

KEI MUA I TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI

WAI 49/682

I TE TAKE O

Te Ture Te Tiriti o Waitangi 1975

ME

TE TAKE O

A claim by Sir James Clendon Henare on behalf of the members of Ngati-Hine, Ngati-Manu, Te Kapotai and Ngapuhi-nui-tonu concerning Te Awa Tapu o Taumarere and its confluence Te Moana o Pikopiko-i-whiti (Wai 49)

ME

TE TAKE O

A claim by Rewiti Paraone, Kevin Prime and Erima Henare on behalf of Te Runanga o Ngati Hine for and on behalf of descendants of Torongare and Hauhaua (Wai 682)

JOHNSON
**AFFIDAVIT OF ERIMA HENARE IN SUPPORT OF AN APPLICATION BY NGATI HINE
SEEKING AN URGENT HEARING INTO THE CROWN'S RECOGNITION OF THE
TUHORONUKU DEED OF MANDATE**

Dated this 14th Day of April 2014

RECEIVED

Waitangi Tribunal

12 May 2014

Ministry of Justice
WELLINGTON

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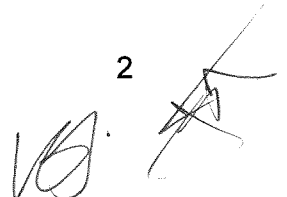
MENA E PAI ANA KI TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI:

I JOHNSON ERIMA HENARE of Whangarei swear as follows:

1. I am of Ngati Hine descent. I am amongst those who advocate for Ngati Hine and I am authorised to provide this evidence.
2. I provide this evidence in support of the application by Ngati Hine for an urgent hearing into the Crown's recognition of the Tuhoronuku Deed of Mandate. I have read the application and the affidavit evidence of Waihoroi Shortland and Pita Tipene and agree with them.
3. I wish to place before this Tribunal further information of relevance. This evidence is very much similar to the evidence I put forward in the Maori Land Court in support of the Ngati Hine withdrawal from Te Runanga a Iwi o Ngapuhi ("TRAION") as the issues are essentially the same. I will conclude by providing additional comments on a way forward for the Crown and Ngati Hine.

Forced inclusion of Ngati Hine Te Tiriti o Waitangi claims

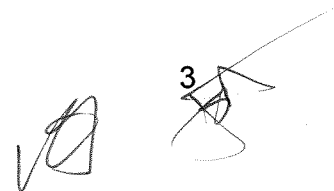
4. Waihoroi Shortland noted in his affidavit that Ngati Hine have been saying for some time that they do not support the inclusion of Ngati Hine hapu, marae and claims in the Tuhoronuku mandate processes and have asked for these to be removed.
5. Of particular concern to me personally, to my whanau and to Ngati Hine, is the way in which the Crown, TRAION and its subcommittee Tuhoronuku, have ignored these requests and continued to include my father's claim amongst those it purports to have a mandate to represent and settle through direct negotiations with the Crown.
6. Ngati Hine, Te Kapotai and Ngati Manu iwi are clear kaitiaki (guardians) of the Taumarere River covered by this claim and therefore they alone seek to prosecute and settle any claims pursuant to this tupuna awa. Annexed hereto and marked with the letter "A" is a copy of the claim lodged by my father in 1988 (Wai 49).



7. In 1997, along with Kevin Prime and Rewiti Paraone, I lodged a claim on behalf of Te Runanga o Ngati Hine (Wai 682). Annexed hereto and marked with the letter "B" is a copy of the original Wai 682 statement of claim and "C" the Wai 49/682 First Amended Statement of Claim.
8. Annexed hereto and marked with the letter "D" is a copy of the Tuhoronuku Deed of Mandate and Addendum. This brings finality to the matter that, in spite of years of discussion and opposition, the Crown and Tuhoronuku are going to fully and finally settle my father's and Ngati Hine's Te Tiriti o Waitangi claims. It makes it clear beyond doubt that, despite the fact that Ngati Hine has expressly requested to be excluded from the Tuhoronuku Deed of Mandate, the Crown and Tuhoronuku have pressed on regardless.
9. Is the Crown seriously claiming that Tuhoronuku can assert a right or mandate to settle the claim lodged by my father (Wai 49) and the claim that I lodged along with Kevin Prime and Rewiti Paraone on behalf of Te Runanga o Ngati Hine (Wai 682)? Of course those claims overlap with our neighbouring hapu and with the interests of Ngapuhi of whom we are part. But let me be clear, they are Ngati Hine claims, and we will decide by whom and on what terms they may be settled.

Misrepresentation of the Ngati Hine position

10. Of significant concern to Ngati Hine, is the level of misinformation and misrepresentation concerning its position on hearing and settlement. Since the commencement of the mandate hui, TRAION and Tuhoronuku representatives and supporters have been saying that Ngati Hine wants to divide Ngapuhi, go it alone and take half of the fish asset.
11. For the record:
 - (a) Maihi Kawiti established Te Runanga o Ngati Hine in 1887. It has been active ever since;
 - (b) Like most Maori institutions, Te Runanga o Ngati Hine functioned under tikanga;

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- (c) TRAION was established as a charitable trust in 1989. Ngati Hine has been part of TRAION since its establishment;
- (d) In 2004, Ngati Hine were given the right to withdraw from TRAION should it so choose. This was provided for in the Maori Fisheries Act 2004;
- (e) Ngati Hine decided to withdraw from TRAION in 2009. The primary reason stems from Ngati Hine's vision:

Ma Ngati Hine ano Ngati Hine e korero

Ma roto i te whanaungatanga me te kotahitanga


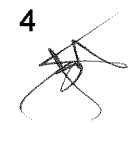
'Self-determination through kinship and unity'

- (f) Ngati Hine has tried to address and resolve its withdrawal process under tikanga but this has been declined by TRAION;
- (g) In 2011, Ngati Hine commenced proceedings in the Maori Land Court to complete its withdrawal from TRAION. Those proceedings are again adjourned while Ngati Hine and TRAION seek to reach an agreement out of court by way of tikanga;
- (h) Ngati Hine has no wish to divide Ngapuhi or further diminish its already fragile asset base. Ngati Hine have tried to explore with TRAION ways of keeping the fish assets together for strategic advantage, but to date have been rebuffed; and
- (i) Ngati Hine remains committed to achieving a co-ordinated approach to the Stage Two hearings and ultimately towards the unification of the hapu of Ngapuhi for the purposes of settlement negotiations.

12. The Crown is well aware of Ngati Hine's position on these matters as it joined the Maori Land Court proceeding as an interested party.

Misrepresentation of information

13. During 2009, Ngati Hine supported my participation in the roadshows undertaken by Te Runanga a Iwi o Ngapuhi ("TRAION") and Tuhoronuku

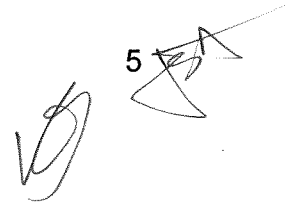
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to explore options for settling historical Te Tiriti o Waitangi. Ngati Hine concluded that seeking a mandate to enter direct negotiations would be premature until the conclusion of the Tribunal Inquiry. Around the same time Ngati Hine commenced withdrawal from TRAION pursuant to its statutory right under the Maori Fisheries Act 2004.

14. Accordingly, at the conclusion of the first TRAION road show hui, I stepped down from any further involvement with the Tuhoronuku proposal. With this context in mind I thought it was mischievous that TRAION and Tuhoronuku continued to include my name and photograph in their promotional material following my departure.

Waitangi Tribunal hearings

15. Ngati Hine has maintained a firm commitment to Stage Two hearings as it believes the hearings are an essential part of the truth and reconciliation process necessary to alleviate the prejudice that Ngati Hine has suffered at the hands of the Crown. I have presented evidence on behalf of Ngati Hine, Ngapuhi and Nga Hapu o Te Takutai Moana (Bay of Islands) sub-region on a number of occasions. Annexed hereto and marked with the letter "E" is the opening statement I provided on behalf of Nga Hapu o Te Takutai Moana during the opening week of the Stage Two hearings on 18 March 2013.
16. I said in that opening statement, that it is somewhat alarming that the Crown seriously believes that it can commence negotiations with Tuhoronuku, when it itself admits that it is unable to make further concessions about how it has breached Te Tiriti o Waitangi without further investigation and evidence.
17. Disappointingly, the Crown's Statement of Position and Concessions do not go far enough and therefore all our claims are still in contention and therefore require full investigation.
18. If the Crown was truly honouring the Te Tiriti principle of mutual respect, then it would be pono and tika, it would be honest and up front about the

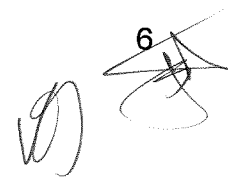
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actions and omissions and the way it has treated us over the last 174 years.

19. If the Crown was truly honouring the Treaty principle of mutual respect, then it would confess to its wrongs instead of making us go through this costly and time consuming process.
20. If the Crown was truly honouring the Treaty principle of mutual respect, then it would allow Ngati Hine and claimants the benefit of a full and unencumbered inquiry into their claims. It would then faithfully implement all the recommendations of the Waitangi Tribunal.
21. Instead, the Crown has watched claimants invest substantial time and resources into the Waitangi Tribunal process, all the while seeking to settle their claims with an entity these claimants do not support. This is a breach of Te Tiriti o Waitangi.
22. The Crown must step back from Tuhoronuku and allow the claimants to complete their Waitangi Tribunal hearings without the interference and stress of a parallel process.

Concluding remarks

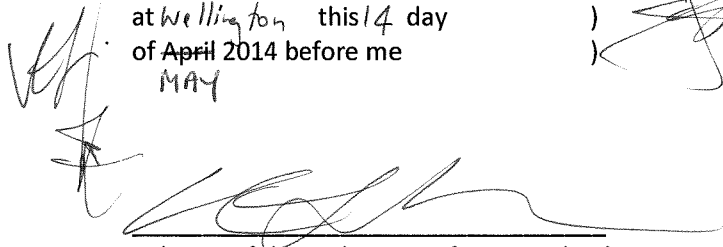
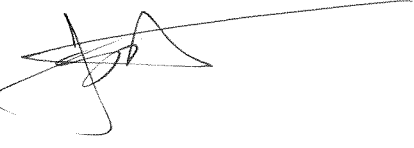
23. Quite apart from all the issues regarding Tuhoronuku, its mandate process and the last two years of "facilitation" to try and resolve serious issues together with the fact that, as far as the hapu are concerned the issues have not been resolved, how can the Crown actually believe that Tuhoronuku has a valid mandate?
24. Ngati Hine has chosen to withdraw from the Tuhoronuku Deed of Mandate. It is our right to do so and we cannot be forced into a settlement model that simply suits the objectives of the Crown.
25. We simply ask that the Crown and Tuhoronuku respect that decision, and not seek to try and bind Ngati Hine to a mandate and ultimately a settlement, which we do not support.

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Sworn by Johnson Erima Henare
at Wellington this 14 day
of April 2014 before me

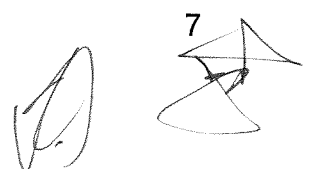
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Solicitor of the High Court of New Zealand

Victoria Ellen Beetham Moore Joseph
Solicitor
Wellington



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