



KAITUNA RIVER

The Waitangi Tribunal Claims
A Resource for Schools

SET ONE

KAITUNA

THE WAITANGI TRIBUNAL AND THE KAITUNA RIVER CLAIM

Situation

You are a member of the Waitangi Tribunal. The Waitangi Tribunal is a Commission of Inquiry. This means your job is to discover all the facts about a particular claim.

Claims can only be taken out against the Crown. The Crown refers to the government of the country. You and the other members of the tribunal must decide if the Crown's actions are contrary to the Treaty of Waitangi and whether they disadvantage Maori people.

The Treaty gave Maori people:

"... te tino rangatiratanga o o ratou wenua o ratou kainga me o ratau taonga katoa. Otiia ko nga Rangatira o te Wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua-ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona."

(From the Treaty of Waitangi Amendment Act 1985.)

This translates as:

"... the unqualified exercise of their chieftainship over their lands, villages and all their treasures. But on the other hand the Chiefs of the Confederation and all the Chiefs will sell land to the Queen at a price agreed to by the person owning it and by the person buying it (the latter being) appointed by the Queen as her purchase agent."

(Translation by Professor Sir Hugh Kawharu)

The English version reads:

"the full, exclusive and undisturbed possession of their lands and estates, forests and fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession....."

(From the Treaty of Waitangi Act 1975)

It is your job, as a member of the Tribunal, to take both versions into account. Remember, most Maori people signed the Maori version.

At the end of the inquiry you will make recommendations to the government about what should be done about the claim. The government may or may not carry out your recommendations.

Today you are seated at the Te Takinga Marae on the western shores of Lake Rotoiti. You are here to listen to evidence from a large number of people about the Kaituna claim. You can ask them questions.

The session began with karakia (prayer) and at midday you will be sharing food with all the people present in the whare kai (eating house).



A handful of slimy algae and lake weed being pulled out of Lake Rotoiti. Photo: Arno Gasteiger.

Background To The Kaituna Claim

Lake Rotorua in the central North Island is being polluted. It is turning a brilliant green as algae and weed take over. The lake and its environs are an important to the country because people use them for fishing, boating and swimming. They are also a popular place for tourists. The lake is part of a water system which includes Lake Rotorua, Lake Rotoiti, the Kaituna river and Maketu estuary.

The most obvious source of pollution has been the effluent from the Rotorua city sewage works, though nutrients from fertilisers, animal droppings and runoff after heavy rain also contribute to the pollution.

The Bay of Plenty Catchment Commission along with the Rotorua District Council and the Ministry of Works have gained approval to implement the Kaituna River Major Scheme. The scheme is estimated to cost 11 to 12 million dollars.

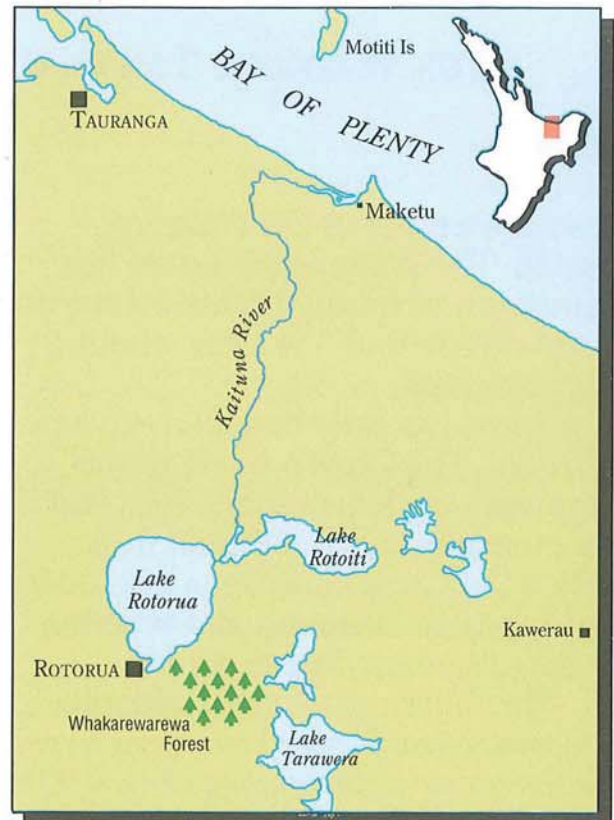
The aim of this scheme is to improve the pollution problem and it includes building a pipeline so that the effluent from Rotorua sewage works would be piped directly into the Kaituna river instead of the lake.

The Kaituna Scheme is not only about building the pipeline. It is also includes fencing off water courses from stock, retiring land that is close to the lake from farming use so water running off the land does not contain fertiliser, and flood control.

The government has approved a subsidy for the scheme. For every \$1 the Rotorua ratepayers raise the government will give them \$7. Without the subsidy the ratepayers cannot afford the scheme. The subsidy is dependant on the whole scheme being implemented.

The pipeline was first proposed by the Ministry of Works over twenty years ago. Both the Rotorua District Council and the Bay of Plenty Catchment Commission had looked into other ways

of getting rid of the effluent. But the Ministry of Works had insisted the pipeline was the best idea and had organised the subsidy for it.



Map showing Te Arawa lands. Courtesy of New Zealand Geographic.

The Kaituna Claim

In 1978 members of Ngati Pikiao filed a claim with the Waitangi Tribunal, asking that the proposal to build the pipeline be stopped because it transferred the pollution process into their territory and was objectionable on medical, social, and cultural and spiritual grounds.

The Evidence

The Claim and the Claimant

Ngati Pikiao are a sub-tribe of Te Arawa. Te Arawa is a confederation of tribes descended from the crew of the Arawa canoe that landed at Maketu over a 1000 years ago. Their lands are shaped quite like a gourd. Ngati Pikiao live beside the northern shores of Lake Rotoiti and the upper reaches of the Kaituna river.

Medical Grounds

Ngati Pikiao present evidence to show that pumping even treated effluent into the river would increase the chances of the river and estuary being contaminated by viruses harmful to man.

Social Grounds

Ngati Pikiao point out that most people feel revulsion from human waste and no one would use the river for swimming or fishing if they knew effluent was being pumped into it.

Spiritual and Cultural Grounds

This is where Ngati Pikiao make their strongest protest. To mix water that has been contaminated by human waste with water used for gathering food is deeply objectionable on Maori spiritual grounds. Maori custom requires water used for the preparation of food to be kept strictly separate from water used for other purposes.

The Kaituna river and Maketu estuary have long been an important

source of food for the Ngati Pikiao. Even the name, Kaituna, tells you of its importance. Kai means food and tuna means eel. If the pipeline is built the elders of the tribe would have no choice but to declare the river tapu and therefore out of bounds.

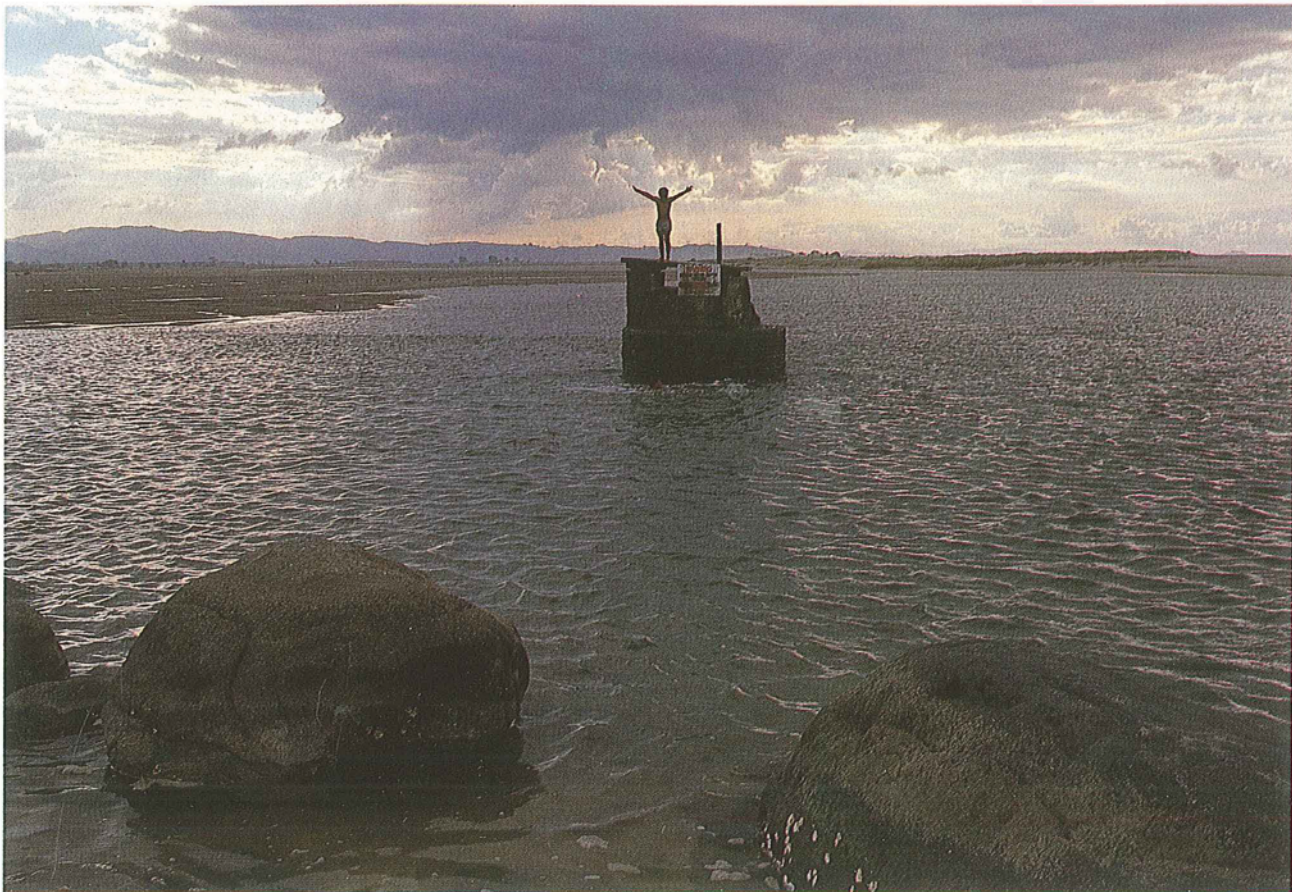
The tapu would also apply to any vegetation that had contact with the water either through splashing or flooding.

The tapu would mean a great economic loss for Ngati Pikiao as they would not be able to fish in the river or even collect plants from the river banks for making medicines and for weaving and dyeing.

Burial caves that line the river would also not be able to be reached. Ngati Pikiao would suffer a loss of tribal mana.

Other Evidence

Research into biological and chemical treatment of effluent has progressed along way in recent years. It is now possible to build an alternative treatment plant at Rotorua based on the new research for



Maketu at the mouth of the Kaituna River. Photo: Arnó Gasteiger

about 9.5 million dollars. The pipeline project (12 million) plus an extension to the Rotorua treatment plant, will cost just under 17 million.

The Commission for the Environment wants research to be carried out into the possibility of disposing Rotorua's effluent on the land. Land disposal methods have also been improved in recent years.

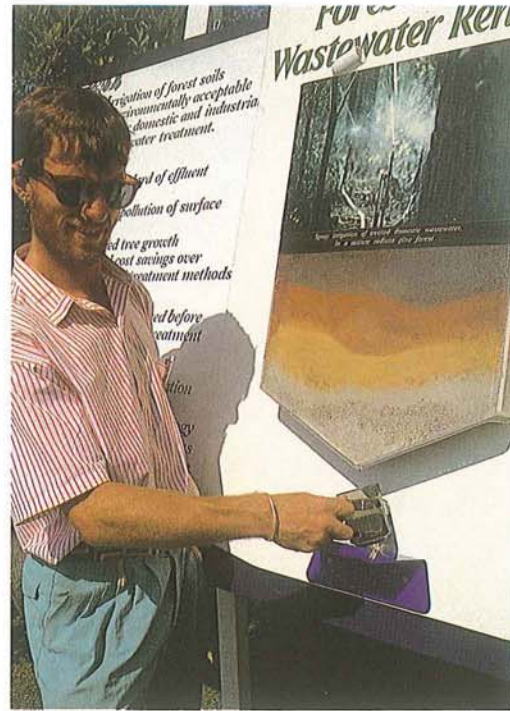
Lake Rotorua does not exist on its own. It is part of a connected series of waterways that affect each other. If Lake Rotorua deteriorates so will Lake Rotoiti, the Kaituna river and the Maketu estuary. All of these waterways are an important asset for the country.

Main Decisions of the Tribunal

1. The pipeline proposal was a policy of the Crown.
2. Maori fisheries are protected by the Treaty of Waitangi and to empty Rotorua's effluent into the Kaituna river was contrary to the principles of the Treaty of Waitangi, because it pollutes the fisheries.
3. There were alternatives to the pipeline which were practical and did not go against Maori values.

Main Recommendations of the Tribunal

1. The construction of the pipeline to empty effluent into the Kaituna river was contrary to the Treaty of Waitangi and should not go ahead.
2. Research should be carried out into land disposal as an alternative method for disposing of the effluent.
3. The Water and Soil Conservation Act 1967 and related legislation should be changed so that Regional Water Boards and the Planning Tribunal take account of Maori spiritual and cultural values when they make decisions about water rights.
4. The government should still provide the same subsidy if a biological or chemical stripping process is used to get rid of the effluent instead of the pipeline.



Land Treatment Engineer, Phil Squire, standing beside a display on the land disposal scheme at Whakarewarewa Forest. He says any water from the scheme that finds its way into Lake Rotorua "will be clean enough to drink". Photo: Arno Gasteiger.

The Crown's Response

The Crown abandoned all financial support for the pipeline and announced its support for a combined treatment plant and land disposal option for the disposal of Rotorua's effluent. The new scheme involves spraying the effluent onto trees in the nearby Whakarewarewa forest. There is no danger of run-off into the lake or other waterways. The Crown offered the same subsidy for this scheme as it had for the pipeline scheme.

Changes to the Water and Soil Conservation Act have been caught up with the wider review of all laws governing how New Zealand's resources are managed. A new law has been proposed called the Resource Management Bill and it includes reference to the Treaty of Waitangi and Maori spiritual and cultural values.

For Further Reading:

Kaituna River Report: Waitangi Tribunal 1984
'The Treaty Today: What went wrong and what are we doing about it?' in *New Zealand Geographic*, Feb/March 1990, pp 32-71
"Flushed with Success" article in the *New Zealand Herald*, Friday, July 6, 1990