



# agriculture, forestry & fisheries

Department:  
Agriculture, Forestry and Fisheries  
REPUBLIC OF SOUTH AFRICA

Reference: West Coast Rock Lobster (Nearshore) Zone B Appeals

## THE MINISTER

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**REPORT IN TERMS OF REGULATION 5(3) OF THE REGULATIONS PROMULGATED UNDER THE MARINE LIVING RESOURCES ACT, 1998 (ACT No. 18 OF 1998) ("THE MLRA"): APPEAL IN TERMS OF SECTION 80 OF THE MLRA: WEST COAST ROCK LOBSTER (NEARSHORE) FISHERY: ZONE B APPELLANTS.**

HAZEL VAN DE HEEVER	WCNB15861
SALOME ALETTA SCHALK	WCNB151793
LAWRENCE CONZALVES	WCNB151056
ALFRED HENDRIAS CERES	WCNB151382
BENNET JEFFREY LECKAY	WCNB15704
JAN VISAGE	WCNB15151
NTUTUZELI AARON NDODANA	WCNB15446
MICHAEL CONSALVES	WCNB15163
FLIP FRANSMAN	WCNB151058
GERT SAMUEL KOOZEN	WCNB15587
MZIWONKE ALREMAN NTLOKO	WCNB150912
MNYAMEZELI BOTHA	WCNB15261
ABRAHAM JOHANNES KAMFER	WCNB15375
GERALD BARNES	WCNB151719
JOHATHAN VAN AARDE	WCNB15360

## 1. PURPOSE

- 1.1 To submit a report as provided for in terms of Regulation 5(3) of the Regulations promulgated under the MLRA, with regard to an appeal by 15 Appellants in the West Coast Rock Lobster Nearshore Fishery (Zone B) ("the Appellants").

## 2. GROUNDS OF APPEAL

- 2.1 The grounds of appeal by 15 Appellants relates to their exclusion for failing to disclose a violation of the MLRA or a provision thereof.

## 3. DELIBERATIONS

- 3.1 The applications of 15 Appellants were screened to determine whether they were materially defective. In terms of Section 6.1.1(b) of the General Policy on the Allocation and Management of Fishing Rights: 2013 ("the General Policy"), *"an application is materially defective if the declaration is not signed by the applicant, or if the applicant's declaration was not attested to by a Commissioner of Oaths, or if more than one application was received from the same applicant for a fishing right in the same sector, or if the applicant provided false information for false documents, or failed to disclose material information, or attempted to influence the Minister or delegated authority other than in the manner provided for in the 2013 General Policy during the application period"*.

- 3.2 The 15 Appellants were excluded in the West Coast Rock Lobster (Nearshore) fishery due to non-disclosure of the contraventions of the provisions of the MLRA that occurred during the period 2005 – 2015. All applicants in the West Coast Rock Lobster (Nearshore) fishery were required to disclose contravention related matters under Section 3 of the 2015/16 Application Form for Fishing Rights ("Application Form").

- 3.3 The 15 Appellants listed below did not disclose that they have paid an admission of guilt fine in their Application Forms:

3.3.1 Hazel Van De Heever (WCNB15861) was issued a fine under CAS number 94/3/2010 and paid a R500 admission of guilt fine.

3.3.2 Salome Aletta Schalk (WCNB151793) was issued a fine under CAS number 134/2/2011 and paid a R1 500 admission of guilt fine.



- 3.3.3 Lawrence Conzaves (WCNB151056) was issued a fine under CAS number 61/1/2013 and paid a R200 admission of guilt fine.
- 3.3.4 Alred Hendrias Ceres (WCNB151382) was issued a fine under CAS number 103/12/2010 and paid a R200 admission of guilt fine.
- 3.3.5 Bennet Jeffrey Leckay (WCNB15704) was issued a fine under CAS number 187/11/2007 and paid a R500 admission of guilt fine.
- 3.3.6 Jan Visage (WCNB15151) was issued a fine under CAS number 127/12/2011 and paid a R200 admission of guilt fine.
- 3.3.7 Ntutuzeli Aaron Ndodana (WCNB15446) was issued a fine under CAS number 21/12/2013 and paid a R1 500 admission of guilt fine.
- 3.3.8 Michael Consalves (WCNB15163) was issued a fine under CAS number 49/12/2008 and paid a R2 000 admission of guilt fine.
- 3.3.9 Flip Fransman (WCNB151058) was issued a fine under CAS number 19/8/2010 and paid a R200 admission of guilt fine.
- 3.3.10 Gert Samuel Koozen (WCNB15587) was issued a fine under CAS number 57/10/2011 and paid a R500 admission of guilt fine.
- 3.3.11 Mziwonke Alreman Ntloko (WCNB150912) was issued a fine under CAS number 33/2/2012 and paid a R500 admission of guilt fine.
- 3.3.12 Mnyamezeli Botha (WCNB15261) was issued a fine under CAS number 26/12/2011 and paid a R500 admission of guilt fine.
- 3.3.13 Abraham Johannes Kamfer (WCNB15375) was issued a fine under CAS number 127/10/2010 and paid a R2 000 admission of guilt fine.
- 3.3.14 Gerald Barnes (WCNB151719) was issued a fine under CAS number 129/12/2011.
- 3.3.15 Johathan Van Aarde (WCNB15360) was issued a fine under CAS number 76/1/2011 and paid a R250 admission of guilt fine.
- 3.4 In terms of Section 5.9.1(e)(i) of the General Policy, applicants are required to attest to a declaration before a commissioner of oaths stating, amongst other things, that they have not submitted false information or false documents and that they have not failed to disclose material information.
- 3.5 In terms of Section 5.9.1(e)(ii) of the General Policy, the submission of false information or false documentation or failure to disclose material information will constitute an independent ground for refusing an application.



- 3.6 In terms of Section 6.1.1(b) of the General Policy, the applications submitted by the 15 Appellants were materially defective as they have provided false information or failed to disclose material information.
- 3.7 The Delegated Authority has no discretion to condone non-compliance with regards to requirements relating to materially defective applications.



**BELEMANE SEMOLI**  
**DEPUTY DIRECTOR-GENERAL (ACTING)**  
**FISHERIES MANAGEMENT**  
**DATE: 21 AUGUST 2018**