-horrors>





Picture: Photos taken showing compliance with the notice.



### 8.2.2 Site no. 2: Landfill site, Berlin, Eastern Cape

On 27 November 2013 an article titled “N2 reopens after 14 car pileup<sup>5</sup>” read as follows: “The N2 was re-opened at 5pm on Wednesday after a massive 14 car pile-up forced traffic officials to close down the national road between Fort Jackson and Berlin. Smoke from the smouldering Roundhill landfill site nearby was blamed for causing the pile-up as it swept across the road, reducing visibility. Seven injured people were retrieved from the mangled wreckages that shut down the freeway after 10am.”

<sup>5</sup> <http://www.dispatchlive.co.za/news/n2-reopens-after-14-car-pile-up/>







Picture: The site before notices were issued: Fire, Roundhill, June 2015

In a 2016 article<sup>6</sup> the Dispatch stated “Existing waste cells [specific areas engineered for the disposal of waste] were over-filled and dangerously shaped and were not covered with material such as soil, meaning that the waste was left exposed and the site had odour and vermin problems... daily waste was also being illegally tipped into the open veld in an unprotected area... Road surfaces were covered in waste and trucks were dumping wherever they could find space. Contaminated water was present all over the site in unlined areas.”

<sup>6</sup> <http://www.dispatchlive.co.za/sport/end-to-tip-fires-in-sight/>







**Picture: Uncovered, uncontained, uncontrolled.**

During this time notices were issued to the facility addressing the issues on site and in February 2016 the headlines featured a different story - "End to tip fires in sight". As a result of the notice an experienced waste management company was appointed by the facility to undertake remedial work at the site. The changes made on site and the impacts thereof on the environment can best be described in the following photograph:



**Picture: After notices was issued: Covered, contained, controlled, in place.**

### 8.2.3 Site 3: Land degradation

On 20 August 2014 in respect of a land degradation matter the Eden Express ran a story entitled "Kanonkop put back together again – R 4.1m to heal the wound". When EMLs attended at a site inspection they observed a vast platform that had been cut into an impossibly steep hillside significantly damaging the area.

The DEA pursued the matter with the landowner, which was one of the major banking institutions in the country, which had repossessed the property. To their credit, and acting in good faith, an environmental consultant together with engineers were appointed to design a plan to stabilise the mass of material eroding in the direction of the N2 and the Knysna lagoon. Dedication and perseverance by the EMLs, two notices of intention to issue compliance notices, one compliance notice, two variations and multiple meetings resulted in 2 000 m<sup>3</sup> soil being moved up the hill and secured 5 000m<sup>2</sup> biojute and 362 units of Green terramesh. Two hundred metres of subsoil drains were put in place and 5250 retaining blocks stacked at a cost to the Bank of R4.1 million.



**Picture: November 2010 before action was taken. Note the degraded platform.**







**Picture:** After notice was issued: March 2016. Stable platform, well-vegetated with stable flanks.

## 9. BIODIVERSITY COMPLIANCE AND ENFORCEMENT

In the 2015/16 reporting period, biodiversity compliance and enforcement continued to focus on the high-risk species, such as rhinos, elephants and cycads, while still ensuring that other species receive the protection from the Inspectorate. The cases cited below are just a few examples of the successful convictions that have been obtained in respect of these species.

In addition to pursuing the criminal prosecution and conviction of offenders of biodiversity crimes, the Inspectorate has also been involved in a number of proactive international and domestic projects / initiatives that seek to improve the capacity of the EMIs to combat these types of offences.

### 9.1 Rhinoceros

In relation to rhino cases, EMI's from across all the relevant institutions are actively involved in anti-poaching operations; crime scene management; ongoing support to the SAPS members (who take the lead in investigating these cases) as well as the NPA. The MINTECH Working Group IV's National Biodiversity Investigators Forum (NBIF) with its sub-committee focused on Rhinoceros is an

important forum for sharing of information to enhance the collaboration and co-ordination between the EMI and SAPS in relation to biodiversity investigations.

EMIs continue to participate in the various security cluster enforcement structures, including the NATJOINTS Priority Committee on Wildlife Crime and the associated Provjoints (with support offered in relation to relevant projects and operations). A number of the joint operational centres (such as the Mission Area Joint Operations Centre (MAJOC) in the Kruger National Park) are key platforms for planning and execution of joint operational work which also involves EMI institutions (like SANParks).

An important intervention by the EMIs has also been the training provided on the Illicit International Cross Border Movement of Endangered Species to 1 759 multi-disciplinary border officials during the 2015/16 financial year (see paragraph 13.5 of this report).

As a result of implementing all the aspects of the Integrated Strategic Management Approach for Rhinoceros (including compulsory interventions focused on law enforcement and security), the Minister announced in January 2016 that the poaching situation had stabilized, despite escalating poaching pressure, and in the face of an increased and relentless rise of poaching activity into protected areas. As indicated in the table below, by the end of December 2015, the number of poached rhino for 2015 was 1 175 compared to the previous year when the number of rhino poached stood at 1 215. This is, in part, due to the concerted efforts of our law-enforcement and security agencies.

#### 9.1.1: Total Number of Rhinos poached in South Africa for 2011, 2012, 2013, 2014 and 2015

INSTITUTION / PROVINCE	2011	2012	2013	2014	2015
SANParks (Kruger National Park)	252	425	606	827	826
SANParks (Marakele National Park)	6	3	3	0	-



INSTITUTION/ PROVINCE	2011	2012	2013	2014	2015
SANParks (Mapungubwe National Park)	0	0	0	1	-
KZN	34	66	85	99	116
Limpopo	74	59	114	110	91
Western Cape	6	2	0	1	1
Eastern Cape	11	7	5	15	14
Gauteng	9	1	8	5	2
North West	21	77	87	65	46
Free State	4	0	4	4	10
Northern Cape DEANC	0	0	0	5	2
Mpumalanga	31	28	92	83	67
<b>TOTAL</b>	<b>448</b>	<b>668</b>	<b>1004</b>	<b>1215</b>	<b>1175</b>

### 9.1.2: Total Number of Arrests made in South Africa for Rhino-Related Offences for 2011, 2012, 2013, 2014 and 2015

INSTITUTION	2011	2012	2013	2014	2015
SANParks (Kruger National Park)	82	73	133	174	317
SANParks (Marakele National Park)	0	0	0	0	
SANParks (Mapungubwe National Park)	0	0	0	1	
KwaZulu Natal	4	20	63	68	


Limpopo	34	43	34	60	
Western Cape	0	0	0	1	
Eastern Cape	2	0	0	2	
Gauteng	16	26	10	21	
Northwest	21	32	26	14	
Free State	0	6	7	0	
Northern Cape	0	1	0	0	
Mpumalanga	73	66	34	45	
<b>TOTAL</b>	<b>232</b>	<b>267</b>	<b>343</b>	<b>386</b>	<b>317</b>

### 9.2 Cases relating to rhino

S v Betuel Reithlangu & others (Naboomspruit CAS 81/4/2013)	
Province	Limpopo
Charge	<p>Accused 1 - The illegal hunting of rhinoceros; illegal possession of a prohibited firearm and use &amp; possession of the proceeds of crime</p> <p>Accused 3 - The illegal selling &amp; trading in rhino horns and use &amp; possession of the proceeds of crime</p> <p>Accused 4 - The use &amp; possession of the proceeds of crime</p> <p>Accused 5 - The illegal possession of a prohibited firearm; illegal selling &amp; trading in rhino horns and the use &amp; possession of the proceeds of crime</p>
Judgment/Sentence	<p>Accused 1 – Sentenced to 20 years direct imprisonment.</p> <p>Accused 3 - Sentenced to 12 years direct imprisonment</p> <p>Accused 4 – Sentenced to 6 years direct imprisonment</p> <p>Accused 5 – Sentenced to 14 years direct imprisonment</p>


S v Rogers Ndlovu (Skukuza CAS 153/8/2014)	
Province	Mpumalanga
Charge	Trespassing; illegal possession of fire-arm; illegal possession of ammunition; possession of a fire-arm with intent to commit a crime and illegal hunting in National Park



S v Rogers Ndlovu (Skukuza CAS 153/8/2014)	
Judgment/Sentence	Sentenced to 17 years imprisonment
S v Job Basi Tlou & 5 Others (Alldays CAS 61/7/2014 and Tweefontein CAS 55/8/2014)	
Province	Limpopo
Court	Louis Trichardt Magistrates' Court
Charge	Accused 1 to 5 - The illegal hunting of rhinoceros Accused 6 - The illegal selling & trading in rhino horn
Judgment/Sentence	Accused 1 to 5 – Each sentenced to 15 years direct imprisonment. Accused 6 - Sentenced to 10 years direct imprisonment
Note:	The rifle used to kill the rhino was forfeited to the State and accused 3 was declared unfit to possess a fire-arm.  The matter involved an undercover operation and police trap in terms of section 252A of the Criminal Procedure Act.
	
	<b>Picture: Poached rhino under examination</b>

S v Jodie Allen (Milnerton CAS 684/08/2014.)	
Province	Western Cape
Court	Khayelitsha Regional Magistrate's Court

Charge	Section 47A(1)(b) of the Nature Conservation Ordinance 19 of 1974. The illegal possession of one rhino horn with a mass of 1.251kg
Judgment/Sentence	The accused was sentenced to a fine of R100 000 or 5 years imprisonment of which R70 000 or 3 years was suspended for 5 years.

S v Wu Xiaohui (Ravensmead CAS 592/01/2015)	
Province	Western Cape
Court	Bellville Regional Magistrate's Court
Charge	Sections 47A(1)(b) and 42(1)(b) of the Nature Conservation Ordinance 19 of 1974.  The illegal possession of 42 grams of Rhinoceros horn without a permit and 3 lion claws and 2,852kg of crocodile meat without documentation.
Judgment/Sentence	Rhino Horn  Sentenced to 5 years direct imprisonment of which 3 and a half years were suspended for 5 years and a further fine of R40 000 or 2 years imprisonment.  Lion Claws & Crocodile Meat  Sentenced to 2 years direct imprisonment of which 1 years was suspended for 5 years.  The two sentences will run concurrently.
Note	The accused entered into a plea and sentence agreement.
	
	<b>Picture: Plastic bag containing rhinoceros horn powder with a mass of 4g</b>





S v Xiaowan Liang (OR Tambo CAS 76/11/2015)	
Province	Gauteng
Court	Kempton Park Regional Magistrates' Court
Charge	Sections 57(1) of the National Environmental Management: Biodiversity Act, Act 51 of 1977
Judgment/Sentence	Sentenced to a fine of R20 000 or 2 years imprisonment. An additional 3 years imprisonment suspended for 5 years with certain conditions.
Note	The illegal possession of rhino horn with a mass of 21 grams

S v Andilino Muqwebu and Jeremano Tive (Skukuza CAS 34/1/2013)	
Province	Mpumalanga
Charge	Trespassing and illegal hunting
Judgment/Sentence	Each accused sentenced to 14 years imprisonment

S v Talani Prince Maluleke (Makhado CAS 496/05/2014)	
Province	Limpopo
Charge	Hunting of rhino on Eckland; trespassing; possession of fire arm and ammunition
Judgment/Sentence	Sentenced to 11 years direct imprisonment.

S v Ashraf Gullamhoosen Cassim (Brits CAS 291/3/2009)	
Province	North West
Charge	Illegal dealing in rhino horn
Judgment/Sentence	Sentenced to a fine of R 1 million or 6 years imprisonment

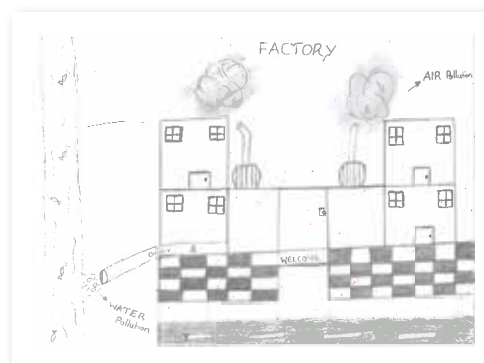
S v Mucindi Abondi, Silver Tibane, Gitto Zith (Skukuza CAS 7/10/2014)	
Province	Mpumalanga

Charge	Trespassing and illegal hunting and possession of fire-arm and ammunition and possession of dangerous weapon.
Judgment/Sentence	Accused 1 and 2 sentenced to 30 years imprisonment

S v Sibusiso Mthembu and Zakhele Masinga (CAS 78/07/2014)	
Province	Mpumalanga
Court	Mtubatuba Regional court
Charge	Section 57 of NEMBA, Conspiracy to hunt Rhino, Possession of firearm and ammunition.
Judgment/Sentence	Accused 1 and 2 sentenced to 8 years imprisonment

### 9.3 Cases relating to elephant

S v Trust Mangwisa Mukeke (Bellville CAS 678/10/2016)	
Province	Western Cape
Court	Khayelitsha Regional Magistrates Court
Charge	Section 42(1) of the Nature Conservation Ordinance 19 of 1974. The illegal possession of 6 pieces of elephant ivory with a total mass of 11.32kg.
Judgment/Sentence	Sentenced to 3 years direct imprisonment.



Shaun Sekwakwa



Unknown





**S v Trust Mangwisa Mukeke (Bellville CAS 678/10/2016)**

**Picture: One of the tusks cut into three pieces**

**S v Indlovu Safaris CC (Knysna CAS 238/06/2015)**

Province	Western Cape
Court	Knysna Regional Magistrates' Court
Charge	Section 44(1)(a) of the Nature Conservation Ordinance 19 of 1974. The illegal import, export and transport of 16 African elephants without a permit.
Judgment/Sentence	Sentenced to a fine of R 100 000 of which R 80 000 was suspended for 5 years.

**9.4 Cases relating to plants:****S. vs. Jacobus du Toit (VanRhynsdorp CAS 52/02/2016)**

Province	Western Cape
Court	VanRhynsdorp District Magistrates' Court
Charge	Sections 63(1)(b)(i); 63(1)(b)(ii); 63(1)(c), 42(1) read with section 72 of the Nature Conservation Ordinance 19 of 1974. The illegal possession and picking of 60 succulents without the necessary permits and/or documentation

**S. vs. Jacobus du Toit (VanRhynsdorp CAS 52/02/2016)**

Judgement/Sentence	Sentenced to a fine of R15 000 or 6 months imprisonment.
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**S. vs. Jose Cardona and Maria Gonzalez (VanRhynsdorp CAS 39/07/2015)**

Province	Western Cape
Court	Vredendal Regional Court
Charge	Sections 14(b); 62(1); 63(1)(b)(i); 63(1)(c); 42(1) read with section 72 of the Nature Conservation Ordinance 19 of 1974. The illegal picking and possession of 2248 succulents without permits/documentation
Judgement/Sentence	Sentenced to 12 years imprisonment, which was suspended for five years, and a fine of R2 million. Paid the fine of R2 million.
Note	CapeNature's Biodiversity Crime Unit and the South African Police Services (SAPS) executed a search warrant and discovered 14 boxes containing plants at the guest cottage where the accused were staying. The plants in the boxes had been individually wrapped in newspaper and sealed in the boxes.



**Picture: Plants after newspaper wrapping was removed (found in one of fourteen boxes)**



## 9.5 Other

S v Alwyn Smit and Jan Venter (Laaipele CAS 40/12/2015)	
Province	Western Cape
Court	Laaipele Magistrate's Court
Charge	Sections 27(1)(b), 29(b), 29(e), 40, and 42(1)(a) of the Nature Conservation Ordinance 19 of 1974.  The illegal hunting of 2 grey duikers outside hunting season, at night, with a spotlight, without the landowner's permission and possession of the grey duiker carcasses without documents.
Judgment/Sentence	Sentenced to a fine of R25 000 or 5 years of which R20 000 or 4 years were suspended for 5 years. The accused's firearms worth R50 000 were declared forfeited to the State.

S v Beric Muller (OR Tambo CAS 11/02/2016)	
Province	Gauteng
Court	Kempton Park Regional Magistrate's Court
Charge	Sections 57 read with 101(1) of the National Environmental Management: Biodiversity Act, No. 10 of 2004, further read with the Threatened or Protected Species Regulations, GN 152 of 23 February 2007.  Attempt to export 80 Giant Bullfrog without the necessary export permits.
Judgment/Sentence	Sentenced to a fine of R40 000 or 12 months imprisonment; of which R20 000 was suspended for three years.  Payment of R 20 000 to the DEA, which will be used for training and enforcement purposes.  Bullfrogs forfeited to the State.
Note	Accused attempted to export these live specimens from OR Tambo International Airport.

### S v Beric Muller (OR Tambo CAS 11/02/2016)



Picture: One of the seized Bullfrogs

## 10. JOINT COMPLIANCE AND ENFORCEMENT OPERATIONS

### 10.1 OCEANS AND COASTAL

#### 10.1.1 Operation Phakisa

The participation of relevant departments, agencies and organizations responsible for compliance and enforcement in Operation Phakisa (Initiative 5) was coordinated by DEA. This led to implementation of the enhanced and coordinated compliance and enforcement pilot project with 7 National Departments, 3 Provinces, 6 Municipalities and 3 Agencies participating. A technical Working Group was established to assume responsibility for the planning of joint operations and management of the various role-players participating in Initiative 5 of Operation Phakisa. The activities of this Working Group are managed by a committee that is chaired by DEA Enforcement with support of NATJOINTS (the National Joint Operational and Intelligence Structure). The pilot project commenced on 21 September 2016 following the issuing of the NATJOINTS instruction with Phase 1, Phase 2 and Phase 3 taking place in the Northern, Western and Eastern Cape. In the West Coast and the Southern Cape, overwhelming support was received from the South African Police Services (SAPS), Western Cape DEADP, the Department of Agriculture,





Forestry and Fisheries (DAFF), CapeNature, SANParks, the City of Cape Town and Eden Municipality.



**Picture: Phase 3 of Operation Phakisa (Initiative 5) in the Southern Cape**

A total of 10 joint operations were coordinated and implemented during the pilot project phase. The sharing of resources and skills between participating institutions was critical and led to remarkable successes and better coverage of the oceans and coastal space. The lessons learnt from this pilot project will be reviewed and this will feed into the more permanent work of this Initiative.

### 10.1.2 Marine Pollution/Coastal Discharge

During the sea-patrols, tankers were monitored for possible pollution into the marine environment.



**Picture: Sea Patrols to monitor marine pollution from tankers in Mossel Bay**

A case docket was opened for the alleged illegal coastal discharge of effluent from Port Nolloth in Alexander Bay. Samples were taken and handed over to the SAPS detective section for referral to SAPS Forensic Science Laboratory (FSL) for analysis. DEA is awaiting the results.





**Picture: Air surveillance led to detection of pollution incident**



**Picture: A suspicious orange substance detected at sea observed**

### 10.1.3 Illegal Camping/Driving in Coastal Public Property (Trekoskraal, West Coast)

Trekoskraal falls within the jurisdiction of Saldanha Municipality in the West Coast District. The area is popularly known for caravan camping by South African tourists. Complaints were received by the Saldanha Municipality in which it was alleged that members of the community were camping on the beach area (coastal public property) and driving vehicles on the sand dune without permission.

A joint operation, to investigate these complaints was planned and implemented on the 24 March 2016 under operation Phakisa. DEA, SAPS, Saldanha Municipality, DAFF and CapeNature participated in the operation and seventeen (17) officials were on duty. Thirty nine (39) pre-compliance notices were served to campers as they arrived. Those who were already camping were visited in their tents and served with pre-compliance notices.



**Picture: Illegal camping on coastal public property**







**Picture: Unlawful possession of a Steenbuck which was seized by CapeNature, taken to a rehabilitation centre and later released back into the wild.**

#### 10.1.4 Illegal harvesting of natural resources (Pondoland Marine Protected Area, Eastern Cape)

A joint operation with enforcement officials was planned, lead and coordinated in the Pondoland marine protected area (MPA) from 6 to 12 July 2014. A total of 55 officials from different enforcement agencies (DEA, DAFF, SAPS, Eastern Cape Parks, the Department of Mineral Resources and Eastern Cape DEDET) executed this operation with the resulting outcomes:

- 9 fines issued in terms of the MLRA for illegal fishing
- 65 poles confiscated in terms of Forestry Act
- 81 Shads, 61 Prawns, 6 Grunters, 4 ECRL and 2 Mulletts confiscated (MLRA)
- 6 fishing rods confiscated (MLRA)



**Picture: Two bakkies full of firewood (left) and 36 poles (right) were stopped and searched and the drivers were issued a fine for not being in possession of invoice/receipt in terms of the Forest Act. The poles were seized.**

#### 10.1.5 Non-consumptive use of marine resources (Boat Based Whale Watching and Shark Cage Diving, Plettenberg Bay, Mossel Bay)

As part of the Operation Phakisa Initiative 5, non-consumptive uses of marine resources, such as Boat-Based Whale Watching and White Shark-Cage Diving, were monitored, both to detect illegal operators or those not complying with their permit conditions.



**Picture: Sea Patrols to monitor White Shark Cage Diving activities in Mossel Bay**





Picture: Patrols to monitor Boat Based Whale Watching activities in Plettenberg Bay

## 10.2 Biodiversity operations

### 10.2.1 AIS Operation Time

Alien and invasive species (AIS) are recognised as one of the five primary drivers of biodiversity loss. These species, and specifically listed invasive species, pose a threat to ecosystem goods and services and are known to have negative impacts on biodiversity, water resources, agriculture, fisheries as well as on human and animal health.

Since the enactment of the Alien and Invasive Species Regulations in August 2014, the DEA conducted public awareness campaigns to increase public awareness on the issue so as to ensure compliance with the Regulations. Thereafter, and once the Regulations commenced, certain sectors were identified for compliance inspections; two of which are relevant for the purposes of this article: pet shops, an industry that has not properly been regulated in the past, at least insofar as alien and invasive species are concerned and farms.

The blitz commenced in Gauteng during August 2015 as a joint operation between EMIs from the DEA and the affected provinces; and after traversing all 9 provinces it concluded in KwaZulu-Natal.

Category 2 listed invasive species may, amongst others, be possessed and sold but only if permits have been obtained. The most common category 2 species found in the pet trade are Ring neck parakeets (*Psittacula krameri*); Green iguanas (*Iguana iguana*); (Green iguana); Burmese pythons (*Python*

*molurus*; Common boas (*Boa constrictor*); Rattlesnakes (*Crotalus* species); Carpet/diamond pythons (*Morelia spilotes*), and Indian/Burmese pythons / Asiatic rock Pythons (*Python molurus*). Category 3 species are subject to exemption. This means that certain restricted activities may be conducted in respect of these species without a permit. The most common Category 3 species observed was the Corn snake (*Pantherophis guttatus guttatus*).

The most common category 2 listed invasive species on farms were the Black-faced impala (*Aepyceros melampus peters*); Barbary sheep (*Ammotragus levia*); Fallow deer (*Dama dama*); Kafue lechwe (*Kobus leche kafuensis*); Red lechwe (*Kobus leche leche*) and Oryx, scimitar-horned (*Oryx dammah*).

Certain prohibited species (i.e. species which may not, for example, be possessed or sold) were seen in many of the pet shops. These included Plecostomus (*Liposarcus* species); Plecos (*Pterygoplichthys*) and Giant African snail (*Achatina fulica*).

Overall, the operation was a success. It resulted in a total of 92 pre-compliance notices issued. Seventy percent of persons on whom these pre-notices were issued have since complied. Further enforcement action will be taken against the remaining 30%.



Picture: Western Back Diamond Rattle Snake (*Crotalus atrox*) – Category 2 Reptile







Picture: Red Eared Sliders (*Trachemys scripta elegans*) Category 1b Reptile



Picture: Common boa (*Boa constrictor*) Category 2 Reptile in KwaZulu-Natal, Mpumalanga, Eastern Cape, Gauteng and Limpopo



Picture: Green iguana (*Iguana iguana*) Category 2 Reptile KwaZulu-Natal, Mpumalanga, Eastern Cape, Gauteng and Limpopo

### 10.2.2 Environmental Management Inspectors at OR Tambo International Airport

The operations at the O.R. Tambo International Airport (ORTIA) have been running smoothly since the transfer and handover of biodiversity focussed compliance and enforcement functions from the Gauteng DARD EMIs to the DEA EMIs.







**Picture: EMIs inspecting a consignment at the Airport**

During this reporting period the EMIs also met and engaged with the CITES Secretary General (SG) Mr John E. Scanlon and Head of CITES Enforcement Ben Janse van Rensburg during their September 2015 visit to South Africa. Mr Scanlon's first stop was at ORTIA where he met the EMI team and the Chief Director: Compliance, Mr Sonnyboy Bapela. "The purpose of the Secretary General's visit was to check how the Department of Environmental Affairs (DEA) does its compliance monitoring at South Africa's ports of entries, such as airports, harbours and border posts. This is in preparation for the CITES COP17 meeting which will be held in South Africa in September 2016" said Mr Bapela.



**Picture: DEA Compliance and Enforcement Team with CITES Secretary General J Scanlon, and CITES head of Enforcement Ben Janse van Rensburg**

The SG was escorted through the airport terminals and cargo section and shown measures that have been put in place by DEA to curb illegal export and import of wildlife products. The SG was also taken through the compliance inspection and enforcement processes at ORTIA where the different challenges and successes were highlighted. During the visit, the SG commended the EMIs in a tweet saying, "Green Scorpions serving in the front lines for #wildlife in SA. It's inspiring to see dedicated staff at work."

In further support of increasing biodiversity compliance and enforcement functions conducted by the Inspectorate, the DEA Green Scorpions participated in the 4th King Shaka International Airport security awareness campaign under the slogan "See Something, Say Something" on 31 July 2015.

DEA's exhibition stand showcased some of the wildlife products that commonly move through our ports of entry. The purpose was to educate the public and airport staff on these products to ensure that all could contribute in the fight against the illegal import and export of wildlife products.







**Picture: From Left: EMIs Thulasizwe, Nonhlakanipho, Bongekile & Lebo**

The campaign was attended by both private companies as well as other government departments. It came as a surprise during the closing ceremony when it was revealed that exhibition stands were being evaluated by a panel of judges throughout the event. Even more of a surprise, was the announcement that DEA's exhibition stand was voted as the best stand! The winners were judged on stand presentation, interaction with the public, and the level of engagement.

### 10.2.3 Operation COBRA III

Wildlife crime is a serious challenge for the global community. The trade is dominated by organised crime groups, who have integrated supply chains that stretch the length and breadth of the globe. These groups have learnt to exploit the systemic weaknesses in transnational trade, and travel to avoid detection and prosecution.

Wildlife crime is rated amongst the top five illegal money generators in the world and reports from the United Nations and others indicate the annual value to be in excess of \$20 billion.

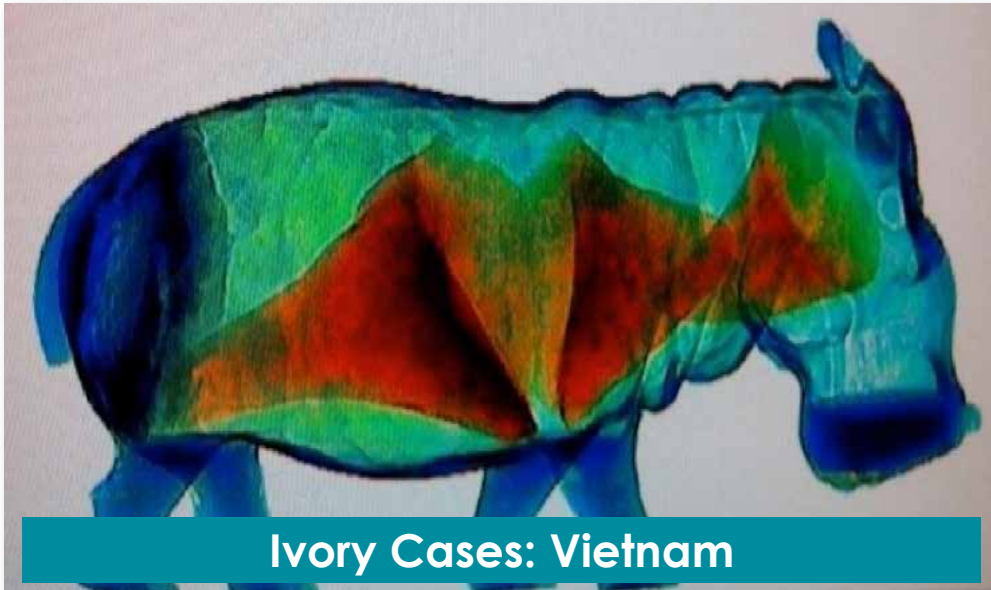
The COBRA initiative is a flagship model for multinational environmental enforcement operations. It has successfully translated rhetoric into tangible operational cooperation. In a practical context there are less illicit wildlife traffickers operating as a result of the cooperation and efforts of those involved in Operation COBRA III.

Operation COBRA III took place from 4 to 28 May 2015 and in summary the operational achievement and analyses included the following:

- Operation COBRA III involved 62 countries in Africa, Asia, America and Europe.
- The United Kingdom (UK), Germany and Kenya were the top three reporting countries by case numbers.
- Singapore, Mozambique and China provided the largest seizures by weight.
- UK, Austria and South Africa were the top three participating countries by seizure of pieces.
- There were a substantial decline (187%) in arrests from Operation COBRA II which could be attributed to the introduction of a more stringent data methodology for Operation COBRA III.
- The most frequently seized specimens were elephant ivory, medical plants, marine vegetation, rosewood and tortoises. If medicinal plant supplements and abalone are removed from consideration (because they are low weight high volume commodities) the top five specimens were iguana, elephant ivory, tortoises, rosewood and cactus.
- The most common nationalities of alleged offenders arrested within their respective countries were Kenyan, Tanzanian and Thai demonstrating enhanced national enforcement effort.
- Collaborative work among law enforcement agencies (wildlife, customs and police) remains the most effective model for targeted seizures. This data also reinforced the importance of the Operation COBRA initiative in promoting cooperation among agencies and countries

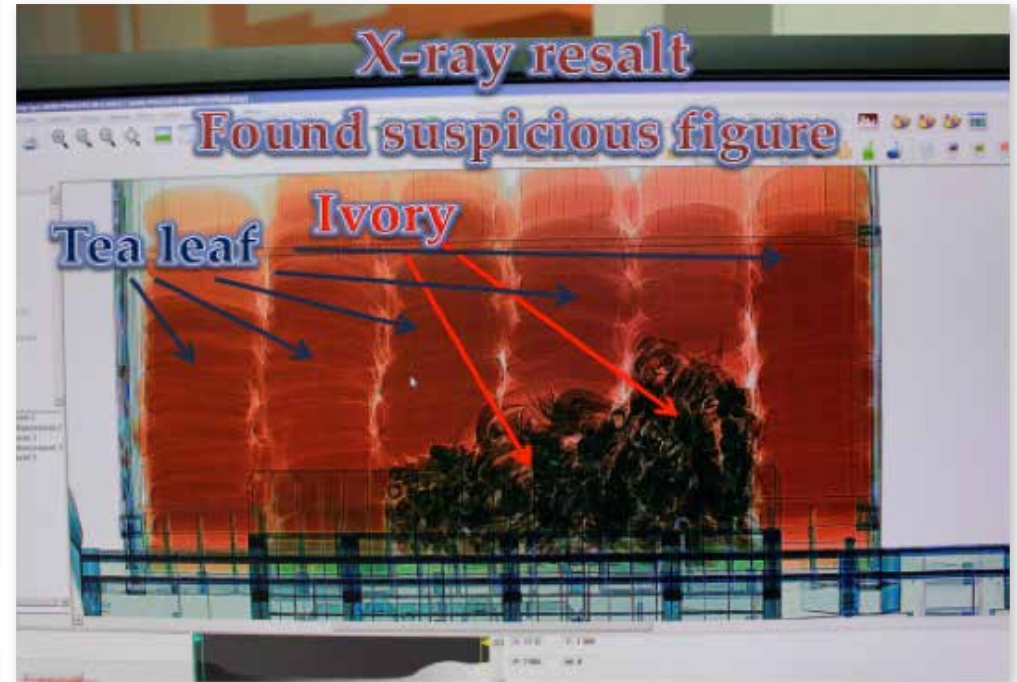
Of note is that South Africa conducted the only covert/undercover operation that resulted in the arrest of two suspects and the seizure of two rhino horn.





### Ivory Cases: Vietnam

Picture: X-ray image of rhino horn in Vietnam.



Picture: Successful operation conducted in Thailand indicating seizure of concealed ivory in bags containing tea leaves. Consignment was traced through intelligence from Mombasa Kenya.



Picture: Illegal Ivory being concealed in "sheer beer" drums detected in Tanzania

### 10.3 Pollution and waste

#### 10.3.1 REDISA...South Africa's Waste Tyre Giant

Following the promulgation of the Waste Tyre Regulations ("the Regulations") pursuant to section 24B of ECA and on 13 February 2009, the Recycling and Economic Development Initiative of South Africa ("REDISA") submitted an Integrated Industry Waste Tyre Management Plan ("IIWTMP") in terms of both the NEM:WA and the Regulations to regulate the management of waste tyres in the country. DEA approved the IIWTMP on 18 July 2012.

On 15 November 2015, an episode which focused on numerous allegations of mismanagement and non-compliance with the IIWTMP by REDISA was aired on Carte Blanche and caused a nationwide media "frenzy" which led to a





number of queries being lodged with the DEA. As a result, DEA undertook a National Waste Tyre Blitz which included compliance inspections at numerous registered REDISA Waste Tyre Depots and/or Processing Facilities.

During the week of 24 to 27 November 2016, DEA EMLs, together with officials from various Provincial Environmental Departments, conducted compliance inspections at 20 registered sites across the country. The following non-compliances were common at the sites:

- Numerous non-compliances with the requirements of the Regulations, particularly in terms of sections 8, 13 and 16;
- Numerous non-compliances with the requirements of the NEM:WA, particularly in terms of sections 16, 21 and 22;
- Non-compliance with the requirements of section 28 of the NEMA; and
- Numerous non-compliances with the requirements of the approved IIWTMP.



**Photograph 3: Inadequate firebreaks between tyre stockpiles.**



**Photograph 4: Piles of waste together with burnt waste tyres.**

Following the inspection, and during December 2015, a total of twenty one (21) pre-compliance notices ("PCNs") were issued to all the depot managers, as well as REDISA's Head Office in terms of section 31L of the NEMA. A PCN was also issued directly to REDISA as it is the responsible entity for ensuring compliance with the IIWTMP.

Subsequent to the issuance of the aforementioned PCNs, there have been numerous meetings and correspondence has been exchanged between the DEA and REDISA. REDISA is attempting to address all the non-compliances in consultation with the DEA. At least three REDISA depots have either been closed down or have been allocated new managers. The progress of said consultations will be communicated in the 2016 /17 NECER.

### 10.3.2 Galvanising Plant Operation:

In terms of section 22(a) of NEM:AQA, no person may, without an Atmospheric Emission Licence ("AEL") (provisional or otherwise) conduct an activity listed on the national list anywhere in the Republic. These activities (in GNR 893 dated 22 November 2013) include sub-category 4.22, namely Hot Dip Galvanizing. This is the coating of steel articles with molten zinc, including the pickling and/or fluxing of articles before coating. Such plants may not release more than 15 mg/Nm<sup>3</sup> particulate matter or 30 mg/Nm<sup>3</sup> hydrogen chloride.

The DEA received information which indicated that the bulk of the hot dip galvanisers were not compliant with environmental legislation, leading the Department to take a sector-wide approach. As a point of departure the



**Photograph 1: Waste tyres stored haphazardly on site.**



**Photograph 2: Waste tyres being stored without a buffer between the stockpile and fence.**





DEA Enforcement issued fifty-one warning letters to the hot dip galvanisers, explaining that the Environmental Management Inspectors ("EMIs") would be stepping up enforcement initiatives specifically within the air quality priority areas. The correspondence further advised facilities to ensure that they were in possession of the necessary licence/s and demonstrate compliance therewith.

Out of the 51 facilities issued with warning letters, thirty-three responded (i.e. 60%). Some responses invited the EMIs to conduct an inspection to determine compliance with the conditions of licences issued. In other cases, the response was ignorance of the legislative requirement to obtain an AEL.

Eighteen of the facilities that were issued with warning letters did not respond. This led to investigations being conducted to determine the state of compliance at nine of those facilities. Within the Gauteng Province EMIs from DEA and local municipalities undertook site visits. Many plants were unaware of their emissions. In addition, the amount of waste dumped behind sites in some instances was quite startling – from used personal protective equipment, worn grinding discs to acid sludge. Two of the investigated facilities lacked any relevant licences and showed little regard for environmental protection. The administrative enforcement process commenced and where appropriate statements have been filed in criminal proceedings. The EMIs will be following up with the remaining ten facilities to determine if they hold licences and if so, whether or not they comply with the conditions stipulated in those licences.

It should come as no surprise that a number of the facilities do run a tight ship and clearly make an effort. It's a reasonable guess that every industry has its fair share of champions that strive to comply with the law and chancers that cut every corner. This industry is no different.



**Picture: The backyard of a non-compliant Hot Dip Galvanising plant**



**Picture: Hot Dip Galvanising**



## 11. NATIONAL ENVIRONMENTAL COMPLAINTS AND EMERGENCY INCIDENTS

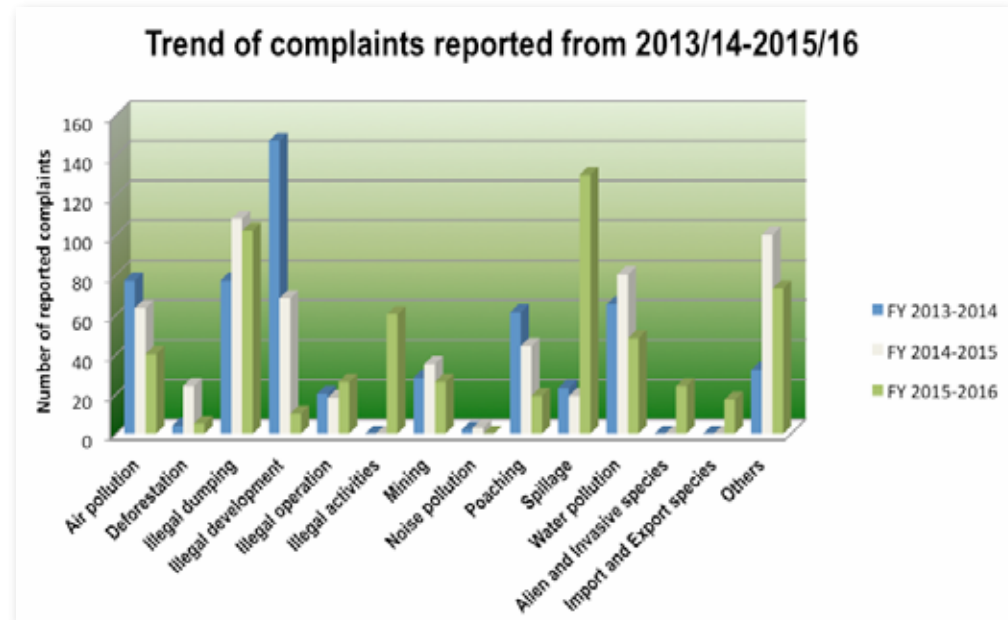
### 11.1 Environmental Crimes and Incidents Hotline

DEA continued to collect statistics on environmental complaints received through the Environmental Crimes and Incidents Hotline; from the Minister and Director-General's office; as well as direct and referred complaints from other organs of state and the public. The hotline serves as the main entry point for complaints on environmental crimes and incidents and does not include complaints reported directly to provinces, local authorities or other EMI Institutions. There has been an increase in the overall number of incidents and complaints reported from 562 in 2014/15 to 580 in the 2015/16 financial year. Reports of illegal operation and spillages (diesel, chemical, hazardous waste, etc.) have shown a significant increase with illegal development showing the highest decrease.

Nature of Complaint	Financial Year			Total
	2013-2014	2014-2015	2015-2016	
Air pollution	77	63	40	180
Deforestation	4	24	5	33
Illegal dumping	77	108	102	287
Illegal development	147	68	10	225
Illegal activities	-	-	60	60
Illegal operation	20	18	26	64
Mining	28	35	26	89
Noise pollution	2	3	0	5
Poaching	61	44	19	124
Spillage	23	19	130	172
Water pollution	65	80	48	193
Alien and Invasive species	-	-	24	24
Import and Export species	-	-	17	17

Nature of Complaint	Financial Year			Total
	2013-2014	2014-2015	2015-2016	
Others	32	100	73	205
Total	536	562	580	1678

Table 7: Number and classification of complaints



Graph 6: Graphical representation on the nature of complaints received

Financial Year	INSTITUTION REFERRED TO					Total
	DEA	DWS	DMR	LOCAL GOVERNMENT	PROVINCES	
2013-2014	112	65	28	130	201	536
2014-2015	131	72	35	129	195	562
2015-2016	266	48	26	124	116	580
Total	509	185	89	383	512	1678

Table 8: Number of DEA referred complaints and incidents

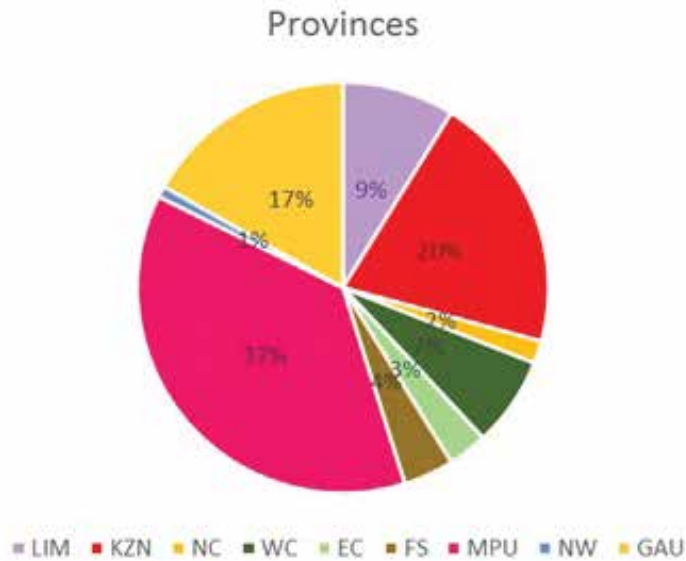




### 11.2 Incidents as contemplated in Section 30 of NEMA

An “incident” is defined as an “unexpected, sudden and uncontrolled released of a hazardous substance, including from a major emission, fire or explosion, that causes, has caused or may cause significant harm to the environment, human life or property”.

It should be noted that emphasis is placed on hazardous substances posing a threat to human life or property. From the 239 incidents, 173 were DEA mandated, 49 were referred to other authorities and 17 were classified as non-section 30. GDARD has recorded 23 section incidents which attended by the provinces.



Pie chart 6: Distribution of reported s30 incidents per provinces

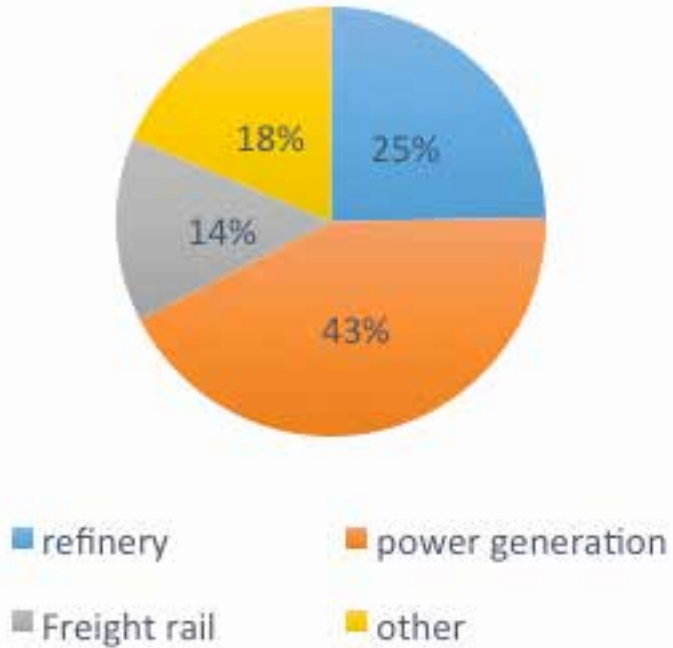


Picture: spillage of hazardous chemical on unlined area at a refinery



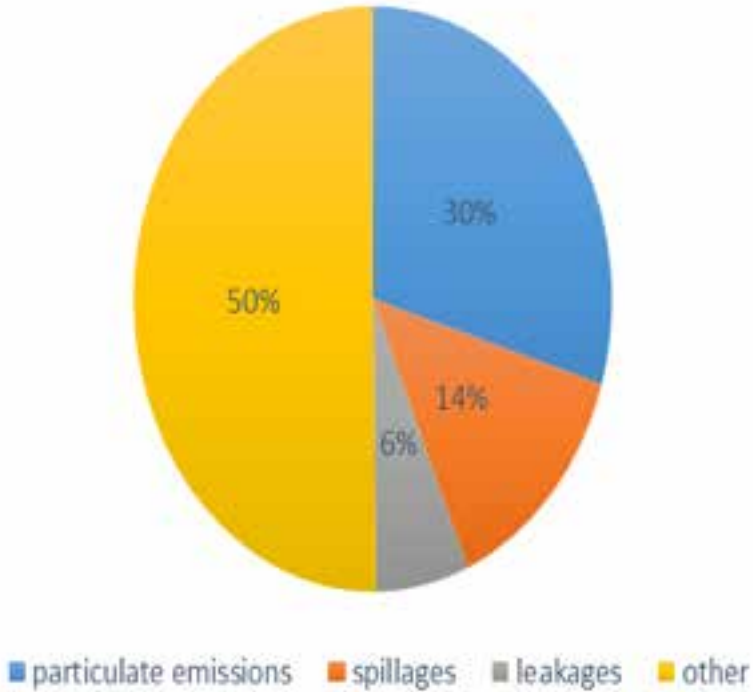


### Sectors reporting incidents



Pie Chart 7: No. of Section 30 incidents reported per industrial sector

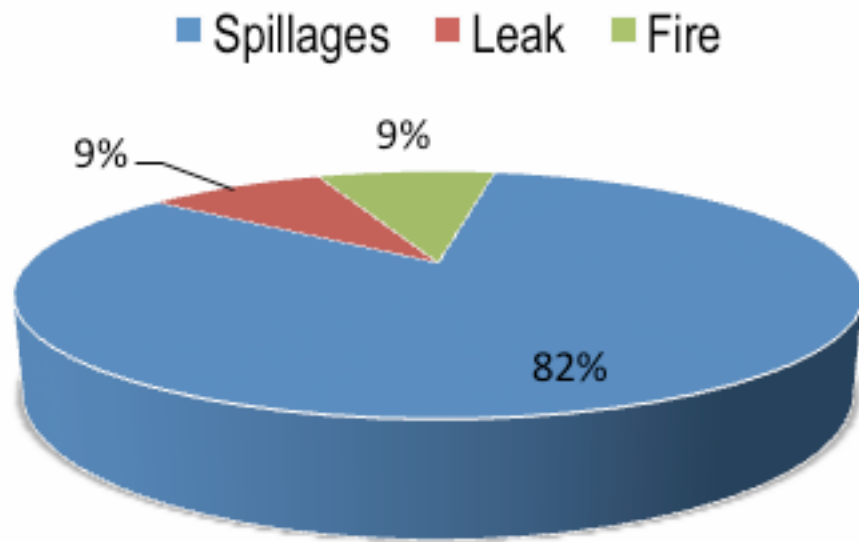
### Causes of incidents



Pie Chart 8: Major cause of section 30 incidents reported

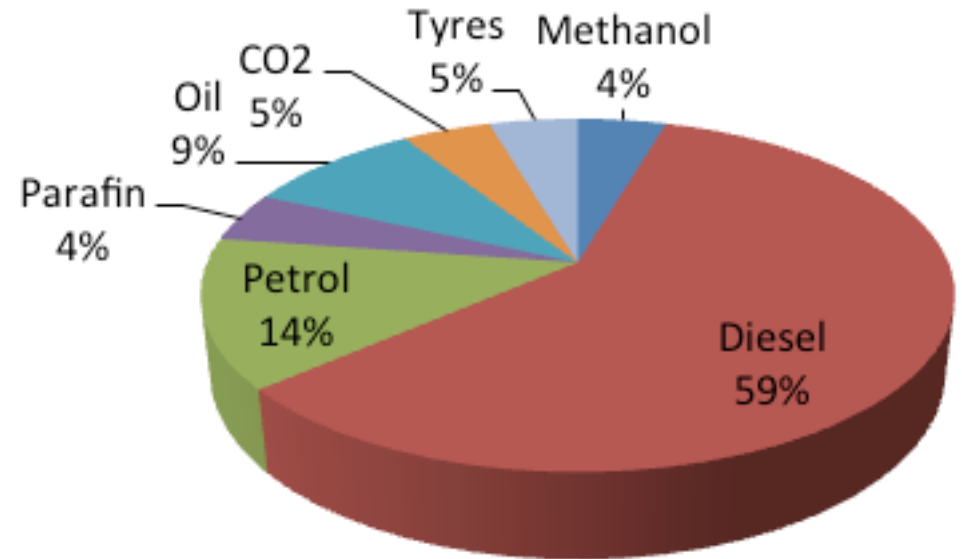


### GDARD causes of s30 incidents



Pie Chart 9: Causes of section 30 incidents attended by Gauteng DARD

### GDARD s30 incidents substance involved



Pie Chart 10: s30 substance involved by GDARD



Picture: Oil spillage causes water pollution in a river



Picture: Inspected facility showing significant air pollution



## 12. ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT CAPACITY BUILDING

The 2015/16 financial year saw the continuation of the rollout of an extensive capacity development programme aimed at improving knowledge and skills of Environmental Management Inspectors (EMIs), and other key role-players that form part of this multi-disciplinary sector. As with previous years, these initiatives were planned and implemented by the Inspectorate working in collaboration with key partners, including the South African Judicial Education Institute (SAJEI), the National Prosecuting Authority (NPA) and border law enforcement agencies through the National Border Management Co-ordination Centre (NBMCC).

### 12.1 Capacity Building: National

#### 12.1.1 EMI Basic/Bridging Training Programme

A number of EMI basic and / or bridging training courses were presented during the 2015/16 financial year, which included two EMI basic training courses for officials that require EMI designation, as well as a bridging course for new officials in the Alien and Invasive Species monitoring sector. These courses were hosted by DEA. The Western Cape DEADP also presented their second and last EMI basic training course to municipal officials (non-Environmental Health Practitioners) falling within their provincial jurisdiction.

#### 12.1.2 DEA EMI Basic Training

The two EMI basic training courses were presented in May and October 2015 respectively. It is mandatory for officials from national, provincial and local spheres of government successfully to complete this course before they become eligible for formal designation as grade 1, 2, 3 or 4 EMIs. The course is managed by the DEA's Directorate EMI Capacity Development and Support with support received from various topic experts in the compliance and enforcement field. The basic training is conducted over a seven week period with the first four weeks set aside for candidates to complete a distance learning pre-course assignment based on the course material.

This is followed by a three week contact session, designed to impart the foundational knowledge as well as provide candidates with 'on the ground' experience through practical assessments. The course covers the regulatory cycle, commencing with an overview of the suite of environmental legislation. Course attendees are then taught how to identify non-compliances with

these laws when they conduct a mock compliance inspection followed by the drafting of corresponding reports and administrative enforcement notices. The final sessions of the training focus on the proper response to these non-compliances - administrative and criminal enforcement. The 3 week session culminates in a mock criminal trial designed to build candidates knowledge on court role-players and procedures.

The first of the basic training courses was presented in Mbombela, Mpumalanga. Fifty-nine officials from across South Africa attended, representing 8 Provincial EMI Departments and 10 Local Authority EMI institutions. These included, SANParks, Ezemvelo, Western Cape DEADP, North West Parks, Mpumalanga DARDLEA, DEA, Limpopo LEDET and KwaZulu-Natal DEDTEA.



**Picture: Officials who attended the EMI Basic Training course presented in Mpumalanga, May 2015**

The second basic training course was presented at SANBI in Pretoria. Sixty-seven officials were in attendance representing 13 different EMI institutions. Once again, attendees came from range of institutions including Western-Cape DEADP, Mpumalanga Parks, Gauteng DARD, Eastern Cape Parks, North West DREAD, Isimangaliso, DEA, Ezemvelo, Limpopo LEDET, Northern Cape DENC, the Department of Water and Sanitation, North West Parks and SANParks.







**Picture: Officials who attended the EMI Basic Training course presented in Pretoria, October 2015**

One of the strengths of this course is the ability to provide realistic practical training and lectures by experienced EMIs and other role players. For this reason the DEA Directorate EMI Capacity Development and Support extends its gratitude to all the internal and external presenters who support the programme and deliver content of the highest level.

In addition to the standard EMI basic training courses, an EMI bridging training course was presented to officials from the Directorate Biosecurity within the DEA, which falls under the Environmental Programmes Branch. The purpose of this training was to enable the designation of these officials as Grade 4 EMIs so as to enable them to undertake compliance monitoring activities in terms of the Alien and Invasive Species Regulations, with specific focus on the detection of listed alien and invasive plants on agricultural land.

This bridging training course was shortened to one week as it was specific to the function (compliance inspections) and mandate (AIS Regulations on agricultural land) of the course attendees. Their designation will, accordingly, only be valid for as long as they perform their duties within the biosecurity Directorate. In the event that these officials choose to join an EMI institution they will be required to complete the full EMI basic training course.



**Picture: Officials who attended the AIS EMI bridging Grade 4 Basic Training course presented in Pretoria, February 2016**

### 12.1.3 DEADP Local Government EMI Basic Training

In addition to the presentation of the EMI basic training course by DEA, Western Cape DEADP presented their second final Local Government EMI basic training course to 31 officials from various municipalities within their jurisdiction. This provincially managed course was presented on formal application by the province to the DEA and is aimed at addressing the back-log training needs of local authority officials.

The course structure was slightly amended and presented over three separate block weeks after the completion of the one month distance learning pre-course assignment. As a result, each block week was presented at a different location namely: the Biodiversity Centre at the Urban Park in Greenpoint; the Rietvlei Nature Reserve in Tableview; and the False Bay Nature Reserve in Zeekoevlei.







**Picture: Officials who attended the Western Cape EMI Local Government Basic Training course, 2016**

#### 12.1.4 EMI Grade 5 (Field Ranger) Basic Training

During the 2015/16 financial year, SANParks facilitated the training of 360 field rangers across South Africa who work within the country's national parks. The field ranger trainees included law enforcement officials from 22 parks under the management of SANParks; excluding the Kruger National Park. The training began on 11 November 2014 at Mapungubwe National Park and concluded on 30 April 2015 at Addo National Park.

The training was delivered by the Southern African Wildlife College who presented it at the different parks in an attempt to minimise disruptions to daily operations within the park as well as the time and cost that would be involved in sending these rangers to a central location.



**Picture: Field Rangers from Augrabies Falls National Park**

The set curriculum included both theoretical and practical aspects required for field rangers to execute their duties as Grade 5 EMIs. In this respect, course attendees were exposed to applicable environmental legislation, such as NEMA, NEMBA, NEMPAA and relevant sections of the Criminal Procedure Act.

The training intervention was a great success, as the course improved the ability of these the field rangers to execute their legislative mandate with a solid understanding of the law; accompanied by the practical knowledge of how it should be implemented as part of their daily duties within the park environment.







**Picture: Field Rangers from Mountain Zebra National Park**

In addition to the abovementioned nation-wide field rangers training programme, DEA was requested to assist SANParks in facilitating and funding the EMI Grade 5 basic training course to the remaining field rangers stationed within the Kruger National Park.

This project ran over a six month period and the training was again delivered by the Southern African Wildlife College who presented the course at different camps within the Kruger. At the end of the project no less than 394 officials had been trained.

### 12.1.5 EMI Specialised Training

In addition to the EMI basic training, three specialised training courses were presented during the financial year. The EMI specialised training programme is aimed at further capacitating already designated EMI officials from across South Africa through an additional layer of knowledge and skills development that provides a more in-depth or advanced perspective into key areas of environmental compliance and enforcement.

### 12.1.6 EMI Biodiversity Crime Scene Management Training

In furtherance of the Global Environment Facility (GEF) UNEP Project: Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa (target: rhinoceros), the second EMI Biodiversity Crime Scene Management course was presented in the Kruger National Park during September 2015.

The course was attended by 30 designated EMIs representing 8 different EMI institutions namely Limpopo DEDET, Gauteng DARD, North West DREAD, Northern Cape DENC, Eastern Cape Parks, Mpumalanga Parks, North West Parks and DEA.



**Picture: Officials who attended the GEF funded EMI Biodiversity Crime Scene Management Training presented in Kruger National Park, September 2015**

The course covered three main topics:

- General crime scene processing and investigation theory in relation to the Criminal Procedure Act and NEM:BA.
- Proper collection and submission of exhibits including Rhino DNA collect-





ed from a crime scene.

- Proper collection of flora and fauna exhibits in support of the DNA sequencing (Barcode of Wildlife Project).

The focus of this course was on the delivery of practical skills to empower EMIs properly to manage biodiversity crime scenes. The first day opened with discussion of theoretical principles and was followed by intense practical field training for the remainder of the week. The practical side of the training required officials to manage, process and investigate staged poaching scenes in a controlled environment, culminating in more advanced scenarios on actual poached rhino carcasses; this under guidance of experienced topic experts.

Each day began at around 06:00 and drew to a close at 19:00, requiring absolute dedication and discipline from each attendee, from a mental, emotional and physical perspective. A lot can be said in respect of the significance of the course topic, the importance of capacitating officials in executing their duties in a proper and meticulous manner, as well as the critical role that their actions will play when dealing with such cases in future. But after all is said and done, little can describe the emotional factor that pulls at every true conservationist's heart strings, when having to investigate the crime scene of



**Picture: Officials during a practical session at the GEF funded EMI Biodiversity Crime Scene Management training course**

A comment from one of the officials probably describes the course best: "For those of you who will attend this training in future I thought I would give you some words of advice. Be ready to work long days, walk long distances in the blazing heat, participate fully and work as a team."

No course can be successful without top class expert presenters. In this regard the DEA extends a very special thank you to all those involved.

#### 12.1.7 EMI Waste and Pollution Sample Taking Course

The effective collection of samples by an EMI while conducting either an inspection or an investigation is critical to determining levels of compliance, drafting proper compliance notices and obtaining prosecutions. For this reason an EMI Waste and Pollution Sampling course was presented to EMIs within the waste and pollution "brown" sector during October 2015.

A total of 72 designated EMIs from across South Africa's nine provinces were in attendance, including officials from DEA.

The course programme was structured in a manner that covered the legal, technical and scientific aspects of sampling. A recap of the applicable waste



Thembi Dyanthi



and pollution legislation was presented followed by a session during which EMIs were shown a number of case photographs from which they needed to identify relevant waste offences. The legislative part of the course ended with two training sessions that dealt with provisions within the Criminal Procedure Act relating to the legally defensible collection of samples, as well as proper handling and submission of samples for analysis.

The remainder of the course was dedicated to understanding different approaches to sampling the different environmental media, including air, soil and water. The air sampling session was presented by a qualified Chemical Engineer with 35 years' experience. The session focused on concepts such as viscosity, particulate behavior, classification of emissions and technology required to monitor air pollution.

This was followed by a session dedicated to water sampling titled "Pathway and Receptor" as well as, planning, collection, transport, submission, analysis and reporting in relation to water samples. The next topic, soil sampling, considered the principle of multi-layer sampling as well as the behaviour of contaminants within the subsurface. EMIs were also shown some types of essential sampling equipment that they would need, in order properly to take samples, before ending off with groundwater sampling and case studies.

The last day of the training was reserved for group discussions on key issues that the Inspectorate would need to address in order to implement the sampling principles and procedures learnt during the week.



**Picture: EMIs who attended the EMI Waste and Pollution sampling course presented October 2015**

#### 12.1.8 Barcode of Wildlife Voucher Specimen Sample Taking Course

Additional capacity development took place as part of the collaborative Barcode of Wildlife (BoWP) Project through voucher specimen sampling training provided to specialists employed at the National Zoological Gardens Pretoria. The purpose of the course was to train these specialists in the principles of the chain of custody / evidence to be adhered to while collecting samples for the development of a DNA reference database.



Unknown







**Picture: Officials during a practical session at the BoWP Voucher Specimen Sampling course**

Topics covered during this course were:

- Understanding the terminology used in the Standard Operating Procedure;
- Legal principles relevant to Chain of Evidence;
- Sampling photography in support of the Chain of Evidence;
- Practical training in support of Chain of Evidence;
- An individual assessment on proper sampling against Chain of Evidence.

#### 12.1.9 Awareness Raising: Road Traffic Management Corporation (RTMC)

An awareness raising session was also provided to members of the RTMC after a request was received by the DEA in respect of the possible development of an environmental crime training module, which would potentially be included into the basic training programme for traffic officers. The function of the RTMC is the co-operation, coordination, strategic planning, regulation, facilitation and law enforcement in respect of road traffic matters by the national, provincial and local spheres of government.

A need was identified as a result of requests made by traffic officers who have over the years noticed plant and animal products being transported on our

roads but were unable to identify them as products that might require environmental permits. As an initial pilot, the DEA presented a course to 30 newly appointed officers. The focus of the course centred on biodiversity legislation as well as an overview of the duties, functions and mandate of the EMI.



**Picture: Officials from RTMC that attended the awareness raising session in Pretoria**

#### 12.2 Capacity Building: International Partners

Over the years, the DEA on behalf of the EMI, has coordinated the attendance of EMIs across South Africa in environmental enforcement related courses that are presented and funded by the US Government's International Law Enforcement Academy (ILEA).

The ILEA program is an inter-agency effort to combat international crime through training and capacity building for foreign criminal justice personnel. Crime knows no borders and the ILEAs not only expand the skills of participants but also foster regional partnerships that are essential to addressing transnational criminal activity.

As of 2015, there are five ILEAs in:

- Budapest, Hungary, serving Central/Eastern Europe and Central Asia;





- Bangkok, Thailand, serving Southeast Asia and China;
- Gaborone, Botswana, serving the countries south of the Sahel and parts of West Africa;
- San Salvador, serving Central/ South America and the Caribbean, and a regional training centre in Lima for the Andean and Southern Cone regions; and
- Roswell, New Mexico, serving all the countries attending the regional ILEAs.

### 12.2.1 Wildlife Investigation Training at ILEA Botswana

During the 2015/16 financial year EMLs were afforded an opportunity to attend three separate ILEA courses. The first of which was offered during May/ June 2015 and the second during August/September 2015, both at ILEA in Gaborone Botswana. A total of 11 EMLs attended these two week Wildlife Investigation Courses. Both of these courses were presented by subject matter experts from the United States Fish and Wildlife Service (FWS).



**Picture: Group photograph of ILEA attendees and presenters – Wildlife Investigations Course**

The courses focused on endangered species law; case initiation and management; intelligence gathering; forensics and crime scene processing; surveillance; undercover operations; interviewing; raid planning; and preparing cases for court. It encouraged interaction between instructors and class participants and concentrated on exchange of information and techniques

used by FWS in combating wildlife poaching, U.S. wildlife laws and investigative techniques used in the United States.

Participants were also given the opportunity to use field equipment that they might not have had the opportunity to use prior to the training. The importance of developing and maintaining global contacts to exchange intelligence between countries was also emphasized.



**Picture: Group photograph of ILEA attendees and presenters – Wildlife Investigations Course**

### 12.2.2 Basic Investigation of Computers and Electronic Crimes Program (BICEP) at ILEA Budapest

The second course was presented during January 2016 at ILEA Budapest. A total of 5 EMLs attended the one week BICEP course, an entry-level course designed to prepare law enforcement personnel to act as first responders to a variety of electronic and cyber-crime investigations. Participants learnt the fundamentals of computer hardware, networks, hacking techniques, information security, internet resources, and electronic evidence handling.

At the conclusion of this course, participants were able to:

- Identify major components of a computer
- Understand which computer components contain electronic evidence.





- Understand the role of operating systems and file systems in electronic crime investigations and forensics
- Understand basic computer network standards, protocols, and activities within the framework of the OSI model
- Use various tools to research internet protocol addresses and domain names
- Describe major categories of hacking and malicious code use
- Explain the importance of information security in network defence and cyber-crime investigations
- Perform an email trace based on email headers
- Identify various Internet resources to assist in online investigations
- Understand the significance of proper electronic evidence handling



**Picture: Group photograph of ILEA attendees and presenters – BICEP Course**

The DEA on behalf of the Inspectorate extends our gratitude for the opportunities provided to our Inspectors by the ILEA programme.

### 12.3 Prosecutors' workshops

The relationship between the DEA (on behalf of the EMI) and Justice College continued to grow and maintain momentum as we entered the 10th year of collaboration. This workshop titled "Prosecuting Environmental Crime" was presented to prosecutors on two different occasions. The initiative focuses on providing prosecutors with an overview the nature, scope and impacts of environmental crime as well as the relevant environmental legislation. In addition, it serves as a platform for EMIs to engage with prosecutors.

#### 12.3.1 Western Cape Prosecuting Environmental Crime Course

The first course for the financial year was presented during June of 2015 in Cape Town to prosecutors from the Western Cape and Northern Cape. The course covers a large amount of diverse content that relates to the mandate of the EMI.



**Picture: Prosecutors who attended the Prosecutor Training in Cape Town**



### 12.3.2 Gauteng Prosecuting Environmental Crime Course

The second course presented was during December 2015 in Pretoria Gauteng. It was attended by 40 prosecutors from within Gauteng, North West, Limpopo, Mpumalanga and Free State. Given that the course was attended by in-land members of the NPA, the content focused on waste, pollution and terrestrial biodiversity to the exclusion of topics relating to oceans and coast.

The success of these courses is the result of intense and meticulous planning and coordination between Justice College and DEA as well as the participation of topic experts who generously donate their time to present at the courses.

These courses are always well received by those who attend. One comment received through the course evaluation form was as follows: "In my 24 years, this was the most interesting course that I have been on. The lecturers were excellent. It is a course that every prosecutor should attend. It is only when you attend the course that you really realize how extensive the problems with regard to the environmental are and the results thereof are. The lecturers really inspired me."



Picture: Prosecutors who attended the Prosecutor Training in Pretoria

### 12.4 Prosecuting Environmental Crime – Practical Training (part of GEF project)

The DEA, on behalf of the Inspectorate, collaborated with the National Director of Public Prosecutions (NDPP) and delivered an advanced biodiversity practical training session for prosecutors from across South Africa.

The event was presented in Fourways, Gauteng during November 2015 and saw a large contingent of prosecutors in attendance. This event took place as part of the GEF-UNEP Rhino Programme coordinated by DEA. The DEA, in partnership with the NDPP Human Resource Development section, hosted this event, which brought together 119 prosecutors. The purpose of the course was to build both theoretical and practical knowledge and skills to support prosecutors in the development of their understanding of biodiversity crime, with an additional focus on rhino.

A telling comment from one of the prosecutors is as follows: "Excellent course, but intense though"

The DEA on behalf of the EMI extends its gratitude towards the NDPP Human Resources Development for this successful collaboration.



Picture: Prosecutors who attended the GEF funded Advanced Biodiversity Prosecutor Training in Fourways

### 12.5 Judicial Colloquium on Biodiversity Crime – part of GEF project

The month of August saw an important initiative linked to the GEF-UNEP Rhino Programme which took place in Johannesburg. The DEA in collaboration with the South African Judicial Education Institute (SAJEI) hosted a "Judicial Colloquium on Biodiversity Crime". This event, brought together 155 judi-





cial officers from District and Regional courts from across South Africa. The Colloquium was designed to cover international, regional and domestic aspects of biodiversity crime, with a focussed look at the Asiatic and African continents; finally zooming into South Africa.

The Colloquium was formally opened with an inspirational keynote address delivered by Judge Navsa of the Supreme Court of Appeal, and followed by a number of international and domestic speakers .

The DEA on behalf of the EMI extends its gratitude towards the SAJEI. We trust that this will be just the first step in a long lasting collaboration.



*Picture: A view of one of the sessions during the Judicial Colloquium*

### **12.6 Building Capacity in respect of the National Environmental Management: Integrated Coastal Management Act**

Two workshops on implementation of NEM:ICMA were conducted in KwaZulu-Natal and the Eastern Cape respectively. The workshop in the Eastern Cape was attended by 70 participants from the following Departments/Institutions: The Department of Agriculture, Forestry and Fisheries, Eastern Cape DEDET, Eastern Cape Parks, Port St Johns Municipality, Buffalo City Municipality, the South African Police Services and the National Prosecuting Authority.



*Picture: Attendees at the workshop in the KwaZulu-Natal*

The workshop in KwaZulu-Natal was attended by 85 participants from the following institutions: the South African Police Services, the National Prosecuting Authority, National Department of Public Works, KwaZulu-Natal DEDTEA, Ezemvelo, Isimangaliso, Ugu District Municipality, Ethekewini Metro Municipality, Ilembe District Municipality, Uthungulu District Municipality and Umkhanyakude Municipality.





**Picture: Attendees at the workshop in Eastern Cape**

The challenges faced by authorities in relation to encroachment onto Coastal Public Property along the KwaZulu-Natal coast was at the top of the agenda and participants engaged with the presenters on this and other issues raised. A need for the uniform implementation of the NEM:ICMA in all coastal provinces was emphasised.



**Picture: Ezemvelo engaging DEA on challenges faced in the coastal environment**

## 13. STAKEHOLDER ENGAGEMENT

### 13.1 Interpol

2nd INTERPOL-UNEP International Environmental Compliance and Enforcement Conference (IECEC-2) 16-17 November 2015 | Singapore

The Second International Environmental Compliance and Enforcement Conference took place in Singapore, from 16 to 17 November 2015; convened by the International Criminal Police Organization (INTERPOL) and the United Nations Environment Programme (UNEP). Edna Molewa, Minister of Environmental Affairs, South Africa, delivered the first keynote address, stressing that an increase in environmental crime can be attributed to the greed of organised criminal syndicates who exploit weaknesses in the enforcement framework; often resulting in adverse socio-economic impacts on poor local communities. In the second keynote address, Susi Pudjastuti, Minister of





Marine Affairs and Fisheries, Indonesia, highlighted that fisheries crime, including illegal, unreported and unregulated fishing, is a threat to a fisheries-based economy. She called on countries to work together, noting that fisheries crime is “not only about fish” given its transnational nature.



**Picture: Minister Edna Molewa delivering the keynote address at the Second International Environmental Compliance and Enforcement Conference**

Participants then engaged in sessions on sustainable development goals and effective environmental compliance and enforcement; international cooperation on climate legislation; enhancing enforcement capabilities; and vibrant networks and capacity development. The day concluded with a summary of key outcomes.



**Picture: Left to Right: Calum MacDonald, Executive Director - Chair of the Scottish Environmental Crime Task Force, Scottish Environment Protection Agency, UK; Tony Circelli, Chair, Australasian Environmental Law Enforcement and Regulators network (AELERT); Frances Craigie, Chief Director Enforcement, South Africa; and Chair Grant Pink, University of New England.**

The Committee meeting was a closed event. It included elections to the Advisory Board of the INTERPOL Environmental Compliance and Enforcement Committee. The following officials (EMIs) were elected to serve:

- Ms Frances Craigie (Chief Director: Enforcement at DEA)
- Elected as Vice Chairperson, Advisory Board of the INTERPOL Compliance and Enforcement Committee
- Mr Ishaam Abader (Deputy Director General: LACE at DEA)
- Elected as Board Member, the INTERPOL Pollution Crime Working Group
- Mr Wiseman Rikhotso (Director: Biodiversity Compliance at DEA)
- Elected as Vice Chair of Board, the INTERPOL Wildlife Crime Working Group







er with the DEA's DDG (Legal Authorisations Compliance and Enforcement) Mr Ishaam Abader, officially opened the proceedings. Representatives from each of the national and provincial EMI Institutions were given an opportunity to present their achievements and challenges for the period since the last ECEL took place. The afternoon session saw several workshops tackle various 'hot EMI topics', including the implementation of recommendations of the National Environmental Compliance and Enforcement Strategy (NECES). As part of the theme for the day, the 2014/15 National Environmental Compliance and Enforcement Report (NECER) was officially released in the presence of the media.

### 13.2 Sixth Environmental Compliance and Enforcement Lekgotla (North West Province, November 2015)

The sixth national Environmental Compliance and Enforcement Lekgotla (ECEL) took place in Boshhoek in the North West Province in November 2015. This is the premiere event at which EMIs and other key role-players convene to discuss and debate key issues and strategies related to environmental compliance and enforcement. The theme for the ECEL, 2015 was, "Power of the Past-Force of the Future: A Decade for the Inspectorate: 2005-2015." 2015 represents a milestone for environmental compliance and enforcement in South Africa. It marks ten years since an amendment to the National Environmental Management Act, Act 107 of 1998 (NEMA) created the Environmental Management Inspectorate.



**Day 1** of the ECEL was titled "State of the EMI: Taking Stock and Planning Ahead" and was designed to provide EMIs with an opportunity to reflect, discuss and debate the current performance of the Inspectorate, and how it can be improved in the future. The HOD, Dr P Mokaila (North West DREAD), together



**Day 2** of the ECEL saw the launch of the National Environmental Compliance Forum: an effective governance framework developed, and to be maintained and implemented in a manner that ensures that the unacceptable past, current and future impacts on the quality of the environment are minimised, mitigated or managed in line with government policy, legislation, goals and strategies. The launch was followed by a session in which the various institutions reported feedback on the progress made in their respective provinces in line with the NECES recommendations related to compliance promotion and monitoring. Once again, the afternoon workshop sessions drilled into spe-





cific compliance related issues, such as S30/30A of NEMA, compliance promotion and Alien and Invasive Species Regulations.



**Day 3** of the ECEL was titled, “A Bird’s Eye View: Panel of Experts”. This type of panel discussion has become a much anticipated component of the event and seeks to provide the Inspectorate with an opportunity to receive input from external stakeholders on the effectiveness of their compliance and enforcement activities. This year’s panel session was facilitated by Mr Peter Lukey, DEA’s Chief Policy Adviser: Strategic Environmental Intelligence and included panel members from the Centre for Environmental Management: North West University, Transnet, IAIA, Lifeform Taxidermy, Safari Air Cargo, Public Service Accountability Monitor and the Centre for Environmental Rights. In accordance with their brief, the panel members gave their honest (and sometimes critical) viewpoints on areas where they felt the performance of the Inspectorate could be optimised. The same panel members then co-facilitated the afternoon workshops with the object of developing constructive and workable solutions to the challenges identified in the morning panel sessions.



The final day of the ECEL was given an auspicious start when Mr David Jordan, Chairperson of the Advisory Board of the INTERPOL’s Environmental Compliance and Enforcement Committee provided the opening address and set the scene for Day 4: the National Environmental Crime Forum. The object of this day was to facilitate an effective and collaborative working relationship between the Inspectorate and other role-players (especially in the criminal justice system). This year’s event saw presentations from the various EMI Institutions that manage their respective provincial environmental crime forums; as well as from external partners, including the National Prosecuting Authority, the South African Police Service, the Border Management Agency’s Project Management Office as well as the National Border Management Coordination Centre. The main thrust behind these presentations, as well as the afternoon workshops, was the principle that “together, we can do more...” – a worthy ideal that will hopefully be taken forward and implemented by all participants.



**Pictures: From left to right: Mr David Jordan, Environment Agency of England and Wales; Ms Frances Craigie, Department of Environmental Affairs, Ms Mandisa Motha-Ngumla, National Border Management Co-ordination Centre, Mr Elroy Africa, Border Management Agency Project Management Office, Advocate Marilee van Heerden, North Gauteng DPP, Major Steve Roets, SAPS)**

The grand finale to the ECEL was the EMI Awards Dinner that provides a platform in which to recognise individual EMIs and other key role-players who display outstanding commitment and performance in their respective disciplines.





Award of Excellence for Outstanding Contribution to the Prosecution of Environmental Crime (Brown) –

**Advocate Jeffrey Nethononda (NPA)**



Award of Excellence for Outstanding Contribution to the Investigation of Environmental Crime (Green) –

**Etienne Kitching (Eastern Cape)**



Award of Excellence for Outstanding Contribution to the Prosecution of Environmental Crime (Green)

**Advocate Buks Coetzee (NPA)**



Award of Excellence for Outstanding Contribution to the Investigation of Environmental Crimes (Brown) –

**Jason Liebenberg (Western Cape)**







Award of Excellence for Outstanding Contribution to the Investigation of Environmental Crime (SAPS):

**Lieutenant FH Vermaak (South African Police Service)**



Award of Excellence for Outstanding Contribution in the Inspection of Environmental Legislation –

**Armstrong Simelane (DEA)**



Award of Excellence for Outstanding Contribution to Field Ranger Related Services –

**Matome Mabote**



Award Of Excellence for Outstanding Contribution to the Administrative Enforcement of Environmental Legislation –

**Robert Stegmann (Eastern Cape)**





Award of Excellence for Outstanding Support Rendered to the Environmental Management Inspectorate:

**Professor Michelle van der Bank (University of Johannesburg)**

### 13.3 Global Environment Facility – United Nations Environment Programme's (UNEP-GEF) rhino programme

The aim of the Global Environmental Facility Project (GEF), “Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa: GEF Project ID No.4937” (the UNEP-GEF Rhino Project) is to improve the effectiveness of efforts to combat wildlife crime in South Africa's Protected Area system through improved forensic technologies and capacity, strengthened data gathering, sharing and analysis systems at national level, and enhanced cooperation structures and mechanisms at international level to support law enforcement efforts along the whole trafficking chain. During the 2015/16 FY, GEF-UNEP funded capacity development initiatives took place for magistrates, prosecutors and EMLs. These initiatives are covered in the section on capacity building. In addition, the following activities occurred under the banner of the UNEP-GEF Rhino Project:

#### 13.3.1 Ministerial handover of four 4x4 Mobile Crime Scene Management Trailers

Pursuant to the the UNEP-GEF Rhino Project, the Minister of Environmental Affairs, Ms Edna Molewa, handed over four 4x4 Mobile Crime Scene Management Trailers, on the 29 May 2015, to the North West Department of Economic Development, Environment, Conservation and Tourism, Limpopo Department of Development, Environment and Tourism, Mpumalanga Tourism and Parks Agency and SANParks to assist in the investigation of rhino poaching and wildlife crime scenes. The trailers were equipped with, amongst others, KIPOR IG2600 – 2.3Kva generators, mobile fridges, metal detectors for bullet and casing detection, electronic callipers, electronic scales, electronic knife sharpeners and dual LED portable floodlights



**Picture: From Left: Environment MEC Ms Manketsi Tlhape (North West); Environment MEC Mr Charles Sekoati (Limpopo); Ms Frances Craigie, Chief Director Enforcement (DEA); the Minister of Environmental Affairs, Ms Edna Molewa; Ms Lize McCourt COO (SANParks), and acting Chief Director of Environmental Affairs, Dr Almerie de Lange (Mpumalanga)**

It was envisaged that these trailers would assist in the effective investigation and management of crime scenes, particularly in outlying areas where the correct equipment required for on-scene forensic investigations is not readily available. A subsequent report from the Mpumalanga Tourism and Parks Agency indicates that the trailers are indeed assisting in achieving this objective:





"The Mpumalanga Province is one of the hardest hit provinces in the rhino war which is currently plaguing South Africa. This province borders Kruger National Park and have the Lebombo Border Post which links the province with Mozambique. The province also has Internationally acclaimed Extensive Wildlife Systems which have rhino on them and are being targeted by poachers. Pro-active protection measures are in place and the province are doing all that we can to protect our rhino. Poachers are after the money that the rhino horns bring and therefore we are also doing reactive investigations which includes crime scenes and carcass investigations.

Proper equipment for these efforts are crucial as some crime scenes are quite extensive in exhibits as well as number of carcasses that needs attention. To properly perform in this field the Mpumalanga Province received an off road trailer through the UNEP-GEF and DEA project. This trailer is currently invaluable to the efforts of the Mpumalanga Tourism and Parks Agency – Enforcement Unit. This trailer transports all the necessary equipment to and from crime scenes and in remote areas, the water carrying capacity that it has, is invaluable. The taking of DNA samples from carcasses needs to be stored in a fridge after taking them which is a crucial link to suspects and this trailer makes that possible with a mobile fridge and the necessary power supply for it.

During 2015/2016 summer the temperatures in the mentioned Extensive Wildlife systems soared to 50 degrees Celsius and in those type of conditions samples and fluids for staff are critical. This trailer is a valued asset."



**Picture: 4x4 Mobile Crime Scene Management Trailers in action: SANParks**

### 13.3.2 Leveraging off other projects: Pilanesberg U.S. Handover of Equipment

On the 6th of June 2015 in Pilanesberg, representatives from DEA's Green Scorpions attended a noteworthy reception hosted by NorthWest Parks and North West DREAD for a hand-over ceremony of equipment donated by the United States Government.

The U.S. delegation in attendance were from the American Embassy, Pretoria, the Department of State International Narcotics and Law Enforcement, Washington DC and U.S. Office of Management and Budget-White House, Washington DC.



**Picture: EMI Paul Hlahasoane from the North West DREAD at the Ministers hand-over ceremony**







**Picture: Donors and rangers with some of the equipment all gathered after the formal handover ceremony**

The goal of the equipment donation was to improve the North West's ability to protect its Rhino population from the scourge of poaching. The U.S. will be making equipment donations to all nine provinces as well as SANParks from the 3 million US dollar fund made available by President Obama during his trip to Africa in 2013.

Following an informative briefing, all attendees enjoyed an open game drive in the Pilansberg during which they were treated to descriptions of flora and fauna seen, including a white rhino cow and her calf spotted along the way. A ranger honour guard lining on both sides of the road greeted the delegation as they entered the boma. The rangers performed a military style close order drill and a live action demonstration of a poaching arrest, complete with a K-9 unit. Following the live demonstrations, the heads of the U.S. delegation made remarks on the importance of a U.S.- South African relationship in the fight against wildlife crime. The hosts from North West thanked the United States Government for its support and expressed gratitude for the equipment, which was followed by a lunch served under the bright blue sky.

### 13.3.3 Rhino DNA Sampling

The year-long negotiation over the written agreement between the Department and the University of Pretoria was finalized in October 2015. The GEF-UNEP Rhino fund paid for three additional technicians to clear the back-

log of 6000 samples as well as the costs associated with the analysis thereof and began funding a new laboratory needed for expansion of forensic capacity at the Veterinary Genetics Laboratory (VGL).

### 13.3.4 Wildlife/Environmental Forensics Capacity

The SAPS Commissioner approved the laboratory renovation project marking a significant milestone in respect of the establishment of the South African Police Service (SAPS) Environmental Forensic Laboratory. Two required internal feasibility studies have almost been completed. These will provide, amongst others, an indication of the additional capacity required by SAPS to operate an Environmental Forensic Section.

### 13.3.5 Information Sharing and Analysis

At the local and provincial level, several actions took place and/or are ongoing. The first project focused on ensuring that the information related to rhino stockpile information captured in the Rhodis database is sent through to the DEA central database, effectively meaning that the use of the mobile application (eRhodis) used by some officials during the monitoring and verification of these horns can be utilised to populate the government database in accordance with national legislation.

A major program with the Endangered Wildlife Trust (EWT) and other key partners was initiated in October 2015 and commenced in January 2016. The program is aimed at improving communication, information-gathering and analytics in the field (patrol optimization). The first prototype is scheduled to be completed in May 2016.

Finally, the project provided logistical and related assistance to the United Nations Environmental Program (UNEP) in the awarding the UN Champions of the Earth Award to the all-female anti-poaching unit, The Black Mambas. The Black Mambas received the award at the United Nations General Assembly in September 2015.





Picture: Award-winning Black Mambas undertaking a routine patrol in Balule Nature Reserve

### 13.3.6 International Cooperation and Exchange

In an effort to promote consistency in certain procedures on an international level, the Department as part of CITES commitments is in the process of developing a Guideline / Standard Operating Procedures for Rhino Horn DNA Sampling from seized rhino horns.

### 13.4 Border Management Authority

On 26 June 2013, Cabinet approved the establishment of a Border Management Authority (BMA). The Department of Home Affairs was assigned and vested with the responsibility to lead this project through the creation of an office housed in Home Affairs known as the BMA Project Management Office (PMO).

It is envisioned that the BMA will assume control of all border management functions at ports of entry and on the borderline. What this means is that, once established, officers of the BMA will monitor compliance with and enforce na-

tional environmental legislation within the border environment and EMIs will no longer be present at the ports of entry. Due to the massive impact on the mandate of this Department as well as other affected government bodies, the BMA PMO set up mechanisms for intensive intergovernmental stakeholder engagement.

Initially, four task teams were established as follows: (1) Policy and Legal; (2) Operations; (3) Operation Pyramid and (4) Risk Management. At least one representative from the Department was assigned to sit on each of these task teams. The Legal and Policy task team supported the drafting of the BMA Bill as well as the Multiparty Agreement. The Multiparty Agreement, which has been signed by the Department, serves as a transitional mechanism to coordinate activities at the ports pending the operationalisation of the Bill. The Operations task team assisted with the roll-out of the pilot site Port of Entry Control Centre in Cape Town, identified the 4 additional pilot sites, assisted with the drafting of a BMA Business Case and are responsible for tasks relating to the National Security Strategy. The Operation Pyramid task team was responsible for the launch and implementation of Operation Pyramid. The Risk task team is responsible for the alignment of national border control risk management and targeting processes; the establishment of a National Border Risk Management and Targeting Centre; and the execution of all relevant National Security Strategy tasks.

The BMA business case was submitted to National Treasury. During September 2015 the Bill was published for public comment. It thereafter entered the NEDLAC process. The Department will continue to be involved in the process of establishing the BMA. In the interim, the Department is also involved in training of border law enforcement officials currently stationed at the ports.







### 13.5 Illicit Trade Training

The illicit trade in wildlife products is one of the many problems that border law enforcement officials are faced with on a daily basis. During the 2014/15 financial year, a project was launched which sought to create awareness among border law enforcement officials in respect of the illegal trade in wildlife and derivatives thereof. This project, a collaboration between the DEA and the National Border Management Coordinating Committee (NBMCC) continued into the 2015/16 financial year.

The following ports of entry were visited and officials were trained: Pontdrift, Maseru, Ficksburg, Plajan, Lebombo, Pafuri, Giryondo, Skilpadhek, Ramatlabama, Kopfontein, King Shaka International Airport, City Deep,

Beitbridge, Groblesbridge, Van Royensnek, Caledonspoor, Uppington airport, Qachas Nek, Vioolsdrift, Nakop.

The training was followed by various joint operations between DEA and other border law enforcement officials where the training was put into practice.



Picture: Officials from King Shaka International Airport who attended training



Picture: Illicit trade training at Uppington airport







Picture: Joint operation with ports officials at Cape Town Harbour: scanning of parcels using a mobile x-ray scanner provided by SAPS.

### 13.6 OR Tambo International Airport (ORTIA) Joint Operations

Since the deployment of EMI at ORTIA in the previous financial year, six joint compliance and enforcement operations were conducted at Terminals, Cargo and the International MailCentre. The operations were coordinated by the Border Control Operational Coordinating Committee (BCOCC) and involved all government stakeholders including DEA.

The main focus areas were as follows: touting and smugglers, checking of fraudulent passports, screening and searching of luggage at carousels, profiling of passengers at carousels and custom control areas and combatting the illegal trade in wildlife products.



Picture: Elephant ivory seized at International MailCentre



Picture: Custom sniffer dogs searching bags for possible contrabands and CITES products (e.g. rhino)



## 14. WHAT IS AHEAD FOR 2015-16?

The Ministers' Technical Working Group (MINTECH WGIV) is the primary governmental coordinating forum for the management of environmental compliance and enforcement matters; and is comprised of the national, provincial and local environmental and parks authorities that constitute the Inspectorate. At the onset of each financial year, this national forum identifies the strategic, operational and support-related objectives for the Inspectorate for the forthcoming year, which is then developed into an annual work plan. In the 2016/17, the Inspectorate intends on giving priority to the following focus areas:

### Strategic:

The 2015/16 financial year saw the commencement of the implementation of the National Environmental Compliance and Enforcement Strategy (NECES), which provides the roadmap for the Inspectorate to perform more effective and efficient compliance and enforcement activities. It aims to achieve this objective by making key recommendations on interventions/proposals to be implemented in the medium-term (5 years) in order to improve the performance of the environmental compliance and enforcement sector. The 2016/17 financial year will see the continued implementation of the NECES recommendations as set out in the Year 2 NECES Implementation Plan. Closer collaboration with the Departments of Water and Sanitation and Mineral Resources is also envisaged with the development of their own respective compliance and enforcement capacities in the form of EMLs and Environmental Mineral and Petroleum Inspectors (EMRIs); as well as their participation as MINTECH WGIV members. More comprehensive reporting from local authority EMLs in relation to the work they are undertaking in their capacities as EMLs should provide further insight into the strategic contribution made by this sphere into the overall compliance and enforcement efforts.

### Operational:

Due to the fact that the Constitution places the duty on all 3 spheres of government, national, provincial and local, to undertake environmental compliance and enforcement, many of the operational projects that are executed comprise multi-authority teams. Not only do these projects bring together EMLs from all spheres of government, but they also take place across the range of environmental subsectors. In the 2016/17, the following areas have been

identified as priorities for the execution of compliance and enforcement operations:

**Biodiversity/Protected Areas:** Traditional healers markets; lion breeding facilities; nurseries (in relation to alien and invasive species); cycads; rhino horn stockpiles and the unauthorised land occupation of sensitive or important environmental areas.

**Oceans and Coast:** coastal discharges (including waste water treatment facilities); illegal developments along riverbanks and estuaries, as well as Initiative 5 of Operation Phakisa.

**Environmental Impact Assessment and Pollution:** waste water treatment facilities; health care risk waste; and other strategic identified industrial sectors.

### Support:

In order for the Inspectorate to execute its strategic and operational functions at an optimal level, its actions need to be based on a sound legal, information management and capacity development platform. In 2016/17, the Inspectorate will seek to initiate the development of an integrated national environmental compliance and enforcement information system; as well as assess the potential of introducing new legislative mechanisms, such as administrative penalties, into South African environmental law. Finally, the capacity development programme will continue to focus on the key skills development needs of the Inspectorate, including the undertaking of criminal investigations; and the provision of advanced training courses for field rangers.

As with previous years, the Inspectorate acknowledges that the nature, scope and complexity of environmental crime requires the widespread collaboration of a range of key law enforcement partners in order to achieve the positive results recorded in this report. The 2016/17 financial year will therefore see the continued emphasis on working together with international agencies, such as INTERPOL and GEF/UNEP, as well as domestic authorities, such as the SAPS, NPA, SARS and border management stakeholders. With these partners, the Inspectorate hopes to work towards a common vision of providing the citizens of this country with an environment that is not harmful to our health and well-being, through the maintenance and improvement of joint environmental compliance and enforcement efforts.











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