

Kahawai Challenge Team

Update #28, October 2007

As we count down to the February 2008 Appeal Court hearing the NZ Big Game Fishing Council and other non-commercial fishing representative groups are 100 percent committed to defending, on behalf of all New Zealanders, the appeal by the commercial fishers against the High Court kahawai decision.

As a contribution towards the cost of the appeal over \$450.00 was raised at the recent NZBGFC Annual General Meeting at the Whakatane Sportfishing Club.

On top of that the Whakatane Club contributed \$1,000.00 to the final evening's function and asked that the NZBGFC's Presidential sponsorship of \$800.00 go directly to the Kahawai Challenge Fund.

These funds will go towards paying the legal costs associated with the Appeal, which are expected to be around \$80,000.00.

Court Hearings

The High Court judicial review of the Minister of Fisheries's 2004 and 2005 kahawai decisions was strongly supported by option4 and Te Runanga A Iwi O Ngapuhi (TRAION), in recognition of the significance of the 'test case' to all non-commercial fishers.

option4 has spearheaded the fundraising campaign and the affidavit from TRAION's Chairman, Raniera (Sonny) Tau has proved to be a pivotal document. It is one of the most sought-after records online at www.kahawai.co.nz.

After considering the evidence and legal argument put before the High Court in late 2006, Justice Rhys Harrison released his decision in March this year. He found that the Ministry of Fisheries (MFish) had not properly advised their Minister which led to the Minister's decisions for kahawai not taking into account mandatory considerations - sustainability comes first, and decisions that enable people to provide for their wellbeing.

The Court directed the Fisheries Minister to make fresh decisions taking into account the matters raised by the High Court.

Although the Minister and MFish accepted the Court's decision, Sanford Limited, Sealord Group Limited and Pelagic & Tuna New Zealand Limited appealed against the ruling. At the request of the Court the appellants, Sanford Limited and others, refined their points of appeal.

Both the NZBGFC and NZRFC have lodged a cross-appeal concerning the relationship between Fisheries Act and the Hauraki Gulf Marine Park Act to obtain further guidance from the Court on fisheries management processes in the Fisheries Act for kahawai and other fish species.

The Appeal Court hearing is set down for the 26th and 27th February 2008.

Legal Representation

Amateur fishers have been fortunate to have had the services of two Queen's Counsel. Firstly Lyn Stevens QC now Mr Justice Stevens after his appointment to the High Court, and more recently Alan Galbraith QC. Both have been supported by David Connor (initially) and Stuart Ryan of Hesketh Henry Lawyers.

The Kahawai Legal Challenge team are grateful to all legal counsel and their teams who have worked diligently and generously in this 'public good' case.

Kia kaha to you all.