

Kahawai Challenge Team

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The silver lining of the Kahawai Challenge

Some of the most encouraging outcomes of the Kahawai Legal Challenge have been the new relationships forged during the proceedings and the clarity provided by the Courts about allocation. We have an interesting couple of years ahead of us.

None of the Challenge team envisaged these Kahawai proceedings would stir so many people into action. Freshwater anglers, conservation and seabird enthusiasts, civil rights campaigners, and flax-roots Maori customary and amateur fishers all stood up and supported the objective of "more fish in the water".

Maintaining these relationships will be the ongoing challenge, as the Minister is expected to review kahawai management in 2010.

The Courts have clarified that the Minister of Fisheries has the discretion, provided he is well informed, to set the total allowable catch at or above the biomass (stock) level that can produce maximum sustainable yield (MSY). For most fisheries, management above MSY means greater numbers and larger, older fish.

So the Minister has the flexibility to leave more fish in the water if he chooses and has sufficient information to support his decision.

Another confirmation was that the Minister must set the total allowable catch (TAC) first, before he decides on the allowances and ultimately the total allowable commercial catch (TACC).

Phil Heatley will need to set the total allowable catch (TAC) in each of the six management areas to ensure the ongoing sustainability of the fishery resource, when reviewing the Kahawai stocks next year.

Without doubt there will still be debate about what the management objectives and the total allowable catch in each area ought to be.

What information will the Minister (be provided or) use to ensure that New Zealand gains the best value from the kahawai that is caught?

Throughout the Court proceedings recreational interests argued that the utilisation aspects of the Fisheries Act's purpose – the need to manage fisheries sustainably to enable people to provide for their social, economic and cultural wellbeing – expressly guides decision-making when the Minister sets the total allowable commercial catch (TACC) under section 21 of the Act. The Supreme Court did not agree.

However, an assessment of the 'three well-beings' would seem to be necessary if the Minister was to be properly informed. In this regard the Court held that "*the notion of people providing for their well-being, and in particular their social well-being, is an important element of recreational interests*".

As the Challenge team have argued all along, the tonnage of fish set aside to 'allow for' non-commercial interests, both customary and recreational, is much broader than just what we caught in previous years.

For kahawai, recent catch history is not a complete measure of our environmental and fishing interests.

Some people choose to catch and release their fish. Others, particularly shore-based and inshore fishermen, struggle to find and catch sufficient size or numbers to satisfy their needs. Many people want to see “more fish in the water”.

Irrespective of people’s motivation abundance is the key and that responsibility clearly rests with the Minister.

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