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Wai 898, #1.1.7(c)
Wai 146, # 1.1(e)

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	Te Rohe Potae Inquiry.
AND	
IN THE MATTER OF	a claim by KEVIN AMOHIA for and on behalf of NGĀTI HĀUA (Wai 48, 81, 146)

ADDITIONAL STATEMENT OF CLAIM FOR NGĀTI HĀUA IN REPSECT OF TE ROHE POTAE INQUIRY

DATED 06 May 2008

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Waitangi Tribunal
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Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL

Te Kaitono – The Claimant

1. This Amended Statement of Claim is lodged by Kevin Amohia for and on behalf of Ngāti Hāua ("Claimants") in respect of Wai 48, 81, and 146.

2. The Ngāti Hāua claim comprises the Wai 48 and Wai 81 claims initially filed by Ann Waitai and others, and the Wai 146 claim, filed by Hikaia Amohia. Kevin Amohia replaced Hikaia Amohia and Ann Waitai as claimant for these claims.

3. Amended statements of claim have been filed in the Whanganui and National Park inquiries. This statement of claim is an additional statement filed for the purposes of the Te Rohe Potae inquiry. Therefore, it does not replace the previous statements of claim but stands alongside them to particularise the Ngāti Hāua claims in Te Rohe Potae district.

Te Kereme – The Claim

4. The Claimants say that they are or are likely to be prejudicially affected by the ordinances, acts, regulations, proclamations, other statutory instruments, policies, practices acts and/or omissions of the Crown.

5. The Claimants also say that all of the acts, regulations, orders, policies, practices, actions and omissions adopted by and on behalf of the Crown, referred to in this Statement of Claim, are inconsistent with the terms and principles of the Treaty of Waitangi ("Treaty").

6. Ngāti Hāua also claim the following grievances:

   6.1 the failure by the Crown to recognise, respect and actively protect the rangatiratanga of Ngāti Hāua;

   6.2 the facilitation of the alienation of a substantial portion of the Ngāti Hāua asset base and the failure to ensure that Ngāti Hāua were left with sufficient lands of sufficient quality for their present and future needs;

   6.3 the imposition of the Native Land Court and European tenure and the break up of the Rohe Potae.

NGA HARA O TE KARAUNA – CROWN TREATY BREACHES

Ko Te Take Tuatahi – Te Rohe Potae Compact

7. In breach of the Rohe Potae Compact and Aotea Agreement, Article 2 of the Treaty and the principles of partnership and good faith, the Crown failed and/or refused to respect and adhere to the compact or provide for the rangatiratanga sought by the tribes:

Particulars

7.1 Kingitanga leaders including Whanganui, Ngāti Maniapoto, Ngāti Raukawa and Ngāti Tuwharetoa rangatira, sought to halt the operation and detrimental impacts of the Native Land Court, alienation of Maori land by sale and infrastructure development until such time as there was an agreed basis for increasing European settlement in Te Rohe Potae District;

7.2 The Crown adopted a policy of opening up the interior of the North Island including the Inquiry District for greater settlement. In particular the Crown sought to construct the Main Trunk Railway Line through the Rohe Potae;

7.3 Tawhiao proposed a temporary halt to the Native Land Court, surveys, leases and roads until there was an agreement between the Kingitanga and the Crown upon mutual basis for settlement;

7.4 Independently Whanganui iwi, Ngāti Maniapoto, Ngāti Tuwharetoa and Ngāti Raukawa established the Rohe Potae to maintain their rangatiratanga over their lands;

7.5 Whanganui iwi including Ngāti Hāua and other iwi proposed the Rohe Potae Compact to:

7.5.1 Avoid the injustices and associated burdens of the Native Land Court;

7.5.2 Make their land inalienable from sale but allow for the development, utilisation and income generation through leasing; and

7.5.3 Enable the tribes to agree on internal boundaries.

7.6 Whanganui iwi including Ngāti Hāua, Ngāti Maniapoto, Ngāti Tuwharetoa and Ngāti Raukawa submitted the Rohe Potae petition signed by more than 400 people to the Government outlining the demands and concerns of the Rohe Potae iwi;

7.7 the Crown endorsed, or led Maori to believe it endorsed the Rohe Potae Compact through the Aotea Agreement;

7.8 the Crown failed to legislate or otherwise take appropriate action to enforce the agreement over the Rohe Potae and subsequently undertook to survey the whole district rather than an external survey;

7.9 the legislation enacted after the Rohe Potae petition and the Aotea Agreement failed to adequately address the concerns of the Rohe Potae iwi; and

7.10 the Crown continued to insist that Maori customary lands pass through the Native Land Court and continued to advance its Crown purchase strategies.

8. The Crown breached Article 2 of the Treaty and the principles of good faith and partnership by deliberately undermining the Rohe Potae Compact and Aotea Agreement:

Particulars

8.1 the Crown undertook a full survey of the Rohe Potae region rather than just an external survey as was agreed by the Aotea Agreement;

8.2 the Crown offered inducements to Rohe Potae rangatira to break the compact by making applications to the Native Land Court;

8.3 The Native Land Alienation Restriction Act 1884 instituted Crown pre-emption over 4.6 million acres including the Rohe Potae and the Crown adopted a policy of acquiring a core substantial portion of the Rohe Potae district;

8.4 The Crown further undermined the Rohe Potae Compact by imposing the Main Trunk Railway on the Rohe Potae iwi, including Ngāti Hāua without their full and informed consent; and

8.5 The Crowns actions and/or omissions in undermining the Rohe Potae District and Aotea agreement also highlights the failure by the Crown to recognise, respect and actively protect the rangatiratanga of Te Rohe Potae iwi.

Ko Te Take Tuarua – The Native Land Court

9. The Crown imposed the Native Land Court and Native Lands Legislation on Te Rohe Potae Iwi without their consent and in breach of the guarantees afforded by Article 2 of the Treaty of Waitangi and the principle of active protection in order to facilitate the individualisation, fragmentation and alienation of Ngāti Hāua lands; and

10. Ngāti Hāua allege that they have been and continue to be prejudicially affected by the Native Lands legislation and Native Land Court. In particular they claim that the Crown failed to actively protect:

Particulars

10.1 Ngāti Hāua and its constituent hapu held, through customary occupation and use and ancestral and historical associations, customary interests in Te Rohe Potae District. Specifically, Ngāti Hāua held interests in various blocks including but not limited to:

10.1.1 Waiaraia;

10.1.2 Mangakahikatea;

10.1.3 Waiaraia; and

10.1.4 Rangitoto-Tuhua.

10.2 The Ngāti Hāua interests overlap or are shared with other Te Rohe Potae iwi;

10.3 The Crown failed to ensure that the Native Land Court was equipped to deal with shared and overlapping interests in those lands.

11. The Crown in breach of Article 2 of the Treaty and the principles of partnership and equal treatment failed to ensure that Te Rohe Potae iwi were not prejudiced by the operation of the Native Land Court:

Particulars

11.1 the Native Lands legislation required all titles to record all individuals awarded an interest in the land as owners which removed and/or eroded the authority of iwi, hapu and rangatira;

11.2 this also facilitated the alienation of substantial tracts of Ngāti Hāua land;

11.3 the Crown did not ensure that the Court provided any or adequate notice of hearings so Maori could attend to secure their interests. The inability to attend Court hearings through lack of notice prejudiced Ngāti Hāua;

11.4 Ngāti Hāua were also prejudicially affected by the direct costs associated with the Native Land Court process and were required to alienate portions of their land to pay these associated costs;

11.5 the Crown failed to instruct the Native Land Court to apply the principles of Maori customary tenure and adopt fair and transparent processes in its investigations of title; and

11.6 Individuals were also able to force iwi into the Native Land Court against their will in order to avoid being excluded from the lands.

Ko Te Take Tuatoru – The Environment

12. The Crown has established laws, policies, and practices for the management and regulation for the natural environment in Te Rohe Potae. The legislation, policies and practices have been enacted, formulated or undertaken without any consultation with Ngāti Hāua and without any regard for their rangatiratanga

and kaitiaki role. In particular Ngāti Hāua claim that the Crown in breach of the Treaty of Waitangi:

Particulars

12.1 refused and/or failed to recognise and actively protect the awa and whenua of Ngāti Hāua;

12.2 implemented regulatory and legislative regimes without consultation with Ngāti Hāua;

12.3 failed to ensure that local authorities, Crown agencies and other Crown instrumentalities have had any or any adequate regard for the cultural values, tikanga and tino rangatiratanga values of Ngāti Hāua;

12.4 failed to protect Ngāti Hāua ancestral landscapes, waahi tapu and other significant sites from adverse effects of public works, urbanisation and commercial and industrial development; and

12.5 failed to protect the Ngāti Hāua rivers, and lakes from pollution, degradation, and saltation with the result that Ngāti Hāua waahi tapu, fishing grounds and other important sites have been destroyed or adversely affected.

NGA MAMAE – THE PREJUDICE

13. By virtue of the Crown's legislation, practices, policies, acts and omissions, and its subsequent actions set out above, the Claimants Ngāti Hāua, have suffered the following prejudicial effects:

13.1 the loss of mana and rangatiratanga;

13.2 the loss of freedom, dignity and life;

13.3 the loss of substantially all their customary lands and taonga;

13.4 the dispossession of a substantial economic, spiritual and cultural base;

13.5 the destruction of the traditional land tenure system and their social organisation and traditional leadership structures;

13.6 the forced dislocation from their ancestral land, kainga, resources and waahi tapu;

13.7 the destruction and desecration of waahi tapu and other significant sites and severance from those areas;

13.8 the arousal of division, dissention and conflict among the Ngāti Hāua iwi and between Ngāti Hāua and other iwi;

13.9 being left with fragmented, meagre and individualised land holdings of little utility or value that are manifestly insufficient for the present and future needs of Ngāti Hāua;

13.10 being left with insufficient land and resources to actively participate in the economy and enjoy the benefits of European settlement;

13.11 damage to the natural environment and its abundant resources caused by the pollution of lands and waterways; and

13.12 poor health, wealth and education as a direct and indirect result of the prejudice and losses referred to.

NGA MEA WHAKAMAHUTANGA – RELIEF SOUGHT

14. The Claimants seek the following recommendations:

14.1 the Crown return to Ngāti Hāua all relevant Crown land pursuant to ss.8A – 8H (j) of the Treaty of Waitangi Act 1975, land held by any State Owned Enterprise, land held by any institution under the education Act 1989, land vested under the New Zealand Railway Corporation Restructuring Act 1990 or any interest in any such land together with any improvements thereon;

14.2 the return to Ngāti Hāua of all other lands owned by the Crown within the claim area and any improvements thereon, including reserved and conservation land;

14.3 the payment of compensation to Ngāti Hāua for the prejudicial effects resulting from Crown legislation, acts, omissions, policies, and practices identified in this Statement of Claim;

14.4 the Crown make provision for Ngāti Hāua and Whanganui participation on all statutory boards, authorities and other Crown organisations that function within this inquiry district;

14.5 that the Crown take immediate steps to protect and preserve any waahi tapu and other sites of significance belonging to Ngāti Hāua;

14.6 Crown payment of full costs of Ngāti Hāua for the preparation and presentation of this claim, the costs of recovering any land recommended to be returned and all other costs incurred in securing the implementation of recommendations;

14.7 a full Crown apology for the acts and omissions that breached the Treaty and its principles; and

14.8 any additional recommendations and/or redress the Waitangi Tribunal considers appropriate.

This Amended Statement of Claim is filed by Spencer T Webster/Eddie T Bluegum solicitors for the above named Claimant of the firm Corban Revell Lawyers.

The address for service on the named Claimant is at the offices of Corban Revell Lawyers, 133A Central Park Drive, Henderson, Waitakere City.

Documents for service on the above named Claimant may be left at that address for service or may be posted to the solicitors at P O Box 21-180, Waitakere City, or left for the solicitor at a document exchange for direction to DX DP92558 or transmitted to the solicitor by facsimile to +64-9- 838 7187