

TROUT AT THE CROSSROADS

A SNAPSHOT OF TROUT IN MPUMALANGA

July 2015

By Ian Cox

For Trout South Africa



THE MESSAGE

THERE IS A DISCONNECT BETWEEN GOVERNMENT POLICY REGARDING TROUT AND THE VIEWS OF ENVIRONMENTAL OFFICIALS ON TROUT

- Government values the trout value chain as an important contributor to the economy and health and well being of the country and its people.
- Environmental officials:
 - See trout as a dangerous alien invasive species whose propagation must be discouraged by all means possible.
 - Are prepared to sacrifice the trout value chain in order to achieve this end.

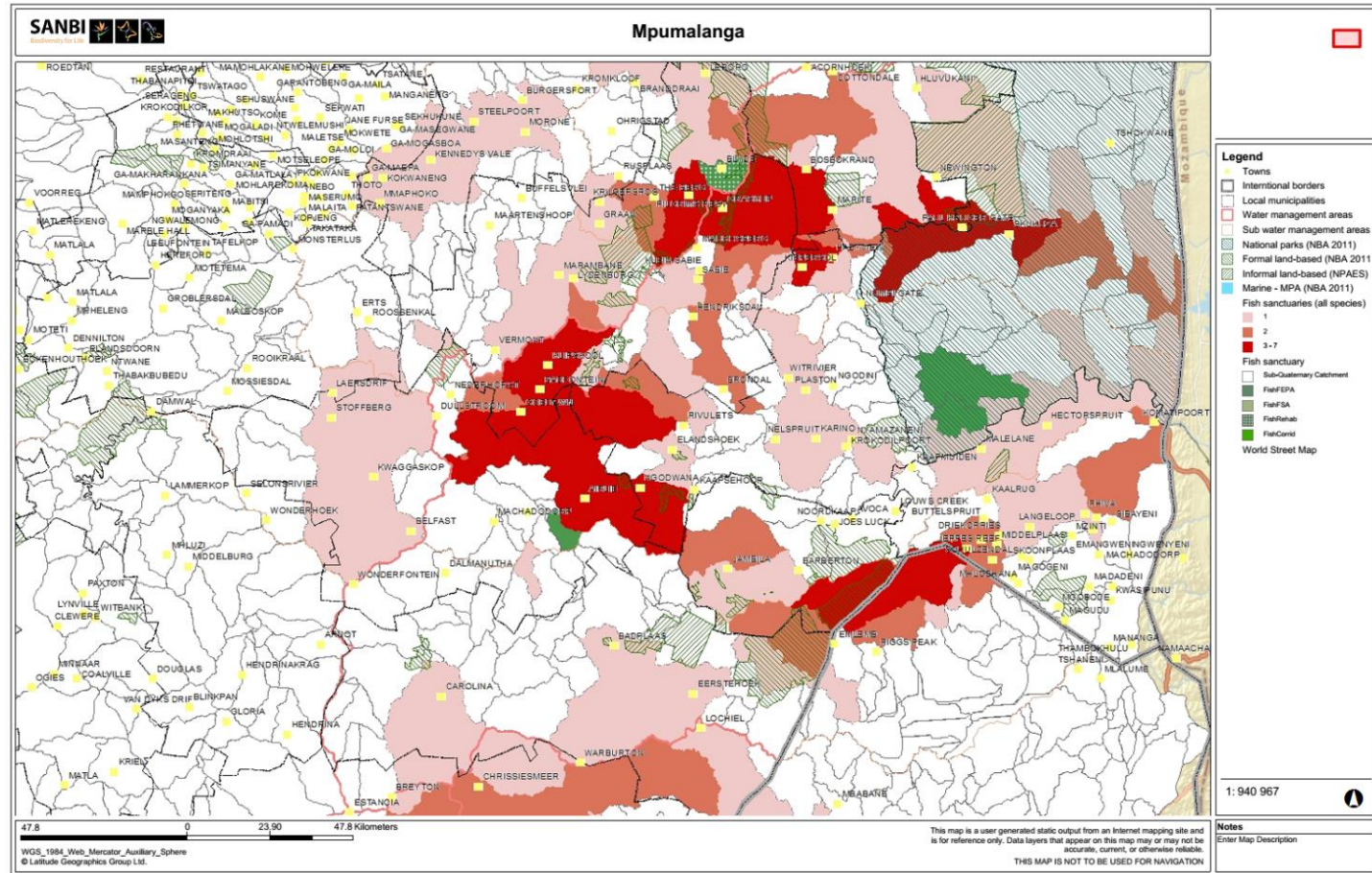


TROUT JULY 2013

- **19 July 2013 AIS Lists and Regulations promulgated making trout Category 1b invasive.**
 - Lists and Regulations never implemented
 - The Kloof Conservancy case.
 - October 2015: KZN High Court declares 2013 AIS Lists and Regulations unlawful and penalises the Department Of Environmental Affairs by awarding costs against it on the attorney and own client scale.



TROUT APRIL 2014



THE MEANING OF CONTROL

Invasive species must be “controlled” under NEMBA

“control”, in relation to an alien or invasive species, means-

- (a) to combat or eradicate an alien or invasive species; or
- (b) where such eradication is not possible, to prevent, as far as may be practicable, the recurrence, re-establishment, re-growth, multiplication, propagation, regeneration or spreading of an alien or invasive species;



Fight to save trout industry

Groups oppose fish extermination

STEPHEN COAN

THE trout industry is fighting back against a state move to exterminate the fresh water fish, which they say will destroy a \$1.4 billion industry.

"The Department of Environment and Agriculture is trying to destroy the trout industry by making trout an invasive species," charged Gerrie van der Merwe, acting chairperson of TroutSA, speaking in Nottingham Road yesterday.

In February the DEA, using the National Environmental Management Biodiversity Act, named 532 species they propose listing as invasive aliens. One of them was trout.

The intention is to declare trout as invasive in all nature reserves, all mountain

tingham Road and Underberg.

TroutSA was formed in December to respond to this threat and has combined with the Federation of South African Fly Fishers (Fosaf) to present a number of "road shows" highlighting the issue in trout fishing areas around South Africa and to garner support for the legal battles that might lie ahead.

Yesterday they made a presentation at the Nottingham Road Hotel. Those attending included hatchery owners, tackle dealers, farmers and fisher folk.

Pietermaritzburg lawyer Ian Lax, Fosaf's national chairperson, together with Durban-based lawyer Ian Cox, a member of the convening committee of TroutSA, have submitted a 68-page document to DEA commenting on the

in South Africa for 125 years and in the past the DEA and conservation bodies such as Ezemvelo KZN Wildlife were active in the introduction, breeding and conservation of the species.

"Now the department plans to eradicate trout," said Van der Merwe. "This hinges on whether trout are considered invasive or not."

Van der Merwe said there are around 40 trout hatcheries in South Africa and these "underpin a large industry with a big value chain", that includes stocking trout waters, the hospitality industry and trout-based real estate in such places as Clarens, Rhodes and Dullstroom, as well as fly-fishing farms and estates in the Drakensberg.

Already the proposed legislation,

How trout add value to South A

The Department of Environment and Agriculture via the National Environmental Management: Biodiversity Act intends to declare trout invasive aliens in most of South Africa's premier trout fishing waters.

More than fishing

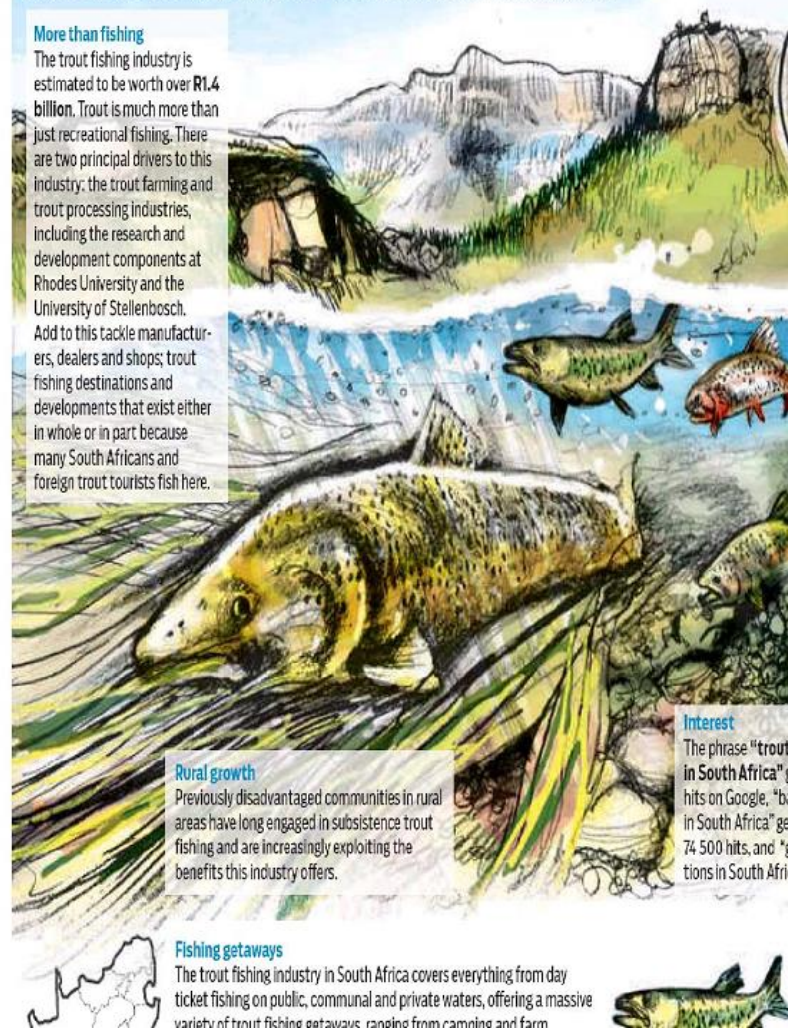
The trout fishing industry is estimated to be worth over **R1.4 billion**. Trout is much more than just recreational fishing. There are two principal drivers to this industry: the trout farming and trout processing industries, including the research and development components at Rhodes University and the University of Stellenbosch. Add to this tackle manufacturers, dealers and shops; trout fishing destinations and developments that exist either in whole or in part because many South Africans and foreign trout tourists fish here.

Rural growth

Previously disadvantaged communities in rural areas have long engaged in subsistence trout fishing and are increasingly exploiting the benefits this industry offers.

Fishing getaways

The trout fishing industry in South Africa covers everything from day ticket fishing on public, communal and private waters, offering a massive variety of trout fishing getaways, ranging from camping and farm



THE KZN PREMIER'S SPECIAL TROUT ADVISORY TEAM

- **Established: 29 April 2014**
- **Purpose: Finding a win-win solution that would protect the valuable KZN trout value chain and the jobs and job creation potential it represents.**



TROUT MAY 2014

The DEA's Media Campaign

Interview with Dr Guy Preston, DEA by John Matham on 567CapeTalk on 20 May 2014 on why the new IAS regulations on trout have been misunderstood.

Guy

There is scientific evidence that trout have outcompeted indigenous species in catchments where they have been introduced.

The aim of the regulations is to stop introductions into to new areas. We are not concerned about redressing existing areas. We encourage fly fishing and aquaculture in those areas.

We need to ensure they are not introduced into areas in which they do not occur.



THE FOSAF TROUT SA POSITION

- FOSAF has always suggested that a political compromise between its view that:
 - Trout were not alien invasive but rather naturalized aliens and that contribute materially to the health and wellbeing of South Africa and South Africans:
 - The eco nationalist approach adopted by officials that alien species remain alien and that trout were invasive because they predate on indigenous species.Was to be found in leaving trout alone where they occur and only declaring them invasive where they do not occur.
- Trout SA also adopted this approach.



[Print this page](#)

Trout win battle with government

21-May-2014 | Paul Vecchiatto

Claims that new draft regulations are threatening the R1bn fly-fishing industry dismissed by Department of Environmental Affairs deputy director-general

CLAIMS that new draft regulations are threatening the R1bn fly-fishing industry have been dismissed by Department of Environmental Affairs deputy director-general Guy Preston, as the aim is to manage an invasive species.

The department is waiting for Environmental Affairs Minister Edna Molewa to gazette regulations that would govern transportation, introduction, and catching of trout in rivers and catchments areas. These would also forbid introduction of the fish from areas where they are not already present.

The trout species was introduced about 120 years ago and supports local tourism. The trout fishing sector is unique as it operates throughout the year.

In other countries it is limited to summer.

Mr Preston conceded the regulations meant the department had lost the battle to eradicate trout and other alien species and was now trying to manage the problem by limiting their spread.

SA Fly Fishing Association chairman Cheryl Heyns said: "It seems the department has been listening to the industry. However, we wonder what will happen when the two-year period is up and if the fish sanctuaries can be changed simply at the department's discretion."

JULY 2015



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA

DEPARTMENT: PLANNING, MONITORING AND EVALUATION



- ✓ Exemption from listing of trout as an Alien and Invasive Species legislation / regulation where it is already established

DEA

Growth of the trout farming section through expansions and establishment of new farms in areas they already occur, since they would not need to undertake an additional risk assessment and apply for an additional permit

Jobs	65		138		212		222		297	
	2015		2016		2017		2018		2019	
	Tonnes	R(mn)	Tonnes	R(mn)	Tonnes	R(mn)	Tonnes	R(mn)	Tonnes	R(mn)
Trout	100	5	1 100	5	2 000	27	1000	54	2 000	109



AquaSA will coordinate industry-wide marketing initiatives, reducing duplicative efforts and resources

AquaSA will have industry representation from species-specific associations

AquaSA

MFFASA

AFASA

Catfish
Association

TroutSA

TAASA

Shellfish
Association

Government departments

DAFF

The dti

Other

Aquaculture
Value Chain
Round Table

AquaSA will focus on developing marketing initiatives in the next 5 years

Establish a centralised marketing information system

Increase domestic market through marketing

Strengthen emerging products increasing value chain opportunities

Develop and ensure adherence to wide quality standards

Incorporate Aquaculture preferential procurement by government institutions

Long-term vision for Aquaculture

THE TROUT DEAL

- The trout value chain and trout aquaculture and recreational trout fishing will be encouraged.
- Trout (brown and rainbow trout) will not be listed as invasive where they presently occur outside certain protected areas.
- Trout will be listed as category 2 invasive occur inside those protected areas and where they do not already occur.
- Trout will not be subject to any controls where they occur save that the captive breeding and stocking of trout will be managed by self regulation by the industry in order to keep records where trout are stocked and to prevent trout from being stocked where they do not occur or in proclaimed reserves.
- Areas where trout already occur will be mapped in collaboration with the trout value chain.
- **Existing trout farms that are not permitted will be regularised.**



TROUT NOT DECLARED INVASIVE BUT EXEMPTED AS AN ALIEN

GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. R. 598

1 August 2014

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

GNR No.

of 2014

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 2004 (ACT NO. 10 OF 2004)

ALIEN AND INVASIVE SPECIES REGULATIONS, 2014

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby publish the Alien and Invasive Species regulations in terms of section 97(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) as set out in the Schedule hereto.



Dear Mr Lax and Colleagues

As discussed with Mr Lax this afternoon, the Minister and Department have decided to publish the Regulations and Notices with immediate effect, and to leave the rainbow trout and brown trout off of the list of invasive species at this stage. There are concerns from both sides regarding what was provisionally agreed to at our meetings in Durban, and there is a need for the Provincial Authorities to agree to how the species are listed. This protracted debate over the listing of trout is having a detrimental impact on the need to regulate the other 559 listed invasive species and to prevent the introduction of further invasive species into our country; hence the decision to go ahead and publish the Regulations and Notices without including the two trout species at this stage.

The existing Provincial controls over the two trout species will remain in force until we have resolved how to list trout in the NEM:BA Regulations and Notices.

As discussed, we shall seek to meet with you in August, to finalize a way forward, for the consideration of the Minister and MECs. We shall thereafter be able to amend the Notices (and Regulations, if needs be), following the consultation and other processes required to do so. Possible dates and a venue for the meeting will be discussed with you next week.

Please do not misinterpret the actions of the Department in this regard.

I have agreed with Mr Lax to include a joint statement regarding the postponement of the decision to list the two trout species, in the press release regarding the publication of the Regulations and Notices in the Government Gazette. This will also be sent to the members of FOSAF, Trout SA and other interested and affected parties.

Part of the necessary discussion is the practicality of the implementation of a mapping process, as undertaken by SANBI, SAIAB, FOSAF and other groups in 2011. These are attached, as they will be an Agenda item for when we meet.

The agreements regarding the Nile tilapia and other species are not impacted by this postponement.

Yours sincerely

Guy Preston

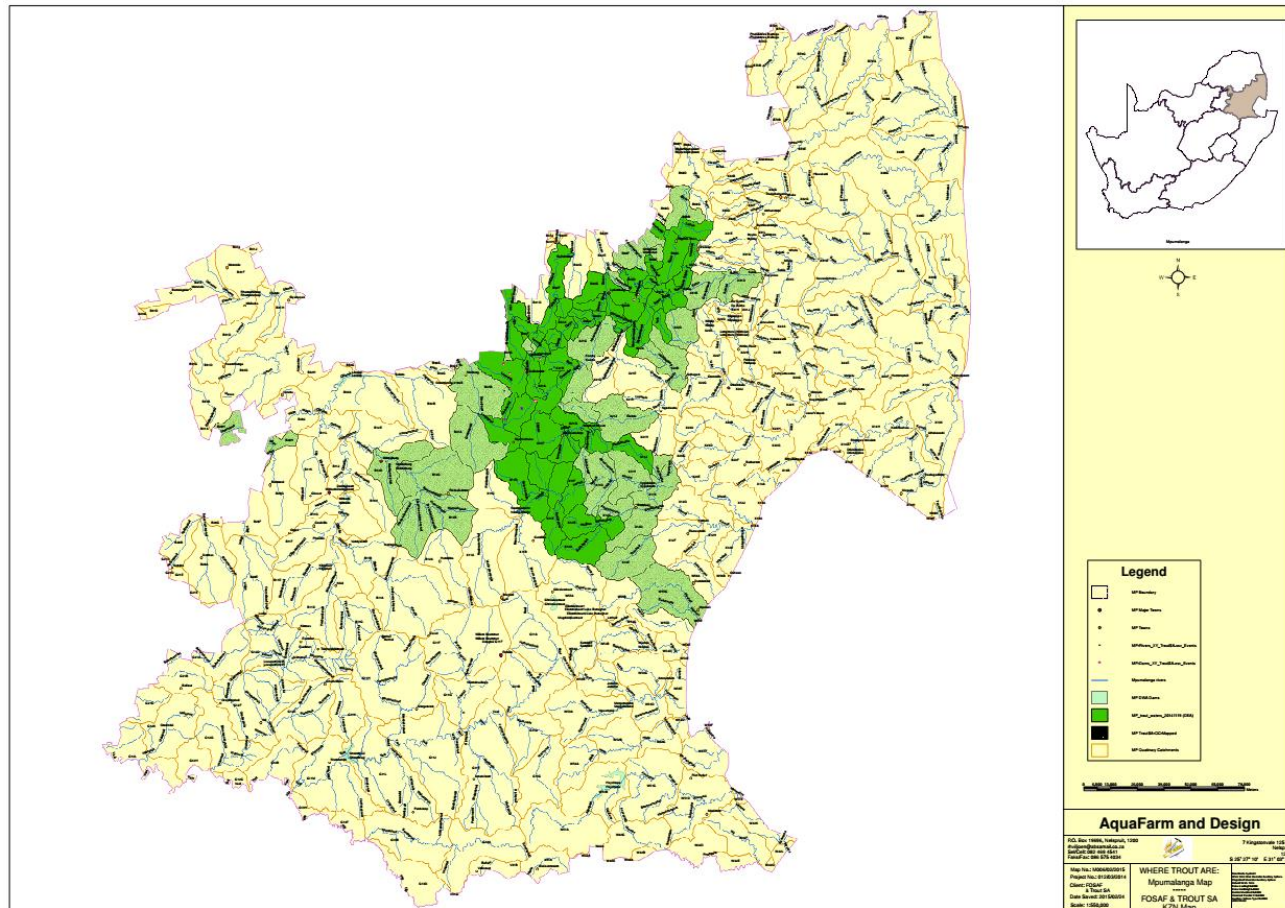


THE CONSTITUTION

- The law is transitioning from dealing with the environment primarily a Provincial competency to one where the protection of an environment that sustains human health and wellbeing is seen as a national priority.
- This is recognised in section 146 of the Constitution which deals with the resolution of conflicts in areas of shared competence such as the environment.
- Section 146(2) (c)(vi) of the Constitution states:
National legislation that applies uniformly with regard to the country as a whole prevails over provincial legislation if the national legislation is necessary for the protection of the environment.
- The NEMBA is such legislation.
- NEMBA has regulated trout since 1 October 2015 by exempting trout as an alien species which means that South Africans may freely carry out activities in respect of trout that are restricted under NEMBA without a permit.
- The NEMBA prevails over any provincial legislation such as the Mpumalanga Nature Conservation Act to the extent that it conflicts with this reality.



TROUT FEBRUARY 2015



THE MAPPING PROCESS

- 2005 and earlier FOSAF first moots zoning of trout areas.
- 2009 first mapping exercise - ignored by DEA
- July 2014 – Phakisa
- September 2014 Kirstenbosch
- October 2014 - Fernhill
- November 2014 – Trout SA submits draft conditions for self regulating stocking
- February 2015 – Mapping complete
- Since then we have been excluded from the process.



TROUT FEBRUARY 2015

Notice Title	PUBLICATION OF THE KWAZULU-NATAL ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS MANAGEMENT BILL, 2014: FOR COMMENTS
Gazette Number	1314
Notice Number	4
Gazette Date	2015-02-25
Notice Type	General Notices
Province	KwaZulu-Natal

GENERAL NOTICE

No. 4
25 February 2015

KWAZULU-NATAL DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS

PUBLICATION OF THE KWAZULU-NATAL ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS MANAGEMENT BILL, 2014



TROUT FEBRUARY 2015

- Trout to be treated as non exempt aliens under the KZN Biodiversity Bill
- Trout will and therefore will require permitting for all use.

Comments on the

**Kwazulu-Natal Environmental, Biodiversity and Protected Areas Management
Bill, 2014**

(The “Bill”)

Submitted on behalf of Trout South Africa and the Federation of SA Flyfishers

27 March 2015

Prepared by Ilan Lax and Ian Cox¹

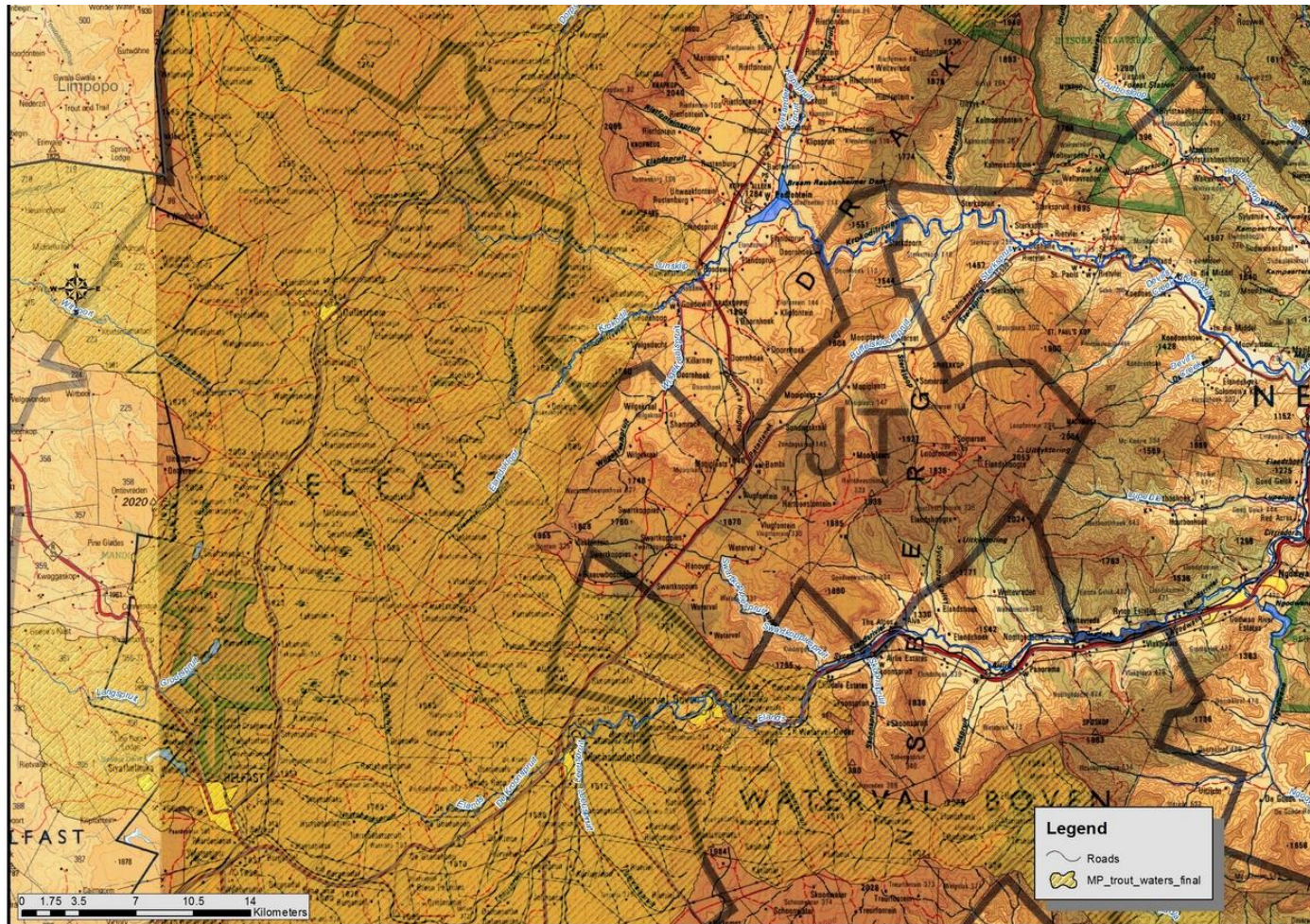


THE AQUACULTURE BILL

- The Bill
 - A DAFF Phakisa Project
 - A law intended to facilitate and enable the growth of aquaculture in RSA
- DEA'S Trout Aquaculture Norms and Standards
 - Designed to make trout aquaculture impossible
 - Vehemently opposed by trout SA and Aquaculture SA
- Possible relaxation of EIA standards promoted by DARDLEA and DAFF



THE MTPA TROUT ZONE MAP



THE FALLACY OF ZONES

THE MPUMALANGA NATURE CONSERVATION ACT DOES NOT LIMIT THE DISTRIBUTION OF TROUT TO TROUT ZONES BUT RATHER PROTECTS TROUT IN THAT AREA

- **E mail to Jan Muller 21 July 2015**

I should also mention that the Mpumalanga Nature Conservation Act does not limit trout to the so called trout waters. The trout waters are where trout are protected by a fly fishing only regime. Section 65(1) states that the waters defined in schedule 9 shall be fly fishing waters. Section 54 limits fishing in these waters to fishing with one line to which is attached one artificial fly. Regulation 23 read with schedule 3 limits the catch and take from those waters to 6 a day all over 20cm in length.



2015 The MTPA And Permits

The MTPA has since the beginning of this year frustrated and where possible and without proper cause prevented the issue of permits where such permits are required:

- The grant of permits to owners of property where trout already occur;
- The issue of the permits necessary to operate the winter grow out facility below Kweni Dam.
- The permitting aquaculture facilities.
- The alteration of permit conditions to limit stockings to “dams only” without prior consultation or due process or sound reasons.
- The prosecution of trout aquaculture facilities despite assurances given at Phakisa that this would not happen.
- Frustrating the process of mapping where trout occur by denying the existence of trout in such areas.
- Threatening and thus depressing the tourism industry in the Mpumalanga highlands through the above actions.



UNLAWFUL ACTION

- The action taken against the Trout Value Chain by the MTPA this year was unlawful.
- It is also contrary to government policy.
- It has been hugely damaging to the Trout value chain and by extension the tourism in the Mpumalanga highlands.
- Significant Value has been destroyed and job losses are inevitable if the process is not reversed.
- It has created a crisis in the trout value chain in Mpumalanga whose negative effects are reverberating across the country in both aquaculture in general and the national trout value chain in particular.



MEETING HELD WITH THE KZN MEC ON 14 JULY 2015

- Mr Mike Mabuyakhulu, MEC for Economic Development Tourism and Environmental Affairs informs the KZN Premier's Trout Task Team that agreement had been reached between the provinces and national government at a political level endorsing the principles outlined above.
- Though it is recognised that there is disagreement regarding the status of trout this is seen as a best win-win solution.
- As they did at Phakisa Trout SA (and FOSAF) endorse and support this solution.



MEETING WITH DARDLEA & MTPA on 20 JULY 2015

- **MTPA**

- Jan Muller
- Mervyn Lotter
- Andre Hoffman
- B S Shoba
- François Roux does not attend despite being required to deliver a paper. He also chose not to attend the mapping meeting that took place in Fernhill in October 2014.

- **DARDLEA**

- S M Ndala
- M V Mtshweni
- R Luyt
- KB Donga
- P Ledwaba



THE BIG QUESTIONS

- Do DARDLEA and the MTPA support this consensus position developed at Phakisa and confirmed at MINMEC.
- Are DARDLEA and MTPA prepared to work with Trout SA, The MTPF and FOSAF in achieving the Phakisa goals and making this consensus a reality?

My perception of their answers

- DARDLEA: Definitely Yes
- MTPA: Not so much



A SUGGESTED WAY FORWARD

Working Together – Batho Pele

- Establish a joint government private sector Mpumalanga Trout Task Team operating out of the MEC's office.
- Through that task team and a collaborative process:
 - Building trust.
 - Finalising the maps showing where trout occur in Mpumalanga.
 - Providing feedback to DEA on how stocking can best be self regulated where trout already occur outside proclaimed nature reserves and permitted elsewhere.
 - Growing trout based aquaculture in Mpumalanga by inter alia:
 - Encouraging investment in trout based aquaculture
 - Opening the old state hatchery in Lydenberg
 - Building public private partnerships
 - Empowering communities.
- Encouraging and growing trout based tourism.



SUCCESS IS POSSIBLE

- United
- Organised
- Prepared
- Responsible
- Resourced

