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BEFORE THE WAITANGI TRIBUNAL
TE ROOPU WHAKAMANA I TE TIRITI ON WAITANGI

IN THE MATTER OF	The Matter of the Treaty of Waitangi Act 1975
AND	
IN THE MATTER OF	A claim to the Waitangi Tribunal by Rawinia Konui-Paul and Te Maioro Konui on behalf of the descendants of Te Huri Hokopakeke and Ngaati Te Ika, a hapuu of Ngaati Hikairo ki Tuwharetoa.

STATEMENT OF CLAIM
Dated this 16th *day of* September *2002*

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18 SEP 2002
WAITANGI TRIBUNAL

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1. THE CLAIMANTS

1.1 The claim is lodged by Rawinia Konui-Paul and Te Maioro Tukaiora Konui on behalf of all the descendants of Te Huri Hokopakeke, Rangatira of Ngaati Te Ika, a hapuu of Ngaati Hikairo ki Tuwharetoa at the 6th of February 1840.

2. CUSTOMARY INTERESTS OF THE CLAIMANTS

2.1 The Claimants are descendants of a Hapuu known as Ngaati Te Ika of Ngaati Hikairo ki Tuwharetoa which in 1840 had customary interests and rights in their rohe which was from the summit of Tongariro where sits Te Wai-Whakaata o Te Rangihiroa to the summit of Te Maari, to the Kaimanawa Ranges, including the Waikato River back to the West of side of Pihanga, to the summit of Kakaramea, to the summit of Tihia, to the summit of Maunga-tote, to Te Rena, to the Whanganui River that is sourced from the Punawai o Raakeipoho on Tongariro, including Kakahi Marae, to the summit of Rua Pahu, to the summit of Tongariro. It includes all those blocks known as the Okahukura Blocks, the Taurewa Blocks, the Oraukura Blocks, the Ruamata Blocks, the Whangaipeke Blocks, the Ngapuna Blocks, the Rangipo Blocks and the Kaimanawa and Owhaoko Blocks and includes all those waterways in between Waikato, (Tongariro), and Whanganui Rivers and the Lakes that include Maniaroto, Roto-a-ira and Rotopounamu that bounder the rohe of ngaa hapuu of Ngaati Hikairo ki Tuwharetoa.

2.2 In 1840, ngaa Hapuu of Ngaati Hikairo ki Tongariro, a Hapuu of Ngaati Tuwharetoa, was the tangata whenua of, and exercised Mana and Rangatiratanga over the rohe.

3. THE CLAIM

3.1 The claimants say that their claim falls within one or more of the matters referred to in Section 6(1) of the Treaty of Waitangi Act 1975, that is;

(A) The claimants are Maaori

(B) The claimants say that they and their tupuna, has been, is, or is likely to be, prejudicially affected by the ordinances, Acts, regulations, proclamations, notices and other statutory instruments and the policies, practices, acts and/or omissions of the Crown which were inconsistent with the principles of the Treaty of Waitangi as further set out in this statement of claim.

(C) Pursuant to Article 2 of the Treaty Of Waitangi the claimants were and are guaranteed Tino Rangatiratanga over, and full exclusive and undisturbed possession of, all lands, forests, and waterways *me o rätou taonga katoa.* This guarantee includes the right and obligation of the Crown to act in good faith and actively protect the claimants' rights and interests with regard to the Lands, Waterways and Forests *me o rätou taonga katoa.*

(D) The peaks of Rua pahu, Ngauruhoe and Tongariro were ceded to the Crown without agreement of the Rangatira of Ngaati Te Ika me ngaa hapuu of Ngaati Hikairo ki Tuwharetoa..

(E) The 1895 Proclamation that the Queen owns 22 Chain surrounding Lake Rotoaira at high tide mark even after man-made interference with the water levels.

(F) The Act to introduce Trout to Rotoaira.

(1) 1905 – Taiaha Paurini and 137 others delivered a petition to others objecting because they saw how the introduction of Trout was responsible for the decline of the native fishery in Lake Taupo.

(2) Rapid decline of the Koaro

(3) Further eroded by the Tongariro Power Development Scheme

(G) The formation of the Lake Rotoaira Trust that took away the Tino Rangatiratanga of the Hapuu over their main fishery and Kai Basket.

(H) The Order in Council dated 29 October 1958, pursuant to section 311 of the Public Works Act 1928 authorising the Minister of Electricity to construct and use works in connection with the utilisation of Water Power from the Whanganui, Tokaanu, Tongariro, Rangitikei and Whangaehu Rivers for the Generation of Electricity.

(1) Known as the Tongariro Power Development Scheme, it has also depleted the Lake Roto-a-ira of the Koaro.

(2) The Koaro was the main fishery during 1840 and up to the introduction of the Trout and the TPD in the 1900's.

(3) The mixing of the Mauri of all the different waters would cause contamination and bring misfortune and possible death to the hapuu.

(I) The Treaty of Waitangi (Fisheries Claim) Settlement Act 1992.

(1) The Koaro of Lake Roto-a-ira was an invaluable food source that meant survival or death to ngaa Hapuu living at the foothills of Tongariro.

(2) Nga Hapuu were reknowned for their ability to "feed the people" at hui of Ngaati Tuwharetoa.

(3) Ngaa Hapuu traded this resource with other Hapuu in exchange for birdhunting rights and other resources of Ngaati Turumakina, Ngaati Turangitukua, Ngaati Kurauia, Ngaati Rongomai, Ngaati Pouroto of Ngaati Tuwharetoa and Hapuu of other Waka.

(4) Ngaa Hapuu are now unable to provide or trade with others what was once bountiful.

(5) Ngaa Hapuu are no longer able to preserve their food for the long winter months to ensure the good health of the Hapuu.

(6) Ngaa Hapuu no longer enjoy good and long health as they did during and after 1840 until such time as legislation had removed their Tino rangatiratanga over their lands, forests and waterways.

(J) The alienation of Whaanau from their Turangawaewae causing the breakdown of the Whaanau/Hapu Structure.

(1) Whaanau homes were relocated to other lands in the rohe in order that the blasting of Huimako could take place.

(2) The Wharepuni, (Rangikapuia), and the Wharekai of Taitaia were relocated to Papakai in order that the blasting of Huimako could take place.

(3) The metal from Huimako (a wahi tapu/urupa) was used to metal the roads developed for the Tongariro Power Development Scheme.

(4) The men o ngaa hapuu were issued letters that in order for them to retain employment with the Ministry of Works and Development and the Tongariro Power Scheme, they had to accept the housing provided in the Turangi Township causing further breakdown of the whaanau hapuu structure.

(5) The Marae Community was a thriving, happy and loving environment to be raised in.

(6) The Marae are now places to gather on occasion.

(K) The Department of Conservation and previously Wild Life Services depleted the Koaro from Lake Rotopounamu by introducing the smelt.

(L) The Transfer of lands of the Hapuu taken under the Public

Works Act 1928 into ownership by the Department of Conservation and other Government Departments.

(M) The Department of Conservation and previously Wild Life Services for the following reasons;

(1) the removal of our customary rights to gather our Rongoa for healing from the Ngahere

(2) the removal of our customary rights to harvest our traditional foods such as the Pikopiko and Komata.

(3) The removal of our customary rights to gather the Kereru for the sustenance and good health of our pregnant women, our elderly and sick.

(4) The removal of our customary rights to use the feathers of the Kiwi and the Kereru for garments.

(5) The removal of our customary rights to be able to harvest and trade these foods as commodities with other hapuu of Ngati Tuwharetoa and hapuu of other Waka.

(6) The removal of our customary rights to provide for our whaanau/hapuu and Manuhiri to our rohe.

(7) The removal of our customary rights to gather timber for the building of whare.

(8) The removal of our customary rights to practice our religious practices within the realms of nga Atua Maaori according to Article Four of the Treaty of Waitangi.

(9) The removal of our customary rights under Tino rangatiratanga. The claimants say as the tangata whenua, they were guaranteed all these customary rights that have since become the right of the Department of Conservation to permit, or license them to do some, or part, or none of the practices as outlined.

(N) The random airdropping of 1080 by Environment Waikato Regional Council and the Department of Conservation over their lands, forests, waterways homes, Urupä, and Marae in the rohe of ngaa hapuu o Ngaati Hikairo ki Tuwharetoa.

(1) Rongoa could not be gathered where 1080 had been dropped because any rongoa made from this harvest caused further sickness of the patients.

(2) Pikopiko, Komata and Puha would not be gathered where there was 1080 dropped for fear of poisoning whaanau/hapuu and on two occasions recently, Manuhiri attending tangihanga at the Marae.

(3) The loss of stock from the whaanau/hapuu homes after they had eaten 1080 dropped on the land of the hapuu

(4) The stress, strain and poor and hindered health of the Great great great great granddaughter of Te Huri Hokopakeke and Te Rangihiroa Pakaurangi, Natalie Albert, and her parents after she consumed a 1080 pellett at Taitaia Urupa while visiting her grandmother, Mary Te Rongopai Turner, a descendant of Te Rangihiroa, and first cousin of Te Huri Hokopakeke.

(5) The poisoning of WAIORA through the leaching of randomly airdropped 1080 into the groundwater thereby poisoning the pure springwaters sourced from Tongariro and those streams and springs beneath Kakaramea, Pihanga, Maungatote and Tihia.

(6) The claimants say that their tipuna worried for the future of their hapuu because the very nature of the Act would bring misfortune to the hapuu.

(7) The Act of mixing the waters would change the Mauri of the water that would bring misfortune and loss of life to the hapuu.

(8) The Tongariro Power Development Scheme gave no consideration to Maaori tikanga.

(O) The transfer of huge tracts of undeveloped hapuu Lands into Rotoaira Forest Trust.

(1) Much of these lands had outstanding rates and absentee owners.

(2) The Government also desired the land for Forestry to stabilise the soil that would reduce the risk of erosion that could put the Power Scheme at risk.

(P) The 1909 Maaori Native Lands Act and subsequent Acts before and after this date.

(1) The great grandson of Te Huri, Waaka Te Waaka aka Papa Waaka aka Papa Waaka Konui became whängai to Te Waaka Reupena, aka Waaka Wairehu, the grandson of Te Huri Hokopakeke.

(2) Waaka Te Waaka was born in 1907. The 1909 Adoption Act did not recognise Customary Law with whängai.

(3) After the death of Te Waaka Reupena aka Waaka Wairehu, Waaka Te Waaka was ousted from the home of his whängai at Otukou Marae by his birth parents and his brothers.

(4) He and his family were forever ridiculed and told they did not belong.

(5) The descendants of Waaka te Waaka have been treated as if "leppers" by their birth family.

(6) The claimants say that on several occasions, the descendants have been told that they do not belong, that they are pöhara, that they have nothing and they will always have nothing.

(7) The claimants say that their ability to manaaki their whaanau/hapu and manuhiri has been prejudicially hindered.

(8) The claimants say that they are always made to feel unwelcome at their own marae because Waaka Te Waaka was raised as the Son of Te Waaka Reupena aka Waaka Wairehu.

(9) The claimants say that this Act has been the cause of hatred and animosity towards the family of Waaka Te Waaka from his siblings and their siblings to today.

(Q) The 1907 Tohunga Suppression Act criminalized tohunga. and was inconsistent with Article 2 and Article 4 of the Treaty of Waitangi.

a. It removed the knowledge base of the Hapuu regarding

b. Whakapapa to all life animate and inanimate

c. Whakapapa to ngaa Atua Maaori

d. Whakapapa to whenua, forests, waterways that also includes all flora and fauna

e. Knowledge of positive affirmations (Karakia)

f. Whakapapa to neighbouring hapuu and hapuu from other waka

g. Knowledge of rongoa for healing of the physical self

h. Knowledge for healing of the spiritual self

i Knowledge for healing of the mental self

j Knowledge of how to survive in extreme conditions

k .Knowledge of successful intercommunal relationships

l .Knowledge of aroha, manaakitanga, pono, whakapono

m. Loss of tikanga

n. Loss of kawa

o. Loss of the reo through this Act and continued assimilation education policies

(R) The Native Lands Acts 1862 - Te Ture Whenua Act 1993

(1) Uneconomic shares created by these Acts have created owners that according to tikanga Maori would not otherwise belong to the hapuu.

(S) Department of Conservation, Department of Survey and Lands and the Ruapehu District Council for the Sewerage Treatment Plant Ruapehu

h. This plant, within 50 years, will poison the lifeblood of the land and its people, the WAIORA.

i. The water of future generations will become contaminated and become WAIMATE. The Mauri of the water will become contaminated

j. The tangata whenua have been ignored.

k. The claimants say that this is a further Act against tikanga that by the very nature of the Act, will bring further misfortune to the Hapuu.

4. In breach of the principles of the Treaty of Waitangi, the Crown has failed to act in good faith towards the claimants by;

a) failing to pay adequate (or) any consideration for the Lands

b) seeking and acquiring more land than was necessary for the purposes of constructing the Tongariro Power Development Scheme

c) failing to actively protect the customary fishing rights of the Hapuu

d) failing to actively protect land, waterways and forests of the Hapuu

e) failing to actively protect tikanga Maaori

f) failing to return the lands to the Hapuu once it was clear that the lands were not used for the purpose acquired

g) failing to consult with and/or otherwise refer back to the Hapuu regarding the ongoing use and or disposal of the lands

5. In further breach of the principles of the Treaty of Waitangi, the Crown has also failed to actively protect the claimants Tinorangatiratanga with respect to the Lands, Waterways, Flora and Fauna, and its people.

6. As a result of the breaches set out in this statement of claim, the claimants:

(6.1) been prevented from or hampered in the exercise of tino rangatiratanga and the rights otherwise protected and guaranteed to them under Article 2 and Article 4 of the Treaty of Waitangi.

(6.2) been dispossessed of their lands and resources

(6.3) suffered from the destruction and erosion of the economic base, social patterns, identity and traditional leadership structures and

(6.4) suffered a subsequent loss of Mana.

(T) Te Heuheu Tukino Vs Aotea District Mori Land Board
1940-41, N.Z.L.R 591

Those Acts, regulations and statutes as quoted in the Te Heuheu Tukino Vs Aotea District 1940-41, NZLR 591 are inconsistent with Article Two of the Treaty of Waitangi. It was held that "Any rights purporting to be conferred by such a treaty of cession as the Treaty of Waitangi cannot be enforced in the Courts except in so far as they have been incorporated in Municipal Law."

1. The claimants say the Hapuu lost potential earnings and put them into hardship.

2. The Hapuu lost mana and dignity because the Crown introduced an Act immediately after signing a loan agreement that undermined the mana of the Rangatira. If the Tongariro Timber Company failed to honour their loan, legislation had been effected where the monies outstanding would come from any royalties the beneficial owners could otherwise expect to enjoy.

3. There was the promise of a railway and all the benefits that it would bring to the hapuu which never eventuated.

4. The loss of over a million pounds to the hapuu and the rohe would have put the hapuu in a healthy economic position.

5. The loss of land that was to have been set aside for the railway.

6. The claimants say that since 1975, all those rights guaranteed under the Treaty of Waitangi 1840 and the Declaration of Independence 1835 are further ratified in the Treaty of Waitangi Act 1975.

RELIEF SOUGHT

The Claimants claim all or any of the following relief;

a) A finding that the Crown is in breach of the principles of the Treaty of Waitangi by its failure to act in good faith towards the claimants and actively protect the claimants tino rangatiratanga in relation to the Lands, Waterways, Flora and Fauna, and the people.

b) A recommendation pursuant to ss 8HA – 8HC of the Treaty of Waitangi Act 1975 for the return to the claimants of all relevant Lands.

c) A recommendation that the Crown compensate the claimants for the prejudice suffered by the Hapuu as a result of the acts, omissions, legislation and practices identified in the statement of claim.

d) A recommendation that the Crown pay compensation for the economic benefits it has made from the lands, which were unrelated to the purpose of acquisition for a railway, to the detriment of the claimants.

e) A recommendation that the Crown pay compensation for the economic benefits it has made from the lands and waterways that were taken and or used under the Public Works Act 1928 for the Tongariro Power Development Scheme including other Government Schemes such as the Lands and Survey Schemes in the rohe.

f) A recommendation that the Crown pay compensation to enable the claimants to purchase the land wrongly acquired by the Crown, including land which is no longer in the ownership or the control of the Crown.

g) A recommendation that 33 percent of the gross returns of Genesis (from water that passes through Lake Rotoaira), be allocated to the Hapuu on an annual basis for the loss of the koaro – a food supply and trading item for four months of the year with excess stored for Winter consumption that was depleted through the introduction of Trout and further depleted through the Tongariro Power Development Scheme.

h) A recommendation that the Hapuu be allocated shares from Te Ohu Kai Moana for the significant loss of this commodity to the Hapuu.

i) A recommendation that Genesis be made responsible to ensure the preservation any Koaro that may be present in the Lake Rotoaira through a restoration programme in conjunction with the Hapuu and at the cost of Genesis.

j) A recommendation that Genesis restore any wahi tapu that may have been damaged through the Tongariro Power Development Scheme in conjunction with the Hapuu at the cost of Genesis.

k) A recommendation that Genesis mitigate all environmental damage to the Lake Rotoaira as on going maintenance in conjunction with the Hapuu and at the cost of Genesis on a yearly basis.

l) A recommendation that a Wananga be funded by the Crown for the hapuu to renew their ties with their whakapapa and all the knowledge that comes with this learning including te reo and history.

m) A recommendation that members of the Hapuu be employed as Kaitiaki alongside the Department of Conservation, Survey and Lands, Environment Waikato and any other Crown Agencies and Regional Councils relevant to the resources of the hapuu that includes lands, waterways, forests, and flora and fauna that are in the ownership or management of such Crown Agencies.

n) A recommendation that the Crown admit Waaka te Waaka as Tamaiti Whangai of Te Waaka Reupena aka Waaka Wairehu and his wife Ruia Ngaumu and correct the Maori Land Courts accordingly.

o) A recommendation that the descendants of Waaka te Waaka be compensated for the loss of their economic base, the loss of mana, the ridicule that they have had to suffer even today, four generations later and the loss of enjoyment of their birth families that they would have otherwise enjoyed.

p) A recommendation that the claimants receive reimbursement for the costs of bringing the claim to the Tribunal.

q) A recommendation that the Crown make a formal apology to the Whaangai family of Waaka Wairehu and the birth family of Rea Reupena whom have never fully enjoyed a full whaanau relationship because Waaka te Waaka could only be recognised as adopted according to the 1909 Natives Lands Act and subsequent Acts which removed a basic tikanga of *Whaangai.*

r) Such further or other relief as the Tribunal considers just.

s) The return of all taonga located during the Tongariro Power Development Scheme within the rohe of ngaa hapu.

t) The return of all taonga presented to the Government in Wellington, and taken to the Department of Conservation since 1987.

u) The banning of the random airdropping of 1080 over the lands and waters of nga hapuu as herein described.

The Claimants reserve the right to make, alter or amend this statement of claim where, when and, if required.

DATED at 1700 Otukou Road, Tongariro, this 16th day of September 2002

Rawinia G Konui-Paul
Claimant

Tukaiora Te Maioro Konui
Claimant

To: The Registrar, Waitangi Tribunal, Wellington
AND TO The Crown Law Office

Rawinia Gail Konui-Paul, Manager, files THIS Statement of Claim for the above named claimants. The address for service of the above named claimants is at P.O. Box 292, Turangi.

Documents for service on the above named claimants may be posted to Rawinia Gail Konui-Paul at that address.

Rawinia G Konui-Paul
Claimant

Tukaiora Te Maioro Konui
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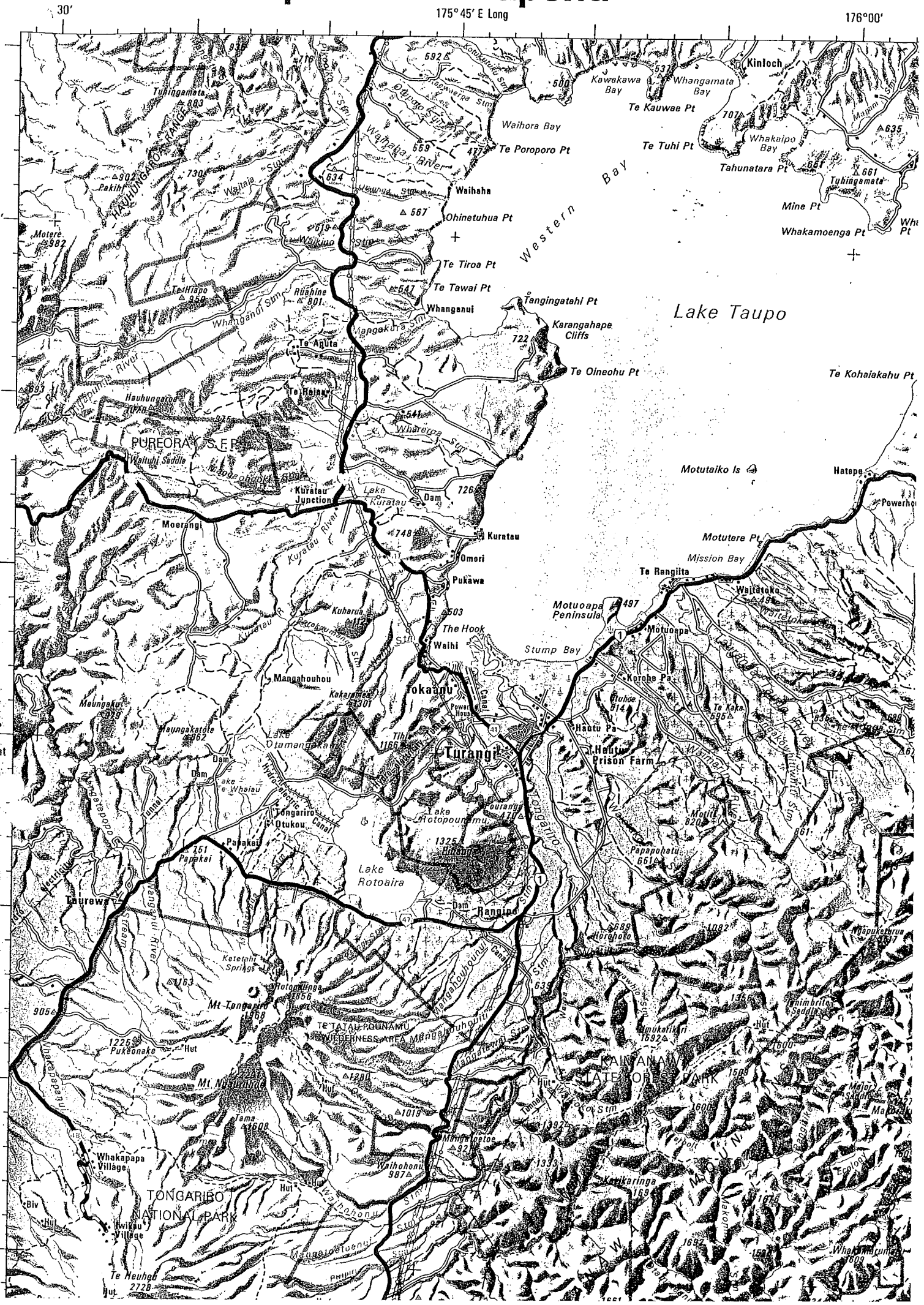
30'
175°45' E Long
176°00'
45'
39° 00' S Lat
15'
Lake Taupo
Western Bay
Kawakawa Bay
Whangamata Bay
Te Kauwae Pt
Te Tuhi Pt
Whakaipo Bay
Tahunatara Pt
Mine Pt
Whakamoenga Pt
Kinloch
Waihora Bay
Te Poroporo Pt
Waihaha
Ohinetuhua Pt
Te Tiroa Pt
Te Tawai Pt
Tangingatahi Pt
Karangahape Cliffs
Te Oineohu Pt
Te Kohalakahu Pt
Motutaiko Is
Hatepe
Motutere Pt
Mission Bay
Te Rangiita
Motuoapa Peninsula
Motuoapa
Stump Bay
Waitahanui
Whanganui
Te Aputa
Te Heiua
Kuratau Junction
Kuratau
Omori
Pukawa
The Hook
Waihi
Tokaanu
Turangi
Hautu Prison Farm
Hautu Pa
Korohe Pa
Te Kaka
Tuhoe
Papapohatu
Motutere
Lake Otamangakau
Lake Rotopounamu
Lake Rotoaira
Rangipo
Tongariro
Papakai
Taurewa
Moerangi
Kuharua
Mangahouhou
Maungakuri
Maungakatote
Tihoi
Pukeonake Hut
Mt Tongariro 1968
Mt Ngauruhoe
Tama Lakes
Whakapapa Village
Iwikau Village
Te Heuheu 2728
Waihohonu Hut
Ketetahi Springs
Hut
Blv
TE TAIAU-POUNAMU WILDERNESS AREA
TONGARIRO NATIONAL PARK
KAIMANAWA STATE FOREST PARK
PUREORA S.F.P.
Tuhingamata
Pakihi
Motere
Hauhungaroa Range
Hauhungaroa Trig
Tauhara
Waitahi Saddle
Waitahi River
Whanganui Stm
Ruahine
Hapakaka Stm
Kuratau River
Waihaha River
Waiaua Stm
Waitaha Stm
Waitahanui Stm
Whareroa Stm
Waihohonu Stm
Mangaehuehu Stm
Mangaehuhuniu Canal
Tongariro Power Canal
Hinemaiaia
Mangatepopo
Whakapapanui
Waihohonu
Mangaelo Stream
Te Heuheu
Kaimanawa Mts
Mt Hauhungaroa
Mt Tauhara
Mt Maunganamu
Mt Pihanga
Mt Ruapehu
Mt Tongariro
Mt Ngauruhoe
Mt Kakaramea
Mt Hikurangi
Mt Tihoi
Mt Kaimanawa
Mt Tama
Mt Hauhungaroa