IN THE WAITANGI TRIBUNAL

WAI 898
WAI 1974

Under **The Treaty of Waitangi Act 1975**

In the Matter of **Claims in the Te Rohe Pōtae Inquiry District**

BRIEF OF EVIDENCE OF KOHA MARGARET HEPI
DATED THIS 17th DAY OF FEBRUARY 2014

RECEIVED
Waitangi Tribunal
17 Feb 2014
Ministry of Justice
WELLINGTON

INSTRUCTING SOLICITOR
Lisa Tregenza
BT Law
Barristers and Solicitors
73 St George Street
PO Box 200-025
Papatoetoe Central
Auckland 2156
P: 278 5153

COUNSEL ACTING
Yashveen Singh – Barrister,
Justine Patea – Barrister
Totara Chambers
33a Everglade Drive
Goodwood Heights
Manukau 2105
Mobile: 021 296 7033/021 296 8313
Email: yash@totarachambers.co.nz
justine@totarachambers.co.nz

Introduction

1. My name is Koha Margaret Hepi. I was born at Te Awamutu Hospital. My father is Hoera Nukuwhenua Barlow and my mother is Rangi Koiri. I was raised by my mother's parents, my grandmother Ngahina Hepi and my grandfather Ike-Moke Uerata. I grew up on my grandfather's ancestral lands, namely blocks Awaroa A2H1 and A2H2. I have bought this claim on behalf of myself my whanau and Ngati Mahuta, Ngati Ngutu, Ngati Kiriwai and Ngati Apakura hapu.

2. My whakapapa on my mother's side is set out below:

Ko Uerata Tawhia = Ka Kapuni Mange Mihitaurangi Hetekia Te Aho

Ko Ike-Moke Uerata = Ka Ngahina Hepi

Ike-Moke Temoana John — Pehi Karaka Eric — Rangi Koiri = Hoera Nukuwhenua Barlow

Temoana John Junior — Hauwhiri Carlos — **Koha Margaret Hepi**

3. My evidence is concentrated on land blocks which were taken by the Crown under Public Works legislation for scenery preservation purposes. 3 acres of Awaroa A2H1 and 13 acres of Awaroa A2H2 blocks were taken pursuant to the Scenery Preservation Act 1908 and Public Works Act 1908 without adequate compensation diminishing the mana we had in our land. These reserves are under the control of the Department of Conservation under Matariki Wildlife Management Reserve.

4. It is acknowledged that both blocks share the same history. History proves how much these land dealings have been detrimental to our interests and the effect it has on us without our land. I would like to acknowledge the history of the takings is detailed in the brief of evidence of Howard Maurice Jerry dated 23 September 2013 that has already been presented.

5. These blocks were created by partition order of the Native Land Court in 1912 of Awaroa A2H block. Originally Awaroa A2H1 block had 6 owners but is now administered by a trust body. Awaroa A2H2 originally had 4 owners but now on

paper it has two owners being my uncle the late Pehi Karaka Eric Uerata and my cousin John Temoana Junior Uerata. My main concern for this claim is to seek the return of title of the 16 acres taken by the Crown back to the owners.

6. My evidence will be supported by the expert reports prepared for this inquiry as well as my knowledge passed down from my ancestors. I will recall how my whanau and the Ngati Mahuta, Ngati Ngutu, Ngati Kiriwai and Ngati Apakura hapu have been prejudicially affected by the acts, omissions, policies and practices of the Crown.

Wahi Tapu

7. As tangata whenua we are linked spiritually to our lands. The land is what keeps us together as a whanau and what respresents us when we leave this earth. Growing up on the land we were told that there was wahi tapu around the beachfront on Awaroa A2H2. I can never name our wahi tapu that is there but this is why this land is so precious to us because of this spiritual significance. As a child I was told by my grandparents 'what I didn't know wouldn't hurt us', I have never seen this wahi tapu but I am reassured by my ancestors that it is there.

Mana Whenua

8. We will always come back to the land. Every opportunity I got I would bring my children to the blocks because this will always be our whenua and our home. My tipuna deal with our lands in a more traditional way. My uncle who has now passed on left the title to his sons. Land titles in our whanau are generally left with the males and not us. Over the last 15 years I have been fortunate enough to be the spokesperson for our lands as I am an active participant in the claims processes.

9. It is important for our future generation to have somewhere to come back to hence my involvement in this inquiry. They are who I represent and they only deserve to be afforded the responsibility as Kaitiakitanga as our forefathers did before us. Being without our land has jeopardised my whanau in having the ability to form a connection with our lands. The Crown dealings have led to a deprivation of the exercise of mana whenua over our ancestral lands.

Scenic Reserve Takings of Awaroa A2H1 and A2H2

10. The Crown has a duty to actively protect our whanau hapu in the exercise of tino rangatiratanga o ratou whenua, me o ratou taonga katoa. This was not the case in relation to takings from Awaroa A2H1 and Awaroa A2H2 in early 1915, when the taking of those lands under the Public Works Act was approved.

11. Taking of land under the Scenery Preservation Act 1908 breached the principle of good faith and facilitated the loss of our land. The Crown failed to actively protect our interests, our wahi tapu and preserve the role of our whanau as kaitiakitanga over our ancestral lands.

12. A Notice of Intention to take the lands was issued in July 1915 which some of our hapu members responded with objections including Te Puhi Paeturi who objected on our behalf. The objection was based on the right to be able to use the natural resources on the land including the timber for fencing and other purposes as well as stone on the foreshore.

13. These objections together with others were passed on to the Commissioner of Crown lands who dismissed the objection stating that "the suggestion that the timber should be used for fencing and other purposes would of course destroy the scenery whose preservation is the object of the proposed acquisition." By Proclamation dated 23 October 1919, the 16 acres was taken by the Crown.

14. This example of Public Work taking illustrates the lack of consideration given to Ngati Mahutu, Ngati Ngutu, Ngati Kiriwai and Ngati Apakura tangata whenua and our relationships with our lands.

Crown Process Inadequacies

15. Compensation was awarded after an application was heard in the Native Land Court for the assessment of compensation in September 1920. Awaroa A2H1 was compensated 6 pounds and A2H2 27 pounds which was understood to be assessed by the Court 'in the ordinary way' as described by David Alexander.

16. Based on the available evidence the owners were not consulted nor a part of the negotiation process with the Crown. The ordinary way was the Crown system which has been prejudicial to our whanau and ultimately disadvantaged us today. The amount paid was certainly not in any way near sufficient for the lands that were taken.

17. The compensation was based solely on the economic productive potential of the land and failed to consider 'values important to Maori'. There have been some cases where land was taken as it was overgrown and deemed unproductive yet when the Crown one sidedly decided bush should be preserved it put on its utilitarian hat and acquired the land regardless of owner's objections. It did so with a complete failure to consider alternatives and to consult meaningfully or give us the ability to look after lands with which we had the right to do whatever was desired according to Tikanga.

18. In 1918 the following was taken under the Public Works Act 1908 for roading: 1 acre 3 roods and 37.6 perches from Awaroa A2H1and 3 acres 2 roods and 30 perches from Awaroa A2H2. There was no compensation awarded for these takings. David Alexander has informed us in his report that where no compensation had been paid for land the Crown would allow the proclamation by which it was taken to be revoked. These 4 acres 6 roods and 67.6 perches are a perfect example of land ought to have been revested in the owners by revocation of the proclamation by which it was taken.

19. The failure to offer back land not used for its taking purpose was a breach of the Tiriti O Waitangi principles, namely active protection and the guarantee of Rangatiratanga over our whenua. The takings of our lands have reduced the land available for our whanau to provide for the sustenance and economic growth of our people.

20. There is evidence of returns and therefore an implicit knowledge of a moral obligation to return lands where objections had been raised and no compensation made prior to the Public Works Act and s436 of the Maori Affairs Act 1953.

Waipuna Block

21. Hauturu Waipuna C block is the ancestral lands of my grandmother Ngahina Hepi. Annexed and marked 'A' is the whakapapa pertaining to my granmother's line.

When I was 16 years old I remember her taking me there to show me where my tipuna came from.

22. My grandmother was raised on what I have always known to be called the Waipuna block and her grandfather is buried on the land. His name was on the title of this block however after the amalgamation of Hauturu and Waipuna blocks his name was no longer on the ownership title.

23. I believe it was around 1967 that my great grandfather's name was no longer on the ownership titles. This was around the time the Hauturu Waipuna Sea Trust was formed and who I understand manage this block. I believe that his name should be reinstated as an owner on this block for succession to continue to our whanau.

24. There are currently no buildings on the block however it is important for my whanau to experience the many pleasures this beachfront block has to offer which we did growing up. We would go camping and fishing as kids on this block and it is only right that my whanau get the chance to enjoy the land the way we did.

Our Future

25. The Crown has had the opportunity to use the reserve for scenic purposes since last century and it is only time that we are afforded that opportunity to make our own decisions on how our lands are utilised. We wish to preserve these lands for the future of our whanau and to guarantee on paper that they will be able to decide as to how they are able to best benefit from their lands.

26. As history has unfolded the Crown have made many decisions which are beyond our control and have prejudiced us as tangata whenua. Due to the unpredictability of Crown actions, we would prefer that the lands are reinstated in the names of the owners so as we are able to deal with them our way and not limit our ability to maximise the potential of these lands.

Koha Margaret Hepi