BEFORE THE WAITANGI TRIBUNAL **Wai 1182 #1.1**

IN THE MATTER OF The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF The Central North Island Regional Inquiry **WAI 1200**

AND

IN THE MATTER OF A Claim by **ARONIA AHOMIRO** on behalf of the descendants of and the rightful successors to *te tino tupuna* Paora Enoka

STATEMENT OF CLAIM

Dated this 4th **day of** June **2004**

CORBAN REVELL
Barristers & Solicitors
20 Alderman Drive, Waitakere City
DX DP92558
PO Box 21-180
Phone: (09) 837-0550
Fax: (09) 838-7187
Counsel Acting: Lewis Bunge

STATEMENT OF CLAIM

The claimant Aronia Ahomiro says:

The claimant is Maori

1. This claim is made on behalf of the claimant and his respective whanau and all those tupuna who have gone before him, being descendants and rightful successors to *te tino tupuna,* Paora Enoka as follows:

    1.1 The claimant, Aronia Ahomiro, is a direct descendant of Ngahana Ahomiro, whose mother was Wharepa Te Ahomiro and father was Te Ahomiro, who in turn was a child of Paora Enoka.

2. The claimants are Ngati Moko, a hapu of Te Arawa.

3. The claimants are Maori pursuant to Section 2 of The Treaty of Waitangi Act 1975 ("the Act").

The claimant's treaty right

4. At the time the Treaty of Waitangi was signed, and by virtue of the tikanga observed and practiced (including but not limited to take toa), Ngati Moko and Paora Enoka held mana over land in Rangiuru adjacent to the Kaituna River (hereinafter "the lands").

5. In the exercise of *tino rangatiratanga* Ngati Moko and Paora Enoka practiced and enjoyed their interests in the lands including but not limited to a full exercise of the following tikanga:

    5.1 *papa-kainga;*

    5.2 *hua whenua;*

    5.3 *turangawaewae;*

    5.4 *taonga tuku iho;*

    5.5 *ahi kaa roa;*

    5.6 *kaitiakitanga;*

5.7 *mana whenua*; and

5.8 *mana awa* where the lands abut, or nearly abut, the river.

6. That on 23 June 1883, the Crown, by the Native Land Court, in recognition of their tino rangatiratanga so practised and enjoyed granted to Ngati Moko, Toi te Koata and 21 others (including Paora Enoka) Rangiuru 1A, a block containing 405 acres within the lands.

7. The tupuna of the claimant, Aronia Ahomiro, continued to exercise *tino rangitiratanga* in the lands including Rangiuru 1A.

The Crown's actions or omissions

8. That the Crown, by an Order in Council dated 16 December 1907, took part of Rangiuru 1A being 1 acre 3 rood 38 perches of land beside the Kaituna River ("the area") from tupuna of the claimant for a wharf site.

9. That the Crown, by an Order in Council dated 5 February 1917, returned the area to the tupuna of the claimant.

10. That the Crown exercising its powers under the Public Works Act 1908, took the area from the tupuna of the claimant, on 11 October 1917, and vested it in the then Tauranga County Council for the purposes of a gravel pit.

11. That the Crown, by the Tauranga County Council, assessed compensation be payable to the owners of Rangiuru 1A including tupuna of the claimant.

12. That the Crown, on 24 May 1937 at a sitting of the Maori Land Court in Waiariki, agreed to pay of £36 as compensation to the Te Arawa Trust Board and a further £3-3-0 to Wharepa Te Ahomiro, the mother of the claimant.

13. That the Crown did not pay compensation to Wharepa Te Ahomiro.

14. That no record exists confirming payment to the Te Arawa Trust Board.

15. That the area to this day:

15.1 continues to be vested in the Western Bay of Plenty District Council and

15.2 appears to be no longer used, a situation that has carried on for some time.

The Crown's actions or omissions inconsistent with the principles of the Treaty of Waitangi

16. The Crown in enacting the Public Works Act 1908 acted in a manner that was inconsistent with the principles of the Treaty of Waitangi by:

16.1 Failing to undertake the necessary consultation process with affected parties;

16.2 Including provisions in the Public Works Act 1908 which amounted to a mandatory alienation or confiscation of Ngati Moko's interests in lands.

17. In exercising the authorities provided by the Public Works Act 1908 the Crown took the area and in so doing failed to protect the land base of Ngati Moko.

18. The Crown failed to protect Ngati Moko's tino rangatiratanga over their taonga particularly waahi tapu in relation to two accidental deaths of Ngati Moko children in the area.

The claimants prejudicially affected

19. As a result of the actions and omissions of the Crown as described the claimant has been prejudicially affected in that they have:

19.1 been prohibited from living on or using the area in full exercise of their *tino rangatiratanga;*

19.2 been prevented from observing and practicing their *tikanga* on the lands to the fullest extent possible;

19.3 suffered shame and feelings of despair in not being able to:

19.3.1 actually stand on the lands that were gained and then passed on by their tupuna; and

19.3.2 care for their interests in the land by practice and observance of their *tikanga*;

19.3.3 suffered hurt and feelings of injustice in seeing Crown representatives on the land;

19.3.4 suffered feelings of alienation and of "unworth" in seeing the adverse effect the acquisition of the area had on their land base.

19.4 Been prevented from exercising full stewardship and *kaitiakitanga* in respect to the area and as a result the area became hazardous.

Submission of this claim

20. The claimants hereby submit this claim for enquiry pursuant to provision Section 6(2) of the Act.

Relief sought

21. The claimant seeks the following in regard to himself and his interest in the lands to compensate for the prejudice so suffered:

21.1 By finding that the Crown breached the Treaty and its principles as set out in this statement of claim;

21.2 Recommendation that the Crown compensate them for the prejudices and losses suffered as a result of the Treaty breaches by the Crown identified in this statement of claim;

21.3 A recommendation that the Crown pay their full costs in preparation and presentation of this claim and the costs incurred in securing the implementation of the recommendations made in consequence of this statement of claim;

21.4 Any other relief the Tribunal may think fit.

Amending this claim

22. The claimant hereby reserves the right to further amend this statement of claim as submitted, which is likely to occur as a result of further consideration of evidence in the pleadings in this matter prior to the presentation of such matters to the Waitangi Tribunal in person.

Dated this 4th day of June 2004

Lewis Bunge
Counsel for the claimants

THIS Statement of Claim is filed by **LEWIS BUNGE** Counsel for the Claimants. The address for service of the Claimants is at the offices of Corban Revell, 1st Floor, 20 Alderman Drive, Henderson Auckland 8 telephone 0-9-837 0550, DX 92558, Henderson.

Documents for service on the abovenamed Claimants may be left at the address for service or may be:

(a) Posted to Counsel at PO Box 21-180, Henderson; or
(b) Left for Counsel at a document exchange for direction of DX 92558, Henderson; or
(c) Transmitted to Counsel by facsimile to 0-9-838-7187.