

BEFORE THE WAITANGI TRIBUNAL

**WAI 2490
WAI 2429**

IN THE MATTER OF

Te Ture Te Tiriti o Waitangi 1975

AND

IN THE MATTER OF

The Ngapuhi Mandate Inquiry (Wai 2490) and the claims concerning the Crown's recognition of the Tuhoronuku Deed of Mandate Wai 2341, Wai 2429, Wai 2431, Wai 2433, Wai 2434, Wai 2435, Wai 2436, Wai 2437, Wai 2438, Wai 2440, Wai 2442, Wai 2442, Wai 2483

AND

IN THE MATTER OF

An application by Waihoroi Shortland and Pita Tipene on behalf of Ngati Hine for an urgent inquiry into the Tuhoronuku Deed of Mandate (Wai 2429)

**BRIEF OF EVIDENCE OF ERIMA HENARE
Dated this 13th day of November 2014**

RECEIVED

Waitangi Tribunal

13 Nov 2014

Ministry of Justice

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Introduction

1. My name is Erima Henare and I have appeared before the Waitangi Tribunal on a number of occasions, in various inquiries. I have recently accepted an appointment to become a Member of the Waitangi Tribunal.
2. A primary claim of Ngati Hine in this Inquiry is that, in recognising the Tuhoronuku Deed of Mandate, thereby rejecting the collective voice of Ngati Hine who oppose the Deed of Mandate, the Crown has failed to recognise, protect and respect the rangatiratanga of Ngati Hine as guaranteed under Te Tiriti o Waitangi.
3. The issues which fall from this primary claim concern our whakapapa, tupuna, hapu, our tikanga – Te Tu o Ngati Hine, and the promises made by the Crown to Ngati Hine under Te Tiriti o Waitangi. It follows that in considering our claims the Tribunal must principally refer to the words and actions of our tupuna and reliance must be placed on our own historical reality, values and beliefs.
4. As the Tribunal will see, there is a very large body of evidence to substantiate our historic and now contemporary Te Tiriti o Waitangi grievances. On this point it is fundamental that the Tribunal appreciates that our claims against the Crown regarding its recognition of the Tuhoronuku Deed of Mandate are in fact inseparable from our historic grievances which have caused us prejudice for the past 174 years.
5. My evidence will therefore focus on the following key Tribunal Statement of Issues:
 - (a) *Issue 1.3 (g): Having made the decision to engage with Tuhoronuku to develop the mandate strategy for Ngapuhi, how did the Crown deal with hapu and other groups in relation to mandate? In particular: To what extent did the Crown consider the position of hapu and its obligations to actively protect the ability of hapu to exercise rangatiratanga?*

(b) *Issue 7: Do any of the Crown's policies, practices, actions and omissions breach the principles of the Treaty of Waitangi?*

(c) *Issue 5 (b): In terms of the mandating process as a whole: To what extent, if any, have the Crown's actions or omissions impacted on whanaungatanga/relationships within Ngapuhi? And to what extent is the Crown culpable for any negative impact?*

6. In responding to the above Statement of Issues, I wish to return to my evidence that I have already filed in the Wai 2490 and Wai 1040 Inquiries to discuss concepts of hapu mana and rangatiratanga and the Crown's Te Tiriti o Waitangi relationship with Ngati Hine and the obligations which fall from that relationship. I make reference to the aphorism *Ngapuhi Kowhaorau* and the tradition of *Tuhoronuku*.

Existing evidence

7. My evidence is located on the Wai 2490 Record of Inquiry at:

(a) Wai 2490, #A6 – Affidavit of Johnson Erima Henare, 19 September 2011 – This affidavit was filed in support of the Wai 2341 application for an urgent inquiry into the Crown's settlement policy in Ngapuhi. The Affidavit originated from the Maori Land Court proceeding where Ngati Hine sought the assistance of the Court to withdraw from Te Runanga a Iwi o Ngapuhi ("TRAION") and was filed due to the relevance of the issues. In this affidavit I cover my initial involvement in the early stages of Tuhoronuku and also record my objection to the mandate process;

(b) Wai 2490, #A14 – Affidavit of Johnson Erima Henare, 14 April 2014 – In this affidavit I covered issues concerning the forced inclusion of Ngati Hine claims in the Tuhoronuku mandate, the misrepresentation of Ngati Hine's position on settlement, the misrepresentation by Tuhoronuku of my involvement in Tuhoronuku, and Ngati Hine's commitment to Waitangi Tribunal hearings; and

(c) Wai 2490, #A33 – Affidavit of Johnson Erima Henare in reply to the evidence of the Crown, 24 June 2014 – In this affidavit I respond to what I believed was a lack of evidence from the Crown in relation to Te Tiriti o Waitangi. I provided evidence on Ngati Hine’s involvement in the signing of Te Tiriti o Waitangi and the obligations and partnership which fall on both the Crown and Ngati Hine from that signing.

8. I have also filed a substantial amount of evidence in the Wai 1040 Te Paparahi o Te Raki Inquiry on He Whakaputanga me Te Tiriti o Waitangi. To avoid repetition, I simply append those documents to this evidence as detailed below and, where necessary, I will direct the Tribunal to particular references in so far as the evidence relates to the above key issues. I also wish to place before this Tribunal the evidence that Ngati Hine filed recently for the presentation of our comprehensive Te Tiriti o Waitangi claims against the Crown in August 2014. Accordingly, attached to this evidence are the following documents:

- (a) Exhibit “A”: Wai 1040, #A30, Outline of Evidence of Johnson Erima Henare, 27 April 2010;
- (b) Exhibit “B”: Wai 1040, #A30(a), Opening Remarks of Johnson Erima Henare, 10 May 2010;
- (c) Exhibit “C”: Wai 1040, #A30(c), Brief of Evidence of Johnson Erima Henare, 10 May 2010;
- (d) Exhibit “D”: Wai 1040, #4.1.1 – Initial Hearings, Hearing Week 1 Transcript, extract of transcript of Erima Henare, p 206-325;
- (e) Exhibit “E”: Wai 1040, #D14, Brief of Evidence of Johnson Erima Henare, 4 October 2010 (also contained at Wai 2490, # A12, Exhibit C p 52 – 125);

- (f) Exhibit “F”: Wai 1040, #4.1.4 Initial Hearings, Hearing Week 4 Transcript, extract of transcript of Erima Henare, p 110-143;
- (g) Exhibit “G”: Wai 1040, Wai 682 – 49 Ngati Hine Statement of Evidence for Crown Breaches of Te Tiriti o Waitangi:
 - (i) Wai 1040, #M24(b) Amended Te Wahanga Tuatahi - Rangatiratanga, 12 September 2014;
 - (ii) Wai 1040, #M25(d) Amended Te Wahanga Tuarua – Whenua, 12 September 2014;
 - (iii) Wai 1040, #M26(b) - Amended Te Wahanga Tuatoru - Te Taiao, 12 September 2014;
 - (iv) Wai 1040, #M27(e) - Amended Te Wahanga Tuawha - Tangata, 12 September 2014; and
 - (v) Wai 1040, #M30(a) - Amended Te Awa Tapu o Taumarere and Te Moana o Pikopiko i Whiti, 12 September 2014.
- (h) Exhibit “H”: Wai 1040, Transcript of presentation from Hearing Week 9, p 18 – 122 and p 1005 – 1007.

9. I believe that this evidence attached and noted above is essential to contextualise our claims against the Crown concerning its recognition of the Tuhoronuku Deed of Mandate.

Statement of Issue 1.3 (g) – Crown obligations to actively protect hapu rangatiratanga

10. The Tribunal asks:

- (a) *Issue 1.3 (g): Having made the decision to engage with Tuhoronuku to develop the mandate strategy for Ngapuhi, how did the Crown deal with hapu and other groups in relation to mandate? In particular: To what extent did the Crown consider the position of hapu and its*

*obligations to actively protect the ability of hapu to exercise rangatiratanga;*¹

11. In considering this issue the Tribunal must ask itself: What is the nature of hapu rangatiratanga; of Ngati Hine mana and rangatiratanga? In responding to this issue I must therefore provide the Tribunal with necessary historical and contextual information. This context predates Te Tiriti and European contact and we must start with whakapapa. It is unfortunate that the constraints on hearing time will prevent me from paying proper regard to our Maori context and world view; to our whakapapa, to one another and to the land. In lieu of this, I refer the Tribunal to specific page numbers listed below which includes key evidence concerning our Ngapuhi and Ngati Hine whakapapa:

- (a) Wai 1040 #4.1.4, Exhibit “F”, **p 206 – 226** – At these pages of the Hearing Week 1 Transcript from the Initial Hearings on He Whakaputanga me Te Tiriti o Waitangi, I provide evidence on the whakapapa of Ngapuhi, Rahiri and the origins of hapu in Te Tai Tama Wahine;²
- (b) Wai 2429, #A14A, Affidavit of Erima Henare, 14 April 2014, Exhibit “E”, **p 337-388** – At these pages I provide further korero on hapu o Te Tai Tama Wahine, identifying whakapapa, landmarks, sacred sites and shared histories;
- (c) Wai 2429, #A12A, Affidavit of Waihoroi Shortland, 14 April 2014, Exhibit “C”, **p 74-79** – Attached to this affidavit is the Ngati Hine submission on the Tuhoronuku Deed of Mandate from August 2013. The submission encloses my Brief of Evidence from the Wai 1040 Initial Hearings where I provided evidence on the Ngati Hine understanding of He Whakaputanga me Te Tiriti o Waitangi and in that document I provide a brief history of Ngati Hine and whakapapa;

¹ Wai 2490, #1.4.1, para 1.3(g).

² See Exhibit F.

(d) Wai 1040 – Hearing Week 9 Transcript, Transcript of Erima Henare, **p 18-122, p 1005-1007** – Again, I enlarge upon our written evidence and provide oral history of Ngapuhi and Ngati Hine whakapapa and tradition and make key statements about Ngati Hine’s position on settlement.

12. What this whakapapa and historical evidence shows is that each tribe/hapu, including Ngati Hine, has its own mana and rangatiratanga that was fiercely defended. This hapu rangatiratanga was affirmed and protected under Te Tiriti o Waitangi and obliges the Crown to act in partnership and in good faith towards hapu. I come to this shortly.

Hapu mana and rangatiratanga

Your freedom ends where my nose begins and that’s what mana is. Rangatiratanga is the emanation of mana, its practical manifestation. Rangatiratanga and “tino” rangatiratanga denote absolute authority of power, power of life and death itself.³

13. To elaborate, our tupuna lived and died under the laws of their people. The hapu and iwi had, over centuries, developed tikanga/law to govern the relationships within and between the people. The concepts of mana and rangatiratanga are bound to the land and this is echoed in the writings of our tupuna Maihi Kawiti.⁴

14. Rangatiratanga and mana go together. You cannot have one without the other. Mana properly understood is a description of the power and influence that may be possessed by rangatira. A chief’s mana is in a very real sense his “rangatiratanga”, his influence or power over others.

³ Wai 1040, #4.1.4 Initial Hearings Transcript, Hearing Week 4, p 131. For amplification and examples refer evidence of Erima Henare from Initial Hearings.

⁴ See Exhibit “G”, Wai 1040, #M24(b) Amended Te Wahanga Tuatahi - Rangatiratanga, 12 September 2014, biography of Kawiti.

15. I spoke of the nature of rangatiratanga during the initial hearings and repeat what I believe are the most defining points here:

In attaining the role of rangatira you were entitled to respect. However, you were also duty bound to protect the mana of the hapu, its lands and the lives that were led there. You were not entitled to sell your mana or rangatiratanga to anyone. This included the governance of your lands and resources, or to jeopardise the mana, lives and welfare of the hapu.⁵

Because it was the hapu who gave the rangatira their status, it was to the hapu that the rangatira owed their allegiance. Obviously, there was occasional conflict between hapu, or iwi that their various leaders resulted in leadership being contested. While these contests were often settled without resulting to warfare, it was the nature of the warrior culture to apply force whenever necessary. The 'force of arms' was a characteristic of the Maori cultural character of the time and Ngapuhi were best at it.⁶

16. The relevance of this evidence is that, within the concept of rangatiratanga, there were very entrenched laws, values, beliefs and practices within Ngati Hine, that have existed prior to European contact, were present at the signing of Te Tiriti o Waitangi and have continued through to today. It is this concept of rangatiratanga and the associated values and beliefs that govern our decision making and conduct as a hapu on all matters concerning our tribal affairs, including the settlement of our Te Tiriti o Waitangi claims today.
17. Decision making was always at a hapu level. If you look at the history of Ngati Hine alone, there was never an occasion where a decision affecting the hapu

⁵ See Exhibit "C", Wai 1040, A30(c), Brief of Evidence of Erima Henare, 10 September 2014, para 23.

⁶ See Exhibit "C", Wai 1040, A30(c), Brief of Evidence of Erima Henare, 10 September 2014, para 24.

was not made by either the rangatira of the hapu at that time, or the hapu as a whole. In our history, on every occasion where a decision was made without our consent, agreement or support there was resistance, opposition and often conflict. The decision of Kawiti and Ngati Hine to go to war against the Crown in 1845 following successive attempts of the Crown to undermine Ngati Hine rangatiratanga, is an example of that.⁷

18. It is for these reasons that it is incomprehensible that the Crown and Tuhoronuku together have determined how Ngati Hine will settle our Te Tiriti o Waitangi claims. That decision making power, or rangatiratanga, rests solely with Ngati Hine. If the contrary were true, we would not be here today and we would not have been embroiled in years of opposition to the Crown and Tuhoronuku.

Ngapuhi

19. At the time of the signing of Te Tiriti o Waitangi, Ngapuhi was a nascent group of emerging hapu who were centred in and around Kaikohe and Taiamai. It would also be correct to say that Te Hotete and Hongi Hika were the genesis of this emerging group and that Ngapuhi was not an iwi as it is modelled today by the Crown.
20. No greater evidence of that can be found anywhere else other than in Te Tiriti o Waitangi itself where the word Ngapuhi is not found anywhere. Instead, you will find – Te Mahurehure, Te Honihoni, Te Matarahurahu, Ngati Hao, Ngati Manu, Te Kapotai, Ngati Hine and many others. All of these signatories' proud leaders of their respective groupings were the undisputed leaders of their people.
21. Missionary history and early non-Maori historians then started a form of cultural hegemony, which is today trying to be validated by the Crown through its processes.

⁷ See Exhibit "C", Wai 1040, A30(c), Brief of Evidence of Erima Henare, 10 September 2014, para 24, see Northern Wars section.

22. It centres around a series of wananga being held in Hokianga between 1900 and 1935. Various whanau papers belonging to Himiona Kamira, Ngakuru Penehaare, Hone Mohi Tawhai, Hone Rameka and others are available and bear out the statement that I am about to make. These wananga were attended by a host of knowledgeable whakapapa and history experts from Hokianga and their principal task was to “fit” the history to the model. Firstly to find an ancestor to whom all the hapu could trace common descent from. It seemed to find a measure of consanguinity with a person called Rahiri. In the scheme of history, he was an unremarkable person other than the fact of him having had five wives. The last of these five wives your Honour, Rakei, is an ancestor of yours. Rakei is a mokopuna of Mutunga and from her union with Rahiri are descended a large swathe of Te Atiawa who live today in Waitara and on the northern side of the Waitara river. However, I digress.
23. When one looks at the records of the wananga, it was clear that Rahiri seemed to be the person that linked most of the people within the area now known as Ngapuhi.
24. However, the wananga could not agree on where the name Ngapuhi came from and where Rahiri came from. There are several versions of where this name Ngapuhi comes from and even today the cultural hegemony continues. I have no desire whatsoever to say which version of history is more correct, but what I will say is that if the most learned of Hokianga experts at that time could not agree which version was correct, who am I?
25. Likewise with Rahiri. While the whakapapa seems to indicate that it is highly possible that the Rahiri referred to in history as the ancestor to all of these hapu, is the one descended from the waka Ngatokimatawhaorua, what then of the other Rahiri? The other Rahiri descends from the Mataatua canoe. It is known that the Mataatua and Takitimu canoes found landfall in Awanui where Ngati Awa, the ancestors of modern day Ngati Awa, lived for some generations before Awanui-a-Rangi left to journey to Taranaki. So, what role does this Rahiri have in the history of the hapu who sit before you today? Are

they one in the same? Was there a Rahiri 1 and Rahiri 2? If it is this Rahiri, then is he the one credited with moving the descendants of Awanui-a-Rangi out of the north, or was it Rahiri 1? I do not in any way attempt to answer the questions posed by these issues, as the wananga that were held between 1900 and 1935 to find the origins of Ngapuhi also pondered on these questions and agreed to disagree.

26. What I do want is both the Tribunal, and the hapu represented here today by their many descendants, to look critically at these issues when we consider what is Ngapuhi, who is Ngapuhi and what is the role of the hapu within this dynamic? And what is the role of the Crown and its Runanga construct in this history?

Ngapuhi Kowhaorau

Ngapuhi of the one hundred holes

27. To link this aphorism to the case which you are considering Your Honour, I would like to paraphrase the evidence of Professor Patu Wahanga Hohepa, given in his submissions to the Waitangi Tribunal during the Ngawha Geothermal Energy. Professor Hohepa would be the foremost living Ngapuhi Historian and I acknowledge him as such: “Hapu are descent systems that interlock such that any individual is likely to belong to a multiplicity of hapu...hapu units within and between the major sectors of Ngapuhi are in a state of dynamic equilibrium, waxing, waning, and coalescing as they have done for centuries”.
28. Professor Hohepa goes on to explain the idiom of Ngapuhi Kowhaorau, Ngapuhi of the 100 holes, by explaining the strength of hapu autonomy within the maximal group Ngapuhi as the “100 holes of a fishing net”, where each hapu represents a kowhao (hole) and the whole net as Ngapuhi.
29. Using that metaphor, it would not be difficult to see your Honour how difficult it would be to catch any fish if the constituent holes to the net were not present in the equation. In Ngapuhi it is an established tikanga based on

whanaungatanga that hapu choose to unite and confederate of their own accord.

Statement of Issue 7 - Crown breaches of Te Tiriti o Waitangi

The principles of Te Tiriti are many and I suggest the real way to deal with them, special note to the government, is to stand by them when they are unpopular, as well as when they are popular, knowing that their truth will one day manifest itself. If you see nothing but the difficulties where difficulties are so great, you will achieve nothing, for the efforts hitherto have been far too politically cautious. Before we succeed in remedying one evil, fresh ones will crop up. We are hopelessly in arrears.

Sir James Henare

30. In relation to the Tuhoronuku Deed of Mandate process the Tribunal asks:
- (a) *Do any of the Crown's policies, practices, actions and omissions breach the principles of the Treaty of Waitangi?*⁸
31. My response is absolutely in the affirmative.
32. As I said in my earlier affidavit, the Crown's evidence by Ms Hickey in this Inquiry lacks reference to Te Tiriti o Waitangi,⁹ as if it does not bear relevance to the issues we are dealing with. It is my understanding that this continued into the development of the Statement of Issues where the Crown filed its version of the Statement of Issues that had no reference to Te Tiriti/the Treaty and a complete absence of recognition of hapu rangatiratanga, which it knows full well is the fundamental issue in Ngapuhi. I therefore feel it necessary to remind the Crown (and the Tribunal) of the Crown's obligations under Te Tiriti o Waitangi and the relevance of Te Tiriti to Ngati Hine's claims against the Crown concerning Tuhoronuku and the settlement of our Te Tiriti o Waitangi claims.

⁸ Wai 2490, #1.4.1.

⁹ Wai 2490, #A33, Affidavit of Erima Henare, 24 June 2014, para 4.

33. In 1840, Kawiti was a signatory to Te Tiriti o Waitangi for Ngati Hine.
34. From our Ngati Hine perspective there is only one Te Tiriti o Waitangi. That is the version that was signed by our ancestors. They signed and understood Te Tiriti i roto i te reo Maori. It is from Te Tiriti o Waitangi and, in particular Article II, that guaranteed to Kawiti, and therefore Ngati Hine, our mana and our rangatiratanga, or, our supreme authority to decide for ourselves. Te Tiriti o Waitangi gave the Crown a limited right to govern its subjects. It also contained the collective vision and wisdom of our tupuna to establish a relationship with the Crown founded on the principles of partnership, good faith and respect. Any other interpretation that would have us ceding our rangatiratanga or mana is a denial of historic reality. It is a manipulation of the past to make it fit what exists now.
35. We are before this Tribunal today for no other reason than that we, the descendants of signatories to Te Tiriti o Waitangi, believe that the promises made to our tupuna have not been honoured by the Crown. Their trust and honour has been betrayed. We have been separated from our lands and domains and deprived of our ability to exercise authority over them. In our case, not only was there no Government intervention to limit our losses, the governments were actually complicit in facilitating our impoverishment.
36. The loss of land has caused the breakdown of our traditional whanau, hapu and iwi and the loss of vital cultural elements including te reo, tikanga and matauranga. Law, policy and practice have excluded us from exercising rangatiratanga over our lands, resources and affairs. Our lands, rivers, and indigenous species have suffered pollution and degradation due to the Crown's mismanagement and exploitation. Ngati Hine has been marginalised and as a result has suffered extensive cultural, spiritual, social and economic loss.
37. The grievance of past Crown actions lingers. Ngati Hine continues to seek justice and resolution of our Te Tiriti o Waitangi grievances and a far better

relationship with the Crown. We want greater recognition and provision for our rangatiratanga and power sharing in this country.

38. Partnership on equal terms was something that our people expected as a result from Te Tiriti. Partnership implicitly includes cooperation in its meaning and requires volition of the actual act of making a partnership come about. By definition, partnership involves partners and a partner is one who has a share or part in anything. Good faith involves the virtues of honesty and sincerity which are fundamental requirements in human relationships that depend upon trust. Mutual trust indicates a feeling of certainty existing between peoples that will not fail in any situation where discretion, fairness, mutual benefit and protection are essential. Collectively however, the three terms embody a degree of feeling in human relationships which are powerful and they can be thought of as virtues. They are the very essence of Te Tiriti o Waitangi.
39. Word of warning; the word partnership should not be used loosely by politicians and others as part of their rhetoric that promises so much but delivers so little. The violations of the terms of Te Tiriti throughout the years make it more imperative to pursue these virtues relentlessly by both parties living out these inherent principles.
40. Te Tiriti should be a covenant of justice, peace and harmony and a social road map for the burgeoning bicultural journey. However, all that we have received to date are broken promises, disillusionment, dishonour and confiscation. A true partnership is something that we will continue to fight for.
41. The problem for Ngati Hine is compounded further by political process and the political impotence and powerlessness of Maori in Parliament. The fact that we are here today is again symbolic of that.
42. Our very large body of evidence records our dissatisfaction with the Crown's approach to settlement in terms of Ngati Hine claims. We reject the Crown's

settlement policy. Rather than working in partnership with Ngati Hine, we believe that the negotiations process has been unilaterally developed by the Crown and imposed on us without our consent or meaningful input. Further, under the current negotiation and settlement paradigm, our claimant grievances appear to be assessed in a very broad way to see whether they constitute breaches of Te Tiriti. As a result we believe that our rights and interests will not be protected in a settlement to be agreed between the Crown and Tuhoronuku. We do not believe that their process will deliver redress to Ngati Hine, including the return of land to Ngati Hine, which will adequately reflect the prejudice suffered by our people, or recognise our rangatiratanga and secure shared decision making over our tribal affairs and resources.

Tuhoronuku

43. The tradition of Tuhoronuku helps us to understand the issues that confront us with the mandate and provide insight for their resolution.
44. Rahiri flew the manu aute Tuhoronuku to settle the dispute between his feuding sons Kaharau and Uenuku. He fashioned the kite in the forest and created a flax rope. He launched Tuhoronuku and let it fly in the air and it flew towards Kaikohe and it was in that region that it landed. Rahiri declared that from where the kite landed to Hokianga, Te Tai Tamatane, that was for Kaharau and on the other side to the east coast, Te Tai Tamawahine, that land will be for Uenuku.
45. So the tradition is that Tuhoronuku created the dividing place between the one son, Kaharau, and one son Uenuku. Tuhoronuku divided the land and, in doing so, divided the people. For this reason, I have always thought it ironic that the contemporary of Tuhoronuku, Te Roopu o Tuhoronuku, is dividing the people.

46. During my presentation at the Ngāti Hine hearing, Professor Walker sought clarification on Tūhoronuku:¹⁰

Professor Ranginui Walker:

Whakamāramatia mai ngā pūkenga o te tipuna nei, o Tūhoronuku.

[Can you explain the strengths of this ancestor, Tūhoronuku]

Erima Henare:

Te tipua, te tipuna? Te tupuna, Te Manu Aute a Tūhoronuku. Well tana mahi – i te wā i tukuna ai te manu aute a Tūhoronuku ko te hiahia o Rāhiri kia mutu te whawhai i waenga i ana tamariki. Ko te raru kē, nā tana tukuna i tērā manu aute i wehe ai ngā iwi.

[The ancestor, the kite, Tūhoronuku the kite. When the kite Tūhoronuku was set sail Rāhiri wanted the fighting to stop between his children but the trouble was it was when he set Tūhoronuku the kite sail the people divided.]

Professor Ranginui Walker:

Kia ora. Nā wai i hoatu te ingoa ki te rōpū nei e toro ana te ringa i te pēke moni a te Karauna? [Who gave this organisation, this group - who gave this group Tūhoronuku its name?]

Erima Henare:

E mea ana a Ngāti Hine, “He ātaahua Te Manu Aute a Tūhoronuku i tukuna e te tupuna nei a Rāhiri.” Horekau a Ngāti Hine e rawe ana i te tupua kua tukuna nei koia i kī ai ko Tūhoronuku. Ā, tēnei rōpū e mōhio ana koe katoa ngā āhuatanga o te ao Māori he whakapapa tōna, ko te whakapapa o Tūhoronuku nā te Karauna, ā koinā tōna tupuna. Ehara tēnei o ngā Tūhoronuku i te kaupapa Māori e whai whakapapa ana, ana, kia whakapapa kotahi tātou ki raro i te mea kotahi. I te mea ko tēnei mea nā te Karauna i hanga.

[Ngāti Hine says, “The kite Tūhoronuku was a beautiful device set forth by Rāhiri” but Ngāti Hine is displeased with this group called Tūhoronuku. This group – everything in te ao Māori has whakapapa. The whakapapa of Tūhoronuku is the Crown that is its ancestor. This Tūhoronuku [the committee] is not a Māori thing because it has no

¹⁰ See Exhibit “H”, Wai 1040, Te Paparahi o Te Raki Inquiry, Hearing Week (4-8 August 2014), Transcript of Erima Henare, p 121.

whakapapa. We, of this place, we all whakapapa from one person but this entity was constructed by the Crown.]

Professor Ranginui Walker:

Ehara a Tūhoronuku i te hapū.

[So Tūhoronuku is not a hapū?]

Erima Henare:

Ehara.

[No indeed it is not]

Professor Ranginui Walker:

Kia ora.

47. The lesson here is that the Crown, in recognising the Tuhoronuku Deed of Mandate, has redefined history and given mana to an entity that is not customary in either ethic or assembly.
48. What we must remember is that in settling the dispute Rahiri laid down the principle that if some problem arose in Taumarere, then Hokianga would go and support, and they called them the “Well Springs” on both sides, on both coasts:

Ka mimiti te puna i Hokianga ka toto te puna ki Taumarere.

Ka toto te puna ki Hokianga ka mimiti te puna ki Taumarere.

49. When the well spring in Hokianga is empty, it will be filled by Taumarere and when it is empty in Taumarere it will be filled from Hokianga. We know if the tide is in on one coast, it is out on the other. This whakatauki is metaphoric and talks not of springs of water, but of the springs of human beings. When the people of Hokianga require assistance, the people of Taumarere help them. When the people of Taumarere require assistance, the people of Hokianga help them.
50. Again, this story of Tuhoronuku is demonstrative that, if the cause is right, the people will come together. Our history contains the wisdom that is needed. If we have time and space to reflect on our history without political interference, we will be able to move forward together. In making this

statement about moving forward together, I do not mean hapu joining the Tuhoronuku Independent Mandate Authority, I mean the Crown stepping back, either willingly or by direction, and allowing us to implement a model for settling our historic grievances which is more historically and culturally fitting.

Statement of Issue 5 – The impact of Crown actions on relationships in Ngapuhi

51. The Tribunal asks:

(a) Issue 5 (b): In terms of the mandating process as a whole: To what extent, if any, have the Crown's actions or omissions impacted on whanaungatanga/relationships within Ngapuhi? And to what extent is the Crown culpable for any negative impact?

52. Within most social circles, the answering of a question by a question is rarely a popular choice from those who have been nuanced within the Dale Carnegie School of Training. However, having only ever attended the Motatau School of Training, my question in response would be – how long is a piece of string?

53. Firstly, it would be fair to say that controversy and internecine strife within and between the hapu of Ngapuhi are not a recent phenomenon. In the normal course of events it is to be expected that within an iwi the size of this, both the regularity and passion of such strife would have to be amplified somewhat.

54. This has often led to people misusing the proverb – Ngapuhi Kowhao Rau to mean that we are a divided people when it does not mean that at all. It speaks instead of our strength of unity despite our diversity and independence.

55. Ngapuhi are in fact very capable of turning all of their guns outwards if the threat is to our collective will. History has proven that through the years. At

this present time however, it would appear that our metaphorical guns are levelled at the threat that dwells within ourselves.

56. Yes, personalities who are involved in this process have contributed to this threat, yes organisations who have been involved in this process have contributed to this threat, indeed old hapu wounds awaiting the Tribunals salve have contributed to this threat. But, when we wake up tomorrow and our children and grandchildren play together in the school grounds, when we meet at the marae to mourn our dead, or for our children and grandchildren to get married or celebrate their birthdays, or when we see one another in the streets our consanguinity generally triumphs over all of these niggles. Sonny Tau becomes my tuakana, Karl Hoani my tamaiti, Titewhai Harawira my tuahine, Norah Rameka my whaea, John Klaricich my matua and although we recognize our differences, we focus on our commonalities.
57. Why then are we appearing before you and your Tribunal today? Your Honour, it is because there is a stranger in the house of Puhi. A stranger with whom we are all too familiar, a stranger who has a well-known and documented history in this country of chicanery, sharp practice, sophistry and underhandedness in its dealings with Maori. As with its involvement in this process that we are engaged in today, this stranger's stripes have not changed one iota over the last 175 years.
58. In its correspondence to Te Paparahi o te Raki Wai claimants, to the Tribunal, to Tuhoronuku, to TRAION, to Ngati Hine, to the Hapu collectives, to Te Kotahitanga o nga Hapu o Ngapuhi, and indeed between Crown agencies and others leaves a clear impression that this National Government has a settlement "roadmap" and it will stick to it by hook or by crook. Various cases, including this one, are but a judder bar along the journey. You will need a wheel alignment after hitting the judder bar but the journey continues when that is done. Even the stranger's statements, both recent and past, indicates that this is the process or bust. They will try to tell you that they have made changes to the process in order to accommodate the parties while

meanwhile maintaining a gentleman's agreement to continue business as usual.

59. It is a process of winners and losers, a process driven by ideology of the electorate, a process of divide and conquer, dare I say it a process of taking sides to achieve an end. We do not even have a case of 'willing seller willing buyer' but instead, one where the buyer market has been segmented in order to achieve a sale.
60. Your Honour, the first part to your question is; To what extent, if any, have the Crown's actions or omissions impacted on whanaungatanga/relationships within Ngapuhi?
61. You do not have to go to the plethora of sites on the people's electronic marae Facebook page to read and see what the Crown's actions have done to Ngapuhi. I invite you and your Tribunal simply to cast their gaze around this room. I hang my head in shame. Lawyers, cousins with dagger eyes, cousins with eyes filled with hate, mistrust, we/they, we have the mana/you don't, the stranger has recognised us/ not you, although you look like us and have the same blood, we are traditional hapu, we have the mana/the Runanga is a stranger entity and has no whakapapa etc.
62. That, your Honour, is what the Crown, through this process, has done to us. People who were once whanau will always be whanau. People who were once friends and whanau are now just whanau. It has divided whanau, villages, communities, hapu, urban/rural, clubs, marae almost every institution in which we once shared our burdens.
63. I am well known for having said to Tainui that; I preferred Tainui when it was poor but united, than it is today, rich but divided.
64. Is that to be Ngapuhi's fate too? Moni not mana.
65. If the stranger left us to sort ourselves out first, only then will Ngapuhi and the stranger have a win/win situation. We will have our whanaungatanga

intact, they will have settlement and not quite in the concluding lines of every fairy-tale, we will all live happily ever after but it will be a lot happier than it is now.

66. As to the second part of your question; And to what extent is the Crown culpable for any negative impact?
67. As I have said before, it has not always been honey and roses in the valleys. However, within my all too humble life span, this matter has been the single issue, on its own, that has had sufficient gravitas to create irreparable damage to the social fabric of Ngapuhi by a factor of 100%. Of that, I have no doubt whatsoever. What then of our future your Honour?

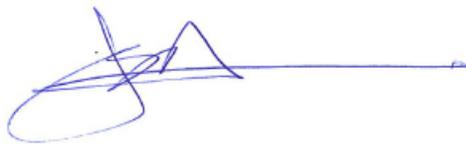
Concluding remarks

68. Anyone with knowledge scant enough to fill a gnats thimble is able to see that, for the Crown to settle with Tuhoronuku and not Ngati Hine, it submerges Ngati Hine's status that was guaranteed to us the day Kawiti signed te Tiriti o Waitangi.
69. Ngati Hine seeks a finding from this Tribunal that it has long established a separate identity, whakapapa, history and location, and on this basis we ask that the Tribunal, Your Honour, recommends that the Crown withdraw Ngati Hine from the Tuhoronuku Deed of Mandate and settle with Ngati Hine. The effect of that will be that the Crown cannot settle Ngati Hine's claims with Tuhoronuku in the face of that finding, nor can the Crown Forestry Rental Trust use up the monies that rightly belong to the hapu of Nga Puhi to fund Tuhoronuku.
70. I wanted to finish with this quote:

Kāhore i te mate ngā whakaaro a ō tātou tūpuna mō te Tiriti o Waitangi, ka tino kaha kē atu rātou mai rā anō. I muri mai i te hainatanga i te Tiriti o Waitangi tae tonu mai ki ēnei rā ko tātou ō rātou uri kei konei tonu tātou e pakanga atu ana

*ki te mau tātou i ō rātou wawata i ō rātou whakaaro mō te
Tiriti o Waitangi.*

71. The goals of our ancestors for the Treaty of Waitangi have not died, rather they are twice more determined. From the signing of the Treaty of Waitangi until this day, we, their descendants are still here, still battling to hold fast to their dreams and their vision for Te Tiriti o Waitangi.

A handwritten signature in blue ink, consisting of a large, stylized initial 'J' followed by a long horizontal line extending to the right.

Johnson Erima Henare