



REFERENCE: 14/1/1/E2/8/2/4/0959/25

ENQUIRIES: Najah Ben Jeddou

BY EMAIL: anneleenv@swellendam.gov.za

Municipal Manager

Swellendam Municipality

P.O Box 20

SWELLENDAM

6740

Attention: Ms Anneleen Vorster

PRE-COMPLIANCE NOTICE

Dear Madam

**INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 IN RESPECT
OF A CONTRAVENTION OF THE NATIONAL ENVIRONMENTAL
MANAGEMENT: WASTE ACT, 2008**

1. I refer to the following:

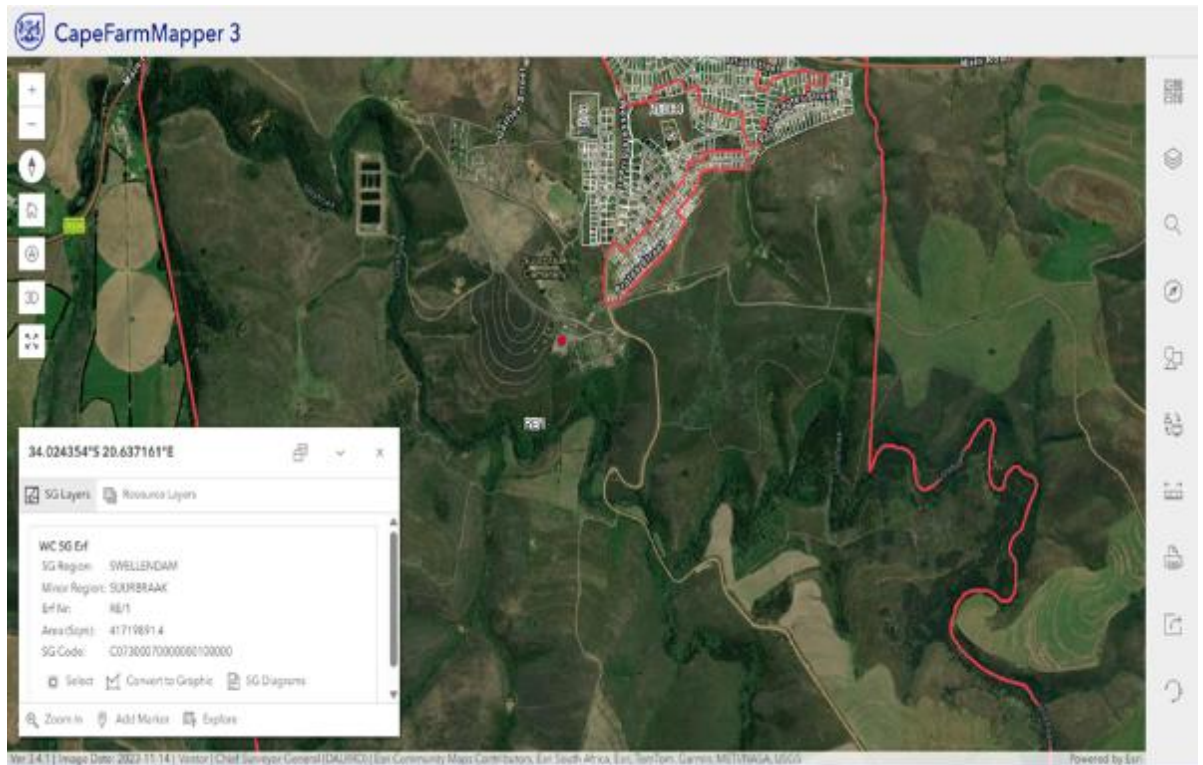
- 1.1. The Waste Management Permit. Reference: **19/2/5/4/E3/9/WL0090/18**; and
- 1.2. The Departmental Compliance Audit Report, conducted by the Department's Directorate: Waste Management on 17 July 2025.

2. During an investigation into allegations of non-compliance with a Waste Management Permit ("WMP")19/2/5/4/E3/9/WL0090/18), a site inspection was conducted at Suurbraak Waste Disposal Facility ("WDF"), located at the RE/1 Suurbraak, Swellendam, by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 18 November 2025, and it was confirmed that you have not complied with conditions of your Waste Management Permit.
3. Observations on site revealed that the WDF is not fenced off, there was no access control in the form of a gate, no adequate signage erected, and the waste was not compacted or covered, which resulted in windblown litter occurring on the adjacent properties..
4. Additionally, the Department's Directorate: Waste Management's Audit Report of the Suurbraak WDF conducted on 17 July 2025, confirmed that the Municipality has failed to comply with conditions of its Waste Management Permit.

34° 0'53.83"S 20°38'57.43"E



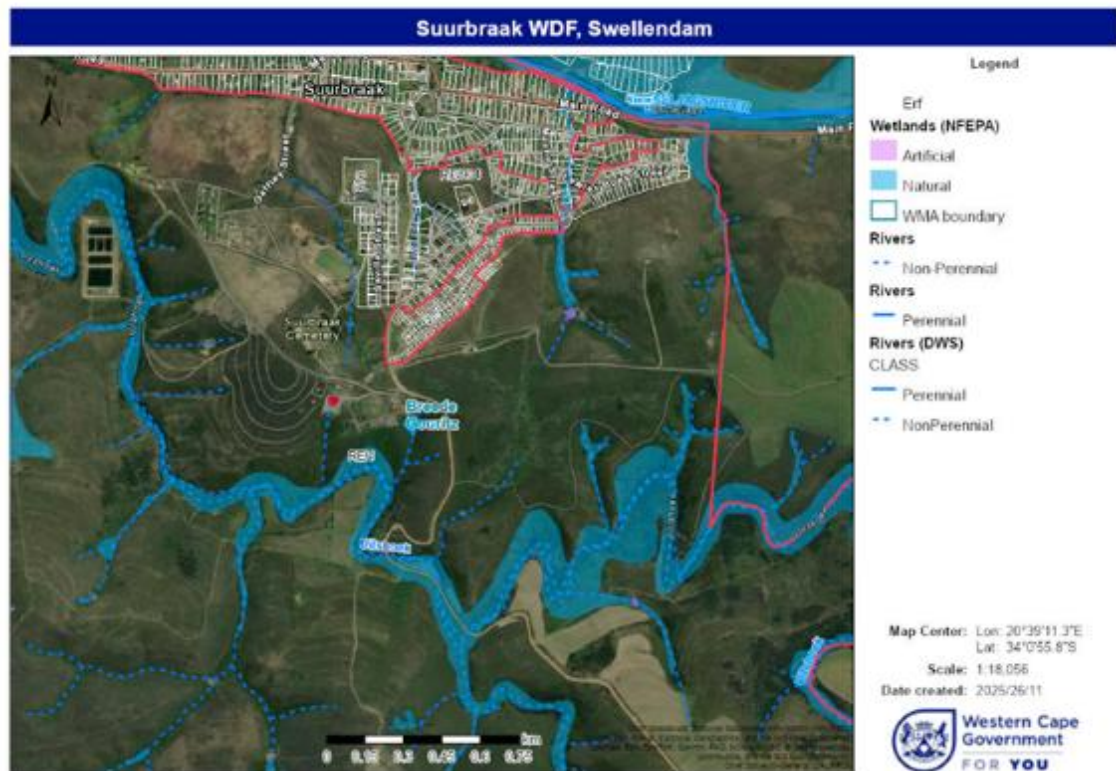
Aerial map 1: Location of alleged illegal activity.



Aerial map 2: Cadastral boundary of RE/1, Swellendam.



Aerial map 3: Zoomed in location map of the Suurbraak Waste Disposal Facility, RE/1, Swellendam.



Aerial map 4: Water resources layer. Location of the facility in relation to water resources in the area.

5. On considering the evidence before me, there are reasonable grounds to believe that you have not complied with the following conditions of your WML:

Non-compliance with condition of the Waste Management Permit No. 19/2/5/4/E3/9/WL0090/18

Condition 1.3: *The boundaries of the Facility must be according to the coordinates as in Table 1-2: Location of the Facility*

Condition 1.4: *The footprint of the Facility and its associated infrastructure is approximately 4249m².*

Condition 2.5: *All waste loads must be checked at the gate to prevent the disposal of waste not permitted by this Permit.*

Condition 4.5: Works shall be constructed and maintained on a continuous basis by the Permit Holder to divert and drain from the Facility in a legal manner, all runoff water arising on land adjacent to the Facility, which could be expected as a result of the estimated maximum precipitation during a period of 24 hours with an average frequency of 1:50 (once in fifty) years (hereinafter referred to as the "estimated maximum precipitation"). Such works shall, under the said rainfall event, maintain a freeboard of half a metre.

Condition 4.6: Works shall be constructed and maintained on a continuous basis by the Permit Holder to divert and drain from the working face of the Facility, all runoff water arising on the Facility, which could be expected as a result of the estimated maximum precipitation and to prevent such runoff water from coming into contact with leachate from the Facility. Such works shall, under the said rainfall event, maintain a freeboard of half a metre and be lined to the satisfaction of the Director and Director: RPW, to prevent pollution to groundwater.

Condition 4.7: Runoff water referred to in Condition 4.5 shall comply with the quality requirements as prescribed by the Director and Director: RPW, which may be determined from time to time and shall be drained from the Facility in a legal manner.

Condition 4.8.: Runoff water referred to in Condition 4.6 which does not comply with the quality requirements applicable in terms of Condition 4.7 and all sporadic leachate from the Facility shall, by means of works which shall be constructed and maintained on a continuous basis by the Permit Holder

Condition 4.9: Works constructed in compliance with Condition 4.8 shall be of such a capacity as to accommodate all runoff and leachate which could be expected as a result of the estimated maximum precipitation. Such works shall, under the said rainfall event, maintain a freeboard of half a metre.

Condition 4.10: *The Facility shall be constructed in accordance with recognised civil engineering practice to ensure that it remains stable*

Condition 4.11: *The maximum height of the Facility shall not exceed natural ground level.*

Condition 4.12: *The slope of the sides of the Facility shall be constructed in such a manner that little or no erosion occurs.*

Condition 4.13: *The Permit Holder shall make provision for adequate sanitation facilities at the Facility.*

Condition 5.1: *Weatherproof, durable and legible notices in 3 (three) of the official languages applicable to the area, shall be displayed at each entrance to the Facility. These notices shall prohibit unauthorised entry and state the hours of operation, the name, address and telephone number of the Permit Holder and the person responsible for the operation of the Facility. The Facility shall be fenced to a minimum height of 1.8m, using mesh fence, with gates of the same height at all entrances, to reasonably prevent unauthorised entry and curtail the spreading of windblown waste.*

Condition 5.2: *The Permit Holder shall ensure effective access control and that no illegal dumping occurs at the Facility*

Condition 5.3: *The Permit Holder shall ensure that all the entrance gates are manned during the hours of operation and locked outside the hours of operation*

Condition 6.1: *Waste disposed of on the Facility shall be compacted and covered on a daily basis with a minimum of 150 (one-hundred and fifty) millimetres of soil or other material, approved by the Director.*

Condition 6.2: *The Permit Holder shall take all reasonable steps to ensure the Facility is operated in a manner which shall prevent the creation of nuisance conditions or health hazards, such as vectors (flies and vermin), exposed waste, dust, windblown litter, obnoxious odours and noise*

Condition 6.7: *An Emergency Response Plan (ERP) must be developed, and all staff must be trained in the implementation thereof. The ERP should be regularly updated and must include fire evacuations, injury on duty, accidents, and procedures to be followed should unexpected hazardous waste enter the Facility*

Condition no. 6.9: *The Permit Holder must ensure that a stockpile of at least 3 (three) weeks of suitable cover material is available at all times.*

Condition 6.10: *Areas that will not be used for waste disposal for longer than a year must be covered with a minimum of at least 200 (two hundred) millimetres of suitable cover material*

Condition 6.11: *The Permit Holder must within 6 (six) months of the date of signature of this Permit , undertake a topographical survey of the Facility, determine the actual corner co-ordinates and use the data to calculate the side slope angles and the remaining volume of airspace on the Facility and the estimated remaining time left for the disposal at the Facility and submit a WDF Airspace Determination Report to inform the Director thereof in writing. Thereafter, annual reports must be submitted to the Director.*

Condition 6.12: *The waste body must be progressively constructed towards a pre-determined end-shape, as informed by an airspace determination study*

Condition 7.1.1: *A ground water monitoring system must be implemented and maintained by the Permit Holder to the satisfaction of the Director and Director: RPW, so that unobstructed sampling, as required in terms of this Permit, can be undertaken.*

Condition 7.1.3: *Surface water monitoring must be performed, when possible, in all storm water drain outlets that discharges to the natural environment at locations and at such frequency as approved by the Director and the Director: RP W.*

Condition 7.2.1: *Samples from the borehole as required above, where the groundwater in the borehole is at an expected higher hydraulic pressure level than the hydraulic pressure level of the groundwater under the Facility, shall be considered as background monitoring. Background groundwater monitoring shall be conducted during each monitoring occasion in terms of Conditions 7.3, 7.4 or 7.5 for the water quality variables as agreed by the Director and Director: RPW.*

Condition 7.3.1: *Monitoring shall be conducted on a biannual (twice per year) basis during late summer and late winter to capture seasonal variation, for the water quality variables as agreed by the Director and Director: RPW*

Condition 8.4: *An annual (once a year) topographical survey submitted to the Director in the form of an Airspace Determination Report, which must estimate the remaining volume of airspace on the Facility and the remaining lifetime for the disposal of waste at the Facility.*

Condition 9.1.1: *Internal audits must be conducted quarterly (four times per year) by the Permit Holder and on each audit occasion an official report, in the format specified by the Director, must be compiled by the relevant auditor to report the findings of the audits, which must be made available to the external auditor specified in Condition 9.2.1 and the Director (if requested).*

Condition 9.2.1: *The Permit Holder must appoint an independent external auditor to audit the Facility annually (once a year) and this auditor must*

compile an audit report, in the format specified by the Director, documenting the findings of the audit to the Director.

Condition 10.1: *The Permit Holder must take the necessary steps to establish, maintain and ensure the continued functioning of a Monitoring Committee for the normal operative lifetime of the Facility and for a period of at least 2 (two) years after the closure of the Facility, or such longer period as may be determined by the Director.*

Condition 11.1: *The Permit Holder must keep records of all monitoring results, nuisances and complaints at the Facility*

Condition 11.2: *Accurate records of waste volumes or masses received and recovered must be kept at the Facility and reported to the Director as per Conditions 6.5 and 11.5.*

Condition 11.5: *The Permit Holder must register and report all waste volumes or masses received, recovered, disposed of or stored to the Department's Integrated Pollutant and Waste Information System (IPWIS) monthly, which can be accessed on the URL: <http://ipwis.pgwc.gov.za/ipwis3/public>, as required by the Director.*

Condition 12.4: *The Permit Holder or duly appointed person must keep an incident report and complaints register, which must be made available to both external and Departmental auditors*



Photo 1: Entrance to the Suurbraak Waste Disposal Facility- the facility has no access control nor a gate, no fence and no noticeboard.



Photo 2: Overview of the Suurbraak Waste Disposal facility - waste is not covered and the facility is not fenced off.



Photo 3: Alternative view of the Waste Disposal Facility, showing the type of waste at the facility (general waste and garden waste).



Photo 4: Close-up view of the type of waste at the facility.



Photo 5: View of garden waste and litter around the facility.



Photo 6: litter near /outside the Waste Disposal Facility.



Photo 7: View of the side of the Waste Disposal Facility (yellow arrow). The WDF is located near a perennial water course (red arrow).

6. In terms of section 67(1)(h) of the NEM: WA it is an offence to fail to comply with or contravene a condition of a WML. A person convicted of such an offence is liable to a fine not exceeding R10 million or 10 years imprisonment or both such fine and such imprisonment.
7. The NEMA makes provision for the criminal prosecution of officials of an organ of state, such as national or provincial government departments, municipalities or public entities.
8. As such, you are hereby given notice of this Department's intention to issue you with a Compliance Notice in terms of section 31L of the NEMA, which will instruct you to comply with the conditions of the above WML.
9. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k) of the NEMA. A person convicted of failing to comply with a Compliance Notice is liable to a maximum fine of R5 million or 5 years imprisonment or both such fine and such imprisonment.

10. You are afforded a period of **7 (seven) calendar days** from the date of receipt of this Pre-Compliance Notice to make written representations to the Department as to why a Compliance Notice should not be issued.
11. If you inform the Department, in respect of paragraph 13 above that you intend to rectify the non-compliance with the conditions of the WML as stipulated in paragraph 5 above, **you must submit an Action Plan to the Department for approval**, within **30 (thirty) calendar days** of the date of receipt of this notice, to address all the partial and non-compliances identified in Compliance Audit report conducted by the Department's Directorate: Waste Management on 17 July 2025. The Action Plan must include the following:
- 11.1. Adequate timeframes (short -; medium – and long-term) to comply with the aforesaid conditions;
 - 11.2. A breakdown of budget allocations, and responsible person(s) to address the above-mentioned non-compliance with conditions of the WML and issues identified.
12. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.

Mr. A Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Cc:

- (1) Johan Van Niekerk (Swellendam Municipality) Email: jvanniekerk@swellenmun.co.za
- (2) Ayub Mohamed (DEA&DP – CD:EG,PC&E) Email: Ayub.Mohamed@westerncape.gov.za
- (3) Helena van Aarde (DEA&DP – D:WM) Email: Helena.vanAarde@westerncape.gov.za
- (4) Lance McBain-Charles (DEA&DP – D:WM) Email: lance.mcbain-charles@westerncape.gov.za
- (5) Saliem Haider (DEA&DP – D:WM) Email: Saliem.Haider@westerncape.gov.za

Attention: Mr A Bassier, Najah Ben Jeddou and Lance McBain-Charles

RE: ACTION PLAN TO ADDRESS THE RECTIFICATION OF PARTIAL AND NON-COMPLIANCES WITH THE CONDITIONS OF THE WASTE MANAGEMENT PERMIT/LICENCE FOR SUURBRAAK COMMONAGE S2499 DIVISION OF SWELLENDAM, SWELLENDAM MUNICIPALITY, WESTERN CAPE PROVINCE

In response to the Department's Pre-Compliance Notice, kindly see the attached action plan for rectification of the partial and non-compliances identified.

To note that JPCE is currently undertaking a full cost of waste study including closure and remediation costs for all landfill sites, the Suurbraak landfill site is planned to be converted to a drop off point as funding becomes available. The remediation listed in the action plan below is assuming the continuation of use of the Suurbraak landfill site. If the study shows otherwise the site will still be closed and rehabilitated within the licence conditions.

Note that the Compliance Status refers to the Pre-Compliance Notice from Mr A Bassier mailed on 11/02/26 as well as the Acknowledgement of Receipt letter received 23/02/26, as agreed the date of final submission is 11th March 2026.

Yours faithfully

Johan van Niekerk – Senior Manager Waste and Environmental

Samkelo Ndlovu – Senior Technician

No.	Compliance status	Comments/Action	Responsible (person for task)	Time Frame (to rectify highlighted issues)	Budget (Financial implications: has the budget included enough funds for this item?)
1	CONDITION 2.5, 5.1, 5.2, 5.3, 11.1, 11.2– Fencing, Gate Control and Signage Non-Compliance: Facility not fenced; no access gate; no compliant signage.	Appoint a landfill supervisor/caretaker. Implement the gate control procedure. Lock facility outside operating hours. Fencing and signage has been stolen from this site on numerous occasions. Without staff on site this will continue.	Senior Manager, Solid Waste: J van Niekerk	As funds become available for staff on site depending on infrastructure needed (toilets, shelter etc)	Temporary Solution: Utilise EPWP staff for a period of three (3) months to provide interim support. Medium Term Solution: Installation of signage for controlling dumping Long-Term Solution: Submit a budget request during the 2026/2027 Adjustment Budget process. In addition, apply for external funding through the Department of Agriculture as well as Land Reform and Rural Development (DALRRD). GRAP19 estimate= R636 476.00 excl VAT for fencing and Gate
2	CONDITION 6.1, 6.2, 6.9, 6.10 – Daily Compaction and Covering Non-Compliance: Waste not compacted and covered daily.	As this department has no fleet we will apply for yellow fleet funding through MIG or through OPEX budget to appoint a contractor.	Senior Manager, Solid Waste: Johan van Niekerk Senior Technician: Samkelo Ndlovu	As operational and capital funds become available	Budget will be requested at the adjustment budget 2026/7 financial year. and We will apply for yellow fleet funding through MIG. (Estimated cost on Daily covering through contractor = R120 000 per month, excluding VAT)
3	CONDITIONS 4.5 – 4.9 – Stormwater & Leachate Management Non-Compliance: No stormwater diversion infrastructure.	Design and execute stormwater diversion berms and drains. Separate clean and dirty water channels. Prevent runoff contact with waste body. Ensure 0.5m freeboard capacity.	Senior Technician: Samkelo Ndlovu	As operational and capital funds become available	Budget will be requested at the adjustment budget 2026/7 financial year. (GRAP19 estimated cost= R173 564 Excl VAT)

4	CONDITION 4.11 – Facility Height & Boundary Footprint Non-Compliance: Encroachment beyond approved footprint.	Conduct site survey. Confirm approved coordinates. Develop corrective reshaping plan with own fleet (MIG) or contracted. Restrict further expansion beyond approved boundary and ensure the footprint will be brought back to/managed within the approved area.	Senior Manager, Solid Waste: Johan van Niekerk Senior Technician: Samkelo Ndlovu	As operational and capital funds become available	Apply for yellow fleet funding through MIG. (GRAP 19 estimated Cost= R1 792 536.00 excl VAT)
5	CONDITION 6.7 – Emergency Response Plan (ERP) Non-Compliance: No Emergency Response Plan.	Develop ERP, including: • Fire management • Injury on duty • Hazardous waste incident procedure Train all staff annually	Senior Technician: Samkelo Ndlovu	13 th May 2026	Establish an Internal Emergency Response Plan using existing municipal resources. Conduct annual in-house training and awareness sessions for all staff to ensure preparedness and proper incident response
6	CONDITION 4.13 – Sanitation Facilities Non-Compliance: No sanitation for staff.	Install a cement chemical toilet as an interim measure for use by EPWPs and the eventual site supervisor (short term). Construct a permanent ablution facility (medium term). Any site staff is dependant on a toilet and shelter on site as the site is located in a harsh environment.	Senior Manager, Solid Waste: Johan van Niekerk Senior Technician: Samkelo Ndlovu	As funds become available	Budget will be requested at the adjustment budget 2026/7 financial year. (Estimated Cost= R220 000.00 excl VAT)
7	CONDITIONS 7.1.1, 7.1.3, 7.2.1, 7.3.1 – Groundwater & Surface Water Monitoring Non-Compliance: No monitoring boreholes; no sampling conducted.	Using our environmental consultant. Install the minimum required monitoring boreholes. Conduct biannual sampling (late summer & winter). Submit monitoring results to the Director.	Senior Manager, Solid Waste: Johan van Niekerk Senior Technician: Samkelo Ndlovu	As funds become available	Urgently apply for funding during the 26/27 financial year Discussions to be held with DEA&DP regarding the licence renewal process and the way forward (GRAP19 estimates = R230 276 excl VAT)

8	CONDITIONS 6.11 & 8.4 – Airspace Determination & Topographical Survey Non-Compliance: No Airspace Determination Report submitted.	Appoint a professional surveyor. Ascertain if a study is needed; if not, apply for a licence alteration If it is needed, conduct a full topographical survey. Submit Airspace Determination Report. Thereafter, submit annually.	Senior Manager, Solid Waste: Johan van Niekerk Senior Technician: Samkelo Ndlovu	Before end August 2026	Available 2026/7 budget Estimated Cost = R25 000 excl VAT
9	CONDITION 6.12 – Progressive Shaping of Waste Body Non-Compliance: The waste body is not constructed to a predetermined end shape.	Cost estimates for this condition have come in at +- 5 M. It is not currently feasible for us to fund this.	Senior Manager, Solid Waste: Johan van Niekerk Senior Technician: Samkelo Ndlovu	As and When funding or a definitive way forward becomes evident through the JPCE study	The JPCE study is currently in progress, and its outcomes will determine the required actions at the landfill site. 2 nd Option is to apply for the yellow fleet funding through MIG. (GRAB 19 Estimated Cost= R 5 063 646.56 excl VAT)
10	CONDITIONS 11.1, 11.2, 11.5, 12.4– Waste Recording & IPWIS Reporting Non-Compliance: No waste data recording; no IPWIS reporting.	Implement waste register (type, source, estimated mass/volume). Submit monthly IPWIS reports. Train supervisor in reporting.	Landfill Supervisor	Upon appointment of a landfill sup depending on infrastructure needed (toilets, shelter etc)	Budget will be requested at the adjustment budget 2026/7 financial year. Waste data recording will be implemented, with IPWIS reporting to resume once data systems are actioned. Estimated Cost = R270 00.00/y excl VAT
11	CONDITIONS 9.1.1 & 9.2.1 – Internal & External Audits Non-Compliance: No structured quarterly internal audits or annual external audit.	Conduct quarterly internal audits. Appoint an independent external auditor annually. Submit reports to DEA&DP	Swellendam's internal audit team. 2025/6 external audit	Second quarter 2026 for internal audit 2025/6 audits depending on funding	Operational budget for internal audit External audit budget will be requested for 2026/7 adjustment budget. Estimated Cost = R30 000/y
12	CONDITION 10.1 – Monitoring Committee	Establish a Monitoring Committee.	Senior Technician: Samkelo Ndlovu	Second quarter 2026	Internal

	Non-Compliance: The Monitoring Committee is not functional.	Hold biannual meetings. Include community representatives.			
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