forestry, fisheries
& the environment

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Dear Ms Paine and Co-Signatories

**RE: PILCHARD HERPESVIRUS SARDINE MORTALITY EVENT – REQUEST FOR DECISIONS AND REASONS, AND FOR AN URGENT TEMPORARY MORATORIUM ON DIRECTED SARDINE FISHING**

The Department acknowledges receipt of your correspondence concerning the sardine mortality event associated with Pilchard Herpes Virus (PHV) and the management measures adopted in response thereto.

The Department notes your contention that the precautionary principle required the immediate closure of the sardine fishery. The Department does not agree with this interpretation. While the precautionary principle requires decision makers to act in circumstances of scientific uncertainty, it does not prescribe a specific management response, nor does it require that the most restrictive management measure available must invariably be adopted. Rather, the principle requires that decisions be taken on the basis of the best available information, having regard to the nature and extent of the uncertainty and the potential risks involved in relation to the specific event.



Departement van Bosbou, Visserye en die Omgewing • Department of Forestry, Fisheries and the Environment • UmNyango wezamaHlathi, zokuThiya neBhoduluko • iSebe lezamaHlathi, ezokuLoba noKusingqongileyo • Umnyango Wezamahlathi, Ezokudoba Nezemvelo • Kgoro ya Dithokgwa, Boreahlapi le Tikologo • Lefapha la Meru, Botshwasi ba ditlhapi le Tikoloho • Lefapha la Dikgwa, Ditlhapi le Tikologo • Litiko Letemahlatsi, Tinhlanti Netendzawo • Muhasho wa zwa Vhusima-maḓaka, Vhureakhovhe na Mupo • Ndzawulo ya Swihlahla, Vunjoveri na Mbango. The processing of personal information by the Department of Forestry, Fisheries and the Environment is done lawfully and not excessively for the purpose of processing in compliance with the POPI Act, any codes of conduct issued by the Information Regulator in terms of the POPI Act, and/or relevant legislation providing appropriate security safeguards for the processing of personal information of others.

Following reports of the mortality event, the Department sought and considered scientific advice from the Small Pelagic Scientific Working Group. Based on that advice, precautionary management measures were implemented, including interim catch restrictions, intensified monitoring of the fishery, the collection and analysis of biological samples, and ongoing scientific review of the available information. The Department is therefore unable to agree with the characterisation that insufficient precautionary action was taken. Based on the specific event, we are of the view that appropriately measured precautionary management was implemented, having regard to environmental and socio-economic factors.

The Department likewise does not accept that the judgment in *WWF South Africa v Minister of Agriculture, Forestry and Fisheries* requires the cessation of fishing activities whenever scientific uncertainty exists. The judgment emphasises the importance of precautionary decision-making informed by the best available scientific information. The measures adopted by the Department were informed by scientific recommendations and constituted precautionary management interventions pending the collection and assessment of further information concerning the mortality event.

The Department further notes the suggestion that section 16 of the Marine Living Resources Act, 1998 (MLRA) ought to have been invoked. The Department did not consider it necessary to exercise the emergency powers contained in section 16 because the risks associated with the mortality event could be appropriately managed through the existing management framework provided for under the MLRA, including TAC management measures implemented under section 14. As section 16 was not invoked, no Gazette notice in terms of that provision was required.

With regard to the adjustment of the catch restrictions from September to October 2026, the Department does not agree that this demonstrates a failure to apply the precautionary principle. The September restriction was expressly adopted as an interim measure pending further scientific investigation and review. Thereafter, the available information indicated that no further significant mortality events had been observed after early September and the scientific information did not indicate that a complete closure of the fishery was warranted. The Small Pelagic Scientific Working Group consequently recommended that precautionary restrictions should remain in place, but in a revised form reflecting the information available at that time. The October measures therefore represented a continuation of precautionary management measures, informed by updated scientific advice, rather than a return to unrestricted fishing activity.

The Department also notes that management decisions under the MLRA necessarily require consideration of both ecological sustainability and the responsible utilisation of marine living resources. In formulating its recommendations, the scientific advisory structures considered the uncertainty associated with the mortality event together with the potential consequences of various management options. The measures ultimately adopted sought to minimise ecological risk while avoiding unnecessarily restrictive interventions that were not supported by the available scientific information.

The scientific recommendations considered by the Department in making decisions in terms of section 14 of the MLRA, have already been made available, and the decisions in terms of section 14 of the MLRA to adjust the TAC are attached hereto.

The decisions were based on the scientific recommendations of the Small Pelagic Scientific Working Group, including the available information regarding the extent and progression of the mortality event, the absence of evidence suggesting stock collapse, the implementation of precautionary catch restrictions, the need for ongoing monitoring and sample collection, and the objective of balancing

ecological sustainability with the responsible utilisation of the resource. These considerations informed the Department's conclusion that precautionary catch restrictions, rather than a complete fishery closure, constituted the appropriate management response at the relevant time. For the reasons set out above, the Department is not persuaded that a temporary moratorium on directed sardine fishing is warranted on the basis of the information currently available.

Should you be dissatisfied with these decisions kindly note that you may lodge an appeal in terms of section 80 of the MLRA read with regulation 5 of the regulations published in terms of the MLRA in GNR 1111 of 2 September 1998. The subject and grounds for the internal appeal must be clearly indicated. The appeal must be addressed to the Directorate Appeals and emailed to MLRAAppeals@dffe.gov.za or submitted by hand at Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town.

To the extent that additional internal records are sought, access to such records is regulated by the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), and any request for access to records may be submitted in accordance with the procedures prescribed under that Act.

Regarding the spawner biomass survey, the Department is currently procuring a suitable vessel for the 2026 survey through a competitive tender process. The tender for the charter of an industry vessel closed on 23 October 2026 and the bids are scheduled for evaluation. At present, the survey vessel has not yet been appointed and, consequently, definitive survey commencement and completion dates cannot yet be confirmed. The final survey timetable will depend on the outcome of the procurement process, vessel availability and the procurement of the necessary survey equipment.

Finally, the decisions relating to the implementation of the catch restrictions were taken by the duly authorised delegated authority acting in accordance with the Minister's delegations issued under the MLRA. The Department is accordingly satisfied that the relevant decisions were lawfully taken by an authorised decision maker.

The Department remains committed to managing the sardine resource in accordance with the objectives of the MLRA, the best available scientific information and the precautionary approach. Scientific monitoring of the mortality event and any associated ecological impacts continues, and management measures will be reviewed should further information become available that warrants additional intervention. In this regard, please note that the Scientific Working Group met recently and once it has submitted its recommendations a further adjustment will be considered.

Yours sincerely

**Mr Belemane Semoli**
**ACTING DEPUTY DIRECTOR-GENERAL: FISHERIES MANAGEMENT**
**DATE:** 28/10/2026