

# National Environmental Compliance & Enforcement Report 2017-18



**environmental affairs**

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# National Environmental Compliance and Enforcement Report 2017-18

2018

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

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## FOREWORD

President Cyril Ramaphosa, in his official launch of the 'Thuma Mina' campaign (meaning 'send me'), summarised its core purpose as follows, "*The campaign is about working for our people, ending corruption and making sure service delivery is upheld.*" This simple, yet hard-hitting statement would have triggered a moment of self-reflection in every deep-thinking public servant in considering the personal contribution that he or she is making in improving the lives of ordinary South Africans.

No one can challenge the difficult circumstances in which our Environmental Management Inspectors ("EMIs") operate, from the life-threatening dangers that are faced by our field rangers in protecting the country's natural resources for the benefit of present and future generations, to the efforts of EMIs who walk the brittle tight rope of environmental sustainability - flanked by economic development on one side and environmental protection on another. In these trying times, it would be easy for the EMIs to throw up their hands and ask, "*What difference can one EMI make in this vast ocean of environmental degradation?*"

This year's National Compliance and Enforcement Report provides an opportunity for all EMIs to consider the answer to this question, not as individuals, but as a collective network of compliance and enforcement officials at national, provincial and local authority level. The report reflects the efforts of 18 EMI Institutions and provides an objective assessment of the performance of the Inspectorate in the preceding financial year, not only showcasing the highlights and achievements of the Inspectorate, but also indicating the challenges and areas for improvement.

It is indeed an opportune time for the Inspectorate to assess its performance against the objectives of the 'Thuma Mina' campaign. As the final year of the current Medium Term Strategic Framework, the Inspectorate is now required to consider how its compliance and enforcement activities of the past four years have impacted on the quality of people's lives and the environment in which they live. In addition, this year marks the fourth year of implementation of the National Compliance and Enforcement Strategy by the Inspectorate and calls into question the extent to which its recommendations have been implemented; and to what effect? Finally, the theme of the 2017 Environmental Compliance and Enforcement Lekgotla, reflected many of the

ideals of the 'Thuma Mina' campaign, being aptly titled, "*People, Purpose, Passion: the Pathway to EMI Success*".

This foreword would not be complete without acknowledging that this year also marks 100 years since the birth of our iconic leader, Nelson Rolihlahla Mandela. His true love for nature was clearly evident when he said "*I dream of our vast deserts, of our forests, of all our great wildernesses. We must never forget that it is our duty to protect this environment.*" I call on each and every EMI to raise their hands, to re-commit themselves to be sent on the mission to give effect to section 24 of our Constitution and to continue with the admirable work that has been reflected in this, the 2017-18 National Environmental Compliance and Enforcement Report.



**ISHAAM ABADER**



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

## ACRONYMS

<b>Key:</b>	<b>General</b>
<b>AIS</b>	Alien and Invasive Species
<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>DG</b>	Director-General
<b>EMI</b>	Environmental Management Inspector
<b>GEF</b>	Global Environmental Facility
<b>GG</b>	Government Gazette
<b>GN</b>	Government Notice
<b>NECER</b>	National Environmental Compliance and Enforcement Report
<b>SADC</b>	South African Development Community
<b>SEMA</b>	Specific Environmental Management Act as defined in NEMA
<b>TOPS</b>	Threatened or Protected Species
<b>WGIV</b>	Working Group 4
<b>Key:</b>	<b>Institutions</b>
<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>	Northern Cape Department of Environment and Nature Conservation

<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>SANBI</b>	South African National Biodiversity Institute
<b>SANParks</b>	South African National Parks
<b>SAPS</b>	South African Police Service
<b>Western Cape DEADP</b>	Western Cape Department of Environmental Affairs and Development Planning

<b>Key:</b>	<b>National Legislation</b>
APPA	Atmospheric Pollution Prevention Act 45 of 1965
CPA	Criminal Procedure Act 51 of 1977
ECA	Environment Conservation Act 73 of 1989
MRLA	Marine Living Resources Act 18 of 1998
NEMA	National Environmental Management Act 107 of 1998
NEM:AQA	National Environmental Management: Air Quality Act 39 of 2004
NEM:BA	National Environmental Management: Biodiversity Act 10 of 2004
NEM:ICMA	National Environmental Management: Integrated Coastal Management Act 24 of 2008
NEM:PAA	National Environmental Management: Protected Areas Act 57 of 2003
NEM:WA	National Environmental Management: Waste Act 59 of 2008
NWA	National Water Act 36 of 1998
PAJA	Promotion of Administrative Justice Act 3 of 2000
POCA	Prevention of Organised Crime Act 121 of 1998

## 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 imposed through formal trial proceedings.

“**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**” means 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 criminal dockets registered with the South African Police Service with an allocated CAS number.

“**Enforcement action required**” means that the environmental authority has decided that the nature of the non-compliance 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 triggers 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 EMI. 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 or not.

“**Notices/ directives issued**” means enforcement notices, 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 the commencement of activities which may have a detrimental effect on the environment and require an environmental authorisation. 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 a formal enforcement notice, 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 2017/18 financial year marks the 12<sup>th</sup> year in which DEA has collaborated with its provincial and local 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.

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 15 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 came into effect in the past financial year. We then turn to operational activities related to the brown, green and blue sub-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 EMIs,

magistrates, prosecutors and other law enforcement authorities. We end the report off with chapters on stakeholder engagement and look ahead to plans for the 2018/19 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, health or the South African Police Service. The NECER reporting system has also taken some time to filter through to the local authority level, although this year’s report shows encouraging signs of the growth of EMI activities in this sphere. 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 regard, 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 2017/18 will continue to provide valuable information to its readers as it strives to highlight the critical work currently being undertaken by the environmental compliance and enforcement sector.



KEY FINDINGS & ENVIRONMENTAL  
MANAGEMENT INSPECTORS





## 2. KEY FINDINGS

### 2.1 The Environmental Management Inspectorate

- In total, there are **2973** EMIs designated across the country, comprising **2640** national and provincial EMIs and **333** municipal EMIs.
- There has been a slight increase of **2.4%** in the total number of EMIs on the national register from **2577** in 2016/17 to **2640** in 2017/18 (national and provincial authorities).
- Of the total **2640** EMIs on the national register (national and provincial authorities), **1723 (65,2%)** are Grade 5 EMIs (Field Rangers employed at national and provincial parks authorities).
- There has been a slight decrease in the number of Grade 5 EMI Field Rangers from **1726** in 2016/17 to **1723** in 2017/18.
- SANParks (**836**), Ezemvelo (**667**), Limpopo DEDET (**256**), DEA (**166**), Eastern Cape Parks (**158**), North West Parks (**82**) have the most EMIs (majority are Grade 5 Field Rangers except for DEA) followed by Western Cape DEADP (**73**), KZN DEDTEA (**68**), and Gauteng DARD (**53**), while Mpumalanga DARDLEA (**9**), Isimangaliso (**8**) and SANBI (**8**) have the least.
- EMIs at the local authority level have slightly increased over the past three financial years from **236** in 2015/16, **303** in 2016/17 and **333** in 2017/18.

### 2.2 Overall National Compliance and Enforcement Statistics

#### Enforcement:

- There has been a decrease in the number of criminal dockets registered from **1527** in 2016/17 to **1257** in 2017/18.
- The total number of admission of guilt fines (J534s) issued has slightly decreased from **1010** for 2016/17 to **872** in 2017/18. This shows a decrease of **13.7%** between 2016/17 and 2017/18.
- The total value of admission of guilt fines paid has decreased from **R 393 291** in 2016/17 to **R 251 300**, showing a decrease of **36.1%** in 2017/18.
- The number of criminal dockets handed to the NPA has generally increased from **293** in 2015/16 to **416** in 2016/17 and **446** in 2017/18.
- The total number of arrests made by EMIs has slightly decreased from **1092** in 2016/17 to **926** in 2017/18.
- The total number of acquittals remain unchanged at **10** in 2016/17 and 2017/18.
- Convictions reported have decreased from **76** in 2016/17 to **53** in 2017/18, showing a **30%** decrease.
- There has been a general decrease in the number of plea and sentence agreements concluded from **13** in 2015/16 to **11** in 2016/17 and **8** in 2017/18.
- The total number of warning letters issued has increased from **296** in 2016/17 to **324** in 2017/18 which equates to an increase of **9.4%**.
- The total number of administrative notices issued have slightly increased from **1071** in 2016/17 to **1093** in 2017/18.
- The number of civil court applications has decreased from **7** in 2016/17 to **2** in 2017/18.
- There has been a slight increase on the total value of section 24G administrative fines paid from **R 9 766 445,22** in 2016/17 to **R 10 064 949** in 2017/18.

### 2.2 Overall National Compliance and Enforcement Statistics

#### Compliance Monitoring:

- There was a total number of **4210** facilities inspected in 2017/18, which reflects a **3.7%** increase from the **4059** facilities inspected in 2016/17.
- Of the total number of facilities inspected, **45.1% (1900)** were against brown legislative requirements, while **42.50% (1793)** were in the green subsector and **12.2% (517)** were inspected against blue issues.
- There has been an increase in the total number of proactive inspections conducted from **2474** in 2016/17 to **2733** in 2017/18, which shows the **10.46%** increase.
- The total number of reactive inspections conducted in 2017/18 amounted to **1477**, which reflects a **17.31%** increase from the **1259** conducted in 2016/17.
- The total number of non-compliances detected during inspections has been recorded to **2894** in 2017/18 compared to **1223** in 2016/17.
- DWS reported the percentages of non-compliances detected which amounted to **14%** for both blue and brown issues.
- Of the total number of non-compliances detected, **2548** of brown, **14%** of blue and **131** of green required follow-on enforcement action.
- A total of **3184** inspection reports were finalised in 2017/18 which shows a slight decrease compare to the **3428** inspection reports finalised in the 2016/17 financial year.
- Of the **4210** inspections conducted, **1495** were reactive in nature and triggered by complaints, **1255** were based on environmental authorisations and permits, while **1232** were considered routine inspections on prioritised sectors. **228** inspections were triggered by S30 incident reports, while others were follow-up inspections.

#### Local Authorities:

- EMIs from the local authorities within Gauteng, KwaZulu-Natal and North West submitted their inspection statistics for this reporting period, amounting to a combined total number of facilities inspected equaling **89** and the number of non-compliances detected was **151**.

### 2.3 Statistics per Institution/ Province

- SANParks recorded the highest number of criminal dockets registered at **498**, followed by Limpopo DEDET with **217**. The third highest was Ezemvelo with **139** dockets registered while DWS and Free State DESTEA recorded **2** criminal dockets, and KwaZulu-Natal DEDTEA recorded **0** criminal dockets registered.
- Limpopo DEDET recorded the highest number of arrests at **306**, followed by SANParks which recorded **220** and Ezemvelo recorded **120** arrests.
- SANParks issued the highest total value of admission of guilt fines (J534s), amounting to **R 192 450** from the **276** fines issued, followed by Limpopo DEDET with a value of **R 176 750** from **409** fines issued.
- With a total of **263**, WCDEADP recorded the highest number of enforcement notices comprising of **124** pre-compliance, **59** pre-directive, **52** compliance notices and **28** directives. Secondly, DEA recorded **239** enforcement notices - **74** pre-directives, **151** pre-compliance, **7** directives and **7** final compliance notices. DWS followed by issuing **167** notices comprising of **138** pre-compliance notices and **29** directives and SANParks, CapeNature, Free State DEDTEA, Ezemvelo, Eastern Cape Parks, North West Parks Board and Mpumalanga Parks reported no enforcement notices.
- KwaZulu-Natal DEDTEA issued **120** warning letters, the highest of the EMI Institutions. They were followed by Eastern Cape DEDEA who issued **69** warning letters.
- Gauteng DARD recorded the highest value of fines paid pursuant to section 24G in the sum of **R 4,358,449.00** followed by Western Cape DEADP which recorded **R 2 869 500** while the Mpumalanga DARDLEA recorded **R1 180 700**, Limpopo DEDET recorded **R 459 300** and Northern Cape DENC contributed with **R 145 000**.
- North West DREAD recorded the highest number of facilities inspected at **1277** of which **368** were in respect of brown issues, **15** were blue issues and **894** in respect of green. This was followed by KwaZulu-Natal DEDTEA with **712** (**712** brown) and DWS with **489** (**489** blue issues).
- DEA recorded the highest number of non-compliances detected at **1045** during the execution of compliance inspections, followed by KZN DEDTEA with **381**, followed by Eastern Cape DEDEA with **238**, Western Cape DEADP and Gauteng recorded having detected **153** non-compliances each. Other EMI institutions recorded less than **100** non-compliances detected.

### 2.4 National Complaints and Incidents

- In 2017/18, the total number of complaints and section 30 incidents reported through the various reporting channels was **748**, which indicates a decrease of **11.5%** (**97**) from **845** in 2016/17.
- The reported number of incidents in terms of section 30 of NEMA has decreased from **170** in 2016/17 to **115** in 2017/18, while the number of complaints reported decreased by **20.3%** from **728** in 2016/17 to **633** in 2017/18.
- The highest number of section 30 NEMA incidents reported came from the power generation sector which amounted to **39%** (**45**) followed by trucks and rail transport comprising **22%** (**25**) of the total **115** reported incidents.
- There has been a fluctuation in the reporting of certain types of incidents, with a significant decrease in reports on illegal activities from **106** in 2016/17 to **68** in 2017/18 and followed by the significant increase in spillages from **6** in 2016/17 to **112** in 2017/18, and reports of contraventions relating to import and export reported has decreased from **208** in 2016/17 to **88** in 2017/18.
- There has been a decrease in the number of complaints and incidents from all modes of reporting handled by DEA with **312** in 2017/18 from **375** in 2016/17, while complaints which were referred to DMR, DWS and provincial departments have decreased slightly.

### 2.5 Annual Compliance and Enforcement Highlights

Category	Result	Institution	Legislation
Most inspections conducted	Green issues = 894 Brown issues = 368 Blue issues = 15 Total = <b>1277 facilities</b>	North West DREAD	Multiple
Highest sentence of direct imprisonment <u>without</u> the option of a fine	<i>State vs. Qinghua Chen (Sea Point CAS 466/10/2016)</i> Charge 1 = Illegal possession of ivory = 5 years direct imprisonment, wholly suspended for 5 years Charge 2 = Illegal possession of abalone = 5 years direct imprisonment, wholly suspended for 5 years A Prevention of Organised Crime Act (POCA) confiscation order was issued to the value of R83 158 and the proceeds were paid into the Criminal Asset Recovery Account (CARA).	Cape Nature	Section 42(1) of Western Cape Nature Conservation Ordinance, 19 of 1974; Regulation 36 of GN R1111 of 1998.
Highest sentence for a pollution and waste case	State v Oil Separation Services (MOKOPANE REGIONAL COURT CASE NO:751/2017)  The company was found guilty of conducting an activity in the absence of a waste management licence. The accused was sentenced as follows: Count 2 and 3 was taken together and sentenced to a fine of R200 000 of which R150 000 was suspended for a period of 5 years.	DEA	Section 26(1) of NEMWA

### 2.5 Annual Compliance and Enforcement Highlights

Category	Result	Institution	Legislation
	After the Accused was convicted, but before the sentence the State applied for a confiscation enquiry order in terms of section 18(1) of the Prevention of Organised Crime Act 121 of 1998 (POCA) was granted to the amount of R850 000 (Eight hundred and Fifty Thousand Rand) against the Accused.		
Highest number of section 24G fines issued	59 were issued and paid with a total sum of R 4 358 449 being collected.	Gauteng DARD	NEMA section 24G
The highest number of enforcement notices issued	263 enforcement notices were issued, most related to the unlawful commencement of listed activities.	DEADP	NEMA
Highest number of admission of guilt fines issued	276 were issued to the sum total of R 192 450	SANParks	NEM:PAA

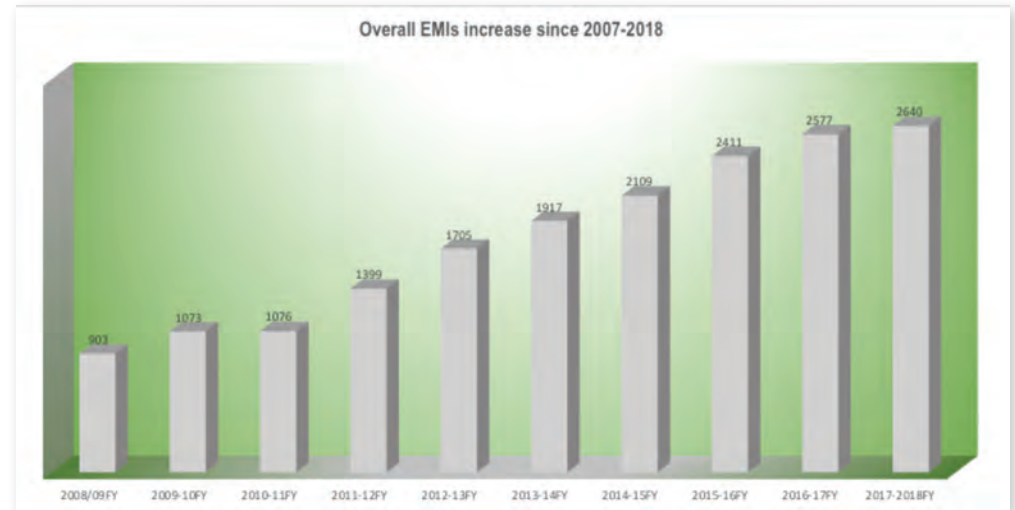
### 3. ENVIRONMENTAL MANAGEMENT INSPECTORS

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 2017, 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 R480 in GG 40879 of 31 May 2017)) reflected a total of **2973** EMIs, comprising of **2640** from national and provincial authorities and **333** from municipalities. The distribution (or annual increase) of EMIs is reflected in the table below.

#### 3.1 The distribution of EMIs since 2007



### 3.2 Environmental Management Inspectors per Institution

Institution Name	2015-16FY	2016-17FY	2017-18FY
National Authorities			
DEA	83	135	166
iSimangaliso	4	6	8
SANParks	802	859	836
DWS	-	17	28
SANBI	4	4	8
Provincial Environmental Authorities			
Eastern Cape DEDEA	50	44	46
Free State DESTEA	41	40	40
Gauteng DARD	49	50	53
KwaZulu-Natal DEDTEA	34	68	68
Limpopo DEDET	269	256	256
Mpumalanga DARDLEA	11	9	9
Northern Cape DENC	30	28	27
North West DREAD	46	46	39
Western Cape DEADP	77	66	73
Provincial Parks Authorities			
CapeNature	39	43	50
Eastern Cape Parks	158	137	158
Ezemvelo	605	661	667
Mpumalanga Parks	19	19	26
North West Parks Board	90	89	82
<b>TOTAL</b>	<b>2411</b>	<b>2577</b>	<b>2640</b>

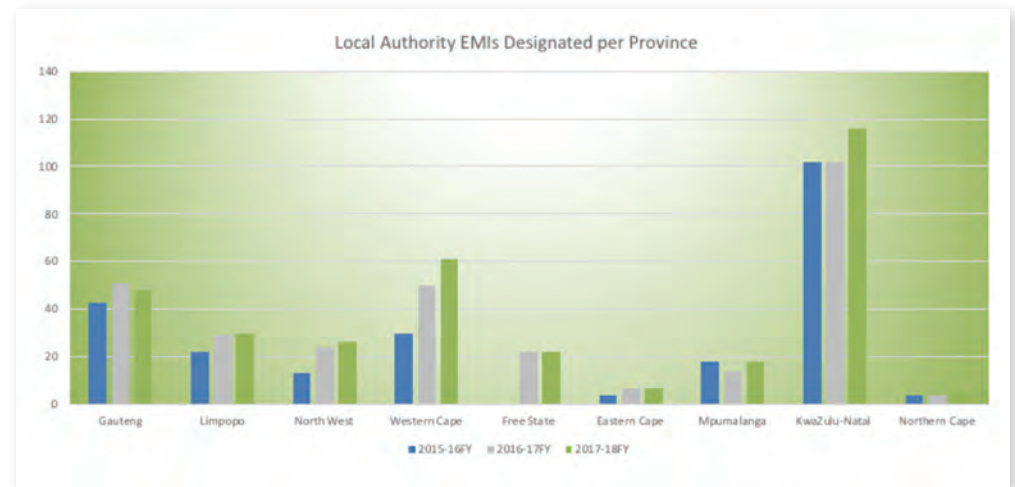
#### 3.2.1 Local Authority Environmental Management Inspectors

There has been a steady growth in the total number of EMIs at local authority level in the past 6 years since the commencement of the EMI local authority project. The addition of the local authority sphere of government to the capacity of the Inspectorate is aimed to capacitate local authorities, provide them with relevant mandate to enforce certain environmental issues (in terms of Schedules 4 and 5 of the Constitution) with the legislative tools to do so. The

2017/18 financial year saw the local authority EMI capacity increase from **303** in 2016/17 to **333** in 2017/18, with **14** EMIs designated in KwaZulu-Natal and **11** in the Western Cape. While KwaZulu-Natal have designated the most local authority EMIs, there's a slight increase in most of the provinces local authorities in 2017/18.

**Table: Number of local authority EMIs designated**

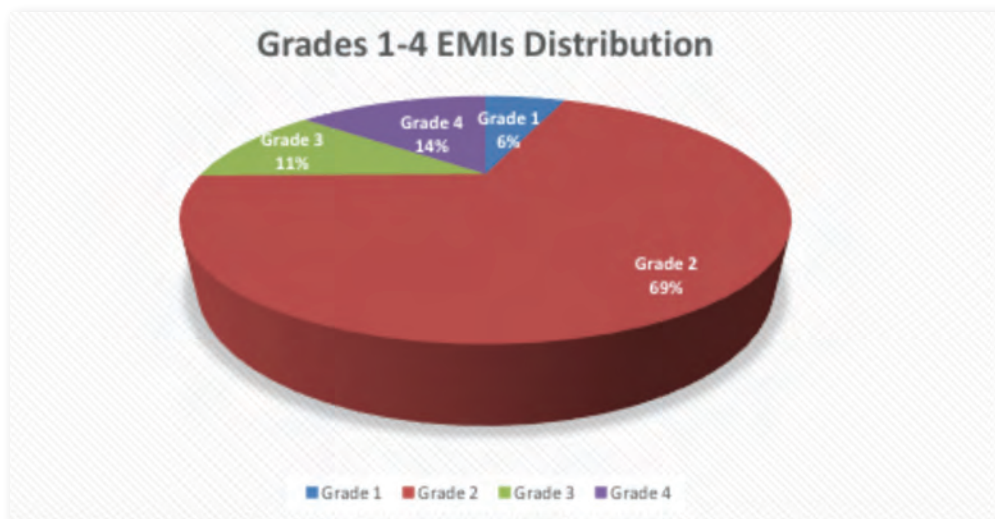
PROVINCE	2015-16FY	2016-17FY	2017-18FY
Gauteng	43	51	48
Limpopo	22	29	30
North West	13	24	26
Western Cape	30	50	61
Free State	-	22	22
Eastern Cape	4	7	7
Mpumalanga	18	14	18
KwaZulu-Natal	102	102	116
Northern Cape	4	4	5
<b>TOTAL</b>	<b>236</b>	<b>303</b>	<b>333</b>



**Graph 1: Graphical representation for municipal 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, and enforcement activities in the brown, green and blue sub-sectors.



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.

Although there has been a general increase in the number of Grade 5 designated EMIs since 2012/13. In 2017/18, there was a slight **0.2% (3)** decrease in Grade 5 EMIs was recorded in this reporting period. With approximately **180** field rangers from MPTA still awaiting Grade 5 EMI designation, the total figure will increase in the 2018/19 reporting period.

INSTITUTION	2015-16	2016-17	2017-18
Eastern Cape Parks	142	116	142
Ezemvelo	554	609	614
Isimangaliso	0	2	1

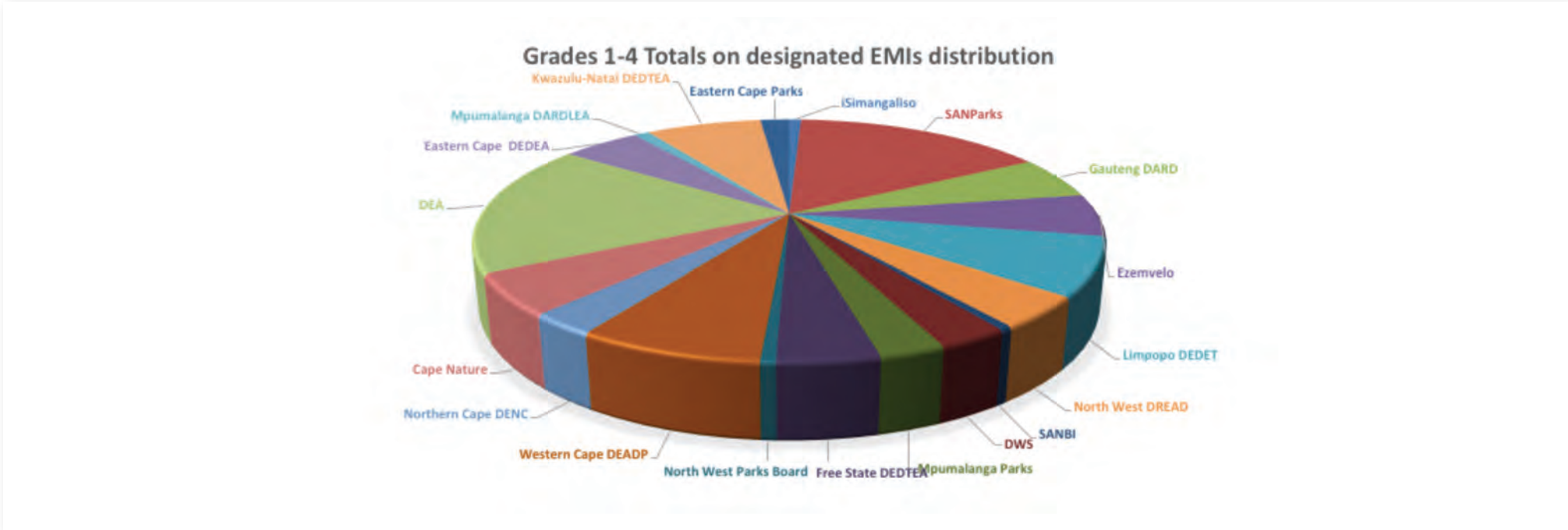
INSTITUTION	2015-16	2016-17	2017-18
Limpopo DEDET	212	199	184
SANParks	646	703	688
SANBI	-	3	3
Eastern Cape DEDET	-	13	15
North West Parks Board	82	81	76
<b>TOTAL</b>	<b>1636</b>	<b>1726</b>	<b>1723</b>



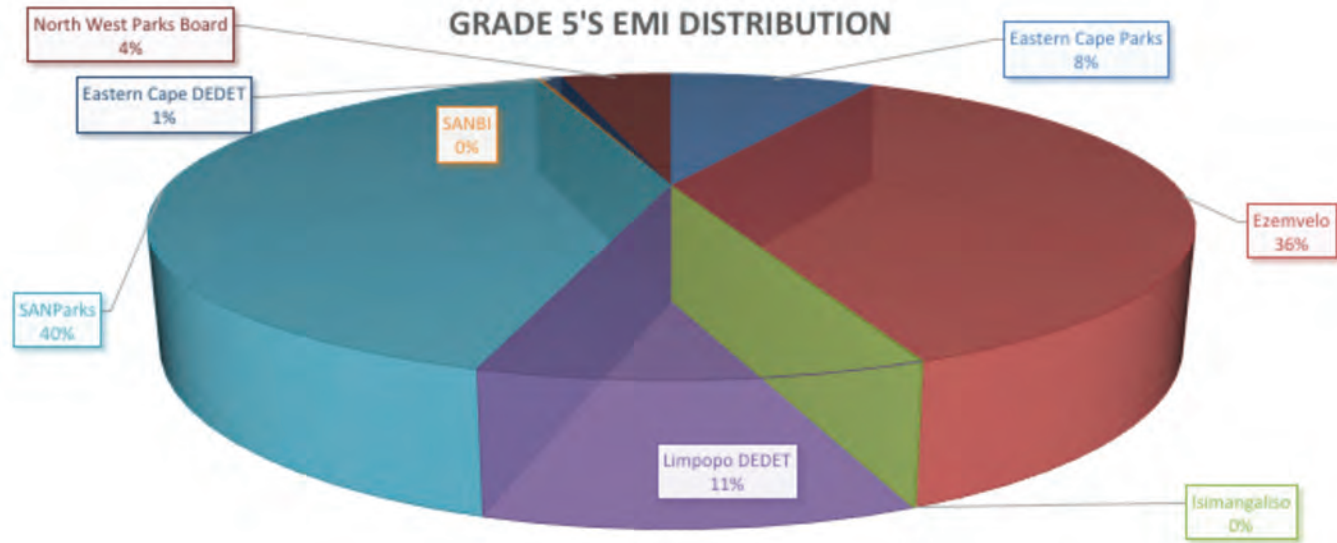
Graph 2: Number of Grade 5 EMIs (Field Rangers) per institution



3.2.3 Environmental Management Inspector per institution



Pie chart 2: Distribution of Grade 1-4 EMIs per EMI institutions



Pie chart 3: Distribution of Grade 5 EMIs across EMI institutions



OVERALL NATIONAL COMPLIANCE AND ENFORCEMENT STATISTICS

The map displays the following logos and text:

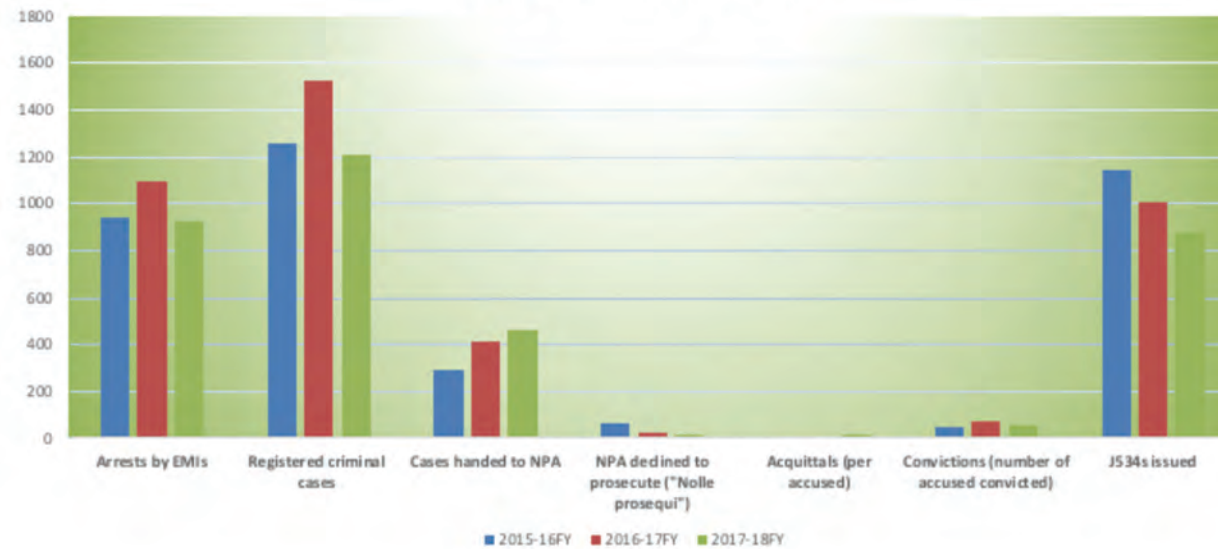
- LIMPOPO PROVINCIAL GOVERNMENT**  
REPUBLIC OF SOUTH AFRICA  
DEPARTMENT OF HEALTH & SOCIAL DEVELOPMENT
- Mpumolanga**  
agriculture, rural development, land & environmental affairs  
MPUMALANGA PROVINCE  
REPUBLIC OF SOUTH AFRICA
- read**  
Rural Development and Agrarian Development  
REPUBLIC OF SOUTH AFRICA
- GAUTENG PROVINCE**  
REPUBLIC OF SOUTH AFRICA
- edtea**  
Department of Economic, Small Business Development, Exports and Environmental Affairs  
FREE STATE PROVINCE
- edtea**  
Department of Economic, Small Business Development, Exports and Environmental Affairs  
PROVINCE OF KWAZULU-NATAL
- Department of Environment and Nature Conservation**  
Northern Cape
- Province of the EASTERN CAPE**  
ECONOMIC DEVELOPMENT & ENVIRONMENTAL AFFAIRS
- ADVENTURE PROVINCE**  
*Eastern Cape*  
PARKS & TOURISM AGENCY
- Western Cape Government**  
WITTEBOKKORRE
- CapeNature**
- environmental affairs**  
Department of Environmental Affairs  
REPUBLIC OF SOUTH AFRICA
- South African NATIONAL PARKS**

## 4. OVERALL NATIONAL COMPLIANCE AND ENFORCEMENT STATISTICS

### 4.1 Enforcement

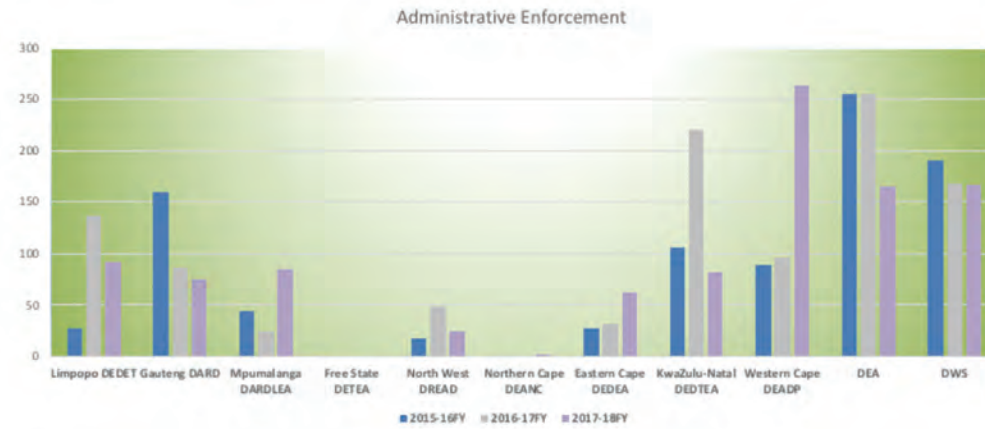
	2015-16FY	2016-17FY	2017-18FY
<b>Criminal Enforcement</b>			
Arrests by EMLs	939	1092	926
Criminal dockets registered	1497	1526	1257
Cases handed to NPA	293	416	446
NPA declined to prosecute (nolle prosequi)	61	74	18
Section 105A agreements (plea bargains)	13	11	8
Acquittals	5	10	10
Convictions (excl. J534s)	52	76	53
J534 (Admission of Guilt Fines): Total number issued	1145	1010	872
J534: Total number paid	695	628	523
J534: Total value of fines paid	R 564 850	R 393 291	R 251 300
<b>Administrative Enforcement and Civil Actions</b>			
Warning letters issued	309	296	324
Pre-directives issued	290	261	286
Pre-compliance notices issued	422	535	576
Directives issued	146	144	103
Final compliance notices issued	58	131	128
Civil Court applications launched	0	7	2
S24G administrative fines: Total value paid	R 8 019 250	R 9 766 445,22	R 10 064 949,65
S24G: Total number of fines paid	100	91	110

Criminal Enforcement Statistics

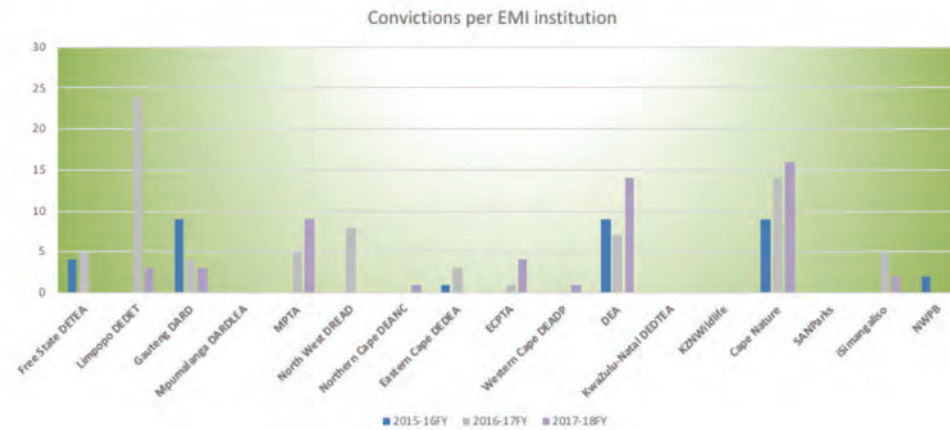


Graph 2: Overall Criminal Enforcement Statistics from 2015-16FY to 2017-18FY.

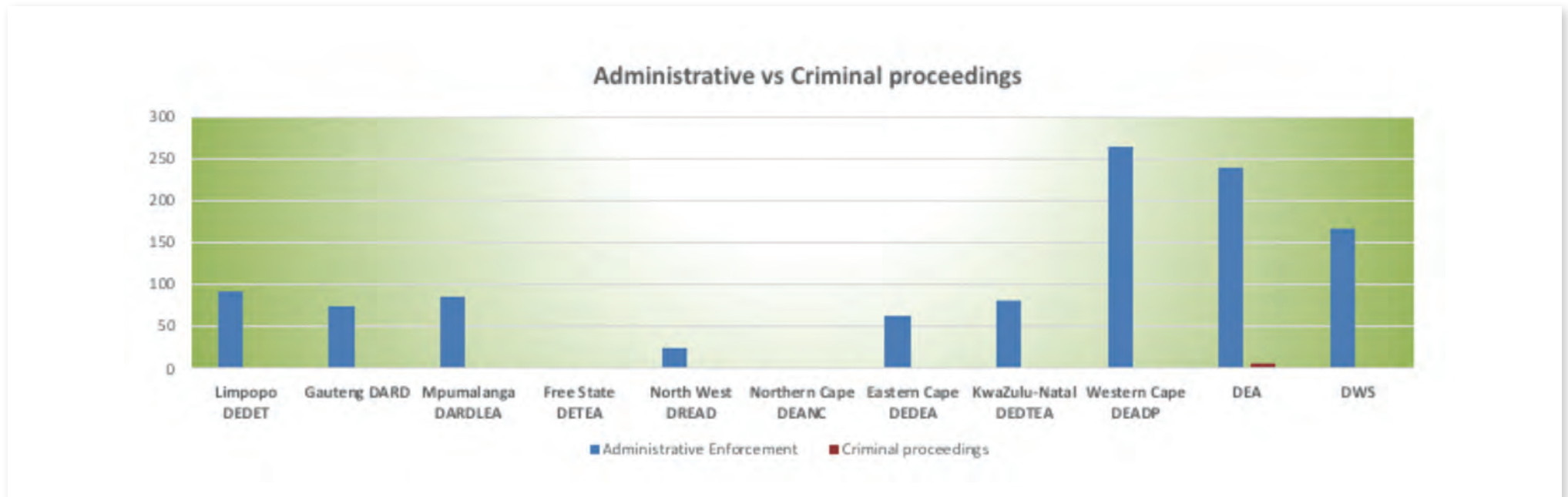
The following three graphs compare the use of enforcement notices and criminal enforcement mechanisms by each of the EMI Institutions. The comparison for the 2017/18 financial year reveals that the use of enforcement notices (i.e. directives and notices) remains the preferred tool for the authorities that deal with brown issues, with the DEA, KwaZulu-Natal DEDTEA, DWS and Limpopo DEDET showing the highest numbers issued for this reporting period. In respect of the number of criminal convictions, Cape Nature contributed **32%** of the total (**16** of **53**); and DEA **26%** (**14** of **53**).



Graph 4: Comparative number of enforcement notices issued per institution



Graph 5: Comparative number of convictions obtained per institution



Graph 6: Criminal versus enforcement notices

#### 4.1.2. Most prevalent types of environmental crimes

The 2017/18 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	Illegal possession of alien and invasive species - nurseries (NEMBA)	183
	SANParks	Illegal hunting of rhino in a national park (NEM: PAA)	653
Eastern Cape	Eastern Cape DEDEA	Unlawful commencement of listed activities (Decree no. 9 of 1992, section 39)	102
	Eastern Cape Parks	Illegal fishing without the necessary permit (MLRA)	21
Free State	Free State DESTEA	Illegal hunting of wild animals and rhino poaching (NEMBA S57(1) and Ordinance 8 of 1969)	4
Gauteng	Gauteng DARD	Unlawful commencement of listed activities (NEMA)	140
Kwa-Zulu Natal	Ezemvelo	Illegal entry / Illegal hunting Prohibited activity (Ordinance 15 of 1974)	826
	KwaZulu-Natal DEDTEA	Unlawful commencement of listed activities (NEMA)	162
Limpopo	Limpopo DEDET	Picking indigenous plants without a permit (LEMA)	453
Mpumalanga	Mpumalanga DARDLEA	Unlawful commencement of listed activities (NEMA)	72
	Mpumalanga Parks	Illegal rhino hunting and general (Mpumalanga Nature Conservation Act 10 of 1998 section 5)	64
Northern Cape	Northern Cape DENC	Illegal hunting without a permit (NC Nature Conservation Act 9 of 2009)	17
North West	North West DREAD	Unlawful commencement of listed activities (NEMA)	33
	North West Parks	Illegal hunting of rhino (NEM:BA section 57)	44
Western Cape	CapeNature	Fishing without possession of necessary permit (MLRA section 13(3))	32
	Western Cape DEADP	Unlawful commencement of listed activities (NEMA)	112

#### 4.1.3. Most commonly contravened national environmental legislation

The table below displays the national pieces of environmental legislation contravened and correlates to the most prevalent types of environmental crime. The NEMA (unlawful commencement of listed activities), NEM:BA, especially in relation to the undertaking of restricted activities without a permit, and the NEM:PAA, and in particular illegal entry and undertaking restricted activities without a permit (mainly in respect of illegal hunting and entry), appear within the top three pieces of national environmental legislation contravened.



	Legislation	Ezemvelo	Gauteng DARD	Free State DESTEA	North West DEDECT	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
National Legislation	NEMA (including EIA Regulations)	-	140	-	33	49	12	85	112	6	93	72	162	-	-	-	-	-	752
	NEM:BA including TOPS & CITES Regulations	453	6	2	12	-	-	183	-	6	20	-	-	-	-	-	-	44	726
	NEM:PAA	56	-	-	-	-	-	-	-	4	-	-	-	-	653	-	-	-	713
	NEM:AQA	-	-	-	2	4	-	23	-	-	3	-	-	-	-	-	-	-	32
	NEM:WA	-	67	-	2	14	12	37	4	-	18	-	1	-	-	-	-	-	155
	ECA	-	64	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	65
	MLRA	49	-	-	-	-	-	-	-	21	-	-	-	-	53	214	-	-	337
	ICMA	-	-	-	-	-	-	90	-	-	15	-	-	-	45	-	-	-	135
	NWA	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	186	-	187
Sub-Total		558	277	2	49	67	12	419	116	37	134	72	164	53	912	0	186	44	3102

## 4.2 Compliance Monitoring Inspections

### 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, play 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 tables highlight blue, green and brown compliance inspections conducted during the 2017/18 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.

## 4.2.1 Compliance Inspections per Trigger

INSTITUTION	COMPLAINT	PERMIT	PLANNED INSPECTION	PRIORITY LIST	ROUTINE INSPECTION	SECTION 30 INCIDENT
Cape Nature	-	259	-	-	-	-
DEA	83	27	171	-	298	30
Eastern Cape DEDEA	8	-	-	-	54	-
KwaZulu Natal DEDTEA	1	286	43	-	375	-
Limpopo DEDET	22	36	134	-	17	-
Mpumalanga DARDLEA	6	-	-	-	-	6
Northern Cape DENC	388	-	30	-	21	-
North West DREAD	856	7	164	-	230	2
Water and Sanitation	-	-	69	190	230	-
Western Cape DEADP	128	-	29	-	-	-
Gauteng DARD	3	-	-	-	7	-
<b>Grand Total</b>	<b>1495</b>	<b>615</b>	<b>640</b>	<b>190</b>	<b>1232</b>	<b>38</b>

## 4.2.2 Compliance Inspections per Type/Non-Compliances detected/Enforcement required: Brown, Green and Blue

Institution	Facilities Inspected	Inspection Report finalised	Brown			
			Pro-active	Reactive	Number of non-compliances	Number requiring enforcement action
DEA	122	88	111	11	1725	38
Eastern Cape DEDEA	35	31	34	1	238	13
Gauteng DARD	10	5	4	6	25	2
Kwazulu- Natal EDTEA	705	699	692	13	372	166
Limpopo DEDET	59	56	50	9	70	15
Mpumalanga DARDLEA	12	9	-	12	20	6
North West DREAD	361	264	232	129	30	45
Northern Cape	439	16	45	394	9	6
Western Cape DEADP	157	88	29	128	59	97
<b>Grand Total</b>	<b>1900</b>	<b>1256</b>	<b>1197</b>	<b>703</b>	<b>2548</b>	<b>388</b>



Green						
Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Number requiring Enforcement action
Cape Nature	259	0	-	259	0	0
DEA	459	381	399	60	63	103
Limpopo DEDET	150	142	134	16	56	6
Eastern Cape DEDEA	27	26	19	8	6	3
North West DREAD	898	884	518	380	8	7
<b>Grand Total</b>	<b>1793</b>	<b>1433</b>	<b>1070</b>	<b>723</b>	<b>133</b>	<b>119</b>

Blue						
Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Number requiring enforcement action
DEA (NEM:ICM)	28	24	15	13	213	5
Water and Sanitation (NEM:WA)	489	471	451	38	14%	132
<b>Grand Total</b>	<b>517</b>	<b>495</b>	<b>466</b>	<b>51</b>	<b>213 (14%)</b>	<b>137</b>

#### 4.2.3 Compliance Inspections undertaken by Local Authority EMI Institutions: Per Trigger/ Type/ Non-Compliances detected/ Enforcement required: Brown, Green

##### 4.2.3.1 Inspection Triggers

INSTITUTION	COMPLAINT	PERMIT	PLANNED INSPECTION	ROUTINE INSPECTION	TOTAL
KwaZulu-Natal Municipalities	-	7	-	-	7
North West Municipalities	16	-	-	2	18
Gauteng Municipalities	7	-	27	30	64
<b>TOTAL</b>	<b>23</b>	<b>7</b>	<b>27</b>	<b>32</b>	<b>89</b>

4.2.3.2 *Brown Issues*

BROWN						
INSTITUTION	FACILITIES INSPECTED	INSPECTION REPORT FINALISED	PRO-ACTIVE	REACTIVE	NUMBER OF NON-COMPLIANCES	NUMBER REQUIRING ENFORCEMENT ACTION
KwaZulu-Natal Municipalities	7	1	6	1	9	
North West Municipalities	18	4	4	14	14	2
Gauteng Municipalities	64	56	49	15	128	20
<b>TOTAL</b>	<b>89</b>	<b>61</b>	<b>59</b>	<b>30</b>	<b>151</b>	<b>22</b>





STATISTICS PER NATIONAL INSTITUTION/  
PROVINCE



## 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

	2015-16FY	2016-17FY	2017-18FY	2015-16FY	2016-17FY	2017-18FY
<b>DEPARTMENT OF ENVIRONMENTAL AFFAIRS (BRANCH: LEGAL, AUTHORISATIONS, COMPLIANCE AND ENFORCEMENT)</b>				<b>DEPARTMENT OF WATER AND SANITATION</b>		
<b>CRIMINAL ENFORCEMENT</b>				<b>CRIMINAL ENFORCEMENT</b>		
Arrests by EMLs	5	8	4	0	0	0
Criminal dockets registered	41	52	50	5	5	2
Cases handed to NPA	45	31	32	3	6	2
NPA declined to prosecute (nolle prosequi)	18	10	4	0	1	0
Section 105A agreements (plea bargains)	6	1	4	1	0	0
Acquittals	0	0	0	0	0	0
Convictions	9	7	14	0	0	0
J534s issued	0	12	15	0	0	0
J534s paid	0	R 22 800,00	R 32 500	0	0	0
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>				<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>		
Warning letters written	60	43	27	0	17	22
Pre-directives issued	24	78	74	142	124	138
Pre-compliance notices issued	219	132	151	1	0	0
Final directives issued	4	1	7	47	44	29
Final compliance notices issued	8	44	7	0	0	0
Civil Court applications launched	0	0	0	0	6	0
\$24G administrative fines paid (total value / number)	R 1 695 000	R 2 355 000	-	0	0	0
	5	5	-	0	0	0

## 5.1.2 SANParks and Isimangaliso Wetland Authority



	SOUTH AFRICAN NATIONAL PARKS			ISIMANGALISO WETLAND PARK AUTHORITY <sup>1</sup>		
	2015-16FY	2016-17FY	2017-18FY	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>						
Arrests by EMLs	178	311	220	-	30	5
Criminal dockets registered	289	644	498	-	29	25
Cases handed to NPA	147	257	298	-	2	6
NPA declined to prosecute (nolle prosequi)	-	0	-	-	0	0
Section 105A agreements (plea bargains)	-	-	-	-	0	0
Acquittals	-	-	7	-	0	0
Convictions	-	-	-	-	5	2
J534s issued	314	262	276	-	10	2
J534s paid (number)	109	43	38	-	10	-
J534s paid (value)	R 27 200	R 37 400	R38 950	-	R 9 500	-
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>						
Warning letters written	-	-	-	-	2	2
Pre-directives issued	-	-	-	-	0	0
Pre-compliance notices issued	-	-	-	-	2	0
Final directives issued	-	-	-	-	0	0
Final compliance notices issued	-	-	-	-	0	0
Civil Court applications launched	-	-	-	-	1	0

## 5.2 Provincial Institutions and Parks

### 5.2.1 Western Cape



	DEPARTMENT OF ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING			CAPE NATURE		
	2015-16FY	2016-17FY	2017-18FY	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>						
Arrests by EMIs	0	0	0	54	40	44
Criminal dockets registered	6	9	12	30	31	44
Cases handed to NPA	6	0	12	10	8	26
NPA declined to prosecute (nolli prosequi)	1	0	2	9	0	2
Section 105A agreements (plea bargains)	0	0	1	3	8	3
Acquittals	0	0	1	0	0	0
Convictions	0	0	1	15	14	16
J534s issued	0	0	0	95	74	90
J534s paid (number)	0	0	0	59	29	16
J534s paid (value)	0	0	0	R 58 600	R 35 550	R39,350
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>						
Warning letters written	1	0	0	0	0	0
Pre directives issued	29	17	59	0	0	0
Pre-compliance issued	45	61	124	0	0	0
Final directives issued	9	7	28	0	0	0
Final compliance notices issued	6	11	52	0	0	0
Civil Court applications launched	0	0	0	0	0	0
\$24G administrative fines paid (total value / number)	R 3 520 000 49	R 6 580 000 41	R2 869 500 23	0	0	0

1 No statistics were submitted for 2015-16FY, hence no information is available on the reported indicators.

## 5.2.2 KwaZulu-Natal



	DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM & ENVIRONMENTAL AFFAIRS			EZEMVELO KZN WILDLIFE		
	2015-16FY	2016-17FY	2017-18FY	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>						
Arrests by EMIs	0	0	0	246	136	120
Criminal dockets registered	1	2	2	363	173	157
Cases handed to NPA	0	1	2	-	-	-
NPA declined to prosecute (nolli prosequi)	0	1	0	-	-	-
Section 105A agreements (plea bargains)	0	0	0	-	-	-
Acquittals	0	0	0	-	-	-
Convictions	0	0	0	-	-	-
J534s issued	0	0	0	215	46	3
J534s paid (number)	0	0	0	134	33	3
J534 paid (value)	R 0	R 0	R 0	R 242 950	R 47 500	R 3 800
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>						
Warning letters written	1	31	120	-	-	-
Pre-directives issued	59	0	1	-	-	-
Pre-compliance notices issued	8	172	50	-	-	-
Final directive issued	35	1	2	-	-	-
Final compliance notices issued	4	47	29	-	-	-
Civil Court applications launched	0	0	0	-	-	-
S24G administrative fine paid (total value/ number)	R 197 500	R 316 800	-	-	-	-
	2	27	1	-	-	-

## 5.2.3 Gauteng



GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>			
Arrests by EMLs	3	3	7
Criminal dockets registered	20	1	29
Cases handed to NPA	13	10	28
NPA declined to prosecute (nolle prosequi)	6	0	3
Section 105A agreements (plea bargains)	3	0	0
Acquittals	2	0	0
Convictions	9	4	3
J534s issued	39	12	14
J534s paid (number)	36	6	11
J534s paid (value)	R 26 700	R 4 000	R 11 600
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>			
Warning letters written	1	1	0
Pre-directives issued	23	0	3
Pre-compliance notices issued	73	4	42
Directives issued	35	82	13
Final compliance notices issued	28	1	17
Civil Court applications launched	0	0	0
S24G administrative fines paid (total value/ number)	R 1 809 750	R 4 568 247	R 4 358 449
	23	56	59



## 5.2.4 Limpopo



LIMPOPO DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND CONSERVATION	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>			
Arrests by EMLs	249	310	306
Criminal dockets registered	259	269	227
Cases handed to NPA	9	7	4
NPA declined to prosecute (nolle prosequi)	0	48	1
Section 105A agreements (plea bargains)	0	0	0
Acquittals	0	9	0
Convictions	0	24	3
J534s issued	373	472	420
J534s paid (number)	304	416	411
J534s paid (value)	R 156 550	R 172 290	R 94 250
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>			
Warning letters written	145	157	0
Pre-directives issued	2	34	5
Pre-compliance notices issued	24	83	76
Directives issued	0	5	3
Final compliance notices issued	1	15	7
Civil Court applications launched	0	0	0
S24G administrative fines paid (total value/ number)	-	R 1 006 097	R 1 399 300
	-	16	11

## 5.2.5 Eastern Cape



	DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL AFFAIRS			EASTERN CAPE PARKS & TOURISM AGENCY		
	2015-16FY	2016-17FY	2017-18FY	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>						
Arrests by EMLs	42	32	43	10	23	34
Criminal dockets registered	42	50	46	9	29	33
Cases handed to NPA	22	14	31	0	0	2
NPA declined to prosecute (nolle prosequi)	5	4	4	0	0	1
Section 105A agreements (plea bargains)	0	0	0	0	0	0
Acquittals	0	0	0	0	0	1
Convictions	1	3	0	0	1	4
J534s issued	48	51	37	1	7	14
J534s paid (number)	4	19	10	1	7	8
J534s paid (value)	R 5 250	R 21 101	R 22 250	R 300	R 1 950	R 2 450
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>						
Warning letters written	49	21	69	0	0	0
Pre-directives issued	2	1	0	0	0	0
Pre-compliances issued	23	26	59	0	2	3
Final directives issued	0	1	1	0	0	0
Final compliance notices issued	3	3	2	0	1	1
Civil Court applications launched	0	0	0	0	0	2
S24G administrative fines paid (total value/ number)	R 70 000	R10 000	R112 000	0	0	0
	1	1	4			

## 5.2.6 Free State



DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>			
Arrests by EMI's	27	32	1
Criminal dockets	24	32	2
Cases handed to NPA	16	13	-
NPA declined to prosecute (nolle prosequi)	1	3	1
Section 105A agreements (plea bargains)	0	2	-
Acquittals	2	1	1
Convictions	4	5	-
J534s issued	4	23	-
J534s paid (number)	4	18	-
J534s paid (value)	R 5 200	R 8 050	-
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>			
Warning letters written	-	-	-
Pre-directives issued	-	-	-
Pre-compliance notices issued	-	-	-
Directives issued	-	-	-
Final compliance notices issued	-	-	-
Civil Court applications launched	-	-	-
\$24G administrative fines paid (total value / number)	-	-	-
	-	-	-

## 5.2.7 Mpumalanga



	MPUMALANGA DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT, LAND & ENVIRONMENTAL AFFAIRS			MPUMALANGA TOURISM AND PARKS AGENCY		
	2015-16FY	2016-17FY	2017-18FY	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>						
Arrests by EMLs	0	0	0	30	54	49
Criminal dockets registered	6	4	18	59	65	65
Cases handed to NPA	2	0	2	1	23	16
NPA declined to prosecute (nolle prosequi)	0	0	0	0	1	0
Section 105A agreements (plea bargains)	0	0	0	0	0	0
Acquittals	1	0	0	0	0	1
Convictions	0	0	0	0	5	9
J534s issued	0	0	0	0	2	0
J534s paid (number)	0	0	0	0	2	0
J534s paid (value)	0	0	0	R 0	R 2000	0
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>						
Warning letters written	26	20	39	0	0	0
Pre-directives issued	7	4	6	0	0	0
Pre-compliances issued	17	16	53	0	0	0
Final directives issued	14	0	20	0	0	0
Final compliance notices issued	6	4	6	0	0	0
Civil Court applications launched	0	0	0	0	0	0
S24G administrative fines paid (total value/ number)	R 255 000	R 1 519 300	R 1 180 700	0	0	0
	4	14	10			

## 5.2.8 Northern Cape



DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION	2015-16FY	2016-17FY	2017-18FY
CRIMINAL ENFORCEMENT			
Arrests by EMIs	1	0	24
Criminal dockets	1	1	28
Cases handed to NPA	1	0	7
NPA declined to prosecute (nolle prosequi)	0	0	1
Section 105A agreements (plea bargains)	0	0	0
Acquittals	0	0	0
Convictions	0	0	0
J534s issued	14	1	11
J534s paid (number)	2	1	1
J534s paid (value)	R 4 000	R 2 500	R 500
ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS			
Warning letters written	22	1	13
Pre-directives issued	0	0	0
Pre-compliance notices issued	0	0	0
Directives issued	0	0	0
Final compliance notices issued	0	0	2
Civil Court applications launched	0	0	0
S24G administrative fines paid (total amount/ number)	-	-	R 145 000
	-	-	3

## 5.2.9 North West



	NORTH WEST DEPARTMENT OF RURAL, ENVIRONMENT AND AGRICULTURE DEVELOPMENT			NORTH WEST PARKS AND TOURISM BOARD		
	2015-16FY	2016-17FY	2017-18FY	2015-16FY	2016-17FY	2017-18FY
<b>CRIMINAL ENFORCEMENT</b>						
Arrests by EMI's	90	109	34	4	4	0
Criminal dockets	75	83	26	31	56	43
Cases handed to NPA	16	43	19	2	1	0
NPA declined to prosecute (nolle prosequi)	4	5	0	0	0	0
Section 105A agreements (plea bargains)	0	0	0	0	0	0
Acquittals	0	0	0	0	0	0
Convictions	12	8	0	2	0	0
J534s issued	41	26	14	1	0	0
J534s paid (number)	41	26	6	1	0	0
J534s paid (value)	R 36 600	R 24 650	R 9 450	R 1 500	0	0
<b>ADMINISTRATIVE ENFORCEMENT AND CIVIL ACTIONS</b>						
Warning letters written	4	3	2	-	-	-
Pre-directives issued	2	3	0	-	-	-
Pre-compliance notices issued	12	7	18	-	-	-
Directives issued	2	37	0	-	-	-
Final compliance notices issued	2	3	6	-	-	-
Civil Court applications launched	0	0	0	-	-	-
\$24G administrative fines paid (total value / number)	R 472 000	-	-	-	-	-
	7	-	-	-	-	-







## 6. ENVIRONMENTAL JURISPRUDENCE

Parties	CITY OF CAPE TOWN (APPLICANT) V REALLY USEFUL INVESTMENTS 219 (PTY) LTD (RESPONDENT) (Case No. 21106/2014)
Court	High Court of South Africa - Western Cape Division (Delivered on 2 February 2018)
Headline	<b>Retrospectivity of Acts and accurate use of technical environmental definitions</b>
Background	<p>The Respondent unlawfully dumped filling material in a functional and existing wetland and floodplain adjacent to the Disa river since March 2011. Subsequently, the City of Cape Town issued the Respondent with a Compliance Notice in terms of the Applicant's Stormwater Management Bylaw of 2005 in April 2011 and a Directive in terms of section 31A of the Environment Conservation Act 73 of 1989 (ECA) in May 2011 (ECA Directive). The Compliance Notice and ECA Directive both ordered the Respondent to cease the further placing or dumping of filling material into the floodplain of the Disa River and also required certain rehabilitation and remediation measures to be taken to eliminate or reduce environmental damage/ detriment.</p> <p>After receiving the ECA Directive, the Respondent stockpiled the filling material on the visible wetland edge between the 1:50 and 1:100 year flood line located within the floodplain. The Applicant demanded that the excavated filling material be removed from site completely, while the Respondent argued that the ECA Directive only require the removal of filling material from the wetland area.</p> <p>The Applicant requested the Court to declare that (amongst others):</p> <ol style="list-style-type: none"> <li>1. The Respondent's conduct in placing filling material within the 1:100 year flood line is in contravention of the Stormwater Management Bylaw of 2005;</li> <li>2. The Applicant has the right to pursue the remedies available to it in terms of section 10(1) and (3) of the Stormwater Management Bylaw of 2005 to enter the property and undertake necessary remediation work;</li> <li>3. The Respondent failed to comply with the ECA Directive;</li> <li>4. The Respondent is directed to comply with the ECA Directive by removing filling material within the floodplain;</li> <li>5. If the Respondent fails to comply, the Applicant is entitled to enter the property and undertake necessary remediation work. The Applicant is entitled to then recover costs in terms of section 10(1) of the Stormwater Management Bylaw of 2005 and section 31A(4) of ECA.</li> </ol> <p>The Respondent opposed the application and alleged the following:</p> <ol style="list-style-type: none"> <li>1. The Compliance Notice is invalid, therefore the Respondent do not have to comply with it. It argued that it obtained consent for development activities on the property that indirectly include the infilling activities, from the City of Cape Town's predecessor, the Western Cape Regional Services Council (RSC), in 1994. It further argued that this consent is deemed to be consent of the kind contemplated in section 5 of the Stormwater Management Bylaw of 2005. Therefore, they were undertaking a lawful activity. It also argued that the Compliance Notice can be ignored because it has been replaced by the ECA Directive; and</li> <li>2. The Respondent fully complied with the ECA Directive in that it removed all infilling material from the wetland (not the floodplain). The Respondent disputed the extent of the ECA Directive – whether it was intended to apply only to the wetland adjacent to the river, or also the floodplain.</li> </ol> <p>The above arguments are discussed more fully below.</p>

Parties	CITY OF CAPE TOWN (APPLICANT) V REALLY USEFUL INVESTMENTS 219 (PTY) LTD (RESPONDENT) (Case No. 21106/2014)
Court	High Court of South Africa - Western Cape Division (Delivered on 2 February 2018)
Headline	<b>Retrospectivity of Acts and accurate use of technical environmental definitions</b>
Judgment	<p>The Court firstly confirmed that the Disa river is a watercourse which, together with its adjacent floodplain, extending, by definition in the Stormwater Management Bylaw of 2005, up to the 1:100 year flood line, comprise of a stormwater system that should be protected in terms of section 5 of the Stormwater Management Bylaw of 2005. Section 5 confirms that a person requires the written consent of the Municipal Council of the City of Cape Town to conduct activities that might obstruct or reduce the capacity of the stormwater system, change the design or use of the stormwater system or any other activity which can cause an increase in flood levels or risk. The Respondents contravened the Stormwater Management Bylaw of 2005 as well as section 31A of ECA due to the fact that the infilling of the floodplain resulted in the environment being seriously damaged/ endangered and increased the flood risk.</p> <ul style="list-style-type: none"> <li>• <b>Consent from City of Cape Town's predecessor</b></li> </ul> <p>The Respondent obtained consent for development activities on the property that indirectly include the infilling activities, from the City of Cape Town's predecessor, the Western Cape Regional Services Council (RSC), in 1994. It argued that this consent is deemed to be consent of the kind contemplated in section 5 of the Stormwater Management Bylaw of 2005. However, the Court found that that consent was given under a different statutory regime and, therefore, cannot be seen as consent obtained under section 5 of the Stormwater Management Bylaw of 2005. In section 5, consent is expressly defined as the written consent of the City of Cape Town. The consent obtained in 1994 was only applicable to activities up to 23 September 2005 (enactment date of the Stormwater Management Bylaw of 2005). For activities conducted thereafter that could impinge on the integrity of the stormwater system, written consent from the Council of the City of Cape Town is required. The Court also referred to <i>Maccsand (Pty) Ltd v City of Cape Town and others 2012 (4) SA 181 (CC)</i> where it was found that, where authorisation for a specified activity is required under various pieces of legislation, authorisation must be obtained under each piece of legislation, even if the repository of power is the same entity.</p> <p>The Court did not make a judgment on specifically whether the ECA Directive replaced the Compliance Notice.</p> <ul style="list-style-type: none"> <li>• <b>Technical terms: Floodplain vs. wetland</b></li> </ul> <p>Although the Respondent did not dispute the validity of the ECA Directive, it disputed the extent of the ECA Directive – whether it was intended to apply only to the wetland adjacent to the river, or also the floodplain. The Respondent argued that City of Cape Town Officials referred to the fact that the Respondent placed filling material in what was, on occasion, interchangeably called a “wetland” and a “floodplain”.</p> <p>It is clear that the word “floodplain” refers to the “area of land adjacent to a stream or river that experiences flooding during periods of high discharge” (definitions of Wikipedia Online Encyclopaedia and section 1 of the Bylaw were used). “Wetland” refers to the “area where water covers the soil, or is present at or near the surface of the soil for periods of time all year round, or for varying (or limited) periods of time during the year”. A wetland has its own distinct ecosystem. The Stormwater Management Bylaw of 2005 defines the floodplain in terms of the 1:100 year flood line and distinguishes between a wetland and a floodplain. There is a distinct difference between a wetland and a floodplain and a reasonable official from the City of Cape Town, charged with environmental management responsibilities, would know this.</p> <p>The Court confirmed that the point of departure must be the language of the ECA Directive itself. In the ECA Directive the Respondent is ordered to remove “the soil, general rubble and fill that was placed within the floodplain of the Disa River...”. The ECA Directive also required the surveying and demarcation of the 1:100 year flood line as to determine the</p>

Parties	CITY OF CAPE TOWN (APPLICANT) V REALLY USEFUL INVESTMENTS 219 (PTY) LTD (RESPONDENT) (Case No. 21106/2014)
Court	High Court of South Africa - Western Cape Division (Delivered on 2 February 2018)
Headline	<b>Retrospectivity of Acts and accurate use of technical environmental definitions</b>
Judgment	<p>extent of the floodplain. It also required the surveying and pegging of the wetland. A clear distinction between the wetland and the floodplain is made in the ECA Directive. The ECA Directive's purpose was to remedy the Respondent's actions and to protect both the wetland and floodplain.</p> <p>The Court concluded that the ECA Directive is applicable to the floodplain and that this word intends to refer to the area up to 1:100 year flood line. The Respondent failed to comply with the ECA Directive up to that flood line and the City of Cape Town is entitled to the relief sought. Due to the fact that the Respondents stood firm by not being willing to allow City of Cape Town officials entrance to the property to conduct these activities, the Court granted the relief in the form of declaratory orders.</p> <div style="display: flex; justify-content: space-around; align-items: center;">   </div> <p>The Disa River (Source: <a href="http://gctca.org.za/disa-river-wetland-to-be-restored/">http://gctca.org.za/disa-river-wetland-to-be-restored/</a>)</p>

Parties	STATE V PJ MILLER, WJ VAN RENSBURG, AG WILDSCHUT, TP DU TOIT, JE LIEBENBERG, R ONKRUID, SS DLAMINI, DD PIENAAR AND G ABRAHAMS (ACCUSED no. 1-9) (Case No. 13/2012)
Court	High Court of South Africa - Western Cape Division (Delivered on 19 March 2018)
Headline	The use of POCA and corresponding sentencing in the prosecution for organised environmental crimes
Background	<p>This judgment dealt with the sentencing of the Accused for activities during 2005 and 2006 related to unlawful possession or control of abalone for commercial purposes and the processing thereof in unlawful informal fish processing establishments (FPEs). They were charged of contravening section 18(1) of the Marine Living Resources Act 18 of 1998 (MLRA), regulation 39(1)(a) of the MRLA Regulations, as well as organised crime in contravention of section 2(1)(e) of the Prevention of Organised Crime Act 121 of 1998 (POCA) due to the fact that they were involved in an unlawful enterprise through a pattern of racketeering activity.</p> <p>The sentences for illegal possession of abalone for commercial purposes and the running of an unlicensed FPE are stipulated in the MRLA without any regard to the number or size of abalone and such are applicable to each illegal act. Such are specified as a fine of up to R800 000 or maximum 2 years imprisonment, and R2 million or maximum 5 years imprisonment, respectively. The sentence for contravening section 2(1)(e) of POCA is specified as R1 billion or life imprisonment, in addition to an enquiry into any benefit the Accused may have derived from the crime proceeds and that such be forfeited to the State.</p> <p>The Court identified three factors to be considered and balanced when deciding on sentencing as the <u>nature of the crime</u>, the <u>personal circumstances of the criminal</u> and <u>public interest</u>. The Court confirmed that the main purpose of the punishment must be considered and, where more than one Accused is being sentenced, the sentences should be just and consistent for similar offences. At the end of the day, a balanced approach must be followed, not losing sight of the dignity of the offender.</p> <p><b>1. Nature of offence and related public interest</b></p> <ul style="list-style-type: none"> <li>• The Court heard expert evidence from officials of the previous Department of Environmental Affairs and Tourism's Marine and Coastal Management Branch relating to the history and extent of the abalone industry, the current State of abalone stocks, the impact of poaching on the marine environment and the value of abalone. One official gave a PowerPoint presentation in this regard and the Court found it very useful. The Court came to the conclusion that the commercial harvesting, processing and exporting of abalone is strictly controlled and monitored by authorities and that South Africa's natural resources have been plundered significantly during past years. Smaller and smaller abalone are being harvested, resulting in the reproductive ability of the species being under threat, thus the extinction of wild abalone appears to be a very real possibility. In addition, expert evidence was led that the large scale destruction of abalone is likely to have significant ecological consequences beyond the extinction of the species.</li> <li>• Expert evidence also confirmed that extraordinarily large amounts of abalone are exported and that only a very small percentage thereof is legally harvested and exported. The extent of poaching during the relevant period resulted in a drastic decline of the Total Allowable Catch (TAC) for commercial purposes, and ultimately no TAC being allocated in the 2008/9 season, thus negatively impacting on lawful commercial fishermen and having a direct impact on the earning capacities of the affected communities.</li> <li>• Furthermore, work is scarce and poaching is a ready source of income for locals and there is a high incidence of poached abalone being exchanged for drugs. In this manner, it has a damaging effect on society.</li> <li>• Poaching also has a negative impact on the national fiscus and the loss runs into tens of millions of Rands.</li> <li>• Past convictions similar to this case usually ended up in the handing down of sentences of fines with the alternative of imprisonment. However, these sentences do not seem to be seen by the guilty parties as any more than a "necessary running expense" to be taken into account – the poaching doesn't stop. Therefore, the sentences handed down must be of such a nature that a clear message is sent to all involved, even if they were not the mastermind behind the scheme.</li> <li>• There are many variables impacting on the estimated value of the poached abalone. The Court concluded, however, that this is not a case where there is a direct correlation between the quantity of contraband and the extent of the sentence as one finds in other cases. It was enough to confirm that there are very good profits to be made by illegal poaching, processing and exporting of South African abalone.</li> </ul> <p><b>2. Import of POCA legislation</b></p> <p>The rapid growth of organised crime, money laundering, gang activities and racketeering threatens the rights of all in the country and has also been identified as an international security threat. POCA authorises the seizure and forfeiture of assets believed to be the proceeds of organised crime, together with imposing severe sentences in appropriate cases. The Court found that POCA must be used when the environment is being exploited by organised crime to hold all guilty parties accountable.</p>

Parties	STATE V PJ MILLER, WJ VAN RENSBURG, AG WILDSCHUT, TP DU TOIT, JE LIEBENBERG, R ONKRUID, SS DLAMINI, DD PIENAAR AND G ABRAHAMS (ACCUSED no. 1-9) (Case No. 13/2012)
Court	High Court of South Africa - Western Cape Division (Delivered on 19 March 2018)
Headline	The use of POCA and corresponding sentencing in the prosecution for organised environmental crimes
Judgment	<p><b>3. The personal circumstances of the Accused</b></p> <p>Charges against Accused no. 7 were held in abeyance after he escaped just after commencement of the trial and Accused 6, 8 and 9 were acquitted of all charges. The Court considered various factors pertaining to the personal circumstances of the remaining Accused, including the following: Relationship status, children, health, lifestyle, income, employment, previous convictions, remorse and State of mind. In addition, the Court found the following:</p> <p><i>Accused no. 1:</i> This Accused did not acknowledge his guilt as he only sold sardines to the FPE, but he did so to help mask the illegal abalone activities. The Court concluded that a lighter sentence is warranted for him.</p> <p><i>Accused no. 2:</i> This Accused was not honest regarding his financial position and he has a very luxurious lifestyle. His actions were driven by greed and he was the financial backer of the illegal FPE. He was, however, involved in illegal activities involving a lower amount of abalone and therefore his sentence was amended accordingly.</p> <p><i>Accused no. 3:</i> This Accused was previously arrested and charged for possession of abalone for commercial purposes. Despite this, he continued with the abalone business as usual. He was also involved in transporting a substantial amount of abalone to and from the FPE and, therefore, is deserving of a heavy sentence.</p> <p><i>Accused no. 4:</i> This Accused processed large amounts of abalone and alleged that he thought he was acting lawfully. However, the Court found that he was driven by greed and deserves a heavy sentence.</p> <p><i>Accused no. 5:</i> This Accused, too, was involved in a large amount of abalone and therefore his moral blameworthiness is high.</p> <p>The Court confirmed that the only valid factor in favour of mitigation applicable to all Accused is the fact that this case ran over 11 years and had a depressing effect on them. Despite this, the following sentences were imposed:</p> <p><i>Accused 1:</i></p> <ul style="list-style-type: none"> <li>• POCA contravention: Imprisonment from which he will be placed under correctional supervision in the discretion of the Commissioner or a parole board (in terms of section 176(1)(i) of the Criminal Procedure Act 51 of 1977) for a period of 4 years;</li> <li>• MLRA contravention: 6 months imprisonment in terms of section 176(1)(i) of the Criminal Procedure Act 51 of 1977, suspended for 5 years on condition that he is not convicted of any POCA or MLRA contravention during this period.</li> </ul> <p><i>Accused 2:</i></p> <ul style="list-style-type: none"> <li>• POCA contravention: 8 years imprisonment;</li> <li>• MLRA Regulations contravention: 8 months imprisonment;</li> <li>• MLRA contravention: 4 years imprisonment, all running concurrently.</li> </ul> <p><i>Accused 3:</i></p> <ul style="list-style-type: none"> <li>• POCA contravention: 15 years imprisonment;</li> <li>• MLRA Regulations contravention: 8 months imprisonment;</li> <li>• MLRA contravention: 5 years imprisonment, all running concurrently.</li> </ul> <p><i>Accused 4:</i></p> <ul style="list-style-type: none"> <li>• POCA contravention: 15 years imprisonment;</li> <li>• MLRA Regulations contravention: 6 months imprisonment;</li> <li>• MLRA contravention: 5 years imprisonment, all running concurrently.</li> </ul> <p><i>Accused 5:</i></p> <ul style="list-style-type: none"> <li>• MLRA Regulations contravention: 1 year imprisonment fully suspended for 5 years on condition that he is not convicted of any POCA or MLRA contravention during this period.</li> </ul>

Parties	EASTERN CAPE PARKS AND TOURISM AGENCY (APPELLANT) V MEDBURY (PTY) LTD t/a CROWN RIVER SAFARI (RESPONDENT) (816/2016) [2018] ZASCA 34 (27 March 2018)
Court	Supreme Court of Appeal of South Africa (Delivered on 27 March 2018)
Headline	<p>1. Whether a certificate of sufficient enclosure issued in terms of the Game Theft Act 105 of 1991 (GTA) is the sole prerequisite for the protection against loss of ownership of game; and</p> <p>2. Whether the common law should be developed to afford the protection against loss of ownership of game controlled by an organ of State authorised to manage a protected area.</p>
Background	<p>This is an appeal judgement on a judgement in the Eastern Cape High Court (Grahamstown) delivered on 15 September 2015 (Case no 10152/2015). A valuable herd of Cape Buffalo escaped from the Thomas Baines Nature Reserve (<b>Reserve</b>) in the Eastern Cape, a provincial nature reserve managed by the Appellant. The issue on appeal concerned the ownership of these Cape Buffalo. The Respondent was the owner of a property that borders the Reserve. The common boundary between the property of the Respondent and the Reserve was the Settlers Dam (<b>dam</b>). The reserve was enclosed by a fence save for the part of the common boundary with the property of the Respondent which was the dam. Due to a drought that occurred between December 2010 and February 2011, the water level in the dam dropped to the extent that some of the buffalo were able to cross the dam and found their way onto the property of the Respondent. After the water level was restored the buffalo remained there and the Respondent claimed ownership. The Appellant then instituted legal action for the return of the buffalo.</p> <p>The relevant statutory provision is section 2 of the Game Theft Act 105 of 1991 (the GTA). Section 2(1)(a) of the GTA provides that a person who keeps game on land that is sufficiently enclosed shall not lose ownership of such game if the game escapes from such enclosed land. Section 2(2)(a) provides that land shall be <u>deemed</u> to be sufficiently enclosed if, according to a Certificate of the Premier of the Province or his/her assignee in which the land is situated, it is sufficiently enclosed to confine to that land the species of game mentioned in the Certificate. This is a deeming provision. No such Certificate was issued for the Appellant's property.</p> <p>The Respondent claimed ownership due to the applicability of common law principles, more specifically that of 'res nullius', in terms of which a wild animal that was captured regained its natural State of freedom once it escaped. It reverted to <i>res nullius</i>, with the result that any person could acquire ownership of it anew through occupation. In addition, the Respondent contended that a certificate from the Premier was a prerequisite for the operation of s 2(1)(a) of the GTA and that the Appellant, not having the certificate and because of the operation of the common law, is to be regarded as having lost its rights in relation to the buffalo. The Respondent, who exercised control over the buffalo argued that it was now the owner thereof.</p> <p>On the other hand, the Appellant argued that, despite the escape of the buffalo and the consequences which might otherwise have followed at common law, it, as an organ of State which manages the Reserve, has the right to exercise control over the buffalo and was entitled to the return of the buffalo.</p> <p>The Court <i>a quo</i> found in favour of the Respondent and confirmed that the interpretation of the section which would allow a land owner who has not obtained the Certificate, to show through evidence that the game were in fact sufficiently enclosed, would distort and frustrate the objectives of the Game Theft Act. This Court was also not convinced that on the facts it was necessary or appropriate to develop the common law.</p> <p>The Appellant then appealed this decision.</p>
Judgment	<p>The Supreme Court of Appeal (<b>SCA</b>) upheld the appeal and thus found in favour of the Appellant. It made the following important findings:</p> <ul style="list-style-type: none"> <li>• Deeming provisions must be interpreted contextually and in relation to the legislative purpose. It would be irrational to interpret the deeming provision in a manner that would result in the Certificate being regarded as the sole prerequisite for the protection to be afforded by the GTA. This would defeat the purpose of the GTA, which is to ensure that owners of game who have taken adequate measures to enclose land in order to confine game do not lose ownership in the event of loss of control due to escape.</li> <li>• The production of a Certificate was meant to facilitate proof that the property was sufficiently enclosed to confine the buffalo. It was not meant to prevent owners who had taken the necessary measures to sufficiently enclose game on land from proving that fact.</li> <li>• The SCA concluded that the deeming provision cannot be extended to prevent another form of proof that the property was sufficiently enclosed to confine the buffalo.</li> </ul> <p>Due to the fact that the SCA found in favour of the Appellant in relation to whether or not the certificate is the sole prerequisite for the protection of loss of ownership of game, it was agreed that it was not necessary to investigate whether or not common law should be developed.</p>

<b>Parties</b>	THE STATE V MIDDLEGROUND TRADING, DIRK JACOBUS FOURIE AND DAN WILLIAM WHITEHORN (ACCUSED NO. 1, 2 AND 3) (Case No. RC66/2016)
<b>Court</b>	Potchefstroom Regional Court
<b>Headline</b>	Unlawfulness under a Contractor's agreement: Determining who to charge
<b>Background</b>	<p>Stander Veen CC obtained the required authorisations for activities related to the extraction of peat in 1994. The Accused entered into a contract with Stander Veen CC to extract peat on certain portions of the farm Gerhardminnebron 139-IQ, Potchefstroom on 10 August 2005. An Environmental Management Inspector (EMI) conducted a site visit on 25 July 2011 and observed a huge body of open water and concluded that the peat harvesting was extending beyond what was allowed. He issued a Compliance Notice ordering the termination of all activities where Accused no. 1 was involved.</p> <p>The Accused was then charged in the criminal Court for the following:</p> <ul style="list-style-type: none"> <li>• During the period August 2005 – November 2011 the Accused undertook various listed activities related to the extraction of peat in terms of the National Environmental Management Act 107 of 1998 (NEMA) on portions 2, 4, 8 and 11 of the farm Gerhardminnebron 139-IQ, Potchefstroom without obtaining the required environmental authorisation.</li> <li>• During the period 27 May 2009 to date of judgment, the Accused unlawfully committed acts/ omissions which causes significant pollution or degradation of the environment, also related to the extraction of peat on the above mentioned properties.</li> <li>• The Accused did not comply with a Compliance Notice that was issued to them in November 2011. The Compliance Notice was given regarding portions 2, 4 and 8 of the farm Gerhardminnebron 139-IQ.</li> <li>• The Accused unlawfully and intentionally conducted a water use without obtaining a water use licence in terms of the National Water Act 36 of 1998 (NWA) during the period 10 August 2005 – 28 November 2011 on portions 2, 4, 8 and 11 of the farm Gerhardminnebron 139-IQ, Potchefstroom.</li> </ul> <p>The Accused plead not guilty to all charges and made an application in terms of section 174 of the Criminal Procedure Act 51 of 1977 (CPA) which States as follow: "If at the close of the case for the prosecution at any trial, the Court is of the opinion that there is no evidence that the Accused committed the offence referred to in the charge or any offence of which he may be convicted on the charge, it may return a verdict of not guilty."</p>
<b>Judgment</b>	<p>The Court granted the application in terms of section 174 of the CPA. The Accused were acquitted and discharged on all charges. Stander Veen CC did have the required licence in terms of the Conservation of Agricultural Resources Act 43 of 1983 and the Accused performed as agreed with Stander Veen CC under the premise that they were entitled to do so under the permit granted to Stander Veen CC. The Court found that the State failed to prove that the Accused had knowledge of wrongfulness and the required criminal intent. The Court further found that Stander Veen CC did have control over the Accused's activities due to the fact that Mr. Stander addressed observed non-adherences to the permit during meetings with the Accused. Therefore, Stander Veen CC and its members should've been charged of these offences.</p> <p>The following findings were also made (amongst others):</p> <ul style="list-style-type: none"> <li>• <b>Citing of natural persons in their personal capacity</b></li> </ul> <p>Guilt of an Accused must be proven beyond reasonable doubt, meaning that each element of the crime must be proven beyond reasonable doubt. Accused no. 2 and 3 were cited in their personal capacity and not as representatives of Middleground Trading CC. There is, however, no evidence that any actions stated in the charge sheet can be attributed to Accused no. 2 and 3 in their personal capacities. They are, therefore, entitled to be discharged in respect of all charges.</p> <ul style="list-style-type: none"> <li>• <b>Compliance Notice</b></li> </ul> <p>The Compliance Notice was given regarding portions 2, 4 and 8 of the farm Gerhardminnebron 139-IQ. Portion 11 was not included, although the charge sheet included portion 11 in respect of this charge. Furthermore, the Compliance Notice was issued to Daleen Kruger Trust, Stander Veen CC, Middleground Trading 251 CC and Japie van Zyl Prokureurs. These entities did not all conduct activities on the farm and it is unclear why they were cited. Further, no evidence was presented that the Accused conducted peat harvesting on portions 4 and 8.</p>





LEGISLATIVE DEVELOPMENTS

## 7. LEGISLATIVE DEVELOPMENTS



### 7.1 National Environmental Management Act 107 of 1998

#### 7.1.1 Regulations

- Regulations relating to qualification criteria, training and identification of, and forms to be used by, Environmental Management Inspectors and Environmental Mineral Resource Inspectors: GN R480 in GG 40879 of 31 May 2017
- Section 24G Fine Regulations - GN R698 in GG 40994 of 20 July 2017

#### 7.1.2 Notices

- Appointment of the Environmental Assessment Practitioners Association of South Africa as the single registration authority in terms of section 24h of the National Environmental Management Act, 1998: GN 104 in GG 41434 of 8

February 2018

- Approval of fees for application registration, lodging of appeals and annual fees for registered candidate Environmental Assessment Practitioners and registered Environmental Assessment Practitioners: GN R196 in GG 41485 of 7 March 2018
- Procedure to be followed in applying for environmental authorisation for large scale electricity transmission and distribution development activities identified in terms of section 24(2)(a) of the Act: GN 113 in GG 41445 of 16 February 2018
- Provide for the procedure to be followed in applying for environmental authorisation for large scale wind and solar photovoltaic energy development activities, identified in terms of section 24(2)(a) of the Act: GN 114 in GG 41445 of 16 February 2018
- GPEMF Standard, 2018: GN 164 in GG 41473 of 2 March 2018

#### 7.1.3 Draft Regulations and Notices

- Draft regulations laying down the procedure to be followed for the adoption of environmental management instruments: GN 987 in GG 41114 of 15 September 2017
- Proposed regulations pertaining to the financial provision for prospecting, exploration, mining or production operations: GN R1228 in GG 41236 of 10 November 2017
- Proposed National Guideline on Minimum information Requirements for Preparing Environmental Impact Assessments for Mining Activities that Require Environmental Authorisation : GN 86 in GG 41432 of 9 February 2018
- Notice of intention to adopt the IEMP for the SKA phase 1 for public comment: GN 213 in GG 41498 of 16 March 2018
- Consultation on the generic environmental management programme applicable to an application for overhead electricity transmission and distribution infrastructure for which an environmental authorisation is required: GN 162 in GG 41473 of 2 March 2018
- Notice of intention to publish the generic environmental management programme for the substation development and expansion: GN 163 in GG 41473 of 2 March 2018



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

### 7.2.1 Regulations

- National Pollution Prevention Plans Regulations, 2017: GN 712 in GG 40996 of 21 July 2017

### 7.2.2 Notices

- Declaration of greenhouse gases as priority air pollutants: GN 710 in GG 40996 of 21 July 2017

### 7.2.3 Draft Regulations and Notices

- Notice of intention to amend the 2012 National Framework for Air Quality Management in the Republic of South Africa: GN 518 in GG 41650 of 25 February 2018

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

### 7.3.1 Regulations

- Threatened or Protected Marine Species Regulations: GN R477 in GG 40876 of 30 May 2017

### 7.3.2 Notices

- Lists of marine species that are threatened or protected, restricted activities that are prohibited and exemption from restriction: GN 476 in GG 40875 of 30 May 2017
- Policy on boat-based whale and dolphin watching: GN R479 in GG 40878 of 31 May 2017
- Policy on white shark cage diving: GN 478 in GG 40878 of 31 May 2017
- Biodiversity Management Plan for eleven critically endangered and four endangered *Encephalartos* Cycad species: General Notice 315 in GG 40815 of 28 April 2017
- Biodiversity Management Plan for Pickersgill's Reed Frog (*hyperolius pickersgilli*): General Notice 423 in GG 40883 of 2 June 2017
- Biodiversity Management Plan for Cape Mountain Zebra (*Equus Zebra Zebra*): GN 197 in GG 41488 of 9 March 2018
- Draft Biodiversity Management Plan (BMP) for Bontebok (*Damaliscus pygargus pygargus*) in South Africa: GN 889 in GG 41249 of 14 November

2017 - Public participation

### 7.3.3 Draft Regulations and Notices

- Proposed period of amnesty to facilitate compliance with the provisions of Chapter 6 of the Act and the Bioprospecting, Access and Benefit Sharing Regulations, 2015: GN 1155 in GG 41220 of 1 November 2017
- Proposed Biodiversity Management Plan for the Bontebok (*Damaliscus Pygargus Pygargus*) in South Africa: General Notice 889 in GG 41249 of 14 November 2017
- Consultation on an integrated biotrade and bioprospecting permit application on traditional knowledge associated with the use of *Sclerocarya Birrea* (Marula, Mufula, Morula, Ukanyi): GN 1258 in GG 41253 of 15 November 2017
- Draft Alien and Invasive Species Regulations: GN 112 in GG 41445 of 16 February 2018
- Draft amendments to the Alien and Invasive Species Lists: GN 115 in GG 41445 of 16 February 2018
- Non-detriment finding for African lion (*Panthera leo*) for implementation: GN 19 in GG 41393 on 23 January 2018

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

### 7.4.1 Regulations

- Dumping at Sea Regulations: GN 711 in GG 40996 of 21 July 2017
- Reclamation of Land from Coastal Waters Regulations, 2018: GN R206 in GG 41489 of 9 March 2018

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

### 7.5.1 Regulations

- Norms and Standards for the inclusion of Private Nature Reserves in the Register of Protected Areas of South Africa: GN R1157 in GG 41224 of 3 November 2017
- Cultural heritage survey guidelines and assessment tools for protected areas in South Africa: GN 1356 in GG 1356 of 8 December 2017

### 7.5.2 Draft Regulations and Notices

- Draft notice declaring the Robberg Marine Protected Area: GN 704 in GG 40996 of 21 July 2017
- Draft regulations for the management of the Robberg Marine Protected Area: GN 705 in GG 40996 of 21 July 2017
- Draft Notice declaring the Betty's Bay Marine Protected Area: GN 706 in GG 40996 of 21 July 2017
- Draft notice declaring the Goukamma Marine Protected Area: GN 707 in GG 40996 of 21 July 2017
- Draft regulations for the management of the Goukamma Marine Protected Area: GN 708 in GG 40996 of 21 July 2017
- Draft Regulations for the Management of the Betty's Bay Marine Protected Area: GN 709 in GG 40996 of 21 July 2017
- GN 528 in GG 40887 of 2 June 2017
- Proposed regulations regarding the control of the import or export of waste: GN 1147 in GG 41213 of 30 October 2017
- Proposed regulations to exclude a waste stream or a portion of a waste stream from the definition of waste: GN 14 in GG 41380 of 12 January 2018

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

### 7.6.1 Regulations

- Waste Tyre Regulations, 2017: GG 10664 in GG 41157 of 29 September 2017
- National norms and standards for the sorting, shredding, grinding, crushing, screening or baling of general waste, 2017: GN 1093 in GG 41175 of 11 October 2017

### 7.6.2 Notices

- High Court grants Minister of Environmental Affairs Dr. Edna Molewa order to wind down and liquidate REDISA: GN 530 in GG 40890 of 5 June 2017
- Call on tyre industry to prepare and submit an industry waste tyre management plan to the Minister for approval: GN 1148 in GG 41213 of 30 October 2017
- Call on the paper and packaging industry, electrical and electronic industry and lighting industry to prepare and submit industry waste management plans to the Minister for approval: GN 1353 in GG 41303 of 6 December 2017

### 7.6.3 Draft Regulations and Notices

- Proposed regulations to exclude waste streams from the definition of waste:





INDUSTRIAL COMPLIANCE AND ENFORCEMENT





## environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA



## 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
- Identified landfill sites

A summary of monitoring and enforcement actions, 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 through specifically compliance and enforcement interventions.

### NECER 2017-2018: 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 Licence
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	<b>Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process</b>
FERRO-ALLOY, IRON AND STEEL	
Assmang Machadodorp, Mpumalanga Province	<p>A follow-up inspection was conducted at Assmang Machadodorp on 4 to 5 April 2017. It must be noted that the facility was not operational at that time, therefore the inspection mainly focused on waste and water management. The following non-compliances were noted:</p> <ul style="list-style-type: none"> <li>• Non-compliances to conditions of the WML including lack of monitoring at some of the stipulated boreholes;</li> <li>• Non-compliances to the WUL;</li> <li>• Storage of raw materials such as manganese fines and slag on unlined areas, posing risk to water resources and the soil;</li> <li>• Seepage of contaminated water from the unlined Historical Slag dump onto ground and surface water;</li> <li>• Poor and inadequate stormwater management; and</li> <li>• Activities on site contravening provisions of Section 16 of NEM:WA.</li> </ul> <p>The Inspection Report has been finalised and going through internal processes to determine way forward.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 49 of NECER 2010-2011; Page 46 of NECER 2011-2012; Page 46 of NECER 2012-2013; and Page 47 of NECER 2013-2014.</p>

**Arcelor-Mittal  
Newcastle Works,  
KwaZulu-Natal**

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 DEA then decided to amend the original PCN in order to address the non-compliances occurring on the premises of ArcelorMittal Newcastle.

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 DEA in relation to, *inter alia*, the need for operators utilising the Blast Oxygen Furnace Slag to be in possession of waste management licences. 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 were dismissed by the Director General and Minister respectively.

The matter is currently being dealt with by the Department's Directorate: Litigation as ArcelorMittal has approached the court for a review of the matter. The court found in favour of ArcelorMittal and said decision is now being taken on review to the Supreme Court of Appeal.

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

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;

Page 44 of NECER 2014-2015; and

Page 44 of NECER 2015-2016.

**BHP Billiton  
Metalloys  
Meyerton, Gauteng  
(Now known as  
South 32)**

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.

South 32 has, however, drafted an Action Plan on how it will address the problems associated with historical unlined disposal sites.

DEA issued South 32 with a PCN on 04 March 2016. Representations from South 32 were received.

A compliance notice was issued to the facility on 11 May 2016 and representations were received. The Department together with the DWS approved the facility's Integrated Rehabilitation and Remediation Plan in January 2018.

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

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;

Page 44 of NECER 2014-2015; and

Page 44 of NECER 2015-2016.

<p><b>Transalloys (Pty) Ltd, Mpumalanga</b></p>	<p>Subsequent to a review of the representations provided in response to the PCN dated 18 March 2016, the DEA decided to conduct a follow-up inspection at the facility in order to verify the commitments made, as well as to determine the status of compliance. The follow-up inspection was conducted at the facility on 30 and 31 January 2018. The DEA is still in a process of analysing all the data and information gathered, following which a decision will be made on how to proceed with the matter.</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;</p> <p>Page 46 of NECER 2014-2015;</p> <p>Page 56 of NECER 2015-2016; and</p> <p>Page 53 of NECER 2016-2017</p>	<p><b>Samancor Tubatse Ferrochrome, Mpumalanga Province</b></p>	<p>A follow-up compliance inspection was conducted on 22 and 23 August 2017. The following were observed:*</p> <ul style="list-style-type: none"> <li>• Failure to comply with conditions of the AEL, WMLs and WUL;</li> <li>• Areas used for storage of hazardous waste and raw materials such as coal are not lined to prevent pollution of soil and water resources;</li> <li>• Quality of groundwater on site is not showing significant improvement as some scavenger boreholes continue to reflect a statistically increasing trend of Cr<sup>6+</sup> since 2010.</li> </ul> <p>The inspection report had been finalised and going through internal departmental processes to determine the way forward.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 42 of NECER 2010-2011;</p> <p>Page 40 of NECER 2011-2012;</p> <p>Page 40 of NECER 2012-2013; and</p> <p>Pages 46 – 47 of NECER 2013-2014.</p> <p>*The facility has not yet been afforded an opportunity to make representations on the findings contained in the report.</p>
<p><b>Samancor Ferrochrome Middleburg</b></p>	<p>A follow-up compliance monitoring inspection was conducted at the facility on 24 to 25 October 2016. Subsequent to this inspection, a S31H NEMA notice was issued to the facility on 30 November 2016 requesting further information to prove compliance. The report was finalised and is being taken through internal departmental processes to decide on the way forward.</p> <p>The criminal case will be heard in the Middleburg Regional court on 05 November 2018.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 41 of NECER 2010-11</p> <p>Page 38 of NECER 2011-12</p> <p>Page 38 of NECER 2012-13</p> <p>Page 56 of NECER 2015-16</p> <p>Page 52 of NECER 2016-17</p>	<p><b>ArcelorMittal Vanderbijlpark, Gauteng</b></p>	<p>A PCN dated 14 March 2018 was issued to the facility by DEA in respect of the air pollution contraventions related to the site. DEA is in the process of reviewing the representations received in response thereto dated 26 April 2018.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 26 of NECER 2008-2009;</p> <p>Page 44 of NECER 2010-2011;</p> <p>Page 42 of NECER 2011-2012;</p> <p>Page 42 of NECER 2012-2013; and</p> <p>Page 53 of NECER 2016-2017.</p>

<b>DMS Powders</b>	<p>An inspection was conducted at this facility on 30 August 2016. Findings of the inspection included the following:*</p> <ul style="list-style-type: none"> <li>• Excessive exceedances of the PM minimum emission standards;</li> <li>• Insufficient/ lack of dust management measures on site leading to excessive dust from Raw Materials Storage Area and the Final Products Storage Area;</li> <li>• Non-compliances with conditions of the WML and the AEL.</li> </ul> <p>*The facility has not yet been afforded an opportunity to make representations to the findings contained in the report.</p>
<p><b>Xstrata Wonderkop, North West</b></p> <p><b>Now known as Glencore – Wonderkop Smelter</b></p>	<p>Following a review of all the information pertaining to the facility, DEA issued the facility with a letter dated 12 February 2018 requesting further detailed information regarding the non-compliances previously identified at the facility. The intention of the request was for DEA to gather information regarding the facility's current level of compliance.</p> <p>On 21 February 2018 the facility provided DEA with its response to the aforementioned letter.</p> <p>DEA has reviewed the information and is currently in a process of making a decision on the way forward on the matter.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can 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><b>Xstrata Wonderkop, North West</b></p> <p><b>Now known as Glencore – Wonderkop Smelter</b></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;</p> <p>Page 46 of NECER 2014-2015; and</p> <p>Page 55 of NECER 2015-2016.</p>

REFINERIES	
<p><b>Sasol South Africa (Pty) Ltd: Sasolburg Operations</b></p>	<p>Subsequently, during March 2017 the facility submitted a second postponement application to DEA for the emission limits contained in its AEL. DEA then decided to issue the facility with a section 31H notice dated 02 May 2017 which requested further information. The information requested in the notice was based on the following developments on the matter:</p> <ul style="list-style-type: none"> <li>• The shutdown of the incinerators associated with the Thermal Oxidation Plant;</li> <li>• The facility's intention to commence with the operation of the incinerators; and</li> <li>• The facility's second postpone applications.</li> </ul> <p>The facility provided DEA with its representations dated 19 May 2017.</p> <p>Following a review of the information provided, and upon request by the facility additional meetings were held between officials of DEA and representatives of the facility. This eventually led to a second PCN dated 13 February 2018 being issued to facility. The primary focus of the PCN was to address the facility's intention to commence with the operation of the incinerators associated with the Thermal Oxidation Plant.</p> <p>In a letter dated 23 February 2018 the facility provided DEA with its representations to the PCN. This representation indicated that the facility had applied for a postponement to the emission limits that are set in their AEL for various pollutants. Upon further enquiry it was established that this application was approved, however, the local authority concerned still needs to incorporate this approval within the ambit of their AEL. Given the abovementioned situation a decision was made to close out the issues that were raised in the PCN.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 53 of NECER 2016-2017.</p>

<b>PetroSA Refinery, Western Cape</b>	<p>Following the inspection that had been conducted on 28 and 29 April 2015 and the issuance of a pre-compliance notice dated 8 July 2016 in terms of S31L of NEMA, DEA is now planning to follow up on PetroSA's undertakings stipulated in its representations.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can 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;</p> <p>Page 36 of NECER 2012-2013;</p> <p>Page 58 of NECER 2015-2016; and</p> <p>Page 54 of NECER 2016-2017.</p>
<b>Chevron Refinery, Western Cape</b>	<p>A follow-up inspection was conducted at the facility on 23 and 24 May 2017. The following non-compliances were noted:*</p> <ul style="list-style-type: none"> <li>• A few non-compliances to the AEL and WML;</li> <li>• A closed historic waste disposal area which was operated without the required permit in terms of Section 20(1) of the ECA;</li> <li>• An area on site infested with Port Jackson (<i>Acacia Saligna</i>) an Alien Invasive Species under NEM:BA Regulations; and</li> <li>• Storage of crude oil tanks on an unlined area.</li> </ul> <p>An inspection report has been issued to the facility and an Action Plan to address the findings is awaited.</p> <p>In addition, the DEA's Branch Chemicals and Waste Management is assisting the facility to address the waste management-related non-compliances to bring the facility into compliance.</p> <p>Discussion on previous compliance and enforcement activities related to this facility can be found in previous NECER publications as follows:</p> <p>Page 27 of NECER 2008-2009;</p> <p>Page 25 of NECER 2009-2010;</p> <p>Page 39 of NECER 2010-2011; and</p> <p>Page 36 of NECER 2011-2012.</p> <p>*The facility has not yet been afforded an opportunity to make representations to the findings contained in the report.</p>

POWER GENERATION	
<b>Eskom Kendal Power Station</b>	<p>A follow-up inspection was conducted at Eskom Kendal Power Station on 5 and 6 December 2017. The following non-compliances were observed:*</p> <ul style="list-style-type: none"> <li>• Non-compliance to conditions of the AEL;</li> <li>• Non-compliance to conditions of the WUL;</li> <li>• Air Quality emissions exceeding the AEL limits;</li> <li>• Conducting EIA listed activities without the required authorisations;</li> <li>• Undertaking water uses without the required WULs; and</li> <li>• Unlined waste water dams posing risks to soil and water resources.</li> </ul> <p>The DEA has decided to address these issues by way of issuing enforcement notices.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 55 of NECER 2016-2017.</p> <p>*The facility has not yet been afforded an opportunity to make representations to the findings contained in the report.</p>
<b>Eskom Lethabo Power Station</b>	<p>After analysing the information contained in the inspection report, DEA decided that further information was required to determine the current level of compliance of the facility. In light of the above, DEA sent a letter dated 17 October 2017 to the facility requesting further information. On 25 October 2017 the facility provided DEA with its response to the request. Following a review of the information provided as well as the findings contained in the inspection report, DEA issued the facility with a PCN dated 15 February 2018. In a letter dated 07 March 2018 the facility requested an extension of time for the submission of its representations to the PCN. The representations were received and the possible non-compliances will be addressed within the bigger sector based compliance and enforcement exercise that will take place in the latter part of the 2018/2019 financial year</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 24 of NECER 2009-2010;</p> <p>Page 53 of NECER 2010-2011;</p> <p>Page 49 of NECER 2011-2012;</p> <p>Page 48 of NECER 2012-2013;</p> <p>Page 54 of NECER 2013-2014; and</p> <p>Page 55 of NECER 2016-2017.</p>



<b>Eskom Majuba Power Station</b>	<p>DEA Branch Chemicals and Waste is assisting the facility to come into compliance on contraventions/ findings relating to waste found during an inspection conducted on 5 and 6 September 2016. Discussions on recommendations on the way forward related to the other findings are currently underway.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 55 of NECER 2016-2017.</p>
<b>Eskom Medupi Power Station</b>	<p>A S31H NEMA Notice dated 12 October 2017 was issued to the facility and a response was received on 1 November 2017. In addition the facility provided an action plan to address the findings which are being continuously monitored. Findings relating to NWA contraventions were referred to the DWS.</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 55 of NECER 2016-2017.</p>
<b>Eskom Camden Power Station, Mpumalanga</b>	<p>A follow-up inspection was conducted at Eskom Camden Power Station on 17 to 18 October 2017. The following were found:*</p> <ul style="list-style-type: none"> <li>• Failure to comply with conditions of the WML, AEL and WUL;</li> <li>• Commencement of EIA listed activities including diversion of a stream and placing a construction camp on a wetland without the required authorisations;</li> <li>• Undertaking water use activities without the required WULs;</li> <li>• Unlined waste water dams posing pollution risk to water resources and soil; and</li> <li>• EMIs were informed that the facility's emission monitoring results are not correct and/ or true reflection of emissions on site. This was as a result of the facility experiencing technical challenges because the monitoring system was not functioning properly.</li> </ul> <p>A PCN was issued and the representations are due in September 2018.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 50 of NECER 2011-2012; and</p> <p>Page 49 of NECER 2012-2013</p> <p>*The facility has not yet been afforded an opportunity to make representations to the findings contained in the report.</p>

LANDFILLS	
<b>EnviroServ Shongweni Landfill Site, KwaZulu-Natal</b>	<p>In light of all the mitigation measures being implemented at the facility through the various processes being undertaken by DEA, the following additional site inspections were conducted:</p> <ul style="list-style-type: none"> <li>• 15 May 2017;</li> <li>• 19 July 2017;</li> <li>• 05 September 2017;</li> <li>• 20 September 2017;</li> <li>• 04 December 2017; and</li> <li>• 16 March 2018.</li> </ul> <p>In addition to the above, numerous technical meetings have been held between officials from DEA and representatives from the facility. Said meetings were held to obtain a status update on the mitigation measures being implemented at the facility, and to discuss the effectiveness of said measures in reducing the odour impacts associated with the facility.</p> <p>In compliance with the instructions contained in the CN the facility submitted the following documents for approval:</p> <ul style="list-style-type: none"> <li>• A Technical Assessment Report; and</li> <li>• A detailed Odour and Gas Management Plan.</li> </ul> <p>After reviewing the aforementioned documents, DEA issued the facility with the following approvals:</p> <ul style="list-style-type: none"> <li>• A letter dated 07 April 2017, which approved certain mitigation measures as contained in the Technical Assessment Report, for implementation at the facility; and</li> <li>• A letter dated 14 June 2017 which approved certain mitigation measures as contained in the Odour and Gas Management Plan.</li> </ul> <p>It must be noted that DEA has also formally communicated with the Upper Highway Air ("UHA"), as well as the South African Human Rights Commission ("SAHRC") regarding DEA's involvement in the matter, as well as the mitigation measures being implemented.</p> <p>DEA is currently closely monitoring the effectiveness of the mitigation measures being implemented at the facility. In addition to the above, the criminal case against the facility is still in process. DEA has also been drawn into numerous litigation processes regarding this matter.</p> <p>Discussions on previous compliance and enforcement activities related to this facility can be found in the previous NECER publications as follows:</p> <p>Page 56 of NECER 2016-2017.</p>

<p><b>FG Landfill Site, Gauteng</b></p>	<p>There are currently 4 processes running in relation to this matter:</p> <ol style="list-style-type: none"> <li>1. Appeal to the SCA – validity of their Waste Management Licence (GDARD);</li> <li>2. Interlocutory Application (GDARD);</li> <li>3. Internal Appeal – awaiting decision from Minister; and</li> <li>4. Criminal case docket registered and submitted to the Director of Public Prosecutions for a decision.</li> </ol>
<p><b>EnviroServ Aloes Landfill Site, Eastern Cape</b></p>	<p>A follow-up inspection was conducted at EnviroServ Aloes Landfill Site on 30 May 2017. The following contraventions/non-compliances were found:*</p> <ul style="list-style-type: none"> <li>• Non-compliances to conditions of the WMLs</li> <li>• Failure to comply with certain provisions of the NEM: WA as a result of waste management activities at the facility.</li> </ul> <p>Inspection report has been finalised and forwarded to DEA Branch Chemicals and Waste for consideration and decision on way forward.</p> <p>*The facility has not yet been afforded an opportunity to make representations to the findings contained in the report. The findings may however change depending on the submissions.</p>
<p><b>Averda Vlakfontein Landfill Site, Gauteng</b></p>	<p>A baseline inspection was conducted at Averda Vlakfontein Landfill Site on 17 July 2018. The following non-compliances were found:*</p> <ul style="list-style-type: none"> <li>• Records provided on site showed that the construction activities commenced after the WML had lapsed. No records were made available to show that the WML validity period was extended.</li> <li>• Records to demonstrate that the WML was transferred to Averda for Vlakfontein site were not provided</li> <li>• Significant non-compliances to WML conditions including failure to demonstrate that liner designs were approved, minimum freeboard of the Leachate Dam not met, co-disposal ratios not meeting the stipulated requirements</li> <li>• Waste Storage Facility not registered in terms of the Norms and Standards for Storage of Waste</li> <li>• Activities on site contravening Section 28 of NEMA</li> <li>• Failure to comply with certain provisions of the NEM:WA as a result of some activities on site</li> <li>• Certain activities on site that may constitute Water Use Activities in terms of Section 21 of NWA.</li> </ul> <p>DEA Branch Chemicals and Waste is assisting the facility to come into compliance. Contraventions of the NWA have been referred to DWS.</p> <p>*The facility has not yet been afforded an opportunity to make representations to the findings contained in the report. The findings may however change depending on the submissions.</p>

<p><b>DCLM</b></p>	<p>A compliance inspection was done at this facility on the 24<sup>th</sup> of October 2017. A PCN was issued and representations were made by the facility. The report as well as the representations from the facility are with the DEA Waste and Chemicals Branch for consideration and verification of the respective responses.</p>
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## 8.2 Criminal prosecutions - no escape for environmental polluters

### 8.2.1 State vs blue platinum venture and another (Ienyenye regional court case no: 126/2013)

#### BACKGROUND

The two accused (Blue Platinum Venture and Mr Maponya) pleaded guilty in terms of section 112 of the CPA for contravention of Section 24F of NEMA. The Court, pursuant to a guilty plea, convicted and sentenced Accused nr 2 (Mr Maponya) but omitted to pronounce on the merits in relation to Accused nr 1 (Blue Platinum Venture) and did not impose any sentence on Accused nr 1. Accused nr 2 was sentenced to 5 years imprisonment which is wholly suspended for a period of five years on condition that the accused is not convicted again for contraventions of Section 24F of NEMA and that the accused rehabilitates all five areas that were damaged by the mining activities by 30 April 2014.

The complainant informed the National Prosecution Authority that the accused failed to rehabilitate the sites adequately. DEA brought this issue, together with the fact that no conviction or sentencing were imposed on accused nr 1 to the attention of the Director of Public Prosecution which, in turn, took the matter for review to the High Court of South Africa, North Gauteng Division (Case nr: Review 260/15). The High Court ordered the Regional Magistrate who presided at the trial to consider whether or not to convict accused nr 1 on its plea of guilty and, if applicable, to impose a sentence on Accused nr 1.

The State served the summons on accused nr 1 to appear in Court to enable the Court to convict and to impose a sentence on Blue Platinum Venture. The State also served a summons on accused nr 2 for contempt of court due to his failure to rehabilitate the sites as ordered by the court.

#### JUDGEMENT

Accused nr 1 was found guilty. The Court also ordered accused nr 1 to reha-

bilitate the 5 areas that were damaged by the mining activities. The State recommended that accused nr 1 should submit a Rehabilitation Plan which is to be compiled by a rehabilitation expert, as well as the implementation thereof while being monitored by DEA on a monthly basis. Accused nr 1 should also report to the court on the progress made with rehabilitation by its next court appearance. Accused nr 1 was not sentenced and the contempt of court charge against accused nr 2 as well as the sentencing of accused nr 1 were postponed pending the finalisation of rehabilitation of all sites.

#### *Rehabilitation progress*

EMLs are monitoring the progress made in rehabilitating the affected areas. Rehabilitation is currently completed at Hilltop 1 and Kgosi's pit and the accused continues to maintain the area. At Hilltop 2 rehabilitation is only partially completed. The following challenges were encountered during the implementation of the Rehabilitation Plan:

- Lack of rehabilitation experts to provide proper advice;
- Change in climate i.e. Heavy rainfalls; and
- Erosion which destabilises vegetation growth.



**Hilltop 1: Before rehabilitation**



**Hilltop 1: After Rehabilitation**

### 8.2.2 State v John Henry Deale Kroonstad Regional Court Case 95/2014

#### *Background*

EMLs executed a search warrant on 29 October 2012 at 26 Shochet Street, Parys, Free State. Information was received that, amongst other types of waste, health care risk waste was stored without the required authorisation. Upon further investigation EMLs also found a so-called pyrolysis oven burning waste. This facility did not have any environmental authorisations in place and a criminal case was registered. A Compliance Notice was also issued in order to facilitate clean-up.

The Accused pleaded not guilty to all charges and the case was set down for trial. After the State closed its case the Accused made an application in terms of section 174 of the CPA.

#### *Judgment*

The Court did not grant the application in terms of section 174 of the CPA, except for Count 4, which stated that the Accused did not take all reasonable measures to prevent any employee or any person under his or her supervision from contravening this Act.



The Accused were found guilty on four counts, including non-compliance to the Compliance Notice. The Accused was sentenced as follows:

- Count 1 to 3: 3 Million or 3 years imprisonment wholly suspended for 5 years.
- Count 4: 1 Million or 1 year imprisonment of which R900 000 /6 months is suspended.



Warehouse where health care risk waste had been stored



Burned waste from the pyrolysis oven disposed of on the ground



The pyrolysis oven that was used to burn waste



Schedule 5 medicine also found amongst the waste

### 8.2.3 State vs Oil Separation Northern Province CC and another (Mokopane Regional Court case no: sh64 -2016) and NDPP vs Oil Separation Northern Province cc (Mokopane Regional Court case no:751/2017)

#### BACKGROUND

EMIs from DEA Compliance received a tip-off regarding the illegal collection, storage and disposal of hazardous waste from mines. The waste was collected from different mines around Limpopo Province and then transported and stored at a facility of Oil Separation Northern Province where it was sorted. A site inspection was conducted by EMIs and a report was forwarded to DEA Enforcement. An onsite investigation was conducted and evidence was gathered. It was discovered during the investigation that the Accused commenced with waste management activities in 1996. The Accused was informed by the then DWAF to apply for a Waste Permit in 2002. The Accused failed to submit the application to DWAF. In July 2005 the Accused submitted a section 24G application for the rectification of unlawful development of a waste transfer station. An exemption for the rectification under section 24G was issued by Limpopo Department of Economic Development, Environment and Tourism (LEDET) in June 2008. The Close Corporation and its sole member were charged with the following offences:

1. Count 1- contravention section 20(1) read with sections 1, 29(4) and 30 of the ECA: Operating a waste disposal site without a permit;
2. Count 2- contravention section 20(b) read with sections 1, 19, 67(1)(a) and section 68(1) of the NEM:WA: conducted a waste management activity: the storage of hazardous waste at the facility that has a capacity to store in excess of 35 cubic meters at any one time, without a waste management licence;
3. Count 3- contravening section 20(b) read with section 1, 19, 67(1)(a) and section 68(1) of the NEM:WA: conducted a waste management activity: the storage of hazardous waste in a lagoon, without a waste management licence
4. Count 4 - contravention section 26(1)(a) read with section 1, 19, 67(1)(a) and section 68(1) of the NEM:WA: disposal of hazardous waste in the storm water outlet then to the environment;
5. Count 4 - contravention section 26(1)(a) read with section 1, 19, 67(1) (a) and section 68(1) of the NEM:WA: unlawfully and intentionally disposed of

hazardous waste in a manner that is likely to cause pollution of the environment.

Both the Accused pleaded not guilty to all charges and the case was set down for trial. The State called 13 witnesses to testify. After the State closed its case the Accused made an application in terms of section 174 of the CPA.

#### JUDGEMENT OF SECTION 174 APPLICATION

The Court granted the application in terms of section 174 of the CPA. Accused no 2 was acquitted of all counts and Accused no 1 was acquitted on all counts except for count 2. The Court's reasoning was as follows:

1. Accused no 2 was acquitted because he was operating the business in the interest of Accused no 1.
2. Count 1: The Accused was authorised by section 24G exemption issued to him by LEDET. The Court read section 20(1) with section 21 and section 22 of ECA.
3. Count 3: The Court had declined to make a finding on the "lagoon". The Court further indicated that both Count 2 and 3 constitute one count as they both require a WML.
4. Count 4 and 5: The Court said that the EMI failed to take samples to prove that the waste that was discharged in a storm water outlet to the environment was hazardous waste.

#### ACCUSED'S CASE

The Accused testified and, under cross examination, he admitted to conducting waste management activities but his defence was that his business was authorised by the section 24G exemption.

#### JUDGEMENT

Accused no 1 was found guilty on Count 2. The Court's reason was that the Accused was required to comply with the NEM:WA when it came into operation in July 2009. The Accused was sentenced to a fine of R200 000 (Two Hundred Thousand Rand) of which R150 000 (Hundred and Fifty Thousand Rand) was suspended for 5 years on condition that it does not contravene NEM:WA.



### CONFISCATION ORDER

After the Accused was convicted, but before the sentence the State applied for a confiscation enquiry order in terms of section 18(1) of the Prevention of Organised Crime Act 121 of 1998 (POCA) which was granted. The EMI investigator was responsible for the drafting of affidavits on behalf of the State. The State further applied for a Restraining Order compelling surrender of property in terms of section 26 of POCA, which was granted by the High Court of South Africa, Limpopo Division, Polokwane.

The State's argument was that the Accused benefited from conducting illegal waste management activities. As and when the Accused, through its servants collected the waste from the mines, money was paid to the Accused by the respective mines. The Accused therefore received monies from the mines in connection with the collection of the waste. Such monies was received in connection with the illegal activity because the Accused did not have the necessary licence to collect, store and treat the waste as he did in this case. The Investigator gathered the evidence to prove the benefit.

The Court granted the confiscation order for R850 000 (Eight hundred and Fifty Thousand Rand) against the Accused.



Empty 210 liter steel drums and old batteries



Grease and oil sludge



The area where used oil are poured into to facilitate water and oil separation





27:Oil/sludge separation process in the pond



Skips containing used oil rags and sludge

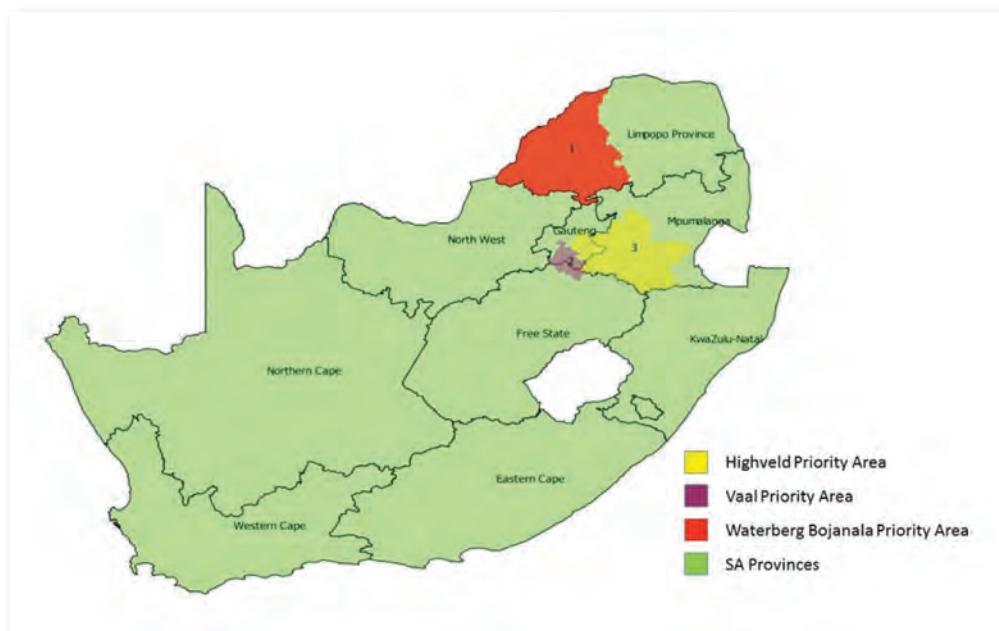
### 8.3 Air Quality Management: Vaal Triangle Air-shed Priority Area “To breathe or not to breathe”

#### Introduction

South Africa is a developing country which is enriched with natural resources. These natural resources have, since the late nineteenth century, attracted international attention and investment in the country. Along with the attention and investment came large-scale immigration into the country, which in turn demanded a forced industrial development, and led to the beginning of the “Industrial Revolution in South Africa”.

Since then, numerous industries and processing plants have concentrated in certain areas within the country. Industries and processing plants have been operating in these areas without any system of environmental control, which continuously led to environmental pollution and degradation. This occurred until approximately 1965, when the first environmentally focussed legislation, in the form of the Atmospheric Pollution Prevention Act (APPA), was promulgated. Following the promulgation of APPA, numerous other pieces of environmental legislation were promulgated. Although legislation existed from as early on as 1965, compliance and enforcement with this legislation had a fairly slow start and gained momentum only during the early 2000s. This left a huge gap during which time the industrial sector was not properly regulated.

As such, numerous areas within South Africa have become highly polluted. One such area, which has since been legally identified and promulgated as a “Priority Area”, is the area situated in and around the Vaal in the Free State province. In 2006 the said area had been identified and promulgated as a Priority Area in terms of section 18(1) of the NEM:AQA, and is now known as the “Vaal Triangle Air-shed Priority Area”.



### Vaal Triangle Air-shed Priority Area ("VTASPA"):

There are a number of industries located in this area which, although regulated, are still contributing to the air pollution within this area. To date, the Department of Environmental Affairs ("DEA") along with other Provincial Departments and Local Authorities have conducted numerous inspections at various facilities. During these inspections a number of air quality related non-compliances and matters of concern were identified, which included the following:

- Non-compliance with the conditions prescribed in the facilities' AELs;
- Possible unlawful and intentional or negligent commission or omission of an act which has the potential to cause significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment; and
- The facilities' possible unlawful and intentional or negligent commission or omission of any act which has the potential to detrimentally affect or is likely to detrimentally affect the environment.



After identifying the non-compliances and matters of concern during the inspections, DEA initiated an enforcement process by way of affording industry an opportunity to make representations. At the time of writing this article the facilities were still within the time period for making submissions in response to the findings made during these inspections. However, and once the representations have been received and analysed, DEA will make a decision on the way forward with regards to its enforcement strategies.

This project marks one of the important exercises that will be monitored closely in the air quality space and a concerted effort will be made in subsequent NECER reports to keep readers updated in terms of the outcomes.

#### 8.4 General landfill sites project

##### Introduction

This project focused on assessing compliance at municipal general landfill sites identified and prioritised by provincial authorities. Municipal landfill sites were identified for inspections due to poor management of the sites leading to negative environmental impacts and negative impacts on health and well-being of surrounding communities. In some instances, these sites are known for repeated non-compliances to environmental legislation and complaints from the public.

In addition to the compliance and enforcement work conducted by provinces at general landfill sites, blitz operations had been conducted at 22 landfill sites across the country during 2014/15 financial year. While improvements were noted at a few landfill sites subsequent to these operations, compliance across the sector remains generally low. Most municipalities cite lack of funds as a contributing factor to the poor status of the landfill sites.

During 2017/18 Financial Year, 75 sites were inspected as follows:

- Gauteng: 3 Sites
- North West: 2 sites
- Limpopo: 25 sites
- Northern Cape: 5 sites
- KwaZulu Natal: 6 sites
- Eastern Cape: 7 sites

- Mpumalanga: 5 sites
- Western Cape: 18 sites (inspected by Waste Line Function)
- Environmental Protection and Infrastructure Programmes (EPIP) Funded: 4 sites (these are sites which received funding for infrastructure development)

##### Inspection outcomes

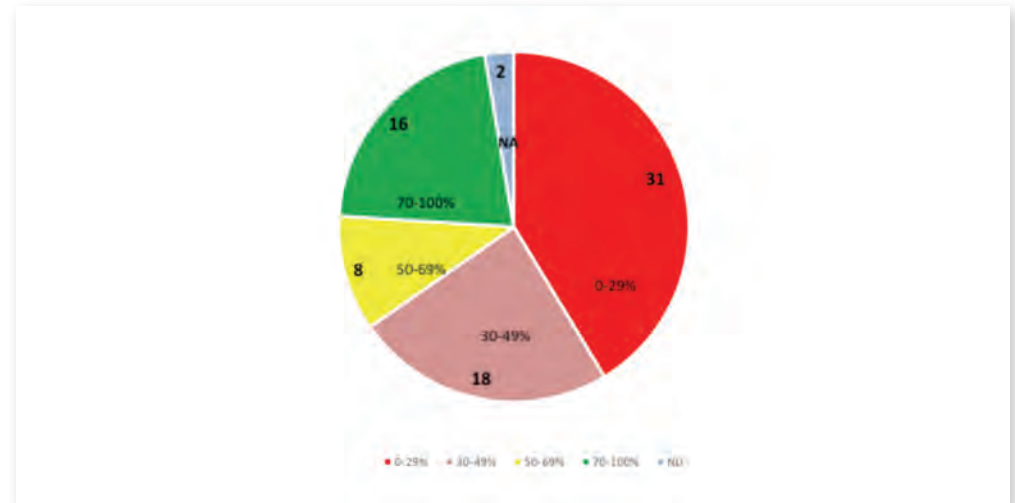


Figure 1: Percentage Compliance to Waste Management License/ Permit Conditions (\* NA= Not applicable)

As shown in the figure above, 49 of the 75 sites inspected attained less than 50% compliance to license/permit conditions. Only 16 achieved 70% and above.



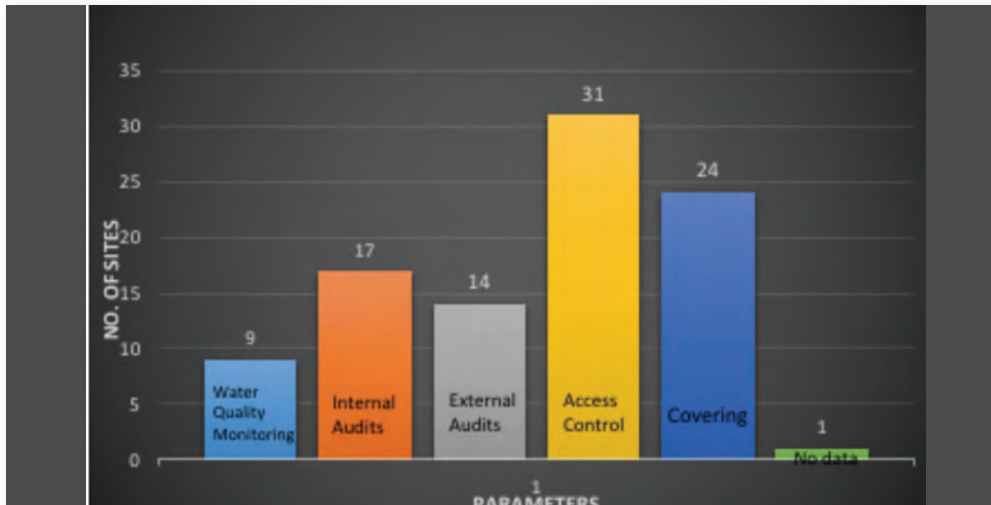


Figure 2: Number of sites achieving operating requirements

\* No data= site under construction

As shown in the figure above, only 9 of the 75 sites are conducting water quality monitoring (surface and groundwater). External audits are conducted at 14 sites while internal audits are conducted at 17 sites. Access is controlled at 31 sites while waste is covered at 24 sites. Due to the absence of access control at these sites, reclaimers have built shacks; animals are feeding on waste and there is disposal of unpermitted waste. Lack of covering has led to odours, flies, windblown litter and uncontrolled fires that were observed these sites.

Compliance Notices in terms of Section 31L of NEMA have been issued by the relevant provincial EMI departments for 10 sites to municipalities. In addition, 14 Notice of intention to issue Compliance Notices have been/ or were in the process of being issued to municipalities. Due to ongoing non-compliances at some sites, 4 criminal investigations have been instituted against municipalities. In an effort to bring sites to compliance, some sites are being monitored continuously through Action Plans and engagements with municipalities.



Figure 3: Landfill Site located on a waterbody



Figure 4: Disposal of waste on a road outside the landfill site





Figure 5: Waste disposed of outside the landfill site



Figure 7: Uncovered waste



Figure 6: Animals feeding on waste



Figure 8: Burning of waste







## 9. BIODIVERSITY COMPLIANCE AND ENFORCEMENT

In the 2017/18 reporting period, biodiversity compliance and enforcement continued to focus on the high-risk species, such as rhinoceros, elephants, pangolins 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 legislation, 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.

In relation to rhino cases, EMIs from 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 Inspectorate 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). Various 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).

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 2017 that the poaching situation had stabilised, 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 2017, the number of poached rhinoceros for 2017 was 1 028 compared to the previous year when the number of rhinoceros poached stood at 1 054. This is, in part, due to the concerted efforts of our law-enforcement and security agencies.

### 9.1: Total Number of Rhinos poached in South Africa for 2011, 2012, 2013, 2014, 2015, 2016 and 2017

INSTITUTION/PROVINCE	2011	2012	2013	2014	2015	2016	2017
SANParks (Kruger National Park)	252	425	606	827	826	662	504
SANParks (Marakele National Park)	6	3	3	0	-		0
SANParks (Mapungubwe National Park)	0	0	0	1	-		0
KZN	34	66	85	99	116	162	222
Limpopo	74	59	114	110	91	90	79
Western Cape	6	2	0	1	1	0	0
Eastern Cape	11	7	5	15	14	17	12
Gauteng	9	1	8	5	2	6	4
North West	21	77	87	65	46	56	96
Free State	4	0	4	4	10	17	38
Northern Cape DEANC	0	0	0	5	2	12	24
Mpumalanga	31	28	92	83	67	32	49
<b>TOTAL</b>	<b>448</b>	<b>668</b>	<b>1004</b>	<b>1215</b>	<b>1175</b>	<b>1054</b>	<b>1028</b>

### 9.2. Court sentences relating to rhinoceros matters

KEPING CHEN; (TABLE VIEW CAS 307/02/2018)	
Province	Western Cape
Description	Keping Chen and co-accused were arrested in Table View while in possession of 94 pieces of rhinoceros horn (total mass of 0,659kg)
Charge	Western Cape Nature Conservation Ordinance 19 of 1974, S. 47A(1)(b)
Judgement/Sentence	Keping Chen entered a section 105A plea and sentence agreement on 2018-03-18. Was sentenced to <b>15 months</b> imprisonment, as well as <b>3 years</b> imprisonment which was suspended for 5 years.  POCA section 18 confiscation order of <b>R160 000</b> was issued to Chen.

S V SAM NNONE & 2 OTHERS	
Province	Limpopo
Description	During 9-10 February 2014 a rhino was shot and killed and both its horns were removed. Tracks were followed whereas accused 1-3 were arrested. They were found in possession of the 2 horns, an illegal firearm, ammunition and axe. The blood on their clothes & shoes matches the with the rhino carcass forensically.
Charge	<ul style="list-style-type: none"> <li>Hunting of specially protected wild animals, to wit: Rhino - Section 31(1)(a) of the Limpopo Environmental Management Act 7 of 2003;</li> <li>Theft - read with sec. 246 &amp; 155(2) of the CPA 51/1977: 2X Rhino Horn;</li> <li>Trespassing - sec. 1(1)(a) of the Trespassing act 6/1959;</li> <li>Providing a firearm/ammunition to person not allowed to possess it - Section 90 of the Firearms Control Act Section 120(10)(a) of the Firearms Control Act 60/2000 (06 Springfield caliber cd model 537 bolt action rifle);</li> <li>Illegal possession of prohibited firearm – serial number altered - Section 4(1)(f)(iv) of the Firearms Control Act 60/2000 (06 Springfield calibre cd model 537 bolt action rifle);</li> <li>Illegal possession of ammunition - Section 120(10)(b) of the Firearms Control Act 60/2000 (4 X .30-06 rounds of ammunition).</li> </ul>
Judgement/Sentence	<b>(15) fifteen</b> years imprisonment

S V SM MALAZE & 1 OTHER	
Province	Limpopo
Description	On 27 February 2013 at Mabalingwe Private Game Reserve, Accused 1 was arrested inside the reserve, before any rhino was hunted, whilst being in possession of a rifle and ammunition for which he does not have licence and which was stolen during a housebreaking. Accused 2 was arrested whilst driving in the vicinity of the reserve and ammunition was recovered in the vehicle as well as in his house. The court found that they had a common purpose to hunt a rhinoceros.
Charge	<ul style="list-style-type: none"> <li>Section 31(1)(a) of the Limpopo Environmental Management Act 7 of 2003: Illegal hunting;</li> <li>C/O Section 3 of the Firearms Control Act, Act 60/2000: Illegal possession of a firearm;</li> <li>C/O Section 90 of the Firearms Control Act 60/2000: Illegal possession of ammunition;</li> <li>Contravening section 120(10)(a) of the Firearms Control Act, Act 60/2000.</li> </ul>

S V SM MALAZE & 1 OTHER	
Judgement/Sentence	<b>(18) eighteen</b> years imprisonment

S V YI LIN	
Province	Gauteng
Description	The accused, a Chinese National, was initially arrested during an undercover operation on 26 August 2015 when he and his brother Yun Lin bought 2 rhinoceros horns during an authorized undercover operation. They were both arrested and upon a search of his house, two tortoises were found in the garden. Neither one of them possessed the necessary permit to keep the said animals. Both accused were released on bail, but Yun Lin failed to attend court and the matter was provisionally withdrawn pending the arrest of his brother. The accused, Yi Lin, was subsequently arrested when he attempted to export a parcel, declared as coffee beans which contained a rhinoceros horn. He was arrested at the premises of TNT, an International Export Company, whilst checking in the parcel.
Charge	<ul style="list-style-type: none"> <li>Contravention of section 57(1) of the National Environmental Management: Biodiversity Act, Act 10 of 2004 – Dealing in two rhino horns from the species White Rhinoceros (<i>Ceratotherium simum</i>);</li> <li>Contravention of section 39(1) of the Nature Conservation Ordinance, Ordinance 12 of 1983 – keeping of two tortoises from the species Bell's hinged - back tortoise (<i>Kinixys belliana</i>) without being in possession of a permit issued in terms of the Nature Conservation Ordinance, Ordinance 12 of 1983;</li> <li>Contravention of section 57(1) of the National Environmental Management: Biodiversity Act, Act 10 of 2004 – transportation of 1 rhino horn from the species White Rhinoceros (<i>Ceratotherium simum</i>);</li> <li>Contravention of section 57(1A) of the National Environmental Management: Biodiversity Act, Act 10 of 2004 – attempt to export 1 rhino horn from the species White Rhinoceros (<i>Ceratotherium simum</i>).</li> </ul>
Judgement/Sentence	<ul style="list-style-type: none"> <li>COUNT 1: Accused is sentenced to pay a fine of Eighty Thousand Rand (R80 000-00) or to serve a term of Eight Months imprisonment, of which Forty Thousand Rand (R40 000) or 4 months imprisonment is suspended;</li> <li>COUNT 3: Accused is sentenced to pay a fine of Five Hundred Rand (R500. 00) or to serve a term of Two (2) months imprisonment;</li> <li>COUNT 4: Accused is sentenced to serve a term of FIVE (5) Years imprisonment, of which Three (3) Years imprisonment is suspended;</li> <li>COUNT 5: Accused is sentenced to serve a term of FIVE (5) Years imprisonment, of which Three (3) Years imprisonment is suspended.</li> </ul> <p>Effective sentence: <b>R 40 500 and 4 years imprisonment.</b></p>

S V MAPHOYISA MHAULE	
Province	Mpumalanga
Charge	<ul style="list-style-type: none"> <li>C/O Regulation 45 (2)(a)(i) of Act 57 of 2003 (NEMPA) : Hunting of a protected animal in a National Park;</li> <li>C/O Section 3 of Act 60 of 2000 : Possession of unlicensed firearm</li> <li>C/O Section 90 of Act 60 of 2000 : Unlawful possession of ammunition;</li> <li>C/O Section 120 (10)(b) of Act 60 of 2000 : Possession of a firearm with the intent to commit a crime;</li> <li>C/O Section 45 (1) of Act 57 of 2003: Trespassing in a National Park.</li> </ul>
Judgement/Sentence	<b>20 years</b> imprisonment.

S V YOGANA SITEO & 1 OTHERS.	
Province	Mpumalanga
Charge	<ul style="list-style-type: none"> <li>C/O Section 49 of Act 12 of 2003 : Immigration Act;</li> <li>C/O Section 45 (1) of Act 57 of 2003 : Trespassing in a National Park;</li> <li>C/O Regulation 45 (2)(a)(i) of Act 57 of 2003 (NEMPA) : Hunting of a protected animal in a National Park;</li> <li>C/O Regulation 45 (2)(a)(i) of Act 57 of 2003 (NEMPA) : Hunting of a protected animal in a National Park;</li> <li>C/O Section 3 of Act 60 of 2000 : Possession of unlicensed firearm;</li> <li>C/O Section 3 of Act 60 of 2000: Possession of unlicensed firearm.</li> </ul>
Judgement/Sentence	Counts 1, 2, 5 and 6 to run concurrently. <b>18 years</b> imprisonment.

### 9.3 Cases relating to elephant

STATE VS. QINGHUA CHEN (SEA POINT CAS 466/10/2016)	
Description	Charged for illegal possession of 134 pieces (4.81kg) of African elephant ivory and 16 abalone
Charge	Western Cape Nature Conservation Ordinance 19 of 1974, S. 42(1) and Marine Living Resources Regulations R1111 of 1998, R. 36

STATE VS. QINGHUA CHEN (SEA POINT CAS 466/10/2016)	
Sentence	Charge 1 = Illegal possession of ivory = 5 years direct imprisonment, wholly suspended for 5 years Charge 2 = Illegal possession of abalone = 5 years direct imprisonment, wholly suspended for 5 years A POCA confiscation order was issued to the value of R83 158 and the proceeds were paid into the Criminal Assets Recovery Account.

S V JJ CHAUQUE & 1 OTHER	
Description	Possession of unlicensed firearm and ammunitions under the Firearms Control Act 60 of 2000. Upon receiving information the Accused was arrested at his house in possession of a rifle and ammunition. Bloodied clothes and an axe was found. The Accused pointed out the elephant carcass as well as the 2 hidden tusks.
Charge	Contravening section 31(1)(a) of the Limpopo Environmental Management Act 7 of 2003.
Sentence	R100 000.00 or 6 years imprisonment of which half was suspended for five years on conditions

S V A MALULEQUE	
Description	Possession of two elephant tusks. The Accused attempted to smuggle the tusks cross-border from the Republic to Mozambique. At the border crossing the tusks were found in his motor vehicle.
Charge	Contravening section 31(1)(a) of the Limpopo Environmental Management Act 7 of 2003.
Sentence	R30 000.00 fine or 5 years imprisonment, and the said vehicle was forfeited to the State

STATE V LUCAS NESHUNZI AND NDISHAVELAFHI JOHN MUSETHSO	
Description	The Accused were in possession of a piece of ivory with a weight of 4.304 kg valued at R 4 314,94.
Charge	Contravening section 31(1)(a) of the Limpopo Environmental Management Act 7 of 2003;
Sentence	Both Accused pleaded guilty and were sentenced to R15 000 or 5 years imprisonment.

**STATE VERSUS TW MUKWEVHO; PARK ROAD CAS 125/07/2014**

Description	Sale of Ivory. The Accused pleaded guilty in terms of a 105A plea agreement on one count of sale of elephant tusk. The tusk weighed 2,8kg and was valued at R 2 617,44.
Charge	Sec 57(1) of NEM:BA
Sentence	R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years. The Accused was caught in an undercover trap operation.

**STATE VERSUS V MAQUVHA; PARK ROAD CAS 125/07/2014**

Description	Sale of Ivory. The Accused pleaded guilty in terms of a 105A plea agreement on one count of sale of elephant tusk. The tusk weighed 2,8 kg and was valued at R 2 617,44.
Charge	Sec 57(1) of NEMBA
Sentence	The Accused was sentenced to R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years. The Accused was caught in an undercover trap operation.

**STATE VERSUS TI MOSEKWANE; WINBURG CAS 17/05/2016**

Description	The Accused sold the ivory tusk with a weight of 1,6 kg and a value of R 1 764.00 together with a leopard skin in an undercover trap operation.
Charge	Sec 57(1) of NEMBA
Sentence	The Accused pleaded guilty and was sentenced to 5 years imprisonment of which 3 years imprisonment was suspended for 4 years.

**STATE VERSUS CHALRES KENNY; PARK ROAD CAS 457/03/2014**

Description	Amongst other charges the Accused offered elephant fat for sale in his herbal shop. The bottle label indicated that it was elephant fat but it was not proved that it was indeed elephant fat.
Charge	Contravention of regulation 16(1)(b) of the CITES Regulations and section 57(1) of NEM:BA

**STATE VERSUS CHALRES KENNY; PARK ROAD CAS 457/03/2014**

Sentence	The Accused was convicted (after trial) on the Regulations that prohibit the offering for sale of any species on the CITES list. On this count the Accused was sentenced to R20 000 or 2 years imprisonment suspended for 4 years. The Accused was also convicted on section 57(1) of NEM:BA for the possession of TOPS species in his shop and was sentenced to 36 months correctional supervision and a fine of R100 000 of which half was suspended for 4 years.
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**9.4 Court sentences relating to other species****S V JAKOBUS DU PLESSIS LAINGSBURG CAS 82/04/2017 (Kudu)**

Description	The Accused was convicted and sentenced on 15 March 2018 on charges of for Hunting without a permit, by means of artificial light, at night, using a vehicle, without the landowner's permission and for being in possession of the carcass of a wild animal (kudu).
Charge	Western Cape Nature Conservation Ordinance 19 of 1974, S. 27(1)(b); S. 29(b); S. 29(c); S. 29(e); S. 33(1); S. 40; S. 42(1); Firearms Control Act 60 of 2000, S. 3; S. 90
Sentence	R35 000 or 7 years imprisonment wholly suspended for 5 years  A further 24 months corrective supervision in terms of section 276(1)(h) of the CPA. This community service sentence is to be served in the following way: <ul style="list-style-type: none"> <li>• House arrest for 24 months.</li> <li>• 384 hours community service (16 hours per month).</li> <li>• The convicted persons may not use any liquor or drugs during period of the sentence.</li> <li>• 270WIN rifle and Isuzu LDV were declared forfeit to CapeNature</li> </ul>

**STATE VS GRANADA HOME BUILDERS (PINE TOWN CASE 601/02/2017) (LISTED INVASIVE PLANT SPECIES SUCH AS SERINGE, BUG WEED AND CASTOR OIL)**

Province	Kwa-Zulu Natal Province
Charge	Non-compliance with the instructions of a final Directive: in terms of section 73(3) of NEM: BA
Judgment/Sentence	The Accused was sentenced to a fine of R50 000 or imprisonment for two (2) years, however this sentence was suspended for five years.

**STATE VS. FREDERICK BOTES (ANTELOPE SPECIES: BLUE DUIKER, SUNI AND GRYSBOK AND BIRD SPECIES)**

Province:	Western Cape
Court:	Worcester Regional Court CAS 713/06/2016
Charge:	Western Cape Nature Conservation Ordinance 19 of 1974, S. 42(1); S. 44(1)(a); S. 44(1)(e)
Judgment/Sentence:	<p>Entered into a plea and sentence agreement. In terms of this agreement, the Accused was convicted of the above charges and was sentenced to:</p> <ul style="list-style-type: none"> <li>• Charge 1 = Transport = R10 000 or 2 years imprisonment, of which half was suspended for 5 years.</li> <li>• Charge 2 = Possession = R10 000 or 2 years imprisonment, of which half was suspended for 5 years.</li> <li>• Charge 3 = Buying = R10 000 or 2 years imprisonment, of which half was suspended for 5 years.</li> <li>• All wild animals involved were declared forfeit to CapeNature.</li> </ul> <p>The Accused paid R15 000 in fines.</p>

**DE RUST CAS 105/04/2017 (STEENBOK, AARDWOLF, SCRUB HARE, ROCK HYRAX, ELEPHANT IVORY)**

Province	Western Cape
Court	De Rust
Charge	<ul style="list-style-type: none"> <li>• Three individuals were convicted and sentenced on charges of hunting without a permit, using dogs and for being in possession of the carcasses of wild animals (3 Steen buck, 1 aardwolf, 1 scrub hare and 1 rock hyrax) without necessary permits.</li> <li>• The illegal possession of 1 African elephant tusk with a mass of 2.389kg.</li> </ul>
Judgment/Sentence	<ul style="list-style-type: none"> <li>• R10 000 or 18 months imprisonment suspended for 5 years;</li> <li>• A further 1 year imprisonment in terms of section 276(1)(h) of the CPA. This community service sentence is to be served in the following way: <ul style="list-style-type: none"> <li>o House arrest for 1 year.</li> <li>o 1200 hours community service (100 hours per month).</li> <li>o The convicted persons may not use any liquor or drugs during period of the sentence.</li> <li>o The 3 hunting dogs were forfeited to CapeNature.</li> </ul> </li> </ul>



JOINT COMPLIANCE AND ENFORCEMENT  
OPERATIONS





## 10. JOINT COMPLIANCE AND ENFORCEMENT OPERATIONS

### 10.1 Oceans and Coasts Joint Compliance and Enforcement Operations: Operation Phakisa Initiative 5



Initiative 5: Enhanced and Co-Ordinated Compliance and Enforcement, has created a platform to achieve an integrated and coordinated approach in identifying non-compliance to the South African Maritime Legislative and Regulatory frameworks and the exploitation thereof within South Africa's maritime zones. A total of 13 Government Departments (both National and Provincial), Agencies and local Municipalities are permanent members of the Compliance and Enforcement Working Group formulated under this initiative and chaired by the Department of Environmental Affairs. This has allowed for the creation of systems, processes and practices that provide for the early detection of infringements (as well as prevention capabilities) followed by a co-ordinated and integrated response to deal with them. This has been achieved through the integration and coordination of compliance and enforcement activities focussing on the monitoring and associated enforcement activities relating to Unregulated and Unreported (IUU) fishing activities, whale watching, shark cage diving, illegal activities within Marine Protected Areas (MPAs), pollution events, illegal effluent discharges, illegal structural developments within the terrestrial coastal zone, piracy, armed robbery at sea, human trafficking and smuggling, introduction of alien and invasive species through the ballast systems and all customs and excise requirements.

During this reporting period, Operation Phakisa Initiative 5 operated in the four coastal provinces, namely Northern, Western and Eastern Cape, and KwaZulu Natal, for the third consecutive year. During the period under review a total

of 32 joint operations were planned and executed. During these operations 7 842 searches were conducted, 999 establishments were visited and 5 410 operational activities took place. Members were deployed in total for a period of 207 days, with Total confiscations to the value of R 40 617 927 were effected, fines to the value of R 215 220 issued, 302 cases registered, with a total operational expenditure of R 4 292 631.



Inspection of fishermen



Abalone Poachers taken by surprise in Overberg



Illegal hunters apprehended within a coastal forestPort St Johns



Fish River operation in Eastern Cape, illegal structures demolished and illegal fishing activities dealt with.



Illegal Sand Miners apprehended in Port St Johns

## 10.2 Biodiversity Joint Compliance and Enforcement Operations

### Alien and Invasive Species (AIS) Operations:

#### 10.2.1 Operation Rosy

AIS is recognised as one of the five pressures directly driving biodiversity loss. The prevention, eradication and management of AIS is a key challenge in the conservation of natural resources globally. Biosecurity is a strategic and integrated approach to analyse and manage AIS. Although there are many ways to monitor the spread of invasive species, a standardised approach for systematically monitoring the potential invasive risk of invasive birds is imperative.

The Rose-ringed parakeet, *Psittacula krameri*, is regulated in South Africa in terms of the AIS Regulations. This species originates from Southern Asia and sub-Saharan Africa and is a desired pet in South Africa. The pet trade can be a pathway by which the Rose-ringed parakeet is likely to establish feral populations in South Africa. Rose-ringed parakeets cause considerable agricultural damage and can compete for nest sites with indigenous birds and may carry diseases that could be harmful.

In 2017 Biosecurity Enforcement and Compliance embarked on a National Joint Operation, Operation Rosy, to establish the number of Rose-ringed parakeet breeding facilities in the country as well as the extent of the trade in Rose-ringed parakeets. The target group was members of the Parrot Breeders Association of South Africa (PASA) operating under the Association's Alien and



Invasive Rose-ringed parakeet permit. Sixty-six (66) breeding facilities were inspected and the majority of the members complied with the AIS permit conditions, although record keeping remains a challenge for the Association's members. Rose-ringed parakeets are bred for the local and international pet trade. Operation Rosy did not entirely focus on bird breeders but also on bird traders. A few bird traders' facilities were inspected to determine if traders adhere to the AIS permit conditions. The outcome of the operation was discussed with DEA Management and board members of the Parrot Breeders Association of South Africa. Operation Rosy was essential to establish the possibility of PASA to self-regulate their members. Biosecurity officials will need to be proactive and routine inspections on rose-ringed parrot breeding facilities and bird breeders will need to be undertaken on a regular basis.

#### 10.2.2 National Joint Pet Shop AIS operation

The purpose of the Pet Shop Operation was to create awareness amongst pet shop owners on the AIS Regulations and to ascertain whether or not these pet shops were compliant. The operation was a joint one involving officials from both Biosecurity Compliance and Biosecurity Enforcement.

The Pet Shop Operation kicked off in Gauteng and a total of seven (7) pet shops were inspected throughout Gauteng. A number of Category 2 and 3 AIS listed species were identified. The most common species found in the pet trade was *Psittacula krameri* (Ring neck parakeet) and *Python molurus* (Burmese python). Other species found were *Anas platyrhynchos* (Mallard ducks). A few pet shop owners provided proof of permit applications having been submitted. PCNs were issued to those pet shops who did not possess AIS permits and had not submitted an application.

Free State Province was the next target for inspections. A total of ten (10) pet shops and breeding facilities were inspected. This part of the operation saw EMI's from national collaborate with EMI's from the Free State provincial department. A total of nine (9) pet shops and breeding facilities were inspected. Of the nine (9) pet shops and breeding facilities only three (3) pet shops and one fishery were not in possession of AIS permits. These facilities subsequently applied for AIS permits.

#### 10.2.3 Farm Operations

A number of joint farm operations were conducted in the 9 different provinc-

es to create awareness and to promote compliance with the AIS regulations. The two target provinces were Mpumalanga and Northern Cape. The main AIS listed species found on farms included Fallow Deer, Red Lechwe, Barbary Sheep and *Schimatar Oryx*. The landowners were not in possession of AIS permits and they were issued with PCNs instructing them to apply.

#### 10.2.4 Alien and Invasive Species Operations - Nurseries

Since the implementation of the AIS Regulations in October 2014 an initiative was implemented by the Biosecurity: Advocacy component within the Environmental Programmes Branch consisting of awareness campaigns aimed at notifying the public about the AIS Regulations and assisting them in achieving compliance with the provisions of the NEM:BA and the AIS Regulations.

The AIS Nursery Operation was then identified as one of the projects to be included on the MINTECH Working Group 4 (WGIV) work plan for 2017/18. The AIS Nursery Operation was conducted in the Limpopo Province, Northern Cape and Free State Province during this particular reporting period. A total number of 118 nurseries were inspected by teams of EMI's from DEA and other institutions including LEDET, the South African National Biodiversity Institute (SANBI), the Northern Cape Department of Environment and Nature Conservation (DENC) and the Free State Department of Economic, Small Business Development, Tourism and Environmental Affairs (DESTEAs).



The EMIs who participated on AIS Nursery Operation



Listed invasive plant species observed during Nursery Operations

### 10.2.5 Plant Growers AIS Operations

The invasion and transformation of ecosystems and habitats by invasive plant species (AIPs) is regarded as one of the greatest threats to protected areas globally. AIPs are known to have negative impacts on water resources, agriculture, biodiversity and animal health. AIPs further cause fire hazards as well as soil erosion.





EMIs who participated in Gauteng Plant Growers Operation

One of the pathways of introduction of AIPs is through the horticultural industry. The Alien and Invasive Plant Growers Operation was identified as one of projects to be conducted, in particular due to the fact that this industry supplies plants to the nurseries. The main purpose of the operation was to regulate the illegal trading/selling of alien and listed invasive plants at plant growers and to determine compliance with the provisions of NEM:BA as well as the AIS Regulations.

During the Alien and Invasive Plant Growers Operation conducted between 04 and 08 September 2017 in Gauteng Province, twenty two (22) plant growers were inspected and four (4) of them were found to be in contravention of NEM:BA and the AIS Regulations. These plant growers were issued with administrative notices in the form of PCNs. The plant growers were generally co-operative with the EMIs and appreciated the fact that they were notified of the inspections. However, a number of plant growers complained about the operation, alleging that they have lost business as small nurseries returned invasive species back to them due to the nursery operations and fact that these nurseries became more aware of the legal requirements. The plant growers further indicated that the nurseries are no longer purchasing certain plants from them. It should be noted that some of the plant growers voluntarily destroyed or burned invasive plant species in the presence of the EMIs (see photograph above).

### 10.3 Border Focused Biodiversity Operations:

#### 10.3.1 SANDF Trainings and Border Training

The Inspectorate conducted over 30 training sessions for the SANDF at Musina, Macanamia, Sand River, Fouriesburg, Pongola, Ndumo, Zonstraal, Skilpadshek and Maluti, just to name a few of the military bases. 2284 SANDF soldiers were trained at these military bases during the financial year. With the main focus being on SANDF, only 6 border training sessions were conducted at some of our smaller border posts like Mananga, Peka Bridge, Mkhaleng, Bram Fisher International Airport and Waverley border, with a total of 102 border Officials trained.

#### 10.3.2 EMIs at OR Tambo: Compliance Activities

The DEA EMIs at OR Tambo International Airport work together with other agencies/ institutions such as border police, Customs and Department of Agriculture, Fisheries and Forestry (DAFF) to detect and combat environmental offences at this port.

Functions of Compliance Monitoring Inspectors include the following:

- i. Inspections of exports/ imports of wild fauna and flora;
- ii. Endorsements of permits (both CITES and TOPS), including the physical checking of the consignments;
- iii. Verification of tags, microchips and ISO numbers on the following species : Leopard, crocodile, rhinoceros horns and elephant tusks);
- iv. Inspections of passengers/ persons moving through the port;
- v. Investigations related to illegal activities detected as a result of the above monitoring activities;
- vi. Joint operations focussed on the movement of species through the ports; and
- vii. Training interventions and stakeholder engagement.



### Export permits



In a financial year, the office examines an average of **320** CITES permits per month and **4200** CITES permits per year.

### Import permits

In a financial, the office examines an average of **86** CITES import permits per month.

### Live exports

On average, the office examines a total of **870** different species per month.

The office endorses a large number of permits for African grey parrots which are sent to different destinations, approximately 1000 live birds per month.

### HIGHLIGHT OF MAJOR WORKS PERFORMED AT THE OR TAMBO INTERNATIONAL AIRPORT



#### Black rhino relocation Project Rwanda

18 Critically endangered Black rhinos were translocated to a Rwandan National Park (Akagera) a decade after the species were last sighted in Rwanda. This was a coordinated effort between DEA Biodiversity Compliance Officials and the Director of African Parks (Mr Andrew Parker).



#### Relocation of Black rhinos to Chad

Six critically endangered Black rhinos were translocated from South Africa to Chad (Zakouma National Park), restoring the species to this country in north-central Africa, nearly half a century after they had been wiped out in that country. The Minister of Environmental Affairs and the CEO of South African National Parks were in Addo Elephant National Park and at Port Elizabeth Airport to send off the rhinos.

These were coordinated efforts of Biodiversity Compliance Officials, African Parks, South African National Parks and DEA which jointly formed a Rhino Steering Committee. This did not happen without challenges as the original aircraft was no longer available which necessitated the reduction of the rhino crates' sizes to accommodate the new aircraft. Dr Zimmerman was the expert vet from South Africa's side who ensured that the animals' needs were taken care of and worked closely with the Compliance Officials to verify the micro-chips and the permits for the animals.



Tigers to Vietnam

On the 31<sup>st</sup> of January 2018 Biodiversity Compliance Officials stationed at OR Tambo International Airport inspected the consignments, endorsed the permits and released 16 Tigers (10 Bengal tigers and 6 White tigers) destined for Vietnam. The animals came from Limpopo Province and were destined to Vietnam.

## 10.4 Awareness-Raising Events: Biodiversity Compliance and Enforcement

### 10.4.1 World Wildlife Day at OR Tambo International Airport



In order to raise awareness on the illegal trade in wildlife, the DEA together with Customs and the Directorate for Priority Crime Investigations (the Hawks) celebrated World Wildlife Day at OR Tambo International Airport. Awareness stands were set up and passengers arriving in South Africa were given information pamphlets and the threats and extent of the illegal wildlife trade were explained. Following a live demonstration by the detector dogs from the SARS Customs Dog Detector Unit, DEA Compliance Officials showed a number of television channels how an inspection is conducted of CITES consignments. The questions posed during the demonstration related to the monitoring and control of the exports, for example, how does South Africa guard against tiger bones being exported and the way in which proactive compliance inspections are conducted.

### 10.4.2. Biodiversity Compliance Awareness: Muthi Traders and Traditional Healers



DEA together with provincial conservation departments had been receiving increased complaints from the public about a diverse number of threatened species listed in terms of the Threatened or Protected Species (TOPS) Regulations being illegally sold at muthi markets across the country. It was important to ensure that the traders were aware of the legislation that protects these listed species, and accordingly a decision was made that a proper awareness programme should precede compliance and enforcement activities in relation to this sector. This was also in line with the 2014 National Environmental Compliance and Enforcement Strategy (NECES) and Mintech approved that in the 2017/18 financial year "Traditional Healers", "Muthi Traders" and "Muthi Collectors" would be the focus areas for compliance promotion and awareness initiatives. The project focussed on education and



awareness to comply with national environmental legislation such as the NEM:BA with regards to selling and buying species listed on the TOPS list at muthi markets. The key objectives of the project are set out below:

- To promote voluntary compliance with NEM:BA and its regulations as well as provincial nature conservation ordinances amongst individuals selling and buying specimens and derivatives at muthi markets that are protected by environmental legislation;
- To empower traders in the muthi market industry with knowledge about environmental legislation and to enable them to play a meaningful role in the conservation of biodiversity; and
- To provide the traders with an opportunity to assist DEA in better understanding the industry and to develop a practical approach for promoting compliance with applicable legislation.

DEA hosted the biodiversity compliance awareness workshops with members of the Traditional Healers Organisation (THO) in Mpumalanga, Limpopo and Eastern Cape and other traditional healers and muthi traders operating in Gauteng and Durban. Muthi traders compliance awareness campaigns were hosted in various provinces, during which more than 350 traditional healers and muthi traders were reached. The compliance promotion and awareness workshops produced positive outcomes including the following:

- Government presented to the traditional healers, muthi traders and muthi collectors on all applicable environmental legislation and created awareness of all legal requirements that must be complied with when they carry out their business;
- The traditional healers and muthi traders and collectors were provided an opportunity to explain their understanding of the various legal requirements;
- The traditional healers, muthi traders and muthi collectors were provided with an opportunity to provide demonstrate and express their willingness to comply with environmental legislation and the steps or initiatives undertaken to ensure that they operate within the ambit of the law; and
- The traditional healers, muthi traders and muthi collectors also had an opportunity to highlight the challenges and frustration they encountered in respect of the permit application process and the delay in issuing permits by the authorities.

#### 10.4.3 Cycad Compliance and Awareness-Raising Operations

The purpose of this continued work is to combat cycad smuggling nationally. The theft of wild cycads from natural high risk populations were identified and prioritised to improve the protection and detection of illicit activities. In KwaZulu-Natal a vulnerable population was identified and various initiatives were launched to enhance protection and early detection of illicit activities, including the collection of DNA samples for genetics, micro chipping of the plants as well as formalising relationships with the local communities. To create awareness a workshop was arranged from 24 to 26 October 2017 with the community. Activities included the following:

- An environmental awareness and tree planting ceremony involving the Enxolobeni Primary school;
- Community environmental awareness workshop at the Traditional Council involving the traditional leadership and the community; and
- Continuous engagement with the community to strengthen ownership and collaboration to protect the cycad population near the community. Since this initiative was implemented, no further theft of cycads occurred in this area. The community are consulted weekly and a good relationship has been established with the community leaders.



Photo of community members attending awareness session.



Community members arrive at the awareness-raising workshop



Portia Duma, EMI at DEA sharing her expertise with the workshop attendees



NATIONAL ENVIRONMENTAL COMPLAINTS AND  
EMERGENCY INCIDENTS





## 11. NATIONAL ENVIRONMENTAL COMPLAINTS AND EMERGENCY INCIDENTS

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 complaints received directly from other organs of State and the public. The Hotline serves as the main point of entry for complaints on environmental crimes and incidents. However, complaints reported directly to provinces, local authorities or other EMI Institutions are not received through the Hotline. There has been a slight decrease in the overall number of incidents and complaints reported from **845** in 2016/17 to **758** in the 2017/18 financial year. Reports of illegal activities, water pollution, alien and invasive species and import and export of species have shown a significant increase with spillages showing a significant decrease.

### 11.1 Hotline complaints per category

Nature of Complaint	Financial Year			Total
	2015-2016	2016-2017	2017-2018	
Air pollution	40	91	74	205
Deforestation	5	7	6	18
Illegal dumping and waste issues	102	114	139	355
Illegal development	10	34	24	68
Illegal activities	60	106	68	234
Illegal operation	26	28	15	69
Mining	26	36	24	86
Noise pollution	0	7	8	15
Poaching	19	2	45	66
Spillage	130	6	112	248
Water pollution	48	88	42	178
Alien and Invasive species	24	53	72	149
Import and Export species	17	208	88	313
Others	73	65	41	179
<b>Total</b>	<b>580</b>	<b>845</b>	<b>758</b>	<b>2183</b>

Table 7: Number and classification of complaints



Graph 6: Graphical representation on the nature of complaints received

### 11.2 Referral of hotline complaints to responsible organs of State

Financial Year	INSTITUTION REFERRED TO					Total
	DEA	DWS	DMR	LOCAL GOVERNMENT	PROVINCES	
2015-2016	266	48	26	124	116	580
2016-2017	375	88	36	166	180	845
2017-2018	312	42	24	209	171	758
<b>Total</b>	<b>953</b>	<b>178</b>	<b>86</b>	<b>499</b>	<b>467</b>	<b>2183</b>

Table 8: Number of DEA referred complaints and incidents

### 11.3 Section 30 NEMA Incidents:

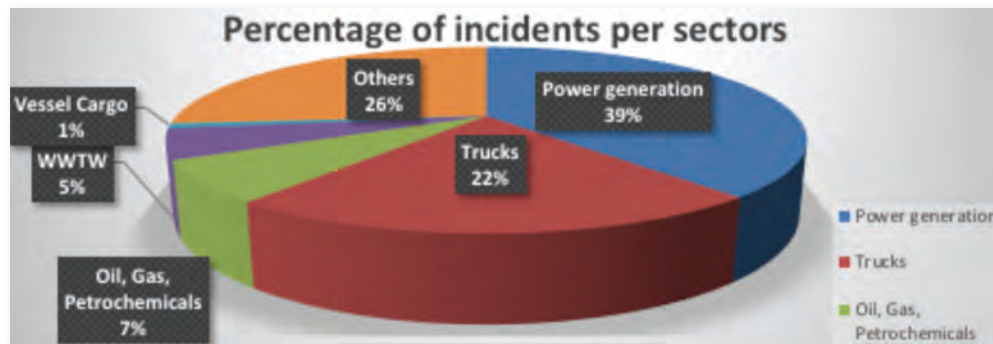
An "incident" is defined in section 30 of NEMA as an "unexpected, sudden and uncontrolled released of a hazardous substance, including from a major emission, fire or explosion, that causes, has caused or may cause significant harm to the environment, human life or property".

There's been a geographical shift in incidents reported in the 2017/18 financial year compared to the previous financial year with 39% of reported were from Mpumalanga, Limpopo with 32% and KwaZulu-Natal 14%.

From the 115 incidents reported to DEA, 108 of those were DEA mandated, 3 were referred to other authorities and 4 were classified as non-section 30 NEMA incidents. GDARD has recorded 12 section 30 NEMA incidents which were attended to by this province, which shows a 7.7% decrease from the 13 incidents attended to in 2016/17.



Pictures: spillage of hazardous chemicals prior the clean-up process



Pie Chart: Number of Section 30 incidents reported per industrial sector





**ENVIRONMENTAL COMPLIANCE AND  
ENFORCEMENT CAPACITY BUILDING**



## 12. ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT CAPACITY BUILDING

The 2017/18 reporting period was again filled with a range of capacity development programmes not only presented to the Inspectorate but also external stakeholders involved in the fight against environmental crime. This chapter will provide an overview of the different initiatives and developments that occurred, including the extensive Advanced EMI grade 5 (Field Ranger) training, two EMI basic training sessions as well as development of capacity and awareness raising material.

### 12.1 EMI Basic / Bridging Training Programme

DEA again hosted two EMI basic training courses for government employed Officials that require EMI designation in order to fulfil their respective compliance and enforcement duties against NEMA and associated SEMAs, such as NEM:WA, NEM:BA, NEM:AQA, NEMP:AA, NWA and NEM:ICMA.

#### 12.1.1 DEA EMI Basic Training

The first of the two EMI basic training courses presented was hosted during the months of April/May 2017 in Mpumalanga (Mbombela). The basic training course is administered and coordinated by DEA and utilises the expertise of experienced designated EMIs from across the Inspectorate.

Officials from all three spheres of government, whom require either Grade 1, 2, 3 or 4 designation, were invited to submit application forms against which they would then be evaluated to ensure that they meet the minimum requirements to attend the course. The course ran over a period of seven weeks, which included both distance learning as well as contact sessions, during individual assessment occurred.

The training content is grouped together and follows a chronological flow, which includes:

- 1) Legislation, including NEMA, SEMAs, as well as relevant provisions of the CPA and PAJA;
- 2) Theoretical and practical training in so far the proper legal execution of an inspection and associated report writing;
- 3) Taking administrative enforcement against non-compliant individuals and or companies, and the proper procedures to be followed during this process; and

- 4) Undertaking criminal investigation and associated Court procedures.



**Picture: Officials who attended the EMI Basic Training course presented in Mbombela, May 2017**

The first course was attended by 49 Officials representing fourteen EMI institutions namely SANParks, Western Cape (DEA&DP), DWS, DEA, Limpopo (LEDET), Eastern Cape Parks and Tourism (ECPTA), Ezemvelo KZN Wildlife, Mpumalanga (MTPA), Gauteng (GDARD), Free State, KwaZulu-Natal (KZNEDTEA) as well as four different Local Authorities.

The second EMI basic training course for the year was presented during September/ October 2017 this time round in Free State (Bloemfontein). During this course there were 54 officials in attendance, representing seventeen EMI institutions namely Eastern Cape (DEDEA), North West Parks Board, DWS, SANParks, MTPA, DEA, ECPTA, GDARD, KZNEDTEA, DFSTE, Northern Cape as well as five different Local Authorities.



**Picture: Officials who attended the EMI Basic Training course presented in Bloemfontein in October 2017**

The EMI basic training course brings together experienced EMIs to deliver the theoretical and practical components which ensures that attendees obtain first-hand updated information. Per course there are on average 30 different presenters from across multiple fields. DEA's Directorate: EMI Capacity Development and Support extends its gratitude towards all the internal and external presenters that support the programme and deliver content of the highest level.

### 12.1.2 EMI Specialised Training

A number of EMI specialised training courses were also presented during the reporting period. The EMI specialised training programme is aimed at further capacitating already designated EMI officials from across South Africa through specialised training initiatives that focusses on the delivery and trans-

fer of more in depth knowledge and/ or skills.

### 12.1.3 EMI Waste and Pollution Sampling Course

During the rainy, stormy, sunny, cold and warm month of June 2017, an EMI Waste and Pollution Sampling course was presented in Cape Town. The course was based on the INTERPOL Waste and Pollution Sampling guide and presented by two experts brought in from Canada and the Netherlands respectively.

There were 25 EMIs from across South Africa in attendance, all of whom are directly responsible for investigations into criminal activities relating to NEM:WA. The course was structured to follow the content of the two mentioned manuals and included daily theoretical and practical sessions. Both presenters were requested to provide a short paragraph of their own experience and views of the course:

*"Since the publication of the INTERPOL Forensics Sampling Manual in 2014 there has been much interest by member countries to have practical training to enhance requirements by Officials needing forensics sampling techniques. South Africa's Environmental Management Inspectorate is the first to have hosted this type of exercise with sponsorship of two scientific experts from the Netherlands and Canada. Richard Strub from Environment and Climate Change Canada (ECCC) and Marion Stelling from the Netherlands Forensic Institute (NFI) flew to Cape Town recently to deliver a one week course following various scenarios from the INTERPOL manual. The 25 participants were engaged and at the end of the course had a better appreciation of how complex and diverse Environmental Pollution sampling is. Both Marion and myself hope this training was beneficial and interested to know how well the participants perform their forensic sampling in real events. Once again, thank you for your gracious hospitality and giving us an opportunity to talk about our passion.*

*(Best regards, Richard Strub: Environment and Climate Change Canada / Government of Canada)*





**Picture: Officials who attended the EMI Waste and Pollution Sampling Course presented in Cape Town 2017**

“Realising pollution crime is transnational and that opportunities for a prosecution are greatly enhanced by proper forensics INTERPOLs Pollution Crime Working Group finalised in 2014 a Pollution Crime Forensic Investigation Manual with techniques for water, soil, waste and air sampling. I (NFI) was honoured to have the opportunity to train in collaboration with Richard Strub (Environment Canada) a group of EMIs and two representatives of the SAPS FSL in sampling as part of building an all-important network to enhance capacity in pollution crime. The EMIs showed great dedication and different sampling experiments were performed willingly. In one of the experiments they managed to outperform their Dutch colleagues. Since forensics in pollution crime is multidisciplinary and not always straightforward the EMIs have a challenging job. By the issues they raised during discussions they displayed great insight in the different technical aspects of pollution crimes.”

(Marion Stelling, Environmental Forensics Netherlands Forensic Institute)

The whole course was also filmed and converted into training material as to benefit those not able to attend the course. A special thank you goes out to Marion Stelling, Richard Strub, Cornelis van Duijn, Grant Walters, Nomvula Coka, Innocent Mokoena and Amos Mathebula.

### 12.1.3 Barcode of Wildlife Lion Bone Sample Taking Course

Subsequent to the 17th Convention of Parties (CoP17) conference hosted at Sandton Convention Center from 24 September to 5 October 2016, a quota system was developed in order to regulate the international trade in bones, bone pieces, bone products, claws, skeletons, skulls and teeth. The quota that was developed and implemented had an annual total of 800 lion carcasses including or excluding the skull from captive bred lions only. This meant that in order for the industry to commercially trade in lion bones, it had to consist of the full carcass and it had to be from captive bred lions.

With the quota in place, officials required training on the process involved to ensure that the commercial trade of lion bones is regulated and that no other bones of other specimens are being smuggled out of the country. The Lion Bone Sampling Workshop was then developed in order to capacitate officials on how to take a sample from a lion carcass and ensure that it is done in such a manner as to ensure a proper chain of custody with process photography.

This workshop was rolled out at the offices of DEA in Pretoria, Bloemfontein in the Free State as well as in Mafikeng in the North West Province. At the end of the workshop a total number of 71 officials successfully completed the training.





Picture: Practical illustrating one of the steps to be taken during sampling

### 12.2 EMI administrative enforcement master class

With administrative enforcement being a critical tool within environmental compliance and enforcement, a master course was hosted on the topic as to facilitate in-depth discussions, to “dig deeper” and share experience and lessons learnt over the years associated with Administrative Enforcement within the Inspectorate. It was not only a “talk shop” - critical learning also took place at the hands of highly experienced presenters.

The delegates in attendance were EMIs responsible for the review, scrutinising and often signing off on drafted Administrative Notices and Directives. The course was attended by a core group of 28 EMIs from across South Africa representing 9 different EMI institutions.

Some of the key topics covered during the course were as follow: Constitutional and Administrative Framework, Reviewing – Common Pitfalls, Administrative vs. Criminal Enforcement, Variations and Extensions, Objections, Appeals and

Civil Litigation, all while discussing case examples and scenarios.

A thank you goes out to Marius Oosthuizen SC, who offered his time and effort “pro bono” as well as Mark Pearce from DEA’s CLS & Litigation, Grant Walters and Frances Craigie from DEA who set aside a full week to present on content and facilitate practical case studies and scenarios.



Picture: EMIs who attended the EMI Administrative Enforcement Master Class

### 12.3 Footwear casting and lifting training course

The Endangered Wildlife Trust (EWT), in collaboration with DEA, hosted two specialised training interventions focused on the casting and lifting of footprints. The courses were paid for with funds made available by the United States Department Bureau of International Narcotics and Law Enforcement through EWT and presented by Jacobus (Cobus) Steyl and Johan Gerber.

Cobus is a forensic expert having conducted comparisons between footwear impressions and the soles of shoes for the last 23 years for the purposes of supporting legal proceedings. Johan has been a section ranger for various reserves in KwaZulu-Natal as well as head of the Anti-Poaching Unit at iSiman-

galiso Wetland Park and brought extensive knowledge of processing wildlife crime scenes.

The first intervention was held over the period 23 – 26 May 2017 at the Southern African Wildlife College (SAWC) with members from SANParks, LEDET and MTPA in attendance. The second training intervention was held at the Great Fish Nature Reserve (GFNR) over the period 12 – 15 June 2017 with members from ECPTA, DEDEA, SANParks, GDARD and the Namibian Police Force.

The training comprised of theory and practical components specific to the process of casting footprints. Presentations were also given on footwear photography/ camera setup and the importance of lighting, footwear imprint evaluation at crime scene (specifically which print to cast), casting and marking footwear evidence.



**Picture: Officials whom attended the footwear casting and lifting course**

Every participant also underwent thorough assessment, which included a written assessment and a practical assessments. The ability to cast footprints and adduce the same as evidence in Court is an incredibly valuable skill in wildlife related crime scenes, where poachers will inevitably always leave footprints

somewhere along the line.

#### **12.4 EMI Grade 5 (Field Ranger) Specialised Training Project**

On 8th May 2014 DEA formalised the Global Environmental Facility Project (GEF) “Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa: UNEP-GEF Project ID No.4937 (the DEA UNEP-GEF rhino project). During the same period the EWT was also awarded a grant under the project titled “Improving South African Transnational Organized Wildlife Crime Investigations by strengthening enforcement and judicial capacity” from the United States Bureau of International Narcotics and Law Enforcement Affairs (EWT-INL project).

Subsequently the EWT requested a meeting with DEA to discuss possible re-alignment of their project in order to ensure that the donor funding available through the INL was utilised in a coordinated and efficient manner as to optimally benefit the law enforcement officers designated to respond to biodiversity contraventions. As a result of these discussions, DEA invited the EWT as a co-financing partner to the UNEP-GEF project, whom in turn appointed a service provider to present the training courses.

The project was aimed at capacitating EMI Grade 5 Field Rangers from across South Africa with specialised training which would improve their knowledge base, identify gaps and challenges faced in their daily duties as well as providing practical training on a range of focussed topics. The project ran over a year and a half period and on completion of the project 1273 EMI Grade 5 Field rangers have received training.

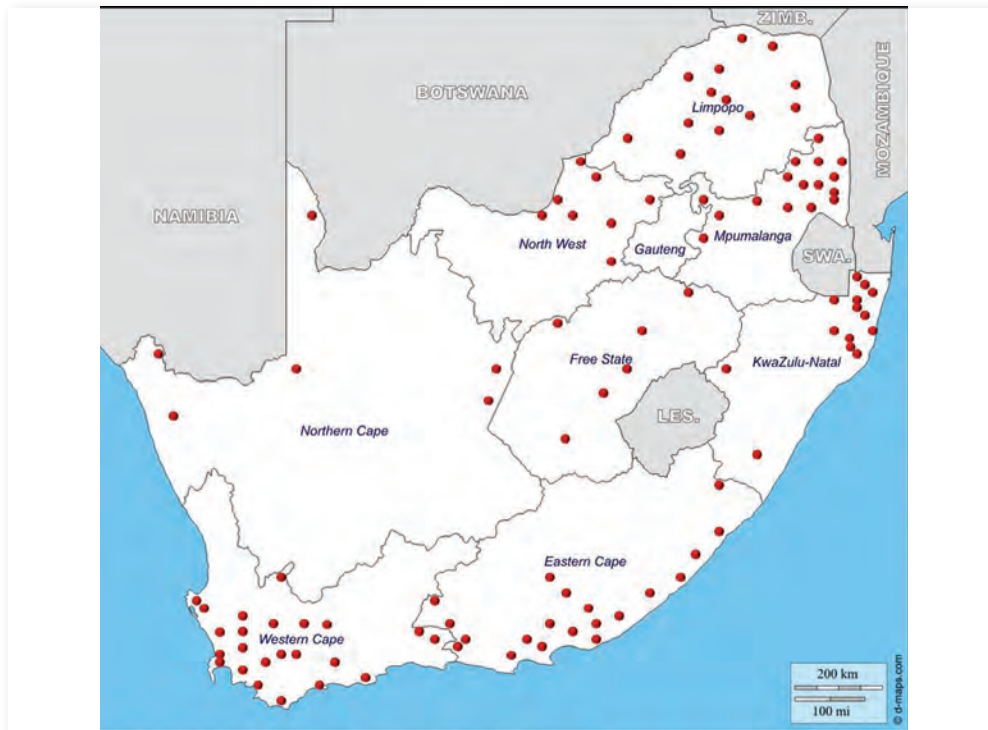
Due to the training course being an advanced course, the topics were very specific to investigations, investigative tools as well as the powers, functions and duties of EMIs, and covered arrests search, Seizure and Pointing out; and module 3: Collection of Evidence. The project was rolled out to Field Rangers employed within provincial environmental departments within Northern Cape, North West, Free State, Limpopo, Mpumalanga, KwaZulu Natal, Eastern Cape, Western Cape and SANParks.

In an effort to deliver the training in a cost effective manner to as many EMI Grade 5 Rangers as possible, institutions were requested to make available training venues within respective parks and to provide accommodation and catering for rangers to attend the course. In this way available funds were



used to develop training curriculum to be delivered, and attendee hand-books to be provided to the rangers and for procurement of equipment for training and ultimate use by the Field Rangers. Costs were also covered in so far as the travel and catering of the presenters to and from the different training venues.

As part of the training each attendee was required to undertake a pre and post assessment. The interpretation of results as collected during project roll out displays a significant growth and increase in the knowledge and understanding by the Field Rangers prior to, and after completion of the training. On average the pre-course class average per group was 62% and the post-course class average was 88%. There was thus on average a 26% increase in knowledge across all of the training courses, with the highest class increase in knowledge for a single class being 45%.



Picture: Map representing the various stations where the 1273 rangers from each institution came from.

The project can only be seen as a success and serves as an example of what can be achieved through collaboration. DEA wishes to thank EWT, Silverfox Forensics, (UNEP GEF and INL as funders) and all provincial role players for their dedication and collaboration in making the project roll out a success that will leave its mark and pave the way for possible future collaborations in support of the Inspectorate.





CAPACITY BUILDING: INTERNATIONAL PARTNERSHIPS





### 13 CAPACITY BUILDING: INTERNATIONAL PARTNERSHIPS

Continuing with the approach of building and strengthening of international partnerships in support of capacity development for EMI, DEA again, on behalf of the Inspectorate engaged with foreign partners who created training opportunities to EMIs. There was a total of 6 such capacity building initiatives during the reporting period to which EMIs were invited. On invitation from the United States Customs and Border Protection (USCBP), 10 EMIs were granted the opportunity to attend a course titled "Vehicle Stop Training" presented from 19 to 23 June 2017.

#### 13.1 United States Customs and Border Patrol (USCBP): Vehicle stop training

The course covered both instances where vehicles are stopped as part of an investigation as well as part of a routine inspection at a border post. The course not only dealt with correctly stopping of a vehicle but also what to check for and how to systematically search the vehicle. This included topics such as how to set up a primary and secondary check point, tools and technology that can be used, document analyses and behavioral analyses. A session was also presented that dealt with imposter detection and the technique of dividing a person's face into sections where specific features are compared to features on a photo. Further exposure was provided to topics relating to weapons of mass effect and recognising human trafficking.

The feedback from delegates in attendance were positive indicating that presenters from the UCCBP were not only friendly and professional but also experienced, with an "officer presence" shining through into the classroom.



Picture: Group photo of all delegates that attended the USCBP vehicle stop training

#### 13.2 International Border Interdiction Training

A second USCBP course was hosted during 26-30 June 2017 in Whiteriver, Mpumalanga, and another 10 EMIs were selected to attend. This time the training course focused on "International Border Interdiction Training". EMI Officials were selected that are directly responsible for duties undertaken at South Africa's border environment, along with delegates from SAPS and Customs.

During the course the CBP Officials touched on a number of topics, including the targeting of cargo, analysis of cargo documents, the inspection of tools and technology and concealment methods. A number of topics were also dealt with in specific detail, such as container seals and hardware - under this topic they were shown various ways that criminals manipulate and tamper with seals and cargo containers, from the filing of seal numbers and creating new seal numbers to tampering with the containers themselves. Offenders will do just about anything to get their illicit goods to their intended destination.



Picture: Group photo of all delegates that attended the USCBP International Border Interdiction Training

As part of the training, delegates were also afforded the opportunity to practise what they were taught, with two whole days of practical encounters at the Lebombo Border post. At the border they were divided into 3 groups. The first group worked at the pedestrian crossing, where they interviewed, searched and profiled suspicious individuals. The other 2 groups worked on vehicle inspections, practising the execution of both primary and secondary inspections. The following is a comment from one of the EMI attendees: "A special thanks to all parties involved in the arrangements of this very successful training session. To the CBP officers and officials from USA thanks for this opportunity and sharing of your knowledge and experiences."

### 13.3 CITES Timber Identification course

The Inspectorate was also represented at a training workshop jointly hosted by the German Federal Agency for Nature Conservation (BfN; German CITES Scientific Authority) and the German Thünen Institute of Wood Research (TI) in

Hamburg, Germany on the 8th and 9th of June 2017 on the identification of CITES timber species.

The objective of this workshop was to enable Biodiversity Enforcement Officials to identify CITES Timber species by means of macroscopic characters. Participating countries included Austria, Belgium, Bolivia, Croatia, Czech Republic, Denmark, DR Congo, Finland, Gabon, Germany, Greece, Guatemala, Indonesia, Italy, Latvia, Malta, Mozambique, Romania, Senegal, South Africa, Spain, Sweden, Switzerland, Thailand and the United States of America with a total of 36 delegates.

The two day workshop aimed at attempting to:

- imparting knowledge on macroscopic structural features for identification and discrimination of timber species, in particular the newly listed rosewood and bubinga species;
- creating familiarity with the user interface and operation mode of the programme CITESwoodID updated in 2017;
- enable users to identify CITES timber species by means of macroscopic characters; and
- introduce new established DNA-based methods as additional tools to identify CITES protected timber species.

Improving the identification of CITES timber species is a vital part of quality control and enforcement. Therefore, practicable and quick control methods to support timber identification are needed. For this reason, an innovative digital tool for macroscopic wood identification and information retrieval (CITESwoodID) has been developed by the Thünen Institute of Wood Research on behalf of the German CITES Scientific Authority. CITESwoodID serves as a visual and textual identification guide and enables the user, by means of macroscopic characteristics, to identify the most relevant CITES listed timbers and more than 30 non-CITES timbers in trade that look very similar to CITES timber species. Macroscopic characteristics are all those which can be observed or perceived respectively with the naked eye and a simple hand lens.





**Picture: Group photo of all delegates that attended the CITES Timber Identification course**

Macroscopic wood identification is not aimed at replacing final microscopic identification or advice by wood experts, but at providing a useful first indication as to whether a non-identified timber could be a CITES species. All presenters were excellent and the workshop was very informative and of high value. Many thanks to the German Thünen Institute of Wood Research (TI) in Hamburg for the invitation and for presenting the workshop. And also a big thanks to the organisation Environmental Technical Assistance and Information Exchange Facility (ENF-TAIEF) based in Poland who sponsored all expenses and travel costs. What an opportunity and experience.

### 13.4 USFWS International Conservation Chiefs Academy

EMLs were invited to attend the U.S. Fish and Wildlife Service's International Conservation Chiefs Academy (ICCA) course, which is aimed at strengthening global law enforcement relationships to combat illegal wildlife trafficking and the emphasis is placed on creating a shared understanding of the illegal wildlife trafficking problem globally, strengthening individual and international relationships, and building adaptive leadership.

"Strengthening Global Law Enforcement Relationships to Combat Illegal Wildlife Crime" was the theme and brought together conservation law enforcement agencies from Africa in an effort to build capacity and collaboration with other leaders. Funding for the ICCA was provided by the Department

of State, Bureau of International Narcotics & Law Enforcement Affairs (INL). The United States Fish & Wildlife Service, Chief, Office of Law Enforcement hosted the ICCA at the NCTC, Shepherdstown, West Virginia.

The two week program was packed with topics, workshops and peer group discussions, all the while referencing adaptive leadership skills. A lot of effort was made by the organisers of the event in showcasing different approaches and capabilities of the USFWS, while all the while ensuring that delegates' needs were met. As part of the programme delegates were taken to the Rocky Mountain National Park which spans the Continental Divide and encompasses protected mountains, forests and alpine tundra, with breathtaking views of the surrounding mountains.

Delegates were also taken to the USFWS repository, where in addition topics related to wildlife forensics and evidence management were also presented. To stimulate discussion and best facilitate adaptive leadership principles, each delegate was required to compile and submit an "adaptive leadership challenge" and was truly an eye-opener to the diverse yet similar challenges faced by different African countries. In conclusion to the formal events each delegate was requested to reflect on the past two weeks and provide a "personal commitment" in so far "Strengthening Global Law Enforcement Relationships to Combat Illegal Wildlife Crime".



**Picture: Photo of delegates and facilitators during the ICCA 2017**

### 13.6 Wildlife Investigation Training at ILEA Botswana

During 2017 EMIs, on invitation, also attended the ILEA: Wildlife Trafficking Investigators Course presented in Gaborone, Botswana. The course was attended by a total of 30 delegates from 6 African countries namely Malawi, RSA, Kenya, Namibia, Botswana and Zambia.

The course 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 the exchange of information and techniques used by USFWS in combating wildlife related crimes.

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



Picture: South African Delegates that attended the course at ILEA

### 13.7 Maritime Safety and Security Training In Indonesia

The Inspectorate was also represented during the maritime safety and security training session organised and funded by the Indian Ocean Rim Association (IORA), which is an international organisation with 21 Member States - Australia, Bangladesh, Comoros, India, Indonesia, Iran, Kenya, Madagascar, Malaysia, Mauritius, Mozambique, Oman, Seychelles, Singapore, Somalia, South Africa, Sri Lanka, Tanzania, Thailand, UAE and Yemen. IORA was formed in 1997 with the aim of fostering regional socio-economic cooperation and other peaceful endeavors.

The program was designed to strengthen regional cooperation to address transboundary challenges and to expand collaboration with countries outside the region and relevant regional and international organisations based on mutual interest; focusing on the following: Piracy, Terrorism, Trafficking in persons, People smuggling, Irregular movement of persons, Illicit drugs trafficking, Illicit trafficking in wildlife, Crimes in the fisheries sector and Environmental Crimes.

The course was attended by Officials from 17 countries, including Somali, South Africa, Indonesia, Australia, Solomon's Island, Comoros Island, Bangladesh, Oman, Mauritius, Fiji, Sri Lanka, Vanuatu, Madagascar, Malaysia, India, Tanzania and Timor Leste. Some of the common challenges identified by different countries include firearms trafficking, drugs, illegal fishing reduced by legislation introduced to sink IUU vessels, pollution (plastic and discharges to sea water), IUU fishing (small and big vessels), piracy, drugs, maritime terrorism and pollution.

As part of the training workshop South Africa was requested to present on Operation Phakisa – Initiative 5 in order to encourage other Member States to have similar coordinated structures to deal with all criminal activities within the coastal environment and ocean space.





STAKEHOLDER ENGAGEMENT



## 14. STAKEHOLDER ENGAGEMENT

### 14.1 Green Scorpions gather in numbers at the 07<sup>th</sup> National Environmental Compliance and Enforcement Lekgotla in Mbombela, Mpumalanga



315 EMIs and other key role-players gathered at the 07<sup>th</sup> National Environmental Compliance and Enforcement Lekgotla in Mbombela, Mpumalanga

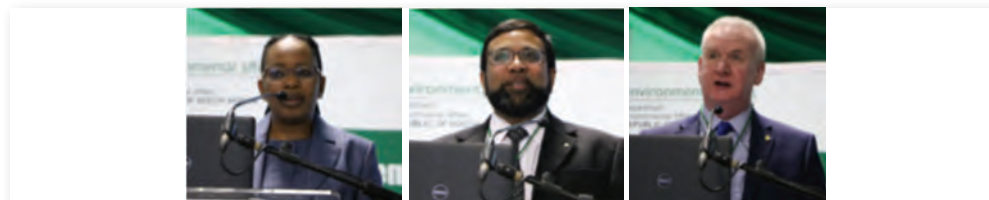
The 07<sup>th</sup> National Environmental Compliance and Enforcement Lekgotla (ECEL) took place at the Ingwenyama Sports and Conference Centre in Mbombela, Mpumalanga from 06-09 November 2017. The 2017 ECEL followed in the footsteps of 6 previous gatherings in Durban (2006), Golden Gate National Park (2007), Port Alfred (2009), Polokwane (2012), Hermanus (2013) and Rustenburg (2015).

The 2017 theme was **People, Purpose, Passion – the Pathway to EMI Success**; and was chosen to pay tribute to the core values that underlie the Inspectorate. A total of 315 Environmental Management Inspectors (EMIs) and other key role-players registered for this much-anticipated event on the environmental compliance and enforcement calendar, with representatives from 13 national institutions, 9 provincial environmental authorities, 4 provincial parks boards and 19 local authorities. In addition to government authorities, stakeholders from 6 different sectors were selected as panellists to provide the Inspectorate with an external perspective on its performance.

### Day 1: Innovations in Environmental Compliance and Enforcement: from Global to Local

Along with the current cost containment measures implemented across all EMI Institutions has come a realisation that it is no longer sufficient for the Green Scorpions to work hard in order to execute their constitutional mandate –they also need to work ‘smarter’ in order to make up for the lack of human and financial resources. This requires the Inspectorate to develop creative and innovative solutions to meet the requirements of a dynamic and complex regulatory environment – taking lessons learnt from both the international and domestic arenas.

The Head of Department of the Mpumalanga Department of Agriculture, Rural Development, Land & Environmental Affairs, Ms Sindisiwe Prudence Xulu, officially opened the proceedings and welcomed the ECEL attendees to the event. Thereafter, the DEA DDG (Legal Authorisations Compliance and Enforcement), Mr Ishaam Abader, provided the broad objectives of the ECEL, and also launched the new “Green Scorpions Logo” as a more informal branding mechanism to stand alongside the existing EMI logo as the official identification mark. This dramatic opening was followed by a keynote address from the Chairperson of the Advisory Board of INTERPOL’s Environmental Compliance and Enforcement Committee, Mr Callum McDonald, provided a broad overview of the various INTERPOL Working Groups on Wildlife/ Fisheries/ Pollution and Forestry Crime Working Groups, reminding the Green Scorpions that continued improvements in cross-border & cross-agency information sharing is critical to a supply-chain approach.



Mpumalanga Head of Department, Ms Sindisiwe Prudence Xulu, DEA Deputy Director General, Mr Ishaam Abader; and Chairperson of the Advisory Board of INTERPOL’s Environmental Compliance and Enforcement Committee, Mr Callum McDonald



The MINTECH WGIV approved “Green Scorpions” logo – to be used to complement the official Environmental Management Inspectorate logo.

This was followed by an analysis of the 2016/17 National Environmental Compliance and Enforcement Report (NECER) – the annual report that summarises the work of the Inspectorate in the preceding financial year.

The potential use of technical innovations in improving the effectiveness of compliance and enforcement was highlighted by both international (**Jon Carver** - Air and Space Evidence, Sweden) and domestic (**Dr Niel Malan** – Oceans and Coast, DEA, **Carmen Van Tichelen** -KZN Wildlife) and **Doug Gillings** - Peace Parks Foundation) presenters. To end off this session, **Llewyn Maefala**, the Black Mambas Anti-Poaching Unit’s Environmental Educator of-ficer, highlighted the fact that the use of community-based innovations are just as critical as high-tech equipment in ensuring the sustainable use of our natural resources.



Graphical representation of various environmental compliance and enforcement information systems

## Day 2: Building from the Ground Up: Capacity – Building for the Inspectorate

Day 2 of the ECEL was dedicated to capacity development topics and commenced with a presentation from DEA on the past, present and future of the EMI Training Programme. Included in the list of exciting new initiatives is the development of an E-learning website for EMIs:



Screenshot from the newly developed EMI E-Learning Platform

The following courses were aimed at furthering the capacity of the attending EMIs to execute their compliance and enforcement duties across the blue, green and brown sub-sectors:

- Training A: Biodiversity Offsets and One Environmental System;
- Training B: Domestic trade in Rhino horn regulations/ Marine Protected Species Regulations;
- Training C: Seizure, handling and submission of electronic devices during criminal investigations.

In the late afternoon, MEC for Agriculture, Rural Development, Land & Environmental Affairs, Mr Vusi Shongwe, led the Green Scorpions in visiting the Boschrand Primary School. In recognition of the importance of creating a greener and healthier learning environment, the Green Scorpions supported the MEC in the painting of the school buildings, planting in the gardens and the donation of related equipment. Whatever was missing in the painting and



gardening skills departments was made up for by the spirit and enthusiasm with which the Green Scorpions took to their duties. The purpose of the visit to Boschrand Primary School was also to acknowledge the critical role of the members of the community that have the greatest potential to influence our future environment – the youth.



*The Green Scorpions supporting the MEC for Agriculture, Rural Development, Land & Environmental Affairs, Mr Vusi Shongwe at the Boschrand Primary School*

### Day 3: The Inspectorate from a New Perspective: the Views of the EMI Stakeholders

On day 3 the Green Scorpions opened their eyes and ears to the insights provided by external stakeholders in the environmental compliance and enforcement sector. These stakeholders included representatives from environmental law firms, industry associations, NGOs and regulated facilities. With this range of stakeholders providing their honest, yet constructive perspectives on the performance of the Green Scorpions, it was not surprising that these panel of experts triggered some intense and rigorous discussions during this plenary session. However, attendees were provided with an opportunity to engage further with the panel of experts where joint solutions/ recommendations were proposed in the afternoon breakaway sessions.



Expert panellists representing various EMI stakeholder sectors: Industry Association: Cement Industry: **Dr Dhiraj Rama**; Environmental Consultants: **NEMAI, Mr Donovan Henning**; Legal firm: **ENS Mr Lloyd Christie**; Marine Industry: **Dr Jean Harris**, Regulated facility: **Ms Heather Booysen**; **SAMANCOR**

### Day 4: National Environmental Compliance Forum/National Environmental Crime Forum

The final day of the ECEL comprised of the National Environmental Compliance Forum as well as the National Environmental Crime Forum. The national Environmental Compliance Forum, which was officially launched at the 2015 ECEL, North West, was convened once again with EMI Institutions providing their highlights in the execution of EMI compliance inspections during the period since the last ECEL took place. The National Environmental Crime Forum gave due recognition to the key partners that the Green Scorpions collaborate with in the fight against environmental crime, with presentations from the South African Police Service (including the Forensic Science Laboratory), the National Prosecuting Authority as well as South African Revenue Service: Customs (Dog Detection Unit), who also brought one of their four-legged members into the venue to demonstrate their exceptional detection abilities.





**Pic 7: Most valuable member of the SARS Customs Dog Detector Unit joins the proceedings at the ECEL**

The grand finale to the ECEL was the **EMI Awards Dinner** that provides a platform for providing recognition to individual EMLs and other key role-players that display outstanding commitment and performance in their respective disciplines.

**Outstanding Contribution to the Investigation of Environmental Crime - Environmental Management Inspectors**



**Mr. Jason Liebenberg (Western Cape) Waste and Pollution:**



**Mr. Etienne Kitching (Eastern Cape) Biodiversity and Conservation Sector:**

**Outstanding Contribution to the Investigation of Environmental Crime - South African Police Services**



**The Skukuza Stock Theft and Endangered Species Unit**

**Outstanding Support to the rendered to the Environmental Management Inspectorate**



**Louis Loock and Nico Oosthuisen (MPTA)**

**In the category Outstanding Contribution to the Prosecution of Environmental Crime**



**Advocate Antoinette Ferreira (NPA)**



**Waste and Pollution: Advocate Mashudu Nethononda (NPA)**



**Marine and Coastal: Advocate Blane Lazarus (NPA)**

### Outstanding Contribution to the Administrative Enforcement of Environmental Legislation



Brenden Perumal (DEA)

Winners of the 2017 EMI Awards of Excellence recognising EMIs, prosecutors and support Officials

### 14.2 Field Rangers reach for the stars at the first EMI Grade 5 Field Ranger Summit

The first EMI Grade 5 Field Ranger Summit was hosted during 6-8 March 2018 at Misty Hills Hotel and Conference Centre in Muldersdrift, Gauteng province. The Summit was attended by 181 Field Rangers from across South Africa, representing 10 different EMI institutions.



Attendees at the first EMI Grade 5 Field Ranger summit in Muldersdrift, Gauteng, March 2018

Of the total 2880 EMIs on the national register (national, provincial and local authorities), 1726 (60%) are Grade 5 EMIs, who are typically Field Rangers employed at national and provincial parks authorities. The purpose of the Summit was to provide a platform for EMI Rangers to raise their key issues, concerns and challenges at a national forum whilst, at the same time, motivating them through the sharing of success stories, cases, etc. The program for the Summit was designed to facilitate broad attendee participation through a series of plenary, panel, workshop and capacity-building sessions, and encouraged a sense of Inspectorate unity/ cohesion amongst EMI Rangers from various provinces or institutions.

In order to link the Summit to other projects focussed on the activities of Field Rangers, the program topics were specifically developed to advance discussions/ projects already taking place, including the recommendations of the National Environmental Compliance and Enforcement Strategy, the Rhino Lab Initiatives as well as the United National Environmental Programme/ Global Environmental Facility – funded EMI Grade 5 Advanced Field Ranger Training Project.

The Summit was supported by 12 presenters/ facilitators from a range of stakeholders, including national and provincial environmental authorities, international and domestic non-governmental organisations, academic institutions as well as private sector practitioners (legal/ psychological). The Summit Programme was divided into 3 days with different focus areas: Day 1 dealt with Ranger Wellness/ Education, Day 2 on the Use of Technology and Equipment and Day 3 on Legal Matters related to EMI Rangers.

#### Day 1: Ranger Wellness/ Education:

Day 1 of the Summit focused on challenges related to the wellness (both mental and physical) currently being experienced by the Rangers, as well as further education/ training opportunities. Amongst the many issues that were raised on the day is the need for further counselling (e.g. trauma, family) for Rangers that are frequently exposed to violent encounters and that may be away from their family structures for extended periods of time while on patrols/ operations. This is exacerbated by the fact that the Rangers are often charged with culpable homicide or murder in circumstances where they believe that they were acting in self-defence.

In addition, it was noted that Rangers have a dual role of being official com-

pliance and enforcement Officials within their parks but also members of the neighbouring communities (some of whom are involved in illegal poaching) – these different roles sometimes cause internal conflict for the Rangers who feel the need to show loyalty to both aspects. A proposed way of trying to mitigate against this risk is to further the involvement of Rangers in local community projects so that they obtain a status of respect in the community in which they reside.

In relation to training and furthering their formal education, it was proposed that there be a focus on the development of a clear career path for Rangers, with an accompanying skills development programme and salary increase as they move up through the ranks. It was also noted that some Rangers do not meet the formal admission requirements for certain qualifications, although they have many years of practical experience in the field. Finally, they also identified specific areas that require the development of training, especially in relation to criminal procedure (e.g. pointing out), crime scene and exhibit management and the chain of custody rules. On the other hand, it was also mentioned that the skills development efforts should not be focused on law enforcement alone, but look at the wider range of Ranger duties.

The attendees also indicated that they would like to see a national process to try and standardise the salary levels between EMI Ranger Institutions across the country; as well as an assessment of the appropriateness of the level of salary as compared to the work undertaken.

### **Day 2: Use of Technology and Equipment**

The attendees proposed that the use of suitable technology, for example, CMore, an operational command and control system, together with the use of drones and night vision goggles can improve their effectiveness in the execution of their duties, however, some of the training and skills development programmes need to be extended to the Field Ranger level to empower them to use this equipment properly.

There is also a need to assess the equipment provided in all reserves - not just those with rhinos. It was further mentioned that marine Rangers need firearm training and bulletproof jackets as they often deal with armed poachers. Basic equipment to allow for effective communication; as well as nourishment, are seen as essentials.



Grade 5 EMIs Field Rangers engaging in legal discussions on day 3 of the Summit

### **Day 3: Legal Matters related to EMI Rangers**

The attendees expressed the view that it is very difficult for them to deal with corruption where the perpetrators are either family members and/ or work colleagues. In such circumstances, they proposed an anonymous national hotline to be developed for EMI Rangers to be able to report corruption within their organisations. The Rangers feel at risk by knowing the specific areas where rhino occur – this, together with their meagre salaries make them susceptible to criminals wanting to recruit them.

In relation to the laws relating to criminal procedure, the chain of custody and presentation of forensically gathered evidence in Court, the Rangers felt that they required further capacity development that would enable them to adequately deal with biodiversity crime scenes and be able to identify, preserve and gather items of evidential value. It was also identified that there is a need for a standardised method to place a monetary value on items, such as rhino horn and elephant ivory, for the purposes of consistency; and presentation in Court.

In conclusion, the feedback received from the first EMI Grade 5 Field Ranger Summit was that they regarded the Summit as a crucial event to air their common challenges and successes on a national basis with colleagues from other EMI Institutions. They expressed their wish to have some of their managers present at these types of events and, at the same time, to become more involved in providing input into management or strategic decisions affecting ranger



issues. From the side of the hosts of the Summit it was noted that the participation of the Field Rangers was characterised by professionalism, enthusiasm, humility and discipline – which is remarkable given the very challenging circumstances in which they execute their daily functions.

### 14.3 Global Environment Fund (GEF) “Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa: GEF Project ID No.4937” draws to a close

Prussian Field Marshall Helmuth von Moltke famously said, “No plan survives contact with enemy.” This is true for many programmes, but this programme stayed close to the original work plan; despite an initial increase in poaching, reluctance amongst law enforcement agencies to share information, an onerous procurement system and new developments in technology. May 2018 will see this programme coming to an end with the final evaluation being undertaken by UN Environment later in the year.

Sixty percent of the GEF budget from this programme was devoted to improving South Africa’s forensic ability to effectively fight wildlife crime with improvements and expansion of rhinoceros DNA analysis. The new GEF funded forensic laboratory at the University of Pretoria’s Veterinary Genetics Laboratory (VGL) and the acquisition (although not with GEF funding) of a government owned building for the South African Police Environmental Forensic Science Laboratory were major achievements. In addition to the new lab at VGL, the program also funded the hiring of three new lab technicians, hundreds of DNA sample kits, smart tablets, refrigerators and genotyping of 11 200 rhino DNA samples. The lab technicians have advanced in their careers with one having been promoted to lab quality control.

Training was a major contributor to improvements in fighting illegal wildlife crime. Training EMI’s is a core competence of the Chief Directorate: Enforcement, where execution authority for the GEF-UNEP Rhino Program resided. The addition of GEF and U.S. Department of State funding greatly increased the number of training sessions the DEA was able to facilitate. The GEF funding also meant that DEA was able to step up its existing programme to raise awareness of the prosecution and adjudication of wildlife crime with the prosecutors and judiciary respectively. This was done through three major events funded by the GEF-UNEP Rhino Programme, one of which also involved magistrates from Mozambique, Lesotho and Namibia.

Securing additional funding from the U.S. Department of State was a major

force multiplier, but with an increased work load for the GEF Project Manager and enforcement directorate staff. A total of ten fully equipped mobile crime scene units/4x4 forensic trailers were procured, five with GEF funds and five with U.S. Dept. of State funds. These units assisted the over worked EMIs by saving time and enabling more effective crime-scene management.

The Advanced Grade 5 EMI training program was completed at the end of October 2017 with 1273 rangers successfully completing the program. This was a huge effort that combined the original GEF budgeted funds with U.S. Department of State International Narcotics and Law Enforcement funds (INL), the grant recipient, the Endangered Wildlife Trust (EWT) and a highly skilled training team, Silver Fox Forensics. The training was conducted in eight of the nine provinces.

The bottom-up approach to achieving the communication and cooperation goals of Output 2 as opposed to the envisaged top-down approach yielded significant results. The three major programs in support of Output 2 of the programme are the Patrol Optimization Program, IBM Analyst Notebook/i2 database/Intellishare and the Integrated Smart Parks Programme. Two other important projects were linking the eRhODIS database to the DEA database and GEF funding for upgrading the RhODIS and eRhODIS databases. All Output 2 activities are coordinated and support one another. The primary operating platform is Cmore, developed by CSIR and it should be noted that DEA will be entering into an agreement with CSIR (based on Treasury approval), to fund the ongoing deployment of Cmore. This will provide continuity and sustainment of a key component of the GEF Rhino Programme, beyond the end of the programme.



**Michael Strang, GEF Project Manager and Rampedi Masemola, Deputy Project Manager / Minister Edna Molewa hand over the FGEF 4x4 Forensic Trailer**



WHAT IS AHEAD FOR 2018-19?



## 15. WHAT IS AHEAD FOR 2018-19?

Implementation of the 5 year National Environmental Compliance and Enforcement Strategy (NECES) will continue with a specific focus during the 2018/19 financial year on the Year 4 deliverables, including those that were unfortunately delayed during the previous year. In particular, development of the national integrated compliance and enforcement information management system will only commence in the coming year as will the feasibility study for an EMI Training Academy as both these projects were delayed.

We will continue at a strategic level with the work we have been undertaking which focuses on the combatting of the illegal wildlife trade. Although the National Integrated Strategy to Combat Wildlife Trafficking (NISCWT) has not yet been approved by Cabinet, we continue to implement the initiatives emanating from the Rhino Conservation Lab which includes many of the activities contained in the NISCWT. It will also be necessary to begin focusing on the actions required to implement the South African Development Community (SADC) Law Enforcement and Anti-Poaching (LEAP) Strategy and further high level engagements will take place towards the end of the 2018/19 financial year in London with the convening of the Interpol Wildlife Crime Working Group and the Conference on Illegal Wildlife Trade (IWT).

In relation to the different environmental subsectors, operational work in 2018/19 will focus on the execution of compliance and enforcement operations, many of them executed jointly with our government partners in order to ensure an integrated and co-ordinated approach to deal with these environmental non-compliances:

**Biodiversity/ Biosecurity:** Biodiversity compliance and enforcement will continue to focus on verification of private rhino horn stockpiles to ensure compliance with the norms and standards for the marking of rhinoceros and rhinoceros horn and for the hunting of rhinoceros for trophy hunting purposes. This includes information on all horn stocks that must be included in the national rhino horn database. We will also continue with our illegal wildlife trade awareness training of border officials. Implementation of the Anti-Poaching initiatives of the Rhino Conservation Lab will also be prioritised in line with our work plan during 2018/19. Priority areas and facilities, such as nurseries and plant growers, will continue to be targeted to ensure compliance with the Alien and Invasive Species Regulations.

**Oceans and Coast:** As there have been increasing concerns about pollution within the marine environment, during the next reporting period the Inspectorate plans to focus on pollution that occurs at sea, more especially from illegal dumping, oil pollution originating from vessels and pollution originating from land mainly focussing on plastics. This will also align with the priorities that will be targeted during the global INTERPOL operation – 30 Days at Sea – and undertaken under the auspices of Initiative 5 of Operation Phakisa involving the range of stakeholders involved in this initiative, in particular the South African Maritime Safety Authority (SAMSA) which is the competent authority in relation to pollution by vessels at sea.

**Environmental Impact Assessment and Pollution:** In relation to the pollution, waste and impact assessment work, the Department of Environmental Affairs recently acquired a range of equipment that will enable EMIs to undertake quick compliance verifications in the brown sector. The equipment ranges from drones to state of the art air quality monitors. This is considered to be a game changer as more compliance and enforcement can be undertaken in a more focussed and systematic manner. As a result, the areas that will be targeted in the 2018/19 period are sectors which impact on air quality. These efforts are not only aimed at addressing the environmental impacts, but also creating compliance and enforcement capacity within the local authorities which are primarily responsible for regulating activities relating to air pollution. In addition to the above, enforcement action will be undertaken to address unlawful mining in protected areas, in particular the Barberton Nature Reserve in response to the landmark Supreme Court of Appeal ruling. This initiative will also spread to other conservation areas where a threat of unlawful mining exists.

Both our strategic and operational work is dependent on our ability to collaborate effectively with a wide range of key compliance and law enforcement partners in order to achieve the positive results recorded in this report, particularly given the nature, scope, prevalence and complexity of environmental crime. We will therefore continue to emphasise and strengthen our work with international agencies, such as INTERPOL, UNODC and the CITES Secretariat, as well as those authorities within South Africa whose support is critical for the effective functioning of the Inspectorate. We will aim to strengthen those partnerships, in particular with SAPS, NPA, SARS, SSA and border management stakeholders in addition to the DWS, DMR and DAFF.



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