

To be read in conjunction with  
the tabled evidence/statement



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**HEARD BEFORE JUDGE D SHEPPARD (CHAIR), MR K PRIME,  
DR J HARDING AND MRS J VERNON, MEMBERS OF THE BOARD**

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**WEDNESDAY 16 SEPTEMBER 2009**

**HELD AT FORUM NORTH, RUST AVENUE, WHANGAREI**

**HEARING OPENED [9.01 am]**

**APPEARANCES**

Mr R Lieffering and J Gibbard, Northland Regional Council

Ms T Shortland and Mr P Tipene, Te Rūnanga o Ngāti Hine

Mr T Petricevich and Ms P Petera, Ngāti Hapu o Ahipara Te Taitokerau

Ms M Hicks, Bream Bay Action Group Inc

Ms E Gibbs Smith and Mr I Mitchell, Pataka Matauranga Charitable Trust

Resource Management Unit

Audio file: dpm 0147

**CHAIR:** Good morning and welcome.

**MR LIEFFERING:** Thank you.

**CHAIR:** We're in the last few days of hearings on the submissions around the country. Welcome representatives of Northland Regional Council. And we'd like you to present your submission without any formalities at all. You don't need to stand or anything like that. You just present it how you would like and perhaps after you've done that there may be some questions from the Board.

**MR LIEFFERING:** Sure. These are just copies I've done of the submission (inaudible). Thank you Mr Chair. Our written submission that we lodged is what I'll be speaking to today. There'll be no supplementary evidence or no experts called. And the thrust of our submission is that we generally support the intent and the objectives of the NPS and we are generally supportive of the alternative NPS promoted by Local Government New Zealand.

So our submission is very much around their alternative NPS. And because our submission is not too long I choose just to read our submission out.

**CHAIR:** Thank you very much.

**MR LIEFFERING:** The Northland Regional Council thanks the Ministry for the Environment and the Board of Inquiry for the opportunity to make a submission on the proposed National Policy Statement for Freshwater Management. The Council supports the intent of providing an

NPS that aims to improve the sustainable management of freshwater to protect our freshwater resources into the future and to acknowledge the fundamental importance of water to all New Zealanders.

However the Council has some significant concerns with the proposed NPS as it is currently drafted. Namely the proposed NPS is too process focused and prescriptive. Policy issues are not clearly defined. Clearer national direction should be provided to local authorities regarding what the freshwater management issues are and the outcomes that the NPS is trying to achieve.

The timeframes and costs associated with implementing the NPS, particularly the changes to regional and district plans are unreasonable and will put a significant amount of pressure on the Councils resources.

There needs to be clear links and consistency between the NPS and other national documents and guidelines related to freshwater management such as the National Environmental Standards and various water quality guidelines. At-risk freshwater resources, those being at risk of becoming degraded if not specifically managed are not recognised or provided for specifically in the NPS.

There are a large number of terms that are either not defined or are not consistent with terms used within the RMA and this will result in unnecessary litigation for councils.

And lastly more direction should be provided in defining priorities of water use in order to provide certainty to communities and water users.

In preparing this submission the Council has considered what the key freshwater management issues are for Northland in the context of

sustainable management of Northlands freshwater resources.

Additionally the Council has considered the position of the NPS in relation to the RMA and the range of policy statements and plans which exist within Northland.

The Council is a member of Local Government New Zealand, LGNZ. A copy of LGNZ's submission dated 6th of January 2009 had been pre-circulated to the Council when we were preparing our submission. The Council generally supports the alternative NPS as outlined in LGNZ's submission however in the event that the Board of Inquiry decides to adopt, either in whole or in part, the alternative NPS then the Council requests an opportunity to make specific comments on any such reviewed NPS. We've further read the Local Government New Zealand alternative NPS and we do have some suggested improvements on some of their objectives and policies.

This submission relates to the NPS as proposed by the Ministry for the Environment but also it refers directly to some parts of the LGNZ submission. To avoid duplication, irrelevant sections of the LGNZ submission are not replicated in our submission.

National Guidance. The objectives of the proposed NPS stating what aspects of freshwater management should be recognised as matters of national significance are generally supported. However, the policies for their implementation generally provide little guidance and direction other than to specify the process that local authorities must follow.

The proposed NPS in its current form will require the majority of guidance and direction from regional and district plans to be provide by regional authorities through their Regional Policy Statements.

Local authorities have consistently requested that any NPS needs to retain flexibility for local authorities to develop policies, rules and standards to best meet the needs of their region. However proposed NPS has not found the right balance in our view between national guidance and local flexibility with the result being potentially significant financial costs to local authorities in interpreting and implementing the process heavy policies. Greater national guidance is required through high level policy direction while retaining local flexibility.

Potential Litigation. One of the key objectives of the proposed NPS should be to minimise the amount of potential litigation that local authorities may face. However due to the lack of guidance, direction and certainty provided by the proposed NPS local authorities will be open to considerable litigation when attempting to interpret and implement the policies. For example there are a number of significant new terms in the proposed NPS with no definitions and these would likely be challenged through the courts. Additional guidance on interpretation and provision of definitions for new terms would be helpful and where possible terms should be consistent with those used in the RMA.

Key Freshwater Values. Policy 1 of the proposed NPS establishes a process for identifying outstanding and degraded water bodies with notable values. While the proposed NPS sets out the process to identify outstanding and degraded water bodies with notable values it lacks overall direction or mandate to support regional decision making. The development of nationally important values in relation to freshwater resource would be useful to guide local authorities in their decision making, reduce the potential for litigation and provide a degree of national guidance whilst retaining local flexibility to identify which freshwater resources have these values. The Council supports Local Government

New Zealand's approach of identification of national values or priorities for freshwater resources through its alternative NPS Objective number 2.

The proposed NPS does not acknowledge that some freshwater resources are naturally degraded and may be not be able to meet the national values. The Council supports the LGNZ submission in respect of acknowledging that such water resources exist and that they will not be subject to the overall intent of improving water quality to achieve the national values.

Objective 3 in the proposed NPS seeks the progressive improvement of the quality of appropriate freshwater resources to ensure that they reach or exceed a swimmable standard. The term "appropriate" is an ambiguous one and as such will be open to interpretation and potentially litigated through the courts.

More direction should be given as to which freshwater resources Objective 3 applies to. Likewise what constitutes a "swimmable standard" is not defined and therefore is also open to interpretation. The LGNZ submission introduces an alternative term "safe swimming" which is defined as that presented in Clause 5 of Schedule 3 of the RMA. Clause 5 of Schedule 3 presents three criteria, all of which are somewhat ambiguous.

[9.10 am]

There have been a number of guidelines published relating to water quality for contact recreation and swimming which cover these three criteria. For example the Water Quality Guidelines number 1 and number 2, 1992 and '94 respectively. The Microbial Water Quality Guidelines for Marine and Freshwater Recreational Areas 2003. And the ANZAC Water

Quality Guidelines. It is the Councils submission that the NPS needs to provide specific national guidance regarding what standard is expected to be met for water to meet a swimmable standard or whatever similar term might be used.

Timeframes. The timeframes specified in Policy 2 of the proposed NPS of 40 days for the notification of proposed regional and district plan changes to give effect to the RPS is unreasonable and unrealistic. Furthermore the timeframes do not recognise the hierarchy of planning instruments that may result in key freshwater issues being addressed inconsistently between regional and district plans. Realistic timeframes are required for the implementation of changes to the RPS and these timeframes should be identified within each regions RPS.

Water Allocation and Use Priority. The proposed NPS provides some direction in terms of managing demands for freshwater and setting use priorities in terms of water allocation, for example, Objective 6 in Policy 1. However the NPS should provide stronger direction in respect of managing allocation of freshwater resources such that there is sufficient water to meet drinking water demands, maintain environmental flows and levels, ensure efficient use of water, and ensure resilience to climate change. Policy 1 of the proposed NPS provides priority for water to be used for reasonable foreseeable domestic water supply over other uses. However this term could be narrowly interpreted as there is no definition of “domestic water supply” and it is unclear whether this includes or excludes municipal supply. It is the Councils submission that the NPS should include municipal supply together with domestic supply as priority uses and a new term included called “domestic and municipal supply” in the NPS with an appropriate definition as suggested in the LGNZ submission.

Freshwater is a limited resource and one that is subject to increasing demand and competition between various sectors of the community. To ensure the most efficient and effective use of this resource, regional authorities will need to set priorities of use. However the proposed NPS does not provide a clear mandate nor guidance for regional authorities to do this. This would leave regional authorities open to litigation when attempting to set such priorities. The proposed NPS needs to provide a clear requirement for regional authorities to set priorities for water use and to ensure efficient use of a limited resource thereby reducing the potential for litigation. In this regard the Council supports the LGNZ submission however it is our submission that the LGNZ's alternative NPS Policy 12(b) should be altered such that is mandatory, i.e. the word "may" should be replaced by the word "shall", for regional authorities to identify priorities for other uses that is other than domestic and municipal water supply.

At-Risk Freshwater Resources. The Council considers it important that the NPS recognises those freshwater resources which, although not currently in a degraded state, are at risk of becoming degraded if these freshwater resources are not specifically managed. The proposed NPS lacks any direction or guidance in respect to such at risk resources. The Council generally supports LGNZ's approach in respect of identification and management of at risk freshwater resources as a priority.

Integrated Management. Integrated management of land use activities and the effects on freshwater resources is identified as a matter of national significance. However the proposed NPS provides no clear guidance as to how to give effect to this. One aspect of integrated management that the NPS should provide greater guidance on is how to address cumulative effects. Clear direction should be provided to Regional Council's to avoid the impacts of cumulative effects on water

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quality and provide a strong mandate to local authorities to refuse resource consent applications where the potential cumulative effects of an activity might compromise the minimum water quality standards and or minimum flows or levels.

Tangata Whenua Values and Interests. Objective eight and policies one, four and five of the proposed NPS seeks to ensure the involvement of both iwi and hapu and that Tangata Whenua values and interests a new undefined term are identified and reflected in the management of freshwater resources.

The concern is that the provisions in their current form are unclear and overly onerous on both Hapu and local authorities, and will be difficult to effectively implement.

For example Northland has nine mandated Iwi, and many Hapu. The council considers that the NPS should refer only to the term Tangata Whenua, which ensures consistency with the terminology used in the RMA, and also allows local authorities flexibility to make arrangements for Tangata Whenua, including Iwi, and Hapu involvement.

The proposed NPS should identify Tangata Whenua values and interests at a national level and require local authorities to ensure involvement at the Tangata Whenua level.

Thank you for hearing our submission.

**CHAIR:** Thank you very much. Now if you'll agree we will just see if there's some questions to elaborate further on the submissions you've made. May I start with Mrs Vernon?

**MS VERNON:** Thank you. Thank you for your submission. I just wonder if you would mind briefly outlining what your status of your Regional Policy Statement is. Have you got a regional plan, and what's your water management strategy, and what are the pressures that you're under up here? Because I mean it's helpful for us to have a background.

**MR LIEFFERING:** We've had an operative RPS for just over ten years, so we're in the business of reviewing our RPS, and creating our second generation RPS. We have an operative regional water and soil plan, which covers water management, both water quality and quantity. And that's been operative for just on five years, so we're at the five year efficiency and effectiveness review stage. And just by coincidence all our other regional plans are at that stage as well and so our council is actually considering, or has considered the development of a single plan. So we call it a One Plan and we looked at not just our single regional plan, but potentially including our three districts plans together within a total combined plan. A decision on whether or not that goes forward is yet to be made by the council, and all the councils.

Our water management approach, and our water and soil plan, is - in terms of water quality we have a policy which requires us to classify our waters. We haven't done that. But in the absence of water classification standards our plans have an alternative set of policies which says that when you're dealing with particular applications, you need to take on a case to case basis, consideration for the values of the water body, and that can be for recreational uses, ecological, cultural, what have you. And we have a variety of standards that are in the plan that we can use.

In terms of our water management we have a surface water management regime, which is a traditional first in, first served basis, and people can take water down to a minimum flow, and that is an ecologically based

minimum flow. And there are two thresholds for that. One of them is the mean annual low flow for sensitive rivers and the other one is the one in five year seven day low flow for pretty much all other rivers. And we're not happy with that regime, and we're currently in the process of having a separate project, which is a water allocation project, which will hopefully quantify the water that we are able to allocate both in terms of our surface water, and our groundwater and tighten up on our water allocation regime to make it more equitable and to provide more certainty for water users.

So groundwater is - we have a number aquifers here, a lot of them are basalt type of aquifers and then we have a range of coastal aquifers, and those coastal aquifers are at risk of salt water intrusion by overuse and reduced infiltration from development - recharge that is. And the pressures on our water resources come mainly from irrigation and municipal supply. So, large irrigation developments have historically taken place for pasture irrigation for dairy farms but that's now being replaced by a lot of avocado irrigation, particularly up north of Kaitaia at the Aupouri area which is a groundwater resource.

**MS VERNON:** Thank you for that, that's very helpful. In your Paragraph 12 wonder if you would like to explain where you talk about that some freshwater resources are naturally degraded and that the NPS doesn't acknowledge that. What do you mean by that?

[9.20 am]

**MR LIEFFERING:** Well we have some areas in Northland where, due to the geology, the streams and the springs that come out and that feed various water resources have high concentrations of metals, for example, arsenic, mercury, and just where there's geothermally altered geology. So that's an example where those waters in their natural state probably don't meet

certain water quality guidelines, be it full contact recreation, or drinking water, whatever it is. And I think it's unrealistic to expect the council to obviously improve that water quality to the levels expected in the NPS.

**CHAIR:** Piripiri is an example.

**MR LIEFFERING:** That is a good example, yes

**DR HARDING:** Can I just following on from that, so you've identified already where those systems which are naturally degraded already exist? Do you know where all of them are?

**MR LIEFFERING:** No

**DR HARDING:** So there's some that may be naturally degraded that you're not aware of?

**MR LIEFFERING:** We would probably know of most of them, but we haven't gone through a process of actually registering those or identifying them and writing them down, and giving them any recognition formally. Are there others out there that we don't know of? Probably.

**DR HARDING:** So what happens at the present moment if you have a discharge (inaudible) or something in one of the systems that you already know are naturally degraded, how do you set out consent conditions and those sorts of things for those?

**MR LIEFFERING:** The ones that I'm aware of are primarily degraded due to metals, and the discharges if they're - well firstly they're usually in quite remote areas, but if there's activities taking place such as say mining prospecting, which Piripiri is a reality and probably even got a prospecting

license in there, the types of discharges that you're talking about probably are quite different to the naturally - sort of the determinants that you're looking at within that waterway that are naturally high. So they might be discharging a sediment or whatever, and therefore they've got a separate type of standard that we would apply to that system. It would be unlikely that the contaminants being discharged are the same ones that are naturally high. Unless they were looking at mining those exact minerals and then it would be an interesting exercise.

**MS VERNON:** Just moving on to your Paragraph 18. You talk about the NPS needing to provide a clear requirement for regional authorities to set priorities for water use. Now you have mentioned municipal, and obviously that's initial here. Interestingly, what do you think would come second for Northland, or is there really only the need to identify domestic and municipal? Is that your biggest concern?

**MR LIEFFERING:** Yes I'd say so. Jonathon you got any -

**MR GIBBARD:** On the face of it I was thinking that it is probably the two main priorities for Northland.

**MS VERNON:** Domestic and municipal.

**MR LIEFFERING:** Yes and I guess next would probably be irrigation, but -

**MS VERNON:** You don't have any big hydro's up there though do you?

**MR LIEFFERING:** No, we have one hydro on the Wairoa which is a very old one, I think 80, or 90 years old. And we have a geothermal field for electricity up the market.

**MS VERNON:** That's fine, thank you.

**CHAIR:** Mr Prime?

**MR PRIME:** I'm just referring to your second paragraph. What do you think is a reasonable timeframe?

**MR LIEFFERING:** Well, interesting, we probably disagree with the LGNZ timeframe in terms of the RPS being reviewed. I think they're promoting that the RPS be amended as necessary as soon as is practicable, or at least before the next statutory requirement, which, of course that could be ten years. We feel that with the RPS probably two years is reasonable from the date of commencement of the NPS, but it's really the 40 working days after that that is probably problematic. And there are some timing issues with regards to the proposed NPS timings on those, I think there's discussion in that same sort of policy, which talks about resource consents having to have certain things done to them at the time that the NPS comes into force but then you've got the time for those regional plans to be changed in the first place as well. But in terms of that 40 days I would have thought within a year would be reasonable.

**MR PRIME:** The other question I had was to do with Paragraph 23. Do you consider that the term "Tangata Whenua" does include Iwi and Hapu?

**MR LIEFFERING:** John did you want to -

**MR GIBBARD:** (Inaudible)

**MR PRIME:** No that's fine. Thank you. Thank you Sir.

**CHAIR:** Dr Harding?

**DR HARDING:** You've made a mention in your submission of this issue of national guidance, and correct me if I'm wrong, you're suggesting that at some level some grant of national guidance is required, but you would still like flexibility?

**MR LIEFFERING:** Yes

**DR HARDING:** Do you have some suggestions as to how one provides greater guidance, but still give flexibility?

**MR LIEFFERING:** I guess it's providing the guidance on what criteria would be used to, say, identify outstanding freshwater resources, the notable values, and the like but then have the ability to apply those at the regional level. So that we're not interpreting what does it mean providing outstanding value for degraded, or what the notable values are, so we don't have to interpret that, so that it's set at the national level. And then we apply that at a regional level with our community input through the First Schedule process.

**DR HARDING:** The Local Government New Zealand submission gives an example of some of these things, international priority, this is 18.6 of their submission, I'm not sure if you've got a copy of this or not.

**MR LIEFFERING:** Yes I have.

**DR HARDING:** But they talk about providing for safe swimming and allow for recreation in the water, allow for protection of outstanding fish or fish, wildlife, mahinga kai. Potable water and providing protection of intrinsic values. So I mean some of those are quite vague and I'm not entirely sure how that sits with the proposal in the draft statement at the present

moment, which might be implied as requiring all freshwater systems to be safe for swimming. Can you offer any elaboration on that?

**MR LIEFFERING:** I think their example for outstanding freshwater resources is a good one to look at, where they say in their policy, “Outstanding freshwater resources shall be identified by reference to the following criteria,” and they specify those quite clearly. This is page 57, in 19.15 of Part 3 of their NPS. So they clearly state what those outstanding freshwater resources, how you identify those at a national level, and then you can use those criteria in your local level to say, “Well that applies to this water body,” or not.

**DR HARDING:** Okay. So then you talk in your submission about catchments at risk. And I guess you may then fall into a different sort of criteria.

**MR LIEFFERING:** Yes, their Policy 9.

**DR HARDING:** Okay. Thank you.

**CHAIR:** Can we just come back for a moment to the naturally degraded waters. And you’ve described the mineralised waters, I understand that and one example that you gave was the Piripiri.

[9.30 am]

**MR LIEFFERING:** Yes

**CHAIR:** One example that you gave was the (inaudible) and perhaps the waters of Ngawha are somewhat similar? Is there another category of naturally degraded waters that arises from buried ancient forests, where you get organic contamination from buried forests?

**MR LIEFFERING:** I'm not aware of any in Northland but I'm not an expert in that area but that could well be the case.

**CHAIR:** Well, on the Aupuri Peninsula there's buried Kauri forests, aren't there?

**MR LIEFFERING:** Yes

**CHAIR:** Has that affected the quality of the water? There's a lake there somewhere, there's sweet water I remember but I've forgotten the name of it.

**MR LIEFFERING:** Yeah, I'm not aware of that myself.

**CHAIR:** Okay, all right, thank you. Now, in your paragraph 4 you're telling us that the council requests an opportunity to make specific comments on the revised NPS. Now, I'm seeing that as a problematic request and one that's unlikely to be practical to respond to, but I just want to be sure that I'm not misunderstanding what the council is saying to us there. The Board published this proposed NPS that was prepared on behalf of the Minister and authorised by the Minister and called for submissions. And when the submissions were in, they were made public, and then the Board chose to invite anybody who wanted to lodge a further submission in the customary process of saying whether a further submitter supported or opposed anything in one of the first round of submissions. And we had thought that that was the way in which everybody would have the opportunity to comment, because of course any amendments that the Board itself makes to the original proposal need to be in response, at least in a general way, to submissions already lodged. But the Board is an ad hoc Board, when we make our report to the Minister we've done our task and get on with other things. And so can help me to understand how

that request that I'm asking you about, fits within that description of the Board's role?

**MR LIEFFERING:** It doesn't, but the intent of that statement was that the local government submission was proposing an alternative NPS which was, I guess, quite different to the one that's being proposed by the Ministry. And we thought that if the Board felt that the local government alternative was a more appropriate way of drafting an NPS for freshwater management, which is quite different to the one that was proposed, if there was a possibility or opportunity for further comment on such a revised NPS that would be beneficial to us. Because we don't know what the Board will come up with. But if there's likely to be a significant change, then we'd just think that it might be fair to allow -

**CHAIR:** Would there ever be an end to it?

**MR LIEFFERING:** If there was a significant shift we would request that opportunity that all is possible, that's all I say. We appreciate the restrictions.

**CHAIR:** Thank you. Now, in your paragraph 16 you say, "The NPS should provide stronger direction in respect of managing allocation of freshwater resources." Now, I rather had the impression listening to a good few submitters over the last few months, that some people use "allocation" in a different way than other people use that word or term. Some people talk about allocation of a water resource to a variety of classes of activity like environmental flows, domestic and municipal, irrigation, hydro generation, various things like that. Other people seem to talk about allocations in the way of a specific grant of authority to take or divert water in a particular place. Can you help me to identify what is the proper meaning of the word and how it should be used?

**MR LIEFFERING:** I think it's probably a combination of the two. I think you've got an allocation - if we look at surface water as an example, flows in rivers and streams, there's an allocation provided or should be provided to maintain ecological values for example. So in-stream values, so that's an allocation of that water. The remainder, and that could be for cultural reasons, it could be for aesthetic reasons or whatever, the remainder is obviously the amount of allocable water that can be taken out of stream for use and then you've got a splitting up of that out of stream use for a variety of uses, potential demands.

**CHAIR:** Classes of activity?

**MR LIEFFERING:** Correct. So it's probably a combination of the two.

**CHAIR:** And so when people talk about trading consents to take (inaudible) or whatever, that's a different kind of thing altogether for which we should be searching for a different word, is it?

**MR LIEFFERING:** If it's for a different use then it's probably part of that second allocation equation, I would've thought.

**CHAIR:** Yes, and if it's for the same use but in a different place and by a different consent holder, how does that work?

**MR LIEFFERING:** I think then if it's still allocated for the same use then it's fine, I would've thought.

**CHAIR:** Yes, well I understand that. All right, thank you. Now in one of - your paragraph 18, you're giving us a refinement of the LGNZ proposal and proposing that some things should be mandatory. My question of that

comes to the nature of the document itself. We're talking about an instrument that is a policy statement, it's not a plan, and by definition it doesn't contain rules. Can a policy statement that is not a plan and can't have rules make anything mandatory?

**MR LIEFFERING:** I would have thought in the context of what this is about, which is the prioritisation of use once you've allocated for domestic and municipal supply, that would be fine, if you're already saying in the NPS that you're giving a priority to domestic and municipal supply then why can't you then require the prioritisation of the remaining resource. I would have thought that could be done in the NPS.

**CHAIR:** Some regional councils and other submitters have impressed upon us the variety of freshwater circumstances throughout the country and have insisted as you have done that there should be some flexibility at the regional council level. And so it's possible that the Board may accept all of those urgings and not itself lay down what the priorities for taking or use should be on a national basis, but perhaps do what you've just been talking about with my colleague and identify criteria that different regional councils might use in the circumstances of their own freshwater demands, and identify their own priorities. And if that's the case, they then would be given effect by rules in a regional plan rather than by some kind of - well it couldn't be called a rule, but some attempt to be compulsion or mandation either regional or National Policy Statement. Is there anybody who'd like to respond to that?

**MR LIEFFERING:** I guess that paragraph is highlighting that the LGNZ alternative policy does not make it mandatory for regional councils to set priorities for use, for other uses, and we feel that that should occur.

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**CHAIR:** And if the Northland Regional Council thinks that it should, then it may do it for itself and if the Westland Regional Council thinks that it needn't, given entirely different circumstances for freshwater in Westland, then should it be made compulsory if they don't see the point in their circumstances?

**MR LIEFFERING:** Fair comment.

**CHAIR:** All right, thank you. Well, we've been very much helped by your submission but especially with the answers that you've given us in these conversations, so thank you very much indeed, we appreciate you taking part and coming this morning.

**MR LIEFFERING:** Thank you for the time to hear us.

**ADJOURNED** [9.40 am]

Audio file: dpm 0148

**RESUMED [10.02 am]**

**CHAIR:** Good morning to you all. Thank you for coming this morning to present on your submission. We don't have any particular formalities. You can present it just as you like, you don't need to be standing to speak or anything like that, and when you have completed your presentation, we may have some questions which led to some useful further understanding.

Now you are Tui Shortland, are you?

**MS SHORTLAND:** Yes.

**CHAIR:** Good morning. You are going to address on behalf of the Rūnanga, are you?

**MS SHORTLAND:** That's right.

**CHAIR:** When you're ready, if you'd like to please.

**MS SHORTLAND:** Kia ora. I have drawn out six main themes from the submission that was given earlier in the year, and I will be sticking to those this morning, the first of which is the rights of Ngāti Hine, the second is the role of kaitiaki and kaitiakitanga, the third is the role of central and local government, and then I will be speaking about resourcing and implementation of the NPS, proposed, fifth will be sustainable management issues regarding freshwater, and finally I will be speaking on Mātauranga Māori science and research.

So I have written the recommendations in block lettering at the top, so under the rights of Ngāti Hine, Te Rūnanga o Ngāti Hine recommend that the Board of Inquiry recommend that iwi and hapu ownership of water is

legislated, and that the Board of Inquiry recommend that marae, whānau, kaumatua and tamariki have access to clean water for their daily needs, and that need cannot be usurped in favour of new development.

As stated in the Ngāti Hine submission, the issue of ownership of water pervades all aspects of this proposed National Policy Statement for freshwater management, and yet it does not rate one single direct mention. Ngāti Hine is concerned that the proposed National Policy Statement for freshwater management in its current form extends a regime of permitting water rights to users on a first in, first served basis with no consideration for the rights of Ngāti Hine.

This issue has already been raised with government in the Ngāti Hine Environmental Management plan, lodged with councils and the Ministry for the Environment on October 28, 2008. Our water policy states that Ngāti Hine has never agreed to the transfer of our customary ownership of our water resources, and that there is no proven basis to any claim by the Crown to own the water within our rohe. Ngāti Hine's ownership of freshwater resources is enshrined in te Tiriti o Waitangi.

Ngāti Hine pursues this recommendation today and will be striving for water rights in our treaty settlement. As stated by the Waitangi Tribunal, it was obvious and sensible that English ownership was to be equated with Māori possession and that Rangatiratanga is the expressive of political autonomy and the management of the total of the people's affairs.

I would like to bring to the attention of the panel the Waikato-Tainui Raupatu (Waikato River) Settlement Act, and the subsequent management regimes within the Waikato catchment. It recognises the special and enduring relationship Waikato Tainui has with the Waikato

River, historically, culturally and spiritually, manifested in the dual principles of te mana o te awa and mana whakahaere.

In so doing, it provides the legal structure within which that relationship can be protected and exercised in the future, and which also recognises the connections that other iwi have with the river.

Thirdly, it creates a framework within which all the communities with interest in the river can play a part in its stewardship. Each of the changes created by this Act focus on the goals on which all river stakeholders can agree, the restoration of the health and well being of the Waikato River, and its sustainable management in the future. Ngāti Hine considers the Waikato-Tainui Settlement Act to be our bottom line for the future. These types of mechanisms and empowering tangata whenua are further supported by the declarations on the rights of indigenous peoples by the United Nations General Assembly and Human Rights Council, the result of more than two decades of negotiations, albeit it has yet to be signed by the New Zealand Government, but hopefully soon. It emphasises that indigenous people's control over their land, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs.

Such Ngāti Hine aspirations and needs have again been expressed in the Ngāti Hine environmental management plan, which states that "Water, in all its many forms, rain, springs, wetlands, streams, lakes, estuaries and the sea itself, is central to our existence as Ngāti Hine. It is used to feed, sustain, transport, cleanse and purify all those that inhabit our ecosystems including people. Significant puna were named, some were tapu, some were associated with pā, and some were associated with gardens.

Ngāti Hine history, strength and mana stems from water, water is a sacred resource and a taonga.

Traditionally, our tūpuna distinguished between many types of water, wai tapu or sacred water, wai noa used for everyday drinking and washing, etc. Water was used for ceremonial purposes, for daily consumption, for transportation and as the home of important mahinga kai and cultural materials. Waterways often form traditional boundaries between hapū and whānau rohe.

Our association with repo or swamps is well recognised and known. The repo has a very special spiritual quality as well as its cultural and traditional significance. Our ancestral links with repo are varied. Such links could be an abode of a taniwha, a burial place, or a place utilised for its resources. This will contain kai (tuna, kēwai, taro, and watercress), dyes (paru – black mud which is used for dyeing flax) and weaving materials (raupo, harakeke, kōrari, kuta), to name a few.

[10.10 am]

All natural water has value and sustains some form of life. Water is a sacred resource to Ngāti Hine, to be given the highest level of protection.

Now I would like to speak on the role of kaitiaki and kaitiakitanga. Our recommendation is that the Board of Inquiry recommends that iwi and hapu management of water is legislated.

Our second recommendation is that the National Policy Statement for freshwater management be changed to include regard to any comments on specific provisions relating to kaitiakitanga, referring to but not isolated to Objective 8, 9, Policy 1E and Policy 2.

Specifically when referring to management of water, Ngāti Hine advocates that the National Policy Statement must ensure full iwi and hapu participation in decision making, monitoring, reporting, enforcement and enhancement of freshwater resources. Ngāti Hine has depended on the environment for long periods of time for the provision of a variety of resources. We have therefore developed interdependence on the environment, a stake in conserving, and in some cases enhancing the environment. Our practices for the conservation of water were grounded in a series of rules of thumb, which are arrived at through a trial and error process allowing for a historical time period.

This implies that our knowledge base is indefinite, and our implementation involves an intimate relationship with the belief system. Such knowledge is difficult for western science to understand. Complex, ecological systems vary greatly on spatial and temporal scales, rendering the generalisation that (inaudible) science has come up with of a little value in furnishing practical prescriptions for sustainable resource use.

Science based societies have tended to overuse or simplify such complex ecological systems, resulting in a whole series of problems of resource exhaustion and environmental degradation. Such diachronic observations can be of great value and complement the synchronic observations on which western science is based. It is vital however, that the value of the knowledge, practice, belief of tangata whenua relating to the management of water is fully recognised if water is to be managed sustainably.

Conserving this knowledge would be most appropriately accomplished through promoting a community based resource management systems of tangata whenua.

For many centuries Ngāti Hine have created a water use management and working techniques in order to operate and maintain these systems collectively. A basic fundament has been and still is the set of agreements among families and communities to equitably distribute rights and duties within the production system. Despite the immense variety of practices and customs related to customary water management, the collectivity seeks to balance benefits and burdens with social justice.

Te Rūnanga o Ngāti Hine acknowledges that this is no longer the norm for tangata whenua. After the incorporation of outside laws and practices, there has been a loss of our norms, reciprocal working relationships and specific knowledge about the environment. However, the whanau and hapu continue to express and gather community vision, despite the deep changes it has undergone during 150 years of imposed foreign cultural values and foreign organisational structures.

This is not irreversible, but exactly because of that, it is necessary to recognise and provide for our rights, including the right to our culture and to recover and to develop it. Our aspirations, visions and energy to make these systems the norm again and strong.

Again, as stated within the Ngāti Hine Environment Plan, maintaining our mātauranga of kaitiakitanga and the teaching of that knowledge to our mokopuna is a matter of the highest priority for the Ngāti Hine. And the mātauranga of Ngāti Hine, Ngāti Hine knowledge base and knowledge systems, and the cultural, genetic and biological resources and practices to which that knowledge relates, are to be used for the betterment of Ngāti Hine now and into the future.

Te Rūnanga o Ngāti Hine has requested that the Ministry for the Environment prioritise development tools to assist iwi-based policy

development, management and monitoring of all aspects of kaitiakitanga. Further matters relating to the practice of kaitiakitanga and traditional environmental knowledge will be discussed in section - chapter 6.

The role of Central and Local Government - Te Rūnanga o Ngāti Hine recommend that the National Policy Statement for freshwater management be changed to include the Ngāti Hine comments of specific provisions relating to the roles of Central and Local Governments.

As stated in the Ngāti Hine submission, Central Government needs to take on a more proactive role in terms of freshwater management by providing realistic facilitation, support and intervention. Facilitation is required to ensure that involvement of all stakeholders at all levels in the management process for freshwater management. Applying inter-sector cooperation, recognising all the interests of different water users including environmental, social and cultural requirements will strengthen the foresight capacities of decision makers, including ourselves, encouraging diverse political and institutional cooperation and interdisciplinary, bringing together kaitiaki, scientists and managers to develop a holistic understanding of fundamental factors underlying freshwater problems and issues, and explicit recognition that changes in the environmental conditions are directly linked to socio-economic patterns and processes is a fundamental requirement if we are to effectively change the current health and status of freshwater.

As stated in the Ngāti Hine environmental plan Te Rūnanga o Ngāti Hine will promote and enhance partnerships between Ngāti Hine, Central Government and its agencies, and Regional District Councils, and as stated above, the relationship with Ngāti Hine need to be cognisant of our status as tangata whenua, kaitiaki and treaty partner.

Resource and implementation – that the National Policy Statement for freshwater management be changed to include the Ngāti Hine comments and specific provisions relating to resourcing and implementation.

As above, Te Rūnanga o Ngāti Hine recommends that Central Government ensure that full resourcing will be available for the effective implementation of the National Policy Statement. We note that a full inventory of all freshwater resources available here, let alone the whole of Northland, is not yet available, and does not appear to be achievable in the short and medium term.

Over the past two years Te Rūnanga o Ngāti Hine has carried out a sights and areas of significance project, namely Nga Pokopounamu (ph), whereby we have recorded approximately 200 freshwater sights with many more to come. We have recorded their location, names, uses and significance to Ngāti Hine. This information has yet to be made public. However, we are cognisant of the benefits that this database will provide to freshwater management.

The cost of this project to date has been funded by Central and Local Government, but we know that the ongoing management of the sights and areas will largely lie with the kaitiaki of those sights and areas.

This assumption is based on the growing environmental degradation that we experience in the role, and again is a reflection on the lack of capability and capacity of Councils.

Further to this, as stated in our submission, the costs of kaitiaki and tangata whenua participation have been largely ignored and therefore, the capacity, integrity and contributions that we make can also be assumed to be underestimated.

To underestimate a population with the connections, knowledge and people power, within catchment areas shows a deficit in proposed National Policy Statement and supporting documentation. We recommend that Central Government consider the return on investment, and legislate the provision of resources to tangata whenua to effectively take part of freshwater management.

Now, I'd like to consider options for how Government can ensure resourcing and implementation in relation to water pricing.

[10.20 am]

Water pricing concerns the purpose of financial sustainability through cost recovery for the full supply costs, being the costs related to the production of the water, which consists of the operational costs and the costs of investment, the full economic costs which in addition includes the cost of depriving the next best user of consuming the water, and the damage incurred by other parties that is not taken into account, and the full cost, which in addition, includes the environmental damage and the provision of reservations for future generations.

The International Water Institute recommends increased water prices to ensure sustainability for the future. They say if the status quo continues we will be facing global water scarcity in the future. The institute recommends an increase of 75% for industrial water use, 100% for agricultural use, and 40% for household use. Te Rūnanga o Ngāti Hine understands that these percentage increases may not be exact for Aotearoa New Zealand, but we recommend that such increases are proportionate to ensure sustainability of the water supply, and eco-hydrological cycle as described above.

In deliberating on water pricing and the resourcing and implementation of the National Policy Statement for freshwater management, we must also consider subsidies or other management regimes targeted to people within the low socio-economic range, to give due attention to equity considerations, to prevent these people from carrying too high a burden, which is again relevant to the resourcing and equity of the Northland region.

This regime of water pricing recommended by Te Rūnanga o Ngāti Hine, must not be confused with water markets promoted by the World Bank nor legislating water as a commodity. We would like to reinforce that we are promoting water pricing, as a system to ensure full sustainability of the use and enhancement of the resource, not for the creation of resource commodity for economic purposes.

Sustainable management of freshwater. We recommend that the National Policy Statement for freshwater management be changed to include the Ngāti Hine comments on specific provisions relating to sustainable management of freshwater. The standards of compliance within the National Policy Statement for freshwater management and how the policy will be monitored and enforced must consider all physical aspects of the water resources at different temporal and spatial scales. The integrity of the hydrological cycle and the related quality aspects as stated in the Ngāti Hine Environmental Management Plan, Te Rūnanga o Ngāti Hine will work with all statutory agencies investigating and initiating effective processes and monitoring of activities and developments to ensure compliance and that freshwater quality standards that are acceptable to Ngāti Hine are developed and implemented by relevant agencies.

Secondly, Te Rūnanga o Ngāti Hine is concerned with ensuring the avoidance of over allocation of freshwater. The National Policy Statement for Freshwater Management should ensure the sustainability of the water resource. There are many unknowns around what is required to sustain freshwater environmental ecosystems, particularly underground waters, their flow, volume, etc.

A true needs assessment for users for water must be measured with the needs of the ecosystem, as stated in section 4.4 above. We must make informed decisions for the most advantageous and sustainable uses of water in a broad cycle context, and promote methods such as more effective use of rainfall, higher water use efficiency such as industrial recycling, household or municipal water conservation and recycling, irrigation gains from technology, management, institutional reform and investing for efficiency, increased investment in household water supply systems, elimination of ground water overdraft, setting an upper limit to the amount of water that may be used for a certain purpose, subsidies grants and other economic incentives to stimulate the allocation of water to certain preferred water uses, or to make undesirable behaviour less attractive, and penalties such as financial and legal enforcement incentives that provide the other instruments with teeth.

Te Rūnanga o Ngāti Hine has carried out some research into how other indigenous peoples are managing freshwater, particularly those facing water scarcity and unprecedented water pollution.

Some techniques that reside within the principles of Ngāti Hine include user-based allocation. User-based allocation rather than Regional Council allocation, is within the community decision making construct that is consistent with Ngāti Hine principles.

Another example, are the Berber peoples of the High Atlas mountains in the Burdoyne of the Negev Desert. Berber water management quantifies water in units of time rather than in units of volume. This method allows for local management of a fluctuating supply, and provides a means for water management without storage structures. Berbers and Burdoyne also prioritise demand with a hierarchy of importance. This allows for less important uses to be cut off throughout the valley during low flow regimes rather than entire downstream villages, and protects investments and infrastructure. Berbers also only allow only traditional diversion structures which through the inefficiency allow the flow to continue downstream, while Burdoyne concepts of equity address honour and pride as well as right and wrong.

Each group has sophisticated mechanisms of dispute resolution, from which modern international management might benefit. Techniques include recognition of a defined water authority and shared vision exercises. To avoid water scarcity and encourage freshwater enhancement Te Rūnanga o Ngāti Hine promote the following objectives, some of which have been touched on by the National Policy Statement: one, protecting areas with intact processes and high quality habitat. Although Ngāti Hine policy states that no hierarchical values will be placed on water bodies within any agencies' planning documents, we do support prioritising freshwater management areas.

Two, reconnecting isolated high quality fish habitats, such as in-stream and off channel habitats made inaccessible by culverts or other artificial obstructions.

Three, restoring hydrologic, geologic, sediment deliver and routing, and riparian processes through road, decommissioning and maintenance, exclusion of livestock and restoration of riparian areas.

Four, in-stream habitat enhancement for example, addition of wood, boulders or nutrients.

Five, improving research and monitoring with comprehensive physical and biological evaluations of restoration methods. Monitoring needs to be constantly carried out, and if monitoring shows that the National Policy Statement is inefficient or ineffective it should be reviewed at that time.

Again, demand management besides efficiency should promote equity and environmental integrity, that is clear that our basic understanding of the trends in water resource use and the ecological consequences in combination with the identification and application of basic environmental principles is need to formulate tomorrow's management and policy decisions.

Mātauranga Māori research and science. We recommend that the National Policy Statement for freshwater management be changed to include the Ngāti Hine comments on specific provisions relating to Mātauranga Māori research and science.

In this final chapter I would like to emphasise the importance of how Mātauranga Māori research and science must inform evidence-based policy development regarding freshwater management. There are currently deficiencies about predicting the future vitality of altered environments. Central Government must encourage and support the development of tools and mechanisms that will ensure the long term sustainability of freshwater.

10.30 am]

Te Rūnanga o Ngāti Hine recommends the following as research priorities: Research and management are most effective at the regional scale. One, prediction of the effects of regional climate and landscape change on freshwater ecosystems. Two, development of an environmental perspective from which biophysical and socio-economic kaitiaki and scientists can work cooperatively towards an understanding of regional aquatic problems. Three, resolution of regional freshwater problems through an understanding of underlying systematic factors. Four, increase in investment in rain-fed crop research. Five, the use of non-regulatory methods. Six, education and community participation and behaviour change. Seven, quantifying cumulative effects and eight, linking multi-disciplinary knowledge and models, and formulating effective monitoring and assessment procedures.

To conclude, Te Rūnanga o Ngāti Hine is committed to ensuring the mauri of water is protected and enhanced in ways that enable Ngāti Hine to provide for our physical, social, economic, and cultural well-being for the generations as yet unborn, for those we host within our rohe, our plants, animals and other fauna. Water is a finite, vulnerable and an essential resource which should be managed in an integrated manner.

And finally, Te Rūnanga o Ngāti Hine would like to thank the Board of Inquiry for the opportunity to make representations on our submission to the National Policy Statement on Freshwater Management, regarding such a crucial resource for which there is no substitute. Kia ora.

**CHAIR:** Thank you very much. You have obviously gone through a lot of trouble to structure that, and to complete it and fill it with all sorts of interesting things that we'd like to discuss with you after the break.

**MR TIPENE:** Judge, can I just finish it off by saying that we would like to finish it off with a Waiata.

**CHAIR:** Yes, do you want to do that now?

**MR TIPENE:** Yes please, just to complete this particular part.

**CHAIR:** Yes, thank you.

**MR TIPENE:** The waiata just highlights who we are and what is important to us in relation to what Tui has just articulated to you.

**CHAIR:** Yes, thank you.

(Waiata)

**CHAIR:** Good, thank you very much. We will have a break now, and when we return we will have some exchange of questions. Thank you.

Audio file: dpm 0149

**RESUMED [10.55 am]**

**(portion of audio missing immediately after the adjournment)**

**MS SHORTLAND:** (audio file begins)...disagree with that. I think that there are examples in Raglan where they have planted their farms and are using more organic type practices in their dairying utilising flax and swamps and plants. And they believe – I haven't got the evidence here but they believe that they're producing more than a perhaps intensive type of dairying farmer who does think that the water can just flush away their effluent and other by-products. So yeah.

**CHAIR:** Well thank you for that. Now on page eight, in 5.4 (inaudible) that the other concept that I wanted to ask about talking about economic incentives to stimulate the allocation of water to preferred water users and make undesirable behaviour less attractive. Our incentives are a bit like the carrot aren't they that they're something good that you give for good behaviour. Whereas penalties is the other side of it which is something bad that happens for bad behaviour. Now I can see that you can have penalties for bad behaviour and while some submitters think that the penalties aren't enforced enough or they're not big enough at least that's a process that's already established. What I'm not clear about is the way in which you think economic incentives could be used to stimulate the allocation of water to preferred water users. And how do you identify which of the preferred water users say amongst irrigation, electricity generation, and other profitable things like those.

**MS SHORTLAND:** So in terms of the preferred water user – usage?

**CHAIR:** Yes. And stimulating them by economic incentives.

**MS SHORTLAND:** So what is the question?

**CHAIR:** I'm sorry I'm not making myself clear. In your item F you talk about subsidies and grants and other economic incentives to stimulate the allocation of water to certain preferred water users. And there's two questions really wrapped up in that one sentence of yours. First was how do you determine which are the preferred water users? Picking winners is the slogan that they use for that sort of thing. And then the second thing is how do you have economic incentives that stimulate the allocation of water to whatever you think should be preferred.

**MS SHORTLAND:** Okay so the preferred water users. We would prefer if it was based on human needs such as drinking water, you know household, municipal is of the utmost importance as we said in our representations ensuring clean water access to our kaumatua, tamariki and the like. And in terms of less priority would be more round the supplying food to Asia – supply water for purposes that are utilised to supply food to the rest of the world. We would like to ensure less carbon use you know in our communities in terms of carbon miles and being self sufficient and being resilient. And so that is why we would need to consider prioritising in terms of the needs of the region or the district or the communities first.

**CHAIR:** Well thank you for that that's the first part.

**MS SHORTLAND:** That's the first part.

**CHAIR:** Then the second part is how do you use economic incentives to stimulate food for the local needs as distinct from stimulating food and other industries for export.

**MS SHORTLAND:** So this one is about incentive rather than, rather than – there's the intent of this statement is to focus on incentives rather than the stimulating the allocation. Okay?

**CHAIR:** Thank you.

**MS SHORTLAND:** So in case that was – I wasn't clear on that. So in terms of incentives which we're talking about if there could be say for example practices where users can show that they're using water efficiently and perhaps even in terms of rainfall and you know as you say good behaviour that they could have perhaps less water rates or you know that type of incentive.

**CHAIR:** Less water rates.

**MS SHORTLAND:** I'm no expert in these types of incentives but Ngati (inaudible) would definitely be willing to explore that further.

**CHAIR:** Okay thank you. Now you've done some research about the Berbers(ph) in the high Atlas Mountains. And there's this quite interesting idea about quantifying water in units of time rather than units of (inaudible). And how is that more efficient?

**MS SHORTLAND:** 'Cos the water doesn't flow constant and so if the water's not flowing – hang on – the water doesn't flow constantly and so they have a specific set of time father than volume. So say for example if there's a dry period if you're looking at the time period and it's dry well you know it ends at a certain date. Whereas in terms of volume if you've approved a water take of so many cubic litres to irrigate a farm, if there's not rainfall then – and then there comes rainfall that water all still goes to that user rather

than perhaps the other people within the catchment who have also had no water say for their households or – yeah that's the examples.

**CHAIR:** Yes and yet I'm sure you were telling me a minute ago that peoples drinking water needs should take priority over everything else.

**MS SHORTLAND:** That's what I meant.

**CHAIR:** Yes.

**MS SHORTLAND:** So – sorry if I didn't explain myself properly.

**CHAIR:** So that's what (inaudible) No I'm just trying – don't need to apologise I'm just trying to understand this idea that you've reported to use from the Berbers(ph) and we're talking about water for irrigation. Somebody's got the right or opportunity to take the water all the water that happens to be in a source, for a period of time, whether it's small or large. And if it's large how do you know that it's going to be used well, efficiently? And if it's small how do you know that everybody can get the water they need for their own individual drinking water and hygienic needs?

**MS SHORTLAND:** Well in terms of the Berbers(ph) they have a collective community based decision making around that. So how do they know the volumes of water that shall be permitted to be taken? They discuss that in an open process amongst the community.

**CHAIR:** Oh I see okay.

**MS SHORTLAND:** So yeah it's a user based type allocation. And in terms of Ngati Hine it's very similar to our principals.

**CHAIR:** All right. Thank you. Then you also say “prioritising demand of the hierarchy of importance”. And I understand that (inaudible). Then you say “this allows for less important uses to be cut off during low flow”. And so I’m thinking well what would you cut off? Would you cut off the meat works? The dairy factory? What would be an example of what you’d cut off in times of low flow as compared with the more familiar arrangement whereby everybody has less water available for the times of low flow whether they’re preferred or less important.

**MS SHORTLAND:** Yeah I think that those priorities again will be community based. So if say for example one catchment community were to get together and decide what their priorities are. And then they would say “okay we have – you know horticulture’s a big thing for our community so that’s a priority”. And another area, say for example in the South Island their priority might be dairying. Or you know in another area they prioritise in a different way. So my recommendation is that those priorities are made by the community.

**CHAIR:** All right thank you. Well Ngāti Hine have given us a very interesting submission. One that we certainly won’t forget. There’s been a lot of effort put into writing it and it’s been presented very clearly. And so we’re very grateful. Thank you very much.

Good morning and please be seated. A warm welcome to you both. It’s very nice to have you come and present your further submission which we understand is in support of Ngāti Hine and Historic Places Trust, Ngāti Kahungunu and Forest and Bird. Now we don’t require you to be standing to address though you may if you prefer that. But there’s no particular formalities and when you’ve presented we will have some exchange of questions as you’ve seen us have with the previous submitters.

**MR PETRICEVICH:** Before we start sir I'd like to ask for permission to say our welcome in Maori.

**CHAIR:** Yes.

**MR PETRICEVICH:** And then we go into English. Can I be allowed to do that?

**CHAIR:** Yes of course. Yes please do.

[11.27 am]

**MR PETRICEVICH:** Thank you. (speaking Maori).

Greetings to you all. I'd like to interpret what I say previously. It's customary that we give thanks to our creator. He's given us all these things and all the blessings he has done previously for us. And for us all. And we ask him to look after us today and all the days in front of us. So that's our – I think it's customary for us to start our greetings to you in that way and greetings to our Matua, here, Kevin Prime, and all the members of the Board. And thank you very much for us being here today.

And we represent the most northern tribes up in the North Island. Right up to Cape Reinga. And both me and my lady, here we're members of the Muriwhenua Incorporation and I'm the Deputy Chairman for the members of the incorporation and our Chairman sends his apologies that he had to go to a Tangi. And we're both members of the Ngāti Kuru Trust Board that looks after most of the assets in the far North.

At this point I will hand over to our Secretary that's going to make our presentation to the Board. And thank you for giving this opportunity to make my greetings to you. Thank you.

(Waiata)

**MR PETRICEVICH:** (Speaking in Māori).

Thank you very much again for (inaudible). This is Pani Petera and she'll make our presentation.

**CHAIR:** Thank you very much.

[11.30 am]

**MS PETERA:** Okay. Firstly I'd like to – we have supported submissions from Ngāti Hine, Ngāti Kahungunu, the New Zealand Historic Places Trust and who's the other one? There were four I think we actually supported. Oh the Forest and Bird Issues paper.

Firstly, I'd like to say in our ignorance, I mean I've never put – this is the second time I've put a submission together, so we were given a couple of hours to actually put something together so I was told just to create whatever looks like it's best for us off the net. So that's what I did I just went through everybody's submission and said "oh that looks good for us". So (inaudible) submission.

However, I'd like to start from the opening statement. And our opening statement is that salt water should be good enough to grow kaimoana to eat and that the fresh water is good enough to drink. I'd like to add to that, I think the overall aspect of the water management is to deal with the

water life cycle. So I'd like to – our Ngāti Kura Trust Board and Muriwhenua Incorporation would like to see the resource management look at the life cycle of the water rather than the maintaining and protecting or cleaning the waterways sort of thing. So the first thing I'd like to add to our submission – can I carry on? Do I have to expand on that or and say why I've - why we've chosen this?

**CHAIR:** You choose. Yes you can choose. But I would – if you're tempted to explain why you are saying that, then I think that's a temptation you should follow up.

**MS PETERA:** Well why I say that is because up north our life force is water. We – our land is from – I don't know if you know where (inaudible) from Mt Camel across to Puketere, all the way up to Cape Reinga and around North Cape. So we're surrounded by water. Our economic – everything is based on water. Whether it's salt water, fresh water, swamp, eels, everything. It's just water. That is our life source. So that's why we want to aim at looking at the life cycle of the water because it comes from Ranganui, comes down, hits the ground. The runoff from the water is full of – 'cos our – we've ruined our ground. It's got toxins in it now. You know, we've fertilised our land. We've got cows and all those sorts of things. We've got people living on land with sewerage problems and no soakage and all that sort of stuff. So the run off runs into our waterways; from the waterways down to our in-shore harbours. We rely – our biggest income earner is our oyster farms. We have 13 families in (inaudible) that rely on the oyster farm for their income source. So that's why we're asking that the life cycle of the water be protected and looked after so that we have a licence – so that's where we're coming from.

Okay, the next thing is we've also supported the stream lining of the Act. We think that that's cut it really down a lot. The processes are a lot easier

to look at you know? That they're easier to understand. I mean when I first went through this, I just went "what the heck is this?" And I was so confused. But then somebody helped me understand how to go through it (inaudible) so we support the streamlining of the Act.

The other thing is we want to – my next point is to do with investment. This is mainly to do with the point that I made in my opening statement about (inaudible) key messages that would have collective interest through (inaudible) down to grass roots. Our investment is pertaining to the new Environmental Protection Authority. We think that is a awesome authority to be implemented. Why? Because it's just cutting the processes of the applications. It's – rather than – how can I explain this? It's like I suppose if it's to do with law you go to the District Court or something like that, if it's to do with something simple you just go to the standard box, tick it and it's a-okay, or that's how it was interpreted to me about the Environmental Protection Authority.

Now, why we're saying we're asking the Environmental Court, or the Board today, if they will support something for the whole of New Zealand nationally about investing in local bodies, maybe in a mechanism where we can, like us at grass roots can apply for funding to protect or to maintain our water cycle. So that's number one. Now, our reasons why we ask this is because we've already implemented already. Not necessarily in an Environmental Court. Now I work for Muriwhenua Incorporation okay. We have been very fortunate to be accepted in through the Minister of Conservation a Nga Whenua Rahui grant to look after our Mahere (ph) which is a pa site that's of significance to our people. We've been – we can apply for financial assistance to look after that forest – native forest. So we've got all our plans, like our management plans for possum control and things like that to look after.

We've also got opportunity for economic development. So that's just one aspect.

We have the Ministry of Fisheries. Where we can apply for assistance through the (inaudible) Mataitai (ph) and those agencies. So we thought well if we look at using that Environmental Protection Authority, where if we can have access through the local government agencies or Department of Conservation to apply for funding to look after our land maybe in planting – anything. 'Cos we need it, we need it for our oyster farms mainly, or our economic development. Up there in the Parengarenga Harbour, south-ways there's farmers and forestry. To the west there's the (inaudible) community. To the north is scrub. To the east is just totally (inaudible). So you know, we've got a big area to protect. We've got a big life source to protect. So, if we can be given an opportunity to find mechanisms where we can apply for funding to help us at grass roots to look after ourselves, that's what we would like to be able to do.

Okay so – actually that is all I have to put forward today, other than if you have any questions.

**CHAIR:** Thank you very much.

**MS PETERA:** And thank you.

**CHAIR:** You may be seated and we'll see if there are some questions.

Is there something further that you would like to add please?

**MR PETRICEVICH:** Yes. I would like to add a point that our location right up north, we're far away from most of the sources that normal people enjoy.

Like they get the running water, you know, the proper running water. They're used to having that at the taps and they have sewage, proper sewage. There's nothing up there like that. The people rely on tank water and that sort of thing. And when they sort of run out of water, especially in the summer periods they go to the nearest spring and get water from there. Water's very important in that area. 'Cos I'd like to see more in water quality especially for the health of the people. Health is our wealth really. If the health of the people is not good, then everything else is not much good. We need to get that water quality for the household, the people. And I'm very, very - that's a important factor as far as water is concerned and with the runoff from the forestry and all that into the harbour and not having a proper sewage system, all those things is - makes the water quality very iffy for the people and for the Bluff oyster farms as well.

[11.40 am]

So water quality is very important in that area. So I must stress on that very important factor in the water quality.

And if they go to get the water in the summer time, then that water should be looked at whether it's healthy or not for the people to drink. The water is coming through the forest and all that sort of thing. But that's the only option the people have. And I'd like make sure that the water quality for the people is number one. That's all I can add at this stage sir.

**CHAIR:** Thank you.

**MR PETRICEVICH:** And thank you for listening.

**CHAIR:** Mr Prime any questions?

**MR PRIME:** Actually no I haven't, but thank you very much for the submission or the further submission on the other submission. No questions thank you sir.

**CHAIR:** Thank you. Mrs Vernon?

**MS VERNON:** No, but I do note (inaudible) sitting here and (inaudible) questions about the Objective 8 and you've rewritten it and that you have actually wanted the words "recognised and provided for" rather than "identified and (inaudible)" so I've noted that. Thank you.

**MS PETERA:** Thank you.

**CHAIR:** Dr Harding?

**DR HARDING:** In your further submission you've already talked about wanting to sort of raise the bar and you talked about your concerns about water quality. And so you're looking for water quality at a drinkable level. And I noticed that you also did mention including some water quality standards and you've got ANZAC guidelines or something - or similar. So you're in favour of some sort of national water quality guidelines that are consistent --

**MS PETERA:** Yes.

**DR HARDING:** -- across the entire country?

**MS PETERA:** Yes. Yes. Across the board for -

**MR PETRICEVICH:** Across the board, yeah.

**DR HARDING:** Yes. Okay. That's fine. Thank you. That's all.

**CHAIR:** When a previous went before us this morning in the Northland Regional Council I was trying to remember the name of the lake at – near Sweetwater. And I was going to ask you, but I think you've described your rohe and this lake is not in your rohe, it's a bit further south, isn't it?

**MS PETERA:** It's Lake Ngatu, Lake Ngatu is the lake that you're talking of.

**CHAIR:** Lake Ngatu.

**MS PETERA:** But that's south of our rohe.

**CHAIR:** So you wouldn't know whether the water in it is of acceptable quality or not?

**MS PETERA:** No I don't.

**MR PETRICEVICH:** I should say it's not drinkable.

**CHAIR:** Not drinkable.

**MR PETRICEVICH:** It's swimmable but not drinkable.

**CHAIR:** And do you have any lakes in your rohe?

**MS PETERA:** Yes. Many. Many lakes. But not as – we have one towards Cape Reinga – the name has just slipped – but it's been noted in the Sites of Significance in the Historical Places Trust because of the eels. It's a

migratory – it's something to do with the eels and them migrating, habitats and all that – yeah.

**CHAIR:** But the lakes generally in your rohe are they a bit – is the water in them of acceptable quality?

**MS PETERA:** No. See that's the other thing. Because I really believe that all our waterways and our lakes and everything should be fenced off and protected, you know, like a filtering system around the edges of the lakes. I know that there is life source in those lakes that rely on how the lakes are at this stage I'm only guessing 'cos I'm not a scientist, but I know there are natural life sources in the water. But I also know our people would really appreciate if we could look after the lakes by fencing them off. We've already started - the Department of Conservation have already started fencing. But we want to do more, like planting. So we have a nursery where we are – where our office is, that at the moment are growing a lot of flax, pohutakawa and all the plants related to our rohe. So we will be looking at doing a lot of planting. But it's the money. It's just money.

**CHAIR:** And of course the planting around the lake or on the margins of a stream or river does some good – or it does a lot of good.

**MS PETERA:** Does a lot of good.

**CHAIR:** But it doesn't make the water necessarily drinkable --

**MS PETERA:** No.

**CHAIR:** -- because of giardia and other --

**MS PETERA:** Yes we understand that --

**CHAIR:** -- creatures like that.

**MS PETERA:** -- because as I referred to in our – in the opening statement about the life cycle of the water. Because now the earth is contaminated with a lot of toxins through you know, development, economic development we – our oyster farms are closed for a period of time if the rainfall is over a certain criteria. So from there - it's just a ripple effect from thereon in, it's just no job for that week or no job for six weeks or no income for that. And I mean it's only seasonal. So when we decided to look at an economic development project for Muriwhenua Incorporation – I wear quite a lot of hats so I have to jump from one organisation to another. Muriwhenua organisation looked at economic development in the far North. As I said before, to the north we've got heaps of scrub. We were advised that one of the money making ventures would be to put stock on them - to clean it right off and put stock. We had an environmental impact assessment done and we were asked not to get rid of the Tea Tree for about at least 20 to 30 metres from the foreshore, so that that can be used as a natural filtering system.

So - but we didn't in the end. We ended up going with honey bees, so we didn't go into stock. We stayed – we left it – it's left natural. Bush. Scrub. And gone with the honey bees. But I mean the run off is affecting our income and for our people, as I mentioned, 13 households in Te Hapua rely on that source of income. Yeah, so we've – all we want to do is find a mechanism that will help us look after our shorelines and maybe act as some sort of filtration system to look after our -

**CHAIR:** And is the office that you speak of, is that at Te Hapua?

**MS PETERA:** No. We have an office in Ngātaki where

Muriwhenua Incorporation and Ngāti Kuri Trust Board have their offices there. Beside there we have a nursery. We have a North Tech Training for Rural Sustainability. They – at the moment they have contracts – the trainees that are trained also work in the nursery and paid full time. From there they grow the trees to grow back onto the Cape. They're employed by Transit and the Department of Conservation, so they've got a contract with those two agencies or businesses. And for a five to ten year contract to plant trees along the roadside from Waitiki (ph) Landing to Cape Reinga.

**CHAIR:** Well thank you for that explanation and very many thanks for coming and speaking in support of your further submission. You've come a long way and it was worth your while to do so, because we've got a much clearer understanding now.

**MS PETERA:** Thank you.

**CHAIR:** Thank you very much.

**MR PETRICEVICH:** Thank you.

**ADJOURNED** [11.50 am]

Audio file: dpm 0150

**RESUMED [1.05 pm]**

**CHAIR:** Now this afternoon we have the pleasure of receiving the submissions of the Bream Bay Action Group Incorporated, with which we associate the name of Margaret Hicks. Good afternoon Mrs Hicks, it's a pleasure to receive you here, and welcome you.

We don't need to have any formalities, but just before we call on you to present in support of the submission, we'll ask you to forgive us while this one piece of business that we need to attend to. We were at this time to hear Nga Hapu o Ahipara, Te Taitokerau and they're unable to come, and so I'm going to ask that we receive from Mr Rice their apology, and then we'll call on you to present your submissions.

**MR RICE:** Apology to be lodged by Reuben Porter, due to a bereavement we are unable to come.

**CHAIR:** Thank you - well Mr Rice we would be grateful if a message could be sent back to Mr Porter acknowledging the apology, with understanding of the reasons for it, and assuring him that the contents of the document that he would have submitted today are before us, and will be considered by the Board.

Now - Mrs Hicks good afternoon again. We have the submission that you lodged with the Board earlier on behalf of the action group. We don't have any formalities in this forum. You may just address us as you choose, and when you've completed doing that, there may be some questions by members of the Board that will help us to understand the group's case.

**MRS HICKS:** Thank you. I would say good afternoon to the Board of Enquiry, and I have provided you now with some comments, further expanding on our original submission. And you'll see it's in two parts. There are some illustrations that we've provided, as well as the actual comments themselves. I think I ought to just explain that we are a conservation group that was originally founded to fight the Marsden B Power Station, which we are glad to see is well, and truly gone, it has even been dismantled, and taken to India. So we really feel we've done very well there.

And we mostly confine ourselves on fighting to preserve our environment, for the benefit of our local community, and of course the wildlife, and everything else that's there. And therefore we make submissions, and we attend hearings, and we go to the Environment Court. And we're presently in the Environment Court actually on the matter of the establishment of agriculture management areas. So we are actually pretty busy. Anyway to have no further ado, I will now commence with our further comments.

Now other submitters have dealt this kinder to you that human pressure upon freshwater sources were of right as an increasing problem. And despite our own small population here in New Zealand we too are going to face these problems, and we have to responsibly manage, and protect this life-giving resource.

We need to remember that all rivers, streams, lakes, and aquifers have not evolved for our own exclusive use, but sustain a myriad of life forms which have as much right, if not more to exist, since they were here first. Any freshwater management plan needs to recognise this. Freshwater is not just for us.

Moreover the effects of climate variability and change have to be considered in any management strategy.

Changing patterns in rainfall with more extreme events, extended periods of draught, and even the possibility of a receding snowline should not be ignored. And perhaps I should just break you at this moment to tell you that I'm actually particularly well qualified to – to talk on this subject. I studied for a degree in geography at university in England, and so I've studied rivers, climate, meteorology, you name it everything in that field that pertains to this.

Also I've actually done research on the SOI, that's the Southern Oscillation Indicator, I've actually published articles on El Nino and La Nina, and I'm a member of the New Zealand Meteorological Society, so I do have quite a good background on rainfall, which is a source of a freshwater.

As we see it there are two principal issues that need to be addressed in any freshwater management strategy, and these are as follows - The exploitation of water resources, principally for irrigation, and hydro electric power generation, and the degradation of water quality as a result of pollution, and sedimentation.

And we think there are two regions in New Zealand that particularly exemplify these particular problems. There's the East Coast of the South Island, especially the Canterbury region – that's the one that concerns the water resources, and hydro electric power generation. And then there's the North of the North Island, our own region here – Northland, which exemplifies the problems of pollution, and sedimentation.

Now because we're interested in what happens in all of the country, we do have some comments to make on the East Coast of the South Island, although we have not gone into great detail. We're going to obviously concentrate here on what happens in Northland. And how we think we can learn from what happens in Northland in our freshwater management.

[1.15 pm]

The East Coast of the South Island is already in a rain shadow, and subject to periods of draught, however this situation is predicted to increase as a result of global warming. In these circumstances it is reasonable to expect that there will be increasingly less water to replenish our sources, to sustain existing activity, let alone take on more.

We therefore consider it unsustainable in the medium to long term to permit further water takes for irrigation, and to use more rivers for power generation, if we are not to exhaust our aquifers and render our rivers, and streams to mere trickles in the long term. And to this end we think more efficient, less wasteful use of electricity could eliminate the need for additional generation, quite apart from the fact that there are alternative methods of generation available in any case.

Moreover we think it's high time the farming community realise the need to adapt to changing circumstances, instead of flying in the face of change and engaging in dairying, and forms of agriculture that are water intensive in increasingly draught prone areas. This pursuit of short term gain is unsustainable in the long term. And the reason I put a star there is to draw your attention to the fact that when I read the second IPCC assessment, I always remember reading the chapter on how the predicted effects of climate change were going to affect New Zealand. I've never forgotten it, because it made quite an impact on me, by Jim Sullinger. And

one of the things he pointed out, that farmers were going to have to adapt to changing circumstances on the East Coast of the South Island. Now this is the second IPC – this is quite some time ago, it must be about at least fifteen years ago. And I've actually photocopied it somewhere. And he pointed out that they really couldn't continue with water intensive forms of agriculture. They had to change. So what happens, we have an explosion in conversion to dairy, the worst possible thing that could have been done. I mean it's unbelievable, you've already had a warning that you're going to have draught problems, and the aquifers are going to be under stress, and what do they do? This is what greed, short term profit does. And this is something we've got to think about when we're doing water management. I mean I just think what's been going on, and our group thinks what's been going on in the South Island with all this conversion is absolutely appalling.

We should learn from the lessons of history, and our neighbours. After all the original Garden of Eden in the Middle East is now a desert. And Australia is suffering an increase in desertification, not to mention the disastrous impact upon the Murray, and Darling Rivers, the result of over exploitation.

Adaptation to change is the secret of survival, we happen to follow Darwin. And so any freshwater management plan should encourage this, and not promote a business-as-usual approach. To this end a protection strategy of water sources in the Eastern Region of the South Island is sorely needed. And for this reason, since a number of our members are members of Forest and Bird, we oppose any exploitation in terms of water takes, and damming of the Rakaia, and Horonui Rivers, in order to preserve their viability. We oppose irrigation of the McKenzie Basin, this would be both an environmental and economic disaster. And as for the Central Plains Irrigation Scheme, there is no way that this should be

allowed to proceed in any form. This is one of the most disgraceful, unethical schemes we have yet to encounter, whereby a group of wealthy individuals have sought to destroy not just the environment, but the properties, homes, and livelihoods of other New Zealanders, just for their own personal profit.

No freshwater management scheme should pander to the greed of vested interest, and individuals at the expense of the wider community, and the environment. Irrigation and damming are not sustainable solutions to increasing draught conditions. And I don't know whether you've already been advised by other submitters, we would recommend members of this committee, read the recently published - *Biometeorology for Adaptation to Climate Variability and Change*, especially Chapter nine, by Geoffery de Freitas. Geoffery de Freitas as you know is Professor of Geography at Auckland University, and though I don't always agree with him, I still think what he writes is jolly worth considering. The book at the present costs \$426.00, but you can see it on-line, so I suggest you do it that way, but I have given you a reading list of some things that I think would give you room to think. There's also another chapter that might well be worth your consideration, and that's - *The Effects Of Decreasing Water Supplies On Tourism*, that's Chapter eight, but I have mentioned it at the end here.

Now to get to the nitty gritty of our submission, Northland - the issue of ongoing degradation of water quality, as a result of pollution sedimentation is one any management plan needs to address. Provision should be implemented that not only put a hold on further – halt on further degradation, but will also promote the restoration of good health of water sources.

The State of the Environment Report published by the Northland Regional Council paints a depressing picture, as to the state of our rivers and streams. And you can also see that everybody on the internet. And it prompted the front page headline in the local newspaper on the 3<sup>rd</sup> of July, 2009 - North Rivers Dirtiest in New Zealand. And I thought I would bring it here so you could see it, so that you can know what the state of our rivers are, and that was taken from the report - The Statement of the Environment Report. So you can see how successful (in inverted commas) our Regional Council is, in looking after our water sources.

This situation surely has to be, basically the result of the Regional Council's failure over the past 22 years to manage freshwater sources. It has consistently neglected to implement strategies to protect water policy in the following ways. In fact can I tell you now – it is made the subversion of the Resource Management Act, it's actually made into a fine art as to ways of getting round it, the inadequacy of its Soil and Water Plan leading to an increase in sedimentation, the inadequacy of Resource Consent conditions.

Now when we're talking about water everybody, mitigation does not work. All it does is just lead to a longer time gap to degradation, it just delays the inevitable. And we would recommend that you look at the Environmental Defence Society's booklet – it's called Beyond the RMA – and I've actually suggested that you read certain pages, where it goes into the failure of mitigation, and why mitigation doesn't help protect water.

So from our point of view, avoidance is the only realistic option for polluting activities in environmentally sensitive areas. If you've got an environmentally sensitive area, you do not mitigate, because it is going to

fail, it always does, well it always does here, absolutely. You can, you can take a bet on it.

Then there's the failure to take into account the cumulative effects of other activities operating on the same water course. You can get a resource consent for a particular activity, and in itself it's less than minor, but when you have four, five, six of the same type of activity, cumulatively – then it's anything but less than minor. And this is a failing in the administering of the Resource Management Act, because it is not taking into account this effect.

Then there's the inadequacy, and this is all to do with Northland, of monitoring any activities, and of course that includes the Applicant, because that's just like having the fox guarding the henhouse, that's how effective that is, in fact I asked one Monitor if perhaps he needed his eyes being seen to, or perhaps he was wearing sunglasses. So you have that – that has the potential to impact adversely on water courses, then you have here the inadequacy of enforcement of resource consents. What's the point of having conditions, if you don't actually do anything about it?

[1.25 pm]

And then there's the implementation of penalties, hence the continuation of the effluent, and other polluting discharges from farming activity here. Then there's a failure to implement Catchment Management Plans throughout the region. I mean if you had a decent Catchment Management Plan, in which you were preventing land clearance near water sources, you would stop when you have these intense periods of heavy rainfall, a great deal of sedimentation. You know prevention's always better than cure. And then there's the continuing to use rivers and

streams as grass, and thereby facilitating this pollution, by contaminated storm and waste water.

And then from our point of view, we think there's been a failure to consult with both individual, and community affected parties. Because we think that's a way you can actually draw attention to the fact that a river is under threat, that certain activities are going to have an adverse impact on the local community. And now with the report of the Resource Management Act, with a council like the Regional Council, which does not seem to have very much concern as to what happens to water, we are going to be effectively silenced.

And then the problem that we have here that we actually consider that the Regional Council does not actually conform to its mandate, instead it prioritises development, and it shouldn't be a development agency, and of course that's at the expense not just of water, but of a whole lot of other environmental concerns.

We would like now to demonstrate the extent of this problem that we have with our Regional Council, with concern at its failure to protect water sources, by describing what is happening to our own local river, at the hands of the NRC and developers. And how this example provides strategies that should be implemented to prevent the ongoing destruction of rivers, which not only provide valuable wildlife habitat, but as in this instance are a source of drinking water for the community, and recreational activities, quite apart of providing a pleasant living environment, as long as you're not being flooded out.

Now the Ruakaka River is a small rural river, it's very small. You know it's only it's not even as wide as this room in most places. With a very large catchment, it flows through two areas of high ecological value, namely one

of the only remaining remnants of lowland riparian forest in the North Island, and a Department of Conservation Wildlife Refuge, both containing vulnerable, and endangered species of flora, and fauna. In addition the river is a source of drinking water for the local community, we have a water intake. As this river flows through dairy farm country, it's not surprising that nutrient levels in its water have been relatively high. However, ironically with a gradual improvement in some effluent disposal systems, and there are now serious efforts to keep cattle out of the river, instead of seeing an improvement in water quality, the river is now under a much greater threat to its viability, as a result of recent industrial, and residential development, and land clearance in its catchment.

So now we have the threat of chemical pollution, which is much more damaging than the nutrient from farm run-off, and if we certainly had to choose between the two, we'd sooner have the farm, than the possibility of all these chemicals coming into the river. Sedimentation has dramatically increased during extreme heavy rainfall events, and this is where everybody, I'd like you to look at his photo, because this is just near where I live, and this is just after we had a flood event in March 2007, and this now is a regular occurrence, and this all happened because of clearance up in the Ruakaka Forest, and without protecting the water courses, and then you get all this sediment coming down.

And you have the same problem now, because of a poor Soil and Water Plan, this is actually where our water intake is, just below it and you can see the amount of sediment in the water, and that isn't even after a flood, that's what – and I have got, we couldn't afford to put all the photographs, but I've actually got a photograph of taken a year or so beforehand, when you can see what lovely clear water it used to be, but it isn't anymore. And as I say if we had, I've brought other photographs to show you, but so we now have a real problem with sedimentation.

However if you think that's bad enough, believe it or not the Northland Regional Council was prepared to allow the location of a toxic timber treatment plant, that's arsenic, copper, and chromium, on the banks of the river, not only were they going to take water, but they were also going to discharge storm, and waste water, only a few metres upstream of this. Now you can see how small the river is, yet they were going to allow them to have a water take, and they were going to allow them to potentially contaminate our river with arsenic, copper and chromium, because this river floods regularly, and so you can imagine their site being flooded, what the likelihood is. So you can see what problems we have with our council. Fortunately the economic recession has put paid to this project, but the threat to our river remains, because having got rid of one threat, we still have a whole lot more turning up.

More contaminated storm water will now be discharged from at least four new subdivisions that have been developed, or are in the process of construction on the flood plain, which I think, when it's likely to be flooded out with climate change is not really very clever, adjacent to the wildlife refuge. Now these residential developments will inevitably lead to the pollution of the river with heavy metals, hydro carbons, solvents, detergents, fertilisers, and pesticides, and adversely impact on the wildlife there, and highlights the need to treat all storm water before it can be discharged, taking as I've previously mentioned cumulative effect.

We can't just keep on discharging storm water into rivers, and not take it into account the effect it's going to have. In addition I've just actually a few days ago, I've just come from a public hearing organised by the same Regional Council that has the intention of permitting a rail track to run alongside this same portion of river, where our water intake is, yes, and which as I've said floods during periods of intense heavy rainfall, therefore

facilitating the discharge of even more sediment, if the picture you had wasn't enough. This will happen of course during construction, and then once it's established and working, we're still likely to have sediment coming into the river, because they're going to put his embankment right alongside the river, and then there's a possibility of diesel pollution, and as I said, upstream only a few metres of our drinking water intake. And once again if this was not again, yes just as the television adverts go – "and there's more" – honestly it's unbelievable. We now have the prospect of two industrial sites discharging storm and waste water only 300 metres upstream of the wildlife refuge, and my own property, so you can imagine I'm not exactly thrilled. And it is this activity which over time will sadly almost entirely destroy the refuge.

Now already without any public consultation the same two industrial sites have been allowed to discharge tons, and tons of peat, both in suspension, and solution into the Ruakaka River. Now it so happens that this, it comes through a drain, Drain K, and I've actually provided some pictures for you to see just what's happening, you can see how wonderful it is.

The once sandy brown coloured river banks and bed are now black. Now there's a photograph of, this is where Drain K comes into the river, and you can see the colour it used to be, and this is the colour now. And quite frankly from my, you know my property is only a short distance away, and it's like living past the black hole of Calcutta, it is absolutely revolting. And to give you an idea just how much peat, remember we didn't have this before. This is actually where the drain from the two industrial sites actually join the river, and you can see just how much peat there is in that water. Now I've also got, I've actually brought some other photographs, but you can see this huge plume of black proceeding down the river to the

estuary mouth. As I said, the river has the appearance of a dark brown black open sewer, with nil visibility, and that's no exaggeration.

[1.35 pm]

And the intensity of the discolouration is so great that it goes all the way to the estuary mouth, it looks like some very dark coloured urine. It has a big plume going out to sea and of course when we have heavy rainfall we then get the peat deposited all along the beach because although we are only talking about freshwater management, what happens in freshwater impacts on estuarine, so you can't really divorce the two, quite frankly. Well anyway, can you imagine the effect all this has had on the wildlife? The rushes at the bottom of my garden have died, have been dead now for six months. The eels that I used to see in the shadows, well they've gone. I don't blame them. The once frequented (inaudible) have gone as have most of the fish. Now if you smother the riverbeds and I've talked to a Fish and Game about this, if you smother all the biota, then there's nothing for the aquatic life to feed on, so it's not surprising the fish are disappearing at a rate of knots. It's not surprising that the two white faced herons that used to nest just across - they've gone. The ducks that I used to have at the bottom of the garden, they've all gone and quite frankly I wouldn't want to swim in a river that looked like that, so I don't really blame them. The number of pied shanks just upstream, there was a huge colony of over 40. You're lucky if you see 20 now. There is no doubt that this ongoing degradation will impact adversely on the shellfish beds and the shellfish habitats at the estuary mouth and we have many endangered and vulnerable species there, so I mean we are really concerned, because this is only the beginning, they are now putting in four resource consents and I will be attending a hearing in about a months time on this very subject of them wanting to discharge waste and storm water from an industrial site. I mean I just think it's incredible. One has to ask, how

could such a small ecologically sensitive river be abused in such a manner? How could a regional council even consider using it as a drain with a wildlife eminently to hand?

Our group finds the congratulations handed by the Minister for the Environment, Nick Smith, to our regional council for the handling of resource consents particularly offensive in view of the state of Northlands environment and especially the state of our rivers. We obviously assumed that he is congratulating them on ongoing environmental degradation. As I've said before, they have made the subversion of the resource management into a fine art as to ways of getting around to applying to everything. No wonder they were so quick with the resource consent, if you actually say affected parties aren't affected, so they can't go to a hearing, no wonder they can speed up everything. I mean it's just one of their many nasty little tricks. And in these circumstances, we are wondering what hope have we have of any notice being taken of our recommendations. Obviously we would like to see policies implemented that prevented what is happening to the Ruakaka River, that no council could be allowed to put a communities drinking water supply or to systematically destroy ecological valuable habitat and create and unpleasant living environment for its citizens. Who would want to swim, fish or kayak in such waters?

Taking the Ruakaka River is an example, we'd like the following provisions implemented and all local Government authorities should include the following. There should be mandatory catchment plans with provisions to protect water clauses. There should be strict solar water plans to include sediment controls which ban land clearance in close proximity to water sources. There should be controls to prevent pollution of ground water including aquifers in rural areas, of fencing and planting of water margins is necessary, in residential areas, storm water to be treated prior to

discharge into water sources. A ban on polluted discharges from industrial activity upstream of a community, drinking water uptake. I mean the fact that anybody would even think of allowing that, we find that quite unacceptable. A ban on polluted discharges from industrial activity upstream and into wildlife reserves, refuges and other ecological valuable sites. In both ENF applications for resource consent should be declined. Avoidance, not mitigation should be the rule of thumb. From now onwards, we think there has to be a far greater emphasis on the protection of water quality and the conservation of water sources in any freshwater management strategy. In pursuit of these goals, we should implement a raft of measures to recycle waste water, make greater use of rain. I mean, why waste reticulated water if we all have water baths and use it for our gardens, our swimming pools, our - I mean there's a whole lot of things we could do to take pressure off using good water sources. We need to modify our polluting behaviour and adapt our activities to changing weather patterns. To this end, we need more protection orders placed on rivers and streams. Water is necessary to sustain life in its many forms. No human activity save the taking of - should be allowed to compromise this basic function and I would like to say and I should have put it in at the end, that we considered that human greed, the desire for short term profits, taking no regard of the future, is the greatest threat to our water sources.

**CHAIR:** We've seen that you've put a lot of care into preparing this presentation for us, we're grateful to you for that and of course with your devoted - and advocating to the things that you've been talking to us about and you now have a Board that's willing to listen to you and take notice of what you're saying, there may be some questions of you, so I'll see if any of my colleagues would like to ask. Mrs Vernon?

**MS VERNON:** No I haven't, but thank you, your point is very clear and I would like to thank you for your submission. Thank you.

**CHAIR:** Mr Prime?

**MR PRIME:** I was going to say something similar. Thank you for your submission and I was -

**MS HICKS:** I actually brought some more in case - because I've got masses of them.

**MR PRIME:** I'm sure you have.

**MS HICKS:** But I thought we made it - I thought that was quite clear enough as to what was happening.

**MR PRIME:** I think you made the point pretty well in those - I've just got a couple of questions. One of the comments you made in your original submission is that you define the changes, and some submitters have suggested that the policies (inaudible) should include something like (inaudible) -

**MS HICKS:** Yes.

**MR PRIME:** Although you haven't specifically mentioned that, how do you feel about that?

**MS HICKS:** Oh well I felt it at the beginning - I've actually pointed out that the effects of climatic ability and change have to be considered in any management strategy and the fact that I'm saying that we have, as I've said here, that especially in the South Island on the East Coast, we've the possibility of droughts becoming more common, it is a form of madness to

actually have even more water takes variegation. I mean if the land is not suitable, if there isn't the water to grow something you shouldn't really be growing it then, especially if your water supplies are in the medium to long term under threat because you then end up turning the Canterbury Plain into a desert. So I agree, a precautionary approach is absolutely essential and that's why we think that people have to start thinking now. That all those applications for water takes, they've got to be told, no, sorry. We have climate change, we're going to have increasing drought, you have got to farm more sustainably. You have got to adapt to changing circumstances. If you become like a dinosaur and you end up being extinct.

[1.45 pm]

**MR PRIME:** Thank you for that. Also you've made suggestions on (inaudible) and again I want to sort of try and put that in the context of the proposed NPS, some submitters have suggested that it might be more useful for us to have national water quality standards that are applied across the Board, and other submitters are saying, "Well, we'd rather have regional standards with each region coming up with their own criteria."

**MS HICKS:** Well I wouldn't like that here because we'd probably, as you've seen, we wouldn't do very well. I think in our interests we'd like a national one thank you, to make our council clean up its act. I mean I'm sure you can understand, because obviously nothing's working here very effectively.

**CHAIR:** You've reminded us that what we're doing is considering national policies, and you've given us some examples on a local level, but you made it clear how they relate to what one of the other submitters today called the fundamentals of our task, and in particular you are identifying the

To be read in conjunction with  
the tabled evidence/statement

two principle issues so that the relevance of all of this is quite clear, thank you very much indeed and we do appreciate you coming in person to present this on behalf of the Freedom Bay Action Group.

**MS HICKS:** Well we just hope that we are not going to have mass continue - we don't want more of the same. We hope the management plan is going to be looking for the future and realising how valuable water is. It's going to end up being like the oil I would imagine as a future in some countries. We'll even probably have wars fought over it.

**CHAIR:** Well I think we've probably got as much as we can cope with just thinking of this country at the moment.

**MS HICKS:** Yes.

**CHAIR:** Thank you very much indeed.

**MS HICKS:** Thank you very much for hearing our submission. We do appreciate it. We hope it has been constructive.

**CHAIR:** Yes. Well quite so, of course it has, thank you.

**CHAIR:** Now, we have next to hear the submission of Te Pataka Matauranga Charitable Trust Resource Management Unit. Are you representing that body? Well if you'd like to come forward, we can hear you now. It's a little earlier than you had perhaps expected, but if it's all right with you it will suit us as well. Now that you're here for us to allow you to present your submission, thank you.

**MS GIBBS-SMITH:** Thank you. This is (inaudible) we'd promised we'd try and get here as quickly as we could.

**CHAIR:** Well thank you. I hope that hasn't been inconvenient.

**MS GIBBS-SMITH:** Not at all.

**CHAIR:** Now we don't require any formality. We are comfortable for you to address us seated. You can present just as you would like to and when you've come to the end of what you'd like to say, we have some questions and an exchange of questions and answers to help our understanding. We of course have got your submission in front of us and now you've given us some notes from which you're going to address us, so shall we - now Mr Mitchell are you going to speak to us, are you Mr Mitchell?

**MS GIBBS-SMITH:** I will. (Inaudible) which is a very pre-historic tribe, Ngati Tawa, that holds very strong links with Ngati Hine, the previous submitters and of course Ngati Rahihi, and it's related to many other hapu by whakapapa with whom I also support. (Inaudible) and it's also in support of many other marae's in (inaudible). I'd also like to point out that our marae also is not under any unanga nor any official (inaudible) except by our own means. That is why we established a charitable trust, simply because a lot of us in the Trust do not work for wages, all of our monies go into community projects, both pakeha and Māori, they give our hapu.

Our (inaudible) our Whenua ranges from Hawarua, that holds the mana of the land, to Waitangi which is the mana of the Moana. Our Roto, our lake is (inaudible), our (inaudible) exceedable in Waitangi. Our Moana, the inner harbour of the (inaudible) ultimately to the 200 mile limit within the Pacific Basin.

I was born in Waitangi and grew up in (inaudible). A great, great grand daughter of Wharangatira but lived in Waitangi and a signatory to the Papakutangi which is the declaration of independence by the (inaudible) 1835 in indeed the Treaty of Waitangi 1840. That was signed at Waitangi in the Bay of Islands. I am only four generations from that (inaudible) and therefore the promises made then are still very fresh in our minds. All of the descendents and the obligations to uphold that Tiohanga (ph) is very strong. That also includes our relationships with our (inaudible) our European Whanau's as well. (Inaudible) isn't solely Māori, it's the strength you hold for all those around you, doesn't matter who they are.

I've been actively involved with the RMA since its inception in 1991. I think I'm the only one still doing it. I'm sure you remember me. I'm the only one (inaudible) all the rest have come and gone, including Judges. Right till today when I have undergone many trials and tribulations along the way. Often with authorities against our desire to participate in equal partnership to manage our environment effectively. It is on this basis that I make this submission on behalf of my respective hapu.

Number 1, first and foremost, I wish to comment on the lack of submission and input from Iwi from Nga Puihi on such an important matter before this hearing today. It can only mean to me that only a select few heard about it or even did not understand its significance with regard to future planning and Māori input.

[1.55pm]

With the highest populated Māori per land mass I believe that we as Māori is under represented. Apart from the two local authorities there's only one runanga, one trust board and myself that I represent and (inaudible) hapu that I belong to. At this point I feel very strongly the need to invite our whanaga from the Hokianga. This is Ian Mitchell. He's also my nephew to provide input and support to our submission and because of the lack of people knowing about it, I decided to connect with my own and try and arrive a (inaudible) today with a fair comment across the board from the Hokianga to the Bay of Islands, at least trying to do something otherwise we should start coming to the Hues, so I hope you will accept me in coming in support.

**CHAIR:** Of course.

**MS GIBBS-SMITH:** There are many unresearched punawai in waterways in Ngai Puhi. Many of the Hapu's have individual species peculiar to their tribal areas, naturally with the different types of eco systems and appropriate rules of kaitiaki tangi that only the Tangata Whenua hold mamatu, this of course includes things like (inaudible), medicines, a lot of them being destroyed in the past on the edges of the rivers and you've got very naked banks these days, very erosive. (Inaudible).

This includes the protection of the wahi tapu and the practice of the rahui. Now wahi tapu people think is just a bag of old bones, and stored somewhere, but wahi tapu is a very conservation minded statement. It's closest at a reserve for specific purposes for specific things including areas of water. And they are part of the conservation plan that actually comes out where the water actually has its own purification process and

not only spiritual so it plays a little major part in the protection of wahi tapu and freshwater is the most important thing to us. I hope you don't mind me explaining as I go along.

**CHAIR:** Please do it just as you choose.

**MS GIBBS-SMITH:** Yeah and the practice of rahui is I can make an example, for example in the ocean we have rules. We have got clean mackerels, motterals now, but in the old days there was certain months you didn't go and catch Snapper and if you did, the signs were there and if you got poisoned that meant you weren't supposed to have an - and my pupil knew not to go into the Snapper and naturally it was their breeding ground, so these are the little Māori rules that have kept us going from way back, that's why we come here, to plead with our values that have been tried and true.

Yet all of these have been affected by the Crown and its agencies that have assumed ability to manage freshwater. Did they - this has been totally ineffective. Simply because freshwater is seen purely as profit and the cheapest form of disposal of unwarranted by products such as sewerage and commercial runoff, to water. Historically there are many examples of mass sickness and death to our people caused by local authority and commercial management and use of freshwater versus water in rivers that have all too often been written off by alternative medical reasoning. This was never proved simply because no authority wanted to look into Māori dependence, from a sustainable resource such as freshwater and what it has to offer in the form of food and wildlife. By today's standards it still goes on. A classic example of today's theme is we have the viral contamination in shellfish and don't forget there is shellfish in freshwater too. That we eat. In shellfish, where the beds are all in a proximity to fresh water outflow to the sea, and the lack of and

deformed tuna in our rivers, now we are giving (inaudible) that obviously differ from Ngati (inaudible) and a lot of them are deformed, dead, we don't know the cause. We found about 50 of them in one thing, so it definitely came from freshwater. Nobody wanted to know about it.

Number 3, Flooding. Flooding and extra siltation caused by unmonitored resource consent issued for large scale projects for example subdivisions and land fills, we have interviewed the Resource Engagement Act process over it , but the efforts they've made like silt traps and things like that, it's just a bit of orchard, that in the next time it's washed over. So it was just being seen there to be compliant and we've often said, "Can't they do a little bit at a time to give the water quality a bit of a chance?" And this sort of thing. Prevent further siltation further downstream. Flooding from increased roading. I'm talking about the metallic contamination to the waterways and of course there's an increase now in refuse on the Highways and in their drains. Flooding from the lack of cleaning in keeping with increased housing in high risk areas, for example, flood plain areas and septic tank disposal or reticulated run-offs too close to the rivers. Another force that's happening now in the last winter for example, I've gone to a lot for reticulated systems and checked them out and a lot of them you can smell it and it's just running off the top straight into the water. And that was the ET for the council for alternative septic tanks at the time, but it's not really working out too well.

Flooding with increased land reclamations and limited weakling as a result. Unfortunately should there be a management of the freshwater ways, I think one of the most important factors is the wetlands. Now the wetlands in the past have been very good natural filters, in a matter of fact they're the reason why there was a lot of sewerage going down the creeks through wetland areas. But a lot of farmers inland or anybody that has any business on rivers, had - done reclamations and claimed extra land,

and therefore has deprived a natural amount of wetland area and with flooding I always believe, in all the work I've done, that with the amount of wetlands he's actually spent flash flooding. They open up the creeks and it just went whose and took everything with it. I think that was a bad practice. Though I hate swamps myself but I think wetlands are an essential part to us trying to get back to good decent drinking water and of course we've got climate change. We'd like to make a role in the natural purification of freshwater, a restoration plan needs to be seriously considered with some urgency and we'll play the part in stowing up the present flash flooding that is occurring. This will also be assisted by the replanting of buffer zones. One of the big mistakes we made was to strip the creeks and buffer zones is another think where I think it all contributes to the purity of the water by absorption to land in the post, it's coming out of it as well, along rivers there would be wetlands also play a major role as Habitat Area for species that travel from soft fresh water of course.

For example whitebait, you know what, in Salmon all that sort of thing and I was thinking about the South Island with all the salmon going up the creeks and all the development taking place, they're not going to have any Salmon anymore. They've done - and the same thing is that years have been late - every ridge or something - yeah I can do that, yeah. And they have tampered with a natural flow, process of purification. Because they've opened them up too fast, Salmon is a very good food source. Why, European families, you see they benefit from these waterways. Whitebait, they benefit from it.

There's a huge freshwater source under the seabed in the Bay of Islands and it can be accessed on the foreshore areas, it's a huge amount. I've done the research. I've been working with GNS and I've always known it in the whakapapa, the old people always said it, so I brought in the

European's so I could prove and it's one of the biggest aquifers is under the seabed in Russell Paihia area.

[2.05 pm]

Yet the local authorities continue to dole out exclusive occupation rights at the entrance of rivers to the sea, for activities other than to enhance and preserve natural food resources, not only for human consumption but the food chain as well, where the salt in the freshwater mix, is the highest food resource area, let alone the freshwater resource beneath the seabed. So this business of freshwater management is probably a lot more important in the sea itself, you know we have argued that with other countries, and we need our quality clean green image, this is what's important. Nearly all rivers in Ngapohi (ph) run through Māori land that have natural buffer zones, and I'm proud to say that because a lot of them are undeveloped, but good water comes out of it, and a lot of people are going back into their Māori lands that are undeveloped, and they're going there for water in summer when there's such a shortage, let's look at that as a good theory for everybody in this country. And most of the contamination that is occurring is in crown managed and private titled lands near rivers.

I went up to visit your Tangaroa (ph) state forest, they cut all the trees down which is fine we can accept that, but they had all this aerial spraying and they killed everything in sight, including the rivers, just to prepare it for the next replanting.

I think the Board of Inquiry will see a reason why it's really urgent matter to deal with this issue of freshwater. Crown managed and private titled lands near the rivers, these have shown depletion and damage of natural resources in the receiving waters. The evidence is always showing in the receiving waters, hence the importance for Māori to be involved in the management of all waterways, including the outlets to the sea. This must include our subterranean waterways, which is prolific in Northland, and

Māori need to monitor their own interests of sustainability and spirituality. In other words we're asking for just an equal partnership, and a lot of our spiritual ways of doing things is just Tikanga is adopted by a lot of government departments now, unfortunately it was at a price, so I think there's a chance for a good relationship to be established on something so important as water, because it is just as valuable to our Pakeha and our Māori.

Māori have a very strong relationship with water long before the European arrived on these shores, and its common knowledge that wahi tapu for various reasons is situated all along these waterways. This includes wahi tapu reserves and fishing reserves, we do have fishing reserve areas along freshwater ways. Not to mention the many pa sites, and many have been desecrated through lack of Māori - oh it's Māori not being involved correct that as management partners. Lack of Māori being involved as management partners, this has resulted in the claims process that we are going through today. It's sad really a lot of us don't want to make claims, I've got white blood in there too, but we've had to do it to try and make people see the reason of what is very good about looking after your environment, and a lot of the essential things. And it's a pity the powers that be at the time did not look at that for a better reason rather than just profit gain and losses. All we have asked for is a little bit of respect, and that our history be recognised as a proud and generous race. See our waterfalls and our freshwater it's going to end up no better than Stonehenge.

Access to waterways and wahi tapus is essential, both for heritage reasons and respect for another culture. When I say access to waterways and wahi tapu is essential, we have a lot of pakeha history that are only accessed by all the water. Like mission station, little stuff, that's the same, and access way, if you're managing a freshwater I think there should be a provision somewhere along the way to make - ensure that's there, so that

everybody can enjoy the history. And it is essential for both for heritage reasons and respect for another culture. Recently there has been a huge revival, and it can only be upheld if Māori is involved at management level, and not as is the practice nowadays to merely consult us and to suggest what is good for us. There is a need within the realm of Māoridom to preserve the life force in our awa from a tikanga point of view, for example rahuis and I've explained what a rahui is all about. It's a conservation statement. By the way, when you breach rahui the punishment in Māori way is death, no argument. And these days if you breach a conservation law you get slapped on the wrist with a wet bus ticket, and then it gets worse and worse.

There is a serious need for regular water testing, and not wait for someone to get sick, prevention is better than cure. Our hapu recently achieved access rights on an existing title to enable water testing and the preservation of our waterway at the foot of (inaudible). And I mention this simply because the developer is a pakeha, and we asked him and we explain the values of it, and in return we ask for right of access way through subdivision. And he granted it and when he did that - it's registered as a Memorandum on his Title, so we decided to look deeper into it and see what we can contribute about restoring his wetland areas back to a native presentation like original native trees and things. And it's worked out a really brilliant relationship, because people are learning to understand each other. Unfortunately the RMA process has actually contributed to people being quite negative, that is why not many Māori are doing RMA submissions these days.

This is a good start for relationships between the hapu and our fellow New Zealanders, and I believe that this should be encouraged knowing that my people are the most regular users of our river resources. We've learned to take some smoked eel to this pakeha fella, and he's learned to

enjoy it with pickled onions. But just shows you how well things can really work without all this consultancy and rubbish.

Nine - reservoirs, and irrigation systems - and sewerage systems of course; I think they need to be scrutinised far more than they are now, a lot of the systems are broken down now and the risk is actually three times higher than 12 years ago, hence the urgent need for a good management plan. And it should be managed more efficiently in the case of Far North District; I'm always at loggerheads with them because they keep taking funds reserved to do this environmental, and they go - it's a bit like robbing Peter to pay Paul, and we're slowly going backwards. So, our freshwater authority I think needs to be separate from a local authority, I think power went to their head or something, I don't know.

They need to be managed more efficiently than is at present, and needs to be more in keeping with good business practice, and the upkeep of water quality. In other words, good business practice I'm talking about charges and things like that, and a good business it has to be managed in a way that as the committee or board or whatever we're going to do for freshwater it should be able to be self sustained. So that any funds that it's generating is good business it's turned back to making the water even better and better. Rather than take all that money and go and do the roads up and make the water more contaminated which is a common practice, I think has got to stop now.

In summary our awas and punawais was never ceded at the time of the whakaputanga (ph) or the Treaty of Waitangi. It was never ceded, so it's a messy business that we have to go back in time to be able to go forward. And I think a good management role for Māori is a good way of trying to make amends with each other, and go to the future. I'd hate to see a Freshwater Management Committee formed or Board formed, and it's all

undone because of the claims process. We are wasting everybody's money and time.

Māori must be involved as a major stakeholder and regarded as such.

Water quality is a matter of national importance; I personally believe that that's my main word for the day. It is a matter of national importance.

[2.15 pm]

D - the issue of access is of great importance as well.

E - the foreshore and seabed must be considered as a source of freshwater in relation to our subterranean waterways from further inland. In other words, what I'm asking this inquiry, where does the freshwater end and where does it begin? There are areas in these areas you can actually drink it, certain time of the day, so accordingly, where does the responsibility go with it?

Issues of wahi tapu need to be addressed, re their preservation and protection, and I think our wahi tapu even our toreres (ph) along the creeks, are no different than a religious cemetery church yard, and it should be there because they were there in their land, and I think it's good for New Zealand's heritage values to be able to acknowledge that, now is better than never.

All stakeholders and title holders, along the waterway - now stakeholders I've just said just Māori are stakeholders, title holders are Pakeha, so we all got to work together on this, along all waterways must have commitment to the protection upkeep of good water quality standards. In other words, put the farmers that are on these creek edges, put in provisions where they're monitoring the creek from other pollutant sources, get them involved rather than sending them back on the back foot, thinking they're always going to be trying for some (inaudible) matter.

H - all research must be done in cooperation with Māori values;, like I said previously, there's been very little research done into the asset that we are hoping to deal with, very very little done. I'll give an example , the Kerikeri Airport, for years I told them there was fish there, everybody thought I was mad, and then a few years ago hello it's in the papers they've got this rare mud fish, only peculiar to there; this is what I'm talking about individual habitats and ecosystems, and haven't heard anything since.

The RMA 1991 has a need to improve its standards in the recognition of hapu representation, for all matters that involve taonga, Māori and tikanga practice in the protection of our earth mother Papatūānuku, everybody forgets that. Because she's also all the pakehas earth mother too except we call her Papatūānuku.

Following the freshwater management submission process, if a National Reference Group is established I wish to be notified and selected to participate. I'll certainly work hard from a normal person's point of view, rather than a corporate point of view, and therefore I know I'll be dealing it very honestly and fairly.

So I'd like to introduce Ian in support, and I hopefully he'll be able to tell us something that he can actually support a matter such as this. Kia ora ma tatou

**CHAIR:** Well thank you very much, and there may be some questions but we'll wait until we've heard from Ian Mitchell, and then we'll ask some questions that you probably could answer.

**MR MITCHELL:** Kia ora. (Speaking in Māori). Just want to stand and support of my Aunty, in this submission to the proposal for National Policy Statement for Freshwater Management. (Speaking in Māori). Waitangi and Kerikeri are the rivers to the East of Homapere (ph). (Speaking in Māori) to the west. (Speaking in Māori).

I'm a descendant of those (inaudible) (Speaking in Māori). I'm 29 generations descended from Kupe; our blood lines have been in this land, Aotearoa, for 900 years or more.

I have a First Class Honours Degree in Horticultural Science from Massey University. This degree I specialised in Environmental Sciences and management. I have a Masters degree in Business Administration, and my theses there was on environmental tourism. I have been a self employed business consultant for over 10 years in Northland, raised two children in the Hokianga. I was recently employed by Northland Polytech where I tutor horticulture, business and ecology, and helped to develop a programme for the polytech for the Diploma in Sustainable Rural Development. I've been Treasurer for the Hirinaki (ph) Māori Committee Te Whiti (ph) hapu in the Hokianga, and in my role as treasurer raised the money required for a community owned water system for that community. As far as I know it's one of the few privately owned systems in the country. And the water take is from a mountain spring on the Waima (ph) Range and is held in the name of the hapu (inaudible). I am currently Chairman of Taire Edmonds (ph) Whanau Trust based at the Kerikeri inlet; our main task over the past few years has been making submissions to resource consents, in an effort to save sites of cultural and historical significance in the area. And to keep our shellfish plentiful and safe for eating; we have felt this to be an uphill battle.

We continue to see ongoing degradation of the waterways, wetlands, harbours, inland harbours and ongoing depletion of our natural food stocks. These are taonga which we were guaranteed to be protected under te Tiriti o Waitangi, this is despite the implementation of the Resource Management Act. The current system is failing the hapu of Nga Tuhi (ph), and the community at large. There is a need to reform to ensure the protection of our rights and taonga.

We have clear evidence and experience of the Resource Management Act not working for Māori. We have found that processes have been stacked against Māori participation in terms of timeframes, where the hearings are held, the costs to participate in the process, and in legal processes and appeals decisions in court.

Our experience has shown that central government has failed to meet their obligations under - and duties under Tiriti o Waitangi, failure to actively protect our taonga, failure to allow Māori to be sustainable on their own lands for which clean sustainable fresh water and tidal water are integral to this; failure to give Māori full rights and privileges of British subjects especially the right to ownership of land and other resources thereby lease, rent, royalty payments on land, waterways and water. The whakaputanga (ph). Our (inaudible) specifically of (inaudible) Taniwha at Tihikatu (ph) in Hokianga and Bay of Islands. My direct ancestors had the foresight to sign a whakaputanga (ph) and te Tiriti o Waitangi. The whakaputanga (ph) declares ownership and management of nga taonga (inaudible) hapu tangata whenua. Our rangatira declared the sovereignty of the nation belonged to tangata whenua, their ability to act on their own laws and right to manage all treasures of this land. Trading flag - our ancestors were trading in food, water, timber and other resources under tikanga, prior to the setting up of a New Zealand separate Government. The trading flag was given by King William to protect the trading rights of hapu (inaudible) to the world. The treaty stands on te whakaputanga (ph), and supports the declaration of independence. True to that Britain arrived to settle here and manage their own people peacefully while maintaining self determination to Māori, ownership and management rights of Nga hapu o (inaudible) as clear and outright owners - these are strong words, and I understand they're strong words. We don't use those words in Māori terms, we say we belong to the water, rather than the water belongs to us,

but we know that this is a system that recognises both sides of the coin, so I'm using these words as strongly as I can.

[2.25 pm]

So as clear and outright owners of all (speaking in Māori) o Ranganui, those are the peers of our sky father falling for his love of Papatūānuku, our earth mother. The water, waterways, surface and subterranean, the Queen's chain, the foreshore and the seabed, we have the right to manage these resources according to tikanga. We believe this is the best way forward for all New Zealanders.

Tikanga to become policy. Water is a treasure handed from our ancestors nga taonga (speaking in Māori). Clean water is essential for all life; our tikanga is to protect and promote clean live water.

We have recognition of the need for the ecology of waterways to keep water clean and live, sustainable and thereby promote the health of all life. So a waterway is not sustainable on its own it requires a total ecology for it to be a clean living thing.

(speaking in Māori) - those two things together give the force of life. For us it is key to the present and future health of the whanau and hapu of Nga Puhi (ph) physical and spiritual, and the community at large.

Puna wai. The springs are the sources of water as they appear for surface from subterranean channels, they are cleaned through natural processes. These are considered wahi tapu ie, should be give all protection under all circumstances.

Live water - a water way is a living breathing entity that needs to be nurtured and protected, it has an intrinsic value whether or not we are there to enjoy the thing, it has a value in it of its own self. The ecology of every water way should be restored, and biodiversity promoted at every

opportunity. This is done with riparian fencing and native tree planting. We see a great need to actively promote riparian fencing and planting at every opportunity. This will give us ecological corridors from the mountains to the sea this is required to keep the ecology intact and our food baskets full.

Water take issues - allocation to promote waterway health. It is good that a complete review of all water allocation takes place. The current system of first in first served is failing the health of the intrinsic value of water and needs complete overhaul. We, the hapu of Ngapuhi declare our continued ownership and management rights over all water and waterways. We require a royalty on all water take (inaudible) hapu to be used specifically for kaitiakitanga, fencing and planting of riparian strips seeding of eco-types. That's what Emma was talking about, specific species that belong to specific areas; promotion of biodiversity on waterways; monitoring and gathering of information for the promotion of healthy waterway ecology.

Policies on water to make best use of storage of water during periods of high rain fall, and avoiding take during periods of low rainfall, or low flow to promote waterway health and sustainability; allocation to promote health of the people (speaking in Māori). Allocation according to tikanga. Priorities of allocation should be sorted, not first in first served, on a rational basis that recognises Māori tikanga and kaitiakitanga. eg, first right to whanau hapu Ngapuhi and the wider community, schools, hospitals, homes.

Allocation to commercial enterprise, hapu rights to sale of water.

Our ancestors - we've got documented evidence of our ancestors selling water to the first ships that came into these (inaudible). The first rights to take water for commercial purposes to Nga Hapu or Ngapuhi. The first right to bottle water to whanau, hapu (inaudible). Bottling, farming,

horticulture and other commercial enterprise, to pay royalty to the hapu. Money is utilised to manage waterways under kaitiakitanga, and promote cultural spiritual health to the people.

Water discharge issues - those that are taking water are most likely to discharge, eg farms, municipal sewerage systems - we pay for the water to come into our flushed toilets, we flush the toilet and it goes back out again, and affects - so there's a double expense on the waterway. And a double expense to accept its sustainability as an ecological, and a life force and its intrinsic value.

Waste water - all industries that discharge polluted water to pay a royalty, to be utilised for the promotion of the health of the waterway; that there is are requirements on all industries that lower the quality of fresh water undertake continuous improvement until zero pollution to waterways is achieved. This will require land based systems understanding and utilisation of whole water sheds and ecologies.

Sewerage systems - under Tikanga, no human effluent is to enter any waterway. Land based systems are required. Zero faecal coliforms in water from land based systems to wetlands, harbour and sea. No compromise. At present something like 90% of sewerage in New Zealand goes direct to the waterway. And while we have Policy Statements that say land based systems are to be promoted, there's no teeth to that policy. And so the alternative is what is practicable and affordable under the Northland policy, and it's not working, it just simply isn't happening.

There are lots of examples of resource consents in Northland that continue to fail to meet their resource consent obligations, and we've found also that Regional Council have not been upholding the Act in this regard.

There is a requirement on all industries - oh sorry, sewerage systems, no compromise. Waterless systems for sewerage should be promoted; use of whole water shed to clean fresh water before it enters the harbours and sea. So while the majority of these sewerage systems are going straight into wetlands or straight into the sea, we'd like to see them being placed further away from the directly to the waterway, and so that we have greater buffer systems, and the opportunity is given for the water to be clean. The wetland system then just becomes the polishing at the end, rather than the whole bit.

Self maintaining systems of energy and nutrient use should be promoted. Human effluent is rich in energy and nutrients, when it goes directly to the sea it's a poison, when it goes to land it can be utilised, and it could be utilised to grow forests, and could be paying for itself in this regard. These are the sorts of policies we need to start to put in place, I believe.

(speaking in Māori) whanau hapu harvest of tuna other freshwater species eg turuwai (ph) freshwater mussels; (inaudible) freshwater crayfish; inanga (ph) whitebait; shellfish, oyster, mussels, paua and inshore fish species, have been diminished and continue to be depleted, because of poor management of the freshwater resource.

So we see the freshwater resource pollution and degradation, and continued take, and over allocation is badly affecting our food sources. This is integral to our survival as hapu - whanau and hapu, and the ability of our whanau and hapu to feed ourselves from these sources is integral to our cultural and spiritual sustainability.

[2.35 pm]

This part shouldn't be underestimated. Our people have always traditionally eaten from these sources. And while they are wild sources,

as they are depleted and they degenerate it's badly affecting our Hapu and our ability to survive. And it continues to happen. So we seek this opportunity to upgrade and to look seriously at freshwater management.

A very timely thing could be happening. I've read a paper that was presented to Cabinet that sees that there is good possibility of water becoming privatised in this country. This is of great interest to us and as I've put in my submission, if we go back historically we already own it. We'd like to see the management of it for the benefit of all people. And Ngapuhi in our case, or in my case I'm speaking directly as a descendant of this part of the land, but I believe that it's true throughout New Zealand, and I do believe that integration of tikanga into policy for freshwater management in this land would be of benefit for all communities. Tena koutou katoa. Thank you.

**CHAIR:** Well thank you both. May we ask some questions - I notice that there were some people who weren't comfortable, or said they would not be comfortable about questions being asked, but you understand that it's just to see if we can understand better the presentations that you've given us. Mr Prime?

**MR PRIME:** Yes thank you Sir. Could we go to Ms Gibbs' summary to what she presented this afternoon? I suppose I'm wondering more if we could talk about such things as Māori being involved as a major stakeholder. How would you see that being of a National Policy Statement, and what part of a National Policy Statement?

**MS GIBBS-SMITH:** I put in my submission for Ngapuhi, and of course Ngapuhi is the highest population is Māori. I know the local authority statements are less but in actual fact Māori aren't filling in census forms, that's what the truth of the matter is. As a major stake holder, I think in the case of

Māori we're all of mixed blood now, but there are others of us that choose to remain under the tikanga which we are very fortunate really. And as a major stakeholder none of us has seen a bill of sale, or receipt for the river bed, which is all part of the land you see. And as a major stakeholder I think it is a courteous way of getting Māori involved in the process, and let them reason themselves, and understand better, and do their duty by looking after each other and give them that opportunity to let those rights of management go.

We see some Pakehas, we go "Oh, he's knows what he's doing as much as me." "I think he might be a better negotiator than me." That's what I'm talking about.

For example, Ian, I made sure not to read his submission or anything before we came here, he hadn't read mine, but we came with the same story but we had a different level of presenting our stories. It looks like we've read off each other, but I promise you this is the first I read of it, when I got in. Same as mine. So it just shows you the facts of what's actually going on in Northland.

**MR PRIME:** I just want to follow-up with a similar question regarding (inaudible) being addressed in the court. This reservation and protection, where would you see that fitting into a National Policy Statement? I'm asking whether it should be in the objectives, or in the policies, or the preamble, or -

**MS GIBBS-SMITH:** But what do you mean (inaudible)? Can you -

**MR PRIME:** Oh you've got that in your summary - (inaudible) policies.  
(Inaudible).

**MS GIBBS-SMITH:** I'm finding it a bit hard because I cut a 30 page document down to 4. Well this is very right, it's very similar to (inaudible) and you get all this millions of dollars spent, "We got to build a road there." Nobody talks to the Māori and then they kick up a stink because there's a taniwha there and invested so much hard-earned money and this is where the importance of (inaudible), and Māori representation on these type of management committees. Because they have an obligation - you see people go in as an expert at this field, and that field. We go as an expert because we know what's on the land, or river, in question.

**MR PRIME:** My other question is really to Mr Mitchell. I guess I just want to follow up on your comment about - obviously we've had submissions throughout the country, and some people like irrigators say something like "first in first served" and you've given the opposite thought. Can you give some thinking behind what you've said?

**MR MITCHELL:** Well there are - I think this lady just in front of me was saying basically the same sort of thing, these changes that are going on under climate change. Parts of the country are getting drier, other parts are getting wetter. I come back to that - what a sustainable waterway is - requires a sustainable ecology. And when you overtake from a waterway well you affect the ability of the ecology to sustain itself. So therefore we know we can't just keep taking. And a first in first served basis, it's not going to promote the health of the waterway at the end of the day. It will sooner or later come to an end. So that's the key behind my thinking.

And then from there we go - well in terms of an allocation process, and I've tried to outline it to the people, freshwater is required by people to live and survive. To our schools, to our hospitals, to our communities, those sorts of things have to come first. That's tikanga and I think its common sense. And then in terms of business, or business enterprise, then again

in the first instance we need to utilise income from this water resource to promote the health of the waterway, and that's why I see bottling as - water is a limited resource, so we should be trying to maximise its value in terms of a business outcome, or economic outcome. Ultimately you going to go to the service station and buy a bottle of water, it costs you more for a bottle of water than it does for a litre of petrol. And we can do that all over the world. Obviously we need to grow food, and that's part of the health of the people as well. But I think we've got to think seriously about our priority to water allocation beyond first in first served. And if we're going to take that first in first served attitude then I go back to (inaudible). Māori people have first access because we always did and when we've finished bottling it, and using it for our resources then maybe the other businesses could have a go at it.

But we need to move beyond that in terms of maturity of our thinking for this resource. And so those sorts of things that - I've sort of outlined there my thinking.

[2.45 pm]

**MR PRIME:** Thank you. Thank you sir.

**CHAIR:** Mrs Vernon?

**MS VERNON:** No I don't, but I'd like to thank you both for travelling so far today.  
Thank you.

**CHAIR:** Dr Harding?

**DR HARDING:** Thank you sir. Thank you for your submission. I've got a couple of questions here. One of them is the details of the timeline. You were

talking about in your submission about how there have been sort of deformed eels, and so on. Do you know how were they deformed? Do you know anything about it (inaudible)?

**MS GIBBS-SMITH:** I went all the way to Wellington to talk with scientists, but they never followed me up, because I had no money to pay them. But however I told them exactly what was going on in waterways, and the wetlands and the limited wetlands that were there, and I interviewed all the people along the waterway as to how much eel they were getting, and I got their comments. I went armed with this and it appeared that there was a huge forest there and what was happening, the run-off from the pines was causing a film on the wetland areas and the eels couldn't breathe. And they couldn't get up to surface to get their oxygen supply, and of course ending up with depletion and deformities from it. And that was the only scientific answer I could get, other than pay them hundreds of dollars to prove that. But I guess they will come out sooner or later if the urgency of that comes out. But it's definitely that. And the only other explanation they had was the high metallic contamination, aerial spraying and things like that, and genetically that would have affected anything in the rivers.

And a lot of the ecosystems and the small freshwater life have been affected genetically. A lot of them are different shapes, a lot of them are mass producing, but different. They're smaller but more and there's no food there for them because all this contamination that's taking place is actually upsetting the balance.

**DR HARDING:** Thank you. My next question is sort of a little bit technical, and it's about the actual draft National Policy Statement. You've both talked generally about all waterways and other the - the draft statement at the moment, it actually excludes temporary or ephemeral streams, and it excludes artificial waterways. I'm just wondering if you have a view on

whether you think temporary or ephemeral streams should be included in this sort of policy, or artificial waterways. Do you consider them to be waterways as well?

**MS GIBBS-SMITH:** I think I lightly touched on it in my story, because a lot of streams are re-diverted, which actually makes them still streams. They must be included, because there's a source away from that actual change in the environment that actually supplies it and there's a source that receives it when it's gone through that. It's classified as a river, or stream, that includes the tributaries as well, because at the end of the day a lot of those were meant to be wetlands. And we've lost a lot of tributaries because they've become reclamations and they were ideal little filter systems unfortunately.

Just as a point of interest, we had the eleven main waterways in Northland tested and every one of them was unsafe for drinking. I thought we might get one or two, but - and that was from Whangarei to Kaitaia.

**MR MITCHELL:** If I could just add to that. In terms of just going back to your earlier question in terms of deformities, we see deformities in eels and fish in our waterways around Hokianga - eels with sort of one and a half heads and growths - like big lumps on their sides and in the fish on the outsides, and on the insides of the fish. And bad smells that are not normally associated with opening a fish.

So those are the sorts of things we're getting. In terms of your question of ephemeral and artificial waterways, I just support what Emma was saying to you that water shed as a whole needs to be managed from the top to the bottom. So ephemeral waterways appear in the storm water and that they're just part of the natural flow - the natural system, and I believe they should be included. And artificial waterways - well, in terms of dams, and

diversions and diversions to power schemes and so on, it all comes in from somewhere, and it all goes out to somewhere. So it definitely should be looked at as part of a complete system, and that again it's a tikanga point of view - it's a holistic point of view.

**CHAIR:** How long is it since you and I last met at one of these hearings?

**MS GIBBS-SMITH:** One of our many hearings. I'm sure you'll have a lovely peaceful respite.

**CHAIR:** Well we're very grateful to you both. I'm glad that you brought your nephew with you to give us another point of view as well - even if it turned out not to be another point of view.

**MS GIBBS-SMITH:** No I was amazed myself, but I thought in fairness to the Hearings Committee it was better that I never made contact with him; I just told him that was my submission, can you put your young people's story to it, you know? And it authenticates I think what we had to say basically.

**CHAIR:** Well thank you very much we're very grateful that you've come here, and your submission that we have all had from you. And we're now going to prepare to go to Taupo where we're going to hear from Tuwharetoa tomorrow.

**ADJOURNED**