

Does the Aquaculture Bill affect trout fishing?

By Ian Cox

DRAFT AQUACULTURE BILL: PUBLIC CONSULTATIONS

The Department of Agriculture, Forestry and Fisheries (DAFF) hereby invite interested and affected stakeholders to participate in the public consultations on the Draft Aquaculture Bill. The Draft Aquaculture Bill seeks to create an efficient regulatory regime for the aquaculture sector in order to create an enabling environment to promote aquaculture sector growth.

The objectives of the Aquaculture Bill are to promote responsible aquaculture development; promote the development and management of the South African aquaculture sector; promote coordination of aquaculture research and development activities; enable the aquaculture sector to be regulated more effectively, and to promote transformation of the sector.

The much awaited Aquaculture Bill has been published for comment. Objections must be in by the end of this month. But does the Bill affect trout fishing per se, or does it merely apply to trout hatcheries? That is a bloody good question if I may say so myself.

I have been involved on and off in advising on earlier versions of this Bill for Trout SA and the umbrella aquaculture body Aquaculture SA. It has been a bit of a waste of time as far as I can see we have not been listened to at all. The Department of Agriculture Forestry and Fisheries (DAFF) or more correctly their consultants have sailed blithly on seemingly unconcerned about the howls of dismay from aquaculture farmers.

And that is a worry because this legislation is meant to be enabling legislation that will enable the aquaculture industry to grow.

The trouble is that a gulf exists between what farmers consider enabling and how government and its consultants see it.

Farmers perceive value in ownership. According to farmers, if I own own land, I have a right use that land which in rural areas includes a right to farm. Aquaculture is farming, so subject to whatever regulatory controls that are required to ensure that I do not harm the economy, human health or the environment in exercising this right, I should be allowed to carry on aquaculture on my land much like any farmer raises cows for example.

DAFF sees things very differently. They do not agree that aquaculture farmers, or farmers in general for that matter, have any inherent right to farm. They see themselves as the custodian (which when one ignores the sale pitch translates into near as can be; the owner of South Africa's agricultural resources.) So according to DAFF you need a licence to farm. In fact doing so without a licence is a criminal offence!

This, DAFF says the Bill and its licensing regime gives, aquaculture farmers and no doubt if they pull this one off, will give all farmers the certainty they need in order to conduct viable businesses. They are surprised that farmers see things differently given that the licence they have in mind is of 30 years duration.

It gets worse if you don't farm because you don't have a licence then government reserves the right, in the public good, of course, to expropriate your farm so someone else can farm it. You can see this playing out in the mining industry where government has used similar powers to destroy the value of coal mines which are then sold to friends like the Guptas who enjoying the right access are able to miraculously revive businesses that were once failing. It is a case of being buggered if you do and buggered if don't do.

Another problem, is that the Bill goes further than farming. The Bill extends to processing the product of aquaculture. Thus a factory that, for example, makes pate out of fish that are farmed needs an aquaculture licence in order to operate legally. Crocodile farming is deemed to be part of aquaculture so this means that

factories making handbags, shoes or other goods out of crocodile skins will need a licence. It also does not matter if the product was sourced locally or from outside South Africa. Processing a crop or its byproducts derived from aquaculture will need a licence if this becomes law.

The problem with this is that, apart from the destruction of important rights that are seen as foundational to human dignity, health and well being from the perspective of humans as commercial animals rather than slaves of the state, is that the licence is subject to more fine print than a furniture store hire purchase contract. There is considerable suspicion that these licences will be used to enrich officials and the politically powerful, while ensuring a client electorate who will vote ANC because they have to.

What makes this worse is that there is no guarantee that existing farmers or food processors or leather workers will receive these licences if the Bill becomes law. If the experience in the mining industry (which went through a similar transformational process when the Minerals Act became law) is anything to go by they will have to give 50% of their businesses to BBBE partners in order to get a licence. Investment in the mining sector, especially foreign investment, declined sharply as a result of this law, especially after the Constitutional Court ruled in the Agri SA case that the loss of any inherent right to minerals based on land was not an expropriation which required compensation but rather a deprivation of rights that did not

Aquaculture is not nearly as financially robust as the mining industry. The industry is tiny. South Africa is not rich in aquaculture opportunities, its water either being too warm or too cold for most popular aquaculture species. Those species that are farmed successfully elsewhere in the world such as trout, tilapia mussels and oysters have either been listed as invasive by environmental authorities or are under threat of such a listing. Furthermore aquaculture is generally a low margin relatively high capital input business. It can take decades to recoup the investment one makes in the farm.

Farmers complain that the Bill ignores these realities and will be the death of aquaculture in South Africa and they should know. Despite many millions being wasted by Government in an endeavour to implement a number of aquaculture projects, nobody else other than the very small number of South Africa's aquaculture farmers has been able to make aquaculture work and they will tell you it is not easy.

But government needs to grow aquaculture if we are to feed the 70 odd million people that will be the South African population in some 20 years or so and we cannot do this by traditional livestock farming methods.

So on the face of it we have another case of goals that are destructive of one another. DAFF will no doubt disagree but it remains to be seen if government's idea that you woo investors by singing "fuck off I love you" will work. I am pessimistic.

So where does trout fishing fit in all of this? DAFF have been apparently good friends to recreational fishing. The deal that was struck that trout will not be declared invasive that was done on the back of the Phakisa process was done on the basis that recreational trout fishing would assist aquaculture. One does not want to anger the big brother that has shielded the trout value chain from a threatened rape by the environmental authorities. But maybe this was a case of out of the frying pan into the fire?

I have long said that bigger factors than trout are playing out here. Trout are again the canary in the coal mine. We are having to deal with these issues first. And the big issue is a simple one. Do we grow as an economy respectful of the rights and dignity of our people or are we just another country throwing our future out the door in order to gratify the appetites of the number one of the day and his or her friends?

But I am getting ahead of myself. We all know the vital role that trout based aquaculture plays in underpinning the recreational trout value chain by supplying stocked trout. If you have any doubt about this look at what

happened in Gauteng last year when the Mpumalanga Tourism and Parks authority moved, against the wishes of central government, to close down some of the provinces trout hatcheries. Chaos ensued and the values of trout properties declined as a result. Jobs and the economic stability of towns like Dullstroom were threatened.

I have another concern looking at the aquaculture Bill. Does trout fishing involve aquaculture as it is defined because if it does the future of your fishing may depend on your ability to find and fund a BBBEE partner?

You see aquaculture is defined rather broadly in these terms:

“aquaculture” means the farming of aquatic organisms, including crocodiles, in controlled or selected aquatic environments (marine, brackish or freshwater), involving:

- (a) a degree of human intervention in the rearing process to enhance production which may include propagation, breeding, regular stocking, feeding or protection from predators; and*
- (b) individual or corporate ownership of the stock being farmed, and includes ranching.*

I think you will agree that the bit about regular stocking could be worrying if you are a trout club, syndicate property owner or a farmer who regularly stocks water with trout.

I have punted this concern about and am getting mixed signals. I am happy to report that the sense so far is that it does not but cannot say that this is definitely so.

Some friends have pointed out that those who regularly stock water so that anglers can fish for trout are not farming in the ordinary sense of the word. These fish are released into a natural environment where they largely fend for themselves. Furthermore they are not harvested as the vast majority of trout fishers and establishment that offer trout fishing practice catch and release. Support for this can be found in the definition of ranching which is defined to mean *“aquaculture in which aquatic organisms are intentionally released, without restriction, into the natural aquatic environment for the purpose of harvesting them when they reach market size with the intention of individual or corporate ownership of the ranched stock”*. It seems this is why reference is made in the definition to regular stocking.

Others disagree saying that managing trout waters by stocking fish is a form of farming especially since those doing it believe that they own the fish.

I have written to DAFF seeking clarity.

The fact that the Aquaculture Bill does not directly affect recreational trout angling does not mean that we should not be concerned. All trout hatcheries will require a licence in order to operate no matter how big or small they may be. Recreational trout fishing depends on the viability of these businesses.

A public hearing is being held at Ezemvelo’s Queen Elizabeth Park (Now there is a heads up as to where this may all come from) at 10h00 on 9 March. I shall be there. Other trout anglers should be encouraged to attend.