

APPENDIX I

STATEMENT OF CLAIM

Note: This statement of claim is the amended claim 1.1(e)

WAITANGI TRIBUNAL

CLAIM WAI 212

CONCERNING the Treaty of Waitangi Act 1975

AND A claim by Te Runanganui o Te Ika Whenua
relating to the Rangitaiki, Wheao and Whirinaki Rivers

AMENDED PARTICULARS OF CLAIM TO THE
RANGITAIKI, WHEAO, AND WHIRINAKI RIVERS

Introduction

1. This amended particulars of claim amends and further particularises the claim of Te Ika Whenua in respect to the Rangitaiki, Wheao and Whirinaki Rivers including their tributaries.

2. These three rivers including their tributaries are a water body which jointly and severally are the taonga of claimants. In 1840 these rivers were a taonga and possessions of the claimants.

The Treaty of Waitangi

3. The Crown guaranteed to the hapu of Te Ika Whenua te tino rangatiratanga, exclusive and undisturbed possession of the Rangitaiki, Wheao and Whirinaki Rivers for as long as they wish to retain them.

Te Tino Rangatiratanga

4. Tino rangatiratanga has, as an integral component Maori tikanga (or custom).

5. The claimants have their own tikanga which dictates for them the way they manifest their management, interests and rights over and in their taonga.

6. The bed, waters, flora and fauna including fisheries and other non physical properties are all taonga of the claimants.

7. The claimants have never relinquished the mana of and over their rivers or tino rangatiratanga over them.

The Prejudice

8. The claimants have been and are prejudiced in their full enjoyment of the Treaty rights guaranteed to them by:

- (a) The expropriation by the Crown of the beds of the rivers via various Coal Mines Legislation.
- (b) The expropriation of management rights, the right to take, use and dam the water in their Rivers (see the Water and Soil Conservation Act 1967, The Public Works Acts and the Electricity Act 1968).
- (c) The Resource Management Act 1991.
- (d) The application of the *ad medium filum aquae* rule.
- (e) The failure of the Crown to develop a system consistent with the Treaty for the recognition of the rights of the claimants to their rivers.
- (f) The failure of the Crown to recognise to give effect to Maori custom as it relates to rivers.
- (g) The fragmentation of elements of the Rangitaiki, Wheao and Whirinaki Rivers for the purpose of ownership, control and management.
- (h) The detriment to their rivers by the construction and operation of the Aniwhenua Dam and Wheao scheme. The detriment to their fisheries of the Aniwhenua and Wheao scheme.
- (i) The proposed creation of third party rights with the consent of the Crown in the Aniwhenua and Wheao scheme.

Relief

9. The claimants seek the following relief:

- (a) Recognition of te tino rangatiratanga in relation to the Rangitaiki, Wheao and Whirinaki Rivers including their tributaries.
- (b) A recommendation that a system of recognition of the claimants' tino rangatiratanga be given effect. Such a system should recognise the claimants' beneficial interest in the rivers (including their right to development) and their authority in relation to the management of all aspects of the Rangitaiki, Wheao and Whirinaki Rivers.
- (c) A recommendation that the claimants be compensated for past breaches of the Treaty.
- (d) Any other relief the Waitangi Tribunal deems fit.

Dated at Wellington this 26th day of October 1993

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