

**NGATI TAMA MANAWHENUA KI TE TAU IHU TRUST**

72 Trafalgar Street, PO Box 10, Nelson  
Tel (03) 5482139 Fax (03) 548 4901  
Secretary: R P Shore

#1.1



**STATEMENT OF CLAIM**

30 January 1998

WE—

<b>JANICE MARY MANSON</b> .....	<b>Resource Teacher Maori</b>
(Chairperson)	61 Gladstone Road, Richmond, Nelson
<b>MARAMA JOAN STEVENS</b> .....	<b>Orchardist</b>
(Trustee)	Riwaka, R D 3, Motueka
<b>KERI WRIGHT STEPHENS</b> .....	<b>Fisheries Adviser</b>
(Trustee)	Maori Pa Road, Delaware Bay, R D 1, Nelson
<b>FREDERICK TE MIHA</b> .....	<b>Fisheries Manager</b>
(Trustee)	13 Queen Victoria Street, Motueka
<b>HEMINGAMOANA ROPATA</b> .....	<b>Retired</b>
(Trustee)	4 Aparangi Crescent, Elsdon, Porirua
<b>JAMES ALBERT PATRICK MYERS</b> .....	<b>Property Manager</b>
(Trustee)	2 St Edmund Crescent, Tawa, Wellington
<b>JOHN TAHANA WARD-HOLMES</b> .....	<b>Farmer</b>
(Trustee)	Ward-Holmes Road, R D 2, Takaka
<b>RAWIRI WARD BENNETT MASON</b> .....	<b>Builder</b>
(Trustee)	40 Waitapu Road, Takaka

FOR OURSELVES AND Ngati Tama of which we are members and Trustees of Ngati Tama Manawhenua Ki Te Tau Ihu Trust

CLAIM WE ARE prejudicially affected by:

The actions of the Crown in relation to the purchase and other alienations of our land within the following area:

*Central and western Te Tau Ihu from Whangamoia Head at Wakapuaka, Nelson, to Whakatu (Nelson City and environs), Waimea, Motueka to Mohua (Golden Bay) and on to Te Tai Tapu, Kahurangi and Te Tai Poutini.*

**1) The Nelson Native Tenth's Reserves Lands ("The Tenth's")**

Ngati Tama were adjudged entitled in the New Zealand Company Block and made part-owners of the Nelson Tenth's by Judge Mackay (1892) BUT—

Ngati Tama were not examined by the Spain Commission, their consent was not obtained to a negotiated agreement and they did not participate in the compensation payments.

**2) Ngati Tama have suffered through the various inroads which have been made on the Tenth's estate:**

- (i) The Tenth's were never fully created in accordance with the New Zealand Company's original premises.
- (ii) The Tenth's have been progressively and drastically reduced from the number which was created.
- (iii) The Tenth's have been administered in a way which had not taken proper account of Ngati Tama's interests, especially the perpetual leasing.

**3) The 1853–56 Purchase of the Waipounamu Block**

We wish the Waitangi Tribunal to investigate what instructions were given by the Crown to its Land Purchase Agent, Mr Donald McLean, for his purchases within the Waipounamu Block from 1853-56, and were these instructions consistent with the Preamble, Articles and principles of the Treaty of Waitangi?

**In particular, those instructions in relation to—**

- *Reserves*
- *Price*
- *Schools, hospitals and other public amenities*
- *Fishing rights and other mahinga kai*
- *Kainga*
- *Waahi tapu, urupa*

In negotiating these purchases, did Mr McLean act in a manner that was consistent with the Preamble, Articles and principles of the Treaty?

**In particular, in relation to—**

- *The boundaries of the purchase (including area, location)*
- *The price and payments made*
- *Food resources*
- *Reserves*
- *Waahi tapu, urupa*

#### **4) Reserves**

In the 1853–1856 purchase, certain lands belonging to Ngati Tama were excluded by them from sale, including—

- *The Wakapuaka Block*
- *Parts of Te Tai Tapu Block*
- *Other reserves were set aside from Motueka to Mohua*

We ask the Waitangi Tribunal to investigate that in purchasing Ngati Tama's land and making reserves for Ngati Tama, whether the Crown ensured that Ngati Tama retained enough land and resources for their "present and future" needs, either in regard to their traditional use of resources, or in regard to their need for a modern economic base.

We also ask the Tribunal to investigate whether there were lands other than those named in the deed of 1853–1856 which should have been reserved to us.

#### **5) Crown Lands**

We ask that any Crown lands, including Crown Forest Licence Areas, within the 1853–1856 purchase areas, be investigated to determine whether these are the legitimate property of the Crown.

#### **6) Native Land Acts**

We ask the Tribunal to examine the application of the Native Land Act 1862 and subsequent Native Land Acts and other Acts of Parliament to our lands. In particular, whether the Crown was at fault in not ensuring that protective mechanisms included in the Native Land Acts were properly used to ensure Ngati Tama's retention of land which they wished to retain in Te Tau Ihu rohe.

We also ask the Tribunal to investigate whether the Crown responded satisfactorily to Ngati Tama's complaints about the actions of the Native Land Court in respect of Ngati Tama lands in Te Tau Ihu rohe.

#### **7) Mahinga Kai**

We ask the Waitangi Tribunal to investigate whether the Crown's management of natural resources from 1840 to the present has prejudiced our rights to our taonga guaranteed to us by Article 2 of the Treaty of Waitangi in Te Tau Ihu rohe.

### 8) Fisheries

- Several iwi members suffered loss of income with the introduction of the ITQ system and the Resource Management Act for the allocation of Coastal Permits and other activities in the marine coastal area.
- Ngati Tama for eight generations have been transplanting paua, crayfish and other shellfish stocks to replenish and maintain stock. However the Ministry of Fisheries issues quota to commercial divers which allows them to take from stock we have planted.
- Ngati Tama have suffered the loss of customary freshwater fisheries through—
  - (i) The damming of rivers, draining of swamps, and pollution by run-off.
  - (ii) The introduction of competing fish stocks such as trout and salmon.
  - (iii) The introduction of legislation and regulation banning the taking of eels and other traditional fish from certain rivers and lakes in Te Tau Ihu.

### 9) The Claimants Allege

- Failure by the Crown, as a matter of policy or practice or by acts of omission before exercising any right given by the Treaty of Waitangi or otherwise for purchase of land and other benefits, to conduct a full and exhaustive inquiry into the nature and extent of the rights of Ngati Tama Ki Te Tau Ihu arising from their customary use, occupation and enjoyment of *lands and estates, forest, rivers, minerals, fisheries, seabed, water space, fisheries resource* and other benefits.
- A failure by the Crown as a matter of policy or practice or by acts of omission to ensure that proper boundaries were established and were understood in Maori as well as European terms for any acquisitions made by the Crown and that such boundaries took into account customary rights of use, occupation and enjoyment to which Ngati Tama Ki Te Tau Ihu were entitled.
- Failure to ensure that signatories to documents, purportedly persons alienating forests, fisheries or land and other benefits to the Crown, were entitled to undertake those alienations on behalf of all iwi and in particular Ngati Tama Ki Te Tau Ihu having customary rights of use, occupation and enjoyment to which Ngati Tama Ki Te Tau Ihu were entitled.
- Failure by the Crown as a matter of policy or practice or by acts of omission to adhere to the principle of the Treaty of Waitangi by ensuring that Ngati Tama Ki Te Tau Ihu were not deprived of their customary use and enjoyment of *lands, estates, forests, fisheries, rivers, minerals, water space, seabeds, fisheries resources* and other benefits that were guaranteed to them by the Treaty in Te Waipounamu, particularly where Ngati Tama Ki Te Tau Ihu resided and/or exercised their customary rights of occupation, use, and enjoyments of the *land, estates, forests, fisheries, rivers, minerals, water space, seabeds, fisheries resources* and other benefits.

## **10) Remedies**

We seek the restoration of land, where appropriate, and the restoration of rights where appropriate. Where the restoration of land is not feasible, we seek adequate compensation in the form of land elsewhere. We also seek compensation in money for the loss we have suffered and such other relief as the Waitangi Tribunal considers appropriate.

We also seek compensation to settle these issues.

### **Research Assistance**

We ask the Tribunal to commission, at the expense of the Tribunal, such research as may be necessary to prepare a full report to the Waitangi Tribunal on these matters. However those matters dealing with the Nelson Tenths we wish to have dealt with under the Wai 102 claim. We seek leave to amend this claim if further information or research requires it, and we reserve the right to state further remedies.

**We wish** the claim to be heard at Whakatu Marae in Nelson and Onetahua Marae in Golden Bay and in association with the Wai 56, Wai 102 and other Nelson and Marlborough claims.

### **Notice**

We ask the Waitangi Tribunal to notify the following people of this claim:

- **Department of Conservation**
- **Ministry of Fisheries**
- **Ministry of Commerce**
- **Nelson City Council**
- **Tasman District Council**
- **Wai 102 Claimants**
- **Wai 56 Claimants**
- **Other Claimants in the Nelson and Marlborough Regions**
- **Other Interested Parties**

**WE CAN BE CONTACTED care of the following address:**

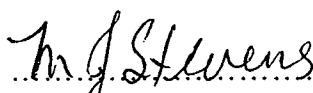
David Bennett  
C/o P O Box 10  
Nelson

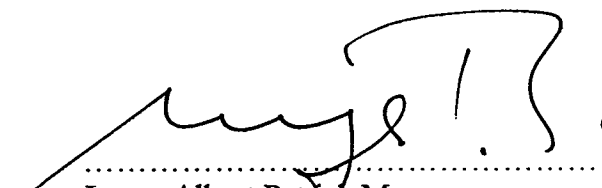
**DATED** at Whakatu this 30th day of January 1998

**Signatures:**

  
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Janice Mary Manson


  
.....  
Hemingamoana Ropata

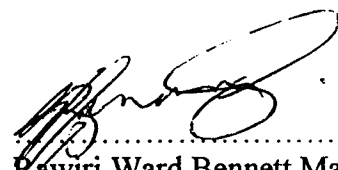
  
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Marama Joan Stevens

  
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James Albert Patrick Myers

  
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Keri Wright Stephens

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John Tahana Ward-Holmes

  
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Frederick Te Miha

  
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Rawiri Ward Bennett Mason