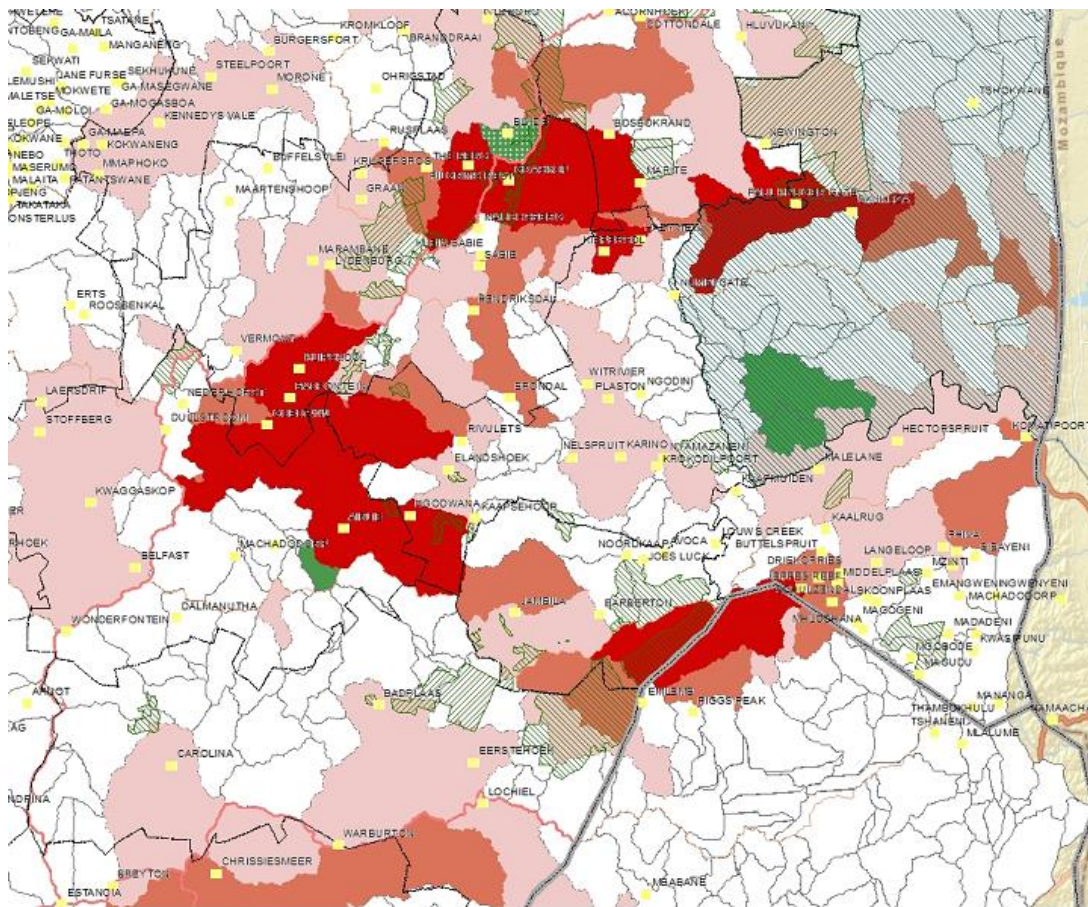


FAQ's On Trout And Invasiveness



Proposed fish sanctuary areas in Mpumalanga where the DEA want to make trout invasive.

1. Are trout alien?

- Yes they are. But then nearly everything we farm or eat is also alien.
- Trout were introduced to South Africa over 100 years ago so have become naturalised as any damage they did to indigenous species took place long before any of us were born.
- The 125th anniversary of the first successful stocking of a South African river takes place on Election Day, 7 May 2014. That was when the Bushmans River in KwaZulu Natal was successfully stocked by Mr John Parker.

2. Are trout invasive?

- No they are not.
- A species can only be listed as invasive if it harms our health and wellbeing.
- Trout do not harm us. On the contrary they are beneficial to us. Trout farming is South Africa's biggest fresh water aquaculture business. Thousands of South African fish or trout and even more like to eat trout. The trout industry is worth billions of rands and employs thousands of people often underpinning the economies of what would otherwise be marginalised rural economies. Some rural communities like the village of Rhodes or Dullstroom or Waterval Boven would be ruined if trout fishing was to stop.

3. Why does the Department of Environmental Affairs (the DEA) say that trout are invasive?

- Environmentalists say that trout are invasive because they predate on indigenous species.
- They do not accept that the Constitution and our environmental laws require allow trout to do so provided this does not harm human health and wellbeing.
- They do not accept that the definition of environment as it applies in these laws sees human beings as at the centre of the environment rather than alien to it.
- They do not accept that our laws require invasive species to be combatted by a process of eradication or prevention if that is not possible believing instead that they are allowed to manage invasive species in other ways that permit their commercial exploitation.
- Because they fail to understand the NEM:BA they are unable to properly apply it which is why the DEA has not been able to list a single species as invasive despite being obliged to since 2006.

4. Are the alien and invasive species lists and regulations that were promulgated in July 2013 law?

- No they are not.
- The DEA did not consult as was required before making these list and regulations law so they are unenforceable.
- The DEA confirms that it does not intend applying these lists and regulations but has instead published new list and regulations for comment.

5. What do the new list and regulations say in respect of trout?

- The invasive species lists suggest that trout are listed as invasive in category 2 in nature reserves, mountain catchment reserves and so called fish sanctuary areas. They claim that trout can be exploited commercially with a permit. No permit will be required outside these areas. Trout can only be introduced into waters where they don't already exist with a permit.

6. Will these regulations and lists be lawful if they are promulgated?

- The DEA disputes this but many lawyers agree that the list and regulations are hopelessly defective.
- They have not been properly advertised have the DEA's attempts to correct this are unlawful.
- The do not properly apply the definition of invasive or comply with the obligation to combat invasive species by a process of eradication or prevention.
- The categories are ultra vires insofar they purport to allow invasive species to be managed in any way that does not involve eradication or prevention.
- The attempt to get the lists and regulations to achieve something not allowed under the NEM:BA has resulted in numerous technical irregularities which render the lists and regulations fatally defective.

7. What are fish sanctuary areas?

- They are areas identified by the Water Research Council where threatened fish species occur.
- They are not legally proclaimed areas either in terms of the NEM:BA or any other law.
- Most of South Africa's premier trout fishing waters lie inside fish sanctuary areas.

8. How do I access the fish sanctuary area maps?

- They can be accessed online at <http://www.invasives.org.za/item/587-fish-sanctuaries-map-for-south-africa.html>
- Alternatively PDF's of selected maps can be viewed on the FOSAF website at www.fosaf.org.za (not up yet)

9. Are fish sanctuary areas lawful?

- No they are not.
- Threatened ecosystems must be proclaimed as such in terms of the NEM:BA after a proper process. This has not happened.

10. What will happen if trout are declared invasive in fish sanctuary areas?

- The trout industry will have to close down.
- Dams and rivers in those areas will no longer be allowed to be stocked with trout.
- Most of South Africa's larger hatcheries are in those areas. They will have to close down. The risk and regulatory burden of operating them in those areas would be too great even if the DEA granted the hatchery a permit.
- Without those hatcheries most trout waters outside those areas would have no source of trout and would close down.
- Billions in investment would be lost. Thousands of jobs would be lost and many rural economies damaged some even destroyed. Tens of thousands of recreational fishermen would be deprived of their trout fishing a pastime that in many cases has been in place since their great grandfathers' time.

11. Can the DEA a protected ecosystem or fish sanctuary area without informing the landowner?

- No they cannot. The promotion of Administrative Justice Act requires parties whose rights are threatened by a decision to be consulted before such a decision can be taken.

12. Can landowners simply ignore the law?

- One is not obliged to obey a law that is unlawful. This is because government cannot enforce it.
- However the DEA has prepared for this. The DEA proposes that existing provincial laws which are enforceable will remain in place for two years. This will allow provincial nature conservation officials to apply the lists and regulations under the guise of provincial law. There are signs that some officials are already doing this.

13. What can be done to challenge the list and regulations if they become law?

- The first recourse is to apply public or political pressure to get the DEA to stop.
- If that does not work all that is left is to review the law in court.
- The DEA has already said it is going to implement these lists and regulations and has invited South Africans to take them to court.

14. Will court be expensive?

- It needn't but it will be.
- The DEA has been accused of applying what are known in legal circles as Stalingrad tactics. They use taxpayer's money to overburden the court papers with extraneous issues make the case as expensive as possible for the other side. The Kloof Conservancy have taken the DEA to court and are experiencing this.

15. Is this about trout?

- No other recreational fish species are also affected such as bass and carp.
- It also threatens human right generally. If the DEA can treat the humans as alien to the environment. If they are allowed to place the needs of that environment first. If the state protection of the environment from humans is seen as the same as protecting human health and wellbeing. Then all other human rights subordinate to that imperative imposing state control to protect the environment. They become worthless.
- The fact that you cannot farm alien species such as maize wheat cattle and sugar without a permit or an exemption issued by the department of environmental affairs is an indication that this is already a problem.

16. What can I do to help?

- First you can object by e mailing an objection on or before 8 April 2014 to the Minister of Environmental Affairs care of Ms Nomahlubi Sishuba at NSishuba@environment.gov.za.
- You can learn more about this and tell others. This is not just about trout important human right are under threat.
- If you want to assist financially you can contact the trout SA convenor Gerrie Van Der Merwe at Lunsklip hatcheries at lunsklip@intekom.co.za or on 083 4881248. If he can't help you he will put you in touch with someone who can.
- FOSAF has established a trust fund to help finance this fight. Gerrie Van Der Merwe can give you the details of that account.

17. Where can I read more

- For the lists and regulations go to <http://www.invasives.org.za/item/581-nemba-invasive-alien-species-regulations-list-published-for-public-comment.html>
 - To see the Trout SA and FOSAF submission go to <http://www.fosaf.co.za/documents/Trout-SA-and-FOSAF-DEA-submission-Mar-2014.pdf>
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