In the High Court of New Zealand
Auckland Registry **CIV2005**

Under Part I of the Judicature Amendment Act 1972

In the matter of an application for review

between

The New Zealand Recreational Fishing Council Inc, and New Zealand Big Game Fishing Council Inc

Plaintiffs

and

Minister of Fisheries

First Respondent

and

The Chief Executive of the Ministry of Fisheries

Second Respondent

and

Sanford Limited, Sealord Group Limited, and Pelagic & Tuna New Zealand Limited

Third Respondent

Affidavit of Keith Luke Ingram in Support of Application for Review
Sworn 12th August 2005

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I, **Keith Luke Ingram** of Auckland, swear:

1. I am the President of the New Zealand Recreational Fishing Council Inc.

2. I have been a member of the Recreational Fishing Council ("NZRFC") since 1984, and an office holder of the Council since 1985.

3. I am a director of a company publishing trade magazines for the marine sector.

4. I was previously a commercial fisher based in Auckland, between the years 1976 to 1983. As a commercial fisherman I was involved in targeting most inshore species in areas 1 and 8.

5. Since 1984 I have owned and operated Neptune Fishing Charters and a number of popular fishing charter vessels. Today I still retain an interest in charter fishing activities and as such maintain regular contact with the fishery and its seasonal trends.

6. In my role on the NZRFC I have been involved in advocacy for recreational and non-commercial fishing interests since 1985 as the representative of the New Zealand Marine Transport Association and the NZRFC.

Introductory matters

7. In this affidavit, I use the following terminology:

   a. "2004 FAP" means the Ministry's Final Advice Paper dated 29 June 2004;

   b. "2004 IPP" means the Ministry's Initial Position Paper dated 12 January 2004;

   c. "the Minister" means the Minister of Fisheries;

   d. "the Ministry" means the Ministry of Fisheries (previously known as the Ministry of Fisheries and Agriculture);

   e. Unless the context otherwise dictates, the Minister's decision means the Minister's decisions on the kahawai stocks made on or about 5 July 2004 as communicated to stake holders by letter dated 10 August 2004;

   f. "NZRFC" means the New Zealand Recreational Fishing Council Inc.;

8. The exhibit references in my affidavit are styled **KI 1, KI 2** etc., the letters **KI** denote my initials. Unless stated otherwise, I will refer to exhibits in this affidavit by citing the exhibit reference in square brackets and in bold type. For example, to refer to exhibit KI 1, I will cite **[KI 1]**.

The New Zealand Recreational Fishing Council Inc

9. The NZRFC was first incorporated under the Incorporated Societies Act in 1978.

10. The NZRFC's constitution has the following objectives:

    a. To advocate and represent the interests of any non-commercial marine fishers, New Zealand wide;

    b. To promote and educate all aspects of non-commercial fishing and its attendant activities throughout New Zealand;

    c. To promote, manage and participate in the protection of, and scientific study of, the aquatic environment, aquatic life, fish and their habitats; and

    d. To act in a manner consistent with the Te-Tiriti-O-Waitangi 1840 and the objectives of the National Policy for Recreational Fishers as adopted by the NZRFC.

11. The NZRFC is an umbrella organisation that has a national membership structure and a national executive board. It represents national and regional associations, clubs, corporate and individual members. The National and Regional Associations who are members of the Council are:

    a. New Zealand Angling and Casting Association;

    b. New Zealand Big Game Fishing Council;

    c. New Zealand Marine Transport Association;

    d. New Zealand Sports Industry Association;

    e. New Zealand Trailer Boat Federation;

    f. New Zealand Underwater Association;

    g. Mahinga Kai Tikanga O Ngai Tahu;

    h. Otago Recreational Marine Fishers Association;

    i. Taranaki Recreational Fishers Association;

j. Tasman Bay Amateur Marine Fishers Association; and

k. Wellington Recreational Marine Fishers Association.

12. The NZRFC has 175 club and 36 corporate members who are directly financial members and some 200 individual financial members. The membership represented both directly and indirectly (through club and corporate members) is in the vicinity of 300,000 recreational and sustenance fishers.

13. In addition by default we act to represent the interests of those recreational fishers who are not members. I say by default because the objectives of the Council and its constitution is to advocate for and represent the interests of any non-commercial marine fishers, New Zealand wide. The 1996 research to provide estimates of Recreational and Sustenance Harvest Estimates found that there are approx 1.35 million recreational and sustenance fishers in New Zealand.

14. The NZRFC is involved in many issues affecting recreational fishers. The broad makeup of the NZRFC means that it is recognised by the Ministry and the Minister of Fisheries as a stakeholder group representing recreational fishers. As a result the NZRFC is regularly involved in consultation and discussion with the Ministry and industry representatives on a wide range of issues concerning fisheries stock assessment, research planning, total allowable catch (TAC) & total allowable commercial catch (TACC) setting, management and regulation reviews, cost recovery, legislation reviews and select committee representation.

15. The NZRFC has an Honorary Secretary and Financial Controller but no paid staff. Although many on the NZRFC's executive board have current or past experience in the marine sector, essentially the NZRFC's executive board is made up of people who are unpaid volunteers. The lack of resources has at many times hindered the ability to have an effective say in fisheries management, and has meant that in most cases we have had to rely heavily upon the Ministry and its scientists and technical advisors to ensure that the public's interest is protected.

Recreational and Non-Commercial Fishing Interests

16. The makeup of recreational fishers is varied and diverse by ethnicity, socio- economic factors, and age.

17. People have different motivations for fishing. A survey in 2000 (Walshe and Ackroyd) assessed the various motivations as to why people go fishing. Responses varied across a range of reasons including:

- enjoyment, pleasure, fun;
- relaxation and leisure;
- recreation;
- fresh fish/food supply;
- being in the outdoors environment;
- solitude or opportunity to get away;
- sport or exercise.

In addition, in my view, recreational fishing is an important part of being a New Zealander.

18. Non-commercial or recreational fishers will use a variety of fishing methods, from dangling a line on a wharf, shore based fishing such as by surfcaster or by fishing kite, or boat based fishing.

19. In comparison with commercial fishers, recreational fishers typically use light tackle. We are much more weather dependent than our commercial counterparts.

20. A key issue for the NZRFC is to ensure that the rights of recreational and non-commercial fishers particularly in New Zealand's inshore coastal waters are protected and properly provided for under the Fisheries legislation.

21. The experience of the NZRFC is that the rights of recreational and non-commercial fishing interests are vulnerable to erosion given the economic incentives at play in the management of New Zealand's fisheries under the quota management scheme.

22. On the whole the NZRFC is supportive of the rationale behind the quota management system provided there is proper and adequate science input in order to make effective decisions.

23. When the Minister signalled the intention to bring kahawai into the QMS in 2003 the NZRFC was supportive of this, subject to recreational interests being properly provided for.

Importance of Kahawai to Recreational Sector

24. Kahawai has a distinctive "schooling" behaviour which creates surface "boil ups". This has made kahawai a highly visible and accessible species to recreational (and commercial) fishers. Kahawai are recognised as an inshore predator species that will readily enter harbours, river mouths and estuaries.

25. It is frequently one of the first fish of any significant size caught by junior anglers. The kahawai has excellent fighting qualities as a sport fish and is exciting to catch on light tackle. It is available to be caught from the shore, or trolling at river mouths, and it is distributed widely throughout New Zealand waters.

26. Widespread distribution and previous abundance and accessibility as a food fish has earned kahawai the tag of being the "peoples' fish".

27. While not all recreational fishers prefer kahawai as a fresh table/food fish, it nonetheless forms the basis of an important smoking fish for the table. Surveys also show that kahawai is one of the most important and popular recreational fishing species (along with, for example, snapper, kingfish, gurnard and blue cod, see National Marine Recreational Fishing Survey, 1987).

28. Recreational fishing contributes to the economy of the country in numerous ways, from the big game and charter fishing operations, to the tackle bought from sports shops, right down to bait from the local dairy.

29. The economic value of the kahawai recreational fishery and expenditure within it were assessed during a survey in 1998-1999 commissioned by the Ministry of Fisheries titled the "Value of New Zealand Recreational Fishing". While there were some caveats about the methodology of this report it was found that:

> *"The only species [comparing snapper, kingfish, kahawai, blue cod and rock lobster] where the value of the recreational fish caught themselves was higher than the commercial gross production value is kahawai"*

(Source: page 91, "Value of New Zealand Recreational Fishing", November 1999, South Australian Centre for Economic Studies).

30. The conclusions from this economic study found that kahawai had a greater economic value as a recreational fishing species, than its use or economic return by the commercial fishing sector.

31. This reflects a very low port price for commercially caught kahawai, which was acknowledged in the 2004 IPP as having a value of $0.44 per kg green weight during the period 2001-2002. The 2004 IPP went on to say (at paragraph 129):

> "*These average prices suggest a commercial value for kahawai in the range of $1,700 - $5,100 per tonne, which is approximately 1/16th to 1/11th of the estimated value of one tonne of kahawai caught by recreational fishers.*"

32. At such low commercial prices, unless kahawai is being sold to the domestic market as a higher value smoked form (smoked kahawai is now the predominant budget smoked fish available in most supermarkets), the purse seine catch is believed to be mostly sold overseas for use as fish bait especially for the crayfish industry in Australia, or is canned and sold for purposes such as pet food.

Allowing for Non-commercial Interests

33. Under the present legislation it is my understanding that the protection of non-commercial fishing interests is a matter for the Minister's judgement and assessment bearing in mind all relevant legal considerations.

34. While there is nothing to prevent the non-commercial allowance being increased or reduced over time, I can say that in reality the "proportion" in which the Minister sets his initial allocation and allowances has in practice operated in a fixed way between fishing sectors.

35. In other words, despite population changes, and growth, (particularly in the Auckland and upper North Island areas) I cannot recall an upward adjustment in the proportional allowance for non-commercial interests across any fin fish species. An exception is the recent proposed adjustment in the ACE for Coromandel scallops.

36. This factor makes the initial allocation decision very important, because in practice the proportion "allowed for" has operated as a fixed ratio over time. So while, in theory, there may be nothing to prevent a recreational allowance being increased over time, in reality I cannot recall this ever happening. This is at least partly due, in my view, to concern by the Ministry that reallocation between fishing sectors would lead to claims from industry for payment of compensation by the Crown.

37. One of the main problems in assessing the extent of recreational and non-commercial interests is measuring participation rates, catch rates and the size of the recreational catch. This information is less well known than the commercial catch, which has strict report requirements

allowing better measuring of the size and value of the commercial fishery. The difficulties of estimating the recreational catch are further set out in the affidavit of John Holdsworth.

38. There is a further problem, in that when it comes to the non-commercial catch, the catch data that is available is often of more recent origin, and historical information necessary to measure the extent of recreational interests in a particular fish species may be poor, or is reliant on fishing club records and other private sources of information.

39. Recreational fishers who have been fishing for sufficient years have a clear recollection of what the kahawai fishery was like prior to the development of the purse seine fishery. It is a source of frustration for many recreational fishers that this knowledge is described as "anecdote" and appears to be given very little, if any, weight. Unfortunately there were few studies of catch rates from non-commercial fishers before the build-up of commercial fishing in the 1980's. I believe this has worked to the disadvantage of recreational fishers, when present catch levels are now used to allocate fishing sector entitlements.

40. Many fishers recall the pre-QMS days when kahawai was regarded only as a baitfish by commercial fishers and yet it remained an important species caught for food or fun by land based fishers. This ability for fishers, young and old, to catch kahawai using bait or spinning lures in our near shore or estuarine waters gave rise to the recognition of kahawai as the peoples' fish. Unfortunately in many areas this is no longer the case as many fishers now have to resort to using boats to get access to kahawai further offshore.

41. Kahawai is one of the last fish species to be brought into the quota management system. There was very little commercial fishing of kahawai, which was only a by-product species, until the commencement of the purse seine fishery in the mid-1970s. The development of the purse seine technique, which had been developed to catch pelagic fish species principally tuna had a huge impact on both the commercial and non-commercial catch levels of kahawai.

42. Non-commercial fishers who had not had any competition for this relatively low economic value fish (in commercial terms) found the absence of any controls on development of the commercial fishery led to very large and uncontrolled increases in the purse seine catch of kahawai through to the early 1990's. Despite the controls implemented after then the view of the NZRFC is that in some popular recreational

fishing areas the kahawai fishery has never properly recovered, especially in KAH1, and in KAH3 which have been heavily fished by the purse seine method in the past.

43. From the point of view of a recreational fisher, fishing in amongst a kahawai school is very exciting. Even if kahawai are not the target fish, a school of feeding kahawai will attract other fish and aquatic life. The effect of declining catch rates from kahawai, which is attributed to the purse seine catch, has generated considerable anger amongst a wide spectrum of recreational fishers. Recreational fishers now report more juvenile fish or jack mackerel, sprats, pilchards and anchovies rather than the mature schooling fish or "greenies", so called because of the distinctive green colouration on the upper part of their body.

44. From 1991, and in response to protest and lobbying from the recreational fishing sector, commercial catch limits were introduced for the purse seine catches by the then Fisheries Minister, the Hon. Doug Kidd.

45. Essentially these commercial catch limits were meant to be a holding action for the kahawai fishery, until it could be brought into the quota system. The introduction of these commercial catch limits however was not, in recreational fishers' viewpoint, sufficiently fast to avoid the rush to "fish for quota" by allowing commercial fishers to develop commercial catch histories, before quotas were introduced. Subsequently, as result of legal action concerning Maori fisheries, kahawai were delayed being brought into the quota system by a Court injunction.

46. The history of fisheries management of the kahawai species and the effect upon the recreational interests is more particularly addressed in the affidavit of Kim Walshe. To recreational fishers this history is important to show the way in which recreational interests and individual catch rates have been steadily eroded over time.

47. For a recreational fisher the three key measures of the health of a fishery are (a) the size of fish, (b) their availability and (c) accessibility. There are a number of other factors that will be relevant to properly informing a decision to allow for a recreational sector interest, and which provide reasonable measures of the quality of recreational fishing, such as:

- the history of fisheries management of the particular species;
- current stock levels;

- the importance of the fishery resource to the recreational sector;
- population trends;
- the relative value of the resource to the non-commercial and commercial sectors;
- current and past fishing practices (including over fishing by one fishing sector);
- the ability of the recreational sector to catch the allowance provided for;
- the economic, social and cultural impacts of decisions; and
- spatial conflict issues in each quota management area.

These matters are set out in further detail in John Holdsworth's affidavit.

NZRFC Submission to 2004 IPP

48. The NZRFC submitted to the 2004 IPP released by the Ministry **[KI 1]**. The NZRFC submission sought that:

a. kahawai be recognised as having greater value to recreational fishers;

b. a rebuild of the kahawai fishery was required;

c. commercial catch limits should be capped as a by-catch; and

d. further assessment of recreational catch occur once the expected nationwide survey had established the actual recreational catch.

49. Submissions by the NZRFC and related organisations have been expressing concern to successive Ministers of Fisheries, the Ministry and its predecessors concerning the decline in availability of kahawai since the purse seine impact became apparent from the early 1980s. I **attach** as exhibits many of the submissions and other representations that have been made by the NZRFC since the early 1990's:

- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 30 August 1991 Re: Submission on Pelagic Fisheries Management **[KI 2]**;
- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 28 May 1993 **[KI 3]**;

- Letter from the NZRFC to Dr John Annala, MAF Fisheries Greta Point dated 11 June 1993 **[KI 4]**;
- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 11 June 1993 **[KI 5]**;
- NZRFC Final Submission to MAF Policy on the Pelagic Species for the 1993/94 TACC setting process **[KI 6]**;
- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 24 August 1993 Re: Kahawai and Kingfish TACC settings **[KI 7]**;
- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 9 September 1993 Re: Kahawai TAC and TACC Setting 1 October 1993 **[KI 8]**;
- Letter from the NZRFC to John McCoy, MAF Fisheries Greta Point dated 29 April 1994 **[KI 9]**;
- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 29 July 1994 Re: TACC Setting and Management Review for the 1994/95 Year **[KI 10]**;
- Initial Position Paper on Kahawai and Kingfish for the 1994 TACC Round from the NZRFC **[KI 11]**;
- Final Submission to MAF Policy on Kahawai for the 1994 TACC Review from the NZRFC **[KI 12]**;
- Kahawai Submission to the Ministry of Fisheries from the NZRFC as part of the 1995 TACC reviews **[KI 13]**;
- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 28 August 1995 **[KI 14]**;
- Letter from the NZRFC to the Hon. Doug Kidd, the Minister of Fisheries dated 15 November 1995 **[KI 15]**;
- Final NZRFC Kahawai Species 1996/97 TACC Submission **[KI 16]**;

50. Recreational fishing clubs from around the country have consistently reported concern to the NZRFC, the Minister, and the Ministry about the state of kahawai fishery stocks. This was acknowledged at paragraph 102 of the 2004 IPP which said:

> "*102. Recreational groups have repeatedly expressed concern about the state of kahawai stocks. High percentages of respondents to readership surveys conducted by fishing magazines in 1989,1990, 1993 and 1997 felt that the numbers of kahawai available to recreational fishers had declined in the years prior to each survey. In 1992 the Recreational Fishing Council (RFC) carried out a club/individual survey where 188 of 189 responses suggested this decline was at least 50%. In 1997 the RFC carried out a survey of recreational fishers in major fishing magazines. There were 2002 respondents of which 47% felt that kahawai stocks had 'declined significantly' and 32% felt that they had 'declined a little' over the previous five years. Recreational interests have expressed concerns about low kahawai catch rates seen in recreational fisheries. Boat ramp surveys conducted by The Ministry in 1991 and 1994 indicated that catch rates of kahawai by recreational fishers were <0.2 fish per hour, however, these values included trips targeting other species and therefore may be artificially low.*"

51. In the 2004 FAP, the Ministry did attempt to note other sources of information concerning the recreational fishing catch (from paragraph 329 onwards of the 2004 FAP) but the conclusions reached by Ministry officials reflected the absence of scientific data that existed for the recreational catch prior to the impact of the purse seine fishery. In my view and the view of the NZRFC the absence of this scientific information has been unfairly used given the known information available concerning the history of the fishery. The recreational sector are now in effect being told that present levels of catch is all that this sector can expect or is entitled to.

52. At paragraph 9 of his 2004 decision letter the Minister states:

> "*9. The alternative basis for setting TACs is to base them directly on the current use of the kahawai fishery (or a proportion of that use). This method has the advantage of reflecting public policy and other decisions already made for the fishery and the current reliance on the fishery by each sector. These considerations are reflected in the current management arrangements for the fishery and current catch. I have noted that some industry submissions supported adopting this option.*"

53. The NZRFC has not been willing to accept the Minister's decision which equates present catch with the allowance for recreational and non-commercial interests.

54. It has to be acknowledged that the Ministry and the Minister have, since the early 1990's sought to "peg" the purse seine catch by the imposition of commercial catch limits. However the view of the NZRFC, supported by the scientific evidence filed with these proceedings, is that the legacy from this past over-fishing has resulted in substantially lower individual

catch rates for recreational fishers. This continues to the present day with depletion of the kahawai fish stocks more apparent in some areas.

55. The NZRFC has never had a problem with the need to ensure that there is adequate provision made for legitimate unavoidable commercial by-catch of kahawai. We recognise that this legitimate by-catch has been constant of around 500 tonnes. When the Minister made his TAC allocation the recreational sector were aggrieved to find out that the TACC had been set at a level which would allow the continued targeting of kahawai in our near shore waters by purse seine methods. We believe this method is responsible for the regionalised depletion that exists.

The Hauraki Gulf

56. The Hauraki Gulf is a case in point for regional depletion of the recreational kahawai fishery. KAH1 includes the Hauraki Gulf. The Minister decided to locate 48% of the commercial catch in KAH1.

57. The Hauraki Gulf is probably the most intensively fished recreational fishing region in New Zealand. With a fish species such as kahawai, which is known to travel distances, what happens to fishing outside of the Hauraki Gulf has a relationship to fishing within the Hauraki Gulf. It is my view that the Hauraki Gulf kahawai fishery has never recovered from the early purse seine extractions of mature fish, and as such has remained what is locally known as a juvenile fishery.

58. From my own experience in boating on the Hauraki Gulf for 39 years, it is now a rare occurrence to see a school of mature kahawai within the Hauraki Gulf. Where schools are sighted, these are small and in most part are made up of what we term as spring kahawai (juvenile). I am a regular fisher on the Hauraki Gulf and this past season I only caught one mature kahawai of what I would term a "smoker".

59. It was once a commonplace occurrence, especially when cruising to Great Barrier Island in the outer Hauraki Gulf to see sizeable schools of pelagic fish including kahawai. The fish in the Hauraki are now predominantly juvenile stock, with very few older fish. This is referred to in greater detail in the affidavit of John Holdsworth.

60. There are some controls on the method of commercial fishing contained in the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986. These commercial regulations do not contain a complete ban on purse seine fishing within the Hauraki Gulf. There are

specific amateur regulations contained in the Fisheries (Auckland and Kermadec Areas Amateur Fishing) Regulations 1986 which impose restrictions additional to the Amateur Fishing Regulations. There is a bag limit of 20 kahawai in the Hauraki Gulf, but in practice there is little hope of anglers catching this number as a daily bag. If an angler were to catch 3 or 4 kahawai in a day this is now regarded as exceptional.

61. The purse seine fleet based at Tauranga is located relatively close to the southern boundary of the Hauraki Gulf Marine Park at Homunga Point, just north of Waihi beach in the Bay of Plenty. The Hauraki Gulf Marine Park covers a marine area of approximately 13,900 square kilometres, with a coastline of approximately 2550 kilometres (source: the Hauraki Gulf State of the Environment Report, Hauraki Gulf Forum, page 13).

62. As far as I can see the Minister's 2004 decision itself gives no express consideration to the Hauraki Gulf situation. Nor was the poor state of the kahawai fishery in the Hauraki Gulf the subject of any specific advice from the Ministry to the Minister in its 2004 FAP.

What are the recreational fishers seeking?

63. These proceedings involve a coalition of recreational fishing groups coming together to question the way in which the Minister has allocated and set the TACs for kahawai. There is a broad consensus within the recreational fishing sector that all too often the recreational sector has seen its fishing entitlements eroded by the priority needs predetermined by the QMS "catch history" approach.

64. The NZRFC and the New Zealand Big Game Fishing Council signaled to the Minister in late September 2004 that it was intending to challenge the Minister's 2004 kahawai decisions. I annex a letter from our solicitors Hesketh Henry to the Hon. David Benson-Pope, the Minister of Fisheries dated 20 September 2004 **[KI 17]**. The Minister was asked to provide an undertaking that final quota would not be allocated until a Court had ruled on the legal issues.

65. The Crown Law office replied on behalf of the Minister by letter dated 22 September 2004 **[KI 18]**. It was stated that the Minister was unable to stop the introduction of the kahawai stocks into the quota management system. A large number of commercial fishers were identified as being potentially affected as they were entitled to provisional catch entitlement. I annex a letter from our solicitors to all non-commercial fishers identified as having provisional catch entitlement dated 5 October 2004 **[KI 19]**.

Replies were received advising that three companies wanted to be heard to the proceedings being Sanford's, Sealord Group, and Pelagic & Tuna New Zealand Limited.

66. The advanced stage of the "roll out" of the quota management system for kahawai meant that it became a very difficult process to stop this. An interim injunction was beyond the resources of the amateur fishing groups involved. It was resolved to continue with the proceedings but to seek in particular orders which will be relevant to future fisheries decision-making. Challenging and setting aside the 2004 decisions is important to recreational interests because of the view that the 2004 kahawai decision was incorrectly set, and should not become a precedent or "benchmark" against which future decisions are made.

67. Over the years there have been various proposals to change the legislation to enshrine clearer protection for recreational interests. The NZRFC has been actively involved with the Ministry in seeking to clarify the legislation concerning non-commercial and recreational interests but given the number of parties, the number of different perspectives and interests involved, this has always proven difficult. It is my understanding that there is a degree of shared recognition within the Ministry that there needs to be a better approach to recognising non-commercial interests.

68. A key objective of these proceedings is to clarify the Minister of Fisheries decision-making powers when it concerns fish species like kahawai, which have a very strong recreational interest and association. There is a view within the NZRFC that the legislation has a degree of priority to non-commercial interests which must be allowed before setting any commercial catch.

69. The other principal objective is to obtain Court rulings that the Minister take into account a wider variety of factors, including factors which measure the quality of recreational fishing when assessing TACs, not just current sector catch estimates, or commercial tonnages of fish. This is particularly important in areas which have a legacy of historical over-fishing of kahawai, population pressures, and where a rebuild of stocks is required. It is also sought that the Minister make more precautionary decisions to protect the sustainability of the kahawai stocks. In particular, that the Minister recognise when setting TACs within individual QMAs the adverse affects on recreational fishers' ability to

catch kahawai brought about by the previous unconstrained fishing down of the kahawai stocks by commercial purse seine fishers.

70. I want to acknowledge that the Minister of Fisheries recently announced in July 2005 at the NZRFC AGM and conference a new policy to manage fish stocks above sustainable levels. The NZRFC has lodged a submission to the 2005 IPP on kahawai supporting this new policy. However this policy is not yet firmly established, and the view of the NZRFC is that clarification of the legal issues is required, in the hope that this will, in the future lead to fisheries management decision-making which will improve the present poor catch rates of kahawai for non-commercial fishers.

SWORN by **KEITH LUKE INGRAM**)
at Auckland)
this 12th day of August)
2005 before me:)

A Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

KI 1

This is the document marked **KI 1** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

Submission 34

N Z RECREATIONAL FISHING COUNCIL

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16 April 2004

The Minister of Fisheries
Parliament Buildings
Wellington.

Good afternoon Minister,

Attached is our submission on the introduction of Kahawai into the Quota Management System on October 1 2004.

We are aware that some of our National Members, Regional Members, option 4, and many clubs, and individual members have also submitted on this very important species to our sector. We obviously support these other submissions and wish them to be taken in context with our own submission.

We don't envy your job, especially with your new appointment to role, but request that you read and take note of the many concerns that have been raised involving this fishery over the past thirty to forty years. We have insisted that our members contain their frustrations while they have watched the kahawai fishery decline. The protests have even involved a vessel motoring into set purse seine net to try and show the vessel skipper and crew their opposition to their method of fishing and destruction of our important kahawai fishery.

We are also aware of other vessels who have given up a days fishing to sit on top of a kahawai school to prevent a purse seine vessel shooting their net and taking the school.

The management of the kahawai fishery is not just a science issue, the decision that is made on the introduction of kahawai into the QMS is going to be a real political hot potato, and as we have stated in our submission we will not give one inch until we get our kahawai fishery back.

We hope that you are able to attend our Annual General meeting in Whangarei and by then you may have had the opportunity to read our submissions and make some comments as to how you see the fishery being managed in the future.

Thank you for allowing us to make comment on how we see the issues affecting this fishery and we await your decision with interest.

A Hard Copy has been posted today.

Ross Gildon
President.

OVERVIEW

This submission is a claim on behalf of the people of New Zealand who fish kahawai for either sport or sustenance. Quite simply we want the return of this important recreational species back to a level we used to enjoy.

The essence of our claim is that kahawai is the second most popular recreational species as determined by the various surveys. (National Marine Recreational Fishing Survey 1987) (NZ Fisheries Assessment Research Document 97/7). Kahawai has a very low economical commercial value 0.50 cents per Kg when caught by purse seine method and an extremely high recreational value and therefore it is our Council's ultimate goal to have kahawai introduced into the QMS at a by-catch level only.

We appreciate that due to the purse seiners, gill netters, and long liners catching kahawai mixed with other species, and random catches, that it can never be a totally recreational fishery, but that does not stop kahawai being introduced into the QMS at low by-catch levels to recognise the value of the fishery to the recreational sector.

Our Council believes that when a species only has a commercial value of 0.50 cents per Kg the resource is being wasted by industry. In past years we estimated that a very generous target to by-catch for kahawai is 8:1 which would have approximated to the following purse seine by-catch tonnages. 200 tonne KAH1, 100 tonne KAH2, 300 tonnes KAH3. As the fishing areas have now been changed we wish to see the new areas capped at a by-catch tonnage only. This can be seen in our recommendations. Our basis for these figures is that in 1993 the Minister of the time told industry that he wanted to trade kahawai with them for jack & blue mackerel. Industry took all the mackerel tonnage offered and kept the kahawai tonnage as well.

COMMERCIAL USE

When one has to really consider where kahawai has been seen in retail outlets, it is either a few smoked fish in a supermarket (which would be adequately supplied with the by-catch tonnage we have allowed for, and occasionally the name kahawai can be seen on some tinned fish cans.

We actually showed Minister Kidd one of these cans when he was the Minister. The labels actually read as follows. This can **MAY** contain kahawai, mackerel, tuna. It is our belief that if the purchaser does not know what they are actually getting in a can then we would support Industry for using Peruvian mackerel in place of the kahawai.

Our Council is also aware that some whole kahawai has been shipped to Iraq and Iran for food which we do not really have a problem with. Where we draw the line is when the second most popular recreational species is boxed and sent to Australia as bait. Quite simply the fishery is too important to our sector to allow this wastage to continue.

BACKGROUND

Whilst it is generally acknowledged that purse seine fishing started in the seventies Sanfords launched their first purse seine vessel the Valkyrie in 1965 and a catch of

240 ton (not tonne) was recorded against that vessel in its first year of operation. Industry has had the use of this fishery for almost forty years and has done virtually nothing with it as far as added value goes. We are saying that we now want our fishery back. It has a far greater recreational value than commercial economic value and this is recognised in the IPP. The authors of the IPP appear to presume that we as a sector are satisfied and will accept the present recreational catch and CPUE, and that is far from the truth. We want the fishery back to the stage where we have a reasonable chance of catching a fish, rather than to see it go off shore at minimum value.

TAGGING ANALYSIS

Whilst acknowledging that the tagging study carried out in 1991 was not designed to determine who was catching what, the figures very clearly show a marked decrease in the recreational catch from the 1983 tagging study. Some scientists will say that we cannot use this data for our purpose but there is just too large a variation not to accept that the recreational catch has gone down dramatically since the early 80's.

Results from the 1981 tagging programme show that the recreational sector caught 72% of all of the tagged fish returns. Bradford commented that it is thought that tagged fish tend to head inshore and that would be the reason why so many tags were returned by the recreational anglers. From the 1991 tagging programme our sector only recovered 27% of the tags returned. Now this is a huge variation from the previous tagging programme.

Our Council and our scientific advisors have tried to analyse why there could be such a variation and have come up with the following conclusions:

1/ Either the recreation percentage of catch was much higher than estimated by MFish at the time.

Fisheries Technical report 19 quotes ***"that there is some problems with the non reporting of tags, it is still clear that the annual recreational catch must have been similar to the annual commercial catch around that time, i.e. in the thousands of tons per year and perhaps 5,000 tonnes or more."***

2/ Industry decided not to report recovered tags. (Possibly to try and show that the fishery was in a better state than it actually was.

In our 1993 submission, we explained through our "sink" hypothesis (stated below), how we believe the purse seiners have been responsible for the overall decline in kahawai around New Zealand. It must be remembered that kahawai moving on average of 50nm are considerably more mobile than snapper which move only a few kilometres. (MAF Information pamphlet No.18)

We have been meaning to ask Brent Wood if it is true as stated on P.5 of the FARD produced by B. Jones that "***The 1983 samples were not selected at random since large fish were selected for ageing and comparison with the fish being currently tagged in the Bay*** (Wood pers.comm) Mark Feldman has contacted Mike Bradstock and I believe Gavin James (the other two main people involved in the 1983 tagging programme). They were certain that MAF would always tag by proper random selection of fish. Therefore provided that Brent Wood can confirm that the

fish were tagged at random, the 1983 data should be used as the best available data at the time.

As such, the analysis (refer to Figure 6 in the FARD) that Jones produced should be used, but it should be highlighted in a different way. Jones states ***"Two landings in 1991-92 had larger mean sizes than the 1983 samples and eight had similar mean sizes."*** What is totally neglected, is that there must have been a further 19 samples (from the total of 29 samples) that were smaller than the 1983 samples, and this more realistically states the true reflection of the decline in the fishery.

The bottom line is that in 1983 the fish averaged 51.3cm, whereas (as shown by Fig 5 (fig 3 in the McKenzie report) in the Jones FARD) the fish averaged 46.1cm in 1991 (1991 does not include small fish in the 30-35cm range) and 45.3cm in 1992. Even if the 30-35cm fish were removed from the graph (for whatever reason) the average size for 1992 would still only increase to about 46cm. As a result we are showing a clear reduction of a mean size of 5.2cm over a period of eight years, and a further drop of 0.8cm over the next year.

We acknowledge that the 1983 purse seine data may be a bit scant, but when combined with the Kaharoa report (discussed below), it suggests that it all starts to add up towards evidence of kahawai overfishing, and an explanation as to why the recreational sector started seeing drops in catch levels about this time.

The Jones FARD also attempts to compare purse seine length data from East Cape to Gisborne in the 1970's to the Bay of Plenty 1990's data. The comparison is invalid because the area has been confounded, and it is like comparing apples with oranges. The comparisons must be from similar areas. As has been shown between the Gulf-Bay of Plenty and Tasman Bay-Kaikoura coast. We are aware that there can easily be large length differences between areas that are not that far apart so do not believe Jones comments to be relevant as an explanation.

We consider that the large purse seine catches in two relatively small areas (the Bay of Plenty (actually Waihi to Whakatane), and the top of the South Island (although not discounting the purse seine activity in KAH2) have led to the overfishing of the kahawai fishery around the entire coast of New Zealand. The results of the 1981-84 tagging programme showed that on average the kahawai moved 50 miles in a 2 year period. Thus since the early to mid 1980's when the first large purse seine extractions were taken, the kahawai could easily have moved considerable distances. e.g. the 150-200 miles from the north-west coast to the top of the South Island. We suggest that the concentrated purse seining in these hotspots creates a void into which kahawai from other areas ultimately sink.

MAF tagged and released 4,600 kahawai near Whale Island in 1991. For those people not living in the Bay of Plenty, Whale Island is only 4 miles off shore and probably the most fished area in the Eastern Bay of Plenty. There is only Whale Island, and the Rau Rimu Rocks in shore, and the Volkner Rocks and White Island 30 miles off shore, so there should not be any surprises at the high percentage of recreational tag returns. Most weekends in excess of 100 boats leave the Whakatane Ramp (NIWA kahawai returns data 2001-2003) and each weekend additional boats depart from Ohope and Thornton ramps. The latter two are adjacent to Whakatane, so the percentage of kahawai tags returned by recreational anglers fishing the Whale Island area is certainly no surprise to our Council.

KAHAROA TRAWL SURVEY DATA

A report prepared by Langley was written summarising the Kaharoa trawl survey results from 1982-1993, which includes a section on kahawai. Pg16 states ***"In the West Coast North Island survey area, the mean length of fish comprising the 30-55cm length range declined from 41cm in 1986 to 36.7cm in 1991. Similarly, in the Bay of Plenty the mean length of adult kahawai declined from 47.4cm in 1985 to 44.7cm in 1992."***

There are essentially only two explanations why there can be a decrease in average fish size: either there has been a major increase in the numbers of smaller fish (recruitment), or there has been a major increase in adult removals (overfishing). Up until the Kaharoa results, it was not possible to distinguish between these two hypothesis because there was no kahawai recruitment data. However for the Hauraki Gulf P.16 of the Langley report states ***"The YCS (Year Class Strength) indices indicate strong 1981, 1984, and 1986 year classes and weak year classes from 1980, 1983, and each year from 1987 to 1991" (my emphasis).*** The Gulf is likely to be a major juvenile nursery area for kahawai because the kahawai in this area are consistently smaller than in the Bay of Plenty and Northland.

The Kaharoa recruitment data is especially significant because it strongly suggests that recruitment had been poor in the last few years and that therefore the decreases in average size are most likely due to overfishing. As the catch statistics show, there had been a major increase in adult kahawai mortalities through the excessive purse seine catches over the previous 15 years.

RECREATIONAL CATCH

Over past years we have been trying to get removed from the stock assessment papers the statement that keeps appearing, that recreational anglers only catch small kahawai because they do not fish as far out as the purse seine fleet. This statement is far from the truth. Whilst it may have had some bearing twenty or thirty years ago it certainly does not apply in 2004. More and more recreational anglers are purchasing modern trailer craft and these vessels are travelling out seventy miles off shore, and in the Bay of Plenty, large numbers of recreational anglers are fishing foul ground areas ten to twenty miles off shore.

Whereas in the past recreational anglers were able to catch a reasonable days catch in shore they are now having to travel further out to catch a reasonable daily bag limit, and are targeting species like Blue Nose that used to be caught only when recreational anglers chose to fish off charter boats.

Adult kahawai are found at all depths from inner harbours out to approximately 200 metre depths but they are unlikely to have the same density at all depths (Bradford). While the statement is correct it does not stop the purse seiners from fishing in shallow water as the photo below shows. The only condition that keeps the purse seiners out further is the damage that can be done to their nets due to foul bottom. In areas of sand or mud bottom they are fishing inside the recreational fleet, as has been witnessed on many, many occasions by our sector.

RECREATIONAL CATCH TONNAGE

For some time we have suspected that our sector's catch has been far more than the 2,000 tonne estimation. Pre 1980, the recreational catch could have been as high as 4,000-5,000 tonne or even higher.

Kilner allowed 2,000 ton to the recreational sector when N.Z.'s population was one third of what it is today, so we would have estimated the recreational catch to be in excess of what has been allowed.

One scientist (I cannot remember his name, or find the paper covering the subject) but he calculated that if each recreational angler caught one kahawai per week for twelve months, then the tonnage that should be allowed for recreational fishing would be in the 8,000-9,000 tonnes per year. As can be seen later in this submission, the anglers taking part in the Central Diary survey based in Hawkes Bay said that they caught 60 kahawai per year, so the scientist who came up with this figure may not have been too far off the pace, when he suggested such a high tonnage.

Our Council has found it ridiculous the way Bradford deduced the recreational kahawai catch of 700 ton. To simply suggest that 100 ton per year can be deducted from 2,000 ton and a magic figure of 700 ton becomes an important part of the equation. We would have to ask where is the science that dreamed up a figure like this, and it is our sector who are the ones being accused of supplying anecdotal evidence.

We believe this to be theft from recreational fishers with the proceeds being given to the purse seine companies, and we believe that it is a gross social injustice.

We are not asking to have the fishery returned to the good old days of the 1950's but there has to be a level between what we had then, and the pathetic fishery that we have now where the ramp surveys have shown that we are catching 0.4 kahawai per trip. The 2004 data looks like showing even a less catch rate than 2003.

Although the data for the year has not been finally collected, and myself being involved in the collection of kahawai data for NIWA. Interviewers are required to obtain 50 heads per ramp and are limited to collecting a maximum of 4 heads per boat. We have previously stated that 100 boats on average use the Whakatane ramp each day of a weekend.

After 28 weekend days in 2004 (not allowing for bad weather) with 100 boats per day, 2,800 boats fishing for say five hours each or 14,000 boat hours and I still do not have my 50 heads as required. Whilst some anglers refuse to give us kahawai heads, they would equate to less than 5% of the total, and this shows the true state of the recreational kahawai in the Eastern Bay of Plenty.

.VALUE OF KAHAWAI TO RECREATIONAL FISHERS

The SA Centre for Economic Studies report Sep 1999 (RRPG-1999} quotes:
"The only species that has a recreational value higher than the commercial gross production value on a catching fish basis and the general fishing basis is kahawai."
The report goes on to say that: "***The exception is kahawai, where the MWTP $ per***

kahawai have a higher value as a recreational fish than a commercial or eating fish."

"The Centre calculated average values for the total recreational fishing estimates on a fish and a per kg basis. The fish species that has the highest recreational fishing value estimate is snapper, with $85.1 million (estimated from average WTP/Kg caught). Kahawai is the second highest with a value of $73.6 million".

The above statements reinforce the values and importance that our Council places on the kahawai species for our sector.

DEPENDANT DATA

We are aware that Sanfords have been collecting length data and that they have had a person employed 80% of the time measuring snapper, trevally, and kahawai. As the work being done is unaudited and has not been validated, the results are totally rejected by our Council. Those collecting the data have a vested interest in the results and therefore they should have an independent person carrying out the work not a paid employee. This type of work is similar to the aerial sightings data and we cannot accept the results. It is too easy to select the fish that they want for measuring and rejecting those that go against the grain. We will treat data from this research no different than anecdotal evidence. We would expect the same response from Industry for any collecting of data carried out by our sector that hadn't been validated.

VOLUNTARY NO GO AREAS

The NZRFC was one of the parties involved in establishing the voluntary no go areas for the purse seine vessels. At the time we believed that anywhere we could keep the purse seiners out of was better than giving them free reign to all of our inshore waters.

Having now had time to gauge the effectiveness of the closures we consider that the no go areas are far too small, and the areas given away by industry were areas that they very seldom fished, so in reality they gave away nothing. Kahawai are a very mobile fish and therefore a 2-mile limit is really pretty insignificant. When one considers that a great deal of the area classed as no go is really too shallow for their nets, or over foul ground which would damage their nets so they gave us nothing of any consequence but when the total area was written on paper it did look impressive.

One area that should be closed to all purse seining is the Hauraki Gulf. It was supposed to be closed in 1988 after a Sanfords boat made a couple of shots in the Kawau Island area. The Hauraki Gulf is recognised as a juvenile fishery (B. Jones) and the closure was supposed to come into the Regulations. However it was withdrawn at the last minute and included in the Fishery Management Plan, then it was pulled out of there and included in the voluntary agreement.

We regard the Hauraki Gulf as a vital nursery area and the main gulf area should be excluded from purse seining by regulation.

The industry voluntarily offered the recreational sector a "no fishing period" from

the period that skipjack was targeted and had virtually no impact on their kahawai fishing

RESEARCH

In 1996 our Council asked to have a recruitment programme introduced. We could not see how a reliable stock assessment could be carried out if we did not know what the recruitment was into the fishery. The draft report "Juvenile Kahawai Recruitment Index Feasibility Study" really didn't tell us anymore than what we had already suggested, that the fishery was under stress and the recruitment into the fishery was dismal. However, the scientists had other answers and said it was the way that the recruitment tests had been done. We had asked for the prior tests to be duplicated so that we had a margin to work from. From the results, we fail to understand any other reason why the sampling failed. We note that Bradford quoted 1995 ***"the recruitment variation is likely to be important and a recruitment index may be necessary to adequately assess the kahawai fish stocks."***

Our Council still believes that a recruitment study is required for kahawai. Kahawai first spawn at 35-40cm (Eggleston) and from recent ramp survey studies in the Eastern Bay of Plenty we are seeing more and more fish in the 40 - 50cm sizes whereas in the past the majority of fish exceeded the 50cm length.

In the past we have asked for duplicate shots of the 1983 data, 1991 data, and 1992 data to be carried out. We can appreciate that the numbers are low, and too low for some scientists whilst some of our scientific advisors suggest that some sectors carry out too much number crunching and smoothing out.

As a Council we offered our labour free to assist with a duplicate tagging programme simulating the '83, 91' and '92 tagging programmes but our offer was never taken up by Industry or the Ministry. (obviously they are not gamblers or they already knew what the results would be.)

For the Bay of Plenty, the kahawai in the 1990's are statistically and significantly smaller than the fish from the 1983 sample. The 1983 fish averaged 51.3cm and the 1991 summary has an average length of 46.1 cm. The 1997 boat ramp survey had a mean of 44.1cm (Bradford). Given these results we firmly believe that the 1983 purse seine data (although somewhat scant) must be recognised as valid and robust.

Furthermore, we contend that it must be acknowledged that for the Bay of Plenty that there is conclusive evidence from the 1983 and 1990-1 purse seine catch sampling data that kahawai have decreased in size. Until there is hard scientific evidence conducted by an independent organisation such as MFish or NIWA then the Minister must accept this as the only available information, and it shows that the fishery is in decline. It is recognised around the world that a decrease in the average size of the fish is hard evidence that overfishing is occurring.

AERIAL SIGHTINGS DATA

The Ministry through Brian Jones has gone into great detail on many occasions as to the state of the kahawai fishery and has used data such as the aerial sighting data supplied by industry paid pilots to suggest that the fishery was not under any type of stress.

It is interesting to note that as soon as the kahawai species became political, lo and behold the spotter planes started noticing more kahawai schools than they had logged in the past even though the recreational sector were catching less fish. The spotter plane pilots were being paid by industry and they were certainly not going to say that there were fewer schools when the heat came on.

The aerial sightings data has too much bias. It is not possible to know how much of the total stock of kahawai is on the surface at any particular time. Environmental conditions such as temperature may determine at what depth kahawai are likely to school. This might interact with other environmental variables such as the abundance of prey. Far more work on the behaviour of pelagic fish will be required before we can be convinced that the aerial sightings data can be given any credibility. As the respective fishing areas are not flown every day and fish schools recorded daily, it tends to bias the results. We also note that when the pilots fly a particular sector and no schools are seen, then this information is not logged.

One particular flight the author of this report carried out with three purse seine skippers from Whangarei to Whakatane did not reveal one school of kahawai on the surface and they had been telling us all day at a meeting what a great shape the fishery was in and there were more surface schools now than there had been in earlier years.

LOCAL CONCERNS

KAH1

Our affiliates contacted from the Bay of Islands in the North to Waihau Bay in the East have advised that there has been NO CHANGE in the state of the Kahawai fishery in the past twelve months. It would appear that the further east that one travels, and the further north one travels from Tauranga, the less schools appear to be showing. While there are some schools out of Tauranga, they are not there in numbers and not consistently visible. Reports from the Motu area are that it has been another poor season. Clubs at Whakatane, Opotiki, TeKaha, and Waihau Bay report that they have all had poor tournament results.

A recent kahawai tournament held by the Mt Maunganui Sportfishing Club over 2 days had 115 anglers and only 57 kahawai were caught. Based on an eight hour fishing day, equates to 17,840 fishing hours or 312 hrs for each fish caught.

A recent tournament held by the Waihau Bay Sportsfishing Club had 92 anglers fishing for two days for an estimated eight hrs / day equating to 1,472 hrs and 9 kahawai were landed.

KAH2

In the past, the purse seine fleet has rapidly filled their tonnage in this area. Up until recently there appeared to be no significant decline in the recreational CPUE. Our club's situated at Gisborne, Mahia, Napier, Waiarapa, and Ngawi have all noted a decline in school sizes and don't want to see any further decline in their kahawai fishery.

The Eades Fishing Tournament run out of Wanganui was held in March 2004. A

and 1 kahawai was caught. This type of result does nothing for the perceived quality of management of our fishery by MFish, and our Council is also placed under pressure for allowing our fishery to deteriorate to this level.

The participants of the Central Area diary survey clearly defined the state of their fishery, and the MFish review clearly acknowledged the concerns of those involved in the study. ***"Kahawai is one of the most important recreational finfish species in Central Region. Kahawai is being increasingly sought by recreational anglers partly because of the decline in other popular species." "Kahawai catch rates were easily the highest in Hawkes Bay at 60 fish per angler per year, with the next best being Tarakihi at 30 fish per year." "The concern about kahawai was rated high as 84% of correspondents considered that kahawai numbers had decreased." "The level of concern was highest in the north of the region which is consistent with the high level of concern being expressed about kahawai in the Bay of Plenty and Auckland."*** (Kilner)

KAH3

In the past Kah3 has always been recognised as the retirement village for kahawai. This has been acknowledged by (Murray T., Jones B.). Locals are now telling us that there are no mature fish around, they all appear to be juveniles in the sounds with very few schools outside the sounds. Over the years we have heard many excuses why the tonnage could not be caught in KAH3. To us it is simple. We understand perfectly what is going on in KAH3 where the fishery has been grossly overfished by the purse seiners with excessive catches for five years from 1986/87 which averaged nearly 4,000 tonne per year that was no way sustainable as history is now showing. For most recreational fishermen in KAH3 kahawai are now nothing more than a memory.

GENERAL

Recreational fishing is a significant part of New Zealand's social culture. We are an island nation that lives within 100km of our coastal waters if not the majority being coastal residents. In 1991 the NZRFC managed a National Research Bureau survey on the economics of recreational fishing with a Department of Statistics margin of error of + or – 3%. The survey indicated that one third of our population engaged in recreational / sustenance fishing in the past year. There is no reason to believe that there has been any change therefore we estimate that more than 1 million New Zealanders fish each year for sustenance or recreation on today's population.

In those early days the recreational sector had very little knowledge of the fishery in general and we relied heavily on the ministry at the time to look after our fishery for us. We were virtually unfunded and were all employed in our own spheres which had nothing to do with fishery management. Since those early days we have found that we had to become involved in fisheries management because we felt that we were not being truly represented by MFish, MOF, MAF.

We have complained through the pelagic working groups, at plenary meetings, and to the various ministers responsible for fisheries over the years,as to the state of the kahawai fishery, and Ministers' Moyle and Kidd were the only ones who really took notice of our concerns and did anything about them.

We are also aware that the recreational fishers have classified kahawai as their second most popular species after snapper and it is for this reason that we wish to ensure that our sectors entitlement is adequately represented when kahawai is brought into the QMS.

One must remember the introduction of purse seining in New Zealand was to catch skipjack tuna and only when the tuna season had finished was the purse seine fleet targeting kahawai, trevally, and mackerel. Each time that we have sought cuts to the commercial catch of kahawai, industry has bleated long and loud about how many people would loose their jobs if there were any cuts. This has always been a sham and always will be, as the fishing industry is too innovative to allow such a minor species to them to control their business operations.

WHERE TO FROM HERE

When it was discovered that the snapper stocks were in decline our Council supported the cuts to both the recreational and commercial tonnage in an effort to rebuild the fishery. Whilst we supported the cuts in bag limits, the fishing industry took the Minister to court and through a technicality they kept their existing tonnage and have done nothing since to help rebuild the fishery.

We wish to advise the Ministry loud and clear that the same thing isn't going to happen again with kahawai stocks. Our Council's decision is that we will not give an inch until we get our fishery back. We know how the fishery has been plundered, and the fish has been virtually given away as fishmeal and bait in the past and it is our sector that has seen a very popular species diminished to the stage where we cannot catch them as we did in the past.

We are disappointed and really concerned to see that the authors of the IPP have given the Minister very little room to move when they have suggested only one option to manage the kahawai fishery. We can see that if we keep heading down the same track, we are going to end up with the same result. The longer that the Ministry deny the problems in the fishery, the longer it is going to take to get a rebuild. The recreational sector is now at the stage where they want to see action, and the species will become a political hot potato. We can guarantee the fact that now submissions have closed, the pressure will be applied to all of those involved in making the right decisions.

Over the past decade our Council has continually asked the Ministry, what level they intend fishing kahawai down to? And we have never been able to get an answer. Our sector is now saying that the fishery has been fished down too far, and we now want to see a rebuild.

The 1996 Fisheries Act allows the Minister to manage a fishery above the BMSY, and the kahawai fishery is one of those fisheries that should be managed at this level. We are happy to assist in a fishery rebuild, but not while the fishery is being slaughtered by the other major stakeholder.

OUR RECOMMENDATIONS

1/ A rebuild of the kahawai fishery is required urgently.

2/ Commercial Catch Limits be capped at:

KAH1 330 Ton
KAH2 125 Ton
KAH3 200 Ton
KAH4 10 Ton
KAH8 418 Ton
KAH10 10 Ton

3/ Await the nationwide survey to establish the actual Recreational catch and then make cuts etc as necessary. Whatever is done now is only guesswork.

4/ Instigate a recruitment research programme.

5/ Duplicate the 1981 and 1991 tagging surveys as suggested in the submission

Thanking You.

Ross Gildon,
President NZRFC.

KI 2

This is the document marked **KI 2** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

NZ RECREATIONAL FISHING COUNCIL (INC)

P.O. Box 99418 Newmarket, Auckland

30th August 1991

TO THE MINISTER OF FISHERIES

HON. DOUG KIDD

N.Z. RECREATIONAL FISHING COUNCIL INC. SUBMISSION ON PELAGIC FISHERIES MANAGEMENT

Compiled by: R.T. Burstall-President NZRFC
G. Marsland-Executive NZRFC

SUBMISSION

PELAGIC FISHERIES MANAGEMENT

1. STATEMENT

A. THE NZRFC Inc., IT'S EXECUTIVE, DELEGATES AND THE 800,000 PLUS RECREATIONAL FISHERS IT DIRECTLY AND INDIRECTLY REPRESENTS RECEIVE NO DIRECT OR INDIRECT INCOME OR PROFITS FROM THE NZ FISHERY RESOURCE.

B. HAVING NO PLUTOCRATIC INTEREST, RECREATIONAL FISHERS ARE FULLY RELIANT ON THE STEWARDSHIP RESPONSIBILITIES OF GOVERNMENT TO PROTECT THEIR ACCESS AND EQUITABLE SHARE OF THE FISHERIES.

C. THE 40 MILLION DOLLARS PLUS, BUDGETED TO M.A.F. FISHERIES EACH YEAR FROM TREASURY, IS PUBLIC INCOME TAXED FOR GOVERNMENT TO PURSUE IT'S REPONSIBILITIES UNDER THE FISHERIES ACT INCLUDING SECTION 28D (A) 1 AND READS;

> "AFTER HAVING REGARD TO THE TOTAL ALLOWABLE CATCH FOR THE FISHERY, INCLUDING ANY TOTAL ALLOWABLE CATCH DETERMINED UNDER SECTION 11 OF THE TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE ACT 1977, ALLOW FOR -
> (1) MAORI, TRADITIONAL, RECREATIONAL, AND OTHER NON-COMMERCIAL INTERESTS IN THE FISHERY".

D. THE NZRFC INC. IS MINDFUL OF M.A.F. FISHERIES MANAGEMENT LACK OF ACCURACY IN DEFINING THE MATTERS TO BE TAKEN INTO ACCOUNT IN DETERMINING OR VARYING ANY TOTAL ALLOWABLE COMMERCIAL CATCH, AS WRITTEN IN SECTION 28D (A) 1 OF THE FISHERIES ACT.

E. THE NZRFC INC. ACKNOWLEDGES THAT IT IS THE FULL RESPONSIBILITY OF THE MINISTER OF FISHERIES, M.A.F. POLICY ADVISORS AND M.A.F. FISHERY MANAGEMENT TO ENSURE THAT 800,000 PLUS NEW ZEALANDERS HAVE THEIR LEGAL STATUS AND ACCESS TO THE FISHERY RESOURCE PROTECTED.

F. THE NZRFC INC. CONSEQUENTLY SUBMITS PRACTICABLE INFORMATION FOR OUR MINISTER, DEPARTMENT ADVISORS AND MANAGERS TO PROTECT PUBLIC ACCESS AND QUALITY FISHING PURSUITS IN THE PROPOSED PELAGIC FISHERIES MANAGEMENT SCHEME.

2. KAHAWAI

(A) KAHAWAI IS A SIGNIFICANT MAORI AND RECREATIONAL FISHERY. THE ESTIMATED NUMBER OF PEOPLE CATCHING KAHAWAI ANNUALLY IS 244,000.

(B) 80% OF KAHAWAI FISHING OR 195,000 PEOPLE CATCH KAHAWAI IN QMA1. THE AVERAGE FISHERMAN IS ON THE WATER 38 DAYS A YEAR.

(C) TOTAL RECREATIONAL TONNAGE IF ONE KAHAWAI WEIGHING 1.25KG WAS CAUGHT, EVERY THIRD DAY WOULD EQUAL;

244,000 X 38 - 3 X 1.25KG = 3,863,333KG = 3,863 TONNES

QMA1 EQUALS 80% = 3,090 TONNES.

(D)1. 1986 TO 1990 LESS THAN 6 PURSE SEINE VESSELS TARGETED KAHAWAI FOR FUTURE QUOTA HISTORICAL CATCH RECORDS
1986-1990 = 25,937 TONNE
1983-1986 = 13,001 TONNE

1986-1990 OTHER METHODS = 4,812 TONNE
1983-1986 OTHER METHODS = 3,945 TONNE

PURSE SEINE INCREASE 99.5% - (UN) = (99.5%)
OTHER METHODS INCREASE 21.9% - (UN) = (-2%)
(UN) = UNKNOWN METHODS 1983-1986 NIL, 1986-1990 920 TONNE

(E) KAHAWAI BI-CATCH OF JACK MACKERAL

DERIVED FROM STATISTICS SUBMITTED TO M.A.F. FISHERIES FROM 500 TONNE ALLOCATION IN CENTRAL QMA3.

VESSEL-SHERMARA 1ST JUNE TO 31ST SEPT

	1987	1988	1989	1990	TOTAL
KAHAWAI	300T.	455T.	460T.	430T.	1,645 T.
JACK MACKERAL	185T.	195T.	140T.	220T.	740 T.

THE JUNE TO SEPTEMBER MONTHS ARE USED AS THE 500T WAS ALLOCATED AS BI-CATCH FOR TARGETING JACK MACKERAL JMA & EMA AS SUBMITTED.

IF JACK MACKERAL WAS TARGETED THAN KAHAWAI BI-CATCH WAS 222%.

IF KAHAWAI WAS TARGETED THEN JACK MACKERAL BI-CATCH WAS 45%.

NZRFC INC. QUESTIONS COMMERCIAL COMPUTATIONS ON KAHAWAI BI-CATCH AS SUBMITTED AND M.A.F. FISHERIES ADVICE TO THE MINISTER FOR THE 500 TONNE ALLOCATION.

3. SKIP JACK-JACK MACKERAL

THESE SPECIES ARE PREDOMINATE IN QMA1 SUMMER FISHERY. THEY ARE AN INTEGRAL PART OF THE ECOLOGY FOOD CHAIN AND MANAGEMENT PLANS MUST ACKNOWLEDGE OVER-HARVESTING OF THESE SPECIES WILL HAVE A DIRECT RELATION TO POPULATION MIGRATION OF MARLIN AND TUNA SPECIES.

THE NZRFC RECOMMENDS-

1. NO TARGETING FOR KAHAWAI STOCKS IN QMA1 BY THE PURSE SEINE HARVESTING METHOD.

2. NO PURSE SEINE HARVESTING METHODS WITHIN 6 NAUTICAL MILES OF NEW ZEALAND'S COASTAL AND/ OR ISLANDS MEAN HIGH WATER LINE.

3. EXTENSION OF DOMESTIC PURSE SEINE FISHERS WITHIN OUR EXCLUSIVE ECONOMIC ZONE TO AT LEAST 25 MILES.

4. MAORI COMMERCIAL ALLOCATIONS TO BE INCLUDED IN THE PROPOSED T.A.C.C. AND NOT BE ADDED AFTER OR BEFORE T.A.C.C.

5. ALL PELAGIC T.A.C.C. QUOTA INCLUDING THE 20,000 TONNE PLUS HARVESTED IN JMA7 BE TOTALLY PROCESSED BY NEW ZEALAND COMPANIES IN NEW ZEALAND, FOR ADD ON ECONOMIC EXPORT BENEFITS.

6. SPORTFISHING AND TOURISM ALLOCATIONS BE ADDITIONALLY ALLOCATED PRIOR TO T.A.C.C. TONNAGE.

7. "OTHER METHODS" OF KAHAWAI HISTORICAL CATCH BE ACKNOWLEDGED AS A FAIR AND EQUITABLE CATCH ALLOCATION.

8. KAHAWAI PURSE SEINE ALLOCATIONS BE DEFINED ON THE AVERAGE CATCH PRIOR TO 1986/87. EVIDENCE OF CATCHING FOR QUOTA 1987-1990 IS NOT A FAIR AND EQUITABLE PROVISION FOR PURSE SEINE QUOTA.

9. M.A.F. FISHERIES BE ADEQUATELY FUNDED TO ALLOW RESEARCH TO CLEARLY ESTABLISH T.A.C'S.

10. M.A.F. FISHERIES BE ADEQUATELY FUNDED TO ESTABLISH PRESENT AND FUTURE RECREATIONAL AND TOURISM WORTH OF PELAGIC FISHERIES.

11. KAH1-KAH2 NZRFC INC. OPPOSES REMOVING THE LINE BETWEEN KAH1 AND KAH2. WE SUGGEST JMA1 BE DIVIDED TO COINCIDENT WITH KAH MANAGEMENT AREAS.

12. SUBDIVISION KAH3 WE SUPPORT SUB-DIVIDING KAH3 FOR MANAGEMENT AND RESEARCH PURPOSES. PRESENT QUOTA ALLOCATION TO BE DIVIDED AND NOT INCREASED AS KAH3 STOCK IS ONE STOCK.

CONCLUSION

1.
NZRFC ARE PRESENLTY UNDERTAKING AN ECONOMICAL SURVEY OF RECREATIONAL WORTH FOR NEW ZEALAND FISHERIES. THE NATIONAL RESEARCH BUREAU HAS THE APPROVAL OF THE DEPARTMENT OF STATISTICS TO THE FORMAT BEING USED.

2.
A PREVIOUS ECONOMIC SURVEY UNDERTAKEN BY THE NZRGFC WITH ACCENT ON LOCAL/OVERSEAS RECREATIONAL FISHING, CLEARLY IDENTIFIES THE POTENTIAL OF MARINE FISHERIES RESOURCE TOURISM. ENVIRONMENTAL AND FOOD ECOLOGY ENHANCEMENT IS ESSENTIAL FOR LONG TERM CAPITAL INVESTMENT AND THE CONTINUING GROWTH OF SPORTFISHING TOURISM. CONSEQUENTLY, PELAGIC MANAGEMENT PLANS MUST INCORPORATE THIS ECONOMICAL CONSIDERATION ALSO PRIOR TO DETERMINING T.A.C.C.'S.

3.
THE NZRFC CLEARLY IDENTIFIES THE UNREALISTIC TIME CONSIDERATION PLACED ON ALL USERS TO ACHIEVE THE PROPOSED PELAGIC FISHERY MANAGEMENT PLAN.

4.
THE LACK OF RECREATIONAL HISTORICAL CATCH, RESEARCH OF PROPOSED SPECIES, RECREATIONAL CPUE DATA AND FACTUAL HISTORICAL COMMERCIAL DATA, COUPLED WITH M.A.F. FISHERIES INABILITY TO SPECIFY RECREATIONAL WORTH LEADS TO ESSENTIAL CONSERVATIVE MANAGEMENT FOR PELAGIC SPECIES.

KI 3

This is the document marked **KI 3** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

NZ RECREATIONAL FISHING COUNCIL (INC)

P.O. Box 99418 Newmarket Phone: 0-9-579 3477 Fax: 0-9-579 1377

PRESIDENT: Bob Burstall

NATIONAL SECRETARY: Max Hetherington

28 May 1993

Hon D Kidd
Minister of Fisheries
Parliament Building
WELLINGTON

Dear Minister,

A recent survey of recreational fishing clubs throughout New Zealand revealed that almost all anglers feel that our kahawai populations are still in decline. The highest level of concern was in the Hauraki Gulf and Bay of Plenty. But the most surprising result of the survey was that anglers on the North West Coast of the North Island now feel that their kahawai populations are also in trouble.

Previous surveys by this Council and the NZ Big Game Fishing Council, "New Zealand Fisherman", "Fishing News", and MAF's Marine Recreational Fisheries Working Group all say the same thing - "Kahawai numbers are in decline and anglers are worried". There is no evidence available to refute what recreational anglers are saying. Actually, no one has any idea of what the biomass of kahawai was in the past or is now.

What we do know is that the kahawai were doing well until the late 1970's, when the commercial catch began to exceed 1,000 tonnes. At that time the recreational catch was probably in the range of 3,000 - 5,000 tonnes. The kahawai seemed to be able to sustain that level of pressure but when the purse-seiners moved into the fishery in the early 1980's kahawai populations began to fall rapidly. The loss of plentiful seafood has proved painful for the Maori people, who have long relied on the kahawai. It has also been a blow to the recreational sector, which have been depending more on the kahawai after our snapper populations declined.

Our latest survey has revealed that the recreational concern about kahawai is continuing to grow and these worries are confirmed by the fact that the purse-seiners have been unable to catch their quota in the QMA-3 in 1991-92 and 1992-93. Ironically, the purse-seiners had not fished for skipjack during either of those seasons so they expended more effort in catching kahawai but were still unable to meet their quota!

...../2

The Recreational Fishing Council is concerned that kahawai may be added to the Quota System, thus giving unrealistic ownership rights to the commercial companies that have only recently usurped possession of this recreational fishery. The purse-seiners historically fishing for quota have done a lot of damage to the kahawai and it's about time to put an end to their activities. The profits from the kahawai fishery have been minimal and restricted to only two companies and their stockholders. The damage to subsistence and recreational fishers has been substantial and widespread.

We would like to see the status quo restored. This means reducing the total commercial catch to the 1,000 tonne level once again. To do that the purse-seiners would need to be excluded from the kahawai fishery, some limits put on set-netters and beach-seiners that are targeting kahawai, and a ban on the release of any new commercial licenses for kahawai. We would also support the idea of controlling the recreational catch by introducing individual bag limits on regional kahawai.

Because of the low commercial value of kahawai it is hard to justify additional, expensive research on this species. We already know that kahawai numbers were stable until the commercial catch began to exceed a thousand tonnes. That is probably all the information we really need.

Kahawai are relative to Kingfish in their revenue earnings from overseas tourism.

The International Game Fish Association clearly identifies salt-water fly fishing as the largest developing sports fishery in the world. Consequently, quota allocation if any should be appropriated to cater for visiting tourists participation.

This letter is only a summary of the information available. Either of us would be happy to discuss any of these issues with you and go into more detail.

Yours faithfully,

John R Chibnall
EXECUTIVE & MANAGEMENT

Mark Feldman
CONSULTANT

cc NZ Big Game Fishing Council Inc

KI 4

This is the document marked **KI 4** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Jennifer A Heard

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

RECREATIONAL FISHING COUNCIL (INC)

P.O. Box 99418 Newmarket Phone: 0-9-579 3477 Fax: 0-9-579 1377

11 June 1993

Dr John Annala
MAF Fisheries Greta Point
PO Box 297
WELLINGTON

Dear Dr Annala,

A recent survey of recreational fishing clubs (copy enclosed) throughout New Zealand revealed that the overwhelming majority of anglers feel that our kahawai populations are still in decline. The highest level of concern was in the Hauraki Gulf and Bay of Plenty but the most surprising result of the survey was that anglers on the North West Coast of the North Island now feel that their kahawai populations have also declined significantly.

With such a high level of public concern the Recreational Fishing Council was surprised and disappointed to see the draft report on kahawai prepared for the May, 1993 Plenary. We would like to draw your attention to several parts of the draft report that we feel require further consideration.

Under "Commercial fisheries" on page 120 the author argues that the purse seine quota was not reached in KAH 3 in 1991-92 because of bad weather, but the author left out that the purse-seiners have been unable to catch their quota in KAH 3 this season either.

He also forgot to mention that the purse seiners did not fish for skipjack in 1991-92 or 1992-93 so some of them had all summer long to target kahawai. Despite this increase in effort the KAH 3 quota remains unfilled this season! This increase in effort also explains why the KAH 2 quotas were "quickly filled in 1991-92 and again in 1992-93".

We would like to point out that there is actually no proof that the weather in KAH 3 was any worse in 1991-92 than in other years. We also feel that significant information that should have been in this section was left out.

A particularly interesting bit of data concerns the fork-length research that was done in 1981-84. A comparison of mean fork-lengths from the purse-seine target fishery in 1981 (51.3 cm) and 1991 (45.6 cm) shows a drop in mean length of 5.7 cm over the decade! That figure should concern us all; we cannot figure out why it wasn't included in the draft report.

...../2

Under "Non-commercial fisheries" on page 120 there was also bias in how the information was presented. The second paragraph begins with a description of recreational concerns. Then the statement is made that "There is no evidence to support this assertion".

We have been repeatedly disappointed by the attitude of MAF towards information obtained from recreational surveys. The opinions of thousands of recreational anglers represents a considerable knowledge base that should be taken more seriously. At this point it's probably the best information we have on the changes in the total and regional biomass of kahawai.

Fisheries research is notoriously difficult and the potential for error when data is interpreted is very high. It is hard to believe that information from recreational surveys is any less speculative than the information provided on page 122 under the heading "Status quo catch". We submit that the statement "There is no evidence to support this assertion" is itself highly biased. At the very least it should read; "We have no quantitative evidence to support or refute this assertion".

Our final point deals with the interpretation of kahawai tagging studies on page 120 under "Non-commercial fisheries". We do not believe that the fact that tagging studies "show most fish are recaptured within 50 nautical miles of the release site" has anything to do with the report's implication that there are no "large movements of kahawai around and between QMAs".

We would like to point out the following difficulties with establishing a relationship between the tagging results and the assertion that there are no large scale movements of kahawai:

1: Since the 1984-85 season almost 18,000 tonnes of kahawai have been taken from the area around the Bay of Plenty. This is a massive catch and must certainly affect the patterns of kahawai migration.

   With so many kahawai taken out of the water there must have been considerable accumulation of food within the Bay of Plenty. Such an abundance of food and lack of competition for it could easily alter established migratory patterns and distort any tagging study results done in the recent past.

2: Almost all fish tagged in the studies were recaptured within two years. That's long enough to allow some insight into seasonal movements but it cannot provide definitive information on long range, age class movements.

   We know these long range, age class movements occur because the oldest kahawai in New Zealand are found off the Kaikoura Coast yet no young kahawai are found anywhere near there. This is de facto proof of age-class movements.

3: The 1981-84 tagging study reported by Wood, Bradstock and James does show a long-term southerly pattern of movement for kahawai in KAH 1 and KAH 2.

...../3

4: It must be kept in mind that kahawai don't just have to migrate as mature fish. It is entirely possible that there are movements Northward of young fish, fry, or even eggs that we are unaware of.

We are concerned by the degree of bias in this draft report on kahawai. Since we lack the knowledge to properly evaluate Section 2 (Biology) or Section 4 (Stock assessment) we request that you assign another scientist to evaluate that data again before the TACC meetings.

Thank you for your time and attention.

Yours sincerely,

John R Chibnall
EXECUTIVE MANAGEMENT

Mark Feldman
CONSULTANT

cc Minister of Fisheries

KI 5

This is the document marked **KI 5** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

7

NZ RECREATIONAL FISHING COUNCIL (INC)

P.O. Box 99418 Newmarket Phone: 0-9-579 3477 Fax: 0-9-579 1377

PRESIDENT: Bob Burstall

NATIONAL SECRETARY: Max Hetherington

11 June 1993

Hon Doug Kidd
Minister of Fisheries
Parliament Building
WELLINGTON

Dear Minister,

By now a report from the May, 1993 Fish Assessment Plenary has arrived on your desk. Because of financial constraints and communication breakdowns there was no recreational representative at the Fishery Assessment Working Group that wrote the Draft Report. We also believe there were no representatives from Greenpeace or Forest and Bird on the Working Group.

By the time the Draft Report came to our attention the Plenary was nearly in session. When we expressed our concerns about the Draft Report we were told that kahawai would not be discussed at the plenary since no changes were being recommended by MAF.

This left us with no way to alter the report before it arrived on your desk, so we would like you to know that the Recreational Fishing Council does not agree with many aspects of the report and feel it is strongly biased in favour of the purse-seine fishery.

We feel that our kahawai populations are threatened by the purse-seine fishery and recommend that it is time to severely restrict the commercial catch by eliminating the purse-seiners from the kahawai fishery.

We have enclosed a copy of our letter to Dr Annala outlining the points we disagree with in the Fishery Assessment Report on kahawai. We hope it will help you to understand our concerns about this threatened recreational resource.

Yours sincerely,

John R Chibnall
EXECUTIVE MANAGEMENT

Mark Feldman
CONSULTANT

KI 6

This is the document marked **KI 6** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

FINAL SUBMISSION TO MAF POLICY

ON THE PELAGIC SPECIES

FOR THE 1993/94 TACC SETTING PROCESS

FROM THE NZ RECREATIONAL FISHING COUNCIL

AUGUST 1993

WRITTEN BY: ROSS F. GILDON

NZRFC Pelagic Species 1993/94 TACC Submission

OVERVIEW

This is a claim on behalf of the people of New Zealand for the return of the important recreational fisheries for kahawai and kingfish.

The essence of our claim for kahawai and kingfish is that these species must be recognised as a "recreational fish" by the establishment of catch limits at the sustainable by-catch level for the main methods/individuals. For kahawai, the catch limits would be 600 tonnes for the 7 purse seiners. For kingfish, the catch limits would be 1 tonne allocated to each of the top 20-30 longline and setnet fishermen who have been targeting kingfish.

At first glance, there may be some who will consider our claim to be exaggerated or overstated or not serious. But, this claim is very real and we believe that upon fully reading our claim, most will agree that the claim is justified and should be enacted by MAF and the Minister.

BACKGROUND

At the non-commercial TACC meeting of 22 July 1993, we presented an initial 2 page submission on the kahawai fishery which provided the first pieces of quantitative information that kahawai is being overfished. Based on this data and the overwhelming level of anecdotal evidence from recreational and many commercial fishermen, it is vital that the purse seine catch limits be reduced. We stated that the catch limits should be reduced to a by-catch level: 200 tonnes KAH1, 100 tonnes KAH2. Based on other new considerations and data, we now recommend that KAH3 should also be at a by-catch level of 300 tonnes. Written comment is also provided for billfish, jack mackerel and blue mackerel.

Kahawai

Purse seine average size overfishing evidence

1. The data (Table 8a of the Wood report (enclosed)) that we presented at the July 22 meeting showing that KAH1 is being overfished received the comment (in the minutes) from Dr Jones that the data could not be used in the way that we had presented it. It is true that the 1983 data were from 3 shots, but there is nothing in the methods section of the Wood tagging report that suggests that "big fish had been targeted for tagging purposes". Our understanding of the 1983 tagging programme is that all the sets were part of a normal commercial purse seining operation and that MAF in no way directed the fishing operation with regard to where the shots were done and which size of fish were set on.

2. Although the 1983 data represents only 3 shots it needs to be recognised that the target data for 1991 was only 5 shots over a 2 month period and that the 1992 data was only 7 shots also only over a 2 month period (see Appendix 1 and 2 of the McKenzie report (enclosed)). Thus, the inference in the minutes and during the meeting is not entirely correct that the 1990's data for the Bay of Plenty purse seine fishery is representative of the "whole year". As an aside regarding Kaikoura, is not clear how many months were sampled since the graph (No. 6) that Dr Jones presented appears to be a summary of all the 1990 purse seine landings.

3. There need not necessarily be any problem with a sample in 1983 of only 3 landings and 100 kahawai per landing. We understand from our scientific advisors that MAF could do a simulation with the 7 shots from 1992 to determine the degree of bias and accuracy that there may be with 3 shots and 100 fish. However, looking at the 1992 data we suspect that 3 shots/100 fish would be a good estimate. Our scientific associates who are involved in other fields of scientific endeavour have commented that scientists are frequently "guilty" of oversampling and doing too much sampling.

4. For the Bay, the kahawai in the 1990's are statistically and significantly smaller than the fish from the 1983 sample. The 1983 fish averaged 51.3 cm. The 1991 summary graph (McKenzie Figure 3a (included)) has an average length of 46.1 cm and does not have the inclusion of smaller fish in the 30-35 cm size class which does occur in the 1992 graph (McKenzie Figure 3b (included)). Even if the 30-35 cm fish were removed from the 1992 graph (for whatever reason), the average size for 1992 would still only increase to about 46 cm.

5. Given all of the above considerations, we firmly believe that the 1983 purse seine data (although somewhat scant) must be recognised as being valid and robust. Furthermore, we contend that it must be acknowledged that for the Bay of Plenty that there is conclusive evidence from the 1983 and 1990-91 purse seine catch sampling data that kahawai have decreased in average size. It is recognised around the world that a decrease in the average size of the fish is hard evidence that overfishing is occurring.

6. Some other red herrings regarding the purse seine data were also put up at the July 22 meeting. Very simply it is not valid to compare kahawai targeted data in 1983 with kahawai by-catch data in 1991/92 - that would be apples and oranges! We don't understand the point about the right hand side of the graphs which seems to be a very minor technical point to us. But what we do understand is that there are essentially only two explanations why there can be a decrease in average fish size: either there has been a major increase in the numbers of smaller fish (recruitment), or there has been a major increase in adult removals. Nobody has any real understanding about kahawai recruitment processes, but what everybody understands is that there has been a major increase in adult kahawai mortalities through the excessive purse seine catches over the last 10 years.

Recreational CPUE and size overfishing evidence

7. The following quantitative data (enclosed) is available comparing line caught kahawai between 1983 and 1991. It needs to be noted that since our initial submission two additional size estimates (in bold) have been obtained with the 1991 data being refined to specifically determine the average length of the surfcasting caught fish.

1983	55 cm (n=417)	MAF Report No. 103 (pg 12-13) Motu R (21 days s/casting)
	49.8 cm (n=32)	**MAF tagging report Table 8a BOP (12 days line fishing)**
1991	42.1 cm (n=3775)	MAF survey Fig 3.13 BOP(January - July boatfishing)
	41.45 cm (n=133)	**MAF survey Opotiki - Te Kaha (March -July surfcasting)**
1983	2.55 f/p/hr	MAF report 103 pg21 on Motu River (surfcasting)
1991	0.1 f/p/hr	MAF survey Fig 3.5 Opotiki (surfcasting)

8. Mrs. Lenise Ludlow was the person who interviewed the surfcasters during the 1991 recreational fishing survey for Todd Sylvester. She regularly surveyed (most weekends) the main surfcasting spots in the area from Opotiki to Te Kaha from March to July. The Motu was one of her routine survey points. She has stated that there was nothing different about the fishermen, the interviews, the fishing gear, target species, kahawai size and the catch rates at the Motu compared to the other 5-6 spots she regularly surveyed. In essence, the catch rates and the kahawai size at the Motu were just as bad and small as at any of her other survey areas. MAF Auckland has the data and we are certain that if the data was analysed then there would be conclusive evidence that her claims are correct.

9. The kahawai fishing at the Motu River was famous. But now, the bottom line is that there has been a dramatic decrease in both size and catch rates for the Motu River that simply cannot be denied. In the past, every year the local people use to enjoy catching for food good numbers of large kahawai, however since the mid 1980s the kahawai have become small and scarce. Although the kahawai catch rates were especially good at the Motu, the decline in kahawai is typical of all other areas.

10. In the Plenary document (pg 133) the statement is made that "there is no evidence to support [the] assertion" that kahawai are becoming scarce and smaller in size. This statement is wrong based on the information presented above for the Bay of Plenty. The statement is also most unfortunate and has been especially damaging given that it seems to have been something that the industry has picked up on, clings to and frequently repeats.

Kaikoura purse seine "non" evidence

11. As is outlined below, it is possible to discount the only small piece of information suggesting that there had been no kahawai size change. The information

was presented as graph No. 6 by Dr Jones at the July 22 meeting for the Kaikoura purse seine fishery. It is widely known amongst both recreational and purse seine fishermen that Kaikoura is an area in which old large kahawai tend to predominate; this could possibly be true for all of the kahawai around the top of the South Island. The tagging data suggests that the southern kahawai make a seasonal migration south for the summer and north for the winter. The tagging data also suggests that as kahawai get older so they start to move progressively south (from the North Island) during their lifetime.

12. We agree with Dr Jones that the Hauraki Gulf appears to be essentially a nursery area for kahawai, but we would also contend that Kaikoura represents the human equivalent of a retirement home. Remember, it appears in one of MAF's FARDs that juvenile kahawai have never been reported south of around Porirua Harbour. It is logical to expect the average size not to have changed in the Gulf as a nursery area, so it would also be expected that the average size would not have changed off Kaikoura - a "retirement area". We would however expect there to be a decrease in the numbers of kahawai living in the southern area, but regrettably no scientific data is available to prove or disprove this hypothesis.

Recreational fishing for kahawai

13. There are a number of popular misconceptions about recreational fishing for kahawai that need to be put to rest. Recreational fishing for kahawai does not occur close to the shore in small boats or by surfcasters around river mouths. In KAH1 and the Bay of Plenty in particular, there is a history of recreational trolling for tuna, kingfish and kahawai across the shelf. We fish the same waters the purse seiners fish. We also fish the shallow inshore harbour waters that they do not fish and it is correct that this would be when we are largely catching the smaller kahawai. But most of our catch in East Northland and certainly the Bay of Plenty is from the open coastal waters where significantly about 75% of our catch is bigger than 35cm. It is wrong to infer that the recreational sector only fish in waters where small kahawai predominate.

14. There is also the theory that there are two types of KAH1 and KAH2 kahawai: an offshore free ranging big kahawai and a nearshore/river mouth residential small kahawai. The tagging data suggest that there could certainly be some truth in the theory, although we possibly feel that the theory has been a bit overstated. However, as we have explained above it is wrong to somehow make the connection with the plausible theory that recreational fishers fish the little nearshore kahawai and the purse seiners fish the big offshore kahawai. It needs to be stressed that recreational fishers fish the entire kahawai stock in all of the waters around the NZ mainland coast and as is stated below we have observed a decline in all the different "types" of kahawai.

On anecdotal evidence

15. We had genuinely hoped that since the purse seine catch limits were first

introduced in late 1989 that there would have been an improvement in recreational fishing for kahawai. But, unfortunately recreational kahawai catch rates have not improved and if anything the catch rates have only deteriorated. This was the major result of a survey of fishing clubs spread around the country conducted by the NZ Big Game Fishing Council. A copy of the results of this survey was provided earlier this year to the Minister.

16. We totally discredit the generality of the two anecdotes that some MAF staff provide that there was a run of kahawai in Whangarei Harbour and off the Wairarapa. We don't deny that these events happened and we acknowledge that during our survey there was the odd report of reasonable numbers of kahawai in a few locations. But, the undeniable and overwhelming result of our comprehensive survey was that recreational kahawai catch rates are still bad.

17. For the first time, we would also like to introduce into the debate the anecdotal evidence of many commercial longline, set net and trawl fishermen who have commented that they believe the kahawai have decreased in abundance and size. This information has frequently been passed on to us in generally a totally unsolicited manner in many different forums (eg. PLCs, trawl line meetings) over the last 3-4 years. We consider that this evidence is especially relevant as this sector of the industry has nothing to gain in the kahawai debate, and consequently could be considered as being unbiased. It would seem that the only group who are denying that the kahawai fishery is being overfished are the purse seine operators, who are also the only group profiting from the inclusion of kahawai in a mixed species purse seine industry.

18. Also, for the first time, we have to report that there are now concerns about the state of KAH9. These concerns actually first started to surface 2-3 years ago, and follow the familiar theme that the kahawai have become less abundant and smaller. Commercial set net mullet/kahawai fishermen on the Kaipara, Manukau and at Port Waikato report that kahawai are declining in abundance. We would suggest that the decline on the west coast is a very serious matter and is evidence that the whole of the kahawai stock around New Zealand is being overfished. This is because unlike the east coast there has been no significant level of purse seining on the north-west coast. Therefore for the kahawai to be declining in abundance and size the impact would have had to have originated from most probably the South Island but possibly also the Bay of Plenty purse seine fishery, as postulated below.

<u>The sink</u>

19. This is how we believe the large purse seine catches in mainly two relatively small areas (the Bay of Plenty (actually Waihi to Whakatane) and the top of the South Island (although not discounting the purse seine activity in KAH2)) have led to the overfishing of the kahawai fishery around the entire coast of New Zealand. The results of the 1981-84 tagging programme showed that on average the kahawai

moved 50 miles in a 2 year period. Thus, since the early to mid 1980s when the first large purse seine extractions were taken, the kahawai could easily have moved considerable distances eg. the 150-200 miles from the north-west coast to the top of the South Island. We suggest that the concentrated purse seining in these hotspots creates a void into which kahawai from other areas ultimately sink.

KAH1 and KAH2 catch not changed since the early 1980's (Appendix A)

20. We believe the fundamental reason why recreational catch rates have not increased even though the purse seine catch levels were introduced in 1989, is that with the exception of one year (1987/88) there has basically been no change in the KAH1 and KAH2 catch. Appendix A shows that if 1987/88 is removed and the unknown catch is apportioned, then the average KAH1 and KAH2 catch has not changed over the last 4 years compared to the 4 years prior to 1987/88. We do acknowledge however that at least the introduction of the purse seine catch limits prevented the potential for another blow out year as happened in 1987/88. But, if there is to be a real rebuilding of the kahawai fishery and an improvement in recreational catch rates, then the purse seine catch levels will have to be considerably decreased.

21. As will be explained below, we are adamant that for now the reductions will have to be set at purse seine by-catch levels. One of the good points about purse seining is that it is a very "clean" method with the potential for little by-catch. Countless discussions have revealed that because of the skill and experience of most of the spotter pilots and skippers, it is possible to very precisely target the pelagic species. We estimate that a generous target to by-catch ratio for kahawai is 8:1 which would approximate to the following purse seine by-catch tonnages: KAH1 200 tonnes, KAH2 100 tonnes, KAH3 300 tonnes, KAH9 0 tonnes. These tonnages would most definitely need to be explicitly allocated evenly between the purse seiners depending on where they historically fished.

22. This recommendation would have to be rigidly enforced because there is potential for these catch limits to easily be exceeded. We envisage a three tiered enforcement system. If the by-catch limit for a boat was ever exceeded in any one fishing year, then there would be an immediate and very stern warning to the skipper/company. If the boat limit was exceeded twice, then the boat fishing permit would be immediately removed thus preventing the boat from fishing for the next 12 months. For exceeding on three occasions, the boat would be immediately forfeit to the Crown.

23. At this stage, we do not have any major concern about the other commercial fishing methods with reference to the overall kahawai stock since most of these are genuine by-catch fisheries. We do not envisage a need for these methods to be brought into the quota system and allocated quota. Thus, another advantage of our system would be that it would be administratively simple to operate and would have

very little cost. We have some concern about kahawai target set net fishing in some of the northern harbours (eg. Raglan, Manukau) but acknowledge that the TACC setting process is not the most appropriate place to resolve these concerns which are essentially about localised depletion.

Blue mackerel

24. At this stage, we would like to depart from the mainstream kahawai debate and briefly examine the blue mackerel fishery to see how the performance and history of this new fishery is very relevant and related to kahawai purse seining. Blue mackerel catches have dramatically increased since 1986 as shown below based on MAF's LFRR data for all of NZ combined.

1986/87	1640 tonnes
1987/88	5416 tonnes
1988/89	5851 tonnes
1989/90	5673 tonnes
1990/91	9029 tonnes
1991/92	15278 tonnes
1992/93	10696 tonnes (up until the end of May/June)

25. A more comprehensive analysis by MAF will confirm that most of the increase in the blue mackerel catch is due to the activities of the purse seiners targeting blue mackerel for the export market to the Middle East. We don't have a problem with this export because it provides overseas revenue and jobs from a species that the recreational sector does not have a great deal of interest in fishing. We are also pleased that the purse seine industry in this instance is behaving more responsibly since the indications are that the end use of blue mackerel is human consumption. Hopefully the "bad old days" are gone when purse seine fish was largely used for craybait or turned into fishmeal.

26. The problem that we have with blue mackerel is that this is yet another unfortunate example of how a fishery is being developed improperly. Four species, beginning with trevally in the 1970s, kahawai and jack mackerel in the 1980s, and now blue mackerel for the 1990s, have all been casualties of purse seining. All of these species were developed without much regard to the basic tenets of fisheries management such as determining sustainable yields, stock boundaries, closed areas and recreational allocation.

How fisheries are developed

27. Unfortunately, most other fisheries in NZ and around the world were also developed in this unplanned and uncontrolled manner. We understand why this happens. It is part of the culture of fisheries management organisations and the "fish down" philosophy that has not changed since the very first commercial fisheries for

cod and herring were developed in the 1800s in the North Sea. But it must stop. It is shortly going to be the year 2000 and it is time for change.

28. We consider that fisheries should be developed in a far more controlled way so that the problems that happen once a fishery is developed can be avoided. We draw the parallel with the stringent controls that are placed on developers who wish to profit from a natural resource on land. If a company wants to exploit and develop a natural resource on land (eg. gold) there are a large number of checks and controls that must be satisfied; possibly there are even too many controls. But if a company wants to exploit a natural resource at sea (eg. a fishstock), all that is basically required is a commercial fishing permit.

29. The point that we want to make here is that if the kahawai fishery had been developed in a controlled and proper manner, then there should have been a considerable amount of recreational sector consultation before what is a public resource was developed for private profit. If this consultation had occurred (around 1975 it should have taken place), we would have insisted on three basic principles: a biomass survey be undertaken and age/growth rates be determined, reasonably extensive purse seine closed areas and that there be no dramatic decrease in the recreational catch rate.

30. It has been pleasing to see that some of these sorts of principles can be implemented before a fishery (eg. orange roughy south of Stewart Island) is developed. MAF and the Minister got right the basic principles for possibly the first time. The message that was sent to industry must have been something like "MAF does not have the funds to do a biomass survey. You are the group who will directly benefit from the development of the resource. If you want to fish this stock, then the first group of finders/exploratory cruises have to be done in a controlled manner (similar to a MAF research survey) with MAF scientific and technical supervision so that a biomass estimate can be determined".

Kingfish

Background

31. Kingfish is an important species for all sorts of recreational fishermen and was identified by the 1987 MAF recreational telephone survey as the 5th most frequently caught recreational species. Most of the recreational kingfish are caught by rod and reel from recreational boats in the North Region. Data made available to us by Dr Martin Cryer shows that most (80-90%) of the overall commercial kingfish catch is also taken from the north region.

32. Our observations regarding the state of the kingfish fishery are similar to our observations for kahawai. Many recreational fishermen have reported a decline in size and availability over the last 10 years, and especially the last 5 years. At the same time the commercial kingfish catch has steadily increased from 250-300 tonnes in the early 1980s to around 450-500 tonnes in the 1990s. We would strongly suggest that these two observations are causal and linked.

33. The course of our kingfish submission will follow this path. We want kingfish to become a "recreational fish" but not in the same way as marlin by decommercialising the species. Hopefully by October 1 1994, kingfish will be brought into the quota system with a TACC at the "dead" by-catch level of 150 tonnes. We acknowledge that decommercialisation is not an option for kingfish because 30-50% of the kingfish catch will inevitably be caught dead at the boat as a genuine by-catch in the trawl, longline and setnet fisheries which will be unavoidable. In the interim, we would want the management of kingfish improved by the introduction of an explicit 1 tonne catch limit on the 20-30 longline and setnet fishermen who have been targeting kingfish and causing the damage.

The voluntary agreement

34. About a year ago we signed a voluntary accord with the industry which was made available to MAF and accepted by the Minister. In hindsight, it would seem that the voluntary accord was always destined to failure. The lesson that we have learnt is that voluntary agreements definitely will not work in situations where there are a large number of commercial or recreational fishermen spread across a large area.

35. However, the kingfish accord did highlight some important baseline principles. The first is that in order to protect the breeding stock the fish must be given the chance to spawn before being caught. This is not negotiable. The Australian and American reproductive biology research on kingfish although not watertight certainly suggests that kingfish do not start to breed until they are at least 65 cm, which is the minimum legal size that should be regulated. Both sectors will be equally affected by this regulation since the MAF Auckland data suggests that 60-70% of the kingfish

currently caught by both sectors are less than 65 cm.

36. We understand that most of the kingfish caught on longlines will be alive and healthy, and that subsequent mortality if released would be unlikely. Likewise in trawl nets, we have been told by experienced trawlermen that many of the kingfish hitting the trawldeck are in a very lively state. This is understandable because kingfish are a strong fast swimming species that would be unlikely to be sucked into the back of the trawl net even in reasonably long tows. It will therefore be possible for trawl and longline fishermen to release alive many of the undersize kingfish.

37. The most important principle of the Accord was the request by the recreational sector that a regulated bag limit of 2 kingfish should be introduced with the understanding that commercial would not target kingfish. This request is a very clear signal to MAF and the Minister of how serious we and commercial consider the situation is with kingfish; the request does not mean that we consider ourselves to blame for the kingfish problems. As will be expanded below, we consider that the problem is primarily with a small group of 20-30 longline and setnet fishermen who are deliberately targeting kingfish.

Kingfish: a quota species when?

38. Because kingfish is currently not a quota species, the present problems will have to be alleviated in the interim by mechanisms outside the quota system. Our interim solution (outlined below) must be introduced as soon as possible because we are concerned that any new legislation that is developed to bring new species into the quota system may not be available by 1 October 1994. If this regrettable prediction is true, then kingfish would not become a quota species for another two years until October 1995. This would be a very unsatisfactory situation from the recreational perspective. As such, we are requesting written confirmation from MAF that kingfish is one of the priority species to be brought into the quota system as soon as other urgent species such as southern blue whiting are made into quota.

Kingfish economics

39. Regarding any prospective TACC, we consider that the first step is for everybody to acknowledge that purely from an economic perspective kingfish should be a "recreational fish". The kingfish in NZ are acknowledged as the biggest in the world and partly for this reason and partly because of NZ's remote, clean, "getaway" image, overseas anglers from Australia, America and Japan are keen to come to NZ to fish kingfish. There are two excellent examples of how this is already operating: the Bay of Islands and Whakatane/White Island.

40. Every year a large contingent of Australian anglers fly to NZ primarily to fish in the BOI yellowtail kingfish contest, and throughout the year there is a steady arrival of Australians to Paihia and Russell to specifically fish kingfish. We have however

noticed a decrease in Australian participation which may be linked to the observation that the kingfish in the BOI are getting harder to catch because we are certain they are decreasing in abundance.

41. Throughout the year, the Americans fly into NZ/Whakatane with the single purpose of fishing the kingfish around White Island. Most (80-90%) of the fish caught by these American anglers are tagged and released, while the release/kill ratio for typical NZ fishermen at White Island is probably around 75%. The recreational sector is concerned for the White Island kingfish fishery because although we are doing our part to conserve this fishery, some longline and set net fishermen targeting kingfish may destroy the fishery. The White Island voluntary agreement has helped a bit, but there always seems to be some "new boy" or outsider who is keen to have a go at White that has not heard of the agreement.

42. The economics are real simple. The kingfish in the BOI and at White can either be caught and killed by a longliner or a setnetter and the ultimate end worth to NZ may be anywhere between $1-100/kg. Alternatively, we can encourage more and more overseas anglers to NZ primarily to tag and release kingfish at $10,000 per trip. We don't know what the exact economics are and we could argue about detail but let's not. Overall, it will be obvious to most commentators that the logic and the economics are heavily in favour of recreational fishing for kingfish.

43. However, we do not want the kingfish debate to become focused on just these two fishing areas. We believe that there is potential for more development of kingfish as a tourist fishery in most places such as Mangonui, Tutukaka, Port Fitzroy on Great Barrier, Whitianga, Whangamata and Tauranga.

44. Concerning the import of Japanese kingfish into NZ we don't disagree that it happened but would first want to know which species, by whom, when, what tonnage and what was the end use. Even if this is happening to a reasonable extent, we would consider that the economics would still be in NZs favour by encouraging the import of Japanese fishermen to fish NZ kingfish in NZ. We can encourage this import and the further development of a tourist fishery for kingfish in NZ by ensuring that the kingfish stock is managed in a much more healthy state by reducing the kingfish commercial catch.

Recreational sector has been disenfranchised

45. We also do not want the kingfish debate to become focused on just the economic and tourist aspects of the argument. To many recreational fishermen kingfish is the ultimate inshore species - it is the king fish. Through the 1970s and up until around 10 years ago, most typical recreational fishermen could expect to have the thrill of catching a good sized kingfish once a month to proudly put on the family dinner table. These kingfish were not caught every trip (nor would this have been the honest desire), but kingfish were certainly caught more frequently in the 1970s and

earlier in the northern waters than what they are now. There are a large number of new recreational fishermen who have never caught a kingfish.

46. We would admit that the recreational kingfish catch probably had a steady increase through the 50s 60s and 70s, but we do not believe that the recreational catch has caused the decrease in kingfish size and abundance. We firmly believe as could be shown by MAF's catch data that the decline is due to the advent of target longlining and setnetting for kingfish in the mid 1980s. We have been disenfranchised by this target fishing for kingfish. We want our kingfish back.

150 tonne "dead" by-catch TACC

47. Having recognised kingfish as a "recreational fish", then the TACC should be set at the dead by-catch level which from our understanding of the fishery would represent a TACC of around 150 tonnes. The reason that the TACC would have to be set at the dead by-catch tonnage is simple. We acknowledge that some kingfish will inevitably be caught dead as a by-catch in the trawl, longline and setnet fisheries which will be unavoidable.

48. A prospective kingfish TACC set at 150 tonnes should not be considered as an overstatement of an initial negotiating position. It is a definitive claim that can be substantiated as follows. Prior to the quota system, it is likely that no commercial fishermen were deliberately targeting kingfish. This point needs to be acknowledged because prior to 1986 most northern commercial fishermen were busy targeting snapper in the "race for fish" to establish catch histories. The total commercial tonnages of kingfish before 1986 were: 1980 294 t, 1981 290t, 1982 326 t, 1983/84 310 t, 1984/85 245 t, and 1985/86 255 t. These catches average out at 286 tonnes per year. We estimate that 50-70% of the commercially caught kingfish would be alive and reasonably healthy when brought on board the boat. Therefore, the 150 tonne TACC represents that half of the kingfish catch which would be caught dead.

49. It is only with the advent of the quota system in 1986, that some commercial longline and set net fishermen have started to target kingfish for primarily two reasons. Either as a race for fish to build up a catch history, or because they had no quota and kingfish was a non-quota species with no catch limit restrictions. Through a combination of skill and trial and error these fishermen have learnt to target kingfish by adapting their existing methods eg. floating longlines or nets set around the offshore islands.

50. The fishermen who are targeting kingfish would be easily identified in the MAF database. From discussions with fishermen, we know that normal longline and setnet fishermen catch only around 200-1000 kilos of kingfish each year as a genuine by-catch, whereas the fishermen targeting kingfish have an average catch of 5-15 tonnes each year. MAF Auckland data shows that 20 fishermen are taking around 50-55% of the annual kingfish catch, although up to 5 of these "fishermen" may actually be

fishing companies operating a number of vessels; we acknowledge that it is unlikely that these companies are targeting kingfish.

1 tonne catch limit

51. Because kingfish is not a quota species, these fishermen would have to be controlled in a similar way to how the purse seiners are controlled in the kahawai fishery. An explicit annual 1 tonne catch limit for kingfish would have to be written into their fishing permits. The fishermen would be forced to change their fishing style and pattern in order to reduce their kingfish catches. The 1 tonne kingfish limit would become their limit regardless of what or how these fishermen were fishing. MAF would have to maintain an organised monthly record of their CELRs which we would want to see; we need not know the individual fishermen's names and boat numbers.

52. In order for these fishermen to comply, there would have to be a severe penalty if a fisherman exceeded the limit. We envisage a penalty something like his permit would be removed so that he could not legally go commercial fishing for 12 months after the offence. For blatant or repeated non-compliance, the boat would be forfeit to the Crown. These conditions would also have to be explicit and written into the permit. It would also have to be made clear that a 1 tonne catch limit was in no way any guarantee of what there quota may ultimately be. We imagine that when kingfish is brought into the quota system, fishermen and companies would receive a quota pro-rated down from their current catch.

Why fishing permits are a red herring

53. While we are discussing targeting and by-catch, it is important to comment on why any attempt to constrain catches by target/by-catch provisions on fishing permits is bound to fail. Any commercial fishermen holding (owned, leased, traded) quota for any quota species (eg. snapper, gurnard, barracouta or hoki) is entitled to target fish for the quota species, and is also legally entitled to keep any non-quota species (eg. kingfish) that he catches without any fear of prosecution. For a setnet fisherman who holds a bit of snapper but whose catch is predominantly kingfish and could actually be illegally targeting kingfish, it would be an incredibly difficult and costly exercise for MAF to prove whether the non-quota species was being targeted or not.

54. As we understand, the only way at present that kingfish can legally be targeted is if the commercial fisherman has a non-quota fishing permit specifically authorising target fishing for kingfish. Apparently not many target kingfish non-quota permits exist however the argument is essentially academic. As we pointed out in the previous paragraph any fishermen with a quota permit holding an amount of quota can always claim that the kingfish was taken as a by-catch as a consequence of targeting the quota species.

55. The recreational sector wants to see an end to the confusing use of quota vs

non-quota permits in the kingfish debate. Targeting provisions for kingfish on non-quota permits are a "red herring" that will not lead to the effective management of the kingfish fishery. We want there to be real management of the kingfish fishery in the form of explicit and effective limits on the kingfish catch of the 20-30 fishermen who are targeting kingfish and doing the damage to the stock. Unlike kahawai and to a degree snapper, the major companies may be interested to know that we have not identified their fishing operations involving a number of vessels as being culpable in the kingfish conflict.

Financial compensation

56. Comment also needs to be made on the vexed question of financial compensation to the fishermen who will be effected by what we are going to propose. There are two aspects to this question. The first is that there will initially be some financial hardship to these fishermen, but as they have shown by their ability to target kingfish they will soon learn to adapt and find new ways of doing things. However, financial hardship while being unfortunate, is something that NZ society in general has had to get use to over the last 5 years due to the restructures and the user pays philosophy. The other side of the coin is that these 20-30 individual fishermen have made a private profit out of a public resource (kingfish) with virtually no real rent paid to the Crown. The bottom line is that it would be morally incorrect for these fishermen to in effect receive a double payment: financial compensation from the Crown after having made a profit from a public resource.

Kingfish management action by January 1 1994

57. As part of the plan of action that we envisage for kingfish, we respectfully request that a 1-2 page action plan drawn up (we would receive a copy) which will clearly indicate who are the people/groups within MAF that will do the work on kingfish over the next 3-4 months. Our target date for the introduction of the catch limits would be 5 months away on January 1 1994 - we don't want this date to slip. The work should be relatively straightforward and inexpensive. Identify the top 20-30 kingfish longline and setnet fishermen, consult and confirm in your own minds that they have been targeting kingfish (the fishermen will most probably deny targeting) and then set the individual catch limits at 1 tonne for these fishermen. Note that we are not proposing any costly or time consuming tricky enforcement operation or research programme - no one has to get in a boat, look down a microscope or become an undercover agent.

Advice to MAF Policy and the Minister

58. Many of the points that we have raised in our claim for kahawai (especially) and kingfish are of a technical nature such that MAF Policy and the Minister will likely seek to have our comments evaluated. Over the last two years, technical comment to MAF Policy and the scientific assessment of kahawai by MAF Fisheries has largely been

done by Dr Jones and Dr Murray at Greta Point. We are very grateful to both scientists for the considerable time and effort that they have put into kahawai research, and also their considerable patience in educating the recreational sector about kahawai biology and the purse seine industry.

59. But, we consider that it is decision time on kahawai and kingfish and accordingly we request that MAF Policy seek a broader range of comment from MAF Fisheries and others. For example, we considered that the input of Dr. Robertson at the July 22 meeting was especially valuable and balanced. We also note that there are MAF Fisheries staff in the regions who have a reasonable understanding of the kahawai fishery/biology eg. Walshe, Hore, McKenzie, Sylvester at North and Kirk, Drummond and Kilner at Central.

Acknowledgements

60. This document has benefited from the considerable kahawai and kingfish research/input from John Chibnall, Bob Burstall and Dr Mark Feldman. Discussions with Paul Barnes, Keith Ingram, Rick Pollock, Lenise Ludlow and Waikato University staff have also been beneficial. As was mentioned earlier, we thank Dr Jones and Dr Murray for their efforts, and also other Greta Point, Head Office and regional MAF staff. At times, we have also enjoyed frank conversations with the purse seine skippers and company management.

This submission has been prepared by the writer in consultation with the President and Management Executive of the New Zealand Recreational Fishing Council.

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NZ Recreational Fishing Council

APPENDIX 2: COMBINED KAHAWAI TAGGING PROPOSAL

1. The purpose of this Appendix is to advance a new and innovative proposal for a combined industry / recreational / MAF kahawai tagging programme. The background to the proposal in part stems from the paragraphs that we wrote earlier in this submission on how we consider fisheries should be developed. We consider that if the purse seine operators want to fish kahawai beyond a by-catch tonnage, then they should combine with us and MAF to do a kahawai biomass tagging programme. The primary reason that such a survey has not been undertaken in the past is because it would be too expensive. We are aware of Dr. Jones technical concerns about kahawai tagging, but that we think could be overcome with more validation-type work.

2. A combined kahawai tagging programme would dramatically reduce the costs because the recreational sector would supply the people-power (free of charge) to do the tagging on the purse seiners and the industry would provide the purse seiners (free of charge); this would be similar to the southern orange roughy deal. This sort of proposal could be a model for the new age of user pays and greater user group involvement in research and management. The incentive for industry is that the results may show that more than the by-catch tonnage could be extracted by them on a sustainable basis, but with the proviso that recreational catch rates would need to improve[1]. If industry do not agree to a joint programme, then the catch limits remain at by-catch levels ie. 600 tonnes.

3. MAF would train the recreational volunteers at a 1-2 day course at Tauranga and Nelson to show us how to properly tag and handle the fish, stressing the importance of accurate measuring and data recording; no wages would be paid to the volunteers. MAF would also design and analyze the survey and explicitly state where each set should be done. Based on the 1991 kahawai tagging, somewhere around 100,000 - 150,000 kahawai would need to be tagged all the way around the North Island and part of the South Island which would take about a month.

4. Such a biomass survey would probably only be a 10-15% cost to industry compared to their normal fishing operation. This is because we would only be looking to sample about 10% of the fish in each set since the 1991 Nelson experience showed that schools tend to stick together. Thus, it is more important to only sample a small proportion (10%) from each set/school, but that lots of schools/sets need to be sampled. The only remaining major cost would be the rewards which could be mainly paid for by sponsorship from one of breweries or fishing tackle companies.

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[1] Note that we are not seeking an extravagant return to the recreational catch rates prior to the mid 1970s when the kahawai fishery was underdeveloped, but we would want a reasonable improvement on the current situation.

5. Another incentive for industry involvement is that a special one-off research tonnage would be made available to them in order to offset some of the costs of running the vessels. During the initial tagging phase which we expect may take 4 weeks, each purse seiner would be allowed to keep a research tonnage of 100 tonnes of kahawai ie. 700 tonnes in total. We would like the tagging phase to commence as soon as possible and suggest that November to mid December would be the ideal time when the kahawai are schooled up and relatively easy to catch. If this were not possible, then presumably April would be the next available date after the skipjack season.

6. Regardless of when the tagging phase is done, we would want the purse seiners to also participate for two separate periods (separated by 6 months) in the year-long recapture phase of the tagging programme. For each period the purse seiners would be allocated an additional research tonnage of 700 tonnes. Therefore, if the tagging was done in November 1993, the purse seiners extra research tonnage limit would be 1400 tonnes for the 1993/94 fishing year and 700 tonnes for the 1994/95 fishing year. These tonnages would be reversed if the tag release phase was delayed until April 1994. Note that the research tonnage limits are additional to the by-catch tonnage limits.

7. We would want to tag and release kahawai in all the areas where kahawai are found around the country. The research tonnages would therefore be allocated as in the attached diagram. Essentially the kahawai areas would be divided into 14 sub-areas to which 50 tonnes of kahawai would be allocated, with each asterisk in the diagram equating to one 50 tonne area. A purse seiner would be responsible for fishing 2 of these areas. Each purse seiner would aim to tag 15-20,000 fish. The tagging would be done how we understand it was done in the Bay in 1991. The purse seiners would aim to set on 1-2 small moderately sized schools each day and we would be wanting to tag 200-500 fish from each set. We understand that this would be possible because 1000 fish plus a day were tagged during the earlier programmes.

8. Based on the combined dead by-catch tonnage and the research tonnage, we would propose a purse seine catch limit (see the attached table) of either 1300 tonnes or 2000 tonnes for 1993/94 depending on which option is selected. Option A (2000 tonnes) is if the tag-release phase is done in November-December 1993 and Option B (1300 tonnes) is if the tag-release phase has to be delayed until April-May 1994.

9. There will of course be some important details that we have not thought of in the design of this survey. But, let's not be negative and spend our time thinking of reasons why we can't make this combined survey work. Instead, let's be positive and think of how we can make the survey work. Everybody is tired of the fact that there is no biomass data and wants to have the issue settled. As the saying goes - "Just do it".

COMBINED KAHAWAI TAGGING PROGRAMME: PURSE SEINE CATCH LIMITS

Option A: Tag release phase in Nov - Dec 1993

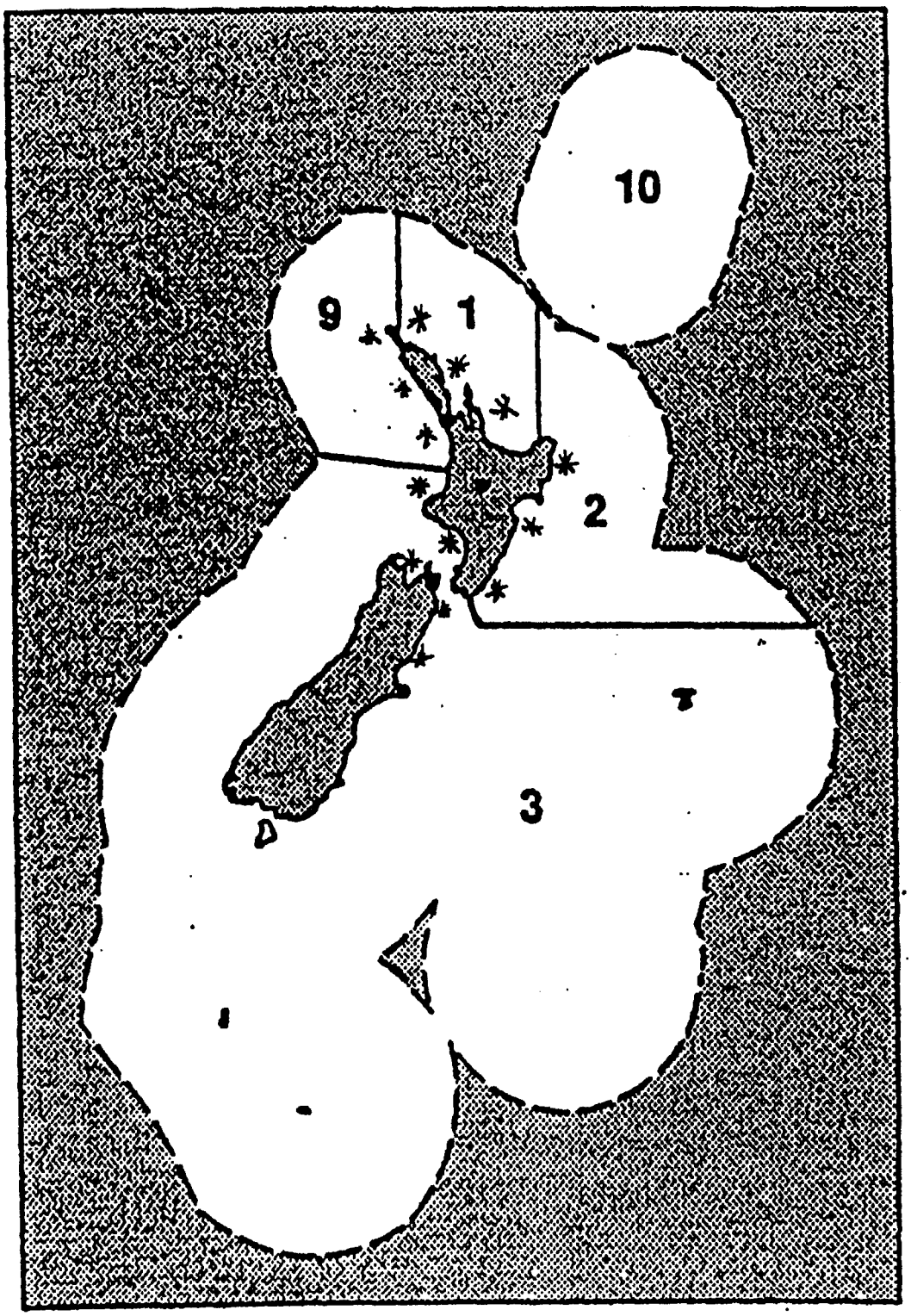
	1993/94			1994/95		
	By-catch	Research	Total	By-catch	Research	Total
KAH1	200	300	500	200	150	350
KAH2	100	300	400	100	150	250
KAH3	300	500	800	300	250	550
KAH9	0	300	300	0	150	150
TOTAL	**600**	**1400**	**2000**	**600**	**700**	**1300**

Option B: Tag release phase in April - May 1994

	1993/94			1994/95		
	By-catch	Research	Total	By-catch	Research	Total
	200	150	350	200	300	500
	100	150	250	100	300	400
	300	250	550	300	500	800
	0	150	150	0	300	300
	600	**700**	**1300**	**600**	**1400**	**2000**

KAHAWAI (KAH)

(Arripis trutta)



Appendix A: **Kahawai catch (tonnes) from MAF's green Plenary book**

YEAR	KAH1	KAH2	KAH3	KAH9	TOT	UNKN**	CORR1	CORR2	
83/84	1941	919	813	547	4266	46	1953	954	
84/85	1517	697	1669	299	4623	441	1627	1028	
85/86	1597	280	1589	329	4416	621	1752	746	
86/87	1890	212	3969	253	7525	1301	2215	1188	
87/88	4292	1655	2947	135	9610	581	4437	2091	
88/89	2170	779	4301	179	7431				
89/90	2049	534	5711	156	8466				
90/91	1858*	580	2998	150	5587				
91/92	2139*	822	1857	200	5018				
AVERAGES									1+2 comb
83/84 - 86/87	1736	527	2010	357	5208		1887	979	2866
88/89 - 91/92	2054	679	3717	171	6626		2054	679	2733
									***133

Notes

* A recording error was made for KAH1 and KAH9 for 90/91 and 91/92 such that the KAH9 catch seems to have been combined into the KAH1 catch. It is possible to approximately deduce what the catch was by calculating the average kahawai catch for 9 since 86/87 when the fishing pattern on the west coast changed because of the reduced amount of pair trawling due to the SNA8 TACC being introduced.

For the 4 years from 86/87 the average catch on the west coast was 180 tonnes. We have arbitrarily reduced the KAH1 catch by150 tonnes for 90/91 and 200 tonnes for 91/92. You may not agree with this arbitrary division but however you may decide to make the change there will only be 10-30 tonnes in it.

** We understand that most of the unknown area catch was from the Gisborne based purse seiner fishing about 75% in Area 2 and 25% in Area 1. This problem can also be corrected by proportionating the unknown catch by 75:25 into Areas 1 & 2 as we have done in the columns labelled CORR1 and CORR2.

*** Exclude the big year of 87/88 when the catch was considerable in Areas 1 and 2. If the corrected catch is allowed for, then it is apparent that there has only been a reduction of 133 tonnes in the combined catch for Area 1&2 for the period from 83-86 compared to the combined catch of 88-92.

During 1991, there were five target samples taken from 14 May to 24 July 1991. A total of 6778 fish were measured. The mean size of all fish was 46.10 cm. (Figure 3a). These samples represent 305.1 tonnes which is 20.7% of the total landings in KAH1 for the year. (Table 1).

During 1992, seven purse seine target trips were sampled between 14 April and 8 June 1992. A total of 12,431 fish were measured. The mean size of all fish sampled was 45.25 cm. (Figure 3b). These sampled landings represent a total landing of approximately 620.9 tonnes (fisher estimated catches) which is 56% of all kahawai landed in KAH1 for the year as of 22 June 1992 (Table 1).

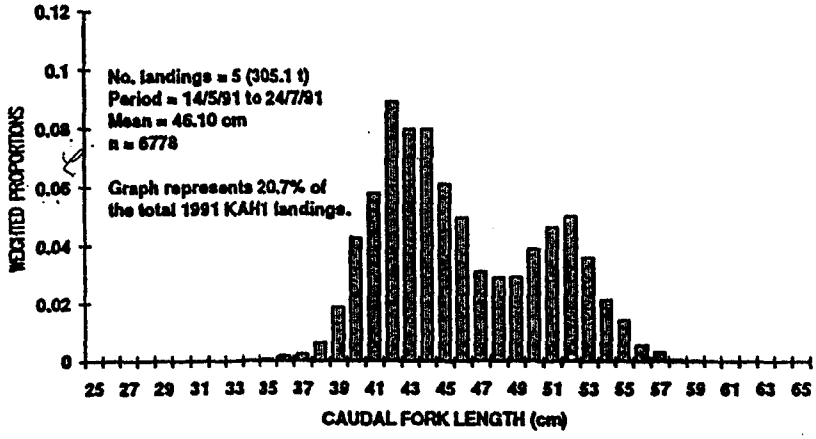


Figure 3a. Bay of Plenty purse seine target fishery 1990-1991 - Length frequency distribution.

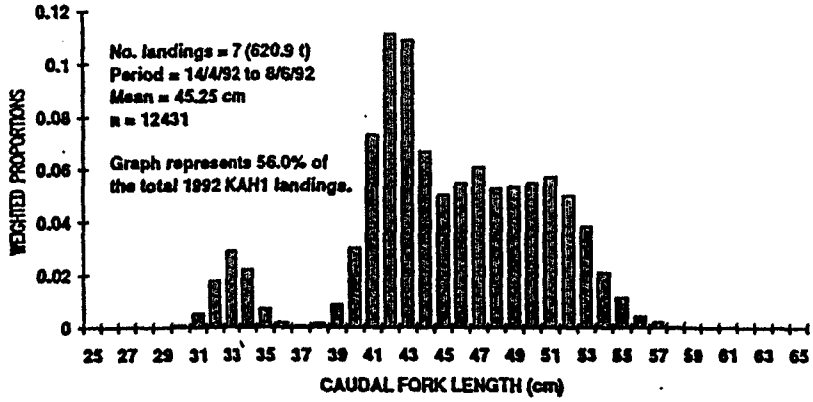


Figure 3b. Bay of Plenty purse seine target fishery 1991-1992 - Length frequency distribution

Mean sizes for the two years exhibit little variability. The 1992 data displays a small mode peaking at 33 cm. and a trough at 37 cm. which is lacking in 1991 data. This early modal peak was caused by only two of the seven 1992 samples, #2 and #6, with sample #6 being comprised solely of these small fish (Appendices 1 & 2).

Both years indicate a decided bimodality with a major mode occurring near the mean at 42-46 cm. (sample #2, 3, 4, 5 and 7 for 1992 and # 1, 2, 3, and 5 for 1991), and a second, lesser mode occurring at 51-5 cm. (sample # 1 for 1992 and # 4 and 5 for 1991). In 1992, another mode is evident at 47 cm. (samples # 3 and 4), which was absent in the 1991 samples.

5. RESULTS

During the 21 days spent in the field over the sampling period, 400 kahawai were caught and examined, and 85% of these were longer than 35 cm (Fig. 3). The mean length was 55 cm, and the ratio of males to females was 40:60. Most of the fish were caught in trammel nets, and the fact that none were caught in the 50 mm net or in a seine net (10 mm mesh) indicates that few or no small fish were present during the study period. It was considered that these two methods would have indicated the presence of juvenile kahawai.

The gonads of male and female kahawai both increased in maturity (Nikolsky scale) between November 1982 and mid February 1983 (Fig. 4). In November, less than 1% of kahawai examined had gonads which had matured to stage 3 or greater. The February sample contained the highest proportion of maturing fish, with 65% being at stage 3 or greater, and 43% of these were at stage 4. The comparable figures were 56% and 13% in late January, and 34% and 12% in early March. In April, the percentage of gonads developed to stage 3 or greater was only 4%. However, in this sample, 75% of the gonads were considered to be resorbing; the degenerating gonads were decreasing in weight and size, and the condition of the sexual products was regressing. This was generally apparent from the uneven size of the eggs, and from the large ovaries which were mottled in colour and unevenly filled. The sample of kahawai caught in April also contained a high proportion of fish showing signs of external damage to the eyes, tails, and gill covers, and internal deterioration, usually of the liver.

Examination of the stomachs showed that from November 1982 to mid April 1983, the percentage of fish with food in their stomachs declined (Fig. 5). In November, 50% of the kahawai stomachs examined contained traces of food, but by February, only 28% did so, and this declined to 1% by April. The main food item was the remains of fish which had been digested beyond identification. Identifiable foods included anchovies (*Engraulis australis*), yellow-tail (*Seriola lalandi*), sausage worms (*Echiura* sp.), freshwater eel (*Anguilla* spp.), triple-fin blennies (*Tripterygion* sp.), and the common freshwater bully (*Gobiomorphus* spp).

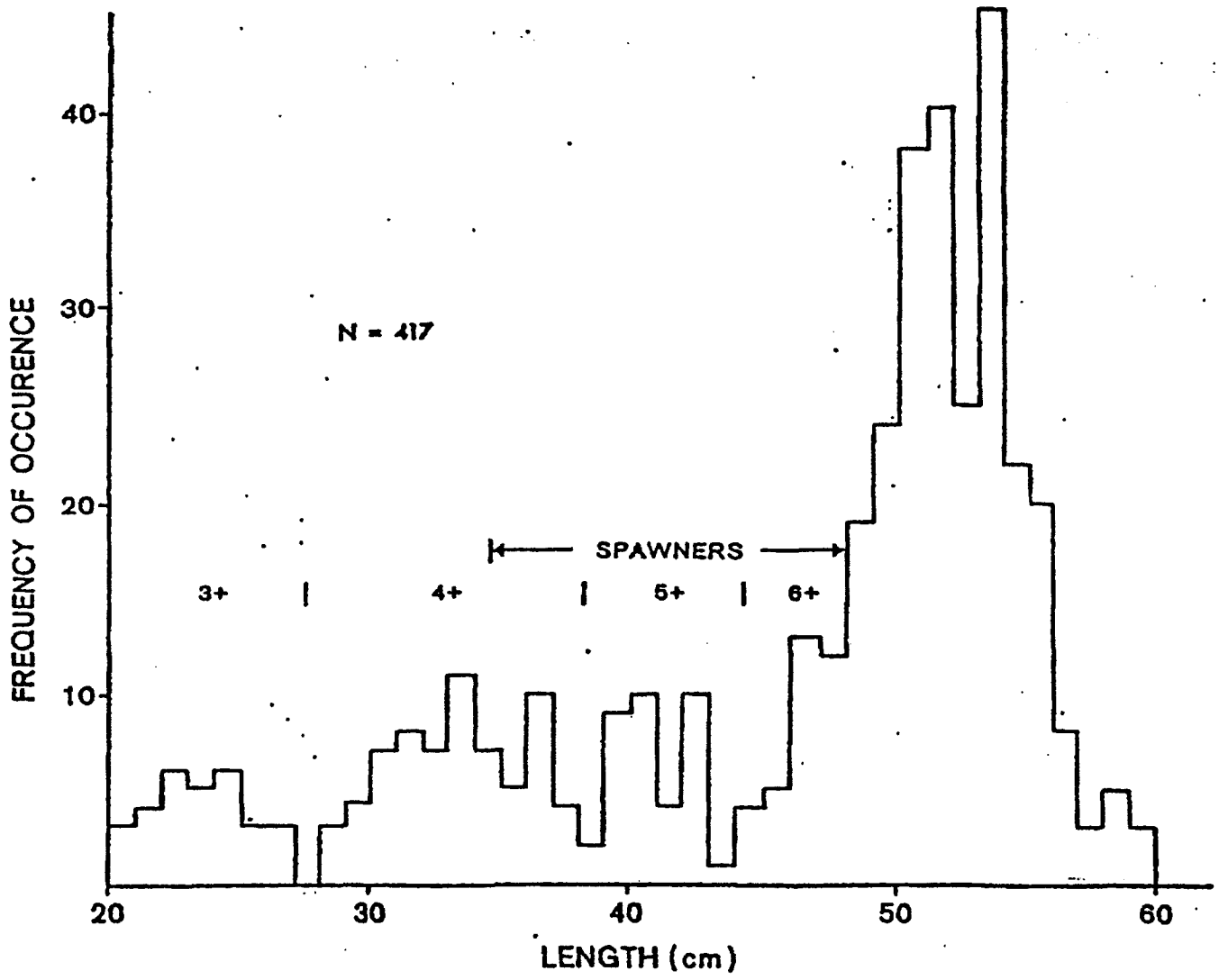


FIGURE 3. Length-frequency distribution of kahawai caught at the Motu River mouth from January to April 1983. (Definition of age and spawning size classes is after Eggleston 1975.)

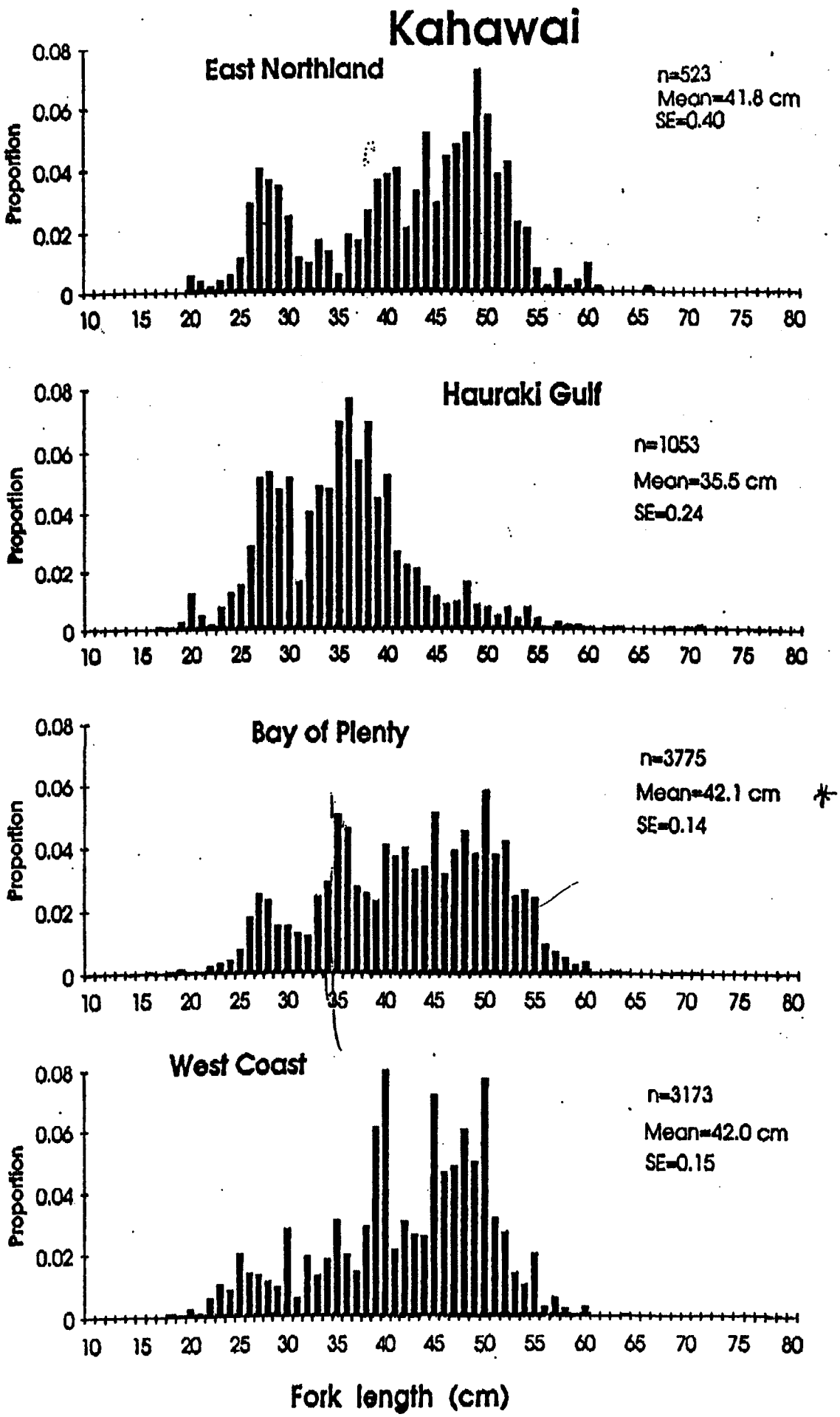


Figure 3.13: Relative proportions at length of kahawai caught (by sub-region) during the 1990/91 recreational fishing survey in the North Region.

During the 12 weeks of the survey, daily interviews of anglers were conducted to obtain information on the origin of people fishing, the number of fish caught, and the amount of time spent fishing. Of the 506 people interviewed, only 19.3% lived in the local area (defined as the area between, but not including, Opotiki and Cape Runaway). Another 33% lived in Opotiki, and 14% travelled from other places for a day's fishing. Of those interviewed, 33.7% were staying away from home, and 85% of these came from within the area bounded by Tauranga, Hamilton, Taupo, and Gisborne.

The number of fish caught per person per day ranged from 0 to 60, and the total weekly catch ranged from 10 to 1408. A total of 3270 fish was caught by the 506 interviewees. However, larger numbers of fish were reputedly caught by individuals who were not interviewed.

During the survey period, 'local' people spent an average of 2.08 hours fishing, and caught an average of 4.17 fish per hour. People from outside the survey area spent 2.65 hours fishing, at a catch rate of 2.24-fish per hour. Overall, each person on average spent 2.54 hours fishing and caught 2.55 fish per hour.

The higher catch rate for local people, compared with that for people from outside the area, was partly attributable to the local people mostly using hand lines, which allow for a better 'feel' for the fish. People from outside the area mainly used surfcasting rods, which tend to 'lose' more fish than hand lines. Also important was the fact that it was easier for the locals to be at the river when the fish were present, whereas outsiders had to take pot luck.

6.2 Maori Aspects of the Motu River Kahawai Fishery

Power (1849, in Best 1929) wrote of the kahawai:

> "Their advent is hailed with joy by both Maori and whiteman .....greeted with shouts and cheers".

The Motu River was considered by Te Rangi Hiroa (1926) to be famous for its kahawai fishery. He reported the main fishing method to be a paua shell lure (pa kahawai), rather than the dip or seine net used in other areas. The lure was a hook made from wood, with pieces of paua

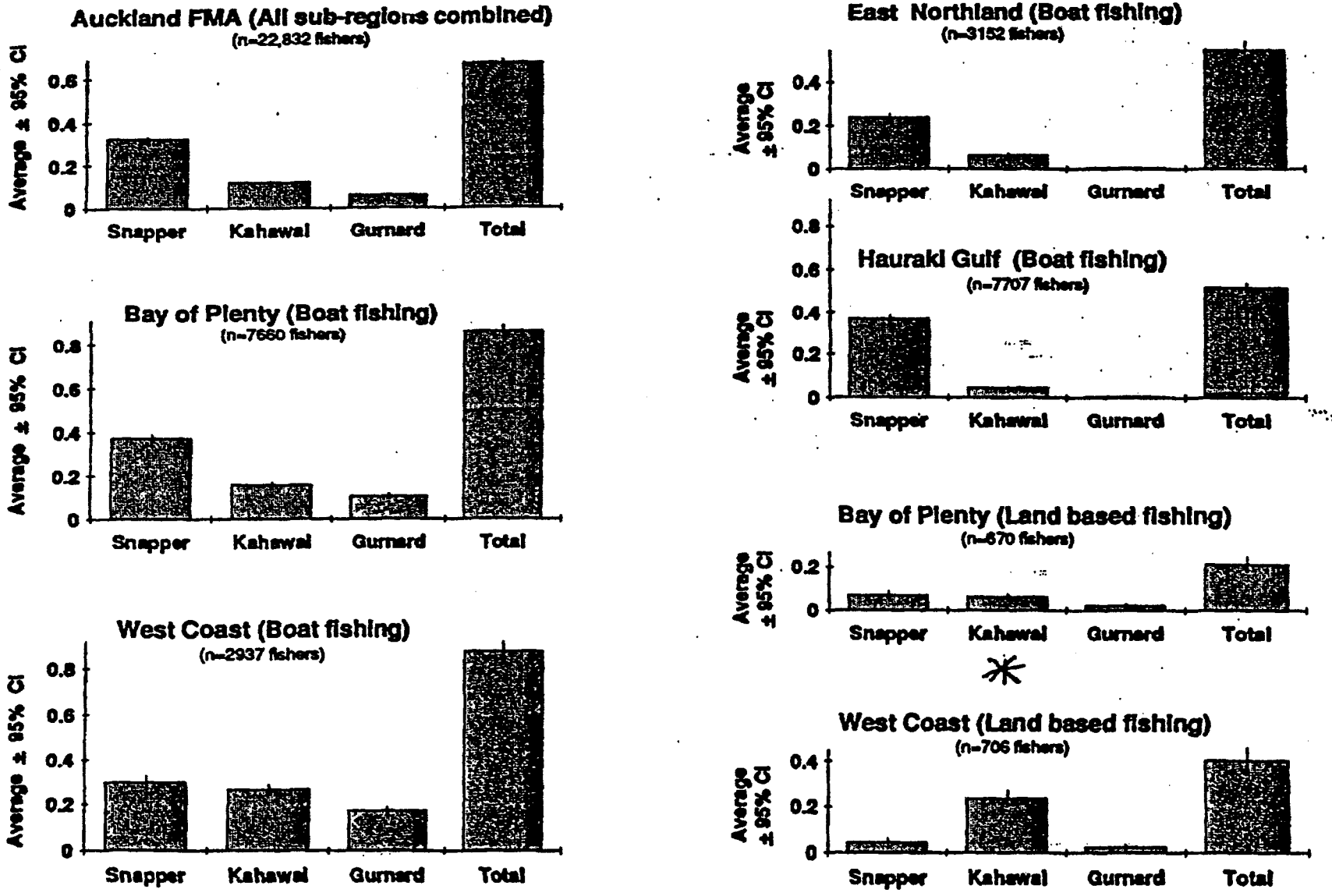


Figure 3.5: Average number (± 95% Confidence Interval) of fish by species caught per fisher per hour for the Auckland Fisheries Management Area and for each sub-region during the 1990/91 recreational fishing survey in the North Region.

Data on length frequencies, sex composition, age frequencies (otolith readings), and stomach contents were collected from commercial landings and during tagging studies from damaged fish.

Age and length frequencies

Little information on kahawai spawning and nursery areas is available, but it appears that most sheltered bays and estuaries in the North Island are used as nurseries, especially those off the east coast, north of the Bay of Plenty. Apart from the sheltered estuarine waters in Tasman Bay and near Farewell Spit, juveniles have not been found in substantial numbers in South Island waters (New Zealand Ministry of Agriculture and Fisheries unpublished data).

Age and fork length measurements were taken from kahawai caught in several areas (Table 7). Although the catching methods varied, the lengths of the fish in each area did not vary with the method used (Tables 8a–d). Fish caught by purseseine were assumed to represent local fish because the mesh size of the nets was small enough to retain juvenile, as well as mature, kahawai. Relatively more small fish were caught by line than by purseseine, but this was probably because lining was usually used to catch fish in sheltered nearshore waters where smaller kahawai are often found. Within each area fish size did not vary substantially between schools, though fish in one of the two schools sampled from east Tasman Bay on 21 April 1983 were reported as being larger than usual for the area.

Although almost 20% of the sample taken by setnet from the Waitaki River in 1984 comprised small fish of about 40 cm, the sample taken by line in 1983 from this area had no fish of this size. It is unlikely that this absence of small fish resulted from the fishing method used, because 40 cm fish were caught by lining in other areas that year; it is more probable that there were no small fish in the sampling area in 1983. Excluding this sample, the length frequencies of fish caught by the two methods were similar.

Whole otoliths were read by the method described by Eggleston (1975). For otoliths which required burning to read, rings were clearer when the otolith was sectioned and polished before burning (Paul 1976, James 1984). The age-length relationships were similar to those reported by Eggleston (1975). An age-length frequency plot for all samples combined is given in Table 9. Although mean length and age increased with latitude on the east coast South Island, this trend was not apparent in other areas (*see* Table 7). Movement of tagged fish between the North and South Islands

Table 8a: Length frequencies for Bay of Plenty samples by date and method of capture

Length (cm)	Purseseine 31 May 1983	Line 3–15 Jun 1983	Purseseine 13 Jun 1983	Purseseine 16 Jun 1983
38	–	1	–	–
39	–	–	–	–
40	–	1	–	–
41	–	1	–	–
42	–	1	–	1
43	–	1	–	–
44	–	–	1	–
45	–	–	5	–
46	–	1	5	–
47	–	1	11	8
48	4	1	23	3
49	6	4	12	13
50	14	5	13	9
51	7	3	9	5
52	17	3	6	17
53	10	3	9	16
54	20	1	3	12
55	7	1	2	8
56	7	4	1	3
57	6	–	–	4
58	2	–	–	1
Total	100	32	100	100

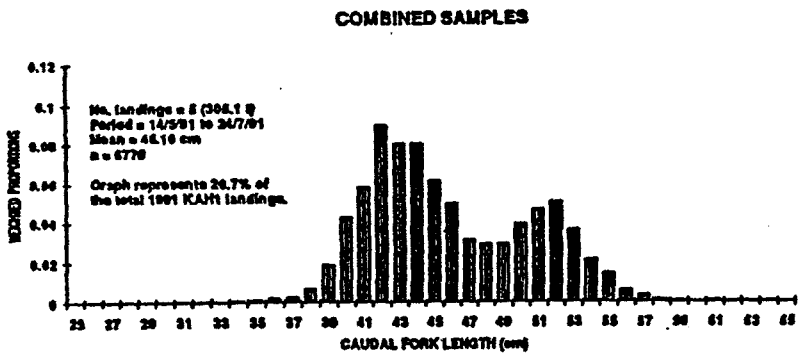
$\bar{X} = 49.7$

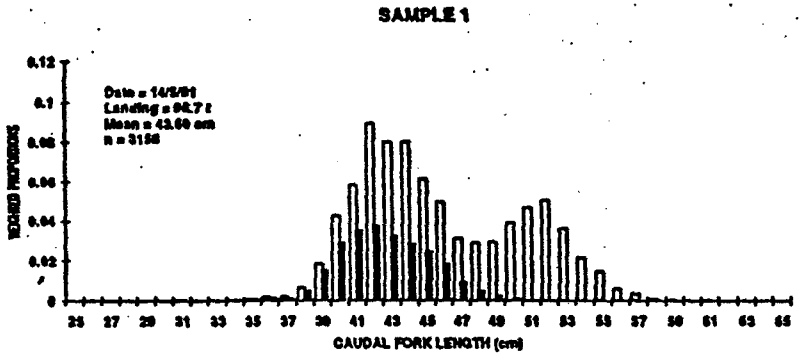
Table 7: Age and length data for kahawai from areas sampled

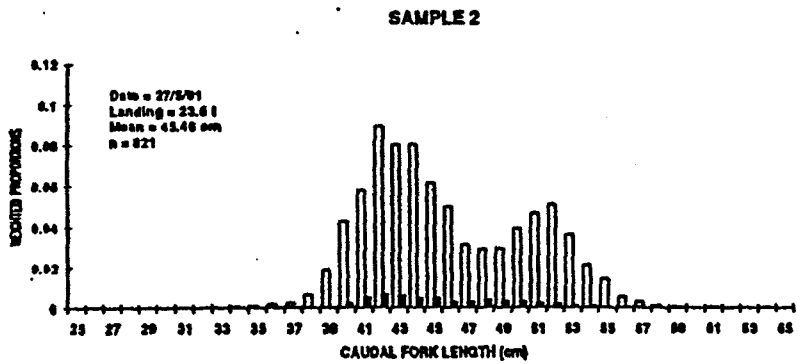
Area	Age (y) n	Mean	Median	s.d.*	Min.-Max.†	Length (cm) n	Mean	Median	s.d.	Min.-Max.
Northland	38	8.7	8	3.95	3–23	38	48.2	48	6.50	34–59
Bay of Plenty	300	8.2	8	2.57	4–16	300	51.3	52	3.00	42–58
Ariel Bank	97	8.8	9	1.57	5–12	97	48.3	49	2.71	39–54
Waikato River (1983)	22	5.6	6	1.68	3–11	22	38.6	39	5.12	28–49
Waikato River (1984)	100	9.8	10	2.11	6–16	100	48.5	49	2.76	41–57
New Plymouth	39	8.5	8	4.25	3–18	40	45.0	48	9.43	21–59
Wellington Harbour	137	8.1	8	2.52	2–20	137	47.0	49	6.15	21–56
South Taranaki Bight	398	8.4	8	2.22	4–21	400	48.0	48	2.87	40–58
Farewell Spit	300	6.1	5	2.14	4–14	300	46.0	47	4.13	37–56
East Tasman Bay	149	11.1	11	2.84	7–19	150	52.2	52	2.77	44–59
Inner Tasman Bay	100	4.2	4	0.43	3–05	100	36.6	37	2.16	28–44
Clifford Bay	198	10.4	10	3.52	5–22	199	51.4	52	3.60	39–61
Kaikoura (1981)	287	12.6	12	3.27	6–24	293	53.1	53	2.70	46–60
Kaikoura (1982)	569	12.5	12	2.87	7–23	572	52.9	53	2.56	44–62
Waitaki River	150	15.7	17	5.31	5–23	151	53.7	56	6.24	28–62

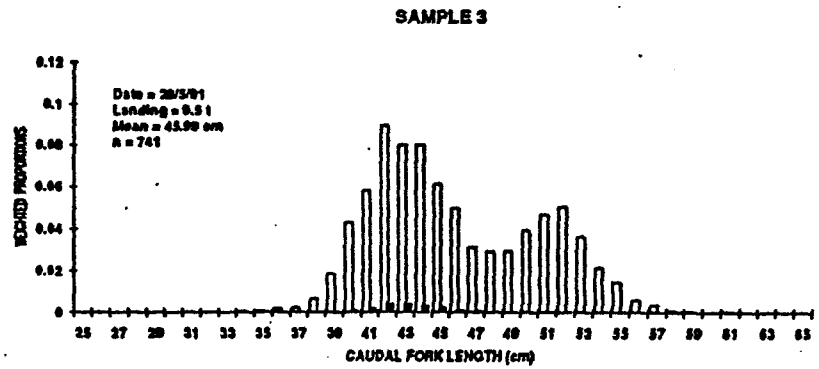
* Standard deviation.

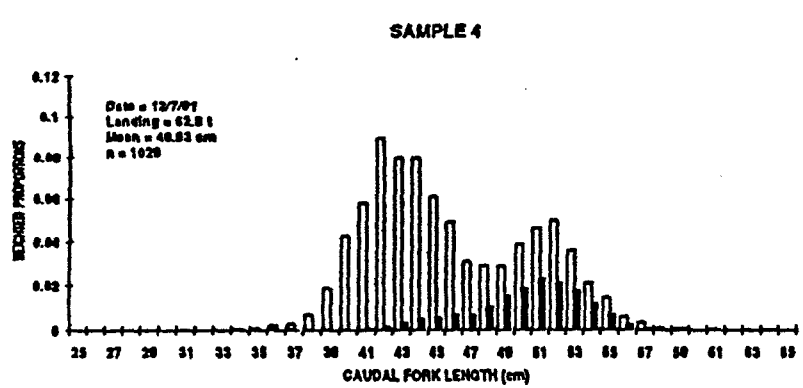
† Minimum to maximum age.

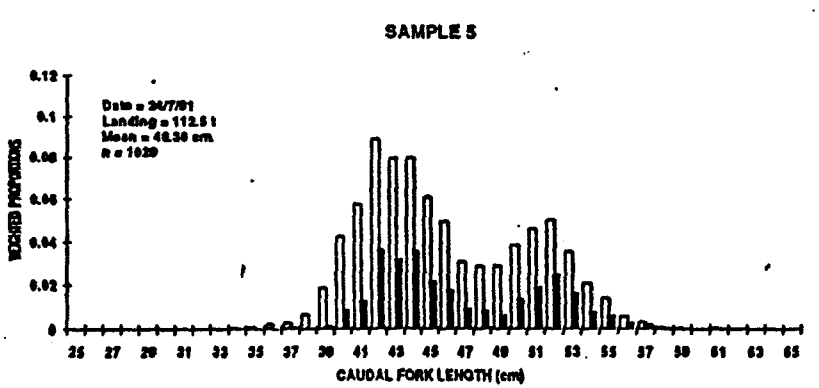




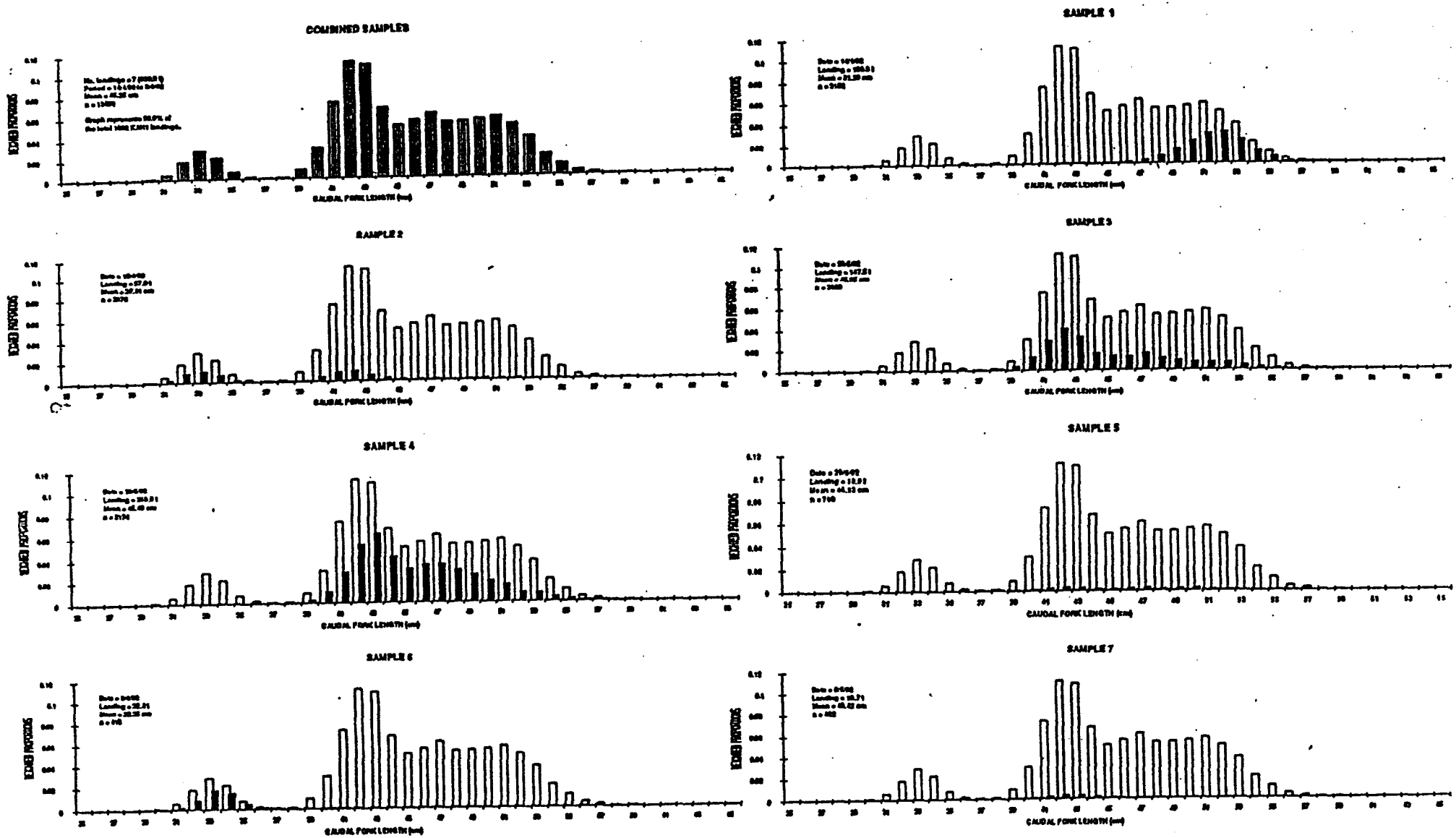








Appendix 1. Bay of Plenty Purse Seine Target 1990-1991 - Sample Distribution in Relation to Combined Samples.



Appendix 2. Bay of Plenty Purse Seine Target 1991-1992 (June) - Sample Distribution in Relation to Combined Samples.

KI 7

This is the document marked **KI 7** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

NZ RECREATIONAL FISHING COUNCIL (INC)

P.O. Box 99418 Newmarket Phone: 0-9-579 3477 Fax: 0-9-579 1377

PRESIDENT: Bob Burstall.

NATIONAL SECRETARY: Max Hetherington.

Tuesday 4pm 24 August 1993,

Hon Doug Kidd
Minister of Fisheries
Parliament Buildings
Wellington.

Dear Minister,

Re: Kahawai and Kingfish TACC Settings.

The New Zealand Recreational Fishing Council would like to offer these final points with regard to the kahawai and kingfish TACCs for the next fishing year. Firstly regarding kingfish, the NZRFC is amazed at how certain sectors of the Industry have elected to ignore the agreed Accord which was achieved with the assistance of a MAF Fisheries facilitator (with the exception of triple hooks) by our Council and the Federation of Commercial Fishermen. The contents of the Accord were widely advertised in Profish and the leading Recreational monthly magazines. As you will recall the amended document was forwarded for your information by the NZ Fishing Council Chairman Colin Moyle.

Since the Accord was signed, we have sought to have the non-commercial regulations include the three daily bag limit and minimum length of 65 centimeters. For Industry to question the minimum length is totally irresponsible and contrary to sensible fisheries management - it is basic that the fish must be allowed the chance to breed at least once before being caught. Information received from Australia since the original Accord actually states that 75 centimeters would be more appropriate to prevent the taking of juvenile Kingfish (which is the same species as ours).

One of the other basic tenets of the kingfish Accord was that commercial would stop targeting kingfish. Since the Accord was agreed, we are aware that the kingfish catch has likely increased to in excess of 500 tonnes for the first time which clearly indicates that industry has not stopped targeting kingfish. The damage is being done by only 20-30 setnet and longline fishermen who are each taking 5-10 tonnes of kingfish. As outlined in our main submission, we ask that individual catch limits of 1 tonne of kingfish be placed on the fishing permits of these fishermen, until kingfish is brought into the quota system.

Regarding kahawai, we had genuinely hoped that the purse seine catch limits that were introduced in 1989 would work and that the kahawai fishery would begin to recover. But our survey earlier this year showed that over the last three years our members have not noticed any improvement. In fact, we are certain that the situation has deteriorated as we are now getting reports from the Manukau and Port Waikato from commercial and recreational fishermen that the kahawai fishery is now in decline on the west coast. It is because there has been no improvement that we are now determined that the purse seine catch limits must be reduced.

There has also been another new development this year because for the first time we have been able to show in our earlier submissions on kahawai that there is scientific evidence (taken from the reports of Eggleston, Ritchie, Wood, Kilner, Jones, Pennlington, McKenzie and Sylvester) that kahawai are being overfished. This detailed evidence is conclusive regardless of which way the figures are read that there has been a reduction in mean length of sampled fish of a minimum of 8cm and a drastic reduction in non-commercial CPUE from 2.55 fish per hour to 0.1 fish per hour. These are obvious signs to anyone including Dr Brian Jones that the fishery is under stress. We strongly question Dr Jones intent to ignore and not take into consideration the findings of eight other scientists in his own deliberations.

There are essentially only two explanations why there can be a decrease in average size of fish - either there has been a major increase in the number of smaller fish (recruitment) or there has been a major increase in adult removals. There is no proof of any change in recruitment, but there has been a major change in adult kahawai mortalities since the inception of purse seine harvesting of this species. Nobody can deny this and if need be we will do another public media survey immediately to verify our evidence that kahawai is still being overfished.

In the past you have asked us to negotiate with the companies to increase the size of the purse seine "No Go" areas. We now realise that because of the mobility of kahawai, No Go areas will not work unless they are very big eg. 10 miles, most of the existing voluntary no go areas are only 2 miles. The 81-84 tagging programme showed that on average kahawai moved 50 miles in just 2 years, whereas the MAF Information pamphlet No. 18 on snapper states that "extensive tagging studies have shown that snapper generally remain within a few kilometres of their release site, with many appearing not to have moved at all." No Go areas can work for snapper, but they will not work for kahawai.

We also touched on this point in our main submission why No Go areas will not work. The facts are these. First, the evidence from recreational fishermen and most commercial fishermen (except purse seiners) is that kahawai are in decline in size and abundance around the entire coastline of NZ. However second, the main purse seine kahawai extractions have only been taken from two relatively small areas: 1. Waihi-Whakatane, 2. Tasman Bay-Kaikoura. We are certain that the kahawai move into these two small areas in a "sink effect". Thus, since the early to mid 1980s when the first large purse seine extractions were taken, the kahawai could easily have moved considerable distances eg. the 150-200 miles from the north-west coast to the top of the South Island. We suggest that the concentrated purse seining in these hotspots creates a void into which kahawai from other areas ultimately sink.

Dr Jones can ramble on about inshore-offshore kahawai types, changes in climate, recruitment, recreational fishermen just fishing close to shore etc etc and invent other excuses and explanations about the kahawai decline. But these are all very complicated explanations that have never been published nor widely discussed within MAF with his own peer group; we noted with interest how he was corrected a number of times at one of the earlier meetings by Dr Don Robertson. What nobody can deny is the overwhelming reports that kahawai are in decline and that purse seine catches have increased. The simplest explanation is that the decline has been caused by purse seining.

The final point we would like to cover is the economics of purse seining kahawai. We have already registered our concern that this stock is being exploited to bolster the purse seine Industry and it is acknowledged by Industry and your advisors that this is correct. We have asked the Fishing Industry Guild to quantify the statement of 50 jobs being lost which to date they have not done. We have asked your advisors to provide economic statistics on kahawai to advise you accordingly and to our knowledge this has not been completed.

What we do know is that at one stage you were advancing the proposal that the mackerel species be traded to the industry to stop purse seining kahawai. As we have found out and was reported in our main submission, the purse seiners have taken the trade on blue mackerel and increased the catch to 15,000 tonnes, but have not stopped purse seining kahawai.

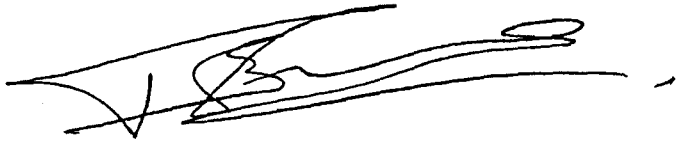
Another important ecomomic consideration is that for the last two summers the purse seiners have caught only very small tonnages of skipjack tuna because of acts of nature - Mount Penutuba or El Nino. However, we are certain that if MAF had said to the purse seiners 2 years ago that they were going to ban skipjack purse seining, then there would have been a huge outcry about economic doom and gloom and the familiar moan about job loss. But what happened, was that the industry learnt to adapt to the change by increasing their blue mackerel catch and the purse seiners remained economic. We consider that a similar sort of thing would happen if kahawai purse seining were banned - the industry would learn to adapt.

MAF and the Minister could help this process by increasing the purse seine jack mackerel quota and decreasing the large foreign trawl quota of jack mackerel off Taranaki. Nature may also smile on the purse seiners if the skipjack return to NZ because the effects of Penutuba and El Nino may be expected to decrease after 2-3 years. There is some evidence that this is happening because it has been such a mild winter, and most probably it will be a hot summer with warm water and the skipjack will return.

The NZRFC, the NZBGFC and our sustenance supporters acknowledge that the Crown is responsible for the sustainable management of New Zealand fishery resources in the interests of all New Zealanders. We request the Government to heed our concerns and numerous submissions on kahawai and kingfish as being very important recreational fishing assets that are being overfished. We ask that the Government take decisive action to stop this overfishing.

As the time frame for making decisions is limited, our advisors are willing to meet with you anytime to summarise the finality of our position.

Yours Faithfully



Bob Burstall, President
New Zealand Recreational Fishing Council Inc

KI 8

This is the document marked **KI 8** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

RECREATIONAL FISHING COUNCIL (INC)

P.O. Box 26 064, Newlands, Wellington Phone: (04) 478 5041 Fax: (04) 478 5044

PRESIDENT: Bob Burstall.

NATIONAL SECRETARY: Max Hetherington.

Facsimile Letter.
4pm Thursday
9 September 1993

Hon Doug Kidd
Minister of Fisheries
Parliament Buildings
Fax 04-4712930
Wellington.

Re: Kahawai TAC and TACC Setting 1 October 1993.

Good afternoon Minister,

Further to our meeting in your office and a meeting of our Council's Executive we need to inform you of our concerns over the stance you have taken on the kahawai fishery.

Although it was virtuous for you to agree and acknowledge our concerns you said you are legally not able to correct the anomalies; therefore, as we are not presently privy to this legal enigma we would appreciate the reasons why? Which could enable us to consider getting our own legal advice on the issues we submitted.

We believe the research you and your policy advisors are relying on is far from conclusive and does not indicate the true position of the fishery.

Firstly, we repeat our position that improved recreational access to the kahawai fishery will not be rectified by additional no go areas because of the mobility of kahawai. We reiterate that kahawai is one of the most mobile of the inshore species moving on an average of 50 nautical miles each year and sooner or later they will move outside the closed areas and get caught by the purse seine fleet. This is very evident in the Bay of Plenty where in the past 8 years according to MAF surveys and give and take elements of error it takes 25 times more effort for non-commercial fishers to catch one kahawai. We have no wish to see any further decline in stock availability based on this existing reasonably factual CPUE Data.

Secondly, the Industry is giving up nothing with the extension of the areas they have proposed. The attached six maps taken from a MAF Fisheries North kahawai report show very clearly that 90% of the purse seine sets in KAH1 that caught kahawai between 1983 and 1989 were done in an area between Waihi and Whale Island near Whakatane, outside the (diagonally marked) proposed no go extension lines and we know this pattern continues today with the exception early this year when they caught around 150 tonnes supposingly between Ahipara and North Cape whilst targeting mackerel. We have no intention to accept this latest offer from Industry as it will not arrest the continual non-commercial CPUE decline and it is yet another example of how they tend to make meaningless offers that will not impact on their

activities. We urge you to study carefully the maps and corresponding data attached which qualifies our statements.

Thirdly, it is now common knowledge that kahawai is the second most sort after non-commercial species in New Zealand next to blue cod and snapper.

Sir, you and our Council are aware of the unacceptable non-commercial access to snapper and in some areas blue cod that will take a long time to recover. Considering this, it would be completely irresponsible for us to allow any scientific uncertainty to aggravate further non-commercial kahawai access irrespective of the "questionable" commercial economic worth of this species.

To improve recreational access to kahawai, the fishery must be managed by reducing the purse seine catch limits. We do not see this "precautionary approach" as being emotive, in reality it is basic common sense management. We still propose the joint tagging program made in our first submission to determine the sustainability of these stocks and meanwhile we would reluctantly agree to a maximum purse seine catch limit of 1100 tonnes for KAH1. At the meeting in your office, Mr Mark Edwards suggested this catch limit was arbitrarily decided although to the contrary, the 1993 MAF stock assessment estimates KAH1 to be 2000-2100 tonnes (pge 135 green book). A TACC of 2100 tonnes should therefore be divided as a "conservative" 600 tonnes for recreational, 400 tonnes to other commercial methods and a "maximum" of 1100 tonnes for the purse seine Industry. Additionally we draw your attention to the attached report by Todd Sylvester of MAF North that the data from 3 surveys, 1987, 1990/1991 and 1990 determines with an element of error 1,460 tonnes of recreational catch in KAH1.

You referred to the recreational survey that will start in the North in December 1993. Whilst we are fully appreciative of your efforts in finally obtaining the funds it will only tell us all what the present recreational catch is and this can be qualified by the people doing the survey. What we can verify is it is about 25 times harder to catch a kahawai in the Bay of Plenty than 8 years ago and this is not acceptable to the New Zealand fishing public or our Council Executive Committee.

We are not looking for changes in KAH2 or KAH3 although it is the same stock species and the lack of specific data and scientific uncertainty still exists for these areas. In KAH2 the catch limit was easily achieved close to the KAH3 boundary. Also in KAH3 we note that two different stories were offered (bad weather and minuscule no go areas) why the catch limit was not taken, but it is equally plausible that this is an indication that KAH3 is also being over fished.

We do not accept the emotive statements of Industry of 30 job losses and canneries being closed down etc, etc. These statements lack factual economic data and are of no consideration considering the questionable commercial economic viability of this stand alone one stock species. The purse seine Industry lacking skip-jack tuna in the last three years has already proved their resilience with no jobs lost or canneries being closed.

The two final points we would like to make are we are absolutely certain the purse seines catch for KAH9 should be 0 tonnes, because with the exception of the 140 tonnes caught at and near North Cape there has been no record of purse seine fishing in KAH9. Again the green

book (pge 133) clarifies the situation and states what all the reports, Ministers letters and press releases said in 1990 and 1991.

The final point is also very serious and relates back to the original 1990/1991 decisions on the Kahawai Moratorium in Area One from October 1 to March 30. Because of our nativity we were conned out of this Moratorium by Industry during the initial voluntary agreement and we now want these exact dates reinstated as we now realize this regulation is very important.

To summarize, our final position on New Zealand Kahawai stock is:

1. For the purse seine catch for KAH1 be reduced to 1100 tonnes maximum until there is sufficient scientific data to establish Biomass, MSY and CAY.

2. KAH2 and KAH3 to remain the same until we have sufficient data as 1.

3. KAH9 to remain 0 tonnes or any specific bi-catch allocation is deducted from KAH1 1100 tonnes.

4. The Kahawai Moratorium for Area One to be reinstated from October 1 to March 30.

We fully appreciate your statement that when the revision of Fisheries Legislation is completed we will be overall better positioned to address the rebuilding of prime recreational coastal fishery species. However we must address the state of our kahawai fishery now. It is very obvious the purse seine companies are preparing for the "kahawai stocks?" To be quotarised in 1994.
The research they are relying on (as scant as it is), can and will be challenged as it is far from conclusive and we are saying it does not indicate the true position of the fishery. We are only asking our steward of the fishery's resource to take an absolutely precautionary approach now, to do so will prevent further deterioration and/or improve the non-commercial access to this very important recreational fishery.
If this happens there will be a total uproar of approval from recreational people through out New Zealand. If not, regrettably we will have to be pristine publicly as to why and who is depleting this valuable public resource.

Yours faithfully,

R.T.Burstall. President.

p/p

J.R Chibnall. Executive Committee.

R Gilden. Executive Committee.

Copy President. NZ Big Game fish Council Inc.
Mark Edwards MAF Policy Fisheries.

KI 9

This is the document marked **KI 9** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Jennifer L Heard

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

RECREATIONAL FISHING COUNCIL (INC)

PO Box 26 064, Newlands, Wellington Phone: (04) 478 5041 Fax: (04) 478 5044

PRESIDENT: Bob Burstall

VICE PRESIDENT: Max Hetherington

NATIONAL SECRETARY:

Mr John McCoy
MAF Fisheries Greta Point
PO Box 297
WELLINGTON

29 April 1994

Dear John,

You will be aware of our present position of "no funding, no consultation" preventing us from attending any official Government or MAF meetings unless funded. Nevertheless we are greatly concerned over the kahawai and snapper fisheries which are due to come up at your Plenary sessions next week.

The report in the Draft Assessment Working Group "white book" indicates that kahawai has been blatantly overfished by purse seining in the KHA1 to 1550 tonnes, even though the Minister had set this year's catch by purse seining at 1200 tonnes and we still have the rest of the year to come. We also see that commercial tonnage by other methods such as gill netting, trolling etc has increased dramatically adding more pressure to this depressed fishery. This extra catch pressure is undoubtedly caused by Industry believing that this species is to be quotarised in the near future and they are endeavouring to increase their catch history for the sole purpose of quota allocation which is simply not good enough. The commonsense approach tell all of us that this fishery is in bad shape and will end up like the snapper if this is allowed to carry on.

We also believe that what scientific information that is available is being misused to suit commercial fishing interests and is totally unacceptable by recreational and sustenance fisher- persons. The "white book" indicates that kahawai don't travel and that there may be several different stocks. This is another nonsense for the following reasons - the Kaikoura fishery is all adult fish and they have to come from somewhere. The closest breeding area is some hundreds of kilometres away so they must travel. Another scenario is in the Bay of Plenty there is a high concentration of commercial fishing in a small area. It would be totally impossible for this small area to withstand this heavy commercial fishing of kahawai over the years if they didn't travel from somewhere into the area.

After many years of MAF Scientists saying that commercial spotter planes sighting evidence to be deeply floored and unworkable - why suddenly is it reliable data. These methods of assessing the kahawai stock for commercial take must stop if this fishery is going to be kept in a sustainable manner. There is a ground swell of recreational fishing interests that is greatly concerned about the future of this species. I understand that Mark Feldman is going to attend this meeting in a private capacity. Mark has indicated to us what his stance is going to be and as he is an advisor to this Council we totally support him over the state and the future of the kahawai fishery.

...../2

We also notice that there has been an approach from Industry to move a quota boundary between KAH1 and KAH2. This will effectively run the kahawai tonnages in the present KAH1 and KAH2 tonnages into KAH2 alone creating a brand new area in one for further commercial exploitation. We are totally against this move and it would be greatly detrimental to the fishery. We also notice that they are endeavouring to create a totally new area KAH4 which is from Tirau Point in the North Island to somewhere near Haast in the South Island. Once again this will create more pressure on the West Coast fishery and we are equally opposed to this development. Both of these suggestions are against the welfare of the fishery and there cannot be any scientific evidence whatsoever to say this would be a good move.

Snapper - Once again commonsense has to prevail. This fishery according to the "white book" has half of the biomass to be able to su port the present commercial catch level. The reduction of the commercial catch must happen if this species is going to survive. If this fishery fails it would be an enormous financial loss to not only commercial but to recreational fishers as well. We don't have to tell you that snapper is a top priority fish for recreational and sustenance fishers and its future greatly concerns us.

John Chibnall
EXECUTIVE

KI 10

This is the document marked **KI 10** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
of
Auckland

NZ RECREATIONAL FISHING COUNCIL (INC)

P.O. Box 26 064, Newlands, Wellington Phone: (04) 478 5041 Fax: (04) 478 5044

PRESIDENT: Bob Burstall

NATIONAL SECRETARY: Max Hetherington.

000084

29th July 1994

Hon Douglas Kidd
Minister of Fisheries
Parliament Buildings
WELLINGTON

Dear Minister,

TACC Setting and Management Review For The 1994/95 Year.

In your letter of 30 June 1994 you invited our input and consultation on this years management review and TACC setting round. As you are already aware we have indicated our acceptance and this document contains and constitutes our submissions for your consideration.

We were pleased to receive your letter of 30 June concerning this review and were particularly pleased with the indications that you gave therein. As we have already stated publicly in general terms these are supported but with reservations on some specifics which are detailed in our submission.

METHODOLOGY.

In preparing this submission we have been in contact with our membership. In some cases they have provided comment and input direct to you. Some have provided input direct to us and this is attached as appendices to our comments. In doing so we have referred to those separate submissions in our overall summaries. Where such submissions have been handwritten we have typed these for ease of reading. We have endeavoured to comment on all areas.

For the purposes of this submission the TACC figures and reported landings have been taken from the May 1994 Plenary Booklet.

I trust you find this in order and we intend to attend the joint meeting with you to elaborate should you so desire. We must indicate that basically we are in agreement with your overall intent as set out in your letter but have specific comments in some places.

Yours faithfully

Max Hetherington
Secretary/Treasurer.

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8 HOKI - HOK 1

8.1 We note that the present TACC is set at 202,155 tonnes and the MAF position is that the stock could sustain a TACC increase of 100,000 tonnes. It is noted that industry have not stated a position.

8.2 Members have expressed concerns over the Hoki Fishery which has a small recreational component. These concerns relate to the by catch from the Hoki Fishery of Hapuku/Bass, Ling and Bluenose and the effects on the overall food chain as the hoki are the food source of the other three species. We have reports of a by catch of Ling in the Hoki Fishery that nearly equals the TACC of the ling. We understand that most of this by-catch is deemed to the crown and submit that full facts need to be produced as to the TACC against which this ling by catch is being recorded before any increase in the TACC for this species is agreed to. We note the table attached as an appendix supports this by-catch situation.

****

9 JACK MACKEREL - JMA 1 - JMA 3 - JMA 7.

9.1 We note the TACC and reported landings for this species are:

JMA 1 TACC is 5970 tonnes Landings is 7529 tonnes
JMA 3 TACC is 2700 tonnes Landings is 15399 tonnes
JMA 7 TACC is 32536 tonnes Landings is 24767 tonnes
JMA 10 TACC is 10 tonnes Landings is 83 tonnes

9.2 We note the request by Industry that the TACC be increased to reflect the increased abundance of the Chilean Jack Mackerel. We note that in JMA 1, JMA 3 and JMA 10 the TACC has been substantially over caught and that it has not constrained catches. We presume that this is because of the abundance of the new species but suggest that the over catch is not a reason for increasing the TACC for the reasons already stated under Bluenose (4) above.

9.3 We attach as an appendix a letter from John Salmon of Gisborne expressing total opposition without a thoroughly independent survey.

9.4 We are generally opposed to an increase in these TACCs on the information that has been provided.

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10 KAHAWAI - KAH 1 - KAH 2 - KAH 3 - KAH 9.

10.1 We note the reported landings for this species are:

KAH 1 Landings is 4010 tonnes
KAH 2 Landings is 1390 tonnes
KAH 3 Landings is 1950 tonnes
KAH 9 Landings is 0 tonnes
with a total landings of 7352 tonnes.

10.2 We note the reported catch by purse seine and quota to be:

KAH 1 Catch is 1547 tonnes Quota is 1666 tonnes
KAH 2 Catch is 795 tonnes Quota is 851 tonnes
KAH 3 Catch is 1808 tonnes Quota is 2339 tonnes
KAH 9 Catch is 140 tonnes Quota is 0 tonnes
with a total Catch of 4290 tonnes against a quota of 4856 tonnes.

10.3 We note a request from Industry to increase the Purse Seine Catch limits (quota) as follows:

KAH 1 Increase to 1666 tonnes
KAH 2 Increase to 1200 tonnes
KAH 3 Increase to 2750 tonnes
KAH 9 Increase to 500 tonnes (separate from KAH 1)

10.4 We have received a number of comments from our membership and these are attached as appendices. We draw your attention to the comments from:

10.4.1 the President of the NZMTA.
10.4.2 John Salmon of Gisborne

10.5 A comprehensive paper on this subject has been prepared by our executive member Ross Gildon. The draft is attached as an appendix. This draft has been provided to MAF officers who are still being consulted with and a final submission will be presented as soon as possible after we receive their evaluation and comments.

10.6 Basically we are opposed to the suggested increases and request the species be recognised as a recreational fish with the purse seine limits being reduced to a by-catch limit only.

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11 LING - LIN 1 - LIN 3 - LIN 4.

11.1 We note the TACC and landings for this species is

LIN 1 TACC is 265 tonnes Landings is 253 tonnes
LIN 3 TACC is 2160 tonnes Landings is 2218 tonnes
LIN 4 TACC is 4401 tonnes Landings is 4101 tonnes

11.2 We note that industry have not stated a position in respect of LIN 1 but that they have requested a 30% increase under the adaptive management process.

11.3 We refer to our comments above under Hoki in respect of the requested increases and to the table of by catch attached as an appendix.

11.4 We recommend caution in respect of these requested increases.

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12 HOKI - HOK 1

12.1 We note the TACC for this area is 157 tonnes with reported landings of 280 tonnes. We further note that the landings have exceeded the TACC for every year since 1986.

KI 11

This is the document marked **KI 11** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

INITIAL POSITION PAPER ON KAHAWAI AND KINGFISH

FOR THE 1994 TACC ROUND

000091

FROM THE NZ RECREATIONAL FISING COUNCIL

SUMMARY

Surveys in 1994 amongst the gamefishing clubs have shown recreational fishing for kahawai and kingfish in the last year has not improved. The recreational sector still asks that both species be recognised as "recreational fish". Therefore our recommendations for this years TACC round are essentially the same as last year, except that with the blowout in the kahawai "TACC" for 1992/93, we now request catch limits be placed on the set net fishery.

For kahawai, we propose the purse seine catch limits be reduced to a by-catch level: 200 tonnes KAH1, 100 tonnes KAH2, 300 tonnes KAH3, but that these reductions be linked to a joint MAF / Industry / recreational tagging programme to determine biomass (see Appendix). As an incentive to participate in tagging, the purse seiners would be offered an extra research tonnage of either 700 or 1400 tonnes.

For kingfish, the commercial catch has again increased and the 65 cm size limit has not had any effect in limiting the commercial catch. Therefore, it is imperative that catch limits of 1 tonne be allocated to each of the top 20-30 longline and setnet fishermen who have been targeting kingfish. For kingfish, we are also still awaiting the stock assessment report that has been promised by the Minister and MAF for the last 3 years.

Finally, the recreational sector asks that both species be given priority for entry into the QMS. Given that we are now back into consultation, it is important that a joint MAF / industry / non-commercial task force be established to push both species into the QMS as soon as possible, hopefully by October 1, 1995.

KAHAWAI

1. 1992/93 catch blowout

Table 2 of the 1994 Plenary report shows that the catch increased from 5051 tonnes in 1991/92 to a massive 7352 tonnes in 1992/93. Table 3 shows that the purse seiners were constrained to their catch limits. Therefore the recreational sector believes that this catch blowout would have been caused by other methods targeting kahawai - we believe set netting being the main culprit.

We are very concerned by this near 2000 tonne blowout because the current "TACC" is supposed to be 5431 tonnes. This is determined from the 6500t established in

1991, minus KAH1 466t reduction in 1993, minus 10% for Maori.

MAF and the Minister need to take urgent action on the other methods, which would be very similar to the proposed action we have made for kingfish. Analyse the data to determine who the top 30-40 kahawai set, ring, drag netters are and then put a pro-rated catch limit on each individual fishermen. These catch limits would have to be backed up with some strong enforcement such as no dumping and the fishermen to stop fishing once his limit had been exceeded.

We accept that it is highly unlikely that trawlers and Danish seiners could target kahawai, and therefore they would not be part of these proposed individual catch limit restrictions. Long liners may be targeting kahawai.

2. 1994 kahawai stock assessment

It is unfortunate that we did not participate in the kahawai working groups because of our policy of non-consultation, although I understand Dr. Mark Feldman did participate on an unofficial basis. Note that it is important that for the 1995 assessment that some of the working group meetings are held in Tauranga or Auckland to enable as many as possible of the interested and effected commercial and recreational fishermen to less expensively attend these meetings.

We strongly disagree with the 1994 assessment, beginning with the sentence on page 143 of the Plenary report "For the Bay of Plenty ..... scientific evidence does not support this assertion:" and the 4 points that follow.

i. (a) Recreational length frequencies

We do not understand how this sentence even made it into the report as it has no meaning because the 1990/91 ramp survey is not compared to any data from previous years. We would suggest that if surveys had been done through the 1970s and 1980s that 70-80% of the recreational catch would have exceeded 50 cm - strong evidence that the size frequency and the fishery is in decline.

ii. (b) Aerial sightings data

We have examined the Bradford and Taylor report and do not agree with the conclusions that the data show no decline. We oppose the use of this data mainly because the data was not collected by MAF, is not independent of the commercial fishery and is therefore not reliable.

Our graph shows a considerable decline from the early 1980's to 1990 when the fishery was being heavily fished. It is very interesting to us, that in 1991 when Ken Shirley introduced the purse seine catch limits, that all of a sudden the sightings data dramatically increased, presumably because industry would be wanting to show the fishery was in good health. If MAF had collected the data, we could believe 1991, but because industry collected it, we do not.

Through Keith Ingram and Paul Barnes, I am aware of how important the industry considered it was with the design of the current SNA1 tagging programme, that the tags be collected and returned independent of commercial and recreational fishers. MAF has had to collect the tags, so that there can be no allegations that the tagging survey was corrupted as it is alleged happened in 1983/84 with tag return bias.

The aerial sightings data is a wonderful example of industry co-operation in the 1970's and 1980's, but co-operative programmes (especially if they involve only a few individuals) in the political fisheries climate of the 1990's have to be used with considerable caution. We strongly request that the aerial sightings data not be included in the kahawai stock assessment even though our graph shows a dramatic decline through the 1980s.

iii. Tagging paragraph (bottom of page 143)

In our 1993 submission, we explained through our "sink" hypothesis (stated below), how we believe the purse seiners have been responsible for the overall decline in kahawai around NZ. It must be remembered that kahawai moving on average 50 nm are considerably more mobile than snapper which move only a "few kilometres" (from MAF Information Pamphlet No. 18).

We consider that the large purse seine catches in two relatively small areas (the Bay of Plenty (actually Waihi to Whakatane) and the top of the South Island (although not discounting the purse seine activity in KAH2)) have led to the overfishing of the kahawai fishery around the entire coast of New Zealand. The results of the 1981-84 tagging programme showed that on average the kahawai moved 50 miles in a 2 year period. Thus, since the early to mid 1980s when the first large purse seine extractions were taken, the kahawai could easily have moved considerable distances eg. the 150-200 miles from the north-west coast to the top of the South Island. We suggest that the concentrated purse seining in these hotspots creates a void into which kahawai from other areas ultimately sink."

iv. Values of Z

We do not understand what Z and M are all about, but given the amount of influence the industry appears to have already had in the working group process and the lack of critical review as has been discussed in the 3 points listed above, we have difficulty accepting Z and M especially given the next 2 pieces of information we wish to discuss.

3. Other Information

i. 1983 purse seine data

We note that in the final 1994 Plenary report, that there is no reference to the 3 purse seine shots done in 1983, whereas this data was mentioned in Brian Jones draft

FARD and in earlier versions of the working group report. Why has reference to this data been removed?

We have been meaning to ask Brent Wood if it is true as stated on pg 5 of the Jones FARD that "The [1983] samples were not selected at random since large fish were selected for ageing and for comparison with the fish being currently tagged in the Bay (Wood pers. comm.). Mark Feldman has contacted Mike Bradstock and I believe Gavin James (the other 2 main people involved in the 1983 tagging) and they were certain that MAF would always tag by proper random selection of fish. Therefore provided that Brent Wood can confirm that the fish were tagged at random, the 1983 data should be used.

As such, the analysis (refer to Figure 6 in the FARD) that Jones did should be used, but it should be highlighted in a different way. Jones says "Two landings in 1991-92 had larger mean sizes than the 1983 samples and eight had similar mean sizes". What is totally neglected, is that there must have been a further 19 samples (from the total of 29 samples) that were smaller than the 1983 samples.

The bottom line is that in 1983 the fish averaged 51.3 cm, whereas (as shown by Figure 5 (fig 3 in the Mckenzie report) in the Jones FARD) the fish averaged 46.1 cm in 1991 (1991 does not include small fish in the 30-35 cm range) and 45.3 cm in 1992. Even if the 30-35 cm fish were removed from the 1992 graph (for whatever reason), the average size for 1992 would still only increase to about 46 cm.

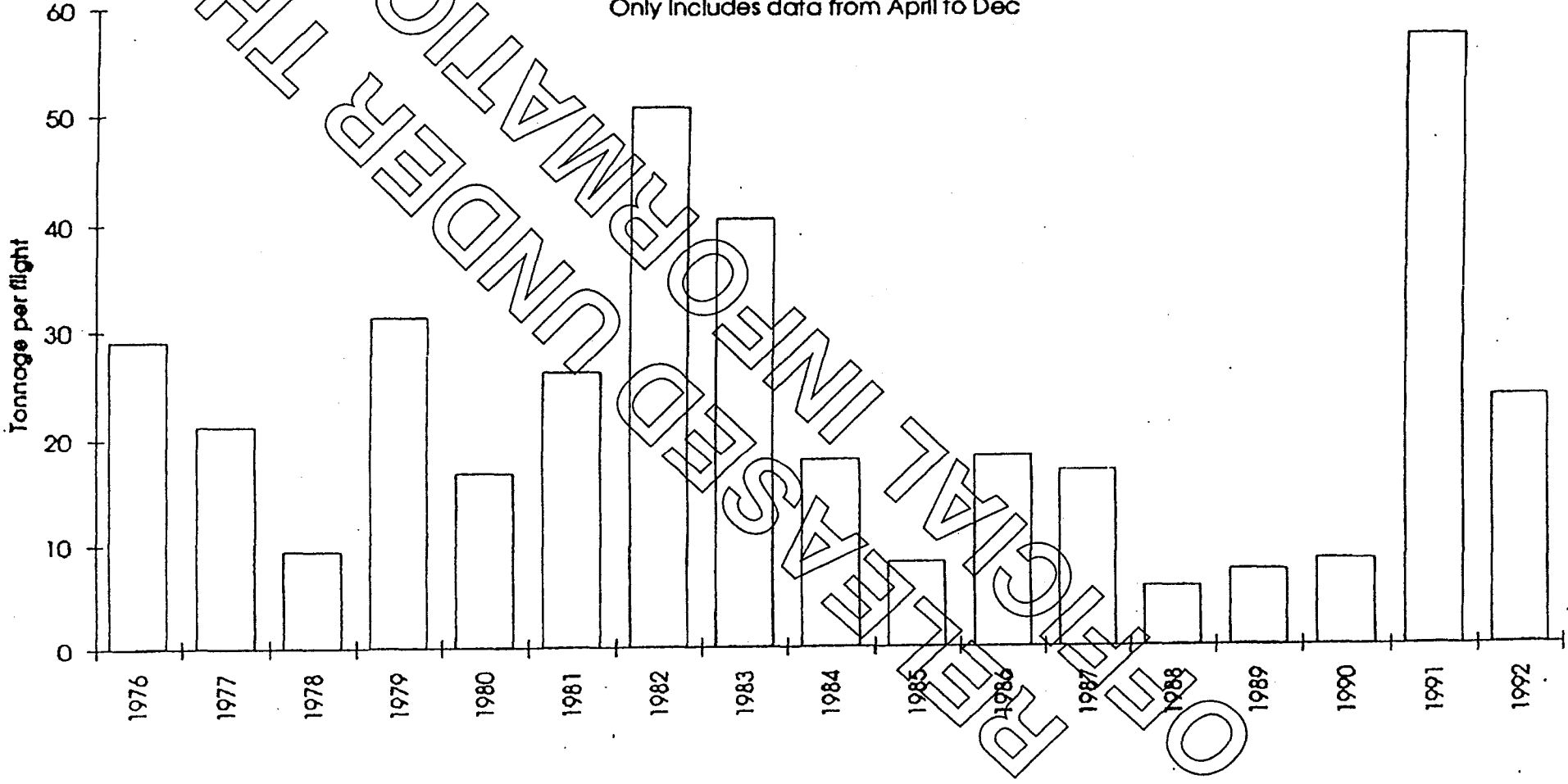
We acknowledge that the 1983 purse seine data may be a bit scant, but when combined with the recently released MAF Kaharoa report (discussed below), suggest that it all starts to add up towards evidence of kahawai overfishing.

The Jones FARD also attempts to compare purse seine length data from East Cape to Gisborne in the 1970's to the Bay of Plenty 1990s data. The comparison is invalid because area has been confounded and it is like comparing apples and oranges. The comparisons must be from similar areas. As has been shown between the Gulf-Bay of Plenty and Tasman Bay-Kaikoura coast, there can easily be large length differences between areas that are not that far apart.

ii. Kaharoa trawl survey data

Adam Langley (MAF Fisheries North) has written a report summarising the Kaharoa trawl survey results from 1982-1993, which includes a section on kahawai. Pg 16 states "In the west coast North Island survey area, the mean length of fish comprising the 30-55 cm length range declined from 41.0 cm in 1986 to 36.7 cm in 1991. Similarly, in the Bay of Plenty the mean length of adult kahawai declined from 47.4 cm in 1985 to 44.7 cm in 1992."

There are essentially only two explanations why there can be a decrease in average fish size: either there has been a major increase in the numbers of smaller fish (recruitment), or there has been a major increase in adult removals (overfishing). Up until the Kaharoa results, it was not possible to distinguish between these two



hypotheses because there was no kahawai recruitment data. However for the Hauraki Gulf pg 16 of the Langley report states "The YCS [Year Class Strength] indices indicate strong 1981, 1984 and 1986 year classes and weak year classes from 1980, 1983, and each year from 1987 to 1991" (my emphasis). The Gulf is likely to be a major juvenile nursery area for kahawai because the kahawai in this area are consistently smaller than in the Bay of Plenty and Northland.

Conclusion

The kaharoa recruitment data is especially significant because it strongly suggests that recruitment has been poor in the last few years and that therefore the decreases in average size are most likely due to overfishing. As the catch statistics show, there has been a major increase in adult kahawai mortalities through the excessive purse seine catches over the last 10 years. We conclude that the Kaharoa and 1983 purse seine data provide evidence in line with the vast amount of anecdotal recreational evidence that the kahawai fishery is being overfished, and that there is a dire need for further commercial catch restrictions as outlined in the summary.

KINGFISH

Background

Our observations regarding the state of the kingfish fishery are similar to our observations for kahawai. Many recreational fishermen have reported a decline in size and availability over the last 10 years, and especially the last 5 years. At the same time the commercial kingfish catch has steadily increased from 250-300 tonnes in the early 1980s to around 450-500 tonnes in the 1990s. We would strongly suggest that these two observations are causal and linked.

We ask that kingfish become a "recreational fish" but not in the same way as marlin by decommercialising the species. Hopefully by October 1 1995, kingfish will be brought into the quota system with a TACC at the "dead" by-catch level of 150 tonnes. We acknowledge that decommercialisation is not an option for kingfish because 30-50% of the kingfish catch will inevitably be caught dead at the boat as a genuine by-catch in the trawl, longline and setnet fisheries which will be unavoidable. In the interim, we would want the management of kingfish improved by the introduction of an explicit 1 tonne catch limit on the 20-30 longline and setnet fishermen who have been targeting kingfish and causing the damage.

150 tonne "dead" by-catch TACC

Having recognised kingfish as a "recreational fish", then the TACC should be set at the dead by-catch level which from our understanding of the fishery would represent a TACC of around 150 tonnes. The reason that the TACC would have to be set at

the dead by-catch tonnage is simple. We acknowledge that some kingfish will inevitably be caught dead as a by-catch in the trawl, longline and setnet fisheries which will be unavoidable.

A prospective kingfish TACC set at 150 tonnes should not be considered as an overstatement of an initial negotiating position. It is a definitive claim that can be substantiated as follows. Prior to the quota system, it is likely that no commercial fishermen were deliberately targeting kingfish. This point needs to be acknowledged because prior to 1986 most northern commercial fishermen were busy targeting snapper in the "race for fish" to establish catch histories. The total commercial tonnages of kingfish before 1986 were: 1980 294 t, 1981 290t, 1982 326 t, 1983/84 310 t, 1984/85 245 t, and 1985/86 255 t. These catches average out at 286 tonnes per year. We estimate that 50-70% of the commercially caught kingfish would be alive and reasonably healthy when brought on board the boat. Therefore, the 150 tonne TACC represents that half of the kingfish catch which would be caught dead.

It is only with the advent of the quota system in 1986, that some commercial longline and set net fishermen have started to target kingfish for primarily two reasons. Either as a race for fish to build up a catch history, or because they had no quota and kingfish was a non-quota species with no catch limit restrictions. Through a combination of skill and trial and error these fishermen have learnt to target kingfish by adapting their existing methods eg. floating longlines or nets set around the offshore islands.

The fishermen who are targeting kingfish would be easily identified in the MAF database. From discussions with fishermen, we know that normal longline and setnet fishermen catch only around 200-1000 kilos of kingfish each year as a genuine by-catch, whereas the fishermen targeting kingfish have an average catch of 5-15 tonnes each year. MAF Auckland data shows that 20 fishermen are taking around 50-55% of the annual kingfish catch, although up to 5 of these "fishermen" may actually be fishing companies operating a number of vessels; we acknowledge that it is unlikely that these companies are targeting kingfish.

1 tonne catch limit

Because kingfish is not a quota species, these fishermen would have to be controlled in a similar way to how the purse seiners are controlled in the kahawai fishery. An explicit annual 1 tonne catch limit for kingfish would have to be written into their fishing permits. The fishermen would be forced to change their fishing style and pattern in order to reduce their kingfish catches. The 1 tonne kingfish limit would become their limit regardless of what or how these fishermen were fishing. MAF would have to maintain an organised monthly record of their CELRs which we would want to see; we need not know the individual fishermen's names and boat numbers.

In order for these fishermen to comply, there would have to be a severe penalty if a fisherman exceeded the limit. We envisage a penalty something like his permit would be removed so that he could not legally go commercial fishing for 12 months after the offence. For blatant or repeated non-compliance, the boat would be forfeit to the

Crown. These conditions would also have to be explicit and written into the permit. t would also have to be made clear that a 1 tonne catch limit was in no way any guarantee of what there quota may ultimately be. We imagine that when kingfish is brought into the quota system, fishermen and companies would receive a quota pro-rated down from their current catch.

Ross Gildon
Management Executive
NZ Recreational Fishing Council

KI 12

This is the document marked **KI 12** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

FINAL SUBMISSION TO MAF POLICY

ON KAHAWAI

FOR THE 1994 TACC REVIEW

FROM THE NZ RECREATIONAL FISHING COUNCIL

AUGUST 1994

NZ RFC FINAL KAHAWAI SUBMISSION TO THE 1994 TACC REVIEW

SUMMARY

Allowance for recreational fishing will be the most significant aspect of the 1994 TACC review as outlined in the letter the Minister wrote to the sector group leaders as quoted here *"My perception is that for several inshore fisheries there is not currently an adequate allowance. Consequently, I intend making my responsibility to allow for non-commercial interests an important point of this years review."*

It is very pleasing to see that for the first time, a Minister of Fisheries who has the courage to recognise that there is more to managing the fisheries than simply ensuring stock sustainability. The Minister alone will make the judgement as to whether or not the current non-commercial catch rates adequately allow for the non-commercial interest. The 1991 boat ramp survey showed that for the northern region overall the average catch was around 0.4 kahawai per person per trip. Very simply, 0.4 kahawai is not an adequate allowance in anyone's language for non-commercial fishing.

We are very concerned about the blowout in the kahawai "TACC" for 1992/93 and believe that this catch increase is due to large catches by set netters. As such, we ask MAF to investigate the 92/93 blowout and request that catch limits be placed on the main 30-40 kahawai set net fishermen.

The changes that the Minister made in the 1993 TACC review are applauded by the recreational sector. The decision to combine KAH1 and KAH9 was correct and was based on the fact that the KAH9 purse seine catch limits were set in 1991 at zero as clearly shown in the 1994 Plenary report. The decision to reduce KAH1 by 466t in 1993 was good, but did not go far enough. We were pleased that the Minister (as Phill Major) at the 1994 NZRFC AGM recognised this and announced during the question section that he has proposed to further reduce KAH1 another 400 tonnes. For KAH2, we will be seeking a reduction down to 650 tonnes. Regarding KAH3, we note that for the second straight fishing year the purse seine catch limit of 2,339 tonne was not taken. As explained in the submission, we ask that the KAH3 purse seine limit be reduced to 1900 tonnes, which approximates the average of the catch for the last two years.

We are still very keen on the concept of a joint MAF / industry / recreational kahawai tagging programme to determine biomass as outlined in our initial submission. As an incentive to participate in tagging, the purse seiners would be offered an extra one-off research tonnage of either 700 or 1400t.

Finally in regard to the kahawai stock assessment, we are not arguing that any one of the pieces of evidence that we have provided is definitively showing that kahawai is being overfished. But what we are saying is that taken collectively together, the information suggests that the kahawai fishery may be in trouble. We would further suggest that for fisheries that are shared between the sectors, that it is imperative that fisheries management decisions should be based around the precautionary approach.

1. Non-commercial allowance

In his letter (late June) to sector group leaders, the Minister wrote (as quoted below) that he considers that recreational allowance is important in this years TACC review.

> *"My perception is that for several inshore fisheries there is not currently an adequate allowance. Consequently, I intend making my responsibility to allow for non-commercial interests an important point of this years review."*

It is very pleasing to see that for the first time, a Minister of Fisheries who is prepared to recognise that there is more to managing the fisheries than simply ensuring stock sustainability. Doug Kidd has recognised that the other part of the fisheries management equation is to ensure adequate allowance to the Maori traditional and recreational fishing sectors. In the past, most Ministers (and senior MAF officials) have simply put allowance for the non-commercial sector in the too hard basket, but it is heartening to see that Minister Kidd has the courage to address this very pressing issue.

Under Section 28D of the Fisheries Act, it is the Minister of Fisheries who has the statutory responsibility to allow for non-commercial interests before setting the TACC. It is the Minister alone who makes the judgement as to whether or not the current non-commercial catch rates adequately allow for the non-commercial interest. Clearly, as indicated during the question section at the NZRFC AGM, the Minister (through Phill Major) does not believe that the non-commercial allowance for KAH1 is sufficient (see section 7 for more detail). It is our contention that the recreational allowance in KAH2 and KAH3 is also not sufficiently adequate, and we will be seeking reductions in the purse seine catch limits in these areas.

The 1991 northern boat ramp survey showed that for the northern region overall the average catch was around 1.1 snapper and 0.4 kahawai per person per trip. These catch rates are very poor and must increase if recreational fishermen are to enjoy the fishing the way it use to be, before the pair trawlers and purse seiners cleaned out our inshore fisheries. Very simply, 0.4 kahawai per person is not an adequate allowance in anyone's language for non-commercial fishing. We are certain the average kahawai catch in KAH2 and KAH3 is not much different to the KAH1 catch rates.

The purse seine catch limits must be reduced to improve recreational kahawai catch rates. It was the purse seiners who caused the decline in the kahawai fishery and who made the financial profit from their increased kahawai catches. It is therefore the purse seiners that must carry most of the responsibility for improving the kahawai fishery. Note that we are not seeking a return to the glory days of the 1950s, 1960s and 1970s when kahawai were plentiful in what was then essentially a virgin fishery. We know and recognise that the catch rates will never be that good again. But we certainly want to have a considerable improvement on our currently pathetically low catch rates.

2. Legal action and other challenges to the Minister

No doubt the industry will challenge the Minister's decision on three counts: (1) the Minister will be threatened with Court action, (ii) catch reductions will cost jobs, and (iii) the industry will say there is no evidence to suggest that kahawai is being overfished. This latter challenge is the easiest to respond to. It needs to be very explicitly pointed out to industry that the Minister's catch reductions are not about stock sustainability, but about allowance for the non-commercial sector. This concept of allowing for and considering sectors other than themselves, is something that the industry is going to have to get use to as time progresses through the 1990s. Officials should not be embarrassed or backward in making this clear to industry. The people want their fish back!

Also in regard to the "no evidence" argument, we totally dispute this contention, and the majority of this submission is spent endeavouring to convince MAF that there is a growing body of data that suggests that kahawai is in trouble.

In some ways, we hope that the kahawai or snapper reductions do go to Court. We imagine that the hearing might last half a day provided that the Minister defends his decisions on the basis of allowing for non-commercial interests pursuant to Section 28D. The public of New Zealand and the news media, we are sure would totally get in behind the Minister and support him if he was to take a stand in Court.

The case would be dismissed by obtaining the sworn affidavits of numerous long term recreational fishermen who would describe to the Judge how their catches have declined over the years. We are certain compared to previous years, that all Judges would agree that 0.4 kahawai per person per trip is not an adequate allowance. The case would be dismissed and it would send a very clear signal that the political and judicial system expects industry to be more responsible in its relationship with the non-commercial sector.

In terms of jobs, this is one of the old industry defenses against any management action. But, we note that since the KAH1 and KAH2 purse seine catch peaked in the late 1980s, there are still 5 purse seiners operating in the north, even though the purse seine catch has decreased. The reason being is that the purse seiners have increased their catches in other species, notably jack mackerel and English mackerel. Around 1992, the Minister informally proposed that the industry should trade mackerel for kahawai, and be allowed to increase their mackerel catch but decrease their kahawai catch. Unfortunately, only half of this proposal has occurred due to the dramatic increase in the English mackerel catch from 1640t in 86/87 to around 15,000t for the last two fishing years. The English mackerel catch increased because there was no TACC on the fishery, so effectively the industry got the Minister's proposed "trade" for nothing.

If the catches are decreased, industry will soon learn to add more value to the kahawai product in terms of processing the catch. Already we have seen added value brought into the kahawai fishery. Much of the purse seine catch use to simply be exported as cray bait or was fish mealed, whereas now much of it is exported to Iran

1851

and Iraq for human consumption. While on the domestic market, I know that smoked kahawai frames and Sealords tinned "salad fish" is popular with many families.

We do not believe the catch reductions will lead to job losses because industry will find "new ways of doing things" through better marketing and value added processing.

7352
5051
2301
700

3. On catch statistics and the 1992/93 catch blowout

Table 2 of the 1994 Plenary report shows that the catch increased from 5051 tonnes in 1991/92 to a massive 7352 tonnes in 1992/93. Table 3 shows that the purse seiners were constrained to their catch limits. Therefore the recreational sector believes that this catch blowout would have been caused by other methods targeting kahawai - we believe set netting being the main culprit.

We are very concerned by this near 2000 tonne blowout because the current "TACC" is supposed to be 5431 tonnes. This is determined from the 6500t established in 1991, minus KAH1 466t reduction in 1993, minus 10% for Maori.

MAF and the Minister need to take urgent action on the other methods, which would be very similar to the proposed action we have made for kingfish. Analyse the data to determine who the top 30-40 kahawai set, ring, drag netters are and then put a pro-rated catch limit on each individual fishermen. These catch limits would have to be backed up with some strong enforcement such as no dumping and the fishermen to stop fishing once his limit had been exceeded.

We accept that it is highly unlikely that trawlers and Danish seiners could target kahawai, and therefore they would not be part of these proposed individual catch limit restrictions. Long liners may be targeting kahawai.

Update on the 92/93 blowout

It is absolutely imperative that MAF analyse the 92/93 data to determine why the catch increased so much. We will be writing to the Minister about this matter to make him aware of this very unsatisfactory situation. **We ask that information and a comprehensive analysis be presented to us at the Minister's meeting on August 16 (preferably before then) as to why the blowout occurred.** We fully expect that the blowout was due mainly to the set netters, and therefore we would expect MAF to have a plan by August 16 as to how to curtail the set net catch to the "TACC". We still maintain that our option of an individual catch limit on the top 20-30 set netters would be the most effective option.

IF THE TACC ARE NOT CONSTRAINING catches why bother HAVING TACC's

4. Working Group meetings

It is unfortunate that we did not participate in the kahawai working groups because of our policy of non-consultation, although I understand Dr. Mark Feldman did participate on an unofficial basis.

Note that it is important that for the 1995 assessment that some of the working group meetings are held in Tauranga or Auckland to enable as many as possible of the interested and effected commercial and recreational fishermen to less expensively attend these meetings. MAF Fisheries has made tremendous improvements in the stock assessment process in making the process more transparent and user friendly.

But, we would like MAF Policy to stipulate to MAF Fisheries that for key inshore species such as snapper, kahawai, paua, rock lobster and blue cod, it is imperative that the Working Group meetings are rotated around the regions with most interest in the respective species. The Plenary would still be held in Wellington.

We ask that MAF Policy and MAF Fisheries respond to and comment on this proposal at the August 16 meeting.

5. On stock sustainability matters and the 1994 kahawai assessment

We strongly disagree with much of the 1994 assessment, beginning with the sentence on page 143 of the Plenary report "For the Bay of Plenty ..... scientific evidence does not support this assertion:" and the 4 points that follow.

i. Recreational length frequencies

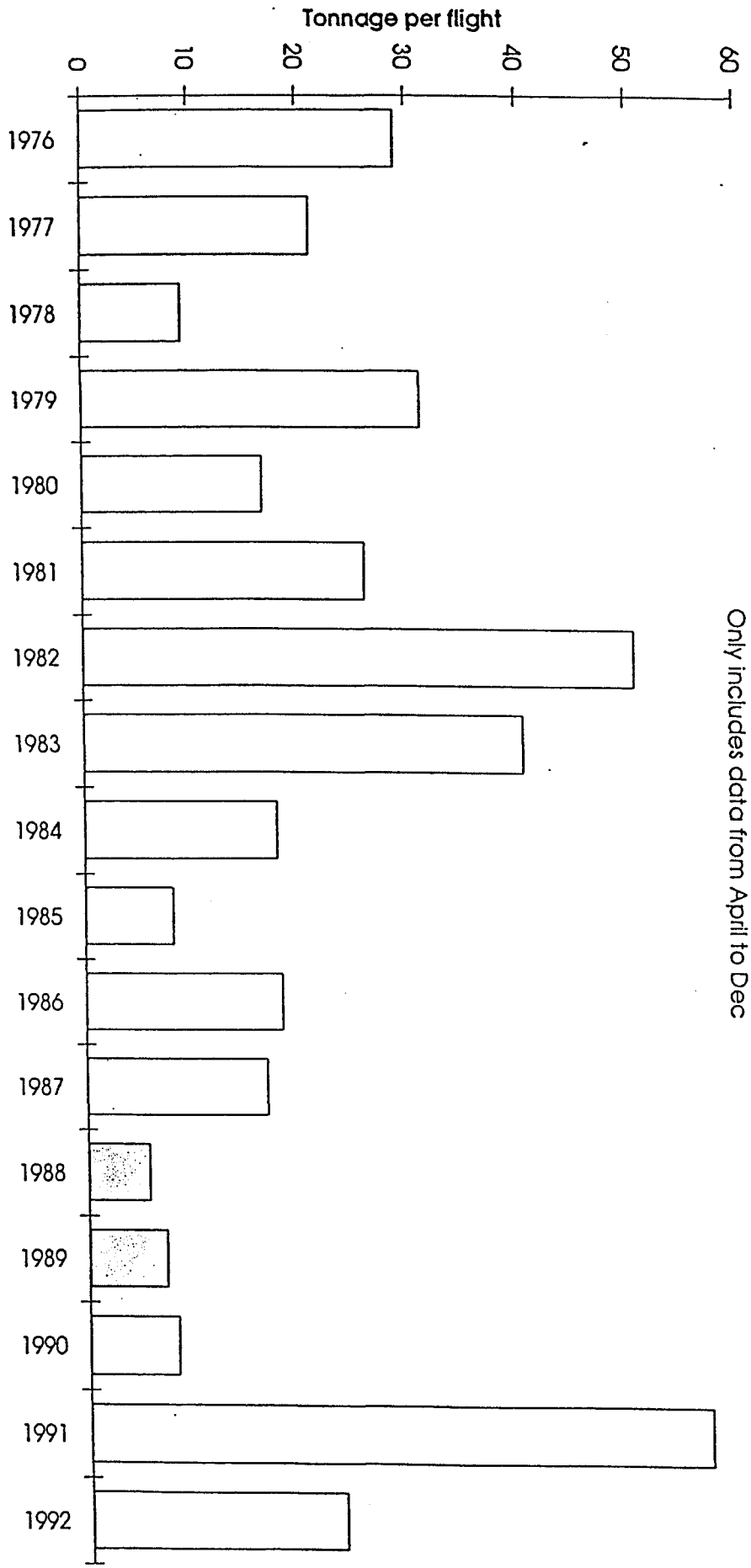
We do not understand how this sentence even made it into the report as it has no meaning because the 1990/91 ramp survey is not compared to any data from previous years. We would suggest that if surveys had been done through the 1970s and 1980s that 70-80% of the recreational catch would have exceeded 50 cm - strong evidence that the size frequency and the fishery is in decline.

ii. Aerial sightings data

We have examined the Bradford and Taylor report and do not agree with the conclusions that the data show no decline. We oppose the use of this data mainly because the data was not collected by MAF, is not independent of the commercial fishery and is therefore not reliable.

Our graph shows a considerable decline from the early 1980's to 1990 when the fishery was being heavily fished. It is very interesting to us, that in 1991 when Ken Shirley introduced the purse seine catch limits, that all of a sudden the sightings data dramatically increased, presumably because industry would be wanting to show the fishery was in good health. If MAF had collected the data, we could believe 1991, but because industry collected it, we do not.

Through Keith Ingram and Paul Barnes, I am aware of how important the industry considered it was with the design of the current SNA1 tagging programme, that the tags be collected and returned independent of commercial and recreational fishers. MAF has had to collect the tags, so that there can be no allegations that the tagging survey was corrupted as it is alleged happened in 1983/84 with tag return bias. .



Average median tonnage per flight

Area 147, 164 and 165 have been combined

Only includes data from April to Dec

The aerial sightings data is a wonderful example of industry co-operation in the 1970's and 1980's, but co-operative programmes (especially if they involve only a few individuals) in the political fisheries climate of the 1990's have to be used with considerable caution.

Comment on Malcolm Francis' comment

Malcolm Francis defended the aerial sightings database essentially on two counts. First, Francis argued that the 1991 increase in the tonnage per flight shown in our graph (Appendix) was due to higher water temperatures in 1991. He seemed to be arguing that kahawai might be more prone to schooling or catching in warm water years than in cooler years. We have read his June NZ Seafood article regarding the relationship between snapper recruitment and water temperature. If it was true that there was a warm water - kahawai schooling correlation, then why in 1988 and 1989 when the water was warmer than in 1991, was the tonnage sighted per flight flown in our graph at the lowest point?

We consider that the latter stages of the aerial sightings database are probably more highly correlated to the (fisheries) political climate that the meteorological climate!

The second defense was based on the weight given to the overseas industry consultants being very impressed with the aerial sightings database. But, these consultants are industry and their imminence in the scientific world should not shroud the fact that the bottom line is that they are being paid by industry. Everyone, including ourselves, is naturally impressed with a 20 year time series involving mostly the same pilots. However, it would be too easy to manipulate such a database once the going got tough (1991), and therefore the data need to be interpreted with caution.

The hoki - fur seal interaction is another example of how data collected by the industry needs to be treated with caution. In the late 1980s and early 1990s, there were large differences in the reported rates of fur seal capture between those observed by the MAF observers and those reported by the skippers. This is becuase it simply was not in the skipper's interest to be reporting fur seal captures. Now, thankfully most boats carry some sort of independent reporting systems / observers because MAF was not prepared to rely on the skippers who obviously had a vested interest in not reporting fur seal deaths.

A third defense was the comment made at the meeting on July 21 that it would be regrettable to not use the aerial sightings database on the basis that the data were not collected independent of the fishery. The comment was also based around the notion that the aerial data was the only real data MAF had on the kahawai fishery. We are not saying do not use the database, but rather treat the data with caution and recognise that after 1991 when the fishery became political, that the data could be suspect.

The emphasis we would place on the aerial data is that as shown by our graph there was a considerable decline in the tonnage of kahawai observed per hour flown from the early 1980s to 1990.

iii. Tagging paragraph (bottom of page 143)

In our 1993 submission, we explained through our "sink" hypothesis (stated below), how we believe the purse seiners have been responsible for the overall decline in kahawai around NZ. It must be remembered that kahawai moving on average 50 nm are considerably more mobile than snapper which move only a "few kilometres" (from MAF Information Pamphlet No. 18).

We consider that the large purse seine catches in two relatively small areas (the Bay of Plenty (actually Waihi to Whakatane) and the top of the South Island (although not discounting the purse seine activity in KAH2)) have led to the overfishing of the kahawai fishery around the entire coast of New Zealand. The results of the 1981-84 tagging programme showed that on average the kahawai moved 50 miles in a 2 year period. Thus, since the early to mid 1980s when the first large purse seine extractions were taken, the kahawai could easily have moved considerable distances eg. the 150-200 miles from the north-west coast to the top of the South Island. We suggest that the concentrated purse seining in these hotspots creates a void into which kahawai from other areas ultimately sink."

Malcolm Francis seemed to have difficulty in understanding our sink hypothesis and seemed to regard it as speculative. We agree that it is an hypothesis and that it could be regarded as speculative in the same way that we regard the Plenary book tagging paragraph as speculative. Neither hypotheses are hard fact, and therefore each should be given equal weight. Either delete the Plenary report tagging paragraph, or to be balanced print a paragraph on our interpretation of the kahawai movement data along the lines of the sink hypothesis.

However, we will also provide an explicit comment on the tagging paragraph. The first critical sentence reads "For the activities of purseseiners to be responsible for any declines in abundance in these areas, there would need to be large movements of adult kahawai around and between QMAs." The final part of the next sentence is also critical "... 72% [were recaptured] within 100 nm of the release site."; we understand that the 72% was based on recaptures within 2 years of release.

It is 100 nm from Tutukaka to the Waihi Bluffs which is the northernmost area worked by the purse seiners in the Bay of Plenty, based on the lat and long graphs we presented to the Minister in 1993 showing the exact location of each purse seine kahawai shot from 1983-1989. Thus, fish could easily be moving from Northland and the Hauraki Gulf to the Bay of Plenty, and in so doing causing the decline in Northland and the Gulf that was first noticed by many recreational fishermen in the mid 1980s.

There seems to be a belief within MAF - especially with the pelagic scientists, that kahawai are not very mobile and we suspect that this belief has developed because relative to the tuna species that these scientists are studying most of the time, kahawai are not that mobile. Certainly, kahawai do not seasonally migrate each year

from Fiji to New Zealand! But, as we pointed out in our initial submission, kahawai are considerably more mobile than snapper, and thus could be making "large movements . . . around and between QMAs".

iv. Values of Z

We do not understand what Z and M are all about, but given the amount of influence the industry appears to have already had in the working group process and the lack of critical review as has been discussed in the 3 points listed above, we have difficulty accepting Z and M especially given the next 2 pieces of information we wish to discuss.

Update: We still do not understand Z and M. We wonder that if Z and M were critically reviewed as we have done for the other aspects of the kahawai assessment, whether or not weaknesses and flaws might also be found in the ways these parameters were determined.

6. Other stock assessment information

i. 1983 purse seine data

We note that in the final 1994 Plenary report, that there is no reference to the 3 purse seine shots done in 1983, whereas this data was mentioned in Brian Jones draft FARD and in earlier versions of the working group report. Why has reference to this data been removed?

We have been meaning to ask Brent Wood if it is true as stated on pg 5 of the Jones FARD that "The [1983] samples were not selected at random since large fish were selected for ageing and for comparison with the fish being currently tagged in the Bay (Wood pers. comm.). Mark Feldman has contacted Mike Bradstock and I believe Gavin James (the other 2 main people involved in the 1983 tagging) and they were certain that MAF would always tag by proper random selection of fish. Therefore provided that Brent Wood can confirm that the fish were tagged at random, the 1983 data should be used.

As such, the analysis (refer to Figure 6 in the FARD) that Jones did should be used, but it should be highlighted in a different way. Jones says "Two landings in 1991-92 had larger mean sizes than the 1983 samples and eight had similar mean sizes". What is totally neglected, is that there must have been a further 19 samples (from the total of 29 samples) that were smaller than the 1983 samples.

The bottom line is that in 1983 the fish averaged 51.3 cm, whereas (as shown by Figure 5 (fig 3 in the Mckenzie report) in the Jones FARD) the fish averaged 46.1 cm in 1991 (1991 does not include small fish in the 30-35 cm range) and 45.3 cm in 1992. Even if the 30-35 cm fish were removed from the 1992 graph (for whatever reason), the average size for 1992 would still only increase to about 46 cm.

We acknowledge that the 1983 purse seine data may be a bit scant, but when combined with the recently released MAF Kaharoa report (discussed below), suggest that it all starts to add up towards evidence of kahawai overfishing.

The Jones FARD also attempts to compare purse seine length data from East Cape to Gisborne in the 1970's to the Bay of Plenty 1990s data. The comparison is invalid because area has been confounded and it is like comparing apples and oranges. The comparisons must be from similar areas. As has been shown between the Gulf-Bay of Plenty and Tasman Bay-Kaikoura coast, there can easily be large length differences between areas that are not that far apart.

In discussion with Malcolm Francis, we seem to have resolved that the 1983 purse seine fish were collected at random, contrary to the Brent Wood pers. comm. in the Brian Jones FARD. The pers. comm. was a very unfortunate mistake by Brian Jones.

Now the problem seems to be that there may not be enough data ie. only 3 shots. It just seems to us that every excuse is being offered as a reason not to use the 1983 data and that the industry led Working Group threw this data out too readily under the pretence of inadequate sample size. We believe the real reason the industry did not want the 83 data to be sighted is because when it is compared to the 91/92 data it is strongly suggestive that there has been a size decrease and may cause people to start to consider that the kahawai fishery is being overfished.

ii. Kaharoa trawl survey data

Adam Langley (MAF Fisheries North) has written a report summarising the Kaharoa trawl survey results from 1982-1993, which includes a section on kahawai. Pg 16 states "In the west coast North Island survey area, the mean length of fish comprising the 30-55 cm length range declined from 41.0 cm in 1986 to 36.7 cm in 1991. Similarly, in the Bay of Plenty the mean length of adult kahawai declined from 47.4 cm in 1985 to 44.7 cm in 1992."

There are essentially only two explanations why there can be a decrease in average fish size: either there has been a major increase in the numbers of smaller fish (recruitment), or there has been a major increase in adult removals (overfishing). Up until the Kaharoa results, it was not possible to distinguish between these two hypotheses because there was no kahawai recruitment data. However for the Hauraki Gulf pg 16 of the Langley report states "The YCS [Year Class Strength] indices indicate strong 1981, 1984 and 1986 year classes and weak year classes from 1980, 1983, and <u>each year from 1987 to 1991</u>" (my emphasis). The Gulf is likely to be a major juvenile nursery area for kahawai because the kahawai in this area are consistently smaller than in the Bay of Plenty and Northland.

Malcolm Francis commented that the sample sizes from the Bay of Plenty and the West Coast were a bit small. We can accept that initially when we looked at the

Langley length graphs (Fig 41 and 42) that most of the sample sizes looked reasonably large (WC n=214, 43, 786, 478; BOP n=214, 151, 11, 179, 186). However, we acknowledge that once the fish under 30 cm are excluded, that the sample sizes do start to get smaller.

However, there still seems to be this attitude that hundreds if not thousands of fish need to be measured or counted to produce a reasonable estimate. Again, data that are suggestive of overfishing, seem to have been all too easily dismissed. We say before these data are dismissed, produce the optimization studies that can show that the Kaharoa samples sizes were too small. Until then, the data, although scant, should be allowed to stand.

Another reason why we would put extra weight on the Kaharoa data is that the fish were caught as a by-catch of most probably a large number of standardised research trawl tows of around 1 nm in length. The tows were most probably spread throughout the Bay of Plenty and West Coast, and would therefore be reasonably indicative of the kahawai stock in these areas.

iii. New data on recreational CPUE and size

As mentioned in the covering letter, the following recreational data (see Appendix) is available comparing line caught kahawai between 1983 and 1991.

1983	55 cm (n=417)	MAF Report No. 103 (pg 12-13) Motu R (21 days s/casting)
	49.8 cm (n=32)	MAF tagging report Table 8a BOP (12 days line fishing)
1991	42.1 cm (n=3775)	MAF survey Fig 3.13 BOP(January - July boatfishing)
	41.45 cm (n=133)	MAF survey Opotiki - Te Kaha (March -July surfcasting)
1983	2.55 f/p/hr	MAF report 103 pg21 on Motu River (surfcasting)
1991	0.1 f/p/hr	MAF survey Fig 3.5 Opotiki (surfcasting)

Mrs. Lenise Ludlow was the person who interviewed the surfcasters during MAF's 1991 recreational fishing survey. She surveyed most weekends the main surfcasting spots in the area from Opotiki to Te Kaha from March to July. The Motu was one of her routine survey points. She has stated that there was nothing different about the fishermen, the interviews, the fishing gear, target species, kahawai size and the catch rates at the Motu compared to the other 5-6 spots she regularly surveyed. In essence, the catch rates and the kahawai size at the Motu were just as bad and small as at any of her other survey areas. MAF Auckland has the data and we are certain that if the data was analysed then there would be conclusive evidence that her claims are correct.

The largely Maori kahawai fishery at the Motu River use to be famous. But now, the bottom line is that there has been a dramatic decrease in both size and catch rates for the Motu River that simply cannot be denied. In the past, every year the local Maori people use to enjoy catching for food good numbers of large kahawai, however since the mid 1980s the kahawai have become small and scarce.

Kahawai stock assessment conclusion

The kaharoa recruitment data is especially significant because it strongly suggests that recruitment has been poor in the last few years and that therefore the decreases in average size are most likely due to overfishing. As the catch statistics show, there has been a major increase in adult kahawai mortalities through the excessive purse seine catches over the last 10 years. We conclude that the Kaharoa and 1983 purse seine data provide evidence in line with the vast amount of anecdotal recreational evidence that the kahawai fishery is being overfished, and that there is a dire need for further commercial catch restrictions as outlined in the next section.

7. Kahawai purse seine catch limits

We applaud the changes that the Minister made in the 1993 TACC review.

KAH9 The Minister's decision to combine KAH1 and KAH9 was correct and was based on the fact that the KAH9 purse seine catch limits were set in 1991 at zero as clearly shown in the 1994 Plenary report. Industry is totally wrong if they are trying to suggest that no catch limits were set. In addition to the Kaharoa data, commercial set netters and recreational fishers on the west coast (from what use to be KAH9) have noticed a decline in kahawai abundance.

A disturbing aspect about the 92/93 catch statistics in the Plenary book (Table 3) is the 140 tonnes that the purse seiners illegally took and reported to MAF Policy from KAH9. As part of MAF's analysis into the 92/93, (we would like to know preferably before the August 16 meeting) the exact amount that was taken from KAH9.

KAH1 The decision to reduce KAH1 by 466t in 1993 was good (reduced by around 25%), but did not go far enough. We are pleased that the Minister (as Phill Major) at the 1994 NZRFC AGM recognised this and announced during the question section that he has proposed to further reduce KAH1 another 400 tonnes; we are prepared to produce the AGM tapes to confirm the Minister's proposed reduction. The KAH1 reduction of another 25% on the original 1,666 tonnes is justifiable since it is KAH1 where recreational catch rates are at their lowest.

KAH2 In keeping with the two 25% reductions in KAH1 and the approximate 25% reduction we will be asking for in KAH3, we are asking for a reduction of around 25% in KAH2 to a catch limit of 650 tonnes for the purse seiners. After KAH1, recreational fishers have certainly noticed a decrease in kahawai abundance and size in KAH2, and recreational kahawai catch rates in KAH2 have not improved over the last three years since 1991 when the purse seine catch limits were first introduced.

KAH3 We note that for the second straight fishing year the purse seine catch limit of 2,339 tonne was not taken. The industry through the Working Group has offered up the lame excuse that the quota was not taken because of bad weather. We do not accept this excuse and note that no weather data has been offered to

substantiate this excuse. We consider that the reason why KAH3 was not caught is that simply the fish are not there to be caught because the fishery is being overfished. Many recreational fishermen and inshore commercial fishermen in the southern areas have reported that kahawai are no longer as abundant as they used to be.

In the Minister's letter (late June) to the sector leaders, it is apparent that he is concerned about the fact that the flatfish TACCs have never been caught. We agree with the Minister's comments that this reflects poorly on the principles of the QMS, in that the TACC does not restrict effort. We suggest that the same sort of principles apply to KAH3. Accordingly, we ask that the Minister should take immediate action on KAH3 and reduce the purse seine limit approximately 25% to 1900 tonnes, which equates to near the average catch for the last two years.

There is another especially disheartening and annoying aspect about KAH3 and the voluntary agreements that were recently negotiated between the local recreational people and the purse seine companies (see July NZ Seafood). Some of these areas are obvious areas where the purse seiners have never fished because they are either too shallow (under 10 metres) or over rocky reef areas. The companies have successfully mislead the relatively inexperienced Nelson/Marlborough recreational people. It is the same tactic that the purse seine companies tried to pull in KAH1 during the later stages of the 1993 TACC process. These strategies are a poor reflection on the companies and an indictment on voluntary agreements. No doubt the same companies are now trumpeting the voluntary agreement and asking for quota increases.

Ross Gildon
Management Executive
NZ Recreational Fishing Council

5. RESULTS

During the 21 days spent in the field over the sampling period, 400 kahawai were caught and examined, and 85% of these were longer than 35 cm (Fig. 3). The mean length was 55 cm, and the ratio of males to females was 40:60. Most of the fish were caught in trammel nets, and the fact that none were caught in the 50 mm net or in a seine net (10 mm mesh) indicates that few or no small fish were present during the study period. It was considered that these two methods would have indicated the presence of juvenile kahawai.

The gonads of male and female kahawai both increased in maturity (Nikolsky scale) between November 1982 and mid February 1983 (Fig. 4). In November, less than 1% of kahawai examined had gonads which had matured to stage 3 or greater. The February sample contained the highest proportion of maturing fish, with 65% being at stage 3 or greater, and 43% of these were at stage 4. The comparable figures were 56% and 13% in late January, and 34% and 12% in early March. In April, the percentage of gonads developed to stage 3 or greater was only 4%. However, in this sample, 75% of the gonads were considered to be resorbing; the degenerating gonads were decreasing in weight and size, and the condition of the sexual products was regressing. This was generally apparent from the uneven size of the eggs, and from the large ovaries which were mottled in colour and unevenly filled. The sample of kahawai caught in April also contained a high proportion of fish showing signs of external damage to the eyes, tails, and gill covers, and internal deterioration, usually of the liver.

Examination of the stomachs showed that from November 1982 to mid April 1983, the percentage of fish with food in their stomachs declined (Fig. 5). In November, 50% of the kahawai stomachs examined contained traces of food, but by February, only 28% did so, and this declined to 1% by April. The main food item was the remains of fish which had been digested beyond identification. Identifiable foods included anchovies (*Engraulis australis*), yellow-tail (*Seriola lalandi*), sausage worms (*Echiura* sp.), freshwater eel (*Anguilla* spp.), triple-fin blennies (*Tripterygion* sp.), and the common freshwater bully (*Gobiomorphus* spp).

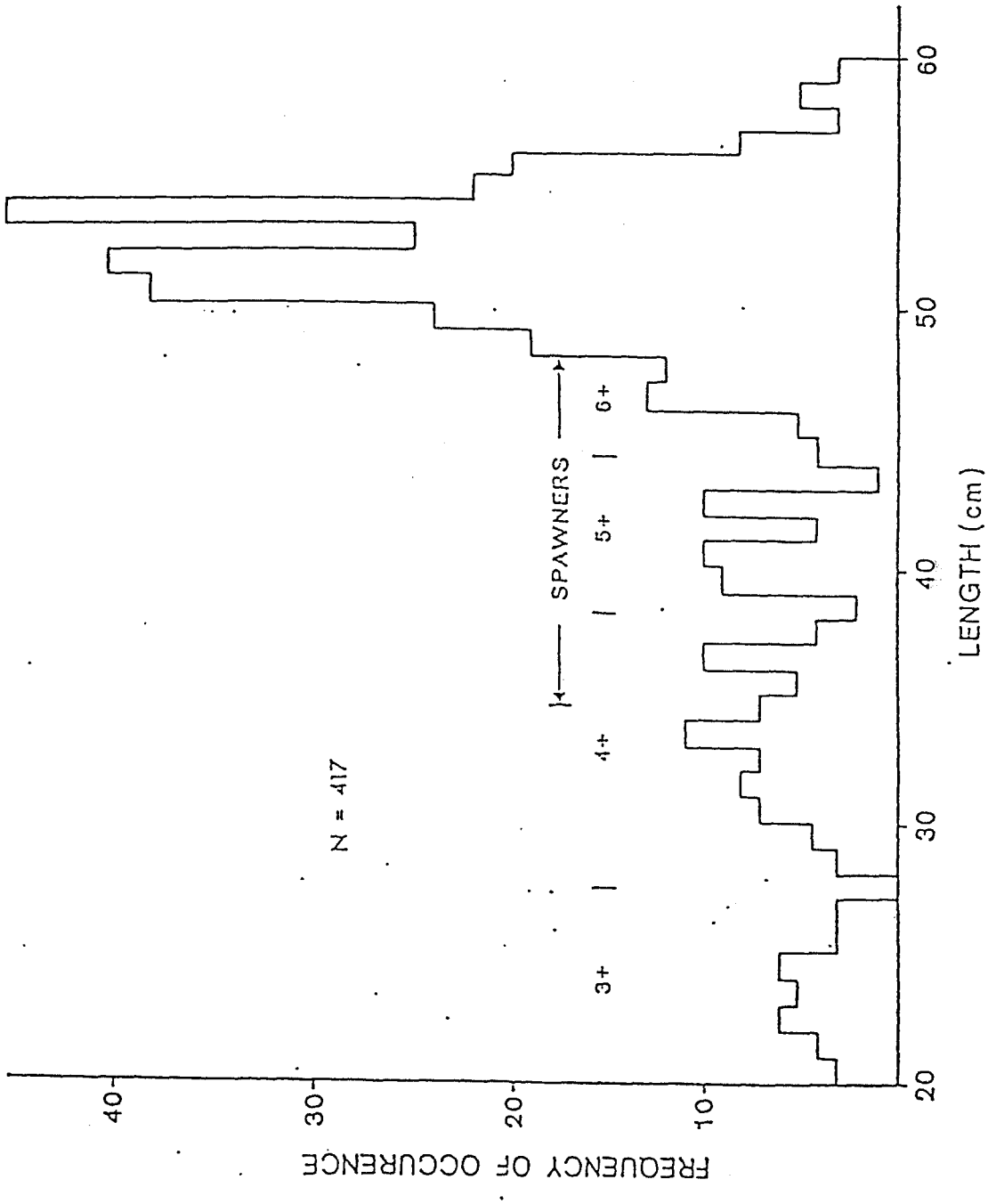


FIGURE 3. Length-frequency distribution of kahawai caught at the Motu River mouth from January to April 1983. (Definition of age and spawning size classes is after Eggleston 1975.)

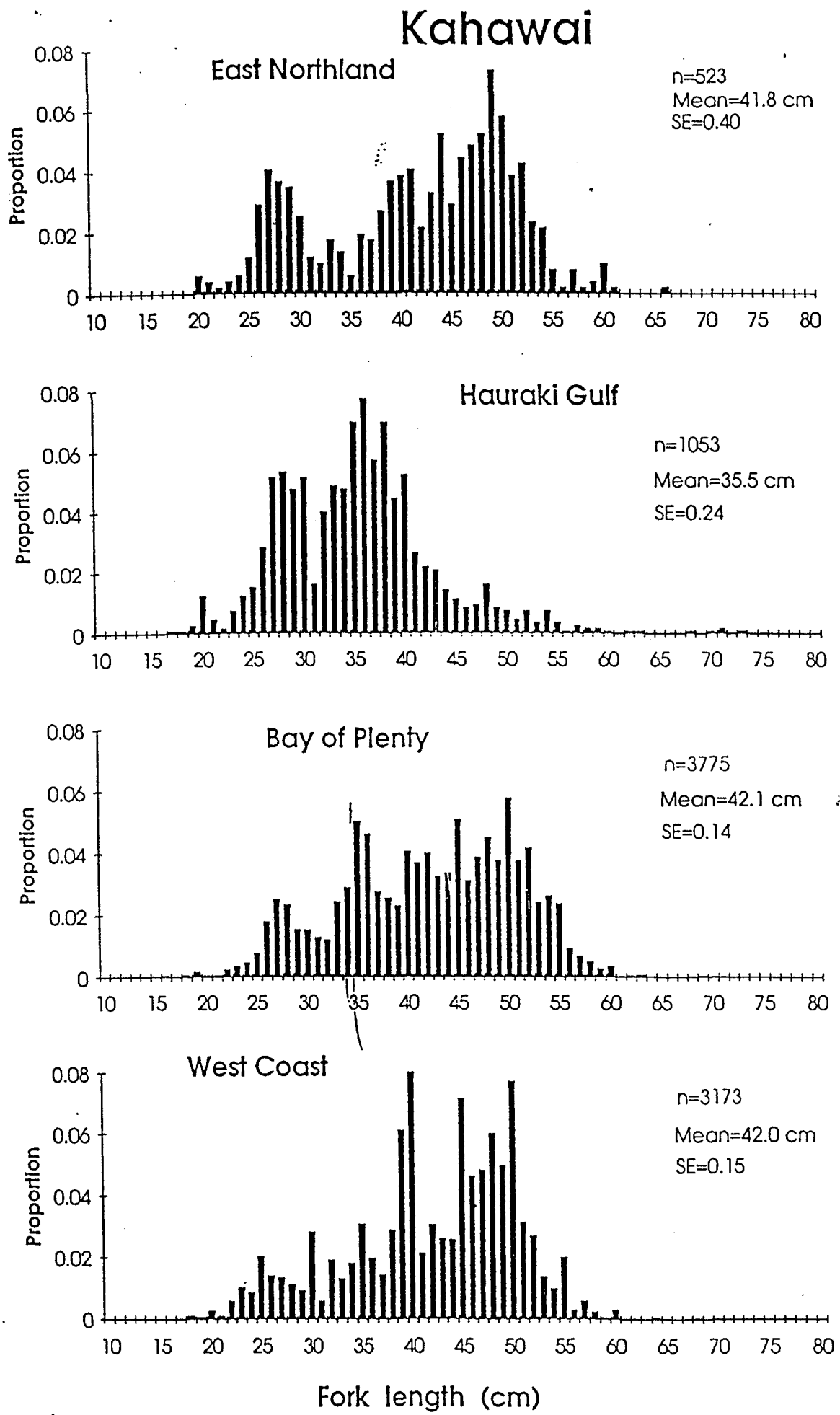


Figure 3.13: Relative proportions at length of kahawai caught (by sub-region) during the 1990/91 recreational fishing survey in the North Region.

During the 12 weeks of the survey, daily interviews of anglers were conducted to obtain information on the origin of people fishing, the number of fish caught, and the amount of time spent fishing. Of the 506 people interviewed, only 19.3% lived in the local area (defined as the area between, but not including, Opotiki and Cape Runaway). Another 33% lived in Opotiki, and 14% travelled from other places for a day's fishing. Of those interviewed, 33.7% were staying away from home, and 85% of these came from within the area bounded by Tauranga, Hamilton, Taupo, and Gisborne.

The number of fish caught per person per day ranged from 0 to 60, and the total weekly catch ranged from 10 to 1408. A total of 3270 fish was caught by the 506 interviewees. However, larger numbers of fish were reputedly caught by individuals who were not interviewed.

During the survey period, 'local' people spent an average of 2.08 hours fishing, and caught an average of 4.17 fish per hour. People from outside the survey area spent 2.65 hours fishing, at a catch rate of 2.24 fish per hour. Overall, each person on average spent 2.54 hours fishing and caught 2.55 fish per hour.

The higher catch rate for local people, compared with that for people from outside the area, was partly attributable to the local people mostly using hand lines, which allow for a better 'feel' for the fish. People from outside the area mainly used surfcasting rods, which tend to 'lose' more fish than hand lines. Also important was the fact that it was easier for the locals to be at the river when the fish were present, whereas outsiders had to take pot luck.

6.2 Maori Aspects of the Motu River Kahawai Fishery

Power (1849, in Best 1929) wrote of the kahawai:

> "Their advent is hailed with joy by both Maori and whiteman ..... greeted with shouts and cheers".

The Motu River was considered by Te Rangi Hiroa (1926) to be famous for its kahawai fishery. He reported the main fishing method to be a paua shell lure (pa kahawai), rather than the dip or seine net used in other areas. The lure was a hook made from wood, with pieces of paua

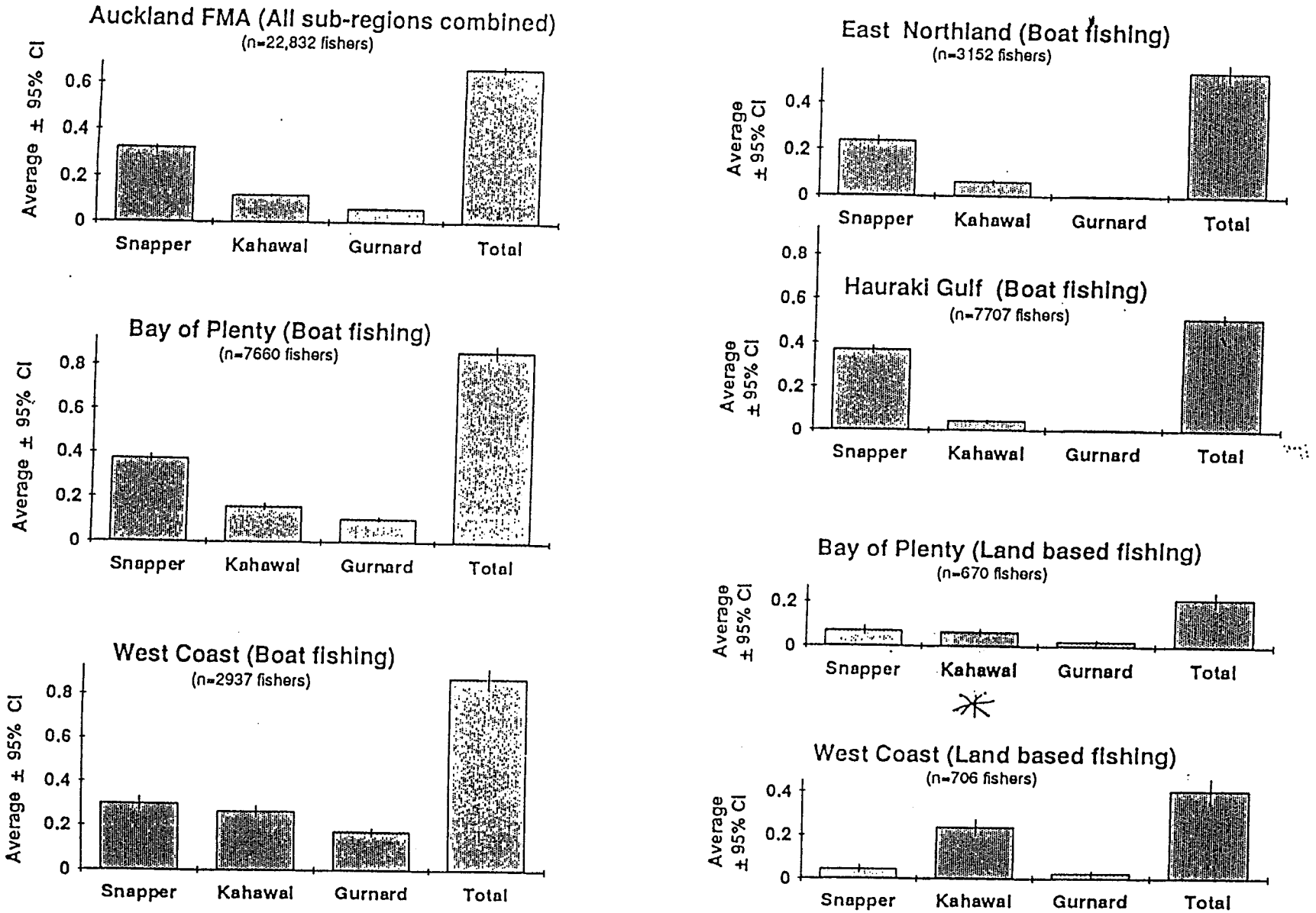


Figure 3.5: Average number (± 95% Confidence Interval) of fish by species caught per fisher per hour for the Auckland Fisheries Management Area and for each sub-region during the 1990/91 recreational fishing survey in the North Region.

KI 13

This is the document marked **KI 13** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

KAHAWAI SUBMISSION

TO THE MINISTRY OF FISHERIES

FROM THE NZ RECREATIONAL FISHING COUNCIL

AS PART OF THE 1995 TACC REVIEWS.

SUMMARY

Surveys in 1995 amongst the gamefishing clubs have shown recreational fishing for kahawai and kingfish in the last year have not improved compared to similar surveys carried out in 1994. The recreational sector still asks that both species be recognised as "recreational fish". Therefore our recommendations for this years TACC round are essentially the same as last year.

CATCH LIMIT REDUCTION SUMMARY.

The NZ Recreational Fishing Council will not rest in the kahawai fight until kahawai are introduced into the QMS and the purse seine limits are set at by-catch levels: KAH1 200t, KAH2 100t, KAH3 300t. The basis of this policy is because of the mana of the species to traditional Maori and the importance to the recreational/sustenance fishery. The diary survey has shown that the humble kahawai is the second most important species to the recreational angler. In addition, the Minister announced a few years ago that he was prepared to trade jack mackerel and blue mackerel with the industry for kahawai - the only problem being the industry have taken the trade and got the lot, with the recreational sector getting the crumbs.

As stated by Section 28D of the Fisheries Act and the 1989 Recreational Fisheries Policy and as part of our heritage, the recreational sector has priority access over the commercial sector to the fisheries of New Zealand. The 1994 recreational survey has shown that recreational kahawai catch rates (CPUE) in KAH1 have not increased since 1991 (unlike snapper) and therefore adequate allowance is not being made for the recreational kahawai fishery. The NZRFC applauded the Ministers decision to reduce the KAH1 purse seine catch limit from 1,666t down to 1,200t but it does not look as though it went far enough. We therefore request that the KAH1 limit be reduced to 1,000t and be reviewed in two years time to see whether or not there has been an improvement in recreational kahawai fishing.

On a slightly positive note regarding KAH1, the NZRFC is pleased that there have not been any major blowouts in the last two years in the KAH1 limit. However we are very disturbed that while the purse seine limits appear to be

contained, there has been a blowout in the catch from other commercial fishing methods. These almost equate to the reduction that was issued by the Minister on the purse seine fleet. We realise that this situation will not really be able to be resolved until kahawai enters the QMS, but it is incredibly frustrating. The set netters and the dragnetters are taking our recreational fish! However, we can hand out another compliment to the Minister and the Ministry regarding the very decisive action that was taken to ban drag netting in the Managawhai Harbour. Where blatant abuses of the system can be identified like Mangawhai, the NZRFC will always expect the Minister to be very decisive.

We do not understand what is happening in KAH2 because we have conducted a telephone survey of most of the fishing clubs in KAH2 and the strong consensus of the clubs is that kahawai catch rates are still bad in this area. It has been indicated that "maybe" the poor fishing in KAH3 is a result of that fish stock moving north into KAH2. Our survey does not substantiate this anecdotal suggestion. Nor does the fact that all of the tagged fish in KAH3 that have been recovered have been recovered on the west coast not the east coast. It is our belief that the only reason that the KAH2 tonnage is taken so quickly each year is that there are two companies who share the KAH2 fishery and they want to individually get as much of the tonnage as possible before it is closed off.

It seems to us that KAH2 may be analogous to SNA8. There may have been a bit of a rebuild in the offshore fishery which the purse seiners (KAH2) and trawlers (SNA8) have enjoyed, but in no way has this translated into improved kahawai catches for surfcasters and recreational small boat fishermen. The industry have not really put in place any meaningful purse seine closed areas (we proved this in our 1993 submission) anywhere, but certainly not in KAH2 and therefore as a way of dragging them to the negotiating table we ask that the Minister propose to reduce KAH2 by 200t down to 651 tonnes.

We understand perfectly what is going on in KAH3 where the fishery has been grossly overfished by the purse seiners with excessive catches for 5 years from 1986/87 which averaged nearly 4,000t per year that were in no way sustainable as history is now showing. There have been many murmurings about bad weather and many other excuses but the answer is simple, the fishery has been fished down too far. The Kaikoura area was recognised by MAF scientists as the kahawai "old mans home" These 8-10yr fish are no longer found there. For most recreational fishermen in KAH3,

kahawai are now just a memory. It is time for decisive action. The purse seine limits need to be cut to 1,200t to allow for a rebuild of around 600t and to allow for the fact that the purse seine tonnage has been 600t (on average) short of the catch limit of 2339t for the last 3 years.

NON COMMERCIAL ALLOWANCE AND PRIORITY ACCESS

Under section 28D of the Fisheries Act, the Minister has the statutory responsibility to allow for non commercial interests before setting the TACC. It is the Minister alone who makes the judgement as to whether or not the current non commercial catch rates adequately allow for the non commercial interest. The 1989 National Recreational Fisheries Policy also proclaims that:

> "Government's position is clear, where a species of fish is not sufficiently abundant to support both commercial and non-commercial fishing, preference will be given to non-commercial fishing"

There is more to managing the fisheries than just ensuring stock sustainabilty. The other part of the fisheries management equation is to ensure adequate allowance to the Maori traditional and recreational fishing sectors. In the past, most Ministers have simply put allowance for the non-commercial sector in the Too Hard Basket, but it is now time to recognise the recreational right of access to catch a reasonable number of kahawai each day out fishing.

At this point we must remember that in 1983 in KAH1 the CPUE for kahawai was 2.55 f/h (MAF Report 103 pg21). Catch rates in the north have not improved since 1991 - please refer to the February 1995 Seafood NZ article. In 1991, the CPUE (fish per fisherman per hour) for kahawai was nearly 0.2 and has remained at this amount for 1994, whereas snapper CPUE has slightly increased from 0.4 (1991) to 0.6 (1994). There has been no improvement in recreational kahawai catch rates during the 1995 summer! These catch rates are very poor and must increase if recreational fishermen are to enjoy the fishing the way it used to be before the purse seiners cleaned out our inshore waters. Very simply, 0.2 kahawai per person is not adequate allowance in anybodys language for non-commercial fishing. We are certain the average kahawai catch in KAH2 and KAH3 is not much different to the KAH1 catch rates.

The purse seine catch limits must be reduced to improve the recreational kahawai catch rates. It was the purse seiners who caused the decline in the kahawai fishery and who made

the financial profit from their increased kahawai catches. It is therefore the purse seiners that must carry most of the responsibility for improving the kahawai fishery. NOTE that we are not seeking a return to the glory days of the 1950s, 1960s, and 1970s when kahawai were plentiful in what was then essentially a virgin fishery. We know and recognise that the catch rates will never be that good again. But we certainly want to have a considerable improvement on our currently pathetically low catch rates.

We are aware of the amount of debate that took place in the snapper Working Group before the recreational catch tonnage estimates could be agreed upon. Because the **PRELIMINARY** estimated tonnage for KAH1 (1,000t) and KAH9 (370t) have not been through the Inshore Working Group process, we do not accept the estimate and they have no real place in this years TACC review. We will be keen to examine the kahawai data from the diary survey next February / March during the Inshore Working Group meetings.

AERIAL SIGHTINGS DATA.

The NZRFC totally rejects the reliance placed by the Ministry of Fisheries on the aerial sightings database for the kahawai assessment, and state that this database is unreliable as it is based on non-validated data collected by pilots with a vested interest in the commercial fishery who are paid by the fishing companies. A "fishery dependent" database may be acceptable if the fishery is not political (such as the kahawai fishery before 1991 when the purse seine catch limits were introduced), but since 1991 the industry obviously have a vested interest in trying to show that the kahawai fishery is not being overfished. The only way that "fishery dependent" data may be acceptable is if MFish or NIWA does an independent study to validate or verify the data to determine the degree of bias or otherwise. We would contend that in a politicized fishery such as kahawai, **UNVALIDATED** fishery dependent data should be considered about as useful as anecdotal evidence - to do otherwise, we would suggest is simply not scientific.

Ross Gildon
Management Executive
NZ Recreational Fishing Council

KI 14

This is the document marked **KI 14** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

28 August 1995

Minister of Fisheries
Parliment Buildings
WELLINGTON

Good Morning Minister,

Thank you for the opportunity to attend the TACC meeting on Thursday 17th.

It was interesting to hear Industry's comments with regard to the reasons that the Kah 3 tonnage has not been reached again this year.

Over the past four years now they have blamed bad weather, the fact that one of the purse seiners was out of the area for three months, El Nino, and this year they are now suggesting that all of the kahawai are locked in the "no go" areas where they cannot get at them.

Sir, I must say that I would give them eight out of ten for trying.

My understanding is that KAH3 is a competitive quota area. There are two companies with one purse seiner each, and the same two companies and two purse seiners are fishing in KAH2. If they can get between them 850 tonne in one month in KAH2 why can they not get 2,300 tonne in KAH3 in three months.

Regardless of the fact that they are fishing for mackerel part of the year, and part of the year they have inclement working conditions, if they spent one month in KAH2 catching their limit, and three months in KAH3 catching their limit that would still leave them eight months of the year to allow for bad weather, mackerel fishing and any other activity that they wish to pursue.

It is our strong belief that the fish are just not there in the numbers that they used to be in. The fishery has been fished down too far, and what we have been saying over the past three years is now proving correct.

Since the TACC meeting last week we have indirectly heard that one of the purse seine skippers has left his boat and gone onto a deep sea trawler, and he was heard to say that the reason that he changed was that there just were not the kahawai there any more. Now I appreciate that this is not conclusive evidence by anybody's standard but it would certainly make sense. If you cannot get the fish you cannot get any bonus so you get out of the fishery into one that will give you some money.

Industry also suggested that the kahawai were in the harbours, but our sources from Dunedin north through to the sounds are telling us that the kahawai that are around are only juveniles and that they are not there in any numbers.

Two years ago when we asked for a cut in KAH1 we heard that it would cost industry dearly. There was mention by Mr Anderson that it would mean selling one purse seiner and that there would be 60 jobs lost. In your wisdom you cut the tonnage from 1666 tonne to 1200 tonne and there were no purse seiners sold and no great layoffs of staff. Industry are just too efficient to allow that to happen. When one species quota is filled they simply move onto another fishery.

Also of concern to us is the fact that we have heard that one of the purse seiners intends applying through the TOWFC to be allowed to fish the 650 tonne of kahawai allocated to maori. I can only presume that this tonnage will be proportional through the KAH1, KAH2, and KAH3 areas.

Until now that tonnage has remained in the water as part of the fishery stock. Whilst we can understand maori wanting to fish their tonnage it will also be detrimental to the savings that we have made by your decision to cut the tonnage in KAH1 by 466 tonnes two years ago.

If maori get the 650 tonne approved, and we know that kahawai catches by methods other than purse seine have doubled last year to 450 tonne, that will mean another 1100 tonne will disappear this year from the breeding stock.
This is almost the total tonnage taken annually from KAH1.

We appreciate that whilst the species is not in the QMS you have a difficult task, but having been involved with the kahawai fishery decline personally over the past seven years and some of the ridicule that I have taken from some scientists, because some of my evidence has been anecdotal I can now say that as I predicted the fishery is getting worse and not better.

It is unfortunate I guess that the purse seine fleet have to carry the bulk of the cuts but then again over the last ten years they have had the bulk of the profit from the fishery and now must pay the price.

Sir, as I stated at the meeting Kahawai is the second most important species to the recreational angler. (this was shown clearly in the diary surveys). It is also the most important species to maori, and to industry it is a low value, fill in fishery. We have attended meetings with industry, we have gone along with their ideas of "no go" areas knowing that the species is too mobile for "no go" areas to actually work and now quite simply WE WANT OUR FISHERY BACK.

The 1991 ramp survey showed that the average catch was 0.2 fish per hour per angler and in the 1994 ramp survey it still showed a 0.2 catch per hour per angler. This is simply not a good enough return in anybody's language for our second most important species, and shows that there has not been any improvement since "no go" areas were introduced. If we were being emotive we would be asking for major cuts in all areas. All we are asking is that KAH2 remains at 851 tonne, and KAH3 be reduced to 1200 tonne for three years to allow the stock to rebuild and then if possible it can be returned to the present 2,339 tonne.

Also of concern to me personally is the probability of further recreational snapper bag limit reductions. I believe that the bag limits for snapper could be reduced further but when this happens it will place more stress on the kahawai stock. Simply if the anglers cannot catch their most important species - snapper, further effort will be placed on their second most important species - kahawai.

Maori are also clearly stating that as soon as kahawai goes into the QMS they will be seeking their 20% which again will place additional emphasis on the species. Sir, I do not want to see the same thing happen to kahawai as what happened first to trevally, then mackerel, and now snapper. We have an opportunity to avoid another disaster in the fishery but it must start this year with KAH3 and I trust your good judgement to reduce the tonnage to around 1,000 to 1,200 tonnes for three years to give the stock a chance to rebuild before once again it is too late.

It is with regret that due to other prior commitments I am unable to attend your meeting on September 6 but if you wish to contact me prior to or after your meeting I will do my utmost to oblige.

Yours faithfully,

Ross F. Gildon.
N.Z. Recreational Fishing Council.

KI 15

This is the document marked **KI 15** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Jennifer J Heard

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

15 November 1995

Hon. Doug Kidd
Minister of Fisheries
Parliament
WELLINGTON.

Dear Minister,

As you might expect from me, this letter concerns the kahawai fishery. Specifically, this letter is about a report(s) produced by MAF Fisheries scientists, Elizabeth Bradford and Paul Taylor, on the aerial sightings data in relation to the kahawai fishery. The aerial sightings data is provided to MAF by the pilots (who are paid by the purse seine companies) on the tonnages of fish observed from the plane. We accept that through time the pilots have become expert at determining the species of fish and estimating the school size tonnage - this point is not in dispute. We also accept the other good qualities (the data being quantitative and that there was nearly a 20 year time series) about the data that the industry funded scientists made much of. But lets not get carried away with these good points (because they are relatively minor), especially when there are more important problems with the aerial sightings data.

Problem 1: Fishery independent data

The first problem is that the aerial sightings data is not "fishery independent" ie. the people who provided the data have a vested interest in the fishery. A "fishery dependent" database may be acceptable if the fishery is not political (such as the kahawai fishery before 1991 when the purse seine limits were introduced), but since 1991 the industry obviously have a vested interest in trying to show that the kahawai fishery is not being over fished. The only way that "fishery dependent" data may be acceptable is if MAF (or some other reputable independent organisation eg. a CRI) does an independent study to validate or verify the data to determine the degree of bias or otherwise. I would contend that in a politicised fishery such as kahawai, unvalidated fishery dependent data should be considered about as useful as anecdotal evidence - to do otherwise, I would suggest is simply not scientific.

I am aware of how much importance the industry can place on the need to have fishery independent data. For example, the design and methodology of the SNA1 tagging programme. Snapper industry leaders strongly opposed the use of the dart tag that MAF had originally proposed to use because the return of the dart tags would not have been fishery independent. That is, tag return would have been dependent on the goodwill of recreational and commercial fishers such that there would have been no way to assess the degree of bias (non return of tags). Instead, the Industry leaders argued for the use of the new microtags, which would mean that all the data and tag returns were fishery independent, because MAF technicians are doing their own "wanding" in the factories to collect the tags. In this instance, I agree with the industry leaders and the importance that they put on fishery independent data.

There are of course numerous examples of the importance that MAF and other scientific agencies place on validating or verifying fisheries data. 1. Tetracycline has been used to validate the annual growth ring theory for numerous finfish species. 2. The 1991 kahawai tagging programmes routinely double tagged a percentage of fish to assess the degree of tag loss. 3. The large snapper mortality holding nets are used to determine the degree of bias caused by tagging. All of these examples of where with a little bit of extra thought and funding,MAF has been able to validate the data used in their research programmes. In a politicised fishery such as snapper, I am sure that MAF would not contemplate doing a snapper tagging programme if separate sub-projects were not also done to validate and assess tag loss and tagging mortality. Therefore, why is it OK to now accept the unvalidated kahawai aerial sightings data?

I have somewhat laboured the point about the collection of fishery independent data, mainly because it will have important implications for other fisheries. For example, the industry has just embarked on a very detailed logbook scheme to be completed by the crayfish fishers who obviously have a vested interest in their politicised fishery - it would be very easy for this data to be misleading. Have MAF or the industry put any steps in place to validate this data, otherwise the data from this programme may not be acceptable to the recreational sector. Unvalidated data supplied by the industry could be considered simply as writing down and quantifying anecdotes. I would greatly appreciate your comments on the issues of data validation and the use of fishery dependent data because there will certainly be implications for research done in the new contestable industry funded environment. It may also be that these matters may require considerable discussion amongst sector leaders.

Problem 2: Reports produced from the aerial sightings database

I have a copy of a (draft?) report that Bradford and Taylor produced in early 1994 specifically on the Bay of Plenty kahawai fishery and the aerial sightings data. Whilst in Wellington some 10 days ago, I became aware that subsequently a much more comprehensive aerial sightings report was produced around August concerning most of the pelagic species on a New Zealand wide basis. I would expect this report to be in the form of a drafft FARD which I understand has been reviewed within MAF by the scientists. I am concerned that this important paper may not be put out for review as part of the usual Inshore Working Group review process to the external non-MAF members of the group. Accordingly, I formally request that the usual FARD internal and external review processs be applied to the aerial sightings FARD. Also, I respectfully request under the Official Information Act (1) a copy of the aerial sighting FARD incorporating the comments from MAF scientists, and (2) a complete copy on floppy computer disc of all the raw data in the aerial sightings database. Finally, I would like to say that I hope nobody will misconstrue this letter as some sort of complaint against Elizabeth Bradford and Paul Taylor - in contrast, in the few dealings I have had with them I have found them to be co-operative and informative. It is just that the kahawai debate is starting to heat up and also the situation was not helped by the non-consultation stance we adopted earlier this year.

Problem 3: Kahawai being introduced into the QMS

Could you please update me on the progress being made on introducing kahawai into the QMS. I am conscious of time marching on and know that a large amount of administrative work will need to be done if kahawai is to be introduced into the QMS on October 1 1995. Could you please provide a timetable of events leading up to the introduction of kahawai into the QMS.

Yours faithfully

Ross Gildon
Executive Member NZ Recreational Fishing Council

KI 16

This is the document marked **KI 16** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Jennifer A Heard

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

FINAL NZRFC KAHAWAI SPECIES 1996/97 TACC SUBMISSION

OVERVIEW

This is a claim on behalf of the people of New Zealand who fish Kahawai for either sport or sustenance. Quite simply we want the return of this important recreational species back to a level that we used to enjoy.

The essence of our claim is that Kahawai is the second most popular recreational species as determined by the various recent surveys. (NZ Fisheries Assessment Research Document 97/7). Kahawai has a very low economical commercial value 0.50 cents when caught by the Purse Seine method and an extremely high recreational value and therefore it is this Council's ultimate goal to have Kahawai introduced into the QMS as soon as practically possible and at a By Catch level only.

We appreciate that due to the purse Seiners, gill netters', and longliners catching Kahawai mixed with other species, and random catches, that it can never be a totally recreational fishery, but that does not stop Kahawai being introduced into the QMS at low levels to recognise the value of the fishery to the Recreational sector.

Our Council believes than when a species only has a commercial value of 0.50 cents the resource is being wasted by industry. We know of one Commercial venture prepared to pay $5.00 per kilo for Kahawai and this person is not allowed to catch the species other than by-catch. As in past years we estimate that a very generous target to by-catch ratio for Kahawai is 8:1 which would approximate to the following purse seine by-catch tonnages. 200 tonnes KAH1, 100 tonnes KAH2, 300 tonnes KAH3, and KAH9 0 tonne.

BACKGROUND

We were fortunate enough to be able to attend the Pelagic Working Group meeting this year but I must say that I was disappointed with quality of data supplied and I must agree with Mark Feldman's submission that it is important to us that we have the right scientists at these meetings. For the past three years we have been becrying the aerial sightings data. We are not saying that anybody was telling lies - we are saying that the data is simply not scientific and is really only as good as anecdotal evidence. The Plenary last year agreed with us. It would still appear that material being produced is coloured by this aerial sighting data and we will not accept any part of it until it has been validated and fully audited.

FISHERY ASSESSMENT PLENARY

DATA FROM "THE YELLOW BOOK"

We note from the second stock assessment meeting July 2nd that Industry were very keen to increase Kahawai take for all areas. There excuse was that the stocks were well above BMSY.

We note that from Table 2 (P.193) that the total reported landings for 95/96 was 4994 tonne. We also note that from Table 3 (P.193) that the purse seine fleet under caught their catch limit by 523 tonne. We further note that from Table 4 (P.194) that the Recreational take has been estimated at 1880 tonne. If these three figures are added they total 7,397 tonne. From Table 9 (P.197) we have taken the middle figure of M = 0.20 which determines an MCY of 7,600 tonne. Leaving a difference of 203 tonnes.

We are aware that there has been no allocation for Maori traditional take nor Kahawai that is used for bait, nor Kahawai that has been caught in mullet nets as by-catch and due to damage has been dumped. We appreciate that Kahawai that is used for bait is supposed to be reported but we strongly suspect that not all operators are reporting their catch.

When these mortality figures are added to the known and estimated take, we believe that there is quite simply no room for an increase in tonnage in the Kahawai fishery.

STATUS OF STOCKS

Under the above heading in the yellow book (P.197) we note the comments; "These estimates are **unreliable** but **thought** to be conservative. While there **may** have been **some decline** in biomass, the current **estimated** biomass level is still **well above** the size that will support the maximum sustainable yield. The combined recreational and commercial levels during the last two years are **less** than the MCY estimates, which are **conservative**, for values of M =0.20 or greater."

Our interpretation of this statement is "WE HAVEN'T GOT A CLUE ABOUT THE FISHERY, BUT SHE'LL BE RIGHT".

From the data in our previous paragraph under the heading of the yellow book, we certainly cannot agree with this paragraph.

KAHAWAI MODEL

We were introduced to a new Stock Reduction Model this year and can at best describe it as "Shonky" - full of assumptions at this early stage. We considered it to be a guide only and not taken too seriously. However, industry seem to have grabbed it boots and all because it is in their favour and they are running with it. We have no confidence in the model at this stage.

TAGGING ANALYSIS

Whilst we acknowledge that the Tagging study carried out in 1991 was not designed to determine who was catching what the figure very clearly show a marked decrease in the Recreational catch from the 1983 tagging study. Some scientists will say that we cannot use these figures for our purpose but there is just too large a variation not to accept that the recreational catch has gone down dramatically. For some time we have suspected that our catch was far more than the 2,000 tonne estimation. Pre 1980, the recreational take could have been as high as 4,000-5,000 tonne. If this is the case then we have been disenfranchised through this theft from Recreational to purse seiners and is a gross social injustice.

We are not asking to have the fishery returned to the good old days of the 1950's but there has to be a level between what we had then and the pathetic fishery we have now where the ramp surveys have shown that we are catching 0.4 kahawai per trip.

Under the 1996 Fisheries Act Sect 13 the Minister has the power to manage a fishery above the BMSY, and the Kahawai fishery is one of those fisheries that should be managed at this level.

DEPENDANT DATA

We were advised at the meeting July 2 and at the Tauranga Liaison Meeting that Sanfords had been collecting length data for four years and that they had a person employed 80% of time measuring ; snapper, trevally, and kahawai. As the work being done is unaudited and has not been validated, the results will be totally rejected by this Council. They have a vested interest in the results and therefore they should have an independent carrying out the work not a paid employee. This type of research is similar

to the aerial sighting data and we cannot accept the results. It is too easy to select the fish they want for measuring and rejecting those that go against the grain. Data from this research will be no different than anecdotal evidence.

The Ministry must consider debating this type of research with stake holders.

If Sanfords were serious about the results that they were trying to achieve maybe they would consider employing a recreational representative to carry out the work.

VOLUNTARY NO GO AREAS

We noted from the July 2 meeting that Sanfords want to revisit the voluntary no go areas. They have not yet approached us with regard to a meeting although we have agreed to meet with Sanfords staff if they require us to.

We consider that the no go areas are too small. Kahawai are a very mobile fish and therefore a 2 mile limit is really pretty insignificant. When one considers that a great deal of the area classed as no go is really too shallow for their nets, or over foul ground which would damage their nets.

One area that should be closed by regulation to all purse seining is the Hauraki Gulf. It was supposed to be closed in 1988 after a Sanfords boat made a couple of shots in the Kawau Island area. The Hauraki Gulf is known as a juvenile fishery (Jones) and was supposed to come into the Regulations. However it was withdrawn and included in the Fishery Management Plan, then it was pulled out of there and included in the voluntary agreement.

We regard the Hauraki Gulf as a vital nursery area and the main gulf area should be excluded from purse seining by regulation.

An area encompassed by the following marks would give the area protection.

A line from Bream Tail near Mangawai across to the Needles on the Nth end of Gt. Barrier. A line from Cape Barrier on the south end of Gt Barrier across to Cape Colville.

CATCH METHODS OTHER THAN PURSE SEINE

Our Council has been concerned that under the present system there is very little control over the Kahawai species. This statement especially applies to methods other than purse seine.

From Table 2 (P.193 in the Yellow book) we note that the 94/95 LFRR total was 4,526 tonne, and the purse seine take for the same year was 3,690 tonne Table 3 (P193). From this it can be assumed that 836 tonne was caught by method other than purse seine. When the same figures are taken for the 95/96 year, the LFRR figure is 4,524 tonne and the purse seine catch 3,028 tonne - a difference of 1,496 tonne. When one considers that more than 800 tonne is being taken from KAH1 it now equates to 2/3rds of the purse seine catch or the catch by method other than purse seine has more than quadrupled in the past six years. We also note that the purse seine fleet only caught 60% of the total catch this year and it is the lowest percentage that they have caught. It shows that the fishing by other method is OUT OF CONTROL and needs addressing urgently.

RESEARCH

As the Kahawai species is so important to the non commercial sector both Maori & Recreational we demand that more research be carried out on this species. For two years we have asked for a recruitment project to be implemented. We cannot understand how the state of a fishery can be determined when scientists do not know the recruitment parameters. It is all very well talking about the M's & Z's but they cannot co-relate if we do not know what the annual incoming recruitment may be.

In the past we have asked that duplicate shots of the 1983 data, 1991 data, and 1992 data be carried out. We can appreciate that the numbers are only low, and too low for some scientists whilst some of our scientific advisers suggest that some sectors carry out too much number crunching and smoothing out.

We have offered to make some of our members available to assist with these shots at no charge to the ministry or industry and have even offered industry an increase in tonnage to carry out these shots but the offer hasn't been taken up.

For the Bay of Plenty, the Kahawai in the 1990's are statistically and significantly smaller than the fish from the 1983 sample. The 1983 fish averaged 51.3cm and the 1991 summary has an average length of 46.1cm. Given these results we firmly believe that the 1983 purse seine data (although somewhat scant) must be recognised as valid and

robust. Furthermore, we contend that it must be acknowledged that for the Bay of Plenty that there is conclusive evidence from the 1983 and 1990-91 purse seine catch sampling data that Kahawai have decreased in average size. Until there is hard scientific evidence conducted by an independent organisation such as Mfish or NIWA then the Minister must accept this as the only available data, and it shows the fishery is in decline. It is recognised around the world that a decrease in the average size of the fish is hard evidence that overfishing is occurring.

PERMIT SYSTEM

We were concerned to hear at the July 2 meeting that under the present system any of the purse seiners can fish any KAH area. This is not as we understood the permit system to be operating. We understood that each purse seiner had a permit which entitled them to fish a certain area. We therefore seek under the Information Act exactly what is entitled on these permits. We are not interested in the individual boats permits, we know where they are based and fishing now. We wish to know if a boat from Tauranga is entitled to go to Nelson and fish KAH3 without seeking a new permit.

It is our understanding that they cannot move boats between Tauranga and Nelson and fish for Kahawai. We wish to have this matter clarified. We would be astounded if a boat with no historical catch in an area can be moved without seeking a new permit for that area, and we wish to be fully consulted if there are any suggestions for this to happen.

GENERAL

KAH1

Our affiliates contacted from Bay of Islands down the East coast to Waihau Bay have advised that there has been NO CHANGE in the state of the Kahawai fishery in the past twelve months. It would appear that the further east one travels the less schools appear to be showing. While there are schools showing out of Tauranga, they are not there in numbers and not consistently visible. Reports from the Motu area are that it has been another poor season. Clubs at Whakatane, Opotiki, TeKaha, and Waihau Bay have all had disappointing tournament results.

KI 17

This is the document marked **KI 17** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

Our Ref: Stuart Ryan/David Connor

HESKETH HENRY
Lawyers

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The Minister of Fisheries
Parliament Buildings
Wellington

Attention: Hon David Benson-Pope

Monday, 20 September 2004

Dear Minister

KAHAWAI DECISION

Background

1. We have received instructions from the New Zealand Recreational Fishing Council Inc and the New Zealand Big Game Fishing Council Inc (together "Non-Commercial Fishers"). Both Non-Commercial Fishers provide advocacy for a large percentage of New Zealanders who fish non-commercially.

Your Decision

2. In a decision dated 10 August 2004 you brought the kahawai species into the Quota Management System and purported to allocate quota ("ITQ") for that species. As may be apparent from the extensive submissions made on the proposal, Non-Commercial Fishers have a major interest in, and now major concerns arising out of, the Minister's decision.

3. Section 21 of the Fisheries Act requires the Minister, when setting the total allowable commercial catch ("TACC") to allow for Maori customary and recreational fishing interests before considering any allocation to commercial fishing interests.

4. We consider that the decision dated 10 August, and largely adopting Ministry of Fisheries ("MFish") advice, fails ensure that non-commercial fishing interests are allowed for. In particular the decision:

   a. Applies a "proportionality" rationale for reducing the non-commercial fishing allowance, contrary to the decision of the Court of Appeal in the Snapper 1 case.

   b. Fails to allow for non-commercial fishing interests by recognising that such interests have an *a priori* entitlement, to be "allowed for" before determining the TACC, if any, as required by section 21.

   c. Fails to allow for non-commercial fishing interests, by only evaluating allocation options based on a catch history depleted by purse seine fishing. The decision fails to recognise the "perverse incentive" purse seine fishers had to target kahawai as a non QMS species and therefore acquire "catch history", to the detriment of the non-commercial sector. The recreational and customary

LAWLINK

kahawai fishery has yielded smaller fish, fewer fish or both, in most quota management areas where the purse seine fleet has operated.

d. Does not recognise the accessibility differences between kahawai (a fish known as "the people's fish" being the most accessible non-commercial species) and solely commercial species.

e. Fails to ensure that non-commercial fishing interests are allowed for by ensuring that the allocation decision enables non-commercial fishers (both land-based and boat-based) to actually catch kahawai.

f. Involves obvious circularity by omitting consideration of discouraged recreational fishers who have abandoned attempts to fish because of low recreational catch rates.

g. Fails to properly provide for the significance of human population increases within the upper North Island. Specifically the decision purports to allocate kahawai based on purported historical catch rates, which makes no allowance for population growth.

h. Fails to consider the cause and effect of commercial fishing upon this important non-commercial species, in particular, the effects of the purse seining method of catching whole schools of kahawai. The effect of a catch history based allocation decision will be to have a disproportionately large allocation of TACC to a handful of purse seine fishers who in turn sell this valuable non-commercial species as low value fish bait.

i. Discounts the benefits of non-commercial fishing to the national and regional economies. Specifically the decision fails to give effect to the MFish commissioned research establishing that kahawai have greater value as a non-commercial fish species, including as an important food fish.

j. Does not give proper consideration, or at all, to:

   i. the criteria within sections 7 and 8 of the Hauraki Gulf Marine Protection Act 2000; or

   ii. the relevant provisions of regional coastal plans.

k. Fails to recognise likely imbalances in quota management for non-purse seine fishers through the inevitable result of dumping by-catch and other unsustainable practices, caused by allocation of the majority of the TACC to the purse seine fleet. These unbalanced quota portfolios will inevitably lead to the dumping of kahawai at sea and add risk that the Minister's decision to reduce commercial catches of kahawai will be rendered ineffective.

l. Makes mistakes of fact, being based on incorrect scientific advice on the status and sustainable yield of kahawai in New Zealand.

5. We understand that provisional quota has been allotted (prior to your decision of 10 August) and that MFish is proposing to allocate the final quota prior to 1 October 2004. We are instructed to issue proceedings, and to seek interim orders preserving Non-Commercial Fishers' position until such time as the High Court may consider any substantive application.

6. To avoid the cost to all parties of interim proceedings, we are instructed to seek your undertaking that the final quota will not be allocated until any substantive proceedings can be determined by the High Court. It is recognised that this may necessitate some provision for controlled commercial fishing to continue pending any Court decision.

7. Could you please advise by no later than **5:00pm Wednesday, 23 September 2004** as to whether you are prepared to provide such an undertaking, upon which we will proceed to commence substantive proceedings in a prompt manner.

HESKETH HENRY

David Connor / Stuart Ryan

Partner / Partner
Direct Dial - 09 375 8744 – David Connor
Direct Dial - 09 375 8778 - Stuart Ryan
Direct Fax - 09 375 8771
Email - david.connor@heskethhenry.co.nz
Email - stuart.ryan@heskethhenry.co.nz

KI 18

This is the document marked **KI 18** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Jennifer A Heard

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

Te Tari Ture o te Karauna

Crown Law

22 September 2004

Hesketh Henry
DX CP 24017
AUCKLAND

Attention: Stuart Ryan

Fax No: 09 309 4494

Dear Partners

Introduction of Kahawai stocks into QMS
Our Ref: MFI260/263

1. I am replying on behalf of the Minister of Fisheries to your letter of 20 September.

2. The criticisms of the Minister's decision on 10 August are not accepted, but rather than address those arguments point by point I note:

   2.1. The decision that is bringing kahawai into the QMS with effect from 1 October 2004 is in fact the Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice (No 3) SR2003/207 dated 14 October 2003. As a consequence of that notice the Minister and the Chief Executive/the Ministry must undertake a number of steps before 1 October, including setting the TACC and the allocation of quota. The TACC has been set and the allocation of quota has occurred under s 50B Fisheries Act. Kahawai stocks are one of the exceptional stocks for which there may be a further round of Crown purchase of quota (compulsory purchase if necessary) and then a final recalculation of quota (if necessary) under ss 50E-50G. These remaining steps reduce the amount of kahawai that commercial fishers can take under their ACE – if these steps do not occur recreational fishers will be worse off rather than better off.

   2.2. Until 30 September, commercial kahawai fishing is restricted by the moratorium imposed by s 93 Fisheries Act on the issue of new fishing permits. That moratorium has been repealed with effect from 1 October. If the entry of kahawai into the QMS on 1 October is interrupted by court orders there will be no legal restriction on the number of fishers who can take kahawai or on the amount that each can take. The TACC decision does not restrict recreational fishing interests (which are subject to the amateur fishing regulations) but it does restrict commercial fishers.

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2.3. The TACCs that the Minister has set are in total 15% less than the average total commercial catch over the past 5 years. In terms of the current purse seine limits the TACCs are set below the old limits (in the case of KAH3 well below the old limit). Under the QMS all kahawai caught must be landed against ACE and as the kahawai bycatch is about 40% of the catch entry into the QMS will greatly reduce the potential for target fishing by purse seining.

3. The Minister cannot agree to stopping the introduction of kahawai stocks into the QMS now and the Chief Executive cannot agree to stopping the final recalculation of kahawai quota (if any further calculation is necessary).

4. At the same time as he made the TACC decision the Minister accepted a recommendation to begin consultation with recreational interests about reducing the amount of kahawai taken by recreational fishers. This consultation would normally be undertaken in from about October to November with a view to formal consultation on any change to the regulations beginning in about April. The legal regime under which recreational fishers operate is unlikely to change until some time after then, if at all.

5. Interim orders of the kind that your letter proposes would harm the interests of recreational fishers rather than preserve them. If your clients wish to test the issues set out in your criticisms of the TACC decision, that can be done in a substantive judicial review hearing without the need for interim orders. I expect that a substantive hearing could be arranged in Wellington before any decision to alter recreational fishing rules is to take effect. Alternatively, have your clients considered the dispute resolution process in Part 7 Fisheries Act, which is well-suited to recreational-commercial disputes?

6. If your clients do wish to proceed with litigation, the commercial fishers whose rights would be affected will need to be joined as parties. There are about 389 of them in total, and the easiest way to arrange their involvement may be to contact Seafic for details about representation of them as a group. Some of the larger fishers may, however, want to be joined individually. They are:

Sanford Limited
PO Box 443
AUCKLAND
Attn: Eric Barrett
ph 09 3794720 or email gmcnamara@sanford.co.nz

Sealord Group Limited
PO Box 11
NELSON
Attn: Mr Richard Ayers
03 5459525 or email rja@sealord.co.nz

Nelson Fisheries Limited
PO Box 38009
Wellington Mail Centre
Attn: Mr Jonathan Meikle
0274439223 or email jpmeikle@xtra.co.nz

7. It may be helpful to discuss our respective clients' positions. You can contact me on 04 494 5602.

Yours faithfully

Peter McCarthy
Crown Counsel

KI 19

This is the document marked **KI 19** mentioned and referred to in the affidavit of **KEITH LUKE INGRAM** sworn at Auckland this 12th day of August 2005 before me:

Jennifer A Heard

Solicitor of the High Court of New Zealand

Jenny Heard
Solicitor
Auckland

Our Ref: Stuart Ryan/David Connor

«Name»
«Address»

Tuesday, 5 October 2004

DECISION BY MINISTER OF FISHERIES OVER KAHAWAI ALLOCATION

1. We have instructions from the New Zealand Recreational Fishing Council Inc and the New Zealand Big Game Fishing Council Inc (together referred to as "non-commercial fishers"). We understand that you are entitled to kahawai quota based on catch history records.

2. It is appropriate that we notify you that non-commercial fishers intend to issue proceedings to review the Minister of Fisheries' decisions allocating quota for the kahawai species. It is envisaged that the legal proceedings issued will seek declaratory and other relief to set aside the Minister's decisions for the kahawai species for 2004, and for future years.

3. The proceedings will contend, among other things, that the Minister's 2004 decisions are wrong in law, including claims that the Minister's decisions:

   a. Fail to allow for non-commercial interests by recognising that such interests have to be "allowed for" before determining the TACC.

   b. Fail to allow for non-commercial fishing interests, by allocating the TACC on the basis of catch history depleted by purse seine fishing.

   c. Fail to consider the cause and effect of fishing upon this important non-commercial species, in particular, the effects of the purse seining method of catching whole schools of kahawai.

   d. Fail to recognise likely imbalances in quota management for non-purse seine commercial fishers caused by allocation of a large percentage of the TACC to the purse seine fleet.

4. This letter has been sent to other quota holders.

HESKETH HENRY

Stuart Ryan
Partner

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Direct Fax - 09 375 8771
Email - stuart.ryan@heskethhenry.co.nz

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Aaron Christopher Morrogh, Andrew Gordon Morrogh	P O Box 43, Ahipara, Kaitaia 0551
Alan Clifton Whitley	86 Brown Road, R D 1, Gisborne 3821
Alan John Cibilich	25 Bel Air Drive, Hillsborough, Auckland 1006
Alexander Edmund Forbes	27 Voelas Road, Lyttelton 8012
Alexander Thomas Bloomfield	226 Thorp Street, Motueka 7161
Allan John Rooney	14 Buxton Road, Corsair Bay, Lyttelton, Christchurch 8012
Alpha Fisheries Limited	P O Box 1019, Blenheim 7315
Amaltal Fishing Co Limited	P O Box 36, Auckland 1015
Andrew Bennett Turnwald	3315 Tiki Road, Te Kouma R D, Coromandel 2851
Andrew Bruce Linton, Edwin Frederick Cooke	11 Hampden Street, Picton 7372
Andrew Crutchley Bergvall	59 Simpson Road, Ranui, Auckland 1008
Andrew John Graham Robinson	2 Oakley Crescent, Thames 2801
Anguilla Enterprise Limited	C/- Thomas Richard & Co, P O Box 81009, Whenuapai, Auckland 1250
Anthony John Walker	3 Hazards Road, Weymouth, South Auckland 1702
Anthony Martin Gugich	239B Karaka North Road, R D 1, Papakura, South Auckland 1730
Anthony Mcelroy Ford	68 Cabaleigh Drive, Helensville 1250
Antons Trawling Company Limited	P O Box 632, Auckland 1015
Arthur Jack Brace, Malcolm Jack Brace	P O Box 115, Westport 7615
Arthur John Harvey	P O Box 200, Mangonui 0557
Arthur John Scott	473 Pipiroa Road, RD1, Ngatea 2852
Barrie Anthony	C/- Post Office,

Barber	Karitane, Dunedin 9064
Barrie Vincent Jenner	11 Colorado Place, Avondale, Auckland 1007
Barry Edward Govier	341 South Road, Omata, R D 4, New Plymouth 4621
Barry Graeme Davies	2 Kendale Drive, C/- P D C, Leigh 1241
Basil Leslie Jones, Stephen Basil Jones	105 Milton Terrace, Picton 7372
Blake Colin Scott	682 Te Atatu Road, Te Atatu Peninsular, Te Atatu 1008
Blake Colin Scott	682 Te Atatu Road, Te Atatu Peninsular, Te Atatu 1008
Blue Buoy Limited	461 Ohiro Road, Brooklyn, Wellington 6008
Blue Water Products Limited	P O Box 2135, Dunedin 9015
Boote, Craig Robert & Boote, Diane Wendy	P O Box 5149, Port Nelson, Nelson 7030
Brenda Kay Fishing Limited	C/- Fiordland Lobster Company Ltd, P O Box 92, Te Anau 9681
Brett Edward Edwards	77A Pukaki Road, Mangere, Auckland 1701
Brian David Hahn	Settlement Road, R D 3, Pukekohe 1800
Brian George Kiddie	9 Ngarimu Place, Mount Maunganui, Tauranga 3002
Brian James McMillan	Awaiti Road, R D 2, Paeroa 2951
Brian Sydney Deadman, Robert Whitelaw Lees	5/91 Basset Road, Remuera, Auckland 1005
Bruce Alexander Mckay	P O Box 286, Paihia, Northland 252
Bruce Clarence Petersen	13A Tobin Place, Taupo 2730
Bruce William Clifford Roberts	180 Ngatai Road, Tauranga 2856
Bryce Mathers, Denise Mathers	P O Box 8607, Havelock North,

	Hastings 4230
Bryon Robert Hector Low	C/- Anthony Adamson, Sanford (South Island) Limited, Private Bag 905, Timaru 8620
Christensen, Roy Gordon & Christensen, Evelyn Mary	Oakleigh, R D 1, Whangarei 121
Christianson Williams	353 Port Albert Road, R D 3, Wellsford 1242
Christopher John Collecutt	1314 Whangarei Heads Road, R D 4, Whangarei 0101
Christopher Powell	15 Cyrus Street, New Plymouth 4601
Christopher Robin Parris	P O Box 195, Motueka 7161
Christopher Thomas Parish	172 Claremont Road, R D 4, Timaru 8621
Christopher Wayne Matich	40 Jellicoe Road, Ruawai 1240
Clem George Smith	Fishermans Point, Taumutu, R D 3, Christchurch 8021
Clyde William Espiner	88 Donnett Street, Opunake 4854
Colin George Lowe, Toni Anne Lowe	R D 1, Onerahi, Whangarei 0132
Colin Patrick McCauley	1 Brunner Street, Nelson 7001
Colin Russell Jane, Jean Jane	R D 8, Nuhaka, Hawkes Bay 4192
Constantinos Marolias	99 Clovelly Road, Bucklands Beach, Auckland 1704
Dale Jack Connor	P O Box 535, Picton 7372
Dale Ken Browne	19 Oval, Paremoremo, North Shore, Auckland 1311
David Alexander Salter	R D 2, Raupo, Ruawai 586
David Boyd Brown, David McKay Hayman	P O Box 6057, Moturoa, New Plymouth 4630
David Charles Olsen	R D 1, Awanui,

	Kaitaia 0500
David Edward Barker	7 Arthur Road, R D 5, Thames 2801
David Graeme Greco	31 Pencarrow Street, Palmerston North 5315
David Neil Vitasovich	6 Jervios Street, Dargaville 300
David Wayne Stevenson	Okiato Point, R D 1, Russell 255
Davidson, Craig Peter & Davidson, Corina Anne	C/- Craig Davidson, 1191 Hauraki Road, R D 1, Paeroa 2951
Deepcove Fisheries Limited	P O Box 5, Motueka 7161
Dene Erl Robertson	83 Boyd Road, R D 4, Pukekohe 1800
Desmond Claude Feakins, Terence Kevin Feakins	12 Penrith Street, New Plymouth 4601
Desmond Ross Wilkinson	Wiroa Road, R D 1, Okaihau 455
Donald Fremlin	11 Windfall Grove, Greenhithe, Auckland 1311
Douglas Basil Pulford	11 Springfield Avenue, R D 5, Thames 2801
Douglas Bernard Murray	102 Resevoir Road, Thames 2801
Douglas Milton Matich	1 Bledisloe Street, Ruawai 0586
Dyer, Raymond Mark & Dyer, Lynette Frances & Johnston, Craig Maurice	C/- R.M. & L.F. Dyer, State Highway 14, R D 9, Whangarei 0101
East Coast Crab Limited	C/- Blair Eric Gray, P O Box 110, Clive, Napier 4152
Edward Austin Ingram	51 Fontenoy Street, Mount Albert, Auckland 1003
Edward Laurence Collins	4 Dodson Street, Spring Creek, Blenheim 7350
Egmont Seafoods Limited	P O Box 592, New Plymouth 4615
Errol Maurice D'Ath	18 Cashmere Way, R D 5, Welcome Bay,

	Tauranga 3001
Esperance Fishing Co Limited	P O Box 632, Auckland 1015
Esplanade No 3 Limited	P O Box 174, Napier 4015
Estate of Decke, Davidson Peter	80 Sterling Gate Drive, Tauranga 3001
Estate of Humphries, Robert Clifton	C/- Mark Humphries, 40A Wood Bay Road, Titirangi 1007
Estate Of John Wilfred Bradnock	C/- Cara Bennett, P O Box 549, Napier 4015
Estate of Keith Donald Collier	c/- Angela Collier, 41 Rewa Rewa Place, Tauranga 3001
Estate Of Kevin Cecil Ruthe	15 Hazards Road, Weymouth, Manurewa, Manukau City 1702
Estate of Sidney George Atkinson	C/- Mrs R J Atkinson, P O Box 4, Brighton-Le-Sand, New South Wales 2216, Australia
Far North Cottage Industries Limited	Whangape Road, R D 1, Kaitaia 500
Fine O Muir Limited	P O Box 14246, Tauranga 3030
Flora Margaret Thirkettle	4 Baker Street, Helensville, Auckland 1250
Francis Lancelot Hyland	58 Chelmsford Street, Hampden, Oamaru 8950
Fresha Fisheries Limited	P O Box 367, New Plymouth 4615
Gabriel Fishing Limited	P O Box 758, Whakatane 3080
Gary Ian Matheson	1 Lyon Street, Opua 0290
Gavin Campion, Hugh Robbie	94 Churchill Street, Kaikoura 8280
Geoffrey Charles Harmon	P O Box 64, Kaikoura 8280
Geoffrey William James Rochester Basher, Kim Lesley Basher	Motunau Beach, R D 1, Greta Valley 8270
Geordie Murman	149 Omaha Valley Road, R D 5, Warkworth 1241
Gerard Anthony Pole	C/- Post Office, Puhoi 1243

Gibson John Bull, Fran Raewyn Bull	Te Kouma, R D, Coromandel 2851
Gisborne Fisheries 1955 Limited	P O Box 1228, Gisborne 3815
Glenn Ernest Parratt	13 Grange View, Woodend, North Canterbury, Christchurch 8255
Glenn Merrie	R D 3, Pokeno 1730
Glenn Paul Sanford	3205 South Head Road, R D 1, Helensville 1250
Gordan Duncan Marshall	44 Leccino Valley Road, R D 1, Mangonui 0557
Graeme Scott Bailey	53 Pt Wells Road, R D 6, Warkworth 1241
Graeme Victor McCutcheon	5 Nursery Road, Seddon, Blenheim 7353
Graham Anthony Mikkelsen	P O Box 47, Mangawhai 583
Graham Douglas Bennett, Simon Shera	2 Clive Street, Hawera 4800
Graham Edward King	R D 1, Thames 2821
Graham Edwin Blackwell	19 Taylor Street, Ohauiti, Tauranga 3001
Graham Francis Webb, Janice Lorraine Webb	76 Scotland Street, Picton 7372
Graham Hallen, Lorraine Hallen	Waihi Road, Whangamata 3062
Graham Philip Roach	Ocean View, R D 3, Rai Valley 7156
Graham Taylor	146 Omimiti Street, Kawhia 2451
Grant Barry Edgecombe	Kaipara Coast Highway, Hoteo, R D 4, Warkworth 1241
Grant Lewis Robinson	43b Wye Street, Island Bay, Wellington 6002
Gregory John Hayes	Nook Road, R D 4, Whangarei Heads, Whangarei 0132
Guards Fisheries Nelson Limited	P O Box 5022, Port Nelson,

	Nelson 7015
Handley, Leslie Paul & Handley, Anne Lorraine	700 East Coast Road, Browns Bay, Auckland 1310
Harold Keith Simon	Taieri Mouth, R D 1, Brighton 9051
Hector Finlay Mcliver	38 Pearson Street, Mangawhai 583
Heineman, Ate & Heineman, Colleen Lynne	90 Borlases Road, Sawyers Bay, Dunedin 9001
Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, either individually or collectively	P O Box 1020, Wellington 6015
Herbert Cecil Robertson	6 Channel View Road, R D 4, Pukekohe 1800
Hilton James Leith	P O Box 1150, Whangarei 0115
Howells, Bruce Stuart & Howells, Aithnia Stella	C/- Busing & Russell, P O Box 69, New Plymouth 4615
Ian Grant Ruthe	C/- I G Ruthe Limited, R D 4, Pukekohe, Waiau Pa 1852
Ian Hector Reichardt	P O Box 63, Awanui, Northland 550
Ian Raymond Steed	79 Valley Road, Mount Maunganui, Tauranga 3002
Ian Robert Mckenzie	75 Derby Street, Westport 7601
Independent Fisheries Limited	P O Box 19554, Woolston, Christchurch 8030
ITQ Management Limited	P O Box 5657, Dunedin 9031
Ivan Anthony Maich	205 Wyuna Bay Road, R D 1, Coromandel 2851
Ivan Bernard Bennett	Pourerere Beach, R D 1, Waipawa 4170
Ivan Frederick Booker	42 Evans Road, Weymouth, Auckland 1702

Ivan Gibbons	4 Evans Road, Weymouth, Auckland 1702
Ivan Lewis Wilson, Murray Steven Wilson	R D 2, Stanley Road, Opotiki 3092
Janelle Fisheries Limited	12 One Tree Point Road, Ruakaka 253
Jens Rydher Jenssen	P O Box 12068, Napier 4015
John Francis Ridings	229 The Booms Avenue, Thames 2801
John Francis Rochford	64 Marine Drive, Diamond Harbour, R D 1, Lyttelton 8012
John Freestone	53 Bickerton Street, Wainoni, Christchurch 8006
John Lionel Perry	Pairatahi Road, Kaiangaroa, Awanui 0500
John Patrick Walker	71 Heawa Road, Aratapu, Dargaville 0300
John Robin Dyer	P O Box 3202, Onerahi, Whangarei 132
John Russell Adam	C/- Sanford Ltd, P O Box 391, Tauranga 3015
John Toko Pirini	Waterfront Road, R D 4, Kaitaia 500
John William Jones	67 Raurimu Avenue, Onerahi, Whangarei 101
Johnathon Paul Mason	P O Box 3254, Onerahi, Whangarei 0115
Jorgensons Marine Services Limited	14 Grosmont Terrace, Tauranga 3001
Joseph Heberley, Heather Heberley	Private Bag, Okukari, Tory Channel, Picton 7372
Joseph William Johnston	Flat 3, 1 Kirkaldy Street, Petone, Lower Hutt 6008
Kaiwaka Fishing Company Limited	P O Box 9769, Newmarket, Auckland 1701
Keith Rayner Morgan	Fenwick Road, Rangiheata,

	Takaka 7172
Kelvin Herbert Ellison, Noeline Nellie Margaret Ellison	Tunanui Road, R D 8, Nuhaka 4192
Kelvin Maurice Ruthe	15 Hazards Road, Weymouth 1702
Ken Mikaere	18 Carlton Street, Otumoetai, Tauranga 3001
Kenneth Charles Harris	19 Penbroke Street, Moeraki, Palmerston 9061
Kenneth Craig McBride	Abel Tasman Drive, Takaka 7172
Kenneth John Mclaren	P D C, Cooks Beach, Whitianga 2856
Kenneth Sherwyn Clunies-Ross	40 Dillons Point Road, Blenheim 7301
Kenneth Walter Browne	35 Rewi Street, Torbay, Auckland 1310
Kevin Eric Martin	5 Domain Road, Weymouth, Manurewa, South Auckland 1702
Kevin Francis Barron, Glenys June Barron	P O Box 16039, Tamatea, Napier 4030
Kevin George Winchester	32 Marlborough Street, Greymouth 7801
Kevin Milton Matich	51 Jellicoe Road, Ruawai 1240
Kevin William Braid, Yvonne Elizabeth Braid, K W Braid Family Trust	128 Aramoana Road, Deborah Bay, R D 2, Port Chalmers 9005
Klaus-walter Muehlhoff	P O Box 911172, Auckland Mail Centre 1030
Lady Marcella Fishing Limited	4A Clerke Place, New Plymouth 4601
Laurence Henry Robertson	P O Box 87179, Meadowbank, Auckland 1130
Laurence Henry Robertson	P O Box 87179, Meadowbank, Auckland 1130
Lawrence John Beamish	P O Box 97, Whitianga 2856
Legacy Fishing Limited	94 Milton Terrace, Picton 7372
Leigh Fisheries Limited	R D 5, Warkworth 1241
Leonard George Pinny	C/- K Peters, Rodewald Hart Chartered Accountants,

	P O Box 13380, Tauranga 3001
Leslie Henry Horncastle	P O Box 5130, Nelson 7015
Leslie Raymond Adams	45 Shelly Beach Road, R D 1, Shelly Beach, Helensville 1250
Lloyd Pearson Stubbs	C/- Postal Centre, Paparoa 1240
Lyttelton Trawling Co Limited	P O Box 47, Lyttelton 8033
MacDonald, Allan Charles & MacDonald, Karen Joy	29 Kaka Road, South Bay, Kaikoura 8280
Makorori Holdings Limited	19 Makorori Beach, R D 3, Gisborne 3821
Malcolm Frank Anderson	P O Box 85, Waiuku 1730
Malcolm Leslie Tubb	8 Kauri Street, Timaru 8601
Malcolm Robert Pinkney	R D 1, Kohukohu 570
Malcolm Robert Pinkney	R D 1, Kohukohu 570
Mangonui Fisheries Limited	P O Box 136, Mangonui 0557
Marion Lynette Morris, Estate of Kevin Charles Morris	63 Norbiton Road, Foxton 5551
Mark Alen Semmens	2 Edge Street, Onerahi, Whangarei 121
Mark Cecil Robertson	88 Boyd Road, R D 4, Pukekohe 1800
Mark Clifton Humphries	40 A Wood Bay Road, Titirangi, Auckland 1007
Mark Donald Fraser	6 Webber Street, Paraparaumu, Wellington 6450
Mark Douglas Bamford	27 A Skinner Street, New Plymouth 4601
Mark Douglas Bamford, William John Bamford	27A Skinner Street, New Plymouth 4601
Mark Illingworth	97 Thompson Road, R D 1, Warkworth 1241
Mark Ronald Aislabie, Lorraine Florence Aislabie	1599 East Coast Road, R D 3, Pokeno 1872

Mark Warren Donaldson	R D 4, Warkworth 1241
Mary Anne Couldrey	R D 5, Papakura, South Auckland 1015
Mate Franicevich, Radaslava Franicevich	194 Beach Road, Onerahi, Whangarei 0101
Maurice Ronald Pulford	12 Centennial Drive, Whitianga 2856
Maurice Wayne Sveistrup	209 Tararu Road, Thames 2801
Max Kapua Brown	92 Ranfurly Road, Manurewa, South Auckland 1703
Max Marine Limited	6 Taumata Place, Tauranga 3001
McDonald & Brown Limited	58 Moutere Highway, R D 2, Upper Moutere 7152
Melvern Leonard Frear	P O Box 59, Mangonui 557
Michael Beeching	18A Eiver Road, Whakatane 3080
Michael Cameron Mitchell	C/- Donal Boyle, P O Box 10123, Bayfair, Mount Maunganui 3030
Michael Gordon Wilson	244 Te Mata Road, R D 1, Raglan 2051
Michael Joe Macedonski	24 Centreway Road, Port Waikato, R D 5, Tuakau 1892
Michael John Thorburn	296 Cemetery Road, Maunu, Whangarei 121
Michael Patrick Wallace	P O Box 14, Coromandel 2851
Michael Robert Matich	30 Jellicoe Road, Ruawai 1240
Michael Sclanders Taylor Trust, Dennis Michael Lander Family Trust, Bevan Howard De Berry Family Trust	P O Box 13070, Johnsonville, Wellington 6032
Michael Timothy Te Maiharoa	Moeraki, R D 2, Palmerston 9061
Micheal Edward Taylor	26 Churcher Street, Feilding 5600
Miladin Boskovic, Mara Boskovic,	P O Box 632, Auckland 1030

Robert Cobb	
Mitchell Fishing Company Limited	274b Otipua Road, Timaru 8601
Moana Fishing Limited	P O Box 445, Auckland 1030
Moana Pacific Quota Holdings Limited	P O Box 445, Auckland 1030
Moore, David Robert & Moore, Wendy Anne	P O Box 352, Warkworth 1241
Murray William Lambert	23 Bennett Street, Port Albert, Wellsford 1242
Murray William Watson	29 Kitchener Street, Wanganui East, Wanganui 5001
N & H White Limited	40 Havelock Street, Riverton 9654
Nathan Darrell Adams	4 Edwin-Mitchelson Road, Muriwai Beach, R D 1, Waimauku 1250
Nathanial Paul Davey	7 Flagstaff Road, Russell 255
Neil Abraham Cleaver	C/- Janette Ann Harper, Taranaki Abattoirs, 3396 Mountain Road, Stratford 4700
Neil Douglas Hughes	4 Shelly Beach, R D 1, Helensville 1250
Neil Edward Chamberlain	R D 1, Te Kopuru, Dargaville 0300
Neil John Matheson, Richard Arthur Burch	7 Lawrence Road, Napier 4001
Nelson Fisheries Limited	P O Box 38009, Wellington Mail Centre, Wellington 6332
Nelson Ranger Fishing Company Limited	5 London Quay, Picton 7372
Neville Peter Lang	P O Box 135, Coromandel 2851
Nicholas Earl Sciascia	P O Box 25, Porangahau 4176
Noel Kenneth Hassan	R D 2, Awanui Straight, Kaitaia 500
Noel Raymond Taylor	P O Box 247, Mangonui 0557
Norman Ranui Waaka	71 Waimapu Pa Road, Tauranga 3001
O A McRae Fishing Limited	101 Kelso Lane, Coromandel 2851

Ocean Fisheries Limited	P O Box 144, Lyttelton 8033
Ocean Pioneer Limited	P O Box 692, Timaru 8615
Odey Fishing Company Limited	Levels, R D 4, Timaru 8621
Okiwa Holdings Limited	C/- C Pascoe, Loganburn Station, R D 4, Ranfurly 9071
Oliver David McManaway	P O Box 28, Picton 7372
Otakou Fisheries Limited	P O Box 5086, Dunedin 9015
Pacific Trawling Limited	P O Box 12135, Ahuriri, Napier 4030
Pacifica Seafoods (Christchurch) Limited	P O Box 8696, Riccarton, Christchurch 8034
Pacifica Seafoods (Dunedin) Limited	P O Box 5657, Dunedin 9015
Papa Pounamu Limited	31 Somerset Road, Springvale, Wanganui 5001
Patrick William Bloomfield	4 Marion Place, Motueka 7161
Paul Allan Johnson, Ann Stuart Johnson	1875 Pourerere Road, R D 1, Waipawa 4170
Paul Anthony Burgess	218 Cook Drive, Whitianga 2856
Paul John Robertson	C/- Scythian Fishing Ltd, P O Box 37, Houhora 550
Paul Martin Veal	445 Tapu Coroglen Road, R D 5, Tapu, Thames 2821
Paul Rikiriki Dewes	61 Murdock Road, Kaiti, Gisborne 3801
Pelco NZ Limited	P O Box 4472, Mt Maunganui South, Tauranga 3030
Peter Allan Thorburn, Gail Anne Thorburn	41 Buchanans Road, R D, Ngatea 2852
Peter Antony Yardley	R D 1, Maungaturoto 0581
Peter Carr Millar	Te Ngaere Beach, R D 1, Kaeo 471
Peter Hunter, Pauline	54 Te-ngawai Road,

Gwennyth Hunter	Pleasant Point, Timaru 8772
Peter Multrus	P O Box 3, Waiwera 1240
Peter Raymond McKinnon	P O Box 10123, Bayfair, Mount Maunganui 3030
Peter Robert Davis	136 Stevensons Avenue, Sawyers Bay, Dunedin 9001
Peter Stuart Ashby	67 Solan Drive, R D 3, Waimauku, Auckland 1250
Peter Thomas Herbert	Flaxmill Bay, R D 1, Whitianga 2856
Peter William Hughes	31 James McLeod Avenue, Shelly Beach, Helensville 1250
Phillip Henry Clow, Charmaine Verah Clow	43 Orua Lane, Hotwater Beach, R D 1, Whitianga 2856
Phillip Raymond Hawkins	731 Takarau Gorge Road, Makara, Wellington 6005
Physalie Marine Services Limited	P O Box 2013, Stoke, Nelson 7030
Platinium Corporation Limited	P O Box 12068, Ahuriri, Napier 4030
Ponderosa Holdings Limited	P O Box 61, Coromandel 2851
Prictor, Trevor Murray & Prictor, Alwyn Murray	Underwood Road, R D 3, Wellsford 1242
Pursuit Fishing Limited	P O Box 5076, Port Nelson, Nelson 7030
Quentin Russell Sanderson	Campbell Road, R D 2, Kaeo 0471
R J & J E Butts Limited	517 Abel Tasman Drive, Takaka 7172
Ray John Ashby	1911 South Head Road, R D 1, Helensville 1250
Raymond Errol O'Callaghan	P O Box 142, Bayview, Napier 4015
Raymond Frank Yearbury	P O Box 170, Whitianga 2856
Raymond Walter	P O Box 87,

Turnbull	Awanui 0552
Remi, Laurence Trevor & Remi, Cassy Joy	37 Fosters Road, R D 1, Mangonui 557
Rex Douglas Hays	113 Dominion Road, Papakura, Auckland 1703
Rex Graham Smith	113 Back Miranda Road, R D 6, Waitakaruru, Thames 2821
Rex Samuel Sellers	17 Shelley Beach Parade, Cockle Bay, Howick, Auckland 1705
Richard Anthony McLeod	P O Box 7136, Nelson 7015
Richard Brenton Cleverly	P O Box 4048, Kamo, Whangarei 131
Richard Colin Booker	3 Hill Crescent, Papakura, South Auckland 1703
Richard Hill	C/- McKay Hill, P O Box 1143, Napier 4015
Richard James Cleall	39 South Bay Parade, Kaikoura 8280
Richard John Avery	541 Ryan Road, Te Arai, R D 5, Wellsford 1242
Richard John Walker	3 Hazards Road, Weymouth, Manurewa, South Auckland 1702
Richard Taylor	185 Egmont Street, Patea 5181
Richard William Verrent	10 Kawau Grove, Waikanae 6454
Robert Bruce Billings	Main Road, Waitakaruru, R D 6, Thames 2801
Robert Bruce Matthews	P O Box 17, Ahipara 551
Robert Ian Parker, Margaret Ann Parker	48 McGarvy Road, Whakatane 3080
Robert McClean Beggs	38 Southampton Street, Christchurch 8002
Robert Paul Johnson	95 Princess Street, Waitara 4656
Robert Wayne Kusabs	1 Marine Parade, Tower 1 Apartment 8A, Mount Maunganui,

	Tauranga 3002
Robert William Saunders	3 Moana Road, Plimmerton 6006
Robin Leonard Beardsell	C/- Davor Antunovich, 19 Corban Avenue, Henderson, Auckland 1008
Roderick Owen Lockett	14 Didsbury Drive, Waihi Beach, Waihi 2980
Rodney Grant Stock	P O Box 426, Thames 2815
Rodney Roy Christensen	South Road, R D 2, Waipu 254
Roger Paul Allan	12 Park Avenue, Titahi Bay, Wellington 6006
Ronald Harvey Perry	P O Box 153, Leigh 1241
Ronald John Hunter, Lalita Hunter	49 Campbell Road, Maraetai, Auckland 1701
Ronald John Matich	28 Jellicoe Road, Ruawai 1240
Ronald John Smerdon	66 Whitehead Avenue, R D 3, Te Puke 3071
Ronald Lamont Bowman	37 William Denny Avenue, Westmere, Auckland 1002
Ronald Leslie Baker	P O Box 76, Mangonui 557
Ronald Robert Brown	22 Marblewood Grove, Pukekohe 1800
Rongo Marie Limited	102 Old Wharf Road, Motueka 7161
Rosandich, Ivan Graeme & Rosandich, Lynne	P O Box 239, Warkworth 1241
Ross Godfrey Gardner, Karine Vigdis Gardner	17 Meeanee Quay, Westshore, Napier 4001
Ross Steven Coppell	Westland Accountancy Limited, P O Box 177, Greymouth 7801
Royden Garth Fearnley	P O Box 1, Kaikoura 8280
Russel James Wingrove	P O Box 1057, Tauranga 3030
Russell John Chesnutt	P O Box 128, Coromandel 2851
Sanderson & Sons Fishing Co Limited	Totara North Road, Totara North, Kaeo 0471

Sanford Limited	P O Box 443, Auckland 1015
Sea Harvest Properties Limited	1191 Hauraki Road, R D 1, Paeroa 2951
SeaBee Holdings Limited	45 Te Ngaio Road, Mount Maunganui, Tauranga 3002
Seafood Investments Limited	P O Box 138, Lyttelton, Christchurch 8015
Sealord Group Limited	P O Box 11, Nelson 7015
Seaqueen Fisheries Limited	25 Domain Terrace, Greymouth 7821
Sebala Fisheries Limited	P O Box 298, Mangonui 0557
Serene Fishing Co Limited	242 The Esplanade, Kaikoura 8280
Simunovich Fisheries Limited	P O Box 91331, Auckland 1030
Southern Scallops Limited	P O Box 483, Dunedin 9015
Star Fish Supply Limited	P O Box 12028, Napier 4030
Staunton Investments Limited	P O Box 19554, Christchurch 8030
Stella Fisheries Limited	47 Flanders Avenue, Onekawa, Napier 4001
Stephen John Winchester	254 Whites Road, Ohoka, R D 2, Kaiapoi 8252
Stephen Leslie Lowe	P O Box 156, Leigh 1241
Stephen Paul Bolton	575 Mairaki Downs Road, R D 1, Springbank, Rangiora 8254
Stephen Peter Morrison	Keven Road, Waiau Pa, R D 4, Pukekohe 1800
Stephen Scott Gread, Susan Ann Gread	405 Matahui Road, R D 2, Katikati 3063
Stephen Thomas Lines	226/3 Te Atatu Road, Te Atatu, South Auckland 1008
Steve Craddock Lange	P O Box 43, Mangonui 557
Steve Little	40 Gore Street, Bluff 9503
Straight Arrow	P O Box 9739,

Holdings Limited	Marion Square, Te Aro, Wellington 6015
Straight Arrow Holdings Limited	P O Box 9739, Marion Square, Te Aro, Wellington 6015
Susan Fishing Co Limited	3 Athol Place, Timaru 8601
Talleys Fisheries Limited	P O Box 5, Motueka 7161
Te Runanga O Whaingaroa	P O Box 88, Kaeo 0471
Teone Martin Taiaroa	C/- Trawler Fishing, P O Box 2171, South Dunedin 9030
Terrence Lyall Olsen	R317, Cambridge Road, Tauranga 3021
The Estate Of Bruce Wayne Chaffey	C/- FishServe, P O Box 297, Wellington 6015
The Estate Of David Brent O'Gorman	R D 2, Kaitaia 0500
The Estate Of Michael David Clark	Urlich McNab Kilpatrick, P O Box 633, Whangarei 0115
Theo Bakker	Beach Road, Birdlings Flat, Little River 8162
Thomas Albert Fishburn	Mount Pleasant, R D 3, Blenheim 7321
Thomas Stephan Hunt	P O Box 64, Kaitaia 500
Thomas Weiss	P O Box 449, Nelson 7015
Timothy David Rout	Tahere Road, R D 5, Whangarei 0121
Timothy Lane Brosnahan	P O Box 17241, Karori, Wellington 6033
Timothy Mark Goodyer	65 Rowley Crescent, Blenheim 7301
Timothy Mcleod Hall	Ti Point Road, R D 5, Warkworth 1241
Timothy Robert Sintes	18 Tern Street, Southshore, Christchurch 8007
Tissiman Bros Limited	14 Canterbury Street, Lyttelton, Christchurch 8012
Tony Alan Mullins	P O Box 33,

	Ahipara 0551
Treaty of Waitangi Fisheries Commission	P O Box 3277, Wellington 6015
Trevor Malcolm Jackson	44 McLarin Road, Glenbrook Beach, R D 1, Waiuku 1852
Trevor Vincent Frear	C/- John Patrick Jameson, Thomas Richard & Co, P O Box 81009, Whenuapai 1230
United Fisheries Limited	P O Box 11288, Christchurch 8030
Urwin & Company Limited	P O Box 3, Bluff 9503
Vautier Shelf Company No. 14 Limited	P O Box 156, Silverdale, Auckland 1462
Victor Robert King-Turner	P O Box 10-047, The Wood, Nelson 7015
Virgo Fisheries Limited	P O Box 64, Kaikoura 8280
Vlatkovich, Stan & Vlatkovich, Peter	39 Normans Hill Road, Onehunga, Auckland 1006
Waitapu Fishing Co Limited	Glenview Road, Emergency Services Number 440, R D 1, Takaka 7172
Walton, John Lewis & Low, David	410A Richmond Street, Thames 2801
Warren Charles Dick	35 Shelly Beach Road, Helensville, Auckland 1250
Warwick Lloyd Goodman	Ota Point Road, R D 1, Kaeo 471
Wayne Mark Kostanich	48 Parkhurst Road, R D 1, Helensville 1250
Wayne Terrence Howell	19 Fairfield Street, Pukekohe 1800
Wellington Trawling Co Limited	P O Box 2200, Wellington 6015
Welsh Farriers Limited	25 Sirrah Street, Okitu, Wainui Beach, Gisborne 3801
Western Bay Fishing Limited	C/- 25 Holcombrooke Lane, R D 5, Welcome Bay, Tauranga 3001
Westfleet Fishermens	P O Box 180,

Co-Op Limited	Greymouth 7815
Whangarei Foods Limited	P O Box 1001, Whangarei 0115
William Allan Thompson	P O Box 2377, Stoke, Nelson 7030
William Bernard Poole, Marion Isabell Poole	Moeraki, R D 2, Palmerston 9061
William George Harvey	Kia-ora Road, 30 R D, Cormacks, Oamaru 8921
William Harry Boyd Parrott	P O Box 6021, Brockfield, Tauranga 3030
William John Eyton	P O Box 142, Leigh, Warkworth 1241
William Patrick Rawlinson	33 Percival Avenue, Matua, Tauranga 3001
William Rewi-Wetini	C/- Dorah Fisheries, P O Box 104, Kawhia 2451
Windtanz Enterprises Limited	8 Tudor Place, Mt Maunganui, Tauranga 3002
Yvonne Michelle Baricevich	1000 Tararu Road, Thames 2801