

# Rangiteaorere Land Claim

## 5 - Appendices

### 1 - Appendix 1 - The Claim

Appendix 1

The Claim

1.1 The Claim received 15 April 1987  
30th March 1987

Tena koe.

Ki nga Kaiwhakahaere o Te Taraipunara o Waitangi, tena koutou, tena koutou, katoa.

Kua rongonuitia i te motu, a koutou mahi hohonu, taumaha whakaharahara, whakatikatika, i nga take e pa ana ki ngai-matau, nga morehu o ratau kua huri ki te Po.

No reira, he mihi pono tenei ki a koutou, me te inoi ki te hinengaro, kia tau te marimatanga, me te rangimarie ki runga i a koutou, a ki a tatau katoa.

WE-

Te Aho Welsh of Tikitere, Kuia  
Amarama Te Kirikaramu  
Tuku Hohepa  
Ngana Te Kirikaramu  
Ngawai Dulcie Hapeta  
Dr Ngahuia Te Awekotuku  
Montigue Rangiteaorere Curtis  
Constance Mary Ganderton  
Bonita Makarena Morehu  
James Te Kiri  
Pirihira J. Fenwick  
Rauawa Manahi

CLAIM, under the Treaty of Waitangi Act 1975, that we, and the Ngati Rangiteaorere Tribe of which we are members, are prejudicially affected by the action of the Crown in granting to the Anglican Church our land at Te Ngae, commonly known as the Te Ngae Mission Farm, without ensuring its return to us when it ceased to be used as a Residential Mission Station.

A.

In particular we say as follows:

1. That the Te Ngae Mission was established in about 1836 on Ngati Rangiteaorere Land, by Lake Rotorua.
2. That in the course of time certain of our elders and others then attending the Mission Station acceded to the transfer of that Land to the Rev. Chapman for the purpose of maintaining that Mission Station. Some of our people had their kainga on the Land.
3. That irrespective of whatever deed may have been executed, the Rangiteaorere understanding of the transaction was that the Church should be supported in its time of need and in its mission to the Rangiteaorere people, for so long as a mission station was continued for the purpose of serving us, without prejudice to our occupation of the Land, and for so long as we wished to maintain the Mission. It is our tradition, that we had no understanding of the transaction, as an irrevocable sale or gift, in which the Mana of the Land would pass from us forever. The transaction was also completed by persons who were other than Ngati Rangiteaorere.
4. That thereafter, the Church was granted Title to the Land by the Crown, upon terms of trust that did not provide for the return of that Land to us and maintenance of our occupational rights. That action of the Crown we say, was contrary to the Principles of The Treaty, which undertook to protect us, from the alienation of our Lands and Kainga, without our clear consent and understanding of the transaction, as an irrevocable alienation.
5. That subsequently, the Church did not maintain the association of Rangiteaorere with the Land, as it ought to have done, in accordance with our understanding of the transaction and in accordance with the customary Maori approach to Land transaction. In particular,
  - (a) The Mission Station ceased to exist but the Church did not return the Land to us, despite our several requests.
  - (b) That without reference to us, the Church sold parts of the Land and leased the rest.
  - (c) That the Church has applied the Revenues from the Land for general Church purposes and has not applied Revenues, for the exclusive and specific benefit of Ngati Rangiteaorere.
6. That today, Ngati Rangiteaorere has little Tribal Land remaining in fact, only its Marae adjoining the Mission Farm on Lake Rotorua. Though rich in history, in material terms the Marae is one of the poorest in Rotorua. The adjoining homes are also poor bungalows and garages are used as homes. Most of our people have had to shift to Rotorua city. We wish to re-establish our tribe.
7. To our way of thinking, we supported the Church in its time of need, the Church has had our Land for a century without benefit to us, we have the need now and it is right - morally and in custom - that that part of the Land as remains, should now return to us.

8. That the Crown should not have permitted our Tribe to be rendered virtually landless, and should have assured the ultimate benefit of the Te Ngae Mission Lands to Ngati Rangiteaorere.

9. That although we were not signatories to the Treaty of Waitangi, we did that which in our view is far more important - we affirmed our loyalty to the Crown and the principles of the Treaty of Waitangi, by our actions in Peace and War.

B.

Therefore we ask, that the Crown cancel the Church's Title to the Land, and convey that Title, subject to existing encumbrances, to a Ngati Rangiteaorere Trust Board:

1. To provide better housing for our families.
2. To maintain our Marae and general Tribal purposes.
3. To provide holiday accommodation for our families living away.
4. To establish a Maatua-Whangai base, for our mokopuna (i.e. the street-kids of the cities throughout New Zealand), and to provide training modules best suited to their needs.

We believe that these activities will develop, not only their practical skills but more importantly, their spiritual affinity to the land, further strengthen their cultural ties within the whanau and hapu, and develop self-esteem and respect in the knowledge that here, on their ancestral land, they can stand tall.

C.

Ngati Rangiteaorere is without any independent funds, (our people have current problems paying rates on their land) and we ask:

1. That a Research Officer be appointed to collate the necessary history and documentation of the Mission, to investigate the current Rangiteaorere landholdings and state of housing on our ancestral lands, to investigate the application of revenues by the Church and to report prior to any hearing.
2. That P.B. Temm QC be appointed as our Counsel.
3. That because we cannot provide full hospitality for full hearing, that the Tribunal open at our small Marae, Mataikotare, to hear our elders for the first day, then adjourn for subsequent hearings to the Maori Land Court, Rotorua.
4. That the Tribunal give notice of this Application to the Crown Law Office and the Anglican Church, and request the Anglican Church not to proceed to any sale of subdivision of the land, or any lease for any term exceeding two years, pending the Tribunal's report.

DATED at Mataikotare Marae this day of 1987

## Signatures of Ngati Rangiteaorere Tribe

Te Aho Welsh  
Amarama Te Kirikaramu  
Pirihira J Fenwick  
Ngana Te Kirikaramu  
Ngahuia Te Awekotuku  
Montigue Rangiteaorere Curtis  
Ngawai Hapeta p.p.  
Constance Mary Ganderton  
Tuku Hohepa  
Rauawa Manahi  
Ngatai Te Awekotuku Te Kiri  
Bonita Makarena Morehu

1.2. Amendment to claim received, 12 April 1989  
19 April 1989 [sic]

Tena ano Koe,

### AMENDMENT TO CLAIM, AND ADDITIONS TO CLAIM

1. We, whose names are given below, and who are the claimants in a notice of claim dated 30 March 1987 relating to the land commonly known as Te Ngae Mission Farm, hereby amend and add to that claim as follows

#### AMENDMENT OF CLAIM

2.

(a) That in view of the report filed by P Maxwell, it appears to us that the origin of the Church's title was not in fact an award from the Lands Claims Commission based upon the agreements as signed, but was a unilateral grant by Governor Grey, without consultation with Rangiteaorere, and upon terms of trust with which we had not agreed.

(b) That the Crown Grant was the action of the Crown contrary to the principles of the Treaty of Waitangi, in that it alienated our land without our permission, consent or approval and upon terms of trust that were not agreed to.

(c) The Act or other authority empowering Governor Grey to take that step was contrary to the principles of the Treaty.

(d) We therefore claim damages from the Crown, for the loss of use and occupation of the land and general damages for alienating our land without our consent.

#### ADDITIONS TO CLAIM

3.

(a) Persons of Ngati Rangiteaorere including the claimants in this claim, are also the owners of a block of land known as Whakapoungakau 4C, which includes the whole

of our lake, called Lake Rotokawau, and an area of land surrounding, to the rim of the former crater. Lake Rotokawau sits in an extinct volcano.

(b) In the 1920's, when Sir Apirana Ngata was Minister of Maori Affairs, the Government proposed a massive development to convert our bush land to farmlands. Our forebears were not convinced that the project was good, especially as it was proposed to settle on the land, under leases, persons who were not of our tribe.

(c) Nonetheless it seemed to our forebears that they could not stop it, but when the Maori Land Court sat to divide up the land for farming, that first thing our forebears did was to insist that certain areas of very special importance to them, would be cut out. In the result 3 areas were cut out, on 25 June 1924, and they were

Whakapoungakau 4A which is an urupa  
Whakapoungakau 4C which is also an urupa and  
Whakapoungakau 4C which is Lake Rotokawau.

Our forebears intended that the Lake would never be disturbed, and that as the surrounding lands were brought into farming, Lake Rotokawau, and its associated bush for as far as the horizon as viewed from the lake, would remain, as a reminder of what our lands were once like.

Accordingly, after hearing our forebears, the judge of the Maori Land Court directed that 4C be cut out "to include the Lake Rotokawau and surrounding slopes to make 194 acres" (Rotorua Minute Book 74/213 of 25.6.24, but with underlining added).

(d) Whakapoungakau 4C however, remained unsurveyed. In the meantime Maori Affairs developed the surrounding lands, and the farmers they settled on the land, who were not of our tribe, were assisted to buy out our tribal land-owners, until, quite often, the lessees became the major shareholder. Then, as the lessees reached retirement age, about the 1950's and 60's, they called Meetings of Owners to sell their farms. Since they held major shares in the block, our people were often outvoted, and the farms were sold.

(e) As the farms were sold, we continued to think our lake was still protected, together with the surrounding lands to the crater's edge. But surveys were done in the 1960's, as the adjoining farms were sold, and the surveys depicted the adjoining farm blocks on the Western side of the lake as holding title to the lake's edge. This we say, was wrong. The original title for the lake, which we understand was PR 160/2, gave a straight line and not the lake's edge, as the boundary. The survey gave no regard to the judge's direction to include the surrounding land with the lake title.

(f) Those surveys required the approval of the Chief Surveyor. We had already lost some 600 acres because we could not pay the money for the surveys that were done. Nonetheless, it was practice for the Surveyors at that time, to nibble away at Maori land wherever they could. We claim that the action of the Chief Surveyor in approving plans without adequate regard to our interests was contrary to the principles of the Treaty, as the effect was to deny us the full, exclusive and undisturbed possession of our lake and surrounding lands.

(g) The effect on us has been

(i) the loss of the crater edge land on the western side of the lake, reducing Whakapoungakau 4C from 194 acres to 192- ac 1r 28p.

(ii) that the owners of the adjoining land, now Kiwi Ranch, have been able to cut through the bush, cutting down trees, to provide an access way to the lake for the many children who stay there, and we have been powerless to do anything, for their title (quite wrongly), gives the lake edge as the boundary.

(iii) we ourselves have lost vehicular access, because the land now owned by Kiwi Ranch, and which ought to have been ours, is the only area providing practical access.

(h) In addition, a roadway has been laid out and sealed to a point near to the crater edge. It continues as a "paper roadway" to the lake edge. It is a public road, with the result that we cannot prevent the general public from gaining access.

(i) We had no advice of the laying off of the road. We never agreed to it. The lake is not public property. There was no right for the road to be so laid out as to make it public property.

(j) By allowing roadways to be laid off the Crown has threatened the full exclusive and undisturbed possession of our lands.

(k) We are prejudiced because the native bush has been cut on one side, we have no practical access except across Kiwi Ranch land, and the public can get legal access to the lake edge along a paper road.

(l) We should also not have to pay rates for a lake that we have kept in virgin condition, and which produces no income. We have kept our lake clean. We have kept motor boats out (although Kiwi Ranch now runs one boat there). There is now much broken glass around the lake, horses have been ridden into it and our lake is now under threat.

#### WE ASK AS FOLLOWS

1. That Piri Wiri Patrick, retired Registrar of the Maori Land Court at Waiariki, Rotorua, and now living at 29 Robinson Avenue Holdens Bay, be engaged by the Tribunal to research and report on the whole record of surveys, roadways, and rates, that he report to the Tribunal, and that he be authorised to engage a surveyor if need be.

2. That the Tribunal recommends

- that the land on the western side of the lake be restored to the 4C title, or in the alternative, that we be given a right of way over that land.

- that the public road to the lake be closed and that the land therein be vested in the 4C title.

- that the land be made exempt from rating.

3. That we be allowed to amend our claim after Mr Patrick has reported.

Dated at Rotorua this day of 1989

The Aho Welsh of Tikitere, Kuia  
Amarama Te Kirikaramu  
Tuku Hohepa  
Ngana Te Kirikaramu  
Ngawai Dulcie Hapeta  
Dr Ngahuia Te Awekotuku  
Montigue Rangiteaorere Curtis  
Constance Makarena Ganderton  
Bonita Makarena Morehu  
James Te Kiri  
Pirihira J Fenwick  
Rauawa Manahi

By their solicitor

and duly authorised agent

D M T HALL

1.3. Amendment of claim received 3 April 1990  
2 April 1990

We, whose names are given below, and who are the claimants in a notice of claim dated 30 March 1987 and an amendment of claim dated 19 April 1989 relating to the land commonly known as Te Ngae Mission farm, hereby amend and add to that claim as follows:

#### AMENDMENT OF CLAIM

1. That the people of Ngati Rangiteaorere are the owners of Tikitere B block (PR129/31) (ML Plan 19230). Centred on and about Tikitere B is a geothermal resource.
2. The geothermal resource has always been and continues to be considered by the Ngati Rangiteaorere as taonga as described in the second article of the Treaty of Waitangi.
3. That any regime for the use of the geothermal resource which does not take full account of the views of the tangata whenua is a breach of the second article of the Treaty of Waitangi.
4. That the provisions of the Geothermal Energy Act 1953 whereby the right to use and control geothermal resource was vested in the Crown rather than the tangata whenua was a breach of the Treaty of Waitangi.

5. We therefore claim that the Tribunal recommend:

(i) That the right to use the geothermal resource in the vicinity of Tikitere B be strictly controlled by the tangata whenua, the Ngati Rangiteaorere either alone or in conjunction with the regional authority

(ii) That any licence to use the geothermal resource include an obligation on the licensee to conduct research into the capacity of the geothermal resource.

(iii) That the tangata whenua be an equal party to any licensing of the geothermal resource and be entitled to receive an equal share of any licence fees or royalties payable by any licensee.

6. We are making submissions to the Select Committee considering the Resource Management Bill, proposed to be introduced by the Government. We therefore ask that the Tribunal defer consideration of this amended claim pending the report back to Parliament of the Select Committee on the Resource Management Bill. Should the Resource Management Bill be amended to take into account our concerns we would propose withdrawing our amended claim in respect of the geothermal resource centred at Tikitere B.

7. That we be allowed to amend our claim after the select Committee on the Resource Management Bill has reported back to Parliament.

Dated at Wellington this 2nd day of April 1990.

The Aho Welsh of Tikitere, Kuia  
Amarama Te Kirikaramu  
Tuku Hohepa  
Ngana Te Kirikaramu  
Ngawai Dulcie Hapeta  
Dr Ngahuia Te Awekotuku  
Montigue Rangiteaorere Curtis  
Constance Makarena Ganderton  
Bonita Makarena Morehu  
James Te Kiri  
Pirihira J Fenwick  
Rauawa Manahi

By their solicitor

and duly authorised agent

D E HURLEY

---

*Waitangi Tribunal, Department of Justice, Wellington.*

# Rangiteaorere Land Claim

## 5 - Appendices

### 2 - Appendix 2 - Deeds Of Purchase

#### Appendix 2

#### Deeds of Purchase

#### 2.4. Deed of 14 September 1839

#### TE NGAE BLOCK, ROTORUA, BAY OF PLENTY

This document is from a copy of the deed presented to the Old Lands Claim Commission and it differs in some places from the copy in Turton's Deeds.

Kia mohio nga tangata katoa ki enei tohu o te pukapuka nei. Na, ka hokona atu e matou ki a te Hapimana raua ko te Mokena mo te Komiti o te Hahi o Ingarani, tera wahi wenua ki te taha o Rotorua, ko te awa, Waioheua, te rohe ki te tahi taha, ko te motu ngaherehere, me te Ngae to rohe ki te tahi taha, haere ki uta tonu ki te taha o tenei motu ki te pito o tera atu motu ngaherehere ko te Takauere. Na! No te tino pito o tenei motu ngaherehere me haere i uta te tahi wahi ki te taha nota o tenei motu; rohetia atu ki te pito o tera motu iti, ko te Poti a ta Mangu; tapaihia atu ki te wahi wenua ki waenganui o te motu, me te puke Paiwenua, haere tonu ki uta te tahi wahi, haere tonu atu ki te awa Waioheua, hoki tonu mai ki te taha o tenei awa, a ko te kongutuawa te wakamutunga. Na! Ko enei nga ingoa paenga kainga, ki roto ki tenei rohe nui. Ko te Tatua o te Hawiki. Ko te Poti a ta Mangu, ko Ineawa. Ko te Koaoao. Ko Tuterakura. Ko te Kahu. Ko te Hoie, me era atu pea kihai tuhituhia mai ki tenei pukapuka. Ko enei nga mea e homai ana, e raua ki a matou hei utu mo tera wahi wenua. O nga Paraikete, e ono tekau. O nga Toki, e witu tekau. O nga Kapukapu, e toru tekau ma rima. O nga Karaune, e rima tekau ma rima. O nga Kohua, e toru tekau. O nga Hate e toru tekau. O nga Tarautete, e toru tekau. O nga Katikati, e toru tekau ma ono. O nga Karahe, tekau ma wa. O nga Heu, e wa tekau. O nga Paipa, e rima tekau, me te tahi poro Tupaka, he mea nui. Ko ta matou ingoa ranei, tohu ranei, e tuhituhia ana e matou ki tenei pukapuka, hei tohu o ta matou tino wakae ki tenei hokonga o te wahi wenua i tukitukia o runga, nga mea hoki o runga o te wenua, o raro o te wenua, e matou ki a te Hapimana raua ki te Makena, mo te Komiti o te Hahi o Ingarani, mo ratou katoa me o ratou tamariki ranei, hoko ranei, noho ranei, ho ata ranei, aha ranei, ake tonu atu.

Ko ta matou tuhituhinga tenei ki te ra 14 o Hepetima, ko te tau 1839.

Nga kai tohutohu

Ko te tohu o Ikairo x.

o Nini x.

o te Awere

Ko te tohu o te Waru x Ko te tohu o Tarakawara x  
Ko te tohu o te Rongoa x o Tohe x  
Ko te tohu o te Ahimanaua x o Puhirake x  
Ko te tohu o te Kata x o te Hurepu x  
Ko te tohu o te Rangiamohia x o Mataka x  
Ko te Watuariki x o Parera x  
Ko te tohu o te Puruhi x o te Rakeroa x  
o Ngataua x o te Piko x  
o Rangihuia x o te Tangaroa x  
o Haurauwiti x o Rohu x  
o te Wakairo x o Matuaiti x  
o Mawiti x o Ngaora x  
o Kaiwa x o te Patu x  
Ko te tohu o Rainui x o Rangikauama x  
o Ngauwo x o te Kahuroro x  
o te Keno x o Tumataura x  
o te Manu x o Ngokingoki x  
o te Haupapa x o Hoihau x  
o te Rangitapuhea x o Tamakaua x  
o Piwairange x

#### TRANSLATION

Let all men know by virtue of this document that we do hereby sell to Chapman and Morgan as on behalf of the Committee of the Church of England all that land situate on the shores of Rotorua the boundary thereof being on one side the Wai-o-heua River - the clump of bush and Te Ngae being the boundary on the other side and thence inland on the outskirts of the said bush to the edge of that other bush known as Te Kauere - thence from the extreme end of that said bush proceeding inland to the northern edge of this bush and extending thence to the edge of that small bush (known as) Te Poti-ata-Mangu and thence cutting through the middle portion of the bush by the hill Paiwenua extending thence to that other side thereof until it reaches the River at Waioheua and thence returns along the edge of this river as far as the mouth thereof and ends there. The following are the villages within the outer boundaries - Te Tatu - o- Te Hawiki, Te Poti a ta Mangu-Ineawa -[Koaao]- Tutera kura-Tekahu-Te Hoie and others probably not written in this document.

The following are the goods which they give us in consideration for that parcel of land.

Blankets 60  
Axes 70  
Adzes 35  
Digging forks 55  
Pots 30  
Shirts 30  
Trousers 30  
Scissors 36  
[Shaving boxes 14]  
Razors 40

Pipes 50

Roll of tobacco 1 large

These are our names or marks subscribed by us to this document as evidence of our consent to this sale of the land above described as also all things upon or within the said land to the said Chapman and Morgan on behalf of the Committee of the Church of England to them all and to their successors or purchasers from them or otherwise forever. Our signing being on this the 14th day of September 1839.

2.5. Deed of 25 September 1839

TAKAUERE, ETC., BLOCK, ROTORUA, BAY OF PLENTY DISTRICT

Kia rongā nga tangata katoa ki enei tohu o te pukapuka nei. Na, ka hokona atu e matou ki a te Hapimana, raua ko te Mokena, mo te Komiti o te Hahi o Ingarangi, ta matou kainga ki Rotorua ko te Takauwere me te Turi o te Uirangi nga tino ingoa. Ko enei ano nga mea e homai ana e raua ki a matou, hei utu mo era wahi wenua. O nga Paraikete, e toru tekau ma tahi. O nga Toki, e rima tekau. O nga Kapukapu, ko tahi tekau. O nga Purupuru, ko tahi tekau. O nga Heu, e rua tekau. O nga Maripi, ko tahi tekau. O nga Kutikuti, ko tahi tekau. O nga Raka, ko tahi tekau. O nga Inihi, ko tahi tekau. O nga Matau nunui, e waru tekau. O nga Wairu nunui, ko tahi tekau. O nga Paraka, e rua tekau. O nga Tarautete, e rua tekau. O nga Hate, e rua tekau. O nga Wiri, e rua tekau. O nga Kohua e rua tekau. O nga Waru, ko tahi tekau ma toru. O nga Karahe, ko tahi tekau. O nga Tupeka, ko tahi rau pauna.

Ko ta matou ingoa ranei, tohu ranei e tuhituhia ana e matou ki tenei pukapuka hei tohu o ta matou tino wakaae ki tenei hokonga o era wahi wenua i tuhituhia o runga, e matou ki a te Hapimana raua ko te Mokena mo te Komiti o te Hahi o Ingarangi, mo ratou, mo te hoko ranei, noho ranei, aha ranei, ake tonu atu.

Ko ta matou tuhituhinga tenei ki te ra 25 o Hepetima, ko te tau 1839.

Ko nga kai tohu tohu

Ko te tohu o Huka x o Pango x o Rotorua x  
o Ngahihi x o Korokai x o Pukuatua x  
Kanapu o Taiamai x o Mauherehere x  
o Ngatohe x o te Arawaka x o Ngamoni x  
Tikorekore Warekiekie o te Hae x  
Ngapaoro o Kahuroro x o Taumanu x  
o Hiakiawa x o Kauakaua x o Tawake x  
o Ngatupeka x o Urutaua x o te Mihi x  
o Manurau x o Paia x o Kura x  
Koteao o Ikuero x o Rohu x  
o Nini x o Papaiti x  
o Ranginui x

TRANSLATION

Now let all men know by the purpose (Tohu) of this document (pukapuka). We do sell to Chapman (Hapimana) and to Morgan (Mokena) - as for the Committee of the

Church of England, our home at Rotorua - Te Takauwere and Te Turi-o-te-Uirangi as more particularly known. The following are the goods handed to us as payment for these those parcels of lands

Blankets-31; Axes-50; Adzes-10; Chisels-10; Razors-20; Knives-10; Scissors-10; Locks-10; Hinges-10; large Fish Hooks-80; Large files-10; Pad-locks-20; Trousers-20; Shirts-20; Gimlets-20; Pots-20; Spoke-shaves-[13]; Looking Glasses-[10]; and Tobacco-100lbs.

Hereto are our names or marks which we subscribe to this document as evidence of our full approval of this sale of the said parcels of land as above mentioned to Chapman and Morgan as for the Committee of the Church of England.

Our writing this (i.e. signing hereof) being on the 25th of September in the year 1839.

---

*Waitangi Tribunal, Department of Justice, Wellington.*

# Rangiteaorere Land Claim

## 5 - Appendices

### 4 - Appendix 4 - Record Of The Inquiry

#### Appendix 4

#### Record of the Inquiry

#### 4.6. Constitution and Appointments

The Tribunal constituted for the inquiry into the claim comprised Judge H K Hingston, of the Maori Land Court (Presiding Officer), Sir M E Delamare, Professor M P K Sorrenson.

Mr D Hurley was appointed as counsel to assist the claimants, with Ms D Durie-Hall appointed solicitor for claimants.

Mr Tahī Tait was appointed interpreter.

Mr P N Maxwell was commissioned to report on the historical background to the Te Ngāe claim. Mr W Patrick was commissioned to provide further research relating to surveys, rates and road ways on Lake Rotokawau in relation to the Whakapoungakau Block.

#### 4.7. Notices

Notice of the Te Ngāe Claim and first hearing was sent to

Bill Patrick

Paora Maxwell

Te Aho Welsh and others

Counsel for claimants

Dept Survey and Land Information - Director General, Wellington

Solicitor General - Shonagh Kenderdine

Church of Province of New Zealand - Rev J Paterson

Waiapu Board of Diocesan Trustees - The Secretary

Bishopric of Aotearoa - The Secretary

Bishop of Aotearoa - Bishop Vercoe

New Zealand Mission Trust Board - The Secretary

Kiwi Ranch - The Manager

Public notices of the claim and the first hearing was given in the New Zealand Herald on 25 November 1989 and on 2 December 1989 and in the Rotorua Daily Post on 18 and 29 November 1989 and 2 December 1989.

Notice of the second hearing was sent to

Trustees of Tuarapaki Trust - P J Brown  
East Brewster, Barristers and Solicitors - Alayne Wills  
Mark Bidios  
Treaty of Waitangi Policy Unit - A Frame  
Counsel NZ Mission Trust Board - A Manuel  
Bishop of Bay of Plenty - Rev G H D Conner  
Bishop of Aotearoa - Bishop Vercoe  
Kiwi Ranch  
Minister of Commerce - Director of Energy and Resource Division  
New Zealand Mission Trust Board  
Dept Survey and Land Information, Wellington  
Solicitor General  
Dept Conservation, Rotorua

Public Notices of the second hearing were given in the New Zealand Herald on 16, 27 June and 7 July 1990 and in the Rotorua Daily Post on 22, 29 June and 14 July 1990.

At the end of the second hearing the Tribunal issued a direction for a final hearing on Monday 27 August 1990 (see appendix 2.7.3)

#### 4.8. Appearances

The first hearing commenced at Mataikotare Marae, Te Ngae Junction, Rotorua on Monday 4 December 1989. The hearing continued at the Maori Land Court, Government Building, Haupapa Street, Rotorua, before returning to Mataikotare Marae. Those who appeared in a representative capacity were:

Mr D Hurley for the claimants and with him Ms D Durie-Hall

Ms S Kenderdine for the Crown and with her Ms A Kerr

Bishop Vercoe, Ms A Manuel and Mr M J Ogilvie for New Zealand Trust Mission Board

Ms A Wills for Kiwi Ranch

The second hearing was held at Mataikotare Marae, Te Ngae Junction, Rotorua on 16-17 July 1990. Appearing were:

Mr D Hurley for the claimants and with him Ms D Durie-Hall

Ms S Kenderdine for the Crown

Bishop Vercoe and Ms A Manuel for New Zealand Trust Mission Board.

Final submissions were heard at the Maori Land Court, Rotorua on Monday 27 August 1990. Appearing were:

Mr D Hurley for the claimants

Mr Blanchard for the Crown

Ms Manual for New Zealand Trust Mission Board

#### 4.8.1 Submissions

In addition to counsel, those who gave written or oral evidence were:

Names

Te Aho Welsh, Ngati Rangiteaorere, 4 December 1989

Hiko Hohepa, Ngati Rangiteaorere, 4 December 1989

T Hohepa, Ngati Rangiteaorere, 4 December 1989

T Te Awekotuku or B Te Kiri, Ngati Rangiteaorere, 4 December 1989

P Maxwell, tribunal researcher, 4 December 1989, (B2)

B Patrick, tribunal researcher, 4 December 1989, (A3, A4)

T Gordon, 7 December 1987

S McHugh, Crown researcher, 16 July 1990, (B2, B3)

D Alexander, Crown researcher, 16 July 1990, (B4)

#### 4.9. Conference of parties

A pre-hearing conference was held on 13 November 1989 at the Waitangi Tribunal Offices, Databank House, 175 The Terrace, Wellington.

Those notified were:

Counsel for claimants

Crown Law Office

Those who attended were:

Presiding Officer, Professor Sorrenson, Member Waitangi Tribunal, Waitangi Tribunal Staff; counsel for claimants; Crown Law Office, A Kerr (Solicitor), Sister Barnao (Senior Research Officer); NZ Mission Trust Board, NZ Bishopric and the Waiapu Diocese, B Scott.

The meeting considered a request from Crown counsel for adjournment of first hearing.

Judge Hingston directed that the first hearing proceed as notified.

Counsel for claimants tabled a series of issues and invited Crown response.

A hearing schedule was discussed.

The judge requested an interpreter be appointed to assist at the Te Ngae hearing.

Following the end of the conference a chambers conference was held between claimants only and the Tribunal on the matter of legal representation.

#### 4.10. Record of documents

Documents A1-A7 were admitted to the record at the first hearing. Documents A8-A18 were admitted to the record after the hearing. Documents B1-B7 were admitted at the second hearing. Documents B8-B10 were admitted to the record after the hearing. Documents C1-C3 were admitted at the third and final hearing. Document C4 was subsequently received.

A1 (a) Statement of claim, received 15 April 1987  
(b) Amended Statement of claim, received 12 April 1989  
(c) Amended Statement of claim, received 3 April 1990.(Registrar)

A2 Preliminary research report on the Te Ngae Mission Farm and Ngati Rangiteaorere prepared for the Waitangi Tribunal by Mr Paora Maxwell, dated 11 February 1988. (Registrar)

A3 Preliminary research report on matters contained in the amendment to the Te Ngae claim concerning Lake Rotokawau prepared for the Waitangi Tribunal by Mr Wiremu Patrick, 12 October 1989.  
(Registrar)

A4 Supporting appendices to A3.  
(Registrar)

A5 Correspondence of Anglican Trusts Board to Presiding Officer dated 13 November 1989 containing a resolution to retire as trustee of the property in favour of local trustee/s.  
(Registrar)

A6 Maps used in site visits 6 December 1989  
(a) Whakapoungakau Block  
(b) Lake Rotokawau  
(c) Tikitere B  
(d) Epapara  
(c) Te Taheke Block  
(f) Tikitere B  
(Registrar)

A7 Heads of agreement. Kiwi Ranch Trust and Trustees of Whakapoungakau dated 7 December 1989.  
(Counsel for claimants)

A8 Interim report to the Honourable Minister of Maori Affairs in respect of the geothermal resource of New Zealand, dated 7 December 1989.  
(Registrar)

A9 Memorandum and Directions of Presiding Officer, dated 15 December 1989.  
(Registrar)

A10 (a) Memorandum of claimants counsel regarding meeting with Crown Law Office in relation to new fixture for the proposed pre-conference dated 26 January 1990.

(b) Memorandum of Crown counsel regarding agenda for meeting between claimants counsel and Crown Law Office (Crown agenda) dated 9 February 1990.

A11 Joint memorandum of counsel for claimants and the Crown dated 23 February 1990.

A12 Memorandum of counsel for claimants dated 23 February 1990.

A13 Opinion on the alternatives for the return of the Te Ngae Mission Trust Farm land to the claimants free of the trust set out in the Crown grant by Harriet Kennedy (Crown counsel) received 23 February 1990.  
(counsel for Crown)

A14 Interim report of Ms Stephanie McHugh on Te Ngae Mission Farm dated 7 February 1990.  
(counsel for Crown)

A15 Documents in relation to the rating of Lake Rotokawau prepared by Sister J Barnao received 23 February 1990.  
(counsel for Crown)

A16 Memorandum of David Alexander on a "lost" area in Tikitere B Block, received 23 February 1990.  
(counsel for Crown)

A17 Report of Josephine Barnao on survey cost in connection with the Whangapaungokau-Pukepoto Block.  
(counsel for Crown)

A18 Correspondence of Rotorua District Council concerning the rating of Lake Rotokawau, received 8 March 1990.  
(Registrar)

B1 Opening submission of Crown counsel, (transcript).  
(counsel for Crown)

B2 Evidence of Stephanie Louise McHugh on the Crown grant for the Te Ngae mission property (refer B3)  
(counsel for Crown)

B3 Supporting papers to B2.  
(counsel for Crown)

B4 Evidence of David James Alexander on roading through Ngati Rangiteaorere lands (with supporting papers).  
(counsel for Crown)

B5 Submission of the Maori Trustee in respect of Whakapoungakau 2B2 and 7G.  
(counsel for Maori Trustee)

B6 Memorandum of counsel for the claimants, received 16 July 1990.  
(a) Submission on behalf of the Ngati Rangiteaorere Tribe to the parliamentary select committee, dated 1 March 1990.

B7 Notes on Te Arawa Iwi entitled "Rangiteaorere Thermal Region."  
(counsel for claimants)

B8 Directions of Tribunal, dated 17 July 1990 on questions of Ms S McHugh and Mr D Alexander.  
(Registrar)

B9 Memorandum of counsel for the claimants on Te Ngae Mission Farm, received 24 July 1990.  
(counsel for claimants)

B10 Submissions on the rating of Lake Rotokawau given by Josephine Barnao, received 26 July 1990.  
(counsel for Crown)

C1 Closing submission of counsel for the claimants.

C2 Memorandum of counsel for claimants on land taken at Te Ngae-Mawhiti and Hikairo, dated 27 August 1990

(a) Whakapapa prepared by Mr H Hohepa  
(counsel for claimants)

C3 Closing submission of the Crown.

(a) Accompanying documents in addition to Crown's closing submission C3.  
(counsel for Crown)

C4 Submission of counsel for claimants in reply to closing submission for the Crown, dated 4 September 1990.

# Rangiteaorere Land Claim

## 5 - Appendices

### 5 - Appendix 5 - Interim Report To Minister Of Maori Affairs On Geothermal Resource, 7 December 1989

Appendix 5

Interim Report to Minister of Maori Affairs  
on geothermal resource, 7 December 1989

TO: The Honourable Minister of Maori Affairs  
Parliament Buildings  
WELLINGTON

E Te Minita, Tainui, tena koe,

We report from Waiohewa Marae, home of Rangiteaorere of Arawa.

We began an enquiry on Monday, 4 December 1989 into certain dealings between the Crown, the Church Mission Society and the Rangiteaorere hapu of Te Arawa last century and during this enquiry Mr D Hurley, Counsel for the claimants, raised the question of certain actions being contemplated by the Crown in respect of the geothermal resource of New Zealand.

Rangiteaorere are the owners of the thermal area north-east of Rotorua on the Rotorua-Whakatane highway known as "Hells Gate".

The Tribunal was informed that certain proposals under consideration for proposed resource legislation concerns the geothermal resource and further that there has been no consultation with Maori regarding the future of this resource.

The Tribunal being of the view that any submissions to or by the Crown concerning that resource should not be the subject of legislative proposals unless and until Maori who have utilised this Taonga since time immemorial have been consulted.

The Tribunal is aware of the real problems created by indiscriminate use of the thermal resource in Rotorua and observes that Te Arawa were not consulted over the years as Tauwiwi exploited the resource to a degree that the whole field was threatened resulting in draconian legislation to save it.

We recommend that if geothermal energy is to be included in the proposed resource legislation Government forthwith initiate consultation with Maori particularly in view of the principles enunciated in the 1989 "Principles for Crown Action of the Treaty of Waitangi."

We believe that to proceed without consultation would be a "policy" or "practise" by or on behalf of the Crown prejudicially affecting the claimant in the claim now before us in terms of Section 6 of the Treaty of Waitangi Act 1975.

We respectfully draw your attention also to the fact that there are other claims concerning the geothermal resource by other tribes as yet unheard who could also be detrimentally affected.

DATED at Waiohewa this 7th day of December 1989.

[Signatures of members]

---

*Waitangi Tribunal, Department of Justice, Wellington.*

# Rangiteaorere Land Claim

## 5 - Appendices

### 6 - Appendix 6 - Memorandum And Directions, 15 December 1989

#### Appendix 6

Memorandum and Directions,  
15 December 1989

#### SUPPLEMENTARY CLAIMS

1 At the conclusion of evidence and submissions the Tribunal adjourned to 28 February 1990 for a chamber conference at the offices of the Tribunal in Wellington commencing at 10.00am.

2 The Tribunal having had an opportunity of reviewing the various matters raised in this hearing to date is of the view that to assist all parties it would be proper to set out in memorandum form the various issues still at large with particular reference to the supplementary or "undergrowth claims".

3 Dealing with the formal claims:

#### (a) Te Ngae Farm

The Tribunal is of the view that immediate steps should be taken to have the land transferred to Ngati Rangiteaorere preferably by recourse to Section 39 of the Maori Trustee Act 1953.

The Tribunal expressed its preference for the land being transferred in this manner for two reasons; firstly this method, with the co-operation of the Maori Trustee, would be relatively inexpensive and secondly the Maori Trustee could assume the present Trusts upon which the land is held and by vesting the land in Rangiteaorere (Section 39(5) and Section 39(6) Maori Trustee Act) change the status of the land to Maori freehold land thus enabling the Maori Land Court to deal with any variation of Trust as well create a Trust pursuant to Section 438 of the Maori Affairs Act 1953 to administer the land.

If the legal advisors for the New Zealand Mission Trust Board find that the above method of transfer is unacceptable the Tribunal expects that the alternatives are discussed and hopefully settled between the claimants, the Trust Board and the Crown before 28 February 1990 thus ensuring that the Tribunal on that date is fully appraised of the relative difficulties/costs etc to effect the transfer.

In the interim the Tribunal is aware that the Crown will be researching the validity or otherwise of the 1854 Crown Grant and the Tribunal would appreciate receiving this

research along with any other reports/research relating to the Te Ngae Farm some time prior to the conference date.

The Tribunal recognise that Mr Hurley has left at large the question of reparation/compensation for any loss by Rangiteaorere because of the allegedly invalid Crown Grant.

The Tribunal is of the view that if the transfer of the land to Rangiteaorere is effected at no great costs to either the Trust Board or the claimants then any question of reparation/compensation from the Crown must be addressed taking into account the following factors:

- (i) The land being returned intact-(Rangiteaorere now only retains one-third of the total 6,000 acres it once owned).
- (ii) The land being returned fully developed including all buildings without payment of compensation by the claimants.
- (iii) The very real possibility that the 24.1268 hectares (60 acres) belonging to the Waiapu Diocese will be gifted to Rangiteaorere.
- (iv) The fact that up to the 1920's Rangiteaorere have had kainga on the land.
- (v) The fact that lease rentals have always been applied by the Waiapu Diocese to the Te Ngae Pastorate. (The Tribunal recognises that the Te Ngae Pastorate embraces more hapu of Te Arawa than Rangiteaorere).
- (vi) The intent of those of Rangiteaorere who put the Church into possession (ie, for use of the Church) and the willingness of the Church authorities to return the land without the Tribunal having to comment on the probity or otherwise of the 1839 transaction.

The Tribunal expects a clear indication of the claimant's and the Crown's attitude on the reparation/compensation question at or prior to the conference.

#### (b) Rotokawau

The Tribunal recognises that agreement is being entered into between the lake trustees and the trustees of Kiwi Ranch and is only too willing to leave matters to the parties.

The claimant and Kiwi Ranch Trust are congratulated for their approach to what could have been a distressing and onerous matter.

#### 4 SUPPLEMENTARY CLAIMS

(a) The disputed six acres included in Tikitere B (ML Plan 19230): This claim to be researched by the Crown and if necessary third parties involved to be invited to the conference on 28 February 1990 to discuss an equitable resolution of any issue that may arise following such research.

(b) The slivers of land to the west of the state highway across from the Te Ngae Farm:

This is to be researched by claimants as it appears that it is included in recent surveys by Mr Ron Phipps, Surveyor, Rotorua in the Whakapoungakau blocks giving them frontage to the state highway. Mr Rauawa Manahi was of the view that Maori Land Court action may be needed to tidy this claim up.

(c) The roadway from the Rotokawa path along through the Whakapoungakau hills behind the Mission Farm to the Whakapoungakau 4C Block (Lake Rotokawau):

The claimants to research this - Mr W Patrick gave evidence that in his view the land is still Maori freehold land.

(d) The roads taken by the Crown without payment of compensation:

This raises important issues which may well have national implications. If the claimants are desirous of the Tribunal proceeding to hear such a claim they must be prepared to present evidence as to if and why such legislation was contrary to the principles of the Treaty of Waitangi. Hansard and other documentation will have to be researched along with evidence of the Crown practise in relation to non - Maori land being taken for roads at the time.

(e) The land taken for survey costs and expenses:

This also raises an issue with national implication as it appears the policy/practise adopted by the Crown of securing survey costs by appropriation of Maori land through the Maori Land Court was widespread.

Again in the claim before us, if the claimants wish the Tribunal to pursue this issue, they must demonstrate by way of researched evidence firstly that there was such a practice and that the policy or practise is inconsistent with the principles of the Treaty of Waitangi as well that they have been prejudiced.

(f) The geothermal issue:

The Tribunal saw fit to issue a recommendation to Government requesting that before the resource legislation was introduced into the House, Maori who have used this taonga should be consulted. If the claimants wish to take the geothermal energy matter further the Tribunal expects a further additional claim being filed before 14 February 1990 setting out clearly the actions of the Crown that have prejudiced the claimants in relation to their thermal lands the claim must also demonstrate how such Crown action/policy practise is inconsistent with the principles of the Treaty of Waitangi.

If a claim is lodged the Tribunal will give directions as to service at the conference on 28 February 1990. It may well be that such a claim could be dealt with along with the thermal land claims of other tribes.

In essence, five of the "undergrowth" claims are being treated by the Tribunal as though formal claims had been filed, the thermal issue has been similarly treated but if we are to proceed further on that claim the Tribunal requires additional and specific pleadings.

5 To summarise, the Tribunal requirements are:

- (a) Immediate attention to the transfer of the Mission Farm to Rangiteaorere.
- (b) Research on the Crown Grant and any other Te Ngae Farm matters together with claimant's and Crown's view on reparation/compensation question as soon as possible.
- (c) An indication of progress towards settlement and relevant research in the first three "undergrowth" claims as set out above.
- (d) Further evidence/research forthwith on each the road-taking and land appropriation for survey costs claims.
- (e) An additional claim lodged in respect of the thermal issue if it is to proceed further.

DATED at Rotorua this 15th day of December 1989.

H K Hingston  
Presiding Officer

---

*Waitangi Tribunal, Department of Justice, Wellington.*

# Rangiteaorere Land Claim

## 5 - Appendices

### 7 - Appendix 7 - Direction Of Tribunal As To Final Hearing, 17 July 1990

Appendix 7

Direction of Tribunal as to  
Final Hearing, 17 July 1990

#### DIRECTIONS OF TRIBUNAL

At the conclusion of the hearing on Tuesday, 17 July 1990 the Tribunal issued the following direction.

1 Further questions of Miss S McHugh & Mr D Alexander

(a) Counsel for the Church, claimants and Maori Trustee may on or before Wednesday, 1 August 1990 serve upon Mrs Kenderdine (Crown Counsel) a memorandum setting out questions; a copy of interrogatories to be filed in Registry of the Tribunal and served on other counsel.

(b) Mrs Kenderdine to reply on or before Wednesday, 15 August 1990 and file copy of answers with Tribunal as well serving other counsel.

2 Tribunal will hear final submission at the Maori Land Courthouse in Rotorua, 10.00am, Monday, 27 August 1990.

3 Counsel are requested inter alia to address the following legal questions:

(a) If the Crown Grant was granted pursuant to the Land Claim Ordinance is it agreed on the authority of R v Taylor [Clake] NZPCC that the Crown Grant was invalid.

(b) Sale of Waste Lands Act

If as suggested by a Crown witness the grant was pursuant to this Act. Did the land 'qualify' as waste land in terms of the definition in Section XXIII of the Act. If it did not so qualify would the grant have been invalid.

(c) In 1854 was there a Governor's prerogative that allowed Wynyard to set apart Maori owned land by way of Crown Grant without the consent of the Maori land owners.

(d) The Crown Grant provides inter alia

"...DO HEREBY GRANT UNTO...(here following legal description etc)

and

"...to hold onto the said (grantees) .... UPON TRUST to ... (here follow Trusts).

Was this grant an absolute grant?

If it was not after the issue of the grant held the reversion.

4 If Consensus in principal is reached between the Church authorities and the Claimants - Tribunal expects joint memorandum setting out terms agreed. This to be served as well on Crown Counsel.

5 The Tribunal re-iterates it's earlier advice to the effect that it has no jurisdiction as against the Church and that any terms/restrictions placed by the Church is a condition of their returning of the Mission Farm is at Church's sole discretion.

6 The Tribunal also repeats its earlier suggestion that if at all possible the Mission Farm (if returned) should become:

(a) Maori freehold land vested in an eponymous ancestor probably Rangiteaorere (m)  
(d).

(b) Such that the land is inalienable by way of sale or transfer of the fee simple.

Dated at Waiohewa this 17th day of July 1990

H K Hingston  
Presiding Officer

---

*Waitangi Tribunal, Department of Justice, Wellington.*