



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.

MOEGAMAT RAVEN	WCND150111
MARK FRANK TERRY	WCND151747
ESTHER ISSABEL DANIELS	WCND150371

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

2. GROUNDS OF APPEAL

- 2.1 The grounds of appeal by 3 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 3 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 3 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 3 Appellants listed below did not disclose that they have paid an admission of guilt fine in their Application Forms:
 - 3.3.1 Moegamat Raven (WCND150111) was found guilty and issued a fine of R500.00 under CAS number: 1/2/2007.
 - 3.3.2 Mark Frank Terry (WCND151747) was found guilty and issued a fine of R350.00 under CAS number: 44/6/2008.
 - 3.3.3 Esther Issabel Daniels (WCND150371) was found guilty and issued a fine of R2000.00 under CAS number: 39/1/2015.
- 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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