OFFICIAL

Wai 48, #2.35
Wai 81, #2.5
Wai 146, #2.37

KI MUA I TE ROOPU WHAKAMANA
I TE TIRITI O WAITANGI

IN THE MATTER OF	The Treaty of Waitangi Act 1975 (as amended)
AND	
IN THE MATTER OF	an application for urgent inquiry and report in respect of the **CENTRAL NORTH ISLAND FORESTS COLLECTIVE SETTLEMENT**
AND	
IN THE MATTER OF	a claim by **KEVIN AMOHIA** for and on behalf of **NGATI HĀUA**

APPLICATION FOR URGENT INQUIRY AND REPORT BY NGATI HĀUA IN RESPECT OF THE CNI FORESTS COLLECTIVE SETTLEMENT

Dated 20 May 2008

RECEIVED
Waitangi Tribunal
21 MAY 2008
Ministry of Justice
WELLINGTON

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APPLICATION FOR URGENT INQUIRY AND REPORT

To: The Registrar, Waitangi Tribunal

Ngati Hāua hereby respectfully requests that the Waitangi Tribunal undertake an urgent inquiry and report into the proposed Central North Island Forests Collective Settlement ("**CNIFCS**") set out in an Agreement in Principle dated on or about 2 May 2006 between the Crown and the Central North Island Iwi Collective ("**AIP**") in respect of the matters more particularly pleaded by their Statement of Claim attached herewith.

Upon the following grounds:

Urgency

1. The Crown is committed to the substantive terms of settlement with the CNI Iwi Collective and intends to execute a Deed of Settlement and introduce legislation to Parliament by 26 June 2008 to effect the settlement terms:

    1.1 The Crown has agreed the substantive terms of settlement by the AIP with the CNI Iwi Collective. The terms are not subject to the resolution of cross claims;

    1.2 The Crown is committed to the substantive terms of settlement by clause 19 of the AIP;

    1.3 The Crown is also committed to effecting the substantive settlement terms by the introduction of settlement legislation by 26 June 2008. Therefore, the settlement is imminent and will be final;

    1.4 If settlement legislation is to be introduced to Parliament by 26 June 2008, a Deed of Settlement would have to be agreed either in late May or early June 2008. Ngati Hāua say that is not sufficient time within which to apply to the Tribunal for an urgent inquiry and report into whether the Crown has complied with its Treaty obligations to Ngati Hāua in any final Deed of Settlement.

2. Ngati Hāua is better placed to challenge the Crown before this Tribunal in respect of the settlement to objectively assess whether the actions are complicit with Treaty principles:

2.1 The Crown has unilaterally determined its approach to all overlapping claims through the retention of the Crown's 10% interests in the Trust Holding Company without any or any adequate discussions or negotiations with overlapping claimants including Ngati Hāua;

2.2 The Crown has not made any reasonable efforts to engage with Whanganui iwi including Ngati Hāua and has not provided sufficient information in a timely manner;

2.3 The only engagement proposed by the Crown thus far is one meeting o 16 April 2008 and an invitation to a public meeting on 4 June 2008 in Whanganui to ventilate their concerns. Very little by way of detail was provided at the 16 April 2008. The public meeting is unsatisfactory for the following reasons:

2.3.1 It is likely that the Crown and CNI Iwi Collective would have substantially advanced and/or finalised a Deed of Settlement;

2.3.2 One hui is not sufficient as a process of engagement regarding the concerns of the Whanganui iwi including Ngati Hāua;

2.3.3 The hui is to provide information not engage regarding the cross claim issues.

2.4 Therefore, the Crown is presenting the Whanganui iwi including Ngati Hāua with a fait accompli as the Crown has a closed mind on the redress options in respect of Taurewa. The only options are to:

2.4.1 Join the THC through the Crown's 10% interest; or

2.4.2 Take the value of the Crown's interest in land, cash or other commercial instrument.

2.5 Both options require the consent of the CNI Iwi Collective. Therefore, there is no guarantee that any redress arising out of the Taurewa forest will be available for Ngati Hāua or any of the Whanganui iwi. While there is usually no guarantee that the Crown will provide redress, the Crown has already acknowledged that Whanganui have interests in Taurewa. Furthermore, officials with the Office of Treaty Settlements have referred to it as a potential settlement asset for Whanganui. The Crown has fettered its ability to provide redress by requiring the consent of the CNI Iwi Collective to the use of Taurewa forest or the Crown's 10% interest in any Ngati Hāua or Whanganui settlement.

Prejudice

3. Ngati Hāua will suffer significant and irreversible prejudice as a result of the Crown's actions and/or omissions in the form of the AIP (and impending Deed of Settlement and Settlement legislation). Such prejudice will have the effect of (inter alia):

3.1 Excluding Ngati Hāua for all time from the title to the Taurewa forest or any real possibility of reclaiming ownership of Taurewa forest;

3.2 Permanently removing legal title to areas, that are the subject of specific claims by Ngati Hāua against the Crown;

3.3 Imposing a forestry settlement and governance entity on Ngati Hāua and other iwi that are not members of the CNI Iwi Collective at present without their consent or any regard for the overall settlement objectives of Ngati Hāua;

3.4 Awarding the right to admit entry the CNI Iwi Collective, and thereby to any redress arising from Taurewa, to the existing members of the CNI Iwi Collective;

3.5 Imposing a six year timeframe on Ngati Hāua for joining the CNI Iwi Collective or taking other redress.

No Alternative Remedy

4. There is no immediate alternative remedy available to Ngati Hāua.

Readiness for Hearing

5. Ngati Hāua is ready to proceed to an urgent hearing. The urgent inquiry would be confined to the particularised issues. Counsel suggests that the Claimants and Crown could agreed the issues for inquiry. Evidence in support would be adduced largely from the Wai 1130 and 903 records of inquiry and supplemented by evidence from a small number of tangata whenua witnesses.

DATED this day of 2008

Spencer Webster/Blair Strang
Counsel for Ngati Hāua

This Application for Urgent Inquiry and Report is made by Ngati Hāua by their solicitor and duly authorised agent Spencer Webster of Auckland, Solicitor. For the purposes of this application the address for service for Ngati Hāua is at the offices of Corban Revell, 133A Central Park Drive, Waitakere City, telephone 0-9-837 0550.

Documents for service on Ngati Hāua may be left at the address for service or may be:

(a) posted to the solicitor at PO Box 21-180, Henderson; or
(b) left for the solicitor at a document exchange for direction to DX DP92558, Waitakere City; or
(c) transmitted to the solicitor by facsimile to 0-9-838 7187.

Copy to: The Treaty Team, Crown Law Office

And to Other claimant counsel