



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

CHARLES RONALD DOTY	WCNE150331
IVAN EDWARD TEICHARDT	WCNE150686
YUSUF HENDRICKS	WCNE150314
ELLIOT APRIL MACHOSI	WCNE150541
MOEGAMAT ADNAN DAVIDS	WCNE150697

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 5 Appellants in the West Coast Rock Lobster Nearshore Fishery (Zone E) ("the Appellants").

2. GROUNDS OF APPEAL

- 2.1 The grounds of appeal by 5 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 4 Appellants were unsuccessful in the West Coast Rock Lobster Nearshore fishery due to being older than 65 years are as follows:

3.3.1 Charles Ronald Doty (WCNE150331) who indicated that he has invested in a company that invited public to invest in its crayfish exporting company. The Appellant states that the company started well but later collapsed and that resulted in the Appellant losing R32000. The Appellant then invested in a co-operative and the investment was R20000 and was busted by the grant from Department of Trade and Industry. The Appellant indicated that there is still need for more money so that other necessary equipment like a "bakkie" be procured. The Appellant states that he is a lager boat assistant and a senior member of the crew who also share knowledge with the young crew members. The Appellant indicated that he is a part owner of the vessel called "EL RICO" and he also have a catching agreement. The Appellant was 70 years old at the time of application.

3.3.2 Ivan Edward Teichardt (WCNE150686) who indicated that his application was refused because he is over the age of 65 years. The Appellant states that he obtained a core of 93.5 points which is above the minimum score required to qualify for a West Coast Rock Lobster (Nearshore) fishing right. The appellant also indicated that there is no policy criteria or rule which allows the Delegated Authority to refuse fishing rights to persons older than 65 years of age and it is unlawful to apply such rule. The

Appellant states that his application shows that he catches his own quota and he is directly involved in the processing and selling of his quota. The appellant states that he qualify for a West Coast Rock Lobster (Nearshore) fishing right in Zone E. The Appellant was 79 years old at the time of application.

- 3.3.3 Yusuf Hendricks (WCNE150314) who indicated that his appeal is lodged on the basis that he was refused a West Coast Rock Lobster (Nearshore) fishing right based on the fact that he was older than 65 years of age at the time of application. The Appellant argues that in section 3 (Compliance) of the application form he was penalized for section 3.1 and 3.3 for declaring in section 3.4 that he paid an admission of guilt fine. The appellant indicates that the policy makes a clear distinction between paying a fine and a seriously transgression, therefore section the Appellant should not be negatively scored for section 3.1 and 3.3. The Appellant states that his score for section 3 would be 14 points. The Appellant argues that its weight (score) should be 88 points and that would mean he should be successful. The Appellant states that the only reason that makes him unsuccessful is because he is over the age of 65 years and no consideration was given to the fact that he owns his own vessel and that he is financially reliant on his allocation. The Appellant is of the opinion that the Delegated Authority (DA) acted contrary to the provisions of the Constitution and accordingly views the DA's decision as unfair. The Appellant request that the Minister reviews the DA's arbitrary decision to exclude all the applicants because they were over the age of 65 years. The Appellant also requests the Minister to review DA's quantum allocation for Zone B as this would allow the Minister to increase the number of participants and ensure broader participation. The Appellant was 65 years old at the time of the application.

- 3.3.4 Elliot April Machosi (WCNE150541) who indicated that in section 6 (Transformation) of the application he should have been given points as he has made the effort to ensure that he made 18A donations and he procured from the black owned companies. The Appellant indicates that he should get benefits for going an extra mile. The Appellant argues that

community by being allocated a West Coast Rock Lobster (Nearshore) fishing right. The Appellant feels aggrieved that he did not get a weight score for his donations, medical aid and procurement on black companies. The Appellant was 73 years old at the time of application.

3.3.5 Moegamat Adnan Davids (WCNE150697) who indicated that his application was refused due to his age and/or medical unfitness. The Appellant states that he was 53 years of age at the time of application and he scored (86.5%) above the set minimum threshold, which qualifies him to be granted a fishing right. The Appellant argues that there is no policy criteria or rule which allows the Delegated Authority to refuse fishing rights to persons older than 65 years of age, it is therefore unlawful to make up such criteria. The Appellant states that he qualifies for a West Coast Rock Lobster (Nearshore) right.

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



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