

POLLUTION

The pollution threat to the Smaiblaar River posed by the Devon trout farm below the motel in the Du Toits Kloof valley, as detailed in previous issues of *Piscator*, remains a matter of concern. Right from the start of this project the CPS warned that the low water flow during the heat of summer made this area marginal at best for fish farming. Although there have been fish kills during previous heat waves at the Devon trout farm, none posed as serious a pollution threat as the fish kill which occurred in early January this year. The alarm was raised both by a CPS member fishing the river at the time and by scientist Geordie Ratcliffe, a member of the University of Cape Town Freshwater Research Unit, who was conducting tests on the day that the fish kill occurred. Argus photographer and fellow CPS member, Andrew Ingram, and I were each dispatched to the farm in our professional capacity. We found the Smaiblaar to be filled with dead hatchery trout and as many rotting on the banks. The stench was terrible and the water was black with sediment from the trout ponds and the remains of fish. Tests done by Ms Ratcliffe showed that the level of suspended solids well below the trout farm outlet, exceeded the legal limit and that pollution sensitive aquatic insects were absent in the area below the outlet from the trout farm. What was the response of the Department of Water Affairs, custodian of this special standards river?

Section 1.1 of the special standards river specifications stipulates that *"the waste water or effluent shall not contain any substance in a concentration capable of producing any colour odour or taste."* Section 1.12.2 stipulates: *"The waste water or effluent shall contain no other constituents in concentrations which are poisonous or injurious to trout or other fish or other forms of aquatic life."*

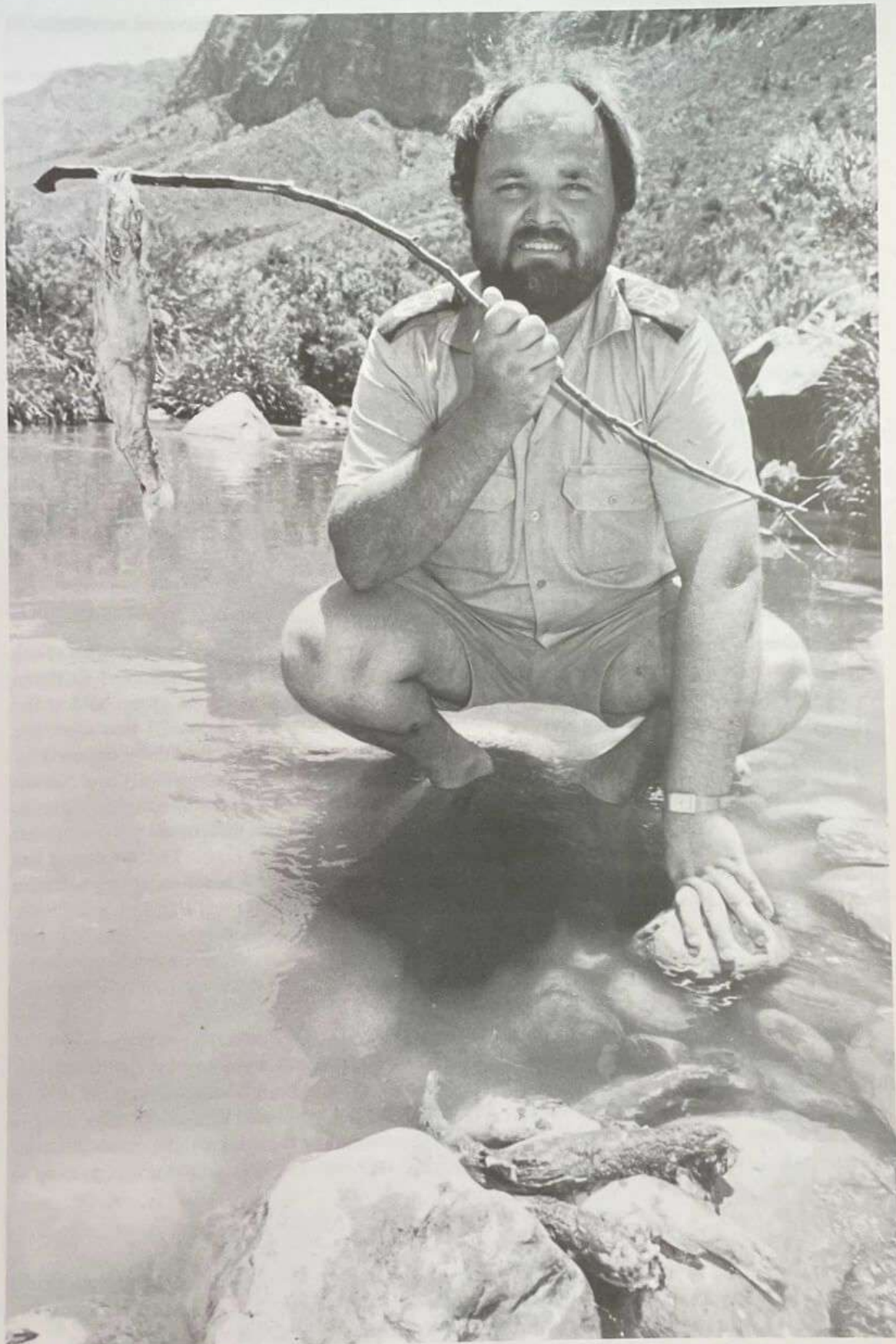
Keeping these factors in mind one would have expected the Department of Water Affairs to have taken test samples for analysis in the presence of an officer of the law to confirm and authenticate their veracity and, if they exceeded the special standards regulations, as Ms Ratcliffe's tests at the time and subsequently proved, to have instituted legal proceedings. The Department of Water Affairs did... NOTHING! An employee of the department arrived at the farm with no accompanying officer of the law and made not the slightest attempt to carry out any tests or collect water samples.

This came as no surprise to the CPS committee. In 1990 the CPS commissioned its own scientific tests of the effluent flowing from the trout farm into the river. The tests found that the special standards specifications were exceeded in terms of conductivity and total suspended solids and requested a meeting with the Department of Water Affairs. At this meeting, held on November 21, 1990, department officials conceded that the results of the test commissioned by the CPS were sufficient to justify prosecution. They said however that as Mr Watson had spent a substantial sum of money setting up his farm and had a bank overdraft they felt he deserved sympathy and would not consider prosecution themselves. The CPS delegates expressed amazement at the Department's attitude and the unheard of principle upon which they based their decision not to take steps.

Worse was to follow. After the fish kill in January a meeting was held attended by officials from the Department of Water Affairs, Cape Nature Conservation, the Department of Transport and Hill Kaplan Scott, the environmental consultants for the road and bridge building project currently in progress in Du Toits Kloof. At this meeting a senior official of the Department of Water Affairs stated that where a man's livelihood was at stake, as in Mr Watson's case, they would not consider prosecution! This was based on the Department's belief and contention, after analysing the pertaining and relevant legislation, that such a prosecution would not be successful.

If this is the case then, obviously, the law is an ass. What is significant here however is that the Department of Water Affairs has clearly never considered making the Devon trout farm pollution a test case to challenge, if their perception is correct, a situation which is manifestly not in the best interests of the river.

There is a growing acceptance, world-wide, within the field of jurisprudence, that a river is a living entity and that, as such, it has rights which need and deserve upholding and protection. The



CNC official Mr Paul Gildenhuys and one of the dead fish which littered the Smalblaar and its banks

Courtesy Argus

future of our rivers would be a lot more secure if that belief were to find universal acceptance in South Africa.

The twin principles which Department of Water Affairs officials in the Western Cape use in determining the fate of special standards rivers deserve, in the public interest, to be reiterated. a) If a substantial sum of money is invested in an industry or enterprise which pollutes a special standards river, that expenditure would seem to give the investor immunity from prosecution, at least from the side of the Department of Water Affairs in the Western Cape. b) If a livelihood, singular or plural is involved, that enterprise is also apparently immune from prosecution as far as the Department of Water Affairs in the Western Cape is concerned.

Apart from the requirements of the Water Act (Section 23 of which stipulates that *no person shall willfully or negligently pollute a river*) it would seem that the Department of Water Affairs in the Western Cape does not even enforce its own conditions which pertain to the granting of permits for the extraction of water from special standards rivers for aquaculture purposes. The failure of the Department to take tests or to request the presence of a judicial officer makes it quite clear that a decision not to institute prosecution was taken even before the Department official left Cape Town and without the pollution from the fish kill having been seen or its impact assessed.

The consequences of such a policy, as articulated and practised by the Western Cape staff of the Department of Water Affairs, cause grave concern and the CPS intends raising this issue with the minister concerned.

An examination of the special standards regulations pertaining to the mountain streams of the Western Cape shows that, far from being stringent, they are indulgent and fail to offer these rivers the protection they deserve. The pictures taken by Andrew Ingram and reproduced here courtesy of the Argus emphasise that and tell their own story.

WORKING GROUP

In some measure because of the concerns raised by the CPS over the years, a sub-committee of the Aquaculture Working Group has been created to examine the issue of pollution from trout farms and to determine guidelines for preventing such pollution. At a meeting of the group held at the Elsenburg Agricultural Development Institute near Stellenbosch on January 27 this year, the participation by the CPS in the deliberations and activities of the group was initially opposed by the Department of Water Affairs. At the end of the meeting Dr Kas Hamman of Cape Nature Conservation strongly opposed the resolution to exclude the CPS and a decision was then taken to admit the CPS in future. Cape Nature Conservation has drawn up a document entitled: *Draft proposals towards guidelines for freshwater aquaculture in the Western Cape*. This document has been sent to the CPS for comment and the convenor of the CPS technical advisory group, Mr John Ness, responded as follows in a letter to CNC: "The society is grateful for sight of these proposals. We would like to congratulate and compliment the authors of this paper on an outstanding and constructive effort. Suffice it to say that the CNC proposals are sound, well researched, excellently presented and inspiring. With the exception of minor points, the CPS associates itself fully with the thrust and recommendation of these proposals."

This document was drawn up last year and the National Trout Farmers Association and the Aquaculture Association of South Africa which had not made submissions in this regard, asked if they could provide input and the deadline was extended once. The second deadline, the end of May, has come and gone and, at the time of writing, after a delay of more than six months, there is still no response from the National Trout Farmers Association or the Aquaculture Association or an explanation as to why they are delaying the process of drawing up new guidelines pertaining to aquaculture pollution.

ENCOURAGING

What is encouraging however is that, in general, trout producers in the Western Cape understand and are concerned about the problems of water enrichment from trout farm effluent and are working closely with the relevant authorities to put an end to such problems.

An example of this, says Heidi Bekker, a scientist with the Department of Agriculture who is based at the Agriculture Development and Research Institute at Elsenburg, is a forthcoming water



A dead trout after the Smalblaar fish-kill. Note the level of siltation

Courtesy Argus



At an Elsenburg meeting on guidelines for trout farming were, from left, Tony Smith (CNC), Cate Brown (UCT), John Ness (CPS) and trout farmer, Hans Visser

purification research project to be conducted at Mr Hans Visser's trout hatchery on the Kraalstroom tributary of the Elandspad River. Hans, from whom the CPS has bought fish in the past, will be carrying out this project in conjunction with scientists from the Department of Agriculture and the Department of Agricultural Engineering.

The Sub committee: Water Quality Guidelines which operates under the auspices and chairmanship of the Department of Agriculture plans to publish definitive water quality guidelines within the next three to four months. Local trout farmers, says Ms Bekker are awaiting this final draft, which will form the basis of a new policy towards water quality management on trout farms.

ENEMY

A perception exists among some trout farmers that the CPS is conducting a vendetta against their industry. This is an absurd suggestion which does not even begin to stand up to any sort of critical or intelligent analysis. It would not be far-fetched to say that without the trout industry, much of the reason for the existence of the CPS would disappear. The overwhelming majority of the CPS members are stillwater fly fishers. As trout do not breed in stillwater impoundments the basis of much of our sport is completely dependent on the fish which we purchase from trout farmers for stocking purposes. If there was no stillwater fishing there would be far less incentive for most of our members to remain within the CPS or for new members to join. The CPS needs a healthy and thriving trout farm industry. As our journal over a period of more than forty years testifies, the CPS has always tackled threats to the environment on an ad hoc basis be they the proliferation of parrots feather weed or the bulldozing of the Holsloot River. In 1987 the CPS mounted an ultimately successful campaign to prevent an apartheid-based twelve million rand holiday resort for twelve thousand people being built at the top of the Du Toits Kloof Valley. Without this campaign the water in the Smalblaar River would not have retained the purity which now makes the Devon trout farm a viable operation. All we ask of the riverside farmers and the relevant authorities is that our pristine mountain streams be kept that way. Is that unreasonable?