



## water & sanitation

Department:  
Water and Sanitation  
REPUBLIC OF SOUTH AFRICA

185 Schoeman Street, Pretoria, 0001 or Private Bag X313, Pretoria, 0001

Tel: (012) 336 7500, Fax: (012) 336 8574, [www.dwa.gov.za](http://www.dwa.gov.za)

✉ [groenewaldh@dwa.gov.za](mailto:groenewaldh@dwa.gov.za) / [damsafety@dws.gov.za](mailto:damsafety@dws.gov.za)

👤 Mrs H. Groenewald

☎ (012) 336-8553

📁 12/2/E100/BV

Tierhoek Boerdery Pty Ltd  
P.O. Box 143  
CITRUSDAL  
7340

ATTENTION: MR B VAN ZYL [admin@paardekop.co.za](mailto:admin@paardekop.co.za)

Sir

**ILLEGAL CONSTRUCTION OF A DAM WITH A SAFETY RISK:  
CLASSIFICATION, REGISTRATION AND REQUIREMENTS IN TERMS OF CHAPTER 12 OF  
THE NATIONAL WATER ACT, 1998 (ACT 36 OF 1998), READ WITH THE REGULATIONS  
PUBLISHED IN GOVERNMENT NOTICE R. 139 OF 24 FEBRUARY 2012: TIERHOEK DAM 1  
SITUATED ON PORTION 3 OF THE FARM WILDSCHUTSKRAAL 372, DIVISION OF  
CLANWILLIAM**

### A. CLASSIFICATION, REGISTRATION AND ILLEGAL STATUS OF DAM

- 1 It has come to this Department's attention that Tierhoek Dam 1 was constructed illegally, without the required licences in terms of the National Water Act, 1998. **The status of the dam is illegal and no water may be stored in the dam until the steps in paragraph C have been followed and a water use licence has been obtained by you. If a water use licence is not granted to you, you may be directed in terms of section 53(1) of the National Water Act, 1998 to remove the dam wall.**
- 2 Tierhoek Dam 1 has been classified and registered in terms of dam safety legislation as below based on available information. If you have any information on the basis of which you feel the classification is incorrect, you should submit a substantiated application in writing for its revision:

Vertical wall height	14,7 metres
Storage capacity	310 000 cubic metres
Size classification	Medium
Hazard potential rating	Low
Category	II

3. The general public in South Africa has a constitutional right to be protected against unsafe conditions at new and existing dams and for this purpose the attached regulations were published. In terms of these regulations you as dam owner are solely responsible for compliance with all requirements thereof and for the safety of the dam.
4. Before construction of Tierhoek Dam 1, you should have applied for classification of the dam in terms of regulation 2 of the Regulations. Thereafter, you should have applied for a licence to construct in terms of Regulation 10, accompanied by a design report and engineering drawings (compiled by an approved professional person in terms of Regulation 10 (a) and (b)) for the proposed structure. Issuing of the licence to construct Tierhoek Dam 1 would also only have been considered if you have obtained a water use licence. **You did not comply with any of these regulatory requirements.**

**B. STEPS TO BE FOLLOWED TO LEGALLY IMPOUND WATER IN TIERHOEK DAM 1**

1. **At this stage no water may be stored in the Tierhoek Dam 1 until you are in possession of a water use licence and a licence to impound, issued in terms of regulation 25 to 28. Arrangements must be made to empty the dam and all river outlets must be kept in a fully open position. If river outlets are absent or inadequate to keep the dam empty, siphons and pumps must be installed to keep the dam empty.**
2. The following steps must be followed to obtain a licence to impound:
  - 2.1 You must apply for a **water use licence** in terms of chapter 4 of the National Water Act, 1998. Enquiries and applications in this regard should be addressed to:
 

Chief Director: Western Cape  
 Department of Water and Sanitation  
 Private Bag X16                      Tel: (021) 950-7100  
**SANLAMHOF**                              Fax: (021) 946-3666  
**7532**

If a water use licence is not granted to you, a licence to impound will not be considered and the dam wall must be removed and decommissioned in a safe and controlled manner. Should this be the case, you must obtain a licence to decommission as stipulated in regulations 40 to 44 before any construction work to this end may commence.
  - 2.2 You must appoint a professional person/engineer in terms of Regulation 45, who must be approved beforehand by this Department to compile the documentation required as listed below:
    - 2.2.1 A combined design and construction completion report.
    - 2.2.2 A geotechnical investigation report (must include an interview with the contractor and stability analyses based on actual laboratory and in situ test results of the embankment and foundation materials).
    - 2.2.3 Complete photo report (must include photographs taken during construction).
    - 2.2.4 "As built" plans and specifications.
    - 2.2.5 First dam safety inspection report.

- 2.3 Apply for a licence to impound in terms of regulations 25 to 28 on form DW696E, available on the website: <http://dwa.gov.za/DSO/Forms>. An operation and maintenance manual including emergency preparedness plan, compiled by an approved professional person must accompany this application. This is a separate document but must be submitted simultaneously with the documents mentioned in paragraph 2.2.
- 2.4 After receipt, evaluation and acceptance of the documents mentioned in paragraph 2.2 and 2.3 by the Dam Safety Office, issuing of the licence to impound water will be considered. It is **however possible that you will first have to upgrade the dam to acceptable safety standards before the licence will be issued.**

#### C. LEGAL STEPS

Should you fail to comply with the above requirements; the Department will have no other option but to consider legal steps against you. In this regard your attention is drawn to section 151(2) of the National Water Act, 1998, which reads as follows:

**“Any person who contravenes any provisions of subsection (1) is guilty of an offence and liable, on the first conviction, to a fine or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment and, in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding ten years or to both a fine and such imprisonment.”**

#### D. GENERAL

Should you require any additional information in this regard you are welcome to contact Mrs R Cai (Specialist Engineer: Dam Safety Office) at (012) 336-8480.

Yours faithfully



Letter signed by Mrs R Cai

Designation: Specialist Engineer: Dam Safety Office

Date: 4 10 1 2018

- Copy to:
- (i) Chief Director: Western Cape (Attention Mr R.A. Khan)
  - (ii) Mr R Niewoudt, Western Cape
  - (iii) Mr M.C. Bester, Sarel Bester Ingenieurs BK, P.O. Box 21, Ceres, 6835,  
[charl@sbri.co.za](mailto:charl@sbri.co.za)