

TE MANUTUKUTUKU

*Te Roopu Whakamana i te
Tiriti o Waitangi
Panui*



*Waitangi Tribunal Division
Department of Justice
Newsletter*

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Waitangi Tribunal Reports on Pouakani Claim

The Waitangi Tribunal has recommended that 370-acres of Crown owned forest land in the central North Island be returned to Maori in settlement of the Pouakani claim. The lands had originally been taken in part payment of costs associated with land surveys carried out in the 1890s.

The claim was filed by John Hanita Paki, the Titirau-penga Trusts and the Pouakani B9B Trust. The inquiry began in the whareniui, Te Matapihi o te Rangi, at Papa o te Aroha marae, Tokoroa, May 15-19 1989.

The tribunal found a long list of failures by the Survey Office in fixing the boundaries of land blocks in the district around Titirau-penga and Pureora mountains near Mangakino.

The Tribunal's investigations showed that survey regulations had not been followed, boundaries had been shifted, surveys had not been completed and that there were large discrepancies in the surveyed acreage of several blocks. As a result titles issued based on the surveys had no legal standing.

Concern was also expressed 'about the way large areas of land were acquired by the Crown in payment of survey costs', and that the Crown had charged interest on unpaid survey liens despite being the sole purchaser.



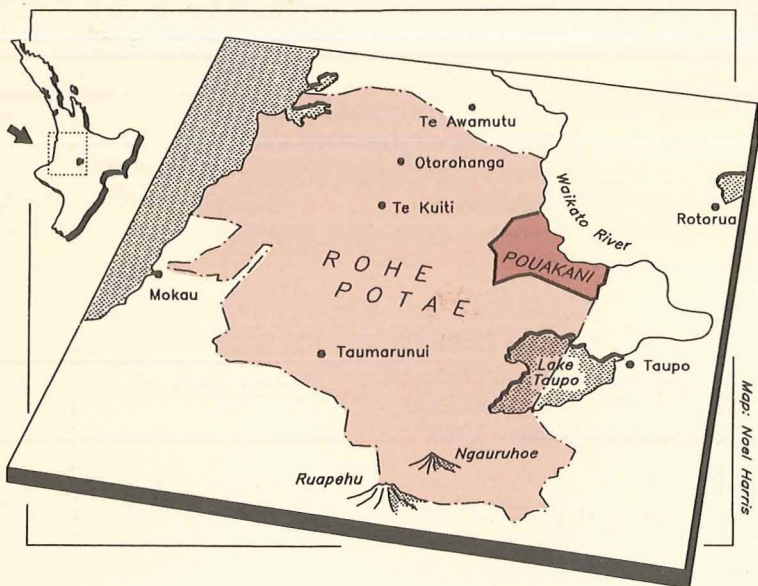
*Tribunal members at first hearing, May 1989.
Second from left, Turirangi Te Kani who died in 1990.
Left to right, Bill Wilson, Judge Ross Russell (Presiding Officer),
Emarina Manuel and Evelyn Stokes.*

The tribunal concluded that the Crown had an obligation to ensure the completion of surveys of agreed boundaries and to compensate the Maori owners for the 'sloppy procedures' of the Survey Office which had led the Pouakani owners into costly litigation.

It recommended the Crown refund reasonable legal and research costs to the claimants and the interest paid on borrowed money to the trusts administering the land blocks concerned.

The tribunal also recommended that one of the disputed land blocks, which is already subject to a preservation order, should become a whenua rahui, (protected land), and be added to the adjoining Pureora Forest Park to ensure the preservation of the forest on the land 'in the national interest'. This would involve the transfer to claimants of equivalent land in size in exotic forest on an exchange basis.

Further recommendations from the tribunal sought the establishment of a consultative arrangement between Maori interests and the Department of Conservation over the management of the Pureora Forest Park. However the tribunal envisaged that public access to the forest park and day-to-day management should continue under the provisions of the current legislation, with the rider that 'Until these negotiations are completed, neither the



The Pouakani block and the Rohe Potae

Crown nor any State-owned enterprise should seek to alienate lands or forests in or adjacent to Pureora Forest Park'.

As a result of its investigation of the Pouakani claim, the tribunal has also found that a prima facie case exists concerning Crown acquisition of land in payment of survey costs and other charges in the wider Rohe Potae, the King Country district.

It recommended that there be no further transferral to a third party of Crown or state-owned enterprise land in the Rohe Potae without either investigation by the Waitangi Tribunal or agreement with local tribal authorities.

The tribunal considered that the memorial provisions of the Treaty of Waitangi (State Enterprises) Act 1986, where the tribunal can order the purchase and return to claimants of former SOE land, does not give sufficient protection.

An advance payment of \$650,000 as a charge against the final settlement of this claim was made by the Crown in 1990.

The *Pouakani Report* is available from:
Brooker & Friend, P O Box 43, Wellington.
Ph: 0-4-385 6683 Fax: 0-4-385 7300
Price: \$61-70 incl. GST

Tribunal Reports on Claim to Hydro Dams

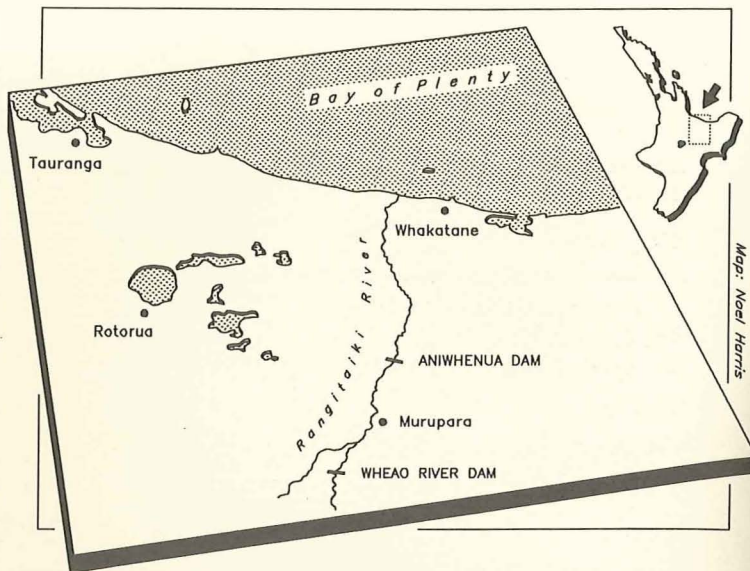
The Waitangi Tribunal has recommended that a proposed transfer of ownership to private energy companies of the Aniwhenua and Wheao hydro dams in the Rotorua/Bay of Plenty region does not proceed in the meantime.

The tribunal issued an interim report on an urgent claim brought by Te Runanganui o Te Ika Whenua, a group that have a wider claim filed concerning ownership of the Rangitaiki and Wheao Rivers.

The runanga claimed that under the provisions of the Energy Companies Act 1992, transfer of the dams could take place from 1 April 1993. The dams are currently owned by the Bay of Plenty Electric Power Board and the Rotorua Electricity Authority. The Act allows all the assets of the two local authorities to be transferred to new private energy companies whose capital would be vested in various shareholders.

The claimants say that the dams, and the operation of them, could be important in reaching a settlement with the Crown should their wider claim of ownership of the rivers be upheld. But if the dams were to pass from Crown ownership as permitted by the Act, the claimants' ability to negotiate a settlement involving ownership of the dams, payment for water rights or electricity generated would be negated.

The tribunal report said that because of the urgent nature of the claim it had only focused on the narrow issue of the impact of the Energy Companies Act 1992. Other issues still need to be examined. The wider claim in respect of ownership of the rivers concerns alleged infringement of rights under article 2 of the Treaty of Waitangi; the guarantee of full, exclusive and undisturbed possession of lands and estates, forests and fisheries and other properties that Maori possess. Claimants also point to the Electric Power Board Act 1925 where



Aniwhenua and Wheao dams

the Crown awarded itself the exclusive right to use water for the generation of power and the subsequent construction of the dams.

The tribunal recommended that "the Wheao and Aniwhenua dams and water rights associated therewith be retained in the ownership of the Rotorua Area Electricity Authority and the Bay of Plenty Power Board respectively or alternatively held in the ownership of or under the control and direction of the Crown until such time as the substantive claim of Te Runanganui o Te Ika Whenua has been heard and determined by a Tribunal report thereon issued and considered".

If the Crown adopts this recommendation for Te Runanganui o Te Ika Whenua it should take similar steps to protect the assets which are the subject of claims or proposed claims by other river tribes, said the tribunal.

The claim was heard by Judge G D Carter, presiding officer, and members Bishop Manuhua Bennett and Mary Boyd in Rotorua, March 8-10 1993.

A copy of the 6 page report is available on request from the tribunal's office. No charge.

New Claims Registered

WAI 330

Claimants: Ngarau Tupaea and others for the trustees of the Huakina Development Trust

Concerning: Waikato-Tainui lands

Region: South Auckland

Received: 16 November 1992, amendment received 15 December 1992

WAI 331

Claimants: Waatara Black for Ngati Te Ata iwi

Concerning: Te Ngaio Reserve

Region: Manukau, Auckland

Received: 20 January 1993

WAI 332

Claimants: Te Pare Kai Joseph for Te Kuiti Te Kohanga Reo Whanau Trust Inc

Concerning: Ministry of Education property

Region: Te Kuiti

Received: 23 November 1992

WAI 333

Claimants: Te Kotahitanga Tait for the Tuhoe Waikaremoana Maori Trust Board
Concerning: Hydro electricity generation on Lake Waikaremoana
Region: Waikaremoana
Received: 18 January 1993

WAI 334

Claimants: Peretini Nuku Taua for Ngati Makino
Concerning: Land at Matata
Region: Waihi
Received: 23 February 1993

WAI 335

Claimants: Hamuera Taiporutu Mitere and Hamilton Manaia Pihopa for Ngati Whakaue
Concerning: Geothermal resource at Rotorua
Region: Rotorua
Received: 22 February 1993

WAI 336

Claimants: Des Tatana Kahotea for Ngati Ranginui and Ngati Raukawa hapu
Concerning: Ancestral lands and the Energy Companies Act 1992
Region: Tauranga
Received: 18 February 1993

WAI 337

Claimants: Rapiata Darcy Ria for Te Runanga o Turanganui a Kiwa
Concerning: Awapuni blocks
Region: Gisborne
Received: 16 December 1992

WAI 338

Claimants: Eru Ihaka Manuera
Concerning: Papakura Military Camp
Region: Papakura, Auckland
Received: 22 February 1993

WAI 339

Claimants: Tuirangi Mokomoko for trustees of Hiwarau C
Concerning: The Hiwarau block
Region: Bay of Plenty
Received: 6 January 1993

WAI 340

Claimants: Te Tuhu Tauratamaru Kelly for descendants of Raiha Kenehuru Meurant
Concerning: Land in Newmarket
Region: Auckland
Received: 3 February 1993

WAI 341

Claimants: Cyril Chapman for Te Ihutai and Kohatutaka hapu
Concerning: Te Karae block
Region: Northland
Received: 10 December 1992

WAI 342

Claimants: Toa Haere Faulkner for Ngati He hapu of Ngaiterangi
Concerning: Ngati He lands, taonga and fishing rights
Region: Tauranga
Received: 8 February 1993

Change in Membership of the Tribunal

Retired members

Three members of the tribunal have retired this year.

Emarina Manuel, MBE, from Ngati Kahungunu and Ngati Awa was appointed as a deputy member in July 1986 and became a full member in 1989. She has been involved with inquiries into the Pouakani and Ngai Tahu claims. Mrs Manuel will continue to be a member of the tribunal hearing the Taranaki claim.

Dr Erihana Rupene Ryan of Ngai Tahu was appointed in March 1989. She was a member of the tribunal that heard the claim concerning the allocation of radio frequencies.

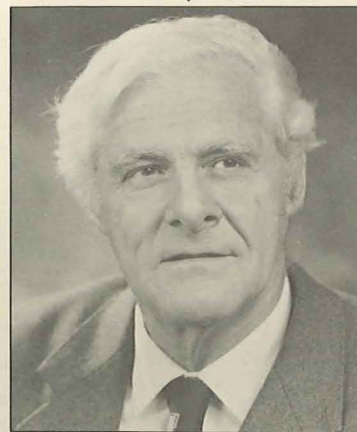
Peter John Trapski, CBE, was also appointed in March 1989. He acted for the tribunal as mediator in the Taemaro, Waitomo and Waikareao Estuary claims and heard an interim Chatham Islands claim.

New members

Hepora Raharuhi Young, JP, from Ngati Tuara and Ngati Kea of Te Arawa is a writer of Maori and tribal history; among her works is a history of the Department of Maori Affairs published in 1990 and a series of readers for advanced learners of Maori. She has a long history of involvement in local community bodies and was a member of the government appointed Fisheries Task Force which reviewed fisheries legislation in 1992.



John Henderson Ingram, CBE, is a consultant and company director and a member of the University of Auckland Council. He is active in voluntary work, particularly in the areas of conservation and youth skills training. He has wide experience in industry and commerce and has written a number of publications in this sphere. While managing director for New Zealand Steel he became closely involved with the Taharoa C Incorporation, the owners of the Taharoa ironsand deposit.



Announcing the WAITANGI TRIBUNAL RESEARCH SERIES

The research reports prepared for the Waitangi Tribunal to assist the tribunal's inquiries into claims, are being published in a new series called the *Waitangi Tribunal Research Series*. Copies can be purchased either on a subscription basis or individually.

The first three in the series are now available.

Waitangi Tribunal Research Series

1. Crown Acquisition of Confiscated and Maori Land in Taranaki 1872-1881

By Aroha Harris

This report was commissioned by the Waitangi Tribunal for the inquiry into the Taranaki group of claims. Previous commissions have found that quite a deal of the Taranaki confiscated land was in fact purchased by the Crown - but was it? The acquisitions are examined.

Waitangi Tribunal Research Series

2. Lake Rotoaira: Maori Ownership and Crown Policy Towards Electricity Generation 1964-1972

By John Koning

A claim was lodged by the Lake Rotoaira Trust in February 1991 stating that the owners of the lake have been prejudicially affected by the Crown's acquisition of the right to generate electricity without payment of compensation. This report is a summary of the events leading up to the 1972 agreement between Tuwharetoa and the government; the agreement waived compensation for the use of the lake for power purposes on Government agreement not to take the land compulsorily.

Waitangi Tribunal Research Series

3. Te Whanganui-a-Tara Customary Tenure 1750-1850

By Penny Ehrhardt

This report considers three contending groups for native land rights in Wellington and the Hutt Valley upon British settlement. Commissioned for the Wellington tenths claim, it examines the rivalry between and within each group and the adequacy of western criteria for ownership.

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Thanks and Apologies

A big thank you to all who ordered the publications entitled *Native Land Legislation 1862-1908* and *Material by Maori from the Appendices of the Journals of the House of Representatives (AJHRs) 1860-1869*.

Please accept our apologies for the fact that you have yet to receive these publications. We advertised before they were printed thinking they were almost ready to go to print ... you know the rest. We are experiencing

problems with the quality of print of the AJHR material but hope to fill your orders in May. The Maori land legislation should be mailed out at the same time.

These two publications are the first in another new series entitled *Waitangi Tribunal Occasional Publications*. We will provide a standing order form for this series in the next issue of *Te Manutukutuku*.

If you want to receive your own copy of *Te Manutukutuku*, please fill in this form. Your name will be added to the mailing list.

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