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Our reference: JA Ridl
Your reference:

31 March 2011
1:30:15 PM

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Dear Sirs

PROPOSED NEW PROCEDURES AND STANDARD TERMS AND CONDITIONS FOR KEEPING ANIMALS IN CAPTIVITY IN KWAZULU-NATAL IN 2011

We refer to your letter dated 28^h March 2011 received today.

With respect, we have to disagree with the opinion of Advocate Marnewick SC. We can only assume that he was not correctly briefed.

We will deal with counsel's opinion *in seriatim*:

Point (a)

The "Board" has no employees. The officials/employees to whom you refer, are employees of the KwaZulu-Natal Nature Conservation Service ("the NCS"), established as a separate statutory body in terms of section 20(1) of the KwaZulu-Natal Nature Conservation management Act 9 of 1997 ("the Act").

In terms of section 20(2), the NCS "is accountable to the Board for the execution of its functions, powers and duties".

It is our clients' contention, that without a validly constituted Board, the NCS cannot lawfully function. This is a matter that is before the court for a decision, so we will comment no further on this point.

Point (c) – you seem to have no point (b)

Apart from our comments above, undertaking the abovementioned process, is not part of the "ordinary duties and functions" of the employees. These powers, functions and duties are circumscribed by section 23 of the Act. They do not include the process in which the employees in question are engaged.



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We pointed out to the Premier that not he, the Board, the NCS or the CEO of the NCS, have the statutory power to engage in such a process, the validity of the appointment of members of the Board aside.

Point (d)

Referring to the provisions of section 49 of the National Environmental Management Act 107 of 1998 is hardly an act *in terrorem*. It is an act of courtesy and a valid caution to the officials concerned.

Point (e)

We do not understand how our clients' challenge to your clients' actions in the current process can reflect on the question of costs in the matter before the court. We therefore offer no further comment on this issue.

Our clients deny making any statements about your client *animus iniuriandi*. All comments made by our clients are true where they are factual, legitimate where they are criticisms and are made in the public interest.

To the extent that your clients have the legal right to institute court action, any such action will be dealt with appropriately. The officials concerned may proceed at their peril.

In the interests of not distracting the focus of the parties (and the public) from the matter in court, we will recommend to our clients that they call a truce on any further comments about your client's conduct if your clients call off all meetings in the process referred above until the litigation is complete.

Since our client does not recognise your clients' right to embark upon the process concerned in the first place, or the legitimacy thereof, our client will continue to take the matter up with the Premier until the process is terminated.

Yours faithfully



JA RIDL
RIDL & CO