



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

DESEREE CONSTABLE	WCNC16501
PETRUS JOHANNES VAN DER WESTHUIZEN	WCNC15994
JEONA VENEATHEA FRANKE	WCNC15814
MARIA MAGDALENA JULIUS	WCNC15815
BEATRICE CHATHRINE DE VILLERS	WCNC16019
LE-ANNE MARRINEZE VAN HOOI	WCNC15927
NAOMIE SMITH	WCNC16032
HESTER CELINA GALANT	WCNC15926
ELIZABETH ANDREWS	WCNC16060
AUDIAL BLAAUW	WCNC15812
SARA JULIUS	WCNC15813
CHARMAIN JULIES	WCNC15507

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 12 Appellants in the West Coast Rock Lobster Nearshore Fishery (Zone C) ("the Appellants").

2. GROUNDS OF APPEAL

- 2.1 The grounds of appeal by 12 Appellants relates to the decision by the Delegated Authority not to allow applicants who have been classified as being medically unfit (excluding people with permanent disabilities) 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 12 Appellants were unsuccessful in the West Coast Rock Lobster Nearshore fishery due to being medically unfit are as follows:
- 3.3.1 Deseree Constable (WCNC16501) was unfit to go to sea during the 2008/2009, 2010/2011 and 2015/2016 fishing seasons, the Appellant was unfit to go to sea due to poor vision and hypothyroidism. Unfortunately, the Appellant has not indicated whether her vision can be corrected or not in order to be regarded as a person with disability. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to hypothyroidism. The Appellant was 52 years old at the time of the application and is not physically disabled.
- 3.3.2 Petrus Johannes Van Der Westhuizen (WCNC15994) was unfit to go to sea during the 2010/2011, 2011/2012 and 2012/2013 fishing seasons and during 2013/2014 and 2015/2016 fishing seasons, the Appellant was unfit to go to sea due to disc injury L4, L5 lower back. During the exemption period, 2016/2017 fishing season, the Appellant was paralysed. The Appellant was 61 years old at the time of the application and maybe considered to be physically disabled.
- 3.3.3 Jeona Veneathea Franke (WCNC15814) was unfit to go to sea during the 2015/2016 fishing season and during the exemption period, the Appellant was unfit to go to sea due to hypertension and urinary incontinence. The

Appellant was 52 years old at the time of the application and is not physically disabled.

- 3.3.4 Maria Magdalena Julius (WCNC15815) was unfit to go to sea during the 2014/2015 and 2015/2016 fishing seasons. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to backache. The Appellant is not physically disabled. The Appellant was 57 years old at the time of the application and is not physically disabled.
- 3.3.5 Beatrice Chathrine De Villers (WCNC16019) was unfit to go to sea during the 2009/2010, 2014/2015 and 2015/2016 fishing seasons. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to urinary incontinence and sea sickness. The Appellant was 49 years old at the time of the application and is not physically disabled.
- 3.3.6 Le-Anne Marrineze Van Hooi (WCNC15927) was unfit to go to sea during the 2007/2008 fishing season due to pregnancy and during the 2010/2011, 2011/2012, 2012/2013, 2013/2014 and 2015/2016 fishing seasons the Appellant was unfit to go to sea. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due vertigo. The Appellant was 36 years old at the time of the application and is not physically disabled.
- 3.3.7 Naomie Smith (WCNC16032) was unfit to go to sea during the 2008/2009, 2009/2010, 2010/2011, 2011/2012 and 2012/2013 fishing seasons due to sciatica and deformity. During the 2013/2014, 2014/2015 and 2015/2016 fishing seasons the Appellant was unfit to go to sea due to back pain problem and severe back operation. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due chronic back pain, carpal tunnel syndrome. The Appellant was 54 years old at the time of the application and maybe considered to be physically disabled.
- 3.3.8 Hester Celina Galant (WCNC15926) was unfit to go to sea during the 2010/2011, 2011/2012, 2013/2014 and 2015/2016 fishing seasons due phobia with anxiety attacks and severe motion sickness. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to sea sickness and phobia. The Appellant was 59 years old at the time of the application and is not physically disabled.
- 3.3.9 Elizabeth Andrews (WCNC16060) was unfit to go to sea during the 2009/2010 and 2011/2012 fishing seasons due to hypertension and diabetes, respectively. During the 2010/2011, 2012/2013, 2013/2014, 2014/2015, 2015/2016 fishing seasons the Appellant was unfit to go to sea. During the

exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to aortic valve replacement. The Appellant was 58 years old at the time of the application and is not physically disabled.

3.3.10 Audial Blaauw (WCNC15812) was unfit to go to sea during the 2012/2013, 2013/2014, 2014/2015 fishing seasons. During the 2015/2016 fishing season the Appellant was unfit to go to sea due to severe sea sickness. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to chronic sea sickness. The Appellant was 53 years old at the time of the application and is not physically disabled.

3.3.11 Sara Julius (WCNC15813) was unfit to go to sea during the 2015/2016 fishing season. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to sea sickness. The Appellant was 44 years old at the time of the application and is not physically disabled.

3.3.12 Charmain Julies (WCNC15507) was unfit to go to sea during the 2014/2015 and 2015/2016 fishing seasons due to chronic back pain. During the exemption period, 2016/2017 fishing season, the Appellant was unfit to go to sea due to chronic disease. The Appellant was 51 years old at the time of the application and is not physically disabled.

3.4 It is recommended that the decision of the Delegated Authority not to allow applicants who are medically unfit and therefore cannot be active participants in the fishery to become successful in the fishery be upheld except Naomie Smith (WCNC16032) and Petrus Johannes Van Der Westhuizen (WCNC15994).



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