



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Reference: Spinach John Nkunzana– WCNE150615

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): APPEAL IN TERMS OF SECTION 80 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT No. 18 OF 1998): SPINACH JOHN NKUNZANA

1. PURPOSE

To submit a report as provided for in terms of Regulation 5(3) of the Regulations promulgated under the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), with regard to an appeal by Spinach John Nkunzana.

2. GROUNDS OF APPEAL

The Appellant’s first ground of appeal relates to section 1 (Applicant Details). The Appellant argues that he is negatively scored in section 1.4(a) by scoring 50% instead of 100% based on his age. The Appellant also argues that in section 1.4(b) he is discriminated based on his gender. The Appellant states that he should not be negatively impacted by his age and gender. The Appellant claims full points for section 1.

The Appellant’s second ground of appeal relates to section 4 (Access to a Suitable Vessel). The Appellant argues that in section 4.4 he was awarded 3% instead of possible 20%. The Appellant states that he does not have financial means or knowledge to operate his own vessel and it is not financially viable to own a vessel given the size of his West Coast Rock Lobster (Nearshore) allocation. The Appellant request that he be given at least 8% for the fact that he secured a suitable catch agreement.

The Appellant's third ground of appeal relates to section 6 (Transformation). The Appellant argues that his score for section 6.3 should be adjusted as he landed at Kalk Bay which is a traditional fishing harbour. The Appellant also indicated that he processed his allocation at the factories close to the harbour. The Appellant states that section 6.4 should be adjusted. The Appellant request that he must be awarded full points for section 6.

The Appellant's fifth ground of appeal relates to section 7 (Job Creation). The Appellant argues that he attained a score of 10% instead of 50% for section 7.1. The Appellant also argues that he arrange full time employment for two members of his community and that should give him points for section 7.2.

3. DELIBERATIONS

The Appellant was categorised as a Category A applicant, this category was for individuals who held West Coast Rock Lobster (Nearshore) fishing rights during the 2005 Long-Term Rights Allocation and Management Process ("LTRAMP2005"). The Appellant scored below the set minimum threshold of 77% for previous right holder applicants and accordingly was not granted a fishing right.

The Appellant attained a score of 50 % in section 14 (a) and 1.4 (b). The Appellant was correctly scored in section 1 based on the information he provided on his application form at the time of application. In section 1 youth and females were prioritised to address the historical imbalances in the fishery.

The Appellant attained a score of 3 points in section 4 based on the information he provided on his application form at the time of application.

Section 6 (Transformation) of the application form was zero (0) weighted. The Appellant was correctly scored in this section.

The Appellant attained a score of 0.25 points for section 7 (job creation) as he provided employment for two (2) persons. Accordingly, section 7 was done in an

algorithm manner whereby an Applicant that employs 1 – 10 would score 1 point, 11 – 20 would score 2 points, 21 – 30 would score 3 points, 31 – 50 would score 4 points, 51 – 70 would score 5 points, 71 – 90 would score 6 points, 91 – 110 would score 7 points, 111 – 150 would score 8 points, 151 – 200 would score 9 points and above 200 would score 10 points. In this regard, the Appellant fell within the range of 1 – 10 and hence he was scored 1.

- 3.1 It is recommended that the decision of the Delegated Authority not to allow applicants who scored below the set threshold for applicants who were previous right holders to become successful in the fishery be upheld



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