



Wai 1200, 2.1.64

#2.1. f13

Wai 564

CONCERNING the Treaty of Waitangi Act  
1975

AND a claim by Wahiao  
Raymond James Gray  
relating to the  
Whakapaungakau 3B1B  
block

MEMORANDUM-DIRECTIONS OF TRIBUNAL

The Registrar will please enter this matter on the Register of claims and give it the next available wai number. The Register should note that the claim was received on 15 January 1996, with additions to the claim received 17 January and 19 February 1996.

The claimant, who is a trustee of the Tiki Tere Trust, alleges that the Resource Management Act 1991 fails to protect the interests of the owners of Whakapaungakau 3B1B block, which encompasses the Tiki Tere geothermal field (also known as "Hells Gate"). In particular, the claimant alleges that drilling for geothermal power will detrimentally affect, and possibly destroy, the geothermal activity in that area. In addition to the claim received on 17 January 1996, the claimant requests that the areas under the control of the Paehinahina Mourea Trust, the Taheke 8C Incorporation and the Ruahine Kuharua Incorporation be included in the claim. In the further addition to the claim received on 19 February 1996, the claimant alleges that the granting of water rights consents has been given without taking traditional use and value interests in the Tiki Tere field into account.

As redress, the claimant asks that the Resource Management Act 1991 be amended to protect the rangatiratanga of Rangiteaorere iwi over its land and taonga. The Tribunal observes that such redress has in fact been recommended by the Tribunal in two separate inquiries into geothermal resource claims (see the *Ngawha Geothermal Resource Report* (1993) and the *Preliminary Report on the Te Arawa Representative Geothermal Resource Claims* (1993)). In each of these reports the Tribunal has recommended to the Crown that the Resource Management Act 1991 be amended to provide that:

in achieving the purpose of the Act, all persons exercising functions and powers under it in relation to managing the use, development, an protection of natural and physical resources, shall act in a manner that is consistent with the principles of the Treaty of Waitangi.

In the preliminary report on the Te Arawa claims, the Tribunal added that there "is an urgent need for such an amendment" (see page 35 of the report).

The Tribunal is aware that no such amendment has been made. Indeed, the Crown appears to have declined to implement this particular recommendation because it sees it "as impractical as

it would bring the Resource Management Act to a standstill" (see page 59 of "Report on Implementation of Waitangi Tribunal Recommendations and Agreements Negotiated Between Maori Claimants and the Crown: 1994" released by Te Puni Kokiri pursuant to section 81 of the Treaty of Waitangi Act 1975).

Meanwhile, this claim should be grouped for inquiry and consolidated with the other geothermal claims consolidated with Wai 153 (the Whakarewarewa claim). The claim will need to be researched before it can go to a hearing.

The claimant may amend the claim at a later stage, if necessary.

A copy of this direction should be sent to the claimant and notification should go to:

Crown Law Office  
Maori Land Information Office  
Office of Treaty Settlements  
Ministry for the Environment  
Department of Survey and Land Information  
Crown Forestry Rental Trust  
Claimants/counsel for those claims consolidated with Wai 153  
Power New Zealand Limited  
Trustpower Limited  
Paehinahina Mourea Trust  
Ruahine Kuharua Incorporation  
Taheke 8C Incorporation  
Rotorua District Council  
Bay of Plenty Regional Council

**DATED** at Wellington this *23<sup>rd</sup>* day of February 1996



Deputy Chief Judge NF Smith

Deputy Chairperson

**WAITANGI TRIBUNAL**