

Kahawai Challenge Team

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The much-anticipated Kahawai appeal was heard in the Supreme Court, Wellington, on Thursday 12th February. A decision from the five judges is not expected for several months.

This landmark court case was initiated in 2005 by the New Zealand Big Game Fishing Council and the New Zealand Recreational Fishing Council, and well supported by option4, Ngapuhi, Ngati Whatua and the mid north iwi fisheries forum, the Hokianga Accord. The 2007 High Court judgment was a 'win' for non-commercial fishing interests and the 2008 Court of Appeal decision was a partial 'win'.

These proceedings are the first time that amateur fishers and Maori have worked together, through the courts, to challenge how all fisheries are managed, not just the kahawai species.

It is a mandatory requirement for the Minister of Fisheries to sustainably manage fisheries to provide for their use. Much of the case has been centred around the utilisation aspect of the legislation because this means conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural well-being.

A common objective for non-commercial interests is to achieve more sustainable use of the fisheries so that future generations inherit abundant fisheries and a healthy marine environment.

Earlier proceedings

This test case was taken to the High Court in an attempt to review the Minister's 2004 and 2005 kahawai decisions and to seek directions as to how the Minister ought to be managing fisheries of importance to non-commercial fishing interests. These include snapper, gurnard, blue cod, kingfish, crayfish and shellfish.

Sanford Limited, Sealord Group Limited and Pelagic & Tuna New Zealand Limited joined the proceedings and were heard in the High Court during November and December 2006. These parties later appealed against Harrison J's decision. The Appeal Court hearing was held in late February 2008. A decision was released in June.

In a last-ditch effort to save the fisheries and environment for future generations of New Zealanders the Kahawai Legal Challenge team decided to appeal some aspects of the Court of Appeal decision. Leave was sought from the Supreme Court and this was granted in early October 2008.

After a flurry of action a submission was filed with the Supreme Court in early December. Submissions followed from commercial parties and the Crown, representing the Fisheries Minister and Chief Executive.

Kahawai management

The Minister is due to make fresh decisions for mangaging kahawai. Whether that occurs this year or next will depend on when the Supreme Court releases its judgment. This review will require an assessment of non-commercial fishing interests and a tonnage set aside to "allow for" those interests, before the Minister makes any allocation to the fishing industry.

Given that it takes eight hours to catch a kahawai in the Hauraki Gulf, it will be interesting to see how the Minister is going to reduce non-commercial catch by 25 percent to comply with his earlier management decisions. But that is another story.....

If you want more fish in the water then please make a contribution to assist with the costs. 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.