



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Reference: West Coast Rock Lobster Nearshore Zone A 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 A) FOR:

MICHIEL DIERGAARDT

WCNA15405

WILLIAM FREDDY DE WET

WCNA15342

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 appeals by 2 Appellants in the West Coast Rock Lobster Nearshore Fishery (Zone A) ("the Appellants").

2. GROUNDS OF APPEAL

- 2.1 The grounds of appeal by 2 Appellants relates to the decision by the Delegated Authority not to allow applicants older than 65 years of age to become successful in the fishery.

3. DELIBERATIONS

- 3.1 In line with the sector-specific policy objectives of promoting access to youth, women and people with disabilities, and further to promote meaningful participation in the fishery through active involvement of rights holders (i.e. to reduce the risk of paper quota holders), while also being mindful that rights are being allocated for a 15 year period, the Delegated Authority decided that applicants older than 65 years of age and/or who have been classified as being

medically unfit (excluding persons with permanent disabilities) would become unsuccessful in order to prevent paper quota holders.

3.2 In terms of the Employment Equity Act, 1998 (Act No 55 of 1998) as amended defines people with disabilities as people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment.

3.3 The applications of the 2 Appellants were unsuccessful in the West Coast Rock Lobster Nearshore fishery due to being older than 65 years are as follows:

3.3.1 Michiel Diergaardt (WCNA15405) who indicated that her final score of 81.83% as can be ascertained from the score sheet allows him to be granted a right in West Coast Rock Lobster (Nearshore) fishery. The Appellant's argues that his age should not be the reason to not allocate a right to him as he is actively involved in the fishery. The Appellant states that there is no mention of excluding people above the age of 65 in the West Coast Rock Lobster (Nearshore) policy. The Appellant further states that he feels discriminated unfairly due to his age, because of the assumption that he cannot harvest the resource and that is totally incorrect. The Appellant has attached a medical report to prove that he is fit to harvest the resource. The Appellant was 73 years old at the time of application.

3.3.2 William Freddy De Wet (WCNA15342) who indicated that her final score of 81.83% as can be ascertained from the score sheet allows him to be granted a right in West Coast Rock Lobster (Nearshore) fishery. The Appellant's argues that his age should not be the reason to not allocate a right to him as he is actively involved in the fishery. The Appellant states that there is no mention of excluding people above the age of 65 in the West Coast Rock Lobster (Nearshore) policy. The Appellant further states that he feels discriminated unfairly due to his age, because of the assumption that he cannot harvest the resource and that is totally incorrect. The Appellant has attached a medical report to prove that he is fit to harvest the resource. The Appellant was 74 years old at the time of application.

- 3.4 It is recommended that the decision of the Delegated Authority not to allow applicants older than 65 years of age to become successful in the fishery be upheld save for Catharina Farao (WCNC16198) and Sylvia Margaret Engelbrecht (WCNC15811).



BELEMANE SEMOLI
DEPUTY DIRECTOR-GENERAL (ACTING)
FISHERIES MANAGEMENT
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