

The Treasury

Release of Submissions: Consultation on the Waitangi Tribunal's “Shares Plus” Proposal

Release Document

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**SUBMISSION IN REPLY TO CROWN LETTER
ON MIXED OWNERSHIP MODEL COMPANIES: CONSULATION ON "SHARES
PLUS"
ON BEHALF OF NGATI HINEMANU AND NGATI PAKI**

INTRODUCTION

1. These are the submissions in reply on behalf of Ngati Hinemanu and Ngati Paki, as a Third Party interest who we represent in this Inquiry (Wai 2358) in relation to the Crown letter dated 5 September 2012.
2. Ngati Hinemanu and Ngati Paki represent Wai 662, Wai 1835 and Wai 1868 and are engaged in the Waitangi Tribunal's Taihape: Rangitikei ki Rangipo Inquiry District (Wai 2180).
3. Ngati Hinemanu and Ngati Paki support the response tendered on behalf of the Claimants' to the Wai 2358 Inquiry, dated 13 September 2012 by the New Zealand Maori Council.
4. These submissions however will highlight why Ngati Hinemanu and Ngati Paki must be taken account of as part of the proposed partial privatisation of assets. Simply it is because we possess customary rights and relationships with water ways and water sources depended upon by the Tongariro Power Development Scheme and used by Mighty River Power and Genesis as part of their processes of power generation.
5. A detailed power point presentation was delivered to the Tribunal at the Wai 2358 hearing held at Waiwhetu on 12 July 2012, identifying Ngati Hinemanu and Ngati Paki's specific connections to their awa within their tribal rohe where they have always held mana, exercised kaitiakitanga and maintained ahi kaa. We refer to those documents filed in this Inquiry to further articulate and inform these submissions:
 - a. Power Point Presentation of Jordan Haines-Winiata (Wai 2358, #B12)
 - b. Map of Moawhango (Wai 2358, #B12 (a))
 - c. Ngati Hinemanu and Ngati Paki Whakapapa (Wai 2358, #B12(b))

TARGETED CONSULTATION

6. It is most disheartening for those of Ngati Hinemanu and Ngati Paki that they have been dismissed as an entity not worthy of engagement with the Crown in consultation hui regarding their waterways and geothermal assets.
7. Whilst a letter was received from Minister of Finance Hon Bill English dated 5 September 2012, advising of a consultation process to occur on a single issue (Shares Plus) arising from the Waitangi Tribunal process, no such further courtesy setting out the place; times and venues of any proposed consultation process was forwarded to Ngati Hinemanu and Ngati Paki or our solicitors.
8. As staunch mainstays in the Taihape region, Ngati Hinemanu and Ngati Paki have not had one single opportunity to engage in any consultation process with the Crown who have effectively invisibilised our mana as the tangata whenua within our tribal rohe and as a people who predate the waka migration, in a number of contexts including settlement processes presently being promoted between the Crown and He Toa Takitini in the Wai 2180 Inquiry.
9. We of Ngati Hinemanu and Ngati Paki are aggrieved that we have not been afforded any opportunity to address any of the painstaking issues that we have with the Crown, as has been seen in other rohe, including hui called by the Crown with Tuwharetoa, Tainui, Te Arawa and others. This is exacerbated by the fact that Mr Jordan Haines-Winiata of Ngati Hinemanu and Ngati Paki was one of the few Third Party witnesses who participated in the Waitangi Tribunal Process on Water in Waiwhetu and whose evidence is reported on as part of the subsequent report of the Tribunal.

MANDATE

10. Ngati Hinemanu and Ngati Paki express at the outset that only we have the mana and mandate of our claim, irrespective of other groups, claimants, and individuals within the Taihape District including those of Mokai Patea who sit on

the Iwi Leaders Forum, in relation to their interests in water and geothermal assets. What is further asserted is that Mokai Patea have not sought any mandate to make representations at that informal forum on behalf of the peoples of Ngati Hinemanu and Ngati Paki. If they had we are confident no such mandate would have been forthcoming.

OPPOSE SALE OF SOE ASSETS PRIOR TO NATIONAL FRAMEWORK FOR WATER BEING DEVELOPED

11. Ngati Hinemanu and Ngati Paki oppose the sale of any SOE assets.
12. If the Crown continues on its pathway toward sale, then Ngati Hinemanu and Ngati Paki want to ensure that we receive shares and that as a partner to the Treaty our rights and interests are equal with the Crown – only once a national framework has been established between and amongst Maori and then utilised to develop appropriate protections of rights and interests as the Treaty of Waitangi guarantees.
13. In this respect Ngati Hinemanu and Ngati Paki are very supportive of the role that the NZ Maori Council has assumed in developing and advocating for such a national approach.
14. Ngati Hinemanu and Ngati Paki also attended the hui at Turangawaewae called by the Kingitanga and are in favour of the resolutions of the hui as the basis of a way forward for this complex issue.
15. We wish however to also respond on a point by point basis to matters that have been raised by the letter dated 5 September 2012 from the Crown.

RESPONSE TO CROWN LETTER FROM MINISTER OF FINANCE

Para 2

16. Ngati Hinemanu and Ngati Paki do not accept that the consultation hui proposed by the Crown was in line with the national hui called for in the Waitangi Tribunal report.
17. Ngati Hinemanu and Ngati Paki have more extensive interests than those chosen to be discussed with Maori by the Crown which are relevant as part of the early disposal of assets signalled in the partial process of privatisation.
18. Ngati Hinemanu and Ngati Paki have demonstrated those interests through enduring whakapapa and as the ahi kaa who have and will always continue to live within the embrace of the Taihape region. Significantly Ngati Hinemanu and Ngati Paki have relationships to the Moawhango area and lake created directly by the construction and ongoing operation of the Tongariro Power Development Scheme.
19. The consultation process that has been constructed by the Crown can only result in concessions from Iwi that would effectively undermine hapu interests in this traditional lands; waterways and water sources.

Para 3

20. Ngati Hinemanu and Ngati Paki believe that the basis of Maori Proprietary interests in water should be determined and clarified first to provide a framework for dealing with hapu who have specific connections to specific waterways.
21. To this end a forensic analysis of traditional relationships to particular water sources, waterway, lands and other resources must be conducted prior to any decision to sell. The nexus is clear. If shares are sold on the open market on the basis of a zero cost for access to resources no longer to be utilised

exclusively for the public and national interest then Ngati Hinemanu and Ngati Paki are clear that there is uncertainty as to the ability or willingness of the Crown to properly compensate or remediate the interests of Ngati Hinemanu and Ngati Paki.

Para 8

22. It is accepted that the Tribunal report did not discuss the details of 'shares plus' in much detail. Nor was it an option advocated by our lawyers but one that the Waitangi Tribunal itself thought as meritorious of exploration.
23. What has been lost sight of is that this was but a single option for redress amongst a range of options. The concept as suggested and then developed by the Crown suggests that the relationship between hapu and their water ways can be maintained by the allocation by way of purchase of shares. At its simplest it is only a means of providing 'a meaningful form of commercial rights recognitions' but does not give special recognition of the protections of Maori interests guaranteed by Te Tiriti. Furthermore it is doubtful whether the allocation itself will generate enough revenue to remediate the loss and degradation to our traditional water sources and foods from those sources.
24. We do not accept that the proposal is at all a compliant solution based on Treaty principle.

Para 9

25. Ngati Hinemanu and Ngati Paki support that the Crown cannot consider the rights recognition and redress outcomes issue without first acknowledging the existence of a residual Maori proprietary interest. The extent of the residual interest is an open question at this time. Hence the NZ Maori council request for a national framework and approach. This is particularly relevant in the Interior Plateau from where the waters are sourced for much of the generation of power in the Tongariro Power Development Scheme. There is in our estimation over 60 hapu interests affected in the area and Tuwharetoa does

not have the mandate at all or historical relationships with many of these groups to enable a settlement with Tuwharetoa alone to be effected.

Para 10

26. We believe that the Crown's position on Special Rights flows from a refusal to recognise that proprietary rights exist in water for Maori therefore affecting the special water rights Ngati Hinemanu and Ngati Paki and other less prominent hapu and iwi have.
27. Ngati Hinemanu and Ngati Paki also highlight the fact that Special Rights shares may be classified and are permitted by virtue of the operation of Company law. A particular example is where shares are classified so as they can never be sold as they are attached to the water not to the shareholding entity. This is an underlying principle of Maori Incorporations that our people are long familiar with working with.

Para 11

28. Ngati Hinemanu and Ngati Paki agree with the Tribunal that rights recognition and redress could be catered by other means more compliant with Treaty principle.
29. Meaningful expression of ownership in the entities that take their value from the water resources owned by other hapu or iwi could be augmented for example by way of board representation or representation on bodies who grant and monitor the allocation of water rights for such entities.

Para 12

30. This is a Treaty partnership issue. Ngati Hinemanu and Ngati Paki believe that the Crown and Maori should hold 51% share together, being a 25.5% share each. This would provide an equal shared decision making model between Maori and the Crown. This is not a new approach. This is one that was

affected over time in the Fisheries Settlement Regime. We seek a similar approach over time being affected over water rights regimes.

Para 13

31. The sooner that these issues are explored and settled then the issue of investment being less attractive to investors whether they be national or international investors is an issue that would not be relevant or pressing. It was conceded that the question of timing is a political one not one of necessity.

Para 14

32. Ngati Hinemanu and Ngati Paki believe that the 10 day road show undertaken in March 2012 and discussions with Iwi leaders have not dealt with proprietary interests that affect them and at no point have such consultations resulted in a fully informed willing extinguishment of their proprietary rights.
33. It is the crown that carries the Treaty obligation, not private shareholders. As such the obligation rests with the Crown to achieve an enduring solution with Maori before the companies are privatised and why the Shares Plus solution was put forward as one means by which the Crown can achieve its goal in a Treaty compliant manner.

Para 15

34. The breach of the Treaty is in not reaching a meaningful form of commercial rights recognition. Share Plus is one means, there may be other, but only when the legal basis of the proprietary interest in water resources have been determined first to provide a framework for dealing with Iwi and Hapu with a specific connection.

Para 17

35. Ngati Hinemanu and Ngati Paki have a direct interest in geothermal resources and water resources used by Genesis and Might River Power in the Taihape region.
36. As a hapu with specific connections they were not notified an agenda of all the consultation hui held recently and as a result did not attend. Furthermore, they have not been provided with any funding by the Crown to attend these hui. The Crown has publicly indicated that it will continue with work on privatisation and continue to expend funds, and aims to take the next major step in October. This leaves only a few weeks for the consultation process. We note too that the final Stage 1 Report from the urgency hearing is still to appear and is unlikely to be made available until December.
37. The Crown offer of consultation does not include or recognise any legal basis for residual Maori proprietary interests in water resources and has marginalised those hapu with direct relationships in its process of engagement and consideration to the point of invisibilisation for some.
38. Unless consultation on and there is a resolution of, the national framework for proprietary rights, Ngati Hinemanu and Ngati Paki will have no legal basis from which we can meaningfully engage with the Crown.

Para 18

39. It is clear to Ngati Hinemanu and Ngati Paki that the Crown has no process on how they would identify which groups have a direct interest or whom they would engage to facilitate that inquiry. We are aware that there are a multitude of projects which the SOE's have under consideration where they will be wishing to tap into geothermal water or water for macro and micro hydro schemes as well as other water uses. Some future projects are already disclosed to the public and others are not. How then can Ngati Hinemanu and

Ngati Paki with direct interests in these water bodies notify these bodies of their relationships in these circumstances?

40. We believe that the Crown has a duty to direct companies it presently owns to release the details of all possible projects to affected hapu with direct interests (not via other hapu or iwi groups) including maps of the areas they may cover and water resources that may be tapped into now as a first step to resolving this forensic analysis.

Para 19

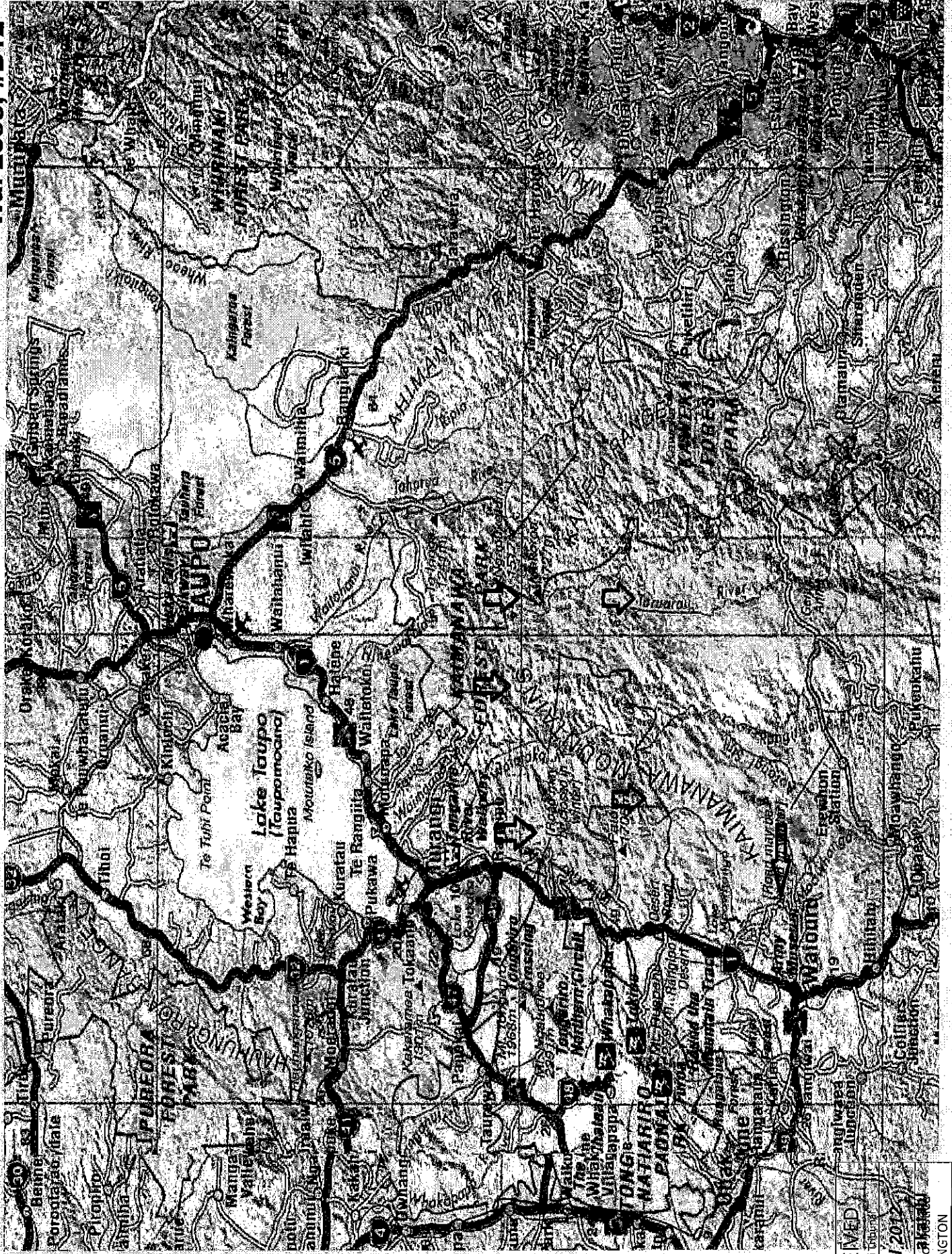
41. The date for submissions is very short and obviously didn't provide enough time to fully notify and consult with affected hapu with direct interest as we have experienced.

Para 22.1

42. This is a Treaty and partnership issue. Ngati Hinemanu and Ngati Paki do not agree that the Crown have a special or preferred position over Maori. We support that Maori should be at the decision making table as a Treaty partner when making decisions about the regulatory environment controls that the companies operate under.

Dated this 5th day of October 2012

Jordan Haines-Winiata on behalf of
Ngati Hinemanu and Ngati Paki
(Wai 662, Wai 1835, Wai 1898)



Waitangi Tribunal

Ministry of Education

WELLINGTON

TE MATAPŪNA O NGĀ AWA KI

ORUAMATUA KAIMANAWA

Te Matapūna of all awa in the Kaimanawa are known as

‘Nga Punawai o Rangimarie me Waimarie’.

**The Oruamatua/Kaimanawa is the Whare Wānanga of the
Patupairehe Chiefs,
Tarapikau, Tamamutu and others.**

***Anei he whakatau ki mo tētahi Rangatira o Patea,
ko Hoka-o-te-rangi.***

”He Kura ka huna, te Kura ka Whāki”.

“The Kura is hidden, the Kura is revealed



THE MATAPUNA O RANGIMARIE ME WAIMARIE

The Matapuna o Rangimarie me Waimarie is the puna for the Rangitikei, Tararua Ngaruroro, Moawhango, Tongariro and Hautapu awa. All these awa provide heath and life to the hapū o Ngāti Hinemanu me Ngāti Paki and we share the physical and spiritual kaitiakitanga responsibility associated with the Matapuna with many other awa.

Ngāti Hinemanu me Ngāti Paki have always remained on the land and were kaitiaki of these water ways long before the arrival of Pakeha.

Examples of importance for NHNP

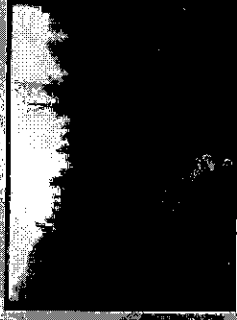
Spiritual

- Karakia
- Uru Pa / Wahi Tapu
- Kaitiaki
- Pou Whenua
- Rongoa mo te wairua etc

Physical

- Kohi kai
- Hauora
- Papakainga
- Kaukau
- Hoe waka
- Raranga
- Whakairo
- Tamoko

Ngati Hinemanu me Ngati Paki relationship with our awa is very spiritual and physical. The awa have been a part of our life's and have provided resources for the people to ensure our survival. Our awa provide life not only for the people but for survival all things.



TAMATEA POKAI WHENUA

The first known descendant from off the Takitimu waka who journeyed through the land of Patea was Tamatea Pokai Whenua who, as the following whakapapa shows was the grandson of Tamatea Ariki Nui – the captain of Takitimu.

Tamatea Ariki Nui===== Toto

Rongokako

Tamatea Pokai Whenua ===== Wipupu

The following story is a story well known amongst Ngāti Hinemānu Ngāti Pahi and has been handed down to the whānau at Winiata today.

While travelling up the Ngaruroro River Tamatea Pokai Whenua and his son Kahungunu came to a large hill where Tamatea saw a tawai tree standing on what is known today as the Ruahine. He called out, "He taonga te rakau"; the name of that place today is known as 'Rakautonga' which is a boundary where the Ruahine Range ends.

As they went on their way they came upon a river called Taruarau. They travelled up this river and came upon a steep cliff and below there was a stream called the Ikawetea. Ka kite raua i ngā kawai e rere atu ana. Ka karanga a Tamatea,

"Me rite au ki te kawau, ka whirau".

"If I was like the shag I would be able to cross over."

Where the Ikawetea flows into the Taruarau there is a large kohatu where Kahungunu sat watching for Upokororo. I tiaki ana i te aia Upokororo, Kahungunu said and so the kohatu was named, Te Upokororo o Kahungunu. This is the rock where Pohokura one of Tamatea's pet mokai escaped. While here Tamatea released (wetewete) some fish into the stream and he named the stream 'Ikawetea'. They travelled a short way up the Ikawetea stream towards the Otupae Range and came upon a cave, which Tamatea named Anaroa, where they spent the night.

They carried on up the eastern side of the Otupae range heading south and came upon a swamp, [rego] which Tamatea named Te Reporoa.

They travelled across and came to a mountain. Tamatea said, "He Ao no te Rangī". The name of the mountain today is called Aorangi. While in the area they built themselves a whare korari. The name of that place is now called Nga Wharekorari.

When they left that place they came to the upper reaches of the Rangitikei River where they met a person of tangata whenua called Taniuku of Ngāti Hotu. Taniuku presented Tamatea with a calabash of food which he ate.

The name of this place became known as Te Papa-a-Taniuku [The Narrows]. The formation of the Narrows is attributed to the thrashing of Pohokura in his endeavour to reach the headwaters of the Rangitikei. Pohokura has authority over the whole range from Onuamataua Kaimanawa to the Ruahine Ranges and his lair being Aorangi.



Tamatea went on his journey and eventually he came to the Moawhango River where he performed karakia and placed the unburnt ends of his firebrands into the river. The following is the whakatauki:

"Ngā Motumotu o te ahiahi a Tamatea"

One of the mokai of Tamatea called 'Te Koura o Tamatea' was left by Tamatea at what is known as the Tikihere falls which is on the Moawhango River.

Tamatea then traveled down the Moawhango River to the Rangitikei River and then travels on down that river until he reaches where the Hautapu River falls into the Rangitikei River, and there he left another mokai the 'Patiki'.

Tamatea travels up the Hautapu River and coming to the Mangaone stream he travels up that stream and released another of his mokai which was a kuri. He named the kuri Tahunaatara.

Tamatea travelled on up the Mangaone stream to a ridge which was given the name Te Whakauae a Tamatea range. He travelled south along the ridge where he was halted by a storm where he took refuge beneath a rock at a place now known as 'Harakeke a Tamatea'. During the raging peak of the storm he carried out karakia and because of the comfort of the rock he deemed it to be a place where travellers could rest as long as they paid tribute to the rock. From there Tamatea carried on his way to Whanganui.

Conclusion

• NIHNP have and will continue to fight for our rights as kaitiaki of our awa. The crown has refused to ensure there has been fair consultation with NIHNP over issues and decision making pertaining to our awa such as

- Diversion of waters
- Dams
- Pollution
- Access
- Protection of taonga
- Power Schemes (Genesis / Mighty River Power
- Metal extraction and the list goes on

Conclusion

In 1898 our Tupuna Winiata Te Whaaro was before the court with a claim over issues relating to the awa and mining in the Runanga and now we are here again in 2012.

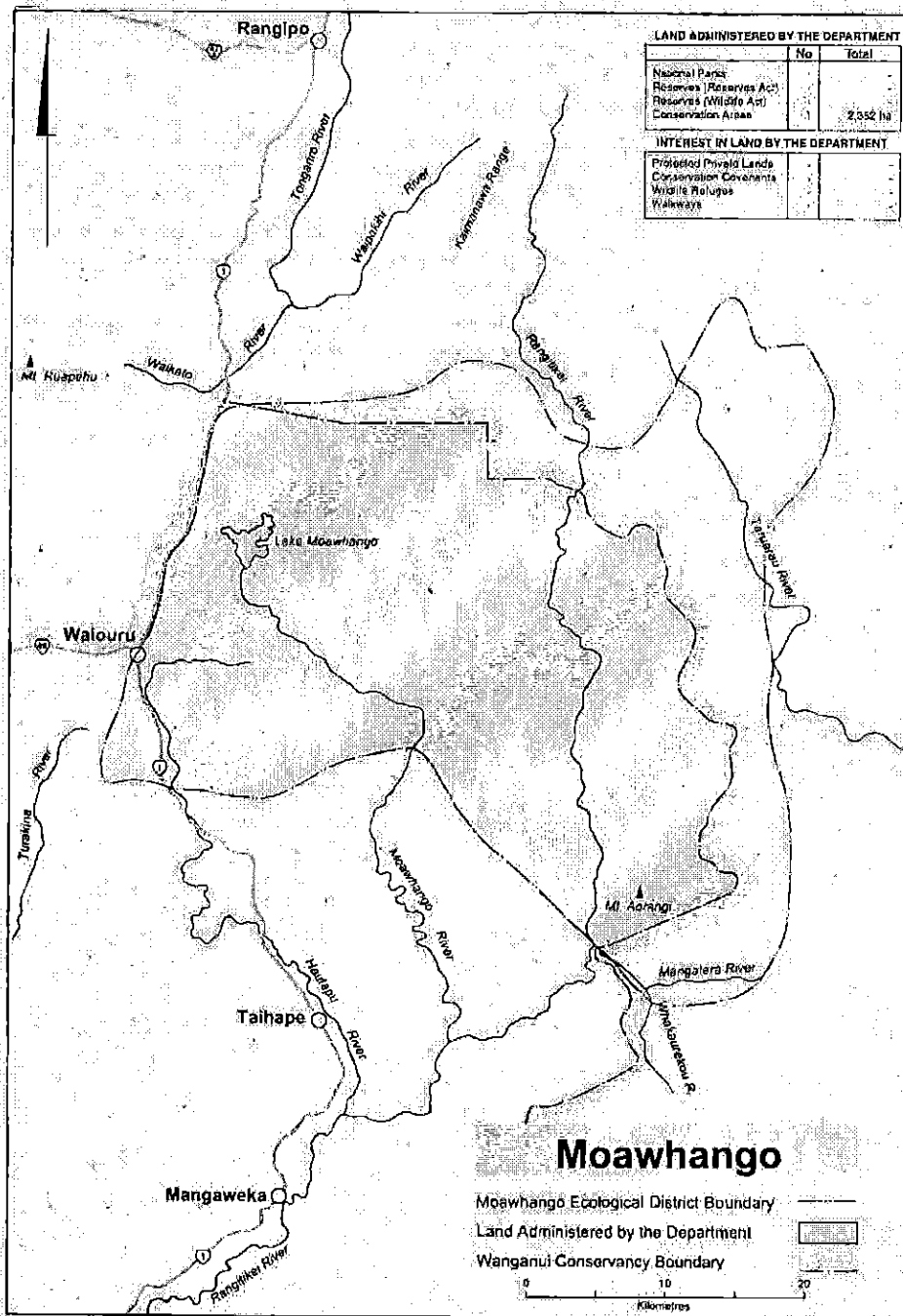
NHNP are also in the process of preparing for Waitangi Tribunal hearings in the Taihape District.

NHNP deserve the right to present our grievances to the crown regarding our awa and expect the crown will treat us with respect and the rights as stated in the Treaty of Waitangi.

We do not agree the crown sells or makes any further decisions regarding our awa and sale SOEs in our rohe until they have consulted fully with NHNP and addressed the grievances we have.

We also want the crown to treat NHNP as Māori Whenua and Tangata Whenua of our rohe as a hapū. For far to long the crown and its agencies have deliberately ignored NHNP by only consulting with Iwi bodies or Runanga and not ensure these bodies or Runanga represent and have the mandate for all hapū who are kaitiaki of the awa, whenua and everything in between.

FIGURE 10: MOAWHANGO ECOLOGICAL DISTRICT



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Waitangi Tribunal

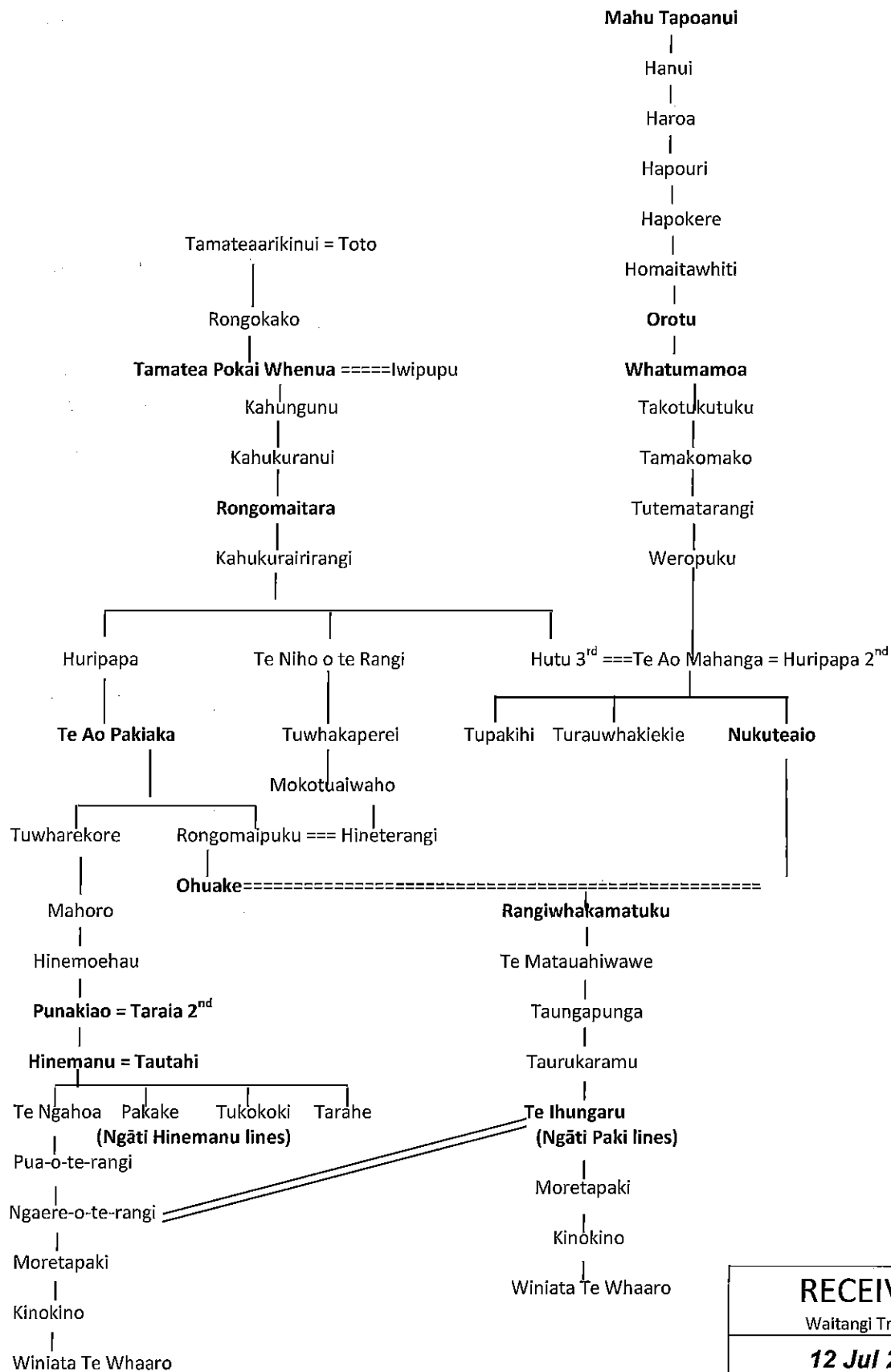
12 Jul 2012

Ministry of Justice
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Wai 2358, #B12(b)

Ngāti Hinemanu me Ngāti Paki Whakapapa as presented by Jordan Winiata-Haines – 12.07.2012



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Winiata Te Whaaro is my great-grandfather through his son Te Ngahoa and his daughter Waipai

