

Example of water rights of the māori in new zealand report

[Business](#), [Management](#)



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Professional Engineering Development

Abstract

New Zealand was inhabited by indigenous people before the European sailors, fishermen and sailors started coming to the waters off its coast. The Māoiri culture and the European culture were in conflict from the beginning due to their different understandings of the purpose of earth's resources. The Waikato River system is important to the Māoiri because of its ancient spiritual meanings as well as its modern practical uses; it is also important to the New Zealand European descendants for its modern uses. The Waikato River has an infrastructure of dams that provide hydroelectric power. A controversy has begun about the ownership of water rights. New Zealanders

are asking if the water rights belong to all the citizens of New Zealand or only to the Māori. This paper looks at the historical and modern reasons this conflict still remains. The argument is made that the water rights belong to the Māori.

(Māori, water rights, New Zealand, hydro power, Waikato river, water quality, cultural differences)

Water Rights of the Māori in New Zealand

The Waikato River is located in North Island. It is New Zealand's longest river with a length of 425 kilometres. It joins with the Tongariro River System and both empty water into Lake Taupo. Lake Taupo is New Zealand's largest lake. The Waikato River and its main tributary, the Waipa River, join at Ngaruawahia. The Waikato River and Lake Taupo are essential to meeting the needs of New Zealand's energy needs. There are eight dams on the river and nine power stations which, in total have thirty nine generating units. The Mighty River Power (MRP) is responsible for generating a consistent supply of electricity. They are also investing in geothermal energy and wind farms (to generate electricity) to ensure New Zealand's energy security. (Whineray, 2012, 4)

On July 22, 2012 New Zealand's 3news published an article with quotes from Prime Minister John Key assuring Māori that " People have rights and interests and those are negotiated iwi by iwi and river by riverI don't think people should be fearful of those negotiations." (Nothing, 2012). Iwi can refer to tribes, people, societies or a nation. Key's comments were due to the New Zealand government's decision to privatize four energy companies owned by

the state. Nevertheless the Māori Council made a request to the Waitangi Tribunal to wait until contested water rights issues are agreed upon. The situation began because the Crown (New Zealand government) wants to sell the Mighty River Power (MRP) who owns the electricity sold from the power generated by the Waikato River Hydro series of dams and reservoirs. Some members of the tribe feel that this should not happen or they will lose any chance to settle historical claims they have on their water rights and how they want the water used.

Good research is essential. It is highly critical that a successful collaboration be made between the original residents of New Zealand and all the other citizens that now live in New Zealand. The purpose is not only to show respect to the people who live in NZ first, the appreciation for clean water resources, healthy habitat for fish and water organisms and the reconstruction of eroded river banks are important for everyone. These seem like they are old-fashioned, traditional concerns but the degradation of the river water and the habitat proves that there is a better strategy. That strategy can be found only by working as a team by sharing knowledge and coming up with mutual decisions to meet the goals of the project.

The government wants to sell shares in the 'assets' of the energy system and allow investment from citizens, national companies and even foreign investors would be welcome. But what exactly would the government be selling shares for? At the moment MRP owns and sells the energy that is produced by the hydroelectric system but it does not own the river. The Māori do not own the river and they strongly believe that no one person or

entity can own the river as it is there for everyone, including for future generations. The world view between the Crown and the Māori are in direct conflict with even more tension due to the talk of selling shares. The Crown views the Waikato River as useful for generating power and perhaps making a profit. The priority of the Waikato River for the Māori is to ensure its future by developing sustainability strategies to preserve the river for future generations.

These developments have started a new debate about who owns the water rights to c . . . the indigenous tribes or all the New Zealand citizens who live there now. The problem is that the indigenous people have a much different respect for water than do the descendants of the settlers who colonized New Zealand. In general three perspectives are being questioned: the terms of the Treaty of Waitanigi (ToW), the ToW principles and the Resource Management Act (RMA). This paper tries to answer the question “ Who owns the water?” This case study looks at the contrasting perspectives on environmental resources and responsibilities to the environment. This case study will try to evaluate the situation of the Waikato River in order to decide who does own the river.

Limitations

The main limitation of this research is that no original research is being done. Primary and secondary sources are being evaluated for the purposes of understanding the perspectives of all the parties involved. This includes the Māori, the Crown, MRP and in general all the citizen of New Zealand who benefit in some way from the Waikato River.

Background

Indigenous people have lived in the land known as New Zealand for many centuries before the British started settling there. By 1840 the most important document between the Māori and the settlers had been signed. At the time the makers of the treaty were calling it 'The Treaty of Waitang'(ToW) and it has kept that name through these many years. This has been the most valuable document in New Zealand's history because the ToW was the founding document creating the nation of New Zealand. More than five hundred Māori tribal chiefs had met to sign the treaty allowing the British Crown some rights to the land in exchange for promises to the Māori tribes. The Lieutenant-Governor William Hobson had been directed to secure British sovereignty for the Crown. The Treaty had been written in two languages so confusion over what was agreed upon still exists especially after 172 years. "Some commentators . . . suggest that it is the spirit of the Treaty that matters most, and that should override the ambiguities and differences of emphasis between the two texts. Legally there is only one Treaty, despite the differences between the two texts" (Treaty, 2005, p. 3).

In the early 1800s a chain reaction of conflict was started because European whalers and seal hunters started sailing close to what is now known as New Zealand. The Māori population was about 100, 000 at the time (Timeline, 2006, p. 3). Both the Māori and the sailors were eager to trade with each other but the cultures were very different and fights often broke out. The Māori were upset about how some of the sailors treated some of their citizens and how some sailors would plunder whole villages. The sailors were

upset because the Māori attacked and sometimes set fire to the ships. Criminals, adventurers and missionaries started arriving. In the 1830's there was concern by humanitarians about the welfare of the indigenous people because of the diseases and problems from the new people arriving to NZ. The British government was petitioned by Māori Chiefs for protection. An Māori Declaration of Independence was signed by 34 Māori chiefs in 1835; this seemed like a declaration of Māori sovereignty to some not the beginning of British colonialism. (Timeline, 2006, p. 4) It had been written by the British representative James Busby. This demonstrated a relationship between the British and the Māori. On February 6, 1840 the Māori Chiefs were asked to sign the Treaty of Waitangi, the same treaty that is in use now.

Unfortunately when a New Zealand Parliament was formed no Māori were included (The Constitution Act 1852). The hope of the British was that the native people would intermix or " amalgamate" (Timeline, 2006, p. 10). The constitutional act of 1852 addressed the rights of the indigenous people vaguely, only in reference to the interactions between the native tribes. In 1944 three settlements were made to compensate three iwi for land and resources that had been taken illegally by the crown. The indigenous people started demonstrating for rights in the 1980s. In the 1990s . . .

Public focus and awareness was on issues surrounding ownership and control of Māori resources as well as partnership between the tangata whenua (Māori) and tāngata tiriti (Pākehā, the people of the Treaty). (Timeline, 2006, p. 14)

A large Treaty settlement for \$170 million was negotiated in 1992 but there was a lot of disagreement over the terms by the tribes that lived inland, outland and those who were more urbanized. This settlement was finally resolved when about \$170 million was paid to each “ the Tainui in 1995 and Ngāi Tahu in 1998” (Timeline, 2004, p. 25).

Photo 1 of the Horahora Rapids on Waikato River in Auckland had been taken before the hydro-electric construction had started at the site. In the photo can be noted the original shape of the banks of the river at that point and the ground cover. A few water loving trees had been growing at the edge of the water. The photo does demonstrate a fast flow in the river but it is still calm flow showing no disruption of the banks or the river sediments. Photo 2 had been used as testimony by Fraser Scott Whineray, General Manager Operations for the Mighty River Power Limited (MRP). The photo was taken of Karapiro Dam with Lake Karapiro in the back and Karapiro Village to the left, Karapiro, New Zealand. The scene of the dam and reservoir at the bottom right of the photo gives some clues to how the landscape was reshaped. From the view in Photo 2 the banks seem to be well protected from erosion due to the mature plant growth.

Photo 1. Horahora Rapids before the hydro-electric construction. Evidence of Fraser Whineray
for the Proposed Waikato RPS Hearings

Photo2. Karapiro Dam with Lake Karapiro behind and Karapiro Village to the left, Karapiro, New Zealand; Mighty River Power Image Library

Renewable Energy Sources

Whineray had given the following testimony at the court hearing.

. . . generation assets throughout the North Island which in 2011 produced 6,833 giga watt hours (GWh), representing approximately 17.5% of New Zealand's current electricity needs. 3 During the 2011 financial year the Company generated 96% of its electricity from renewable hydro and geothermal resources, 4 with most of this generation located in the Waikato Region. (Whineray, 2012, 3)

MRP has been an important power generator for the national security of electrical supply which includes generation capacity, diversity of supply and reliability of supply. Figure 1 shows the stretch of the river where the hydroelectric plants are located. They are designated by the aqua circles bordered in black. The geothermal plants are designated with the aqua circles bordered in white.

The Waikato Hydro Scheme has eight dams and nine power stations (with a total of thirty-nine generating units) with a total rated dependable capacity of approximately 1048 megawatts. Lake Taupo storage is an integral part of the scheme. (Whineray, 2012, 4)

The yellow circles designate planned wind generating farms. MRP's non-renewable generation portfolio consists of a 175 MW gas fired cogeneration

plant at Southdown, Auckland; all the rest is invested in renewable energy generation. Photo 3 depicts the difference in flow rate and water pressure of water in certain areas around the dam compound. It is interesting compared to Photo 1 from before the Hydroelectric System was built.

Figure 1. Location of Mighty River Power's Generation Assets and Future Geothermal Development Site

Photo 3. Aratiatia Rapids, Taupo, New Zealand; Mighty River Power Image Library

The National Institute of Water and Atmosphere in 2010 developed the Waikato River Independent Scoping Study with all stakeholders, importantly including indigenous tribe representatives. This detailed study was focused on developing ways to co-manage resources. At hui held locally some suggested decommissioning the hydroelectric dams. This action was found to be impossible to do at this time because 13 percent of the electricity for New Zealand is from the Waikato River hydro power system. The infrastructure is expected to last another thirty years and there is no alternative available yet for another source of electricity. The study addressed the issue of returning the river to the original condition but this is not possible due to issue of sedimentation, toxicity, flooding and society has adapted to the hydro power system of dams. The study recommended better communication about water levels. It also recommended continuing research on the ecology of the river, especially the presence of river bank erosion and the ecosystem. The last recommendation was to include safety in the

previously mentioned studies for the adverse effects of the electrical infrastructure on the river. Photo 4 is a depiction of the Maraetai Dam and Power Stations to show the complexity of the compound. At this particular site the river was redesigned in order to supply the most energy in the most efficient way.

Photo 4. Maraetai Dam and Power Stations, Maraetai, New Zealand;
Mighty River Power Image Library

Discussion

The Waikato River Settlement Act of 2010 seems to be the most important agreement to date between indigenous people and the crown. This settlement is based on a new way to manage the Waikato River including all the citizens that have impact on and are impacted by the river including the hydro electric infrastructure which has been built on the river. The Settlement Act 2010 created a new form of cooperative management title the Waikato River Authority. The body was initiated in November of 2010 and is composed of 50 percent Māoiri and 50 percent Crown membership. Collaboration for decision-making is a basic goal of the Authority. The difference in attitude and perspective towards the river is notable in three points of the mission statement for the Authority. Firstly it is concerned with the “ restoration and protection of the health and wellbeing of the Waikato River for future generations” (Waikato, 2010, p. 9). Secondly the authority is concerned with looking at the river system as a ‘ whole’ using a holistic approach problem solving and collaborative management issues. Thirdly the mission statement includes that the body will “ fund rehabilitative initiatives

for the Waikato River in its role as trustee for the Waikato River Clean-Up Trust (also established under the Act)” (Waikato, 2010, p. 9). The Waikato River Scoping document (2010) also notes that other river Iwi support the “co-management arrangements (p. 9). In order to accomplish these three tasks the Authority must decide on the priorities that the River needs for rehabilitation projects, calculate the approximate costs of any suggested rehabilitation projects, and share appropriate information concerning the Clean-Up Fund. “ The multidisciplinary Study team contains scientists, social scientists, practitioners in maatauranga Māoiri, farming systems specialists, economists, engineers and planners” (Waikato, 2010, p. 10).

Parts of the Resource Management Act have important issues for the Māori. Many of these are included in Section 7 which addresses the issues of Kaitiakitanga which is the name of the Māori concept for stewardship or being the guardian of the river. There is also an attitude towards the ecosystem that has a precious and intrinsic value to the traditional beliefs of the Māori people that most modern citizens never think about. The River is thought of as a spiritual place and many ancient monuments or more modern buildings for worship or remembrance are near the river. Some of them have been ruined but others can be reconstructed.

The principles of the treaty are hard to put into English words. Now that there are people that speak both languages there is a better understanding but not necessarily perfect understanding. In 1989 the Labour Government (PM Lange) suggested that the Principle of the Government be considered the Kawanatanga Principle. He also suggested the Principle of Self-

Management be considered the Rangatiratanga Principle. When the Rangatiratanga Principle is invoked the Iwi will have legal right to organize and to control their resources; also they would have protection from the government so that their ancient treasures could be taken care of whether they are cultural, a building or some tangible object. The three remaining principles suggested by former PM Lange are the principles of (a) equality, (b) reasonable cooperation and (c) redress. These have not been codified into a law or into the treaty as law.

In 2010 when the scoping document was published the river was found to be in bad shape and showing many changes since the impact of European activities. A big concern for the iwi is the fact that even human sewage is being discharged into the river, this is not something done in the Māoiri culture and is considered very disrespectful. Locations and names important to the Māoiri are being used to correctly identify places and the loss of important ancient sites is considerable. The water shows a different colour and less clarity than in pre-European times and also the vegetation and shape of the riverbanks have changed. The worse water quality was found to be in the lower Waikato River and in almost all of the tributaries.

Unfortunately toxins were analyzed in the water such as mercury and arsenic. Algal blooms have been observed and the e-coli concentration was high (due to the faecal matter discharge). Farm run-off is happening in large quantities and needs to be slowed or stopped. Urban run-off from parking lots and other urban man-made topography is also causing problems that result in the algal bloom, too much sedimentation, and no swimming rules.

Fresh water fish catches have declined, native vegetation is no longer in great abundance and there is a problem with invasive plants that are non-native the area. The Authority offered detailed explanations and discussions on their vision for the future quality of the river. They also made detailed lists of how to realistically and practically reach their goal of an improved river system. They would like to see the river return as closely to its natural pre-European state as possible.

In the summer of 2012 the crown announced it wants to sell the (MRP) the owner of the electricity sold from the power generated by the Waikato River. This caused some tribes to become upset and announce their dissent to the sale. The basic reason is because they do not want to lose their claims on the Waikato River water rights. In September the spokesperson for the king, Tuku Morgan (who is also co-chair for the Waikato River Authority) suggested that the Authority take over the allocation of the water. The Authority is a co-management entity with both iwi and Crown members. Its main purpose has been to clean the river. (Councils, 2012, NBR) In October 2012 several statements have been announced by the NZ Prime Minister. There is a 'share-plus' option being discussed now which would share profits between shareholders and the tribes; anyway the sale of 49 percent of MRP has been postponed to discuss this option. (Hydro, 2012, 3news)

Conclusions and Recommendations

The relationship between the Māoiri and all indigenous people of New Zealand with newcomers has been one with a history of violence and conflict due to basic differences in cultural attitudes. The Māoiri have a spiritual

regard for the earth and the resources of the earth. The Europeans who came to their land starting in the 1800s were interested in resources to sell and making a living. Yet in the past large sums of settlement money, in the range of hundreds of millions of dollars were given to the indigenous people to make up for have caused the non-indigenous citizens of New Zealand to become cynical about the Māori and their relationship with the earth. Many vocal New Zealanders express the opinion that the Māori are getting money for doing nothing. The white New Zealanders can become very upset and often unwilling to support the negotiation of such things as water rights. Some are so extreme that they (the whites) want to make it a law that everyone who is a citizen is a New Zealander so that the tribal identifications disappear. (3news, 2012, comments) But finally in September of 2010 the Waikato River Authority was formed as a way to give everyone voices in the future care of the river system where both the maatauranga Māori and Western science have a good place to share their knowledge and work out the best strategies to rehabilitate the river. The formation of the Waikato River Authority is a very modern way to solve the problem of miscommunication between the Māori culture and the capitalistic culture of the Crown. Yet the controversy is still not decided about who owns the water. It is a very difficult decision to make since in the original treaty the Māori had no concept of the ownership of land or water like the Europeans had. This is the major problem to this day in understanding the intention of the original treaty. Two languages and two cultures each had their own version of the treaty that was supposed to magically meld into one treaty. The New Millennium is a hopeful one though. Now many experts exist who can

interpret the culture of the 1800s when the treaty was signed. The contemporary Māori are now able to communicate their thoughts and goals for the water. I think the water rights belong to the Māori because it belonged to them before the Europeans arrived. Also it has been treated as if it belonged to the Māori in the modern negotiation of MRA for use of the energy made by the dams in the river but not the water itself. This sets a legal precedent to continue to consider the water rights as belonging to the Māori.

Because the MRP is responsible for the electricity security of the nation all of the citizens have some investment in the energy and other resources provided by the Waikato River system. Whineray, the MRP general manager stated that ninety six percent of the regions electricity was generated by the MRP. Four thousand and two Generation Watts per Hour (GHW) was reported for 2011. The replacement value was estimated at 5, 207 NZ\$.

A good compromise may be to codify the Treaty Principles as an attachment to the ToW so that the guardianship for the Waikato River will be the Māori peoples' legal responsibility. The Kawanatanga Principle addresses the guardianship and the Rangatiratanga Principle addresses the issues of sovereignty. The running of the Hydro Electric and Geothermal facilities must be run by the MRP with the understanding that all the people of New Zealand have a right to energy security.

References

3 news. (11 October 2012). Hydro companies will pass on water charges.

3news. co, Retrieved from <http://www.3news.co.nz/Hydro-companies-will-pass-on-water-charges/tabid/421/articleID/272320/Default.aspx#ixzz29Wv8mj6q>

3 news. (15 October 2012). Government goes ahead with share sale. 3news. co, Retrieved from <http://www.3news.co.nz/Government-goes-ahead-with-share-sale/tabid/1607/articleID/272815/Default.aspx#ixzz29WuWmsRa>

3news. (15 October 2012). Government going to court over asset sales. 3news. co, Retrieved from <http://www.3news.co.nz/Government-going-to-court-over-asset-sales/tabid/1607/articleID/272830/Default.aspx#ixzz29Wu9B9Rf>

All About the Treaty. (2005). The Treaty of Waitangi, Information Programme Wellington, NZ: State Services Commission. ISBN 0-478-24449-5 Retrieved from www.treatyofwaitangi.govt.nz

Councils should lose right to allocate Waikato River water – Tuku Morgan. (17 October 2012). The National Business Review, Retrieved from <http://www.nbr.co.nz/article/councils-should-lose-right-allocate-waikato-river-water-%E2%80%93-tuku-morgan-ck-127989>

Nothing to Fear over Water Rights – Key. (22 July 2012). 3news. co, Retrieved from <http://www.3news.co.nz/Nothing-to-fear-over-water-rights-says-Key/tabid/1607/articleID/262165/Default.aspx#ixzz29WspaLtS>

Sabin, B. (16 October 2012). Maori Council expects to head to court. 3news.

co, Retrieved from <http://www.3news.co.nz/Maori-Council-expects-to-head-to-court/tabid/1607/articleID/272918/Default.aspx#ixzz29WtfXErc>

The Timeline of the Treaty. (2006). The Treaty of Waitangi, Wellington, NZ: State Services Commission, Information Programme. ISBN 0-478-24474-6. Retrieved from www.treatyofwaitangi.govt.nz

USEPA (United States Environmental Protection Agency). 2012 September 12. 'Environmental Stewardship.' Retrieved from <http://www.epa.gov/stewardship/>

Waikato River Independent Scoping Study. (2010 September). NIWA Project MFE10201, IWA Client Report: HAM2010-032, Hamilton: NZ: National Institute of Water and Atmospheric Research Limited. Retrieved from <http://www.niwa.co.nz>

Whineray, Fraser Scott. (19 March 2012). "STATEMENT OF EVIDENCE OF FRASER SCOTT WHINERAY IN THE MATTER of the Resource Management Act 1991

AND IN THE MATTER of a submission and further submissions by MIGHTY RIVER POWER LIMITED in respect of the PROPOSED WAIKATO REGIONAL POLICY STATEMENT." Evidence of Fraser Whineray for the Proposed Waikato RPS Hearings. Retrieved from <http://www.waikatoregion.govt.nz/PageFiles/21512/10%20May/May%2010%20Item%202.pdf>

Glossary

Customary rights These are the rights that are developed over time by the habits of a group's behaviour.

Environmental Stewardship The US Environmental Protection Agency defines

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environmental stewardship as the “ responsibility for environmental quality shared by all those whose actions affect the environment” (USEPA, 2012)

Environmental Sustainability Making sure that the care of the environment leads to sustaining the environment in its best possible form. For example matching land use suitable to certain areas of land is important in making sure that sustainability goals can be realistically met.

Hui

a meeting of people, gathering or assembly

Iwi

tribe, nation, people, society

Maatauranga Māori

The Māori knowledge base from ancient times to modern times

Mana Whenua

Mana refers to authority, power, charisma and prestige. It is considered a supernatural characteristic. Whenua refers to the earth, the country, the land, and placenta (or afterbirth). Mana Whenua demonstrates the reverent attitude towards the earth and the resources offered from the earth.

Māori

indigenous person of Aotearoa (in New Zealand)

RMA

Resource Management act

SOE

State Owned Enterprises

Spirituality Defined as the “ knowledge that while everyone is an individual,

all are part of a larger life force sometimes referred to as Mauri(life force) in its own right" (Walikato, 2010, p. 105).

The Crown

The New Zealand government

ToW

Treaty of Waitanigi