

## **Kahawai Challenge Team**

Update #43, December 2008

### **A big climax expected to kahawai proceedings**

The Kahawai Legal Challenge team are celebrating the lodging of legal submissions in advance of the Supreme Court hearing, scheduled for February 12<sup>th</sup> 2009. A judgment from our highest Court will have a bearing on all future fisheries management decisions.

This landmark case was initiated by the New Zealand Big Game and Recreational Fishing Councils in September 2005 and has been strongly supported by option4, Ngapuhi, Ngati Whatua and thousands of Kiwis nationwide.

### **More than “just about kahawai”**

If you thought this case was “just about kahawai”, then think again.

While seeking a rebuild of the kahawai fishery, the ultimate objective is to obtain Court rulings on how the Minister of Fisheries ‘allows for’ recreational fishing interests, as required by section 21 of the Fisheries Act, and what principles are to be applied when managing fisheries of importance to non-commercial fishers.

A more conservative approach to managing snapper, tarakihi, blue cod, kingfish, crayfish, paua and scallops will enable customary, traditional and recreational fishers to provide for their social, economic and cultural wellbeing.

Kahawai were once easily accessible to land-based or small-boat fishermen. Unconstrained commercial purse seining in the early 1990s depleted kahawai stocks that have never fully recovered.

Depletion has meant a lack of fish in traditional fishing spots, reduced catch rates and smaller fish, with immeasurable consequences on both the marine ecosystem and people who fish for food.

Then the fisheries Ministry apply a “catch history” policy to divide the available fish stocks between the fishing sectors. The Supreme Court appeal challenges this catch history approach.

The Ministry’s catch history approach means that recreational fishers get the leftovers, after the commercials have depleted fish stocks.

In most fisheries it would be blind chance if catch history was a reasonable proxy for the wellbeing of recreational fishers.

The different interests involved – commercial interests, largely recognised by gross tonnage and economic return from exporting kahawai as pet food and bait *versus* recreational, largely the New Zealand way of life, valuing kahawai for a variety of reasons, including consuming as food – and the different resources – commercial with aerial spotters, seine nets, and a trawler fleet *versus* tinnies, fishing rods and limited time in the weekends – make it an unequal contest if catch history is the touchstone.

### **How can you help prepare for the hearing?**

An extraordinary amount of time, money and effort has gone into preparing the Supreme Court appeal. The ultimate outcome will (hopefully) be the proper application of our fisheries laws to achieve sustainable utilisation of our fisheries for future generations, a healthy marine environment

and sufficient abundance to enable people to provide for their social, economic and cultural wellbeing.

If you value your fishing, how about giving a special gift this Christmas?

Please make a contribution of support. Post a cheque to the 'Kahawai Challenge Fund', c/o NZ Fishing News, PO Box 12-965 Penrose, or simply dial 0900 KAHAWAI for a \$20 donation or visit [www.kahawai.co.nz](http://www.kahawai.co.nz).

## **Break-out box**

### **Timeline**

- September 2005 – Kahawai Legal Challenge initiated
- December 2006 – High Court hearing completed
- March 2007 – High Court judgment, a win for non-commercial fishers
- April 2007 – Fishing corporates appeal the High Court ruling
- February 2008 – Court of Appeal hearing
- June 2008 – Appeal Court judgment, a partial win
- October 2008 – Supreme Court grants leave to appeal.
- February 2009 – Supreme Court hearing due.