



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Reference: West Coast Rock Lobster (Nearshore) Zone F 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 F APPELLANTS.

FRANKLIN JOSEPH SWARTZ	WCNF152170
EON STEWART GILLION	WCNF150867
MELVIN DANIEL SALIES	WCNF151306
METTHEW LUCAS DREYER	WCNF150404
NOMZI SIYO	WCNF150101
JOHAN DE JAGER	WCNF150431
ANTON KEMPER KRUGER	WCNF152023
FREDILEEN DAMON	WCNF150026
ERROL VERNON ABRAHAMS	WCNF151279
DEON MARTIN FORTUIN	WCNF151206
ALBERTUS JOHANNES DE WITT	WCNF150923

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 10 Appellants in the West Coast Rock Lobster Nearshore Fishery (Zone F) ("the Appellants").

2. GROUNDS OF APPEAL

- 2.1 The grounds of appeal by 11 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 11 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 11 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 11 Appellants listed below did not disclose that they have paid an admission of guilt fine in their Application Forms:
- 3.3.1 Franklin Joseph Swartz (WCNF152170) was found guilty and issued a fine of R1000.00 under CAS number: 2/9/2009.
- 3.3.2 Eon Stewart Gillion (WCNF150867) was found guilty and issued a fine of R5000.00 under CAS number: 113/7/2014.
- 3.3.3 Melvin Daniel Salies (WCNF151306) was found guilty and issued a fine of R1800.00 under CAS number: 309/5/2015.
- 3.3.4 Matthew Lucas Dreyer (WCNF150404) was found guilty and issued a fine of R2500.00 under CAS number: 209/4/2012.
- 3.3.5 Nomzi Siyo (WCNF150101) was found guilty and issued a fine of R2000.00 under CAS number: 226/4/2013.



- 3.3.6 Johan De Jager (WCNF150431) was found guilty and issued a fine of R500.00 under CAS number: 46/1/2011.
- 3.3.7 Anton Kemper Kruger (WCNF152023) was found guilty and issued a fine of R500.00 under CAS number: 408/11/2013.
- 3.3.8 Fredileen Damon (WCNF150026) was found guilty and issued a fine of R2500.00 under CAS number: 38/4/2013.
- 3.3.9 Errol Vernon Abrahams (WCNF151279) was found guilty and issued a fine of R1200.00 under CAS number: 119/1/2008.
- 3.3.10 Deon Martin Fortuin (WCNF151206) was found guilty and issued a fine of R500.00 under CAS number: 454/2/2008.
- 3.3.11 Albertus Johannes De Witt (WCNF150923) was found guilty and issued a fine of R2500.00 under CAS number: 142/12/2007
- 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 3 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 requirements relating to materially defective applications.



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