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ATTENTION: Ms Albertina Kakaza

10th October 2013

Comment on the Marine Living Resources Amendment Bill [B30-2013]

Reference is made to the advertisement inviting comment on the Marine Living Resources Amendment Bill [B30-2013] where public hearings in Parliament will take place on Tuesday, 15 and Wednesday, 16th October 2013. Herewith my questions and comment in my personal capacity which I deem necessary to be discussed at these hearings.

Section 19

I refer specifically to the proposed Section 19 of the Marine Living Resources Bill as set out below:

19. (1) The Minister, in order to achieve the objectives contemplated in section 9(2) and 39(3) of the Constitution, by notice in the *Gazette*—
(a) must, subject to any law relating to marine protected areas, establish areas or zones where small-scale fishers may fish;
(b) may, within a prescribed period, recognise a community to be a small-scale fishing community, if the community meets requirements contained in the definition of a small-scale fishing community;
(c) may declare any other fishing or related activity or the exercise of any right of access in an area or zone contemplated in subsection (1)(a) to be prohibited; and.....

Exclusive zones

It is inferred by reading Section 19(c) that the Minister may declare exclusive zones for “small-scale fishers”. Based on discussions and meetings with DAFF officials it has become apparent that the intention is to create exclusive zones where only the “small-scale fishers” may fish. This means that recreational anglers will be prohibited from a particular section of the coastline declared exclusive for small scale fishers by the Minister.

It could be argued that the resources along the coastline of South Africa are for all citizens of the country and by making exclusive zones for certain individuals would be unconstitutional.

The proposed exclusive zone section of this proposed Bill is deemed to be in contravention of the Constitution of South Africa on Equality and Environment which is dealt with in Sections 9 and 24 of the Bill of Rights.

The power given to the Minister is too wide. To emphasise the point, the Minister could declare the entire Wild Coast an exclusive zone to small scale fishers and prohibit any related activities by other normal citizens of this country. The proposed bill does not make any mention or make it a requirement that a detailed independent social, economic or environmental assessment be done before prohibiting any other fishing related activities in area which may be set aside exclusively for small scale fishers.

Why should an area be set aside for the exclusive use by the small scale fishers? If the resource in an area cannot support the pressure of other classes of fishers, for example recreational anglers, it would mean that the resource is depleted to such an extent that it would be irresponsible by the Minister to make the area exclusive to small scale fishers.

It must be borne in mind that not all the people in a community would be part of the "small scale fishers" fishing community as defined in the Bill. For example a person living in the very same community may have other employment, and may not participate in the small scale fishery, but does rely on recreational fishing activities over weekends to supplement their livelihood. In such instances the exclusive zone will prohibit certain members of the same community from practising their recreational right, which again is unconstitutional. These proposed exclusive zones will create conflict and result in unfavourable practises.

It is also unclear what "related activities" would entail, and the inclusion of the wording "related activity" is too wide. If an exclusive zone is set aside for West Coast Lobster for small scale fishers for example, would other related activities like fishing for Hottentot be prohibited in the area by other anglers? The various prohibited areas will most likely have different rules and regulations, making it extremely confusing and difficult to manage and enforce.

Marine Protected Areas

The Bill proposes giving the Minister the power to allow small scale fishers to fish in Marine Protected Areas. This is absolutely unacceptable. Once again this is unconstitutional, reserving an area for conservation for all people of the country, but allowing a certain group of individuals the right to fish in the area is not in line with equality. This will make a mockery of the Marine Protected Areas, the purpose for which they are established, making the enforcement of the law more difficult. By allowing certain individuals the right to fish in Marine Protected Areas will break down the moral respect of supporting conservation.

Proposal

It is proposed that the Ministers right to declare exclusive zones for small scale fishers be scraped. Secondly, it is proposed that small scale fishers should not be given the right to fish in Marine Protect Areas.

I trust that the comments in this letter be taken seriously and I would like to thank you for the opportunity to bring my concerns to the table.

Yours sincerely

A handwritten signature in black ink, appearing to be a stylized name, possibly 'A. ...', written over the typed name 'Yours sincerely'.