

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of a claim by Isaac Hunter, Utiku Potaka, Maria Taiuru, Hari Benevides, Moira Raukawa-Haskell, Te Rangiangoa Hawira, Kelly Thompson, Barbara Ball and Richard Steedman on behalf of themselves, the Iwi organisations who have authorised them to make this claim and the Mōkai Pātea Waitangi Claims Trust (“the Claimants”). (Wai 1705)

FIRST AMENDED STATEMENT OF CLAIM
Dated this 4th day of April 2011

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FIRST AMENDED STATEMENT OF CLAIM

1 The Claimants

1.1 This Claim is filed on behalf of Isaac Hunter, Utiku Potaka, Maria Taiuru, Hari Benevides, Moira Raukawa-Haskell, Te Rangiangoa Hawira, Kelly Thompson, Barbara Ball and Richard Steedman on behalf of themselves, the Iwi organisations who have authorised them to make this claim, and the Mōkai Pātea Waitangi Claims Trust. (“the Claimants”).

1.2 The Claimants are of Māori descent.

1.3 The Claimants are all descendents of Te Ohuake, Hauti, Whitikaupeka and/or Tamakōpiri, the founding ancestors of Mōkai Pātea.

1.4 The Mōkai Pātea Confederation is comprised of the following iwi and are represented by their listed Rūnanga:

- a. Ngāi Te Ohuake represented by Te Rūnanga o Ngāi Te Ohuake; and
- b. Ngāti Hauti represented by Te Rūnanga o Ngāti Hauti; and
- c. Ngāti Whitikaupeka represented by Te Rūnanga o Ngāti Whitikaupeka;
and
- d. Ngāti Tamakōpiri represented by Te Rūnanga o Ngāti Tamakōpiri.

1.5 The Mōkai Pātea Confederation is a traditional and independent natural grouping centred in the upper and central Rangitīkei River Valley. Historically, the iwi comprising the Mōkai Pātea Confederation combined to provide a collective and unified front, often in times of war.

1.6 The Iwi of Mōkai Pātea exercised, and continue to exercise, mana and tino rangatiratanga over their ancestral lands. The Iwi of Mokai Patea include the following hapu:

- a. Ngai Te Ngaruru
- b. Ngati Paki
- c. Ngati Tamakorako
- d. Ngati Hau
- e. Ngati Hinemanu
- f. Ngati Ruaiti
- g. Ngati Kea
- h. Ngati Tuope
- i. Ngati Hinetai
- j. Ngati Tamatereka
- k. Ngati Upokoiri II
- l. Ngati Ruaanga
- m. Ngati Haukaha
- n. Ngati Hora
- o. Ngati Hinetio
- p. Ngai Te Ngahoa
- q. Ngati Rangiwhaio
- r. Ngati Tumokai
- s. Ngati Whiti Hauiti

1.7 The Iwi of Mōkai Pātea operated their affairs independently from other Iwi in accordance with tikanga and occupied the lands within their rohe.

1.8 As at 1840, the Iwi of Mōkai Pātea exercised mana and tino rangatiratanga over their rohe.

1.9 The core lands of Mōkai Pātea include the following blocks:

- a. Oruamatua Kaimanawa;
- b. Owhaoko B;
- c. Owhaoko C;

- d. Owhaoko D;
- e. Timahanga;
- f. Koau;
- g. Awarua o Hinemanu;
- h. Aorangi (Awarua);
- i. Mangaohane;
- j. Motukawa No 2;
- k. Awarua;
- l. Otumore;
- m. Mangoira;
- n. Otamakapua;
- o. Otairi No 1;
- p. Otairi No 4;
- q. Rangatira Hapopo;and
- r. Taraketi.

1.10 The shared lands between Mōkai Pātea and other Iwi include the following blocks;

- a. Rangipo Waiu;
- b. Rangipo Waiu No 2;
- c. Waitapu;
- d. Rangitikei Turakina;
- e. Paraekaretu;
- f. Rangitikei Manawatu; and,
- g. Te Ahu a Turanga

2 Awa

2.1 The Claimants claim mana atua, mana whenua, mana tangata and mana motuhake over and strong whakapapa connections with the following rivers and their tributaries within the lands of Mōkai Pātea including:

- a. Rangitikei River;
- b. Moawhango River;
- c. Hautapu River;
- d. Kawhatau River;
- e. Ngaruroro River;
- f. Taruarau River;
- g. Turakina River;
- h. Mangapapa river;
- i. Oroua River; and,
- h. Pohangina River.

3 The Claim

3.1 The Crown, in breach of its Treaty of Waitangi obligations:

- a. Introduced the Native Land Court system that failed to recognise the customary interests of the Claimants and their exclusive lands at Oruamatua Kaimanawa, Owhaoko B, Owhaoko C, Owhaoko D, Timahanga, Te Koau, Awarua o Hinemanu, Aorangi (Awarua), Mangaohane, Motukawa No 2, Awarua, Otumore, Mangoira, Otamakapua, Otairi No 1, Otairi No 4, Rangatira Hapopo, Taraketi;
- b. Failed to ensure the Claimants retained sufficient lands in the Rangipo Waiu, Rangipo Waiu No2, Oruamatua Kaimanawa, Owhaoko B, Owhaoko C, Owhaoko D, Timahanga, Te Koau, Awarua o Hinemanu, Aorangi (Awarua), Mangaohane, Motukawa No 2, Awarua, Otumore, Mangoira, Otamakapua, Waitapu, Otairi No 1, Otairi No 4, Rangatira Hapopo, Taraketi, Rangitikei Turakina, Paraekaretu, Rangitikei Manawatu and Te Ahu a Turanga for their present and future needs;
- c. Failed to protect the Claimants' rivers and waterways from erosion and pollution;
- d. Failed to protect the Claimants' rivers and waterways through diverting and damming their rivers and waterways; and,

- e. Failed to protect the Claimants' other taonga including its mahinga kai and fisheries.

4 Treaty of Waitangi

4.1 By the Treaty of Waitangi, the Crown:

- a. Confirmed and guaranteed to the Claimants' tino rangatiratanga including the full, exclusive and undisturbed possession of their lands, estates, forests, fisheries, other properties, rivers, waterways and taonga;
- b. Promised to protect their rights guaranteed by the Treaty and perform their obligations arising out of the Treaty; and
- c. Extended to the Claimants all the rights and privileges of British subjects.

5 Principles of the Treaty of Waitangi

5.1 The Crown had and continues to have duties to recognise and actively protect Māori rights and interests under the Treaty and its principles.

5.2 As a consequence of the Crown, the Crown was and is generally required to:

- a. Ensure the Claimants retain their lands, estates, forests, fisheries, other properties and taonga so long as it is the desire of the Claimants to do so;
- b. Recognise and protect the lore, customs, cultural and spiritual heritage of the Claimants;
- c. Recognise and protect the Claimants' tino rangatiratanga;
- d. Ensure the Claimants exercise tino rangatiratanga, including the right to possess, manage and control all of their property and resources in accordance with the Claimants' lore, cultural preferences and customs;

- e. Ensure the Claimants were provided with the means to develop, exploit and manage their resources in a manner consistent with the Claimants' cultural preferences; and,
- f. Ensure that the impact upon the Claimants of Government action and regulation is consistent with the Treaty and its principles and actively protect Māori and, in particular, the Claimants' rangatiratanga, customs, law and properties.

5.3 The principles of the Treaty include its terms.

6 Prejudice as a Result of the Crown's Acts and Omissions

- 6.1 The Claimants have been, and continue to be, prejudicially affected in that:
- a. The Claimants are now without significant lands and resources to be held in accordance with their law and customs;
 - b. The Claimants' rangatiratanga, lore and customs have been undermined;
 - c. The Claimants have been left with insufficient lands and resources upon which to build a future;
 - d. The Claimants' ability to exercise tino rangatiratanga, including the right to possess, manage and control their property, resources and social structures in accordance with the Claimants' lore, cultural preferences and customs has been severely diminished; and
 - e. The Claimants have been prevented from developing, exploiting and managing their resources in a manner consistent with their cultural preferences.

7 Relief

7.1 The Claimants seek the following relief:

- a. That the Tribunal inquire into the prejudice to the Claimants arising from breaches of the Treaty of Waitangi by the Crown including those alleged in the Statement of Claim;
- b. That the Tribunal make findings as to breach and prejudice, in the terms alleged and generally, and as the Tribunal further determines;
- c. That the Tribunal make recommendations for the recognition by the Crown of the Claimants' tino rangatiratanga consistent with the Treaty including the restoration to the Claimants of their tino rangatiratanga and full customary entitlement to their lands, rivers, waterways and other resources;
- d. The full and meaningful recognition of the Claimants' tino rangatiratanga in accordance with their lore and customs, over their lands, estates, forests, fisheries, other properties, lakes, rivers, waterways, other resources and taonga including whether or not such taonga are perceived now as being in their ownership or possession;
- e. The means by which such recognition must be affected to accord with the Treaty guarantee of the tino rangatiratanga of The Claimants;
- f. The return to the Claimants of all ancestral lands, estates, forests, fisheries, other properties, lakes, rivers, waterways and other resources and taonga wrongfully acquired by the Crown;
- g. Pursuant to Sections 8A-8H(j) of the Treaty of Waitangi Act 1975 return to the Claimants all relevant Crown land including:
 - i. Land held by any state-owned enterprise;
 - ii. Land held by any institution under the Education Act 1989; and
 - iii. Land held under the Crown Forest Assets Act 1989.
- h. The establishment of a fair process which will enable the Claimants and the Crown to resolve issues between them;
- i. The restoration of the social, cultural, resource and economic base of the Claimants in a full and substantial manner and appropriate apology;
- j. The compensation for *inter alia* the loss of customary use, occupation and enjoyment of lands, estates, forests, fisheries, other properties,

lakes, rivers, waterways and other resources and taonga as a result of breaches of the Treaty since its execution down to the present;

- k. The recognition of the Claimants' kaitiakitanga and rangatiratanga in relation to their taonga;
- l. The payment of the full costs of the Claimants for the presentation of this claim and the costs of recovering any land recommended to be returned or other costs incurred in securing the implementation of these recommendations; and
- m. The granting of such other relief as the Tribunal sees fit.

7.2 The Claimants reserve the right to seek leave to further amend this Statement of Claim.

This First Amended Statement of Claim is filed by Leo Hayes Watson, Barrister and Solicitor, Counsel for the Claimants. The address for service for the Claimants is 11b Beach Road, Paekakariki, Kapiti Coast.

Documents of service on the Claimants may be left at that address or may be:

- a. Posted to the solicitor at PO Box 92, Paekakariki; or
- b. Transmitted to the solicitor by facsimile (04) 904 4195; or
- c. Emailed to the solicitor at leowatson@paradise.net.nz