

# TE MANUTUKUTUKU

*Te Roopu Whakamana i te  
Tiriti o Waitangi  
Panui*



*Waitangi Tribunal Division  
Department of Justice  
Newsletter*

ISSN 0114-717X

Rua tekau ma rua Pipiri/Hongongoi 1993

Number 22 June/July 1993

## He Poroporoaki ki a TA MONITA DELAMERE KBE

*Tibei mauri ora!*

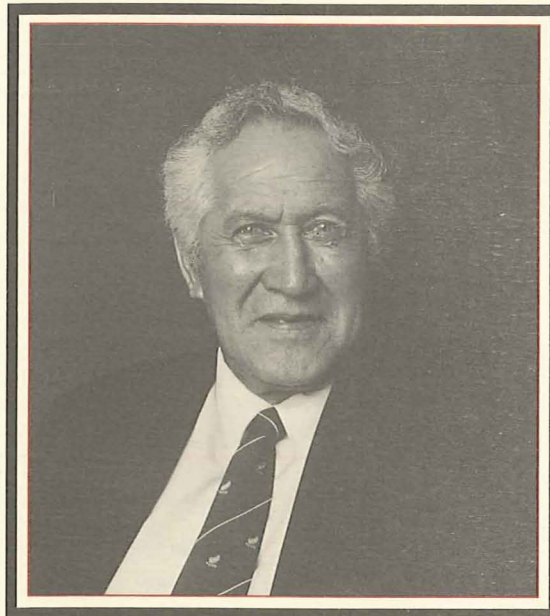
*Te tangata i whanau i te wahine,  
he toru, toru nei ona ra, a ki  
tonu i te raruraru, rere ana ia  
ano he atairangi kahore hoki te  
tumautanga, i waenganui o te  
ora kei te mate matau, me rapu  
ora matau i a wai ki te kahore i a  
koe, E Ihowa.*

*A ka rongo ahau i tetahi reo i  
te rangi e mea mai ana. Tuhi-  
tuhia ka hari te hunga mate, e  
mate ana i roto i te Ariki kia oki  
oki ratau i a ratau mahi. No  
reira, Tumatauenga, takoto mai,  
takoto mai me ratau katoa i  
hinga atu i te pae o te riri, haere,  
haere ki a ratau e takoto mai na i  
te whenua Iwi ke.*

*Kaore e mutu te tangi mo  
koutou.*

*No reira, kei te hoa, kei te  
rangatira kei te pou o te hahi,  
tenei matau o hoa o te Ropu  
Whakamana i te Tiriti o Waitangi  
te poroporoaki ano. Tenei  
matau me te iwi whanui kei te tangi tonu. Kapiti hono,  
tatai hono, koutou te hunga mate ki a koutou – Kapiti  
hono tatai hono, tatau te hunga ora ki a tatau.*

*Moe mai e te Pononga a te Atua e mohio ana hoki  
tatau, e hara i te mou mou o mauuitanga i roto i te  
Ariki.*



**SIR MONITA DELAMERE KBE**  
17.6.21—28.4.93  
Whanau-a-Apanui, Whakatohea,  
Ngai Tahu, Ngati Mamoe  
Birth place: Omaio  
Kaumatua, Ringatu spiritual leader

*A free translation*

*Man that is born of a woman,  
has but a short time to live and  
is afflicted by misery. He fleeth  
as it were a shadow, and never  
continues in one stay.*

*In the midst of life we are in  
death, of whom may we seek  
for succour but of You O Lord.*

*I heard a voice from heaven  
saying, write, blessed are the  
dead who die in the Lord, for  
they rest from their labours.  
Therefore, son of Tumatau-e-  
nga take your rest with those  
whose rest was won on the field  
of battle and who now occupy  
their graves in the foreign soil.*

*Our mourning for you all  
will never cease so, our friend,  
our rangatira, the pillar of your  
church, we your friends of the  
Waitangi Tribunal bid you  
again a sad farewell for we with  
all your people continue still in  
our grief. You now have passed*

*into the eternal fellowship of the dead (the com-  
munion of Saints) while we the living must continue to  
labour together.*

*Finally, good and faithful servant, take your well  
deserved rest for as much as we know that our labour  
is not in vain when we labour in the Lord.*

*Some of his many achievements:*

- ▲ Maori Battalion, World War II ▲ Maori All Black, 1946-49
- ▲ Kawerau Borough Councillor ▲ Early instigator of the credit union movement
- ▲ Delegate to Wairariki District Maori Council ▲ Appointed Justice of the Peace 1961
- ▲ Knighthood 1990 ▲ Secretary, Whakatohea Maori Trust Board ▲ Waitangi Tribunal member since 1986

*Heard the following claims:*

Orakei; Mangonui Sewerage; Muriwhenua Fishing; Ngai Tahu Land and Sea Fisheries;  
Ngati Rangiteaore; Te Roroa; Muriwhenua Land (still under inquiry)

# Ngawha Geothermal Resource Report

The Waitangi Tribunal has reported on an urgent claim by several hapu of the Ngapuhi iwi concerning their ownership and right to control the Ngawha geothermal resource. The Ngawha geothermal resource, for the purposes of this claim, means the Ngawha geothermal field in its entirety, both surface springs and subsurface fluids and other materials. Located six kilometres east of Kaikohe, the field covers between 25 and 50 square kilometres of land most of which is now in Crown or private ownership. The claimants own one acre in the five acre block on which the Ngawha springs are situated.

The claim was filed in response to a joint venture application under the Resource Management Act 1991 by the Bay of Islands Electric Power Board and the Taitokerau Maori Trust Board to use the Ngawha geothermal resource for electricity generation.

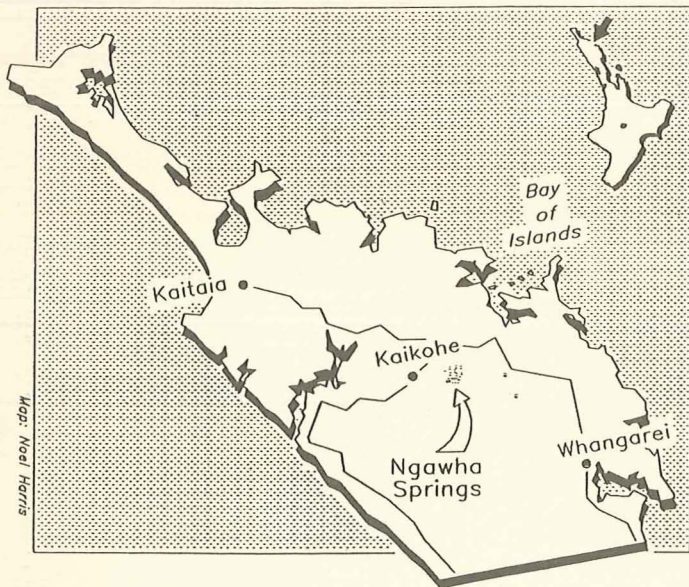
The two main components of the grievance are the acquisition by the Crown of the land and hot springs on the four acre block at Ngawha, and the provisions of the Geothermal Act 1953 and the Resource Management Act 1991 and their claimed inconsistency with the rights of claimants under the Treaty of Waitangi.

## The Extent of the Claimants' Rangatiratanga

According to the tribunal, a fundamental issue for the claimants was their claimed rangatiratanga over the entire Ngawha geothermal resource, both surface and subsurface. The tribunal is of the opinion, however, that since 1894, by which time much of the land which contains the resource had been sold, the claimants, owners of only one set of hot springs, did not subsequently retain rangatiratanga over the whole resource.

But, says the tribunal, the claimants have retained ownership and rangatiratanga over the Ngawha hot springs on the one acre currently vested in the Trustees of Parahirahi C1 Maori reservation. They are also entitled to the return of the four acres vested in the Crown as a recreation reserve, which is an integral part of the Ngawha springs.

The tribunal considers that since ownership of the surface of the resource has been fragmented there is no basis for allocating the right of ownership or rangatiratanga



*Ngawha Springs site visit, October 1992 hearing.*

over the whole of the sub-surface geothermal fluid to the owner of only one set of hot springs.

## Return of Claimants' Land

The tribunal recommended to the Crown that the four acre recreational reserve land be returned to the claimants on the basis that it was acquired in breach of article 2 of the Treaty of Waitangi which guarantees to Maori their tino rangatiratanga over their taonga. It has not been established that the Maori owners willingly and knowingly alienated the land and hot springs located on the block. After full inquiry there is no doubt in the tribunal's mind that the Ngawha springs have always been a highly valued taonga of the Ngapuhi people.

## Current Legislation and Treaty Rights

The Treaty of Waitangi guarantees to Maori the Crown protection of their taonga. The Geothermal Energy Act 1953 enabled the Crown, through the Ministry of Works, to drill a series of bores in the Ngawha geothermal field. The right to do this is protected by the Resource Management Act 1991. If the joint venture application is approved it proposes to use the bores close to the Ngawha springs. Under the Resource Management Act the Crown has delegated extensive powers to local and regional authorities with no requirement to consider the rights of the tangata whenua. The tribunal states "it appears that in promoting this legislation, the Crown has been at pains to ensure that decision makers are not required to act in conformity with and apply Treaty principles". Under this Act the Far North District and Northland Regional Councils, can grant a development consent to the joint venture having no consideration for the claimants' taonga.

## Changes to the Resource Management Act Required

The report recommends to the Crown "that an appropriate amendment be made to the Resource Management Act 1991 providing that in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall act in a manner that is consistent with the principles of the Treaty of Waitangi".

## New Claims Registered

### WAI 343

Claimants: W Peters for Ngatiwai Trust  
Concerning: Otetao A block  
Region: North Auckland Received: 25 February 1993

### WAI 344

Claimants: Dinah Steele, Carol Munro and Mabel Campion for Mateawa hapu of Ngati Whanaunga  
Concerning: Waiheke development block  
Region: Auckland Received: 15 April 1993

### WAI 345

Claimants: M Rawiri for Ngati Tipa and T Rawiri for Ngati Tipa Whanaunga  
Concerning: The Fairburn purchase  
Region: Auckland Received: 5 February 1993

### WAI 346

Claimants: W Rawiri and D Steele on behalf of Ngati Whanaunga  
Concerning: The Fairburn purchase  
Region: Auckland Received: 4 February 1993

### WAI 347

Claimants: Tutekawa Wyllie for Ngati Tamanuhiri  
Concerning: Applications for coastal permits by Turanganui a Kiwa  
Region: Gisborne (near Cape Runaway)  
Received: 30 March 1993

### WAI 348

Claimants: Robert John McLachlan for Purakaunui Block Inc  
Concerning: Purakaunui Maori Reserve  
Region: Dunedin Received: 17 February 1993

### WAI 349

Claimants: Tewi Wiremu Mataia Nicholls for descendants of the Hauraki Tribal rohe  
Concerning: Hauraki tribal rohe  
Region: Hauraki Received: 22 March 1993

### WAI 350

Claimants: 1.1 Whatarangi Winiata and Te Aho o Te Rangi Ratema Te Awe Kotuku for owners of Okawa Bay resort and others  
1.2 Hohepa Waiti for Te Runanganui o te Ika Whenua  
1.3 H P Kingi for Te Arawa Kaumatua Council and others  
Concerning: Sale of Crown share in the Maori Development Corporation  
Region: Rotorua and Aotearoa  
Received: 1.1 19 May 1993  
1.2 27 June 1993

### WAI 351

Claimants: Janette Honey Waitai and Ruby Whaea o Mere Baty for Te Runanga o Turanganui a Kiwa  
Concerning: Transfer of Te Puni Kokiri mortgage portfolio  
Region: Aotearoa Received: 27 May 1993

### WAI 352

Claimants: Titau Rakete and others  
Concerning: Kaikohe West Primary School site  
Region: Northland Received: 17 March 1993

## Tribunal Chairperson & Member Speak at Australian Conference

Following the release of the Australian Mabo decision giving aboriginal title to the Torres Strait Islanders, the Constitutional Centenary Foundation and the Council for Aboriginal Reconciliation held a conference in Canberra, 4-5 June 1993, on *The position of indigenous people in national constitutions*.

Chief Judge Durie and Professor Keith Sorrenson addressed the conference. Judge Durie spoke of the need for political, economic and administrative reform to accompany the legal headway made in the Mabo decision. Professor Sorrenson gave a history of the status of the Treaty of Waitangi, offering tentative 'lessons' for Australia from the New Zealand experience.

Copies of these papers are available on request from the tribunal's office.

### NEW WAITANGI TRIBUNAL REPORTS *available*

#### Te Ika Whenua - Energy Assets Report 1993 (Wai 212)

This 79 page report is a full discussion of the issues raised in the six page report concerning the Aniwhenua and Whaeo dams, covered in the April Te Manutukutuku. The claim was afforded urgency by the tribunal because of the pending implementation of the Energy Companies Act 1992 and the effect of that Act on Te Ika Whenua's substantive claim to ownership of the Rangitaiki and Whaeo rivers.

\$20.00

#### Ngawha Geothermal Resource Report (Wai 304)

See page two story.

\$45.00

#### Preliminary Report on Te Arawa Representative Geothermal Resource Claims (Wai 153)

Because the tribunal's findings and recommendations on the Ngawha geothermal claim could impact on the Te Arawa claims and other geothermal resource claims, the tribunal has inquired into the claims and issued this preliminary report.

Urgency was afforded this report because the Bay of Plenty Regional Council's proposed regional plan for the Rotorua geothermal field would be announced early in July.

\$22.50

*all prices include gst*

*Available from:*

Brooker & Friend Ltd  
21-23 College Street  
P O Box 43 WELLINGTON  
Ph: 0-4-385 6683 Fax: 0-4-385 7300

## Claimant Satisfaction Questionnaire

At the end of last year, as part of an audit requirement, the Waitangi Tribunal staff issued a questionnaire to all claimants designed to measure the current level of their satisfaction with the service they receive from the division.

35 of the 280 questionnaires were completed and returned to the tribunal; a well above average return for a mail questionnaire.

The questions and the answers:

Q. When you first made contact with this office, how satisfied were you with the service you received?

- |           |       |            |       |
|-----------|-------|------------|-------|
| A. Very   | — 34% | Quite      | — 50% |
| Not very  | — 5%  | Not at all | — 8%  |
| No answer | — 3%  |            |       |

Q. In general, how acceptable is the length of time it takes to receive a reply to a request?

- |           |       |            |       |
|-----------|-------|------------|-------|
| A. Very   | — 25% | Quite      | — 55% |
| Not very  | — 5%  | Not at all | — 13% |
| No answer | — 3%  |            |       |

Q. When you make a request, how adequate is the information given?

- |           |       |            |       |
|-----------|-------|------------|-------|
| A. Very   | — 36% | Quite      | — 41% |
| Not very  | — 15% | Not at all | — 3%  |
| No answer | — 5%  |            |       |

Q. How acceptable is the attitude of the staff at the Waitangi Tribunal?

- |           |       |            |       |
|-----------|-------|------------|-------|
| A. Very   | — 69% | Quite      | — 26% |
| Not very  | — 0%  | Not at all | — 0%  |
| No answer | — 5%  |            |       |

Q. How satisfied are you with the way that hearings, conferences and meetings are run? (Not applicable to all claimants)

- |           |       |            |      |
|-----------|-------|------------|------|
| A. Very   | — 14% | Quite      | — 7% |
| Not very  | — 0%  | Not at all | — 0% |
| No answer | — 79% |            |      |

Q. How satisfied are you with the procedures for notification of a hearing, conference or meeting? (Not applicable to all claimants)

- |           |       |            |      |
|-----------|-------|------------|------|
| A. Very   | — 13% | Quite      | — 9% |
| Not very  | — 2%  | Not at all | — 2% |
| No answer | — 74% |            |      |

Q. How adequately are you kept informed of the development in the progress of the claim(s) you are involved in?

- |           |       |            |       |
|-----------|-------|------------|-------|
| A. Very   | — 21% | Quite      | — 29% |
| Not very  | — 24% | Not at all | — 13% |
| No answer | — 13% |            |       |

## STAFF NEWS



Marama Henare, Joy Hippolite, Penny Ehrhardt

### Two researchers leave

Joy Hippolite of Ngati Koata and Ngati Toa is leaving the staff to take up the position of conservation officer at Te Papa Atawhai, The Department of Conservation. Joy has been with the tribunal since 1988 and has worked on the Hawkes Bay claims.

Aroha Harris of Te Rarawa and Ngapuhi began working for the tribunal in 1990. She has worked mainly on the Taranaki confiscation claims. Aroha will be going to Te Tari Hauora, The Department of Health to work as an advisor in research and analytical services.

Both Joy and Aroha will be greatly missed for their valuable contribution to the work of the tribunal and their input into the running of the division. They leave with the very best wishes of the tribunal members and staff.

### Staff member admitted to the bar

Marama Henare of Ngati Maniapoto, Ngati Porou and Ngapuhi became a fully fledged lawyer when she was admitted to the bar in Hamilton in April this year. Marama is currently the acting legal advisor for the Waitangi Tribunal. Congratulations from members and staff.

### New researcher appointed

Penny Ehrhardt was the successful applicant for the position of research officer. Penny was a contract worker for the tribunal last year and completed a report on the history of Te Whanganui a Tara. She has BA (first class honours) from Victoria University of Wellington and has partially completed a law degree. We welcome Penny to the team.

If you want to receive your own copy of *Te Manutukutuku*, please fill in this form.  
Your name will be added to the mailing list.

Name \_\_\_\_\_ Address \_\_\_\_\_

Return this form to the Information Manager,  
Waitangi Tribunal, PO Box 5022, DX 8101  
Wellington/Te Whanganui-a-Tara

Please advise the Waitangi Tribunal Division of any changes of address.