



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

THE MINISTER

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 D APPELLANTS.

MICHAEL BUTLER	WCND151625
CLARENCE CHRISTOPHER SMITH	WCND150208
ZAMA XHANTI	WCND150921
ROBERT NORTON SALVATORE HALL	WCND151404
SHIRLEY GENNISON	WCND151488
CHRISTINA ROSELINA DANIELS	WCND150480
ESTHER RUTH BRAAF	WCND151823
ODWA QWANYA	WCND151811

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 8 Appellants in the West Coast Rock Lobster (Nearshore) Fishery: Zone D ("the Appellants").

2. GROUNDS OF APPEAL

- 2.1 The grounds of appeals by six (6) Appellants relate to their exclusion for failing to sign and/or commission their 2015/16 Application Forms for Fishing Rights ("Application Form") and the failure of one (1) Appellant to submit his application form before the stipulated closing date and time.

3. DELIBERATIONS

3.1 The applications of 7 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, *"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 All applicants in the West Coast Rock Lobster (Nearshore) fishery were required to sign the declarations and have declarations attested to by a Commissioner of Oaths on their 2015/16 Application Forms. The applications of the 7 Appellants were excluded in the West Coast Rock Lobster (Nearshore) fishery for failure to sign and/or commission their application forms as follows:

3.2.1 Clarence Christopher Smith (WCND150208)

3.2.2 Zama Xhanti (WCND150921)

3.2.3 Robert Norton Salvatore Hall (WCND151404)

3.2.4 Shirley Gennison (WCND151488)

3.2.5 Christina Roselina Daniels (WCND150480)

3.2.6 Esther Ruth Braaf (WCND151823)

3.2.7 Odwa Qwanya (WCND151811)

3.3 The application of one (1) Appellant was excluded in the West Coast Rock Lobster (Nearshore) fishery for failure to submit his application form before the stipulated closing date and time as follows:

3.3.1 Michael Butler (WCND151625).

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 6.1.1(b) of the General Policy, the applications submitted by the 4 Appellants were materially defective as the declarations were not signed by the Appellants and/or declarations were not attested by a Commissioner of Oaths.
- 3.6 Clause 14 of the Application Form under "Important Information Instructions" indicates that if any applicant fails to comply with the requirements of the General Policy, the Sector-Specific Policy and/or the instructions and the requirements of the application, such application will be declined.
- 3.7 The Delegated Authority has no discretion to condone non-compliance with regards to requirements relating to materially defective applications.



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